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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

SENATE—*Tuesday, June 2, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy Spirit of God, the greatest Counselor in the world, we open our minds, hearts, wills, and bodies to the infilling of Your power. Infinite Intelligence, grant us power to understand Your solutions to our problems. Unlimited Love, fill our hearts with healing love from which deeper affirmation of others may flow. Liberating Spirit, set us free from the bondage of our wills that makes us so intent on what we want that we miss the guidance You have for us. Artesian Strength, energize our bodies for the arduous pressures of the day ahead.

Spirit of the living God, fall afresh on us. Peel back the icy fingers of the fist of fear that hold our hearts in the grip of grimness, that make us cautious when faced by great challenges and cause us to be timid in life's testing hours. Spirit of life, help us pull out all the stops so You can make great music of joy in our souls. Radiate Your hope through us. Make us positive people who are expectant of Your best for us and our Nation. Give us the authentic charisma that comes from Your grace gifts of wisdom, knowledge, discernment, and love. And so, lead on! This is the day that You have made. We will rejoice and be glad in You! Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. HAGEL. I thank the Chair.

SCHEDULE

Mr. HAGEL. Mr. President, for the information of all Senators, today the Senate will be in a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation, with several amendments pending. It is hoped that those amendments can be dealt with in a timely fashion so that remaining amendments to the tobacco bill can be offered and debated. The Senate will recess today from 12:30 until 2:15 to allow the weekly party caucuses to meet.

Under a previous order, at 4 p.m., the Senate will begin 2 hours of debate equally divided on the motion to proceed to the nuclear waste bill. At 6 p.m., the Senate will vote on the motion to invoke cloture on the motion to proceed to the nuclear waste bill. Further votes could occur following the cloture vote on amendments to the tobacco legislation or any other executive or legislative items cleared for action.

As a reminder, the majority leader has announced there will be no session of the Senate tomorrow, Wednesday, June 3, in honor of the passing of our former colleague and friend, Barry Goldwater.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak for 5 minutes each.

Under the previous order, the Senator from Nebraska, Mr. HAGEL, is recognized to speak for up to 10 minutes.

Mr. HAGEL. I thank the Chair.

GLOBAL RELATIONS

Mr. HAGEL. Mr. President, I returned Sunday night from a 9-day trip to Turkey and central Asia. I would like to share with this body and my colleagues some observations from that trip and of the last year and a half.

There are dangerous and serious events and conflicts occurring all over the globe today. The most urgent and most immediate has occurred in Pakistan and India, but beyond Pakistan and India, beyond the subcontinent of Asia, we find a continuing problem with the Asian financial crisis throughout Southeast Asia, IMF funding, China MFN status, China technology sales, Russia-Japan economic trouble. We are in terrible trouble in the Middle East peace process, probably at its lowest ebb since the process began; Bosnia-Kosovo, east Africa, central Asia where there is fighting now in the northwest corner of Georgia; Azerbaijan and Armenia are at war over Nagorno-Karabakh, and other areas of the world that are of great concern to the stability and concern of the world.

These situations are all connected. We must develop a foreign policy that captures the completeness of this interconnect. We also must tone down our rhetoric and speak and act responsibly. Actions have consequences. Words have consequences. Words have consequences especially overseas. We are seeing a geopolitical, military, and economic structure shift like the world has never seen. With diffusion of power across the globe, stability and security and peace with new alliances and new alignments become critical to our future, the future of the world.

One element of our foreign policy—sanctions—needs to be reviewed. Sanctions without our allies' support do not work. We are living in a different world. Sanctions are of limited value. Withholding MFN status from China accomplishes what. Withholding additional IMF funding accomplishes what. We will soon be debating in this body religious persecution legislation to accomplish what. We are playing a very dangerous game here. Isolating ourselves where we have very little leverage over other countries and isolating other nations by driving them further away makes no sense to our national interests and the interests of the world.

This may be the most important time since World War II when a strong

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

bipartisan, a strong bipartisan American foreign policy is required. The world has changed at a rate unseen and unparalleled in the history of man. This complicates how we deal with crises and problems and relationships. Technology and communications have changed the dynamics of the world. We must bring together the world's interests—not at the expense of national sovereignty. America's strategic triad for the next century is a strong national defense, a strong trade and foreign policy, and a strong economy. And I will have more to say about that later.

Congress must be very careful in what we say and what we do as we proceed along a very dangerous path. We must be careful not to weaken or neuter the President in front of the world. The world is very dangerous and unpredictable. Congress must not micromanage foreign policy. I have been as outspoken as any Senator on this floor about the concerns and the differences I have with this administration on foreign policy. It is the responsibility of the Senate to question that, to probe that. But we have to understand that whatever we say and do has consequences, reverberations, ramifications. America must speak to the world with some sense and some semblance of unity. We cannot allow our foreign policy to unravel before the eyes of the world during a very dangerous time. The world needs American leadership, consistency, presence and engagement. Without it, without American leadership, the world becomes an even more dangerous place.

America must show the world that it is resolute about its basic beliefs and freedoms and human rights and God-given rights. But we must do it smartly, effectively, and with the objective of realistically and truly changing the world for the better. Not headlines, not resolutions, not campaign promises, but understanding what this arch is about: to get on the other side of true change, to alter the behavior of totalitarian, authoritarian governments. America will find itself isolated in the word if we continue to moralize to others and force every aspect of our lifestyle and our way of life on others as a blueprint for their lives and societies.

Again, Congress must be very careful as we proceed. Nations, like individuals, lead by example and force of character.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

DEVASTATING STORMS IN MICHIGAN COMMUNITIES

Mr. ABRAHAM. Mr. President, yesterday I toured the Michigan communities of Walker and Merrill, two of the cities in Michigan which suffered considerable destruction from severe storms that swept through our State on Sunday. These storms devastated communities ranging from Grand Traverse County, which is up in the northwest part of our State, to Kalamazoo County, which is in the southwest part of our State, as well as from one side of the State, the west side, all the way across to Wayne County in southeastern Michigan.

According to the latest count, four people were tragically killed as a result of these storms. Thunderstorms, with winds of more than 90 miles per hour, knocked out power to over 860,000 homes and businesses. As of last night, more than 300,000 were still without power. School districts in Oakland and Macomb Counties closed schools because they had no power. In Walker, MI, which I visited, the local officials told me approximately 60 people had been injured. Estimates of the costs are still coming in. In the village of Spring Lake in West Michigan, for example, the village manager has estimated millions of dollars in private and public losses.

Having seen firsthand the destruction wrought by this severe weather, I would like to say two things. First, as an elected official, I pledge to do everything I can to make available all possible resources of the federal government to those who need help. Second, as a citizen of Michigan, my thoughts and prayers are with the friends and families of those who lost their homes, and especially those who lost their lives.

Today I will contact with the head of the Federal Emergency Management Agency (FEMA). My first priority is to deliver to FEMA a damage assessment and formally request that the federal government move forward in helping these communities. In the difficult days ahead my offices in both Washington and Michigan will offer assistance to all who need help in the complex process of securing federal aid.

While touring Walker and Merrill I witnessed awesome destruction: entire properties—farm barns and homes—were reduced to rubble by the forces of Mother Nature. However, the greatest impression left upon me came from talking with government officials, emergency workers, local volunteers and affected residents. Every individual I encountered exhibited the same optimistic determination to recover and to rebuild. It is my intention to make certain the federal government is a proactive partner in this effort.

I yield the floor.

PACIFIC LINK INTERNATIONAL EXCHANGE STUDENTS

Mr. ASHCROFT. Mr. President, I rise today to commend a student program, the Sino-American Youth Conference, sponsored this summer by Pacific Link International Exchange Students (PLIES). PLIES is a Christian ministry with the worthy goal of providing a cultural experience in the United States to students from the People's Republic of China.

Student from China have long studied in the United States, and the exchange of young people between our two countries has done much to increase our mutual understanding and to advance liberty in China. PLIES hopes that its hosting of the Sino-American Youth Conference in Washington, D.C. this summer will continue that positive tradition of exchange by allowing Chinese students to witness first hand the workings of democracy in our nation's capital.

Young people from China and the United States will be shaping the future of both of their respective countries. The exchange of ideas and the building of friendships facilitated through the PLIES program will benefit China and the United States in the years ahead.

The staff of PLIES are to be congratulated for their work in China and their commitment to furthering dialogue between our two countries. I extend my welcome to the students from China participating in the PLIES program. May your time in the United States be fulfilling and beneficial.

HONORING THE 50TH ANNIVERSARY OF THE RELATIONSHIP BETWEEN THE 27TH INFANTRY REGIMENT "WOLFHOUNDS" AND HOLY FAMILY HOME OF OSAKA, JAPAN

Mr. AKAKA. Mr. President, I rise to pay tribute to the 27th Infantry Regiment "Wolfhounds" for their 50 year relationship with the children of Holy Family Home of Osaka, Japan. This relationship is a symbol of the friendship and cooperation we have with the Japanese people. It has played an integral part in our lasting relationship with Japan and is a story that deserves to be told.

Fifty years ago, Catholic nuns from the Sisters of Charity of St. Vincent de Paul stood hopeless in the streets of a battered, war-torn Osaka, Japan, selling buttons and trinkets to the incoming occupation force soldiers in exchange for food. They were trying to keep orphaned children, who were living in abandoned, shabby, cold barracks, alive during most difficult conditions. Several Wolfhound regiment soldiers, including my friend Sergeant Hugh O'Reilly, saw the sisters' dedication and dilemma and took the news back to their headquarters. The men quickly organized to provide relief for the children.

Over the next few months, the soldiers used materials from the occupation forces to build facilities, collected money to feed the children, and began to cement this lasting relationship. Interested in doing more for the orphanage, Sgt. O'Reilly coordinated support from his unit for the Christmas holiday of 1949. This marked the beginning of the current relationship. Later, Sgt. O'Reilly began collecting money on a regular basis to improve living conditions for the children. Every week the collection grew, eventually averaging $3,000 a month. When the 27th Infantry deployed to Korea in 1950 the collections continued, to the surprise of the Sisters of Charity. The funds received during the years of occupation duty and the Korean conflict helped build the orphanage complex that greatly improved the lives of the children.

The 27th Infantry's generosity to the orphanage brought much public attention to the unique relationship the regiment had with the orphanage. In 1955, Hollywood produced the film "Three Stripes in the Sun," which detailed Sgt. O'Reilly's efforts to assist the orphanage. In 1957, the Wolfhounds invited two children from the orphanage to come to Schofield Barracks in Hawaii, thus beginning the tradition that continues to this day. This month, on June 8, two more orphans will be making their first trip to Hawaii.

Another tradition began the following year, when the Wolfhounds sent two "Soldiers of the Year" to the orphanage during Christmas to act as "Father Christmas." They visited the orphanage in Osaka, bringing gifts and companionship during the holidays.

These visits have been made possible largely by the generosity of a special individual, Mr. Akio Aoyama, an industrial leader in Japan. He recognized the benefits of improved United States-Japan relations that the orphans' relationship with the American regiment would foster. He has donated $10,000 each year to help offset the costs of travel, lodging, and other functions during the orphans' annual pilgrimage to the Wolfhounds in Hawaii.

Sgt. O'Reilly is the Wolfhounds honorary sergeant major and lives in Hawaii with his wife, whom he met at the orphanage. I would like to thank and commend him and the Wolfhounds for their untiring dedication and love for the children of Holy Family Home. Whether it be defending our country during times of war or promoting goodwill in peace, I know the soldiers of the 27th Infantry Regiment will endure. We all say thank you for a job well done and wish you continued success in the future.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 1, 1998, the federal debt stood at $5,495,092,820,910.61 (Five trillion, four hundred ninety-five billion, ninety-two million, eight hundred twenty thousand, nine hundred ten dollars and sixty-one cents).

Five years ago, June 1, 1993, the federal debt stood at $4,304,847,000,000 (Four trillion, three hundred four billion, eight hundred forty-seven million).

Ten years ago, June 1, 1988, the federal debt stood at $2,546,681,000,000 (Two trillion, five hundred forty-six billion, six hundred eighty-one million).

Fifteen years ago, June 1, 1983, the federal debt stood at $1,312,535,000,000 (One trillion, three hundred twelve billion, five hundred thirty-five million).

Twenty-five years ago, June 1, 1973, the federal debt stood at $456,386,000,000 (Four hundred fifty-six billion, three hundred eighty-six million) which reflects a debt increase of more than $5 trillion—$5,038,706,820,910.61 (Five trillion, thirty-eight billion, seven hundred six million, eight hundred twenty thousand, nine hundred ten dollars and sixty-one cents) during the past 25 years.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with Amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Daschle (for Durbin) amendment No. 2438 (to amendment No. 2437), of a perfecting nature.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, lately we have heard a lot of hyperbole from the opponents of tobacco legislation, particularly regarding the notion that the bill should be killed because it concocts new bureaucracies. Last week, one Senator gave the number of 17 new bureaucracies and another said 30 new bureaucracies; and the Senator from Missouri used a very busy chart diagraming previous tobacco legislation which, unfortunately, did not represent the measure we are debating. The industry is certainly determined that this is an effective tool to divert the issue in trying to kill the bill.

Interestingly, Mr. Goldstone, the CEO of RJR, has been passing out the outdated diagram that was manufactured by one of our colleagues, a development I find to be quite curious and rather discouraging. It is the type of thing that reinforces the public's perception about the relationship between the Congress and the tobacco industry. In fact, Mr. President, Mr. Goldstone was out in my home State of Arizona to speak to a local civic club and passed out this same chart to many of my constituents, of course, whom I do not expect to know that that chart was outdated when it was printed. But it is an interesting symbiotic relationship that is developing between the opponents of the bill and the tobacco industry.

So, Mr. President, we developed a little chart here of our own. It does not take enormous skills—you do not have to be a genius nor be employed at the space agency to figure out a chart. But I thought it would be enlightening to my colleagues to look at a chart that has to do with what exactly happens when we do not pass tobacco legislation—I emphasize "when we do not."

Of course, we begin with tobacco campaign contributions, which have been $30 million since 1987 to the U.S. Congress. Now, if we stopped at tobacco legislation there, a result of inaction would be—the number of kids who are smoking is up 32.4 percent since 1991. The average young person smoker begins at age 13, and 90 percent of our adult smokers in America begin before the age of 18. That might help my colleagues understand better why we are trying to attack the problem of youth smoking.

Adult smoking, that costs a lot of money to us who do not smoke. In fact, it is $50 billion a year in increased taxes on nonsmokers as well as smokers to pay for Medicare and Medicaid bills that are incurred as a direct result of treating the illnesses associated with smoking.

Again, I think it is important to remember, 90 percent of the adults who smoke in America began before the age of 18. That is why the critical focus is on kids smoking. Ten million smoking-related deaths have occurred since the first Surgeon General report was issued in 1964—10 million.

Mr. President, I have a chart around here someplace, which I will show later on, which shows the relationship between tobacco-related illness and all other causes of death in America. Smoking-related deaths are by far—by far—the highest. So when my colleagues say, "Then you are going to move on to alcohol and hamburgers, and then you are going to move on to whatever," they may; I cannot predict the future; but I can argue that if you just looked at the number of smoking-related deaths in America, you would see that they dwarf all other causes themselves.

And 430,730 deaths, or 20 percent of all deaths in America—430,700 deaths, 20 percent of all deaths in America, are, guess what, smoking-related deaths. Premature deaths of smokers who are under age 18, in 1995, were 5 million. The combined potential life lost is 64 million years. And one-third—one-third—of all deaths by cancer in America are attributed to tobacco.

Mr. President, these are not my figures; these are the Surgeon General's, the Centers for Disease Control's, and other Government and nongovernmental organizations.

And there are 136,000 lung cancer deaths every year. There are 136,000 lung cancer deaths every year. Mr. President, that should be disturbing enough. But what is more disturbing is that youth smoking is on the rise in America—not on the decline, it is on the rise. If 136,000 people are dying of lung cancer every year and there are 430,700 deaths every year, those deaths eventually are going to go up. And your taxes are going to go up. The American people's taxes are going to go up, because we have to pay to treat the tobacco-related illnesses.

So when I keep hearing this malarkey about a big tax bill, my friends, we are paying a big tax bill as we speak, a huge tax bill, that is going to get a lot bigger if we do not attack this problem.

So I would ask my colleagues who keep buying and parroting the tobacco advertisements—according to the New York Times, now $60 million has been spent—please keep in mind the big tax bill that is paid every day of every year in this country to treat tobacco-related illnesses, not to mention the big human tax that results from premature death. Every day, today—today—3,000 kids will start to smoke, and 1,000 of them will die early. One thousand of them will die from lung cancer—emphysema, pneumonia, influenza, and other terrible causes of death.

There are 200,000 heart disease deaths per year. One-fifth of all the deaths attributed to heart disease are directly attributed to tobacco. There are 90,000 coronary heart disease deaths a year.

There are 3,000 lung cancer deaths a year due to secondhand smoke. There are 84,000 lung disease deaths every year, from pneumonia, influenza, bronchitis and emphysema, and 90 percent of all emphysema cases in America—90 percent—are attributed to smoking—90 percent.

Mr. President, one of the most heartwrenching things I have ever seen in my life is to go down to the VA in Phoenix, AZ, and see veterans outside, because they are no longer allowed to smoke inside, sitting outside with oxygen tanks and taking the mask away and smoking a cigarette. Mr. President, if there was ever a living, breathing example of the addictive aspects of nicotine, it is that terrible sight.

And 163,100 fires were caused by smoking in 1992. That is the latest information we have on that. And 2,000 deaths were caused by smoking-related fires.

Mr. President, that is the result of inaction on the issue of tobacco. That is the result. I will not go through them again, but I think it should be pretty compelling. So 430,700 deaths, or 20 percent of all deaths for all other causes, are directly related to smoking and tobacco.

The American taxpayer, Mr. President, through the costs of Medicare and Medicaid—the tobacco-related costs are $130 billion, and the health care costs alone are $50 billion; that is Medicaid, Medicare, private health insurance and small business insurance.

Loss of economic productivity is $80 billion. Smokers cause $501 billion in excess health care costs in America.

Maternal smoking costs in medical expenditures are $661 million, and 6,200 children die every year as a result of parents smoking. Forty percent to 60 percent of children's asthma, bronchitis, and wheezing is due to secondhand smoke—an extra 160,000 cases of asthma and an extra 79,000 cases of bronchitis, and an extra 172,000 cases of wheezing.

Prenatal smokers raise health care costs by $175 extra per child under the age of 2, and smoking-related fires cost $500 million. Complicated births, $1 billion per year. Pregnant women smokers are 50 percent more likely to have a mentally handicapped child. Prenatal smokers cause 48,000 low birth weights per year. Between 150,000 and 300,000 children under 1½ years must be hospitalized for secondhand smoke: bronchitis, pneumonia, ear infection, and asthma. Developmental difficulties for complicated deliveries in low-weight babies costs $4 billion a year for children of women who smoke.

There are two enormous costs associated with smoking and tobacco use in America. Both of them are pretty compelling. One, obviously, is the huge number of deaths, 20 percent of all the deaths in America that are attributed to it. And the problem is not getting better; it is bound to be getting worse. Of course, these enormous costs go to the taxpayers, as well.

When we are arguing this debate, and sometimes it gets a little emotional, I think we ought to keep in mind what we are talking about here. It is a compelling and very emotional situation when so many young Americans are afflicted with this addiction.

In Arizona, State medical costs, total medical costs from tobacco are $559 million; Pennsylvania, $1.982 billion. Those are the total medical costs, as a result of tobacco, to the States.

Mr. President, according to the New York Times on May 22:

> More than a third of high school students who try cigarettes develop a daily smoking habit before they graduate, the Government said today.
>
> In a survey of more than 16,000 students nationwide, nearly 36 percent who had ever smoked said their smoking had escalated to at least a cigarette a day, the Centers for Disease Control and Prevention said.
>
> Nearly 73 percent of the students with a daily habit said they had tried to quit. Of those who tried to quit, 13.5 percent were successful, the agency said.
>
> Seventy percent of students surveyed said they had tried cigarettes at least once. The percentage is probably higher among teenagers over all because the survey did not include dropouts [Mr. Eriksen said]. Previous studies had estimated that 33 percent to 50 percent of people who experiment with cigarettes become regular smokers.

I just went through the costs per State of tobacco costs. Probably far more compelling than that is the number of kids currently under 18 who will die prematurely from a tobacco-related disease. In my home State of Arizona, 98,516 children will die prematurely—98,516. That is a lot of young people. I think that, obviously, we have an obligation to do something about it.

Title I of the bill provides the Food and Drug Administration with authority over tobacco, tobacco products, and nicotine. The FDA is not a new bureaucracy. It is a fairly old agency with an important mission that most Americans fully support—to protect public health and risk to our food supply, drugs, and other substances ingested into the human body, including cigarettes. The FDA already serves as authority over cigarettes under their current power, something in large part upheld in the courts. This was not made up by the bill's authors. In fact, the industry agreed to broad FDA authority over tobacco products last June. So those who argue that this bill grants large, huge new powers to the FDA, please remember, as in many other aspects of this bill, it was modeled after the June 20 agreement last year between the tobacco industry and the 40 attorneys general themselves. It provided broad new authority over tobacco products, as does this bill.

What nefarious activities will the FDA undertake with authority over tobacco—which I reemphasize the industry agreed the FDA should exercise?

First, the FDA will oversee ingredients to ensure that cigarettes are not adulterated with "putrid or poisonous substances." Most Americans, including smokers, don't like the idea that tobacco companies have put additives such as ammonia into cigarettes to increase addictiveness. Two, the FDA will oversee branding to ensure health and other claims are true, establish youth access rules, and oversee marketing to stop appeals to children, accept performance standards to better protect health without creating demand for contraband, and medically assist the developing and marketing of safer tobacco products.

The courts have already upheld that the FDA has most of these authorities under current law. This bill wisely places those authorities into a separate body of law so that nontobacco foods, drugs and devices are not affected by rules that should be targeted solely to cigarettes and the regulation of nicotine. I want to emphasize, those who worry about the expansion of FDA authority into other products, this is a separate chapter. This is a separate body of law.

I find it curious that those who believe FDA should have no such authority seek greater protection for the tobacco industry than the industry itself which agreed to broad overall FDA oversight last June. So, we are not talking about any new bureaucracies here.

Title II sets underage tobacco use reduction targets. Again, not something concocted by the bill's authors. The targets are the same as what the industry agreed to last year, entailing no new bureaucracies.

Part (b) of title II establishes a State retailing licensing program with respect to tobacco products. Retail licensing was requested by the 40 States attorneys general and agreed to by the industry last June. It is designed to hold sellers accountable and to better enforce the prohibition in every single State against selling tobacco products to minors.

According to the Centers for Disease Control, 256 million packs of cigarettes are illegally sold each year to underage youth—the same youth that the industry so vigorously targeted in its marketing. Representatives of the National Association of Convenience Stores have assured me they support licensing. They don't want bad actors selling to kids, and licensure, in the same manner we do with alcohol, is a means of achieving that goal.

This brings me to another aspect of the attack on this bill, and that is the issue of black market and contraband. Why is it we are able to pretty well prevent, if not totally eradicate, black market or contraband as far as alcohol is concerned? One of the major reasons is because we license the sale of alcohol. So those who are concerned about the increase in contraband, the so-called black market, might support rather than oppose this bill because of the licensing provisions associated with it.

Earlier I submitted for the RECORD a letter from the Convenience Store Association expressing no opposition to this legislation. I also submitted a letter from the National Governors' Association expressing appreciation that the licensing program is flexible. It respects States rights and is paid for by the tobacco bill. We have heard much scorn and outrage expressed about the licensing provision, even though it is basically the same mechanism in place for alcohol sales. Do Senators who find tobacco licensing to be such an abomination believe we should have one standard for alcohol and another for tobacco when tobacco kills far more people every year and over 90 percent of smokers begin long before they are of legal age? Does it matter that over a quarter of a billion packs of cigarettes are sold to minors every year?

Part (c) of title II provides for the distribution of tobacco money for smoke cessation and prevention activities by the Secretary of Health and Human Services. HHS already has an office of smoking and health—not a new bureaucracy. Over 90 percent of these moneys are block granted to the States and will use existing public and private nonprofit organizations—not new bureaucracies.

Do the opponents of this bill and those opposed collectively to settling the State suits truly believe we should not provide smoking prevention and cessation activities?

Again, these are the essential elements of stopping 3,000 kids a day from taking up a habit that will kill a third of them—activities that the industry agreed to and that were contemplated in the June 20 agreement.

Mr. President, I want to emphasize again that every public health group in America and every living Surgeon General back to 1973—every expert in the Centers for Disease Control and the National Institutes of Health—every single one of them says that if you want to stop kids from smoking or reduce the number of children who smoke in America, you have to have a comprehensive approach. Part 1: Raise the price of a pack of cigarettes which, by the way, the tobacco industry agreed to last June 20—not as much as contemplated in this bill, but they agreed to it. The second is active cessation programs. You can't do that without a comprehensive bill.

Mr. President, there is an organization of people called the ENACT Coalition. They are a major public health organization; they formed a coalition called ENACT to promote effective national action to control tobacco. This growing coalition has pledged to work with Congress and the administration, the public health community, and the American people to pass comprehensive, sustainable, effective well-funded national tobacco legislation.

Mr. President, let me tell you who is in this coalition. They are the Allergy and Asthma Network; American Academy of Child and Adolescent Psychiatry; American Academy of Family Physicians; American Academy of Pediatrics; American Association of Respiratory Care; American Association of Physicians of Indian Origin; American Cancer Society; American College of Cardiology; American College of Chest Physicians; American College of Occupational and Environmental Medicine; American College of Physicians; American College of Preventive Medicine; American Dental Association; American Heart Association; American Medical Association; American Psychiatric Association; American Psychological Association; American School Health Association; American Society of Anesthesiologists; American Society of Clinical Oncology; American Society of Internal Medicine; Association of American Medical Colleges; Association of Black Cardiologists; Association of Maternal and Child Health Programs; Association of Schools of Public Health; Association of State and Territorial Health Officials; Association of Teachers of Preventive Medicine; Campaign for Tobacco-Free Kids; Children's Defense Fund; College on Problems of Drug Dependence; Community Anti-drug Coalitions of America; Council of State and Territorial Epidemiologists; Family Voices; Federation of Behavioral, Psychological and Cognitive Sciences; HMO group; Inter-religious Coalition on Smoking and Health; Latino Council on Alcohol and Tobacco; National Association of Children's Hospitals; National Association of County and City Health Officials; National Association of Local Boards of Health; National Hispanic Medical Association; National Mental Health Association; Oncology Nursing Society; Partnership for Prevention; Society of Public Health Education; Society for Research on Nicotine and Tobacco; Society of Behavioral Medicine, and the Summit Health Coalition.

Mr. President, I would have to submit that this is a fairly reputable and respectable group of experts on the issue of health care in America. This is a very impressive coalition. I have not seen one quite like it. And for us to ignore their plea for a comprehensive settlement, I think, would be a great disservice not only to them, but to the people that they represent.

Surgeon General Koop and Dr. Kessler—and I have a letter from every living Surgeon General, Republican, Democrat, liberal conservative—are saying that we have to enact this bill.

Mr. President, this part of the bill also provides health research money to the National Institutes of Health, the

Centers for Disease Control, and the National Science Foundation, all of which are well-established, respected and world-renowned health research institutions—not new bureaucracies.

We are at a critical stage in history, on the brink of breakthrough treatments and cures and treatments for scourges such as breast and lung cancer, heart disease, and countless other devastating human illnesses. I am sorry that some of my colleagues prefer to ignore the possibilities and opt instead for loaded buzzword attacks to change the subject.

Finally, this title of the bill calls for a comprehensive tobacco counter-advertising campaign, as agreed to by the attorneys general, public health advocates, and the industry last year, and is among the most important weapons in stopping kids from smoking. Every tobacco bill that has been introduced, including alternative measures being prepared by opponents of the pending legislation contemplates a large investment in counter-advertising.

I tell my colleagues that the advertising section does include what some have characterized as a "new bureaucracy." The "bureaucracy" is known as the Tobacco-Free Education Board, a part-time, bipartisan, unsalaried advisory committee designed to help formulate and execute a nationwide antismoking advertising campaign.

So if you want to call that a new bureaucracy, guilty as charged.

The alternative to this advisory panel would be to give millions of dollars to a political appointee to determine, unfettered, how such public appeal campaigns should be designed and executed—powers that neither Republicans or Democrats are eager to hand over to the other.

Even opponents of the bill who have expressed outrage about "bureaucracies" and might otherwise dedicate themselves to ridding the Nation of the terrible burden imposed by a part-time advisory panel probably would not prefer the alternative.

Title III of the bill provides for an array of new tobacco warnings and calls for the public disclosure of cigarette ingredients—something most cigarette smokers deserve and would like to know. Both items were agreed to by the industry and, again, require no new bureaucracies.

Title IV creates a single trust fund to receive and disburse revenues generated by the bill. The fund would be administered by the Secretary of the Treasury—a position that has been in existence since the Nation was founded, and it does not constitute a new bureaucracy. The bulk of the money will go to States to reimburse their taxpayers for Medicaid losses. Half of the State money, which represents the Federal share of Medicaid, may be used on a menu of seven options, from drug-free school initiatives to children's health care, each of which is an existing program—not a new bureaucracy.

Title V contains new standards for exposure to secondary smoke. The 40 States attorneys general who were part of the June 20 agreement called for a mandatory national environmental smoke standard to be enforced federally and by the States. This bill allows the State to opt out of the Federal program if it adopts and enforces its own. The establishment and enforcement of standards can be done through existing agencies—not new bureaucracies.

Title VI of the bill deals with Indian tribes and ensures that reservations don't become a safe haven for youth access to tobacco. Price increasing will affect reservations as they do all other areas of the Nation. This section allows tribes to receive smoking prevention and cessation grants as States—in the same vein that we administer all other Federal grant programs. None of this entails new bureaucracies, but simply fulfills our obligation to tribes and Native Americans to whom the Federal Government has a trust responsibility.

Title VII, as amended, contains various civil liability provisions, including an initiative that assists individual plaintiffs in seeking and obtaining just commendation—no new bureaucracies.

Title VIII calls on the industry to submit an annual report on how the companies are meeting their obligations under this act in the State settlement decrees, and calls on existing Federal authorities, including the Surgeon General, to evaluate that progress. This section also protects industry whistleblowers from threats and workplace retaliation—not any new bureaucracies.

Title IX calls on the industry to make available to the public documents they have been illegally hiding to avoid disclosure of their misdeeds and data on the health risks of tobacco products. A panel of sitting judges will make determinations on the propriety of attorney-client privilege assertions. Calling on sitting judges to perform a judicial task is not—I repeat, not—a new bureaucracy.

Title X contains the farm provisions which include various grant programs and farm community assistance initiatives. Some feel strongly opposed, but let us not lose sight of the fact that the debate between the LEAF Act and the Lugar alternative is not about whether we will have these assistance programs. It is a debate over how much we will spend on them and whether buyouts should be concluded at a time certain.

Title XI contains provisions related to international marketing, smuggling, and vending machines. In the international arena, the bill calls for multilateral and bilateral agreements regarding tobacco marketing and advertising to kids. These agreements can be consummated through existing authorities—not new bureaucracies.

To address concerns raised by many of our colleagues that our Nation should not simply export the problem of kids smoking to children overseas, this section does authorize an international tobacco control awareness program which is subject to appropriations and, if funded, can operate through existing institutions.

Antismuggling initiatives are also contained in this section, including a call for tobacco package markers to distinguish licensed products from contraband, requiring licensure of manufacturers and wholesalers, and recordkeeping for large transactions. Will this entail additional law enforcement activities? I suspect so. But we have heard a number of our colleagues express concern about black market and contraband. These provisions will address those concerns.

Unfortunately, many have not yet grasped the reality that with or without this legislation the cost of cigarettes will increase dramatically. If every State settles under the same terms as Minnesota, we might well anticipate increases of $2 per pack.

The June 20 settlement called for a per pack increase of 65 cents and, I might point out, agreed to by the administration—65 cents. Some of the most vociferous opponents of this bill on the basis of black market and contraband are preparing alternatives that would impose an excise tax of 75 cents per pack. So I trust that antismuggling activities is not among the bureaucracy about which we are hearing.

Also included in this title is a non-Federal, private corporation to reimburse vending machine owners for losses due to banned cigarette machines, a major conduit of tobacco to children. Again, some of those who have decried bureaucracy were among those most adamant about ensuring a mechanism to compensate vending machine owners. We do this without creating a new Federal bureaucracy.

Title XII authorizes appropriations from the trust fund to compensate asbestos victims whose conditions were exacerbated by tobacco use should Congress under separate legislation establish such a process for so doing as the Supreme Court invited. No new bureaucracies.

Title XIII permits the Veterans Administration to sue tobacco manufacturers to recoup the loss for treating veterans for smoking-related illnesses, a power some believe the VA already has and includes no new bureaucracies.

Finally, title XIV contains the process by which those manufacturers that wish to formally settle their State suits must agree to, including the up-front payment, additional advertising restrictions, et cetera, and no new bureaucracies.

So, Mr. President, I hope we are keeping an eye on the ball about what this is all about in addition to the bureaucracy red herring.

We have heard from opponents who object to this bill because it will increase the price of tobacco. Let us stop kidding ourselves. If we fail to pass this bill, the States will go back to court to win in judgment or settlement what we might more efficiently accomplish with national legislation and the price of cigarettes will increase. It was recently announced by the tobacco companies as a result of the Minnesota settlement there would be an increase in the price of a pack of cigarettes in Minnesota.

The experts say a price increase is a critical component—not the only component but a critical component—in the effort to stop 3,000 kids from starting to smoke. We have heard from opponents who say the bill is about "tax and spend." Providing $195 billion to States in settlement of their cases so that State taxes can be lowered and half of it can be used for a menu of public health-related options agreed to by the Nation's Governors is not "tax and spend."

Do opponents of this bill suggest that we should not dedicate a portion of tobacco settlement money for health research as agreed to in the June 20 agreement? Should we not have additional resources for smoking prevention, cessation, and counteradvertising as agreed to on June 20? Should we not assist tobacco farmers and farm communities that will be affected by changes in tobacco consumption, the same people who have been urged to grow tobacco by the Federal Government for years?

And let me point out that one of the most scurrilous activities of the tobacco industry is to go to the farmers and say that the passage of this legislation will harm you. If they were concerned about the farmers, why is it that in the June 20 agreement they made with 40 attorneys general there was no provision for the tobacco farmers of America—none, not one word. It is remarkable. It is remarkable that they should go to the tobacco farm communities and now oppose this legislation when they had no provision to take care of the farmers in their agreement of last June 20.

Should we not dedicate a portion of tobacco settlement money to assist veterans suffering from smoking-related illnesses when the Federal Government handed out cigarettes in their mess kits?

I ask my friends why we are not talking more about the real "tax and spend" associated with tobacco—tax and spend that tobacco companies impose on the American people every year in the form of $50 billion in smoking-related health care costs including Medicare and Medicaid—almost $455 for every household in America? Every household in America, whether they smoke or not, pays $455 a year in taxes every single year, and that is going up, to treat tobacco-related illnesses.

This is a tax of epic proportion paid by every taxpayer, every hard-working American who must purchase health insurance for his or her family and every small business struggling to provide employees with affordable health care coverage. Do the tobacco companies worry about taxpayers as they entice their "youth market" to begin a lifetime habit that sickens and kills hundreds of thousands a year, the cost of which others must bear? I don't think so. This bill intends to stop some of that and stop it immediately.

We have heard from opponents who say we don't need a comprehensive bill to stop kids from smoking. With all due respect to my colleagues who are so wise and expert in so many areas, prudence and good sense dictates that the Nation take the advice of the experts who maintain unanimously that only a comprehensive bill will address what they refer to as a "pediatric epidemic," including every living Surgeon General, Republican and Democrat, the American Medical Association, and the organizations that I just quoted.

For those who wish to kill this bill, let us examine what we are really talking about. We are talking about 418,000 Americans a year who die of smoking-related diseases, the number one cause of preventable disease and death in America by far.

I had the privilege of hearing a speech by the head of the National Cancer Society who put it into perspective:

> Among a graduating high school class of 1,000, 6 will die from violence, 12 will die from motor vehicle accidents, 250 will die in mid life from a smoking-related disease and another 250 will die later in life but far earlier than necessary from smoking-related illness.

Let me just repeat that.

> Among a graduating high school class of 1,000—

This from the head of the National Cancer Society—

> 6 will die from violence, 12 will die from motor vehicle accidents, 250 will die in mid life from a smoking-related disease and another 250 will die later in life but far earlier than necessary from smoking-related illness.

So I have great respect for my colleagues who oppose the bill, and everybody is entitled to their opinion, but they are not entitled to the facts. It all comes down to this very simple premise: The tobacco companies target kids to sustain their cigarette sales. Kids take the hook; 3,000 a day start the habit, and that number is increasing. Smoking is the single greatest killer in the United States by far. What physicians call a "pediatric epidemic" won't change unless we do something. This bill is a bipartisan opportunity to act. If it fails, the industry will go away happy but the death march will continue. I ask my colleagues, which it is going to be?

Finally, let me make one more additional comment. I know my friend from Massachusetts wants to speak as well.

Mr. President, over the last week or so in the formulation of the highway bill, some very bad things were done to the veterans of America. I am ashamed and embarrassed. These men and women who have served our country deserve better than what they got out of that highway bill. In fact, some of the money earmarked to treat their illness is now going to highways and bridges.

I know that fewer and fewer of my colleagues have had time in the military. Those of us who are a little older have a vivid memory of smoke breaks, of C-rations that contained cigarettes, of the end of the chow line where cigarettes were given out for free. If there is any group of Americans that deserves to be reimbursed for tobacco-related illness, it is the veterans of America.

We used to call, as my friend from Massachusetts recalls, smoke breaks. We would have smoke breaks all the time. In times of tension in combat, cigarettes were smoked for relaxation, for relief of tension. And the Armed Forces and our Government encouraged those men and women in the military to smoke.

At the appropriate time, the Senator from Massachusetts and I, along with the Senator from West Virginia, Senator ROCKEFELLER, who has played a very important role, will propose an amendment to put approximately $3 billion into treatment of veterans for tobacco-related illness. I urge my colleagues to support such a move. We intend to have some debate on that particular amendment, and I believe it should pass overwhelmingly.

Mr. President, I ask unanimous consent that debate only be in order prior to the Senate reconvening at 2:15 today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank my colleague, the Senator from Arizona, for his review of this legislation and for his summary of where we find ourselves today. I also, obviously, particularly thank him for his laying out the important agenda with respect to veterans and what happened in the course of the last week or so. I will join with the Senator, as others will, I know, in trying to remedy that impact, and I am confident that the U.S. Senate will do so.

I also recall, not just the degree to which there was a kind of dependency built into the system that both of us were in in the Navy, but often at the end of a particular exercise, or General Quarters, the announcement would come over the loudspeaker on the ship saying, "The smoking lamp is lit," and there was this sort of automatic rush to smoke. It was part of the doctrine, if you will—the ethic. And an awful lot of veterans, as a consequence of that and other things, many other things through the course of life, are today suffering. They are suffering as a consequence of that. So I think the Senator is right on target in his desire to address that.

I also thank Senator McCAIN for his long efforts with respect to this particular bill. In all of the debate on the floor of the Senate, it has been lost that this is a bill that was reported out of committee by a vote of 19 to 1, reflecting a considerable consensus about at least a beginning, a starting place. I think most people would agree, as a reflection of the vote that took place on the floor of the Senate regarding the cap on liability, that the bill which came to the floor moved significantly in the direction that the Senate ultimately decided it wanted to move, by eliminating all of the restraints on class actions and other limitations on liability, with the sole exception of the $8 billion a year. The Senate, in its wisdom, decided to remove that.

But the point is, this is a bill that I think has been improved, at least in its starting point, and hopefully in the next days we can improve it further. I listened carefully to the Senator from Oklahoma last week, and I took the time last night to reread his criticisms of this legislation. I think here and there there were some good points that he made. There are ways, in amendments which I am confident the Senator from Arizona and I and others are willing to accept, that those issues could be remedied. So my hope is that in the next few days we are going to be able to move to do that.

But the most important thing, as we reflect on where we are going, is to remain focused on the positive ways, the constructive ways, in which this bill helps to save children's lives. That is the purpose of this debate. There is not anything else that we are really trying to do here.

There is a reason that there is a tobacco legislative effort taking place. There is a fundamental reason that we have come to the floor of the Senate, recognizing the work of the attorneys general around the country who brought suit because of this. There is a reason they brought suit. There is a reason that the suits are settling. There is a reason the tobacco companies are coming to the table and agreeing to settle those lawsuits. They are settling them and agreeing to do the very things that we are seeking to codify in this legislation, but on a national basis, so we can save time, save money, and save lives. That is the purpose of this legislation.

One cannot ignore the fact that, in Minnesota, if you extrapolate the cost of what the tobacco companies have agreed to in Minnesota, and take that out on a State-by-State basis across the country, you actually have a greater expenditure than you would have under this legislation. So the tobacco companies have accepted, at least in the legal process, what is being fought here in the national legislative process. I think the truth is that ultimately we are going to come to an agreement that recognizes that fact.

The bottom line is that the entire legislative agenda we are engaged in here is to break the cycle of addiction that is hooking 3,000 children a day on a deadly drug. It is a very simple debate fundamentally. Yesterday, the Senator from Texas agreed that you do have to raise the price, and he is prepared to raise the price in order to try to reduce the access. At least we are sort of chipping away at the arguments here and slowly beginning to expose the truth, the facts, as the Senator from Arizona talked about. You can make the arguments politically on the floor, but you cannot make up the facts. The fact is that 3,000 kids a day get addicted to this drug and, as a consequence of that addiction, a third of those young children will die early of throat cancer, larynx cancer, esophagus cancer, kidney disease—some kind of disease that will be initiated and enhanced as a consequence of the addiction to this drug.

So we should not be diverted by the side issues here. The side issues are purposefully being used to obfuscate what the real focus of this legislation is. There is only one reason for raising the price. The one reason for raising the price is that every single expert, including the tobacco companies themselves, have said if you raise the price you reduce the access of young people to cigarettes.

If this were merely a debate about an adult habit, I guess you would hear a lot of discussion about willpower, about adult choice, about taking responsibility for your actions. If this were just a debate about dangerous adult behavior, whether it is smoking or drinking or driving too fast, we would not be talking it out on the floor of the Senate, I suspect. Fundamentally, we wouldn't be. But it is not a debate about adults; it is a debate about people who did not make a rational adult decision to start smoking. It is a debate about children. And the underlying reality is that 86 percent of smokers begin while they are children. Mr. President, 86 percent of America's 40 to 50 million—what is the number?—45 million Americans who are deemed addicted to cigarettes, 86 percent of them began as teenagers. They began as children. So this is a discussion about underage smoking and that underage smoking fundamentally leads to a very sad and tragic, slow suicide.

Some of my colleagues have raised concerns about raising the price. I am glad the Senator from Texas has accepted the notion. I think other colleagues may ultimately do that, because the concept of raising the price is not something that was initiated with some Senator who came down and said, "Boy, wouldn't this be a great idea? Wouldn't it be wonderful? Here is another way to raise some revenue." That is not where it came from. It came, quite simply, from all of the analyses, studies, research, polling data, focus groups, all of the experts have come together and said, "If we raise the price, we can reduce the number of children who are smoking." We can't eliminate it—we all understand that—but we can significantly reduce the access of young people to cigarettes.

I ask my colleagues not to ask Senator McCAIN or myself or Senator KENNEDY or Senator CONRAD or any of the other advocates of this legislation to be trusted in their word that somehow that is going to happen. I ask them to look at the economic analyses—at the Treasury analysis, the CBO analysis—all of the analyses that have been done.

Among the 39,000 documents—and this is perhaps one of the most interesting bases for making this judgment—among the 39,000 documents that were subpoenaed over the years as the tobacco cases slowly made their way through the courts, we find a Philip Morris document that says, quite simply, the following:

> It is clear that price has a pronounced effect on the smoking prevalence of teenagers.

That is a Philip Morris document. You will find an R. J. Reynolds document, and it says as follows:

> A key finding is that younger adult males are highly sensitive to price. This suggests that the steep rise in prices expected in the coming months could threaten the long-term vitality of the industry by drying up the supply of new younger adult smokers entering the market. It could also undermine the long-range growth potential of brands which rely on new younger smokers, including Marlboro and Newport.

That is one of the most extraordinary documents we can ever conceive of reading after all of the protestations to the contrary of tobacco executives who came before the Congress and raised their hands and swore under oath that they don't target young people. Here is an R. J. Reynolds document talking about how price would affect their targeting of younger smokers, how price was going to reduce the industry's capacity to grow by depending on its ability to reach the younger smokers and get them addicted, particularly to Marlboro and to Newport.

One might wonder why the tobacco industry conspired, therefore, for years to keep those internal memos under lock and key. The secret, I think, in those documents is not that price correlates strongly with sales, but it does.

That is not the secret. The secret is that the number of young smokers, which we know translates too often into 13- and 14-year-old smokers, is going to go down dramatically if cigarette prices go up. Thus spoke the industry itself.

That is why we are here in the U.S. Senate arguing about whether or not it is appropriate on a national basis to raise the price of cigarettes, and the cigarette companies themselves have told us in two ways: One, in these memos it is appropriate and it will work; and they have told it to us in the settlements in Minnesota and in Mississippi and elsewhere where they have agreed to those kinds of increases, and in the national settlement where they agreed to raise the price of cigarettes, albeit not to the $1.10, but they agreed to raise the price. They did that because they understood that was a component of reducing teenage smoking.

So this is not an idea cooked up in the U.S. Senate. Don't come to the floor of the U.S. Senate and start suggesting that this is some Democrat or some large-scale tax-and-spend issue. This is an idea that the tobacco industry itself has written about for years. This is an idea that the health care industry itself has known for years would work. Public health experts are united in the consensus that raising the price of cigarettes is going to reduce youth smoking. Dr. Koop and Dr. Kessler said:

> Data indicate that children and youth are more price sensitive than adults and that pricing has a strong and immediate impact on reducing sales of tobacco products overall.

The Congressional Research Service said:

> Most of the evidence suggests that teenagers are about three times more sensitive to cigarette prices as are adults. For every 10 percent price increase, the number of underage smokers drops by 5 to 7 percent.

According to the Treasury Department:

> Substantial real price increases are the best way to combat youth smoking.

According to the National Cancer Institute:

> An increase in the cigarette excise tax may be the most effective single approach to reducing tobacco use by youths.

According to the Centers for Disease Control:

> Tobacco use prevention activities should be designed to prevent the use of all tobacco products. Such activities should include increasing tobacco prices.

That is an extraordinary consensus—a consensus of the industry, a consensus of independent health analysis, a consensus of our economic advisers and economic analysts. I think that speaks volumes.

Mr. President, I urge my colleagues to also listen to someone who is suffering from a lifetime of smoking. Listen to any of the people who in their twenties and thirties have already begun to feel the impact, and they will tell you how easy it is to buy a pack of cigarettes at age 12 and 13 when it only costs as much as four or five candy bars. Talk to women who will tell you that when they were adolescents, they gladly made that choice about how to spend the change in their pockets because cigarettes were going to keep them thin and candy bars would not.

That is the story of Pamela Lafland, a 27-year-old mother of two who lives in Boston. Several weeks ago, I met her, and I thank her for sharing her story with me.

When Pam was 11 years old, she had a lot of the same dreams that most young women have: She wanted to be attractive; she wanted to be successful; and she wanted to, while she was younger, look older sooner so that she could start making what she thought were grown-up decisions in a grown-up life.

She took her pocket change down to the corner grocery store and she bought cigarettes. She got hooked. At 11, she was already dreaming of having children some day, and at age 22, she had her kids. At age 24, because of juvenile emphysema, she was now raising them from a wheelchair. At age 26, she had a lung transplant, and today her body is rejecting her lung. Her medical bills have exceeded $200,000, and she has found out, as she says herself, that when she was young, cigarettes were cheap, they were readily available, she didn't know to the contrary, and today she knows she could never measure the cost of a pack of cigarettes in quarters and dimes and nickels.

For Pam, the cost has been her health, and in many ways, the structure of her life, the quality of her life. Pam tells me that raising the price of cigarettes would have made a difference to her and will spare children today from a price system that allows children to make the grown-up decisions that all but guarantee that when they do grow up, they are not going to have a lot to look forward to.

I think we ought to listen to Pam, and we ought to listen to a lot of people like Pam who are similarly suffering in some stage of their life as the consequence of the ready accessibility in the United States of what we know to be a killer narcotic substance.

We have heard a few Members of the Senate coming to the floor and suggesting that raising the price of cigarettes is going to hurt low-income people. Mr. President, there is a certain question mark, I guess, to put it politely, that raises when some of those people who have opposed health care for children, who have opposed day care, who have opposed raising the minimum wage, who have opposed student loans for people who are struggling—all of these things—are all of a sudden here on the floor, those very same people are the ones standing up in defense of "poor people" who are going to be hurt because the pack of cigarettes is going to cost more.

Leaving aside that question mark about what brings them to the floor suddenly as the protectors of the poor in this instance is the fact that it suggests that somehow poor people do not care about their children's smoking, that it is OK to protect getting cancer on the cheap, that what we are going to do is somehow protect the notion that if we keep cigarettes cheap, poor people can buy them and get cancer, since more and more people in poor areas of America, in urban areas, are the ones in whom we see the highest increase in smoking today.

So the argument is, we are going to protect you from the increase in the pack of cigarettes, which is going to make it cheaper for you to get cancer, cheaper for you to have your kids' lives ruined. It is an insult to poor people to suggest that they are not just as supportive of raising the price of cigarettes so their kids will not go down and buy them with whatever pocket change they have. We ought to recognize that. We should not be making it easier for a pack of cigarettes to be accessible to people for whom those cigarettes have become one of the better alternatives to some of the other problems that they have in their lives.

In poll after poll—in poll after poll—a large majority of those people with incomes below $30,000 a year favor raising the price of tobacco, the price of cigarettes. And they do it because they do care about their kids and because they do want to have an opportunity to have those kids grow up healthy and capable of enjoying the fullness of their lives. Low-income people, just like wealthier people, understand that we have to reduce youth smoking.

They also support raising the price because they recognize that spending on tobacco represents about less than 2 percent in spending in any income category. It isn't an issue of income or class; it has nothing to do with your occupation or the size of your family budget. It boils down to a consensus that by far most Americans want the U.S. Senate to do the right thing, which is to take cigarettes out of the hands of children. And the way you take cigarettes out of the hands of children is partly to raise the price, which has been deemed to be the most effective method, but also to engage in counteradvertising, research on addiction, cessation programs, and other things that I will talk about in a minute.

So I believe this bill hits that mark. Senator MCCAIN has reviewed each section of this legislation and laid out the ways in which it helps to prevent youth from smoking.

Studies have shown that low-income smokers in Great Britain on average reduced their expenditures on cigarettes in response to a tobacco tax increase there. We ought to look to other countries and take the example from them. I think that is very significant, and the reason is that a significant percentage of low-income smokers quit smoking entirely in response to the price increase. Hooray. That is precisely what we want to achieve.

So if we can induce a whole group of people—which is part of what is factored into the volume adjustments of this bill—if we can induce large numbers of people to quit, then, again, also the country will be better off. So the policy works.

I think my colleagues need to be wary of those companies that have actually targeted people in the past now coming to us and fostering some kind of egalitarian argument when their lack of a sense of egalitarian sensitivity drove them to actually target people in low-income communities to become addicted. You cannot have it both ways. All of a sudden, this new concern is obviously a concern which will continue to allow people to become addicted and to buy cheap cancer. The only reason tobacco companies oppose the higher prices is that they know it will diminish the number of people who smoke.

Mr. President, I hope the U.S. Senate is going to be united in the effort to reduce youth smoking. We are convinced by all the scientific evidence and by decades of precedent, even by the secret—now not secret—memos of the tobacco industry itself, that an increase in cigarette price will reduce youth smoking. So we ought to end the debate on the floor of the Senate about "tax and spend." This did not originate in the Senate, did not originate with Democrats, did not originate as an idea of some political party that wanted to find revenue. It originated out of scientific analysis and economic analysis that tells us to a certainty that if the price of cigarettes goes up, then the number of people who smoke goes down.

Then the next question for the Senate is, all right, if you have raised the price, and you have x amount of new revenue coming in, what is the best way to use that to continue to be able to reduce teenage smoking and to have an impact on the impact of smoking itself? That is what we are doing. That is precisely what this bill seeks to have an impact on. It is not, in the final analysis, a regressive burden on low-income families; it is a progressive idea that literally sends a generation of American kids into a world that will be healthier and safer no matter how much money their parents earn. It helps relieve all Americans of \$130 billion that we lose each year in medical costs, lost wages, sick days, and all of the fallout from smoking.

As my colleagues come to the floor of the Senate and talk about the cost of this bill—the cost of this bill is the cost of trying to limit young people from smoking. The cost of not doing that is \$130 billion a year that every American is paying—even nonsmokers. Every single American is required to fork out of their tax dollars every year at least \$1,370 per person in America to pay for the costs of other people smoking. That is what we pay now. The hidden tax on America is the tax of smoking itself for all of the diseases and trauma that come as a consequence of that.

It helps—this bill—I believe, to relieve an individual smoker of over \$19,000, on average, in lifetime smoking-related medical costs—more than double the average amount of a year of tuition at a public university.

I want to point, Mr. President, to the chart here that talks about the annual costs of smoking. We have 1 million kids who begin smoking every single year. There are already 45 million smokers in the United States. And, as we know, those 45 million smokers, 86 percent of them started right here as young children smoking. The costs of this break down to 420,000 deaths a year—a year. Those are people in a hospital bed, in a pulmonary ward, with tubes sticking out of them, can't breathe, oxygen, around-the-clock nursing, extraordinary medical costs—420,000 deaths a year; more people, as we know now, than died in all of World War II, all of Korea, Vietnam, Desert Storm, put together, every year—every year—in the United States.

We have an opportunity to do something about that, and we are sitting here playing politics about it rather than trying to find the best way of doing something about it—420,000 deaths every single year directly related to smoking; \$80 billion in lost productivity to the country as a consequence of the sickness and the disease that people pay the price for as a consequence of smoking; \$80 billion in just total health care costs. That is just the cost for caring for 420,000 people dying and for the people who are not dying or are not yet dead in the outyears. There are 420,000 people who die a year as a result, but in the preceding year—and the preceding years—they are just sick, but very sick, and cost enormous amounts of money.

So we are spending \$80 billion a year because 86 percent of those adults got hooked when they were kids. Here we are in the U.S. Senate with an opportunity to stop them from getting hooked as kids, reducing the number of adults smoking, reducing the amount of health care, reducing the number of deaths. There is \$24 billion just in Medicaid and Medicare costs that come out of the pocket of every American. That is the cost.

You want to talk about taxes? It is the cigarette tax on every American that is obscene because most Americans didn't ask for that. At least raising the pack of cigarettes is voluntary. You can choose whether you are going to go in and buy them. You can choose whether you will buy one pack or one carton. You can choose how much you will pay out of your own pocket. But these costs, no American gets a choice about these costs. These are forced on every American. These are put to every American as a consequence of our allowing a narcotic drug to be sold over the counter in America. It is time we did something about it.

Now, some have suggested that we ought to take some of this money and reduce the marriage penalty. I would like to reduce the marriage penalty. Even though some Americans who get married aren't affected by it, some are. We need to find a way to balance, how to do it smartly.

But if we take this money and don't put it into the effort of researching addiction and don't put it into our children in terms of confidence building, all of the things they need for self-esteem to make judgments not to smoke, to help with child care, to help with the after-school times, which is when most of these kids go out and start smoking, when there is no parent home—when school lets out at 2 o'clock in the afternoon and they are hanging out on the street corner with their friends and we don't have enough time to give them something constructive to do—that is when it happens.

Instead of providing that kind of constructive oversight with this money, some want to get rid of the marriage penalty. You get rid of the marriage penalty and you will not have done anything to reduce these kids from smoking. I am for getting rid of the marriage penalty, but don't take it out of the "hide" of the effort to get our kids unhooked from cigarettes. That doesn't make sense. That is not the smartest tradeoff we have been presented with in the U.S. Senate. Surely we could find a way to agree to vote on the marriage penalty—and I will vote to get rid of it—at the appropriate time.

If we can't do that, then let us at least whittle down some kind of sensible tax rebate to the people who we are supposedly expressing the greatest concern about—poor people—who are going to be paying more because they are buying cigarettes, and target that in some kind of responsible way. If we did that, then, I think, we really would be consistent with the effort to try to reduce teenage smoking. That is what we have to keep focused on here. Every time we get diverted, let us come back to what this is about: It is only about stopping our children from smoking, finding the way to reduce the numbers of kids who smoke. And we have to find the most sensible ways to try to do that.

Now, it seems to me that what the Senator from Arizona has described in his opening statement really lays out a series of things that we believe are able to try to do that. In the inner cities of our country, there is a 78-percent likelihood that a child is going to start smoking before the age of 18. What does that mean? It means you will have a young woman who is more than two times more likely than a woman who doesn't smoke to have a low-birthweight child. It means you will have the highest rates of juvenile emphysema and asthma in our urban centers. It means we will have a generation on the road to cancer of the mouth, throat, larynx, esophagus, pancreas, bladder, and kidney. Cigarettes are killing more children than ever before in our most underserved communities. The obligation of this legislation is to find a way to try to reduce that.

What do we do in this bill? We hear people coming out here and talking about "bureaucracy and government." We have left most of the options here to the States. In fact, there are minimal numbers of mandates. The mandates are simply sort of a Federal effort to say we want to make sure they stay on the target of trying to reduce kids from smoking but gives the States a pretty fair recipe as to how to do that. And it leaves the States the option of giving a tax cut. As the Senator from Arizona said, they can make their own choice. The big hand of Washington doesn't have to step in and tell them what to do. If they decide they want to take some of the money that comes back from this revenue and give them a tax cut, they can do that. We don't stop them.

So it seems there is ample opportunity here. But most importantly, this bill sets up a structure for some cessation programs for counteradvertising, for research. Every single one of those are related to stopping children from smoking. We don't know all that science can tell us about addiction yet. Therefore, we have laid out a certain component of funding here to fund additional research on a national basis to try to learn more. Maybe we can come up with some kind of vaccine, Mr. President. Maybe we will come up with some kind of a magical combination of education and early input that makes it exceedingly difficult for people to make the choice to smoke. Maybe there is some easy antidote. We don't know yet. Whatever it is that triggers the mechanism in the chemical structure that makes people addicted, we ought to be researching. That is what we do. We put money into research so we can reduce the impact on our society of the $80 billion a year of medical costs. We have counteradvertising. We have learned that is a very, very significant way of reducing people from smoking. There are very significant evidences of that. It seems to me that we ought to keep our eye focused on that.

Let me try to document that a little bit with an example. In Massachusetts, we were able to fight our State's addiction to cigarettes by a combination of raising tobacco prices and funding tobacco-control programs, exactly what we are talking about doing in this legislation. In 1992, Massachusetts voters approved Question 1, a ballot initiative, to increase the excise tax on cigarettes by 25 cents. The funds from that 25 cents were spent on cessation, outreach, a Smoker's Quitline, media campaigns about the dangers of tobacco, as well as research. The Smoker's Quitline, which is 1-800-TRY-TO-STOP, received over 35,000 calls through June 1996. It distributed 23,000 cessation materials. The media campaign is entitled "It's Time We Made Smoking History" and it reached 94 percent of the children in my State. The Tobacco Education Clearinghouse distributed over 2 million pieces of tobacco information literature in English, Portuguese, Spanish, Vietnamese, and other languages, and 66 primary health care sites have provided smoking cessation programs with individual cessation counseling and advice to 36,000 patients. Forty-nine youth tobacco education programs sponsored 2,570 community tobacco education events, which reached 950,000 Massachusetts youth. Thirty-three population at-risk programs provided tobacco education and cessation activities to targeted racial, ethnic, and gender groups.

What were the results of these efforts? The annual per person cigarette consumption in Massachusetts dropped by approximately 30 percent from 1992 to 1997. The plan is working. There is no denying that. So what we are talking about in this bill is not pie in the sky, it is not some made-up notion of a do-good/feel-good concept. It works. It has proven to work. The only question before the U.S. Senate is whether we are prepared to maximize our efforts to reduce young people smoking and reduce the tax on Americans of smoking that occurs today, even for those who don't smoke and haven't asked for that tax.

The research shows that we are not talking about some Massachusetts—this is not a miracle or pie-in-the-sky. This can work all around the country. In the last 10 years, States from Minnesota to California to Arizona have invested in similar community-based antismoking campaigns. The American Stop Smoking Intervention Study for Cancer Prevention has provided funding to 17 States for smoking prevention programs, and they have managed to cut tobacco consumption by 10 percent in just 4 years.

So, Mr. President, here you have it. In our State, we have a 30-percent reduction. In California, Minnesota, and Arizona, where they have made these efforts, small as they are, there has been a 10-percent reduction. What we are saying in this legislation is that if we can take this tobacco revenue and apply it to teenage smoking reduction efforts, we will reduce the number of Americans who are addicted, we will reduce the number of Americans who die each year because of this, we will reduce the amazing cost to our society of the burden of our health care, and we will reduce the Medicare and Medicaid component that is associated with it, the tax burden.

This is a tax cut plan. This will reduce the cost to America over time, and that is why it makes sense. We also know that counteradvertising works. We need to be empowered—and this legislation seeks to do that—to reach millions of young kids in ways that will change their attitudes about smoking.

I know that my colleague from Oklahoma expressed concern last week about the increase in marijuana use in the United States and the increase in smoking. I share that concern with him. There is an inexcusable rise in the level of marijuana smoking taking place. One of the reasons is that there has been a fallback on the commitment that was made a number of years ago to the kinds of proactive efforts of sports stars, role models, advertising, and other efforts that are so essential to helping kids perform the roles and attitudes necessary not to smoke.

For decades, we have had the tobacco industry pushing cigarettes that taste sweet. I read a Wall Street Journal article where a former tobacco sales representative is quoted as arguing, "This cigarette is for somebody who likes the taste of candy, if you know what I'm saying." Well, we know exactly what he means, Mr. President. What we ought to be doing is empowering local communities who know what he is saying to deliver a countermessage against youth smoking.

Mr. President, in States where they have run messages against youth smoking—places like Arizona—it has worked. It has brought children out of risk. Nationally, I don't think any one of us will ever forget some of the ads we have seen, like the Marlboro Man dying in a hospital bed from lung cancer. He was the guy who was sitting on the horse with the hat on and moustache, looking so macho, selling a generation of cigarettes. He died from lung cancer last year, regretting the smoking and regretting the image that he portrayed, and he made an advertisement about it. That is effective. There was an advertisement of a cigarette addict who lost her larynx to smoking through her tracheotomy. I have talked with teenagers who quit smoking the day they saw those ads. Can anybody say that the effect is going to be the same the day we get rid of the marriage penalty?

Come on, Mr. President, let's face it. The reality is that everybody understands if we can run an effective national effort in order to try to counter the impact on our children, we will make a difference. It is up to the U.S. Senate to make that difference now. We have a choice about our priorities. We can come down here and continue to wage the fight against the tobacco companies who continue to stand in opposition to a bill that tries reasonably to deal with the problem of smoking. I say to my colleagues, where it isn't reasonable, let's amend it. Let's come down to the floor with an appropriate substitute or amendment and let's pass it, if it is worthy. If it isn't, let's complete work on this legislation and do what we ought to do to reduce the access of smoking to our children.

It seems to me that it is not hard to discern that the purpose of this bill is genuine and it is simple: It saves children's lives. It could save a generation. And it does so with minimal bureaucracy, minimal intrusiveness, and minimal interference. I am open to any ideas that anybody has which will sustain a counteradvertising program, sustain the cessation programs, sustain research into addiction, but at the same time do it somehow with less "bureaucracy" or intrusiveness. I am confident the Senator from Arizona and I would accept an amendment if it did so in a way that sustained the fundamental purposes of this legislation.

So we have this opportunity, and there is no higher priority in the agenda of this Nation, there is no higher priority in the business of the U.S. Senate. It is hard sometimes to make the words as meaningful as one wants to, hard to find a way to get over the partisan tug-of-war that takes place here, and it is hard sometimes to get the full measure of what this is about. The full measure of what this is about is not the measure of a price of a pack of cigarettes, it is the measure of a child's life, it is the measure of what it is like to have emphysema and be in a hospital because you haven't made the decision that was cognitive when you were young. It is the measure of our responsibility as adults and as citizens to be able to reach our children at a stage when they are most impressionable and subject to making these kinds of mistakes. That is the measure of what we are doing here. I hope the U.S. Senate will measure up and do what every American understands is in the interest of our Nation and in the interest of our children.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the Senator from Massachusetts for his important statement and the important comments he has made. I will yield the floor in a minute to Senator WELLSTONE, who is waiting.

I want to make a couple additional points here. One of the aspects of this bill that has been raised is, of course, the legal fees. There is no doubt that that issue has to be addressed. The President tried to address it in one of his amendments, which I supported. I believe that he and others are working together to try to guarantee that most of the money goes to the public and would still leave the lawyers plenty of room to get rich. That is our goal here, and I think we can achieve that without too much difficulty on a consensus basis.

On the issue of the look-back, the so-called Durbin amendment that we are specifically debating, let me point out that if the so-called look-back provisions are made strictly company-specific—remembering that in the bill we have an uncapped company-by-company surcharge of $1,000 per youth smoker—there can be wild gyrations in the cost of a pack of cigarettes, which would really drive those specific companies out of business. If it were strictly company by company, if one company did not achieve the goals and had to increase its payments by a significant amount, those costs would have to be passed on, as we know, to the consumer. That would drive the tobacco company out of business.

I repeat, we are not trying to drive the tobacco companies out of business, we are trying to drive them out of the business of marketing to kids. What you would really end up doing if we adopted the Durbin amendment is basically cause wild gyrations in the cost of a pack of cigarettes and drive companies out of business. Mr. President, what we have done in the managers' amendment is basically strike a compromise between an overall penalty to the industry, but also a specific penalty of $1,000 per youth smoker, which, by the way, is double the amount a young person spends on cigarettes per year.

That is a very significant penalty. I would point out that the Durbin amendment would also increase the cost to about $7 billion where ours is approximately $4 billion.

Mr. President, I do not see the Senator from Massachusetts in the Chamber, but I think it is important for us to recognize something else here, too, that has been going on. I know that many of my colleagues dislike the tobacco companies. I have to say, in all candor, I have grown to like them less as I have been seeing my name splashed all over newspapers, television and listened to it on radio for about the last month, but let us not forget what we are trying to do here. Are we trying to just drive tobacco companies out of business, which probably would not upset me if I did not believe and know that 40 million adult Americans would still smoke.

If American tobacco companies went out of business, two things would happen: One, there would be a Marlboro or a Camel or another coming out of Mexico, El Salvador, whatever; they would be exporting cigarettes into the United States, which we would not have nearly as much control over. So people would not stop smoking immediately if we drove all the tobacco companies out of business. So it is not in our interest to drive all the tobacco companies out of business, particularly since we would also be deprived of the funds to be used to try to convince children in America not to smoke.

So with all due respect to my colleague, what I see going on here, interestingly, from both ends of the political spectrum is such punitive amendments that we will drive the tobacco companies out of business. Now, we will feel good; we will be able to go back and tell our constituents: I voted for this amendment; I voted for that amendment; I took away any protection that they had; I voted to increase the price of a pack of cigarettes; I voted to make those punitive provisions stronger and, by God, I showed those tobacco companies.

Well, that may be a short-term gain, but it will not solve the problem of kids smoking. That is why this bill had better not get too far out of kilter. Now, I do rely on the experts. I do rely on their opinion. I am not an expert. I am not an expert on smoking. I freely admit that. But I listened to the Treasury Department. I listened to the public health groups. I listened to the experts who told me that if it becomes too punitive, too big in penalties, too big a price for the tobacco companies to pay, they will do what the asbestos companies did and that is declare bankruptcy and go out of business. So it may feel real good to vote for an amendment that punishes the tobacco companies further.

Now, I will admit, Mr. President, I have some subjectivity here because I spent weeks and my staff spent hundreds, thousands of hours sitting down saying, what is the best, carefully balanced package we can come up with which achieves our goal. And that is why we received a 19-to-1 vote through the committee—because it had balance. We are in danger of knocking this thing way out of balance, if we haven't already.

Now, again, I will stop because the Senator from Minnesota is on the floor, but we could sit here day after day, week after week, if we want to, voting for amendments that punish the tobacco companies more and more. But that will not stop a kid from smoking. Every day that goes by 3,000 kids will start smoking. Today 3,000 kids will start smoking. Tomorrow 3,000 kids will start smoking.

So I urge my colleagues to understand what our goal here is—not to drive the tobacco companies out of business, but to stop kids from smoking. If you drive the tobacco companies out of business, which may make one feel good, one, you are still going to have 40 million adult smokers in America and probably kids smoking, too; and, two, you are not going to effectively address this problem that we are trying to through this legislation which was addressed on last June 20.

So I hope my colleagues will keep that in mind as we vote for amendments and show how macho and tough we are on the tobacco companies.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me say to my colleague from Arizona I had a chance yesterday to speak in the Chamber, and I have been wanting to say this while he is in the Chamber. I read a very eloquent and really beautiful piece in the Washington Post he had written about Senator Goldwater, who was, I suppose, on the opposite side of the spectrum from where I stand, but I talked about how especially in recent years—I never knew Senator Goldwater, never had a chance to talk with him, but in recent years as I have read about him and seen some of the things he said, I have so much respect for the way in which he kind of tied together personal, intellectual and political integrity.

I say to my colleague from Arizona, who will probably disagree with the rest of what I say over the next several minutes, I do believe when it comes to conscience and integrity we do have somebody who lives up to that very high standard Senator Goldwater set. And that is Senator MCCAIN from Arizona. The only thing I didn't agree with in the article the Senator wrote was when Senator MCCAIN said he will just be a mere footnote in Senate history. I do not agree with that. I think Senator MCCAIN is an enormously important force here in the Senate and in the country, and I better not go any further with that because I am about to disagree with the rest of what he said.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that David Vang, who as an intern in his last day in our office, be allowed to be in the Chamber during the debate today on this piece of legislation.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I agree with really what both my colleagues have had to say, the Senator from Massachusetts, Mr. KERRY, and Senator MCCAIN, about what our goal is with this legislation, that we ought to keep our eye on the prize. The goal is to reduce youth smoking and to save the lives of children in our country and, I would argue, also children throughout the world.

In that regard, from my perspective, not from the point of view of being macho, I say to my colleague from Arizona, but from a point of view of what I think would be the best public policy that would make a difference. I think we took a step backwards when we did not raise the price increase of cigarettes to $1.50 per pack. Senator KENNEDY's amendment, I think, was on the mark because I think if we had done that over 3 years, demand, indeed, being elastic, would have gone down in a very significant way especially with young people.

But regardless of the debate on that amendment, we move forward, Senator MCCAIN has labored long and hard to make this a good bill. So have other Senators—Senator KERRY and Senator HOLLINGS and others. But again we all agree that the reduction of youth smoking and the protection of children's lives should be the primary goal of this legislation. So let us just say we are in agreement in that goal.

Now, we are forced to come to the floor of the Senate—and I am going to speak about Senator DURBIN's look-back provisions—and fight hard for children and young people for some protection because big tobacco for decades has employed legions of marketers who were paid to find ways in which they could addict our children and procure them as future long-term customers.

That is exactly what it has been all about. That was the mandate that the advertising agents received from the tobacco industry. This industry poured a tremendous amount of its wealth and its talent in what they viewed as their mission. And, oh boy, were they successful. We have heard it many times now; we hear it every day. Senator MCCAIN just recited the same statistic; 3,000 kids start smoking each day in our country alone, and a third of them, at least a third of them, will die a premature death due to tobacco-related illness. So these tobacco companies know how to market and they know how to do it well. They are experts. They have been experts at whispering in our children's ear and seducing them to smoke. So let us now get these companies to use their expertise to change the tenor of these whispers and to have them induce our children not to smoke. For a long, long, long time—too long a time—they targeted our children, they whispered in their ears, they seduced them to smoke. They have the expertise. Now what we are going to do is provide them with incentives to, in fact, get our children not to smoke. These companies are responsible, or have been responsible, for what Dr. David Kessler calls the "pediatric disease of smoking." Let me repeat that, "the pediatric disease of smoking."

That is what the look-back provisions are all about. They are to make the tobacco companies responsible for meeting certain youth-reduction goals, and they hold them financially accountable if they fail to reach these goals. Senator MCCAIN is to be commended for the inclusion of look-back provisions in the bill which we have before us today. But I think, not from the point of view of trying to destroy the industry but from the point of view of how we can, in fact, make sure we have the right incentives to get these companies to make an all-out effort not to target children and, in fact, reduce the number of children who are smoking, I think we have to have stronger and better incentives. That is why I come to the floor to support the Durbin-DeWine amendment.

I think what this amendment does, which is most important, is that it makes the payments or the penalties for missing the youth-reduction targets more company specific as opposed to primarily industry-wide.

I am worried about the industry-wide approach for a couple of different reasons. First of all, I think what will probably happen is that the industry, as a whole, will just simply say: Look, there is no particular incentive for any one company to really go all-out to reduce teenage smoking and we will just kind of share the additional cost. But, you know what? In the long run, it will be more profitable to do that.

The problem is that there is a negative incentive for companies to try to live up to our goal. After all the goal is to reduce teenage smoking. The goal is to dramatically reduce this addiction. The goal is to dramatically reduce the death of people in our country. Therefore, it would seem to me that if some companies are doing all they can to meet that goal but other companies are not, and the industry as a whole doesn't do the job, then everybody ends up having to pay a penalty, and there is simply no incentive for a company to do right. The way it stands now, if a certain company does make the effort to stop children from smoking their cigarettes, but the rest of the industry doesn't, then the company that did make the positive attempt is punished more than any other. First, they are hit by the industry wide look back payments even though they made every good-faith effort to do the right thing. And, second of all, by doing the right thing they are financially burdened by the loss of their youth market.

So it seems to me the look-back provisions in the bill as they now stand are flawed, and I think to make the incentives or disincentives more company-based, more specific-company focused, is a much more effective public policy way of reaching our goal, which is to have a dramatic reduction of teenage smoking.

The Durbin-DeWine amendment is also, I think, a strong improvement because it raises the 10-year reduction goal from 60 percent to 67 percent. In our committee, the Labor and Human Resources Committee, which for a short period of time had jurisdiction over this legislation, Senator KENNEDY had an amendment which passed the committee which would have raised the goal to 80 percent, an 80-percent reduction in youth smoking. We heard from any number of different experts who said you can do that. We can do that and we should. This is truly one place where we ought to set the bar as high as we can because we are talking about children's lives. Children's lives are precious to all of us. So I think by going to 67 percent, we have made a solid improvement that is easily doable and I think we should set the goal this high.

Let me just finish up this way. I now come back to why I come to the floor to support the Durbin-DeWine amendment, which I think is a much more effective way of reducing youth smoking. I think the look-back provisions as they now stand are flawed. I do not think they are going to work well. So we want to have a piece of legislation which will be as strong as possible and will work well.

I say to my colleague from Arizona, no company gets put out of existence. Every single company that makes a good-faith, all-out effort to reach these achievable goals and reaches them, will not have any problem at all. Those companies will have no look-back payments to make. It is simple. There is no reason, no inherent reason in this amendment that Senator DURBIN and Senator DEWINE have brought to the floor, why any companies would have to worry about going out of existence if, in fact, they make a commitment to live up to these goals. And that is what it is all about.

I think the language of money is, in fact, the only language to which this industry has responded. While the pleas of parents and children and dying victims might fall on deaf ears, and they have for a long time, the clinking of coins is a sound to which they are most surely attuned.

So I think right now we have some provisions in the legislation that I do not think will work that well. I think this amendment that Senator DURBIN and Senator DEWINE have brought to the floor makes a lot more sense. Because if companies choose to use their marketing powers to discourage teenagers from smoking, which is exactly what this look-back provision will encourage them to do, they will avoid any look-back payments and at the same time they will improve America's long-term health. I think that is what this legislation is all about.

Since I have some additional time here, I want to let my colleagues know that I will be introducing an amendment to extend the advertising protections that children here in the United States will enjoy, to extend those protections to children around the world. My understanding is that the amendment tree is filled right now, but I want to talk a little bit about this amendment. Again, as I have already said, the purpose of this legislation is the reduction of youth smoking. I believe the amendment I will introduce will further that goal and because it will it should have strong support from this body. What I am concerned about are some of the provisions in the legislation that deal with the international activities of this renegade industry. I think those provisions are inadequate.

What I want to do is to make sure that the advertising and marketing restrictions that we have in this legislation also apply to the international scope of these tobacco companies just the way Senator MCCAIN's bill was written when it passed out of Commerce Committee by a 19-to-1 vote. So, for example, if we are going to say: Look, industry, you are not going to be able to use cartoon characters to market your deadly products here in the United States of America; I would like to say to these companies: You are not going to be able to use these cartoon characters to market these deadly products in any market overseas.

I'd like to provide a little context for my colleagues. I will address this subject in more depth later on, but I wanted to draw from some interesting documents my State of Minnesota was able to obtain when Minnesota forced the tobacco industry to disgorge documents so revealing that the industry has been hiding them for years. An R.J. Reynolds document, penned in 1976, reads:

> Evidence is now available to indicate that the 14–18 year old group is an increasing segment of the smoking population. RJR-(tobacco) must soon establish a successful new brand in this market if our position in the industry is to be maintained in the long term.

Or this from Philip Morris, in 1981:

> Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . The smoking patterns of teenagers are particularly important to Philip Morris.

The amendment I will introduce will basically say we need to put our foot down. We ought to say: No more. No more addicting of children. Tobacco industry, you need to cease and desist from diabolic marketing tactics which target children, which addict children, and which ultimately lead to the premature death of too many people, here and abroad.

Some statistics about what Dr. Kessler has called the pediatric disease of smoking. The World Health Organization projects a staggering global death and disease burden related to tobacco use. The WHO estimates that one-third of the world's population over the age of 15 currently smokes—one-third. This is equal to 1.1 billion smokers. Of those 1.1 billion smokers, over 90 percent live outside the United States and over 70 percent live in developing countries.

Let me simply mention a couple of other interesting statistics that I will again get a chance to develop in this argument a little later on. I will give just a few examples. Over the last decade in which U.S. sales have declined by 17 percent, U.S. cigarette exports have grown by a staggering 260 percent.

In 1996 alone, U.S. manufacturers exported a record 243.9 billion cigarettes—243.9 billion cigarettes. I have to say to my colleague from Arizona, I am not out here to bash, but I honestly and truthfully believe and can marshal evidence—and I will when we get to debate this amendment—that big tobacco has been absolutely shameless in its efforts to addict children, not only in our country but abroad as well.

For example, if we are going to say, look, this is about reducing teenage smoking, this is about saving children's lives, I think a child is a child. We are talking about all of God's children. These advertisements have been shameful. They have been irresponsible. But, unfortunately, they also have been very successful.

It is no surprise that when U.S. companies go into overseas markets, teenage smoking rates quickly climb. In Russia, from 1992 to 1993 smoking rates among 13 to 16-year-olds increased from 31.5 percent to 42.5 percent as a result of targeting efforts by tobacco companies.

Smoking rates among male Korean teenagers rose from 18 percent to 30 percent in just 1 year after the entry of U.S. tobacco companies. Let me repeat that: Smoking rates among male Korean teenagers rose from 18 to 30 percent in just 1 year after the entry of U.S. tobacco companies.

Just 2 years after Taiwan's cigarette market was opened to U.S. companies, the smoking rate among high school students increased 50 percent. In both Taiwan and Japan, U.S. brands jumped from 1 percent to 20 percent of the market in less than 2 years.

The United States National Cancer Policy Board has noted that the introduction of U.S. cigarettes in Japan "had the regrettable effect of contributing to an increase in overall tobacco consumption, especially among those under the age of 20." That is from the U.S. National Cancer Policy Board.

My amendment will simply state that American tobacco companies, and those they control, are prohibited from selling, distributing or marketing tobacco products to children overseas, just as they will be prohibited from such activities in the United States.

I have to say to you, Mr. President, that the good news is the bill that was passed by the Commerce Committee by a 19-to-1 vote had basically the same language as this amendment. And I say let us get that language back in the bill.

My concern, as a United States Senator from Minnesota, is how can we dramatically reduce smoking among teenagers, among young people? How can we stop this shameless targeting of kids? Again, we had document after document after document. I know my colleague who is presiding has debated this. He has raised important questions—I always give that to him—and he argues his case forcefully about lawyers and lawyers' fees and all the rest. Fair enough. We have debated that, and we will debate it again.

I will say this: In the Minnesota court case which was recently settled, it is incredible the number of documents and the amount of information we were able to get out before the public.

Those documents tell a very disturbing story of an industry which in a very shameless way targeted kids and went all out to addict children. What I will be doing with this amendment that I will offer is to say, look, if we are going to be concerned about marketing to children in our country, then we also ought to be concerned about it with children abroad. The United States of America ought not to be known around the world, especially in these poor developing countries, as a country with an industry that is a leading exporter of death. That ought not to be our identity with people in those countries. I think the same marketing restrictions should apply. You no longer can use cartoon characters to push the buttons of children and addict them to tobacco in our country, and you are not going to do it in other countries either. That will be the gist of the amendment I intend to introduce.

Mr. President, I do not see any colleagues on the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. I rise today to speak on the amendment proposed by Senators DURBIN and DEWINE which would, in fact, strengthen the look-back penalty with respect to the tobacco legislation which we are considering today on the floor.

The key element to changing the tobacco legislation is providing for a very strong, very tough, and a very appropriate look-back provision which essentially would extract additional payments from the tobacco industry if they fail to meet the goals in reducing teenage smoking. This is at the heart and soul of the whole tobacco debate—preventing children from getting easy access to tobacco products, preventing them from engaging in an addiction which will lead to their premature death in too many cases.

When the tobacco industry announced their initial agreement a year ago with the attorneys general, they indicated a sincere desire, we hoped, to change the culture of tobacco, to change the culture of the way they deal with this product. Unfortunately, for many, many years, perhaps the whole history of the tobacco industry, they have been targeting young people as a means to boost their sales, as a means to enlist and, indeed,, addict a whole generation of young people to be their customers. This approach, this marketing approach over many, many, many years, has led to the premature deaths of thousands of Americans. We have the opportunity now to stop that, if we do, in fact, legislate strong protections like a good, solid look-back provision.

The tobacco industry has, as I indicated, spent billions of dollars trying to ensure that children become addicted to tobacco. In many respects, sadly, the tobacco industry has become addicted to children. They just can't seem to thrive economically without them. We want to change that addiction. We want to change the addiction that affects children, and we would like to change the addiction that has affected the industry. We would like them, if they are to market their product, to do so to adults.

At the core of ensuring this happens is the requirement of having stiff assessments against the industry if they fail to meet the goals we have set out. That is at the core of the amendment proposed by Senator DURBIN and Senator DEWINE. I commend them for this amendment. It would strengthen significantly the protections and strengthen significantly the look-back assessments that the industry would pay if they fail to meet the goals of reducing teenage smoking.

We have seen, over the course of many, many years, the deliberate attempt on the part of the industry to attract young people, to attract teenagers, to get them smoking early, so that by the time they thought about it, they were already addicted to tobacco products.

The most revealing source of information about the industry's tactics has been the industry itself. In various litigation proceedings around the country, documents have been discovered and released publicly that indicate the systematic and very deliberate attempts by the industry to addict children. Documents obtained through the Mangini litigation further document these efforts. A presentation from a C.A. Tucker, vice president of marketing for RJR Industries, concluded, "This young adult market, the 14 to 24 age group, represents tomorrow's business." Only, I think, would the industry think of "young adults" as 14-year-old children. And it is quite clear and quite obvious they were targeting these young children. They have done it in so many different ways.

They have also indicated in documents released by the Mangini litigation that they conducted extensive surveys of smoking habits of teenagers. They were trying to find out essentially what makes teenagers tick and how they can use those psychological forces to addict children to cigarette smoking. This hasn't changed and won't change this until we have a good, strong look-back provision.

The improvements which Senator DURBIN and Senator DEWINE are suggesting are just the right approach to make this look-back assessment a positive and forceful one. For example, they will move away from the industry-wide assessment contained in the underlining McCain bill and have more company-specific assessment. This makes sense, because if a company thinks that they can act inappropriately, they can take chances, play loose with the rules, market to kids, and their competitors will help bail them out because the penalty is assessed across all the companies—the good and the bad equally—there will be no real incentive to change the behavior of individual companies, to change the marketing approaches, to change the advertising approaches, to assume and to ensure that what we have is a situation where children are no longer subject to this type of advertising.

This company-specific approach is going to be, I think, the key. That is what is so critical about this amendment. If we don't have an industry-wide standard for the look-back assessment, we will never effectively change the behaviors of these companies. And, frankly, that is what we should be about. This legislation should not be about simply racking up huge payments from the industry. It should not be about how we spend those payments, necessarily. It should be quite a bit about changing behavior and the incentive of the industry so they stop trying to market tobacco products to children.

Another important aspect of this amendment that is critical is that this amendment would increase the target the industry must reach in 10 years from 60 percent to 67 percent. In essence, this amendment would require a 67-percent reduction in teenage smoking in 10 years. That is comparable to what the industry itself agreed to when they settled with the attorneys general. These two provisions—the company-specific approach, together with increasing the target reduction rate for teen smoking—are absolutely essential to having comprehensive tobacco legislation that will work and actually produce results. They will save the lives of thousands and perhaps hundreds of thousands of young people today, who otherwise will continue to be the targets of tobacco advertising, will continue to be the targets of the industry and will, I fear, fall under the sway of this tobacco addiction prematurely, shortening their lives and impacting the public health of America.

I urge my colleagues to do all they can to ensure that this amendment passes, and that we move from this amendment to consider other amendments that will also control the access of information that kids have about tobacco. I will propose an amendment that will condition the receipt of tax deductibility of advertising expenditures in compliance with the FDA rules for advertising. These amendments, together, are steps that we can and should take immediately to ensure that we succeed in changing the culture of the tobacco industry, that we succeed in ensuring that we take historic steps so that children in America will no longer be the victims of an industry that has preyed on them for too long.

I urge my colleagues to join myself, Senator DURBIN, Senator DEWINE, and the other cosponsors, in passing this act.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m. recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. THOMAS).

The PRESIDING OFFICER. The Senator from Arizona.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate resumed consideration of the bill.

Mr. McCAIN. Mr. President, as we resume debate on the issue of the tobacco bill, I want to discuss a very serious issue that arose concerning veterans and smoking and has to do with the highway bill, which some may think a little strange but probably has a lot to do with how we juggle numbers around around here and the way we "pay" for things and not "pay" for things.

Let me quote from an article that was in the Washington Post on Saturday, "Veterans Livid About 'Willful Misconduct' Tag on Smokers."

> Veterans groups were furious last week when Congress voted to finance the pending highway bill by denying billions of dollars to veterans suffering from tobacco-related illnesses. This week, the groups were stunned to discover that the lawmakers actually went further than that and declared any veteran who smoked on active duty could be considered to have engaged in "willful misconduct."
>
> That is the same standard that the Department of Veterans Affairs uses to deny benefits to alcoholics and drug abusers. The comparison has made veterans groups livid and yesterday they vowed to force a second vote on the issue.
>
> "We're hoping to get one more shot at it," said Bob Wallace, deputy executive director of the Veterans of Foreign Wars. The groups have sent messages out to their memberships hoping to flood Capitol Hill with protests from the nation's 26 million veterans.
>
> The veterans groups delivered their complaints to President Clinton at a Memorial Day breakfast. . . .
>
> A spokesman for the House Transportation and Infrastructure Committee said Congress will consider the technical corrections bill soon but many members may be unhappy to have to vote directly on the veterans issue.
>
> Besides denying compensation, the highway bill also may have gone so far as to block the VA from taking care of veterans who become ill on active duty with tobacco-related illnesses, such as lung cancer and heart ailments, a VA official suggested. The VA long has accepted those individuals for care and benefits, but a spokesman said VA lawyers are now debating whether the new law will allow their continued care.

That is pretty remarkable, Mr. President. That is pretty remarkable.

> What the Congress has done is to "retroactively redefine conduct that was not only legal but it was also encouraged by the military," said Phil Budahn, a spokesman for the American Legion, the Nation's largest veterans organization. He and other veterans noted that the military provided free cigarettes to service personnel as recently as the Vietnam War.
>
> Until the highway bill came along, Congress had avoided the issue. Because denying the tobacco benefits would create a budgetary savings of as much as $23.8 billion over five years, promoters of the highway bill latched on to the idea as a way to pay for increased highway spending.
>
> PVA's Fuller said Congress simply saw the VA as a "cash cow" and used the veterans' money for bridges and highways.
>
> "They saw the money, and that's all they wanted to do," said Dave Autry, associate national director of Disabled American Veterans.

Mr. President, I will not read further. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 30, 1998]

VETERANS LIVID ABOUT "WILLFUL MISCONDUCT" TAG ON SMOKERS

(By Bill McAllister)

Veterans groups were furious last week when Congress voted to finance the pending highway bill by denying billions of dollars to veterans suffering from tobacco-related illnesses. This week, the groups were stunned to discover that the lawmakers actually went further than that and declared any veteran who smoked on active duty could be considered to have engaged in "willful misconduct."

That is the same standard that the Department of Veterans Affairs uses to deny benefits to alcoholics and drug abusers. The comparison has made veterans groups livid and yesterday they vowed to force a second vote on the issue.

"We're hoping we get one more shot at it," said Bob Wallace, deputy executive director of the Veterans of Foreign Wars. The groups have sent messages out to their memberships, hoping to flood Capitol Hill with protests from the nation's 26 million veterans.

"This battle isn't over until it's over," said Richard Fuller, chief lobbyist for Paralyzed Veterans of America. "We've got a lot of members who got bamboozled on this."

The veterans groups delivered their complaints to President Clinton at a Memorial Day breakfast, but they acknowledged yesterday were is little likelihood that he will veto the highway measure. As a result, the groups are trying to stir up their members enough to lobby Congress and force major changes through a "technical corrections" bill, which normally is designed to make uncontroversial fixes in legislation.

A spokesman for the House Transportation and Infrastructure Committee said Congress will consider the technical corrections bill soon. But many members may be unhappy to have to vote directly on the veterans issue.

Besides denying compensation, the highway bill also may have gone so far as to block the VA from taking care of veterans who become ill on active duty with tobacco-related illnesses, such as lung cancer and heart ailments, a VA official suggested. The VA long has accepted those individuals for care and benefits, but a spokesman said VA lawyers are now debating whether the new law will allow their continued care.

Despite rulings by VA lawyers that say the department must consider tobacco-related illnesses service-connected, the department has rejected virtually all the claims it has processed for compensation for smoking-related ailments.

The VA has approved only 299 claims of the 8,391 claims it has received, officials said. Thus far, 4,290 claims were rejected, but a spokesman said many of those rejections were considered "temporary" and likely to be reversed after the veterans submit additional information.

The VA is processing another 3,802 claims. But under the highway legislation, the VA would be blocked from approving any more claims.

What the Congress has done is to "retroactively redefine conduct that was not only legal but was also encouraged by the military," said Phil Budahn, a spokesman for the American Legion, the nation's largest veterans organization. He and other veterans noted that the military provided free cigarettes to service personnel as recently as the Vietnam War.

In late 1992, a Bush administration appointee declared that the VA should pay for veterans' smoking-related illnesses. But the Clinton Administration has sought to distance itself from that position, because of the expected cost of billions of dollars. Instead, it called for legislation to overturn that ruling by the VA's general counsel and a subsequent ruling by its own appointees that made it easier for veterans to file tobacco claims.

Until the highway bill came along, Congress had avoided the issue. Because denying the tobacco benefits would create a budgetary savings of as much as $23.8 billion over five years, promoters of the highway bill latched on to the idea as a way to pay for increased highway spending.

PVA's Fuller said Congress simply saw the VA as "a cash cow" and used the veterans' money for bridges and highways.

"They saw the money and that's all they wanted to do," said Dave Autry, associate national director of Disabled American Veterans.

Veterans groups, renowned for their Capitol Hill clout, mounted a massive campaign to derail the legislation, urging their members to write and call lawmakers to demand their benefits. So far, the effort has been unsuccessful.

In the recent past, such congressional actions would have been unlikely. Some said the response from Capitol Hill may reflect the smaller number of veterans in Congress and the fact that the overall veterans population is declining. Lawmakers apparently don't fear their wrath as they once did.

The veterans said House Speaker Newt Gingrich (R–GA.) did convene a meeting of veterans groups last week in an effort to end their opposition by promising to increase payments for education under the Montgomery G.I. Bill.

"The answer was 'no.' We would not cut benefits for one veteran to provide benefits for another," said Fuller. The bill contained the education increases, nonetheless.

VA officials said the administration's proposed legislation on the veterans tobacco issue would not have classified smoking as "willful misconduct" and would have allowed the VA to continue processing and paying any pending claims for tobacco-related illnesses. It would, however, block the filing of new claims as soon as the law was enacted.

In letters to Gingrich, VA Secretary Togo D. West Jr. said the administration believed that use of tobacco "like the consumption of alcohol . . . is not a requirement of military service" and that any veteran who becomes sick as a result of smoking should not be given government compensation.

Sen. John D. "Jay" Rockefeller IV (D–W.VA.), ranking Democrat on the Senate Veterans Affairs Committee, said yesterday he will offer an amendment to the tobacco settlement legislation to earmark $2.7 billion over five years for improved VA health care. That would be a small step, he said, toward compensating the VA for the cost of caring for smoking-related illnesses.

Mr. McCAIN. Mr. President, shortly I intend to ask unanimous consent to have the pending amendment set aside in order to propose an amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, shortly, after some consultation, we would like to propose an amendment concerning veterans and tobacco. I expect to have that agreement shortly.

While we are waiting, I want to quote from some letters that we have received from some of the veterans organizations in America.

This one is from the Disabled American Veterans:

DEAR SENATOR McCAIN: On behalf of the more than one million members of the Disabled American Veterans (DAV), I write to express our extreme disappointment that Congress chose to raid veterans' disability compensation to pay for an already bloated transportation bill. This action was particularly egregious because it also came on the eve of Memorial Day, a day set aside by a grateful Nation to pay tribute and honor to those men and women of our Armed Forces who made the ultimate sacrifice so that all Americans, and many others around the world, could savor the freedoms we so richly enjoy.

What I find so amazing is the willingness of the leadership and many others in Congress to debase the legislative process to ensure an offset for huge spending increases for transportation. Congress pulled out all the stops to guarantee that the end justified the means. Clearly, the American public, and particularly veterans, were the losers in this battle.

To reach the unjustified end—robbing veterans' disability compensation to pay for transportation programs—this Congress took the unprecedented action of usurping the authorizing committee's jurisdiction. As the authorizing committee was considering the merits of the issue of paying disability compensation for tobacco-related illnesses, the Congressional leadership laid claim to all of the so-called "savings" from veterans' disability compensation, $10.5 billion, for transportation programs during the Senate Budget Committee deliberations. Further, the Senate's vote to take away this benefit was based on gross inaccuracies and misrepresentations contained in the Republican Policy Committee's talking points.

The Congressional Budget Office (CBO) estimated the "savings" from veterans' disability compensation at $10.5 billion. Although that figure was used by the Senate Budget Committee and passed by the full Senate by a margin of 6 votes, the transportation conference report on H.R. 2400 used the Administration's higher figure of $15.5 billion. This was done behind closed doors and without the knowledge of many of the transportation bill conferees. It was also accomplished with total disregard for the sense of the Congress, passed by an overwhelming majority in the House, and the motion to instruct the conferees not to use veterans' disability compensation to fund transportation.

It was appalling to watch how quickly the Administration lent its support to this misguided effort to plunder veterans' programs when the Congressional leadership chose to use the Administration's higher cost-savings estimate, thereby guaranteeing fewer cuts in the Administration's favorite programs.

Even worse was how quickly the leadership moved the transportation bill conference report to a vote to ensure that members would not defect after going home and meeting with their constituents on Memorial Day.

The vote is now a part of history, as is what Congress has done to veterans. However, as Congress focuses on the appropriation process in the upcoming weeks, I call upon you to make your voice heard to ensure that veterans' programs receive adequate funding.

While Congress can never make up for the injustice it recently perpetrated against veterans, it can ensure that the Department of Veterans Affairs (VA) health care system receives at least $1.1 billion in appropriations above the Administration's proposed budget to allow VA to provide necessary medical care to our Nation's sick and disabled veterans. Congress must also provide sufficient funding for VA to increase its employment levels in Compensation and Pension above the 7 new employees provided in the Administration's proposed budget. Too many veterans die before their claims can be properly adjudicated and too many dependents and survivors are forced to accept a small fraction of what the veteran would have been entitled to had he or she survived the enormous delays encountered in an understaffed adjudication division.

Instead of the patriotic speeches that veterans hear twice a year, on Memorial Day and Veterans' Day, and during tough debates on the floors of Congress, I call upon you to get involved, in a meaningful way, and make your voice heard to ensure that VA receives adequate funding. Please do not sit back and wait for others to do what is right. Let your colleagues know that you support adequate funding levels for VA.

Thank you for your support of our efforts to obtain adequate resources to substantially improve the quality and timeliness of the VA benefits delivery and health care systems.

Mr. President, I ask unanimous consent that this letter and letters from the Paralyzed Veterans of America, the Veterans of Foreign Wars of America and the Vietnam Veterans of America be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, April 9, 1998.

Hon. JOHN McCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR McCAIN: On behalf of the 2.1 million members of the Veterans of Foreign Wars and all of America's 27 million veterans, I am writing to express our dismay regarding your recent support of the Craig/Domenici amendment to the Budget Resolution to deny VA compensation for smoking related disabilities to pay for excessive spending in the Transportation Bill. This amendment represented a raid on veteran's entitlements.

The VFW views this proposal as being an egregious affront to this nation's veterans. It is a matter of fact and record that the government bears significant culpability for the tobacco-related health conditions of many veterans. In the midst of Congress's vigorous effort to hold the tobacco industry accountable for the cost and disabilities brought about by smoking, we would ask you why the Government is to be held to a lesser standard? Prohibiting VA compensation for smoking related disabilities effectively grants an unwarranted pardon at the expense of ill veterans.

Another point, the Craig/Domenci amendment assumes such a prohibition will, in fact, be enacted into law to cover the cost of $10.5 billion for highway and transportation projects in violation of the Budget Agreement. If this does not come about, VA may be forced to make drastic cuts in the area of veterans health care (funded with discretionary dollars) in order to meet this obligation. This would be an absolutely unconscionable assault on veterans in need.

We urge you to consider your position on this matter. The upcoming House/Senate Conference on the budget presents a clear opportunity to correct this injustice. The VFW strongly believes that sick and disabled veterans should be top priority and should not take a back seat to road paving.

Sincerely,

JOHN E. MOON,
Commander-in-Chief.

PARALYZED VETERANS OF AMERICA,
Washington, DC, February 25, 1998.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the members of Paralyzed Veterans of America (PVA), I must express our outrage at the egregious proposal to restrict the payment of certain benefits for service-connected disabilities in the name of fiscal responsibility and at the same time to using the accrued "savings" for other programs. The Administration has proposed legislation that would deny benefits to veterans for disabilities relating to tobacco use in the military. The rationale for slashing these benefits is that to live up to its commitments will be too expensive for the federal government. This alone is cause for outrage in light of the years of government promoted and fostered tobacco use by military personnel.

Compounding this travesty is the fact that we now hear of members of Congress proposing to use these monies, saved in the name of fiscal responsibility, to fund other programs and projects including highway construction. For too long veterans' benefits and programs have been cash cows for other federal programs. Veterans have contributed billions of dollars for deficit reduction through reduced or eliminated benefits, and every year veterans are asked to do more. Veterans' health care is in crisis with appropriations being frozen over the five-year term of the Balanced Budget Act, and in fact the requested appropriation for FY 1999 is a cut even below the freeze level. It is intolerable to propose cutting benefits for service-connected disabled veterans and using this money for non-veteran, pork barrel, programs.

We strongly oppose the Administration's proposal and find any attempts to use this money for programs that do not benefit veterans to be duplicitous at best.

Sincerely,

KENNETH C. HUBER,
National President.

DISABLED AMERICAN VETERANS,
Washington, DC, May 29, 1998.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than one million members of the Disabled American Veterans (DAV), I write to express our extreme disappointment that Congress chose to raid veterans' disability compensation to pay for an already bloated transportation bill. This action was particularly egregious because it also came on the eve of Memorial Day, a day set aside by a grateful Nation to pay tribute and honor to those men and women of our Armed Forces who made the ultimate sacrifice so that all Americans, and many others around the world, could savor the freedoms we so richly enjoy.

What I find so amazing is the willingness of the leadership and many others in Congress to debase the legislative process to ensure an offset for huge spending increases for transportation. Congress pulled out all the stops to guarantee that the end justified the means. Clearly, the American public, and particularly veterans, were the losers in this battle.

To reach the unjustified end—robbing veterans' disability compensation to pay for transportation programs—this Congress took the unprecedented action of usurping the authorizing committee's jurisdiction. As the authorizing committee was considering the merits of the issue of paying disability compensation for tobacco-related illnesses, the Congressional leadership laid claim to all of the so-called "savings" from veterans' disability compensation, $10.5 billion, for transportation programs during the Senate Budget Committee deliberations. Further, the Senate's vote to take away this benefit was based on gross inaccuracies and misrepresentations contained in the Republican Policy Committee's talking points.

The Congressional Budget Office (CBO) estimated the "savings" from veterans' disability compensation at $10.5 billion. Although that figure was used by the Senate Budget Committee and passed by the full Senate by a margin of 6 votes, the transportation conference report on H.R. 2400 used the Administration's higher figure of $15.5 billion. This was done behind closed doors and without the knowledge of many of the transportation bill conferees. It was also accomplished with total disregard for the sense of the Congress, passed by an overwhelming majority in the House, and the motion to instruct the conferees not to use veterans' disability compensation to fund transportation.

It was appalling to watch how quickly the Administration lent its support to this misguided effort to plunder veterans' programs when the Congressional leadership chose to use the Administration's higher cost-savings estimate, thereby guaranteeing fewer cuts in the Administration's favorite programs.

Even worse was how quickly the leadership moved the transportation bill conference report to a vote to ensure that members would not defect after going home and meeting with their constituents on Memorial Day.

The vote is now a part of history, as is what Congress has done to veterans. However, as Congress focuses on the appropriation process in the upcoming weeks, I call upon you to make your voice heard to ensure that veterans' programs receive adequate funding.

While Congress can never make up for the injustice it recently perpetrated against veterans, it can ensure that the Department of Veterans Affairs (VA) health care system receives at least $1.1 billion in appropriations above the Administration's proposed budget to allow VA to provide necessary medical care to our Nation's sick and disabled veterans. Congress must also provide sufficient funding for VA to increase its employment levels in Compensation and Pension above the 7 new employees provided in the Administration's proposed budget. Too many veterans die before their claims can be properly adjudicated and too many dependents and survivors are forced to accept a small fraction of what the veteran would have been entitled to had he or she survived the enormous delays encountered in an understaffed adjudication division.

Instead of the patriotic speeches that veterans hear twice a year, on Memorial Day and Veterans' Day, and during tough debates on the floors of Congress, I call upon you to get involved, in a meaningful way, and make your voice heard to ensure that VA receives adequate funding. Please do not sit back and wait for others to do what is right. Let your colleagues know that you support adequate funding levels for VA.

Thank you for your support of our efforts to obtain adequate resources to substantially improve the quality and timeliness of the VA benefits delivery and health care systems.

Sincerely,

HARRY R. MCDONALD, JR.,
National Commander.

Mr. MCCAIN. Mr. President, before I yield the floor, I thank Senator BOND and Senator SPECTER, as well as Senator ROCKEFELLER and Senator CAMPBELL, for their advocacy on this issue. I believe the amendment that we are proposing, which will provide $3 billion—$600 million a year—taken out of all four of the funds that are funded by this bill is appropriate. I don't believe it is enough, given the number of veterans who are afflicted by tobacco-related illnesses, but I think it is a step in the right direction. I hope it will provide some solace and comfort to the obviously outraged and injured veterans community in America.

I understand that everybody has their priorities around here. Highways are important. Bridges and subways are important. I was up in Massachusetts recently, I say to the Senator from Massachusetts, and the "Big Dig" in Boston Harbor, which may never be completed—it may be one of the ongoing projects in history—is important. But I have to ask a question that I think deserves an answer: Are our priorities such that the men and women who served in the military, who we encouraged to smoke up to and including the Vietnam conflict, are to have a lower priority than a highway or a bridge?

I am puzzled and obviously somewhat angered that the procedure happened as it did where a veteran who incurs a tobacco-related illness is now labeled "malicious conduct." That is just something I do not understand nor, frankly, do most of my colleagues. I hope it can be fixed. I understand there may be a technical corrections bill to the highway bill, and I hope it can be fixed. But at the same time, I feel in the strongest terms that we ought to address this issue of tobacco-related illness as it applies to veterans.

UNANIMOUS CONSENT AGREEMENT

Mr. President, I ask unanimous consent that the pending amendments and motion be laid aside to consider the McCain-Kerry-Rockefeller-Bond-Campbell-Specter amendment relative to veterans and that no further amendments or motions be in order prior to the vote. I further ask unanimous consent that the vote occur on, or in relation to, the amendment on Thursday morning, notwithstanding rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2446 TO THE MODIFIED COMMITTEE SUBSTITUTE

(Purpose: To ensure funding for Veterans' Administration treatment of tobacco-related illnesses, and for other purposes)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself, Mr. KERRY, Mr. BOND, Mr. CAMPBELL, Mr. ROCKEFELLER and Mr. SPECTER, proposes an amendment numbered 2446 to the modified committee substitute.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 403, beginning with line 3, strike through line 19 on page 407, and insert the following:

SEC. 1301. VETERANS' ADMINISTRATION TOBACCO-RELATED HEALTHCARE AND COMPENSATION PROGRAMS.

(a) IN GENERAL.—The Secretary of the Veterans' Administration shall use amounts under subsection (b) to carry out tobacco-related healthcare activities under chapter 17 of title 38, United States Code, and to provide other appropriate assistance for tobacco-related veterans' health care illnesses and disability under such title.

(b) FUNDING.—From amounts in the trust fund established under section 400, not less than $600,000,000 per year are to be used to carry out Veterans' Administration tobacco-related healthcare activities under subsection (a) to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(c) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—Section 1981C of the Public Health Service Act (as added by section 261 of this Act) is amended—

(1) by inserting "veterans," after "uninsured individuals," in subsection (a)(1)(D); and

(2) by inserting "veterans," in subsection (b)(1)(H) after "low-income,".

Mr. McCAIN. Mr. President, before I yield the floor, I want to say a word about Senator BOND especially who has done hard work on this issue.

He defended the issue in the Veterans' Affairs Committee, along with Senator SPECTER, Senator ROCKEFELLER, and Senator CAMPBELL. I am very grateful for his efforts. And I know the veterans of Missouri as well as this Nation are deeply appreciative of his efforts. I also know that the Senator from Missouri, and perhaps the Senator from Pennsylvania, and the Senator from West Virginia, Senator ROCKEFELLER, may have additional requirements in order to address this issue. And as he and I know, this is just a beginning to try to address this problem.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank my colleague from Arizona. I am delighted to join with him, with Senator ROCKEFELLER, and with others, in proposing this fix, which in our judgment is compelling beyond description. I think the reactions that we received from members of the veterans community were to be expected and, frankly, were really an unfortunate consequence of some of the things that happen around here.

I think the veterans community had every right in the world to question whether people here had lost all sense of priority and all sense of connection to the kinds of commitments that we make along the way and certainly the good faith relationship between those who have served their country and had a certain set of promises made to them—I might add, not things that they requested originally, not things that were the conditions automatically of their service, but were, in a sense, the rewards to that service given at a time later on. And all of a sudden to find that, in the hurly-burly of the moment, people are so little connected to the meaning of that service, that there is sort of a grab that takes place for money for bridges and roads in the transit bill, to the exclusion of legitimately rightfully earned benefits that come as a consequence of serving the country, is really quite extraordinary. I think their anger was well placed and understandable.

I am pleased that this afternoon we are going to take sort of the largest step we can take, in the context at least of this bill, but which will have a significant impact in redressing that by providing about $600 million available each year over a 5-year basis to the Veterans' Administration for the use for smoking-related disease, compensation and health care. I think that that is most appropriate.

I am delighted that the Senator from Arizona and I were able to get sort of a consensus to be able to immediately move to send a very clear message to the veterans community that the Senate recognizes what occurred and does not concur with that particular action and is moving now to try to address it.

As we do that, Mr. President, I also—and I know my colleague from Missouri wants to speak, so I will not take a long time here—but I do want to also highlight that the entire purpose of this legislation is geared towards children and towards reducing the level of smoking in our society. I will have more to say about that in the course of the afternoon.

But I think it is critical that we remain focused on the smoking-related aspects of this legislation rather than some of the other attempts to sort of grab some of the revenue and use it for worthy but nevertheless nonrelated causes. And I think it is critical that we try to maintain the fundamental purpose of the legislation.

This morning, out on the swamp, we met with a young group of kids who were part of Smoke-Free Efforts in America. Some 18 kids joined with a bipartisan group of Senators—Senator DEWINE, Senator CHAFEE, Senator McCAIN, Senator KENNEDY, Senator CONRAD, and other Democrats—and, together with these kids, the point that was trying to be made was that there is only one reason that the U.S. Senate has come to the point of considering this tobacco legislation. That single point is to try to do the best job we can to reduce the level of teenage smoking and ultimately reducing the number of children who, when they become adults, will die early as a consequence of learning how and becoming addicted to smoking as teenagers, realizing that, of the 45 million Americans who smoke and are fundamentally addicted to smoking, 86 percent of them started as teenagers.

That is the purpose that brings us to the floor. And for those who have been concerned about costs, we will reiterate again and again and again, the true tax on America is not the voluntary tax paid by somebody who picks up a pack of cigarettes, it is the involuntary tax paid by millions of Americans to pay for the $80 billion a year of medical costs for those who are smoking, and to pay for the 420,000 people a year who die as a consequence of smoking-related diseases, and the $25 billion of health care, under Medicaid and Medicare, that is picked up by everybody in the United States involuntarily in order to pay for the results of a narcotic, killing substance that we allow to be sold across the counter.

While we are not, obviously, prepared to stop that altogether, we know enough about the addiction and enough about the downside of the disease that we are prepared to have the FDA finally regulate it and we are prepared to try to minimize the exposure of our children to this killer substance.

That is what this debate is about. It is not about some concoction on the Senate floor to try to find additional revenue. Dr. Koop, Dr. Kessler, the American Cancer Society, the American Lung Association, the Treasury Department, a host of entities, have all agreed, the single best way to reduce the level of teenage smoking is to raise the price. And, most importantly, the tobacco companies themselves have made that statement clear in their own memoranda, in their own documents.

So that is what we are here for. That is what I hope the U.S. Senate will accomplish.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in support of the amendment by Senator

MCCAIN and my colleague from Massachusetts, Senator KERRY.

I ask unanimous consent that Senator COVERDELL be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. He sent a message in asking to be listed as a cosponsor.

I want to follow up on the comments of my distinguished friend from Massachusetts, a distinguished veteran himself. He talks about the purpose of this bill being to deter teenage smoking. And I believe that we must keep our focus on that as the principal goal.

Personally, I believe that raising the price of cigarettes alone is not going to be enough. I think we have to have advertising restrictions and a counteradvertising campaign. But we also must have sanctions on teenagers. If it is illegal, and if they purchase—knowingly purchase—cigarettes in violation of the law, there ought to be sanctions; there ought to be graduated sanctions. There ought to be sanctions that apply to their parents as well, because just raising the price and putting burdens only on the sellers may make this a thrill-seeking opportunity for some teenagers. I believe that among the amendments, we need to adopt that there be tougher sanctions on teenagers.

Let me address this amendment that Senator MCCAIN and others have presented. I was one who strongly objected to the use of the particular offset from the veterans smoking program for the highway measure. I was joined in that by my colleague, Senator SPECTER, the chairman of the Veterans' Affairs Committee. And as I think all our colleagues know, Senator SPECTER has been temporarily sidetracked with an operation. Our thoughts and prayers are with him and his family. We expect him to be back very shortly.

Before he left, he and I discussed the need to offer an amendment on this measure to provide adequately for veterans health care issues. And this is a very good start. I will want to confer with Senator SPECTER's staff and others to find out what else we can do to make sure that the veterans of this country are adequately cared for in terms of their health care.

Let me go back and tell people where this came from, because a lot of people were surprised when this became the offset. Well, this was the offset because it was insisted upon by the administration in its negotiations with the Congress. The smoking program for veterans came about as a result of an official in the Veterans' Administration, and yet the OMB and the White House said, "We're not going to pursue this program."

I have the pleasure and the responsibility of appropriating money for the Veterans' Administration. And over the last several years, I have routinely put more money in, with the support of my ranking member, Senator MIKULSKI. The committee, and the full committee, put in more money than has been recommended for veterans health care by the administration to make sure we keep our word to the veterans to take care of their health care needs. And in this instance, the White House has told the Veterans' Administration not to proceed with the program. When the VA officials came before our committee, I asked them if they were prepared to implement the program. They said they were not.

I asked what they needed. They suggested hundreds of millions of dollars in administrative costs to handle the claims. They said they were not planning on administering the program.

So they started the program through the action of an official in the Veterans' Administration, and then the higher political authority said it was time to cut it off. In negotiations with the relevant committees in the House and the Senate, they said this must be the offset for the highway bill. The highway bill was passed by both Houses and it was time that we spent highway money on highways and transportation needs.

I do oppose the use of spending offsets from the veterans health care to pay for it under the budget rules, but in this amendment, and perhaps in additional amendments, we will have an opportunity to restore from the proceeds of the tobacco taxes money badly needed for veterans health care programs. We have met with the veterans budget group, the representatives of veterans who have suggested about a billion a year in addition is needed for veterans health care programs. That is the target that Senator SPECTER and I have. We will work to see if we can, through this piece of legislation, restore funding for veterans health care to make sure that we do care for our veterans.

Our veterans are going through a time of change. The veterans' needs are different. There is more need for outpatient facilities, more need for veterans homes, more need for long-term care rather than acute care. I commend Dr. Kizer, the head of the veterans health side, for his extraordinarily strong efforts in spite of the difficulties posed in reforming the Veterans' Administration health care to make sure that the health care being provided to the veterans is what they need.

There have been some tough measures taken. In my State, they cut off the surgery center in one community on our southern border because they said they weren't doing enough surgeries to maintain proficiency. Frankly, this was not popular when you looked at it from the community as a whole. But I can tell you, the veterans who were to receive surgery, and their families, are certainly better served if those veterans can be given that service in an area where they perform frequent operations and maintain their proficiency. We have opened, instead, veterans primary health care facilities around the State so veterans don't have to travel 100 or 150 miles one way to get primary health care.

I commend the Veterans' Administration for moving in the right direction to make health care readily accessible to those veterans who are entitled to health care programs. We need to continue on that path. We need to continue to see that we are providing the kind of health care services in the location and in the format where they are most needed. This amendment by Senator MCCAIN is an excellent step in the right direction.

I will go back to work in an hour with the Environment and Public Works Committee, which is having a meeting on the technical corrections, because I agree with the comments of Senator MCCAIN that putting phraseology about willful misconduct as it relates to cigarette smoking is totally uncalled for. At this point, no one seems to be able to pinpoint the draftsmanship of it. But wherever it came from, it was wrong. I think it was wrong to take the money as an offset in the first place. But it is certainly unacceptable for us to have a policy statement saying that veterans who smoked the cigarettes that were given to them by the military—at smoking times designated by the military when they turned the smoking light on, when they provided cigarettes, the C rations, when they provided cigarettes in smoking areas—to say they were doing something wrong when they took advantage of the cigarettes and smoked is not only nonsensical, it is outrageous. We apologize to the veterans of America. We need to change that. That is totally unacceptable.

We hope by passing this amendment that we will begin to get the resources that are needed to the Veterans' Administration to provide for the health care needs of our veteran population. The Veterans' Administration is doing some wonderful things. They have made great advances, treating injuries that came out of wartime. They are now becoming more and more experienced and more skillful in dealing with problems that aging veterans have. We do have a significant aging veterans population. That makes the localized, primary care facilities, privately contracted health care clinics for veterans much more accessible and therefore convenient to veterans. We need to have these additional resources available to the Veterans' Administration so we can meet our commitment to the veterans and make sure that they receive the kind of health care they have a right to expect and which we think they have earned.

I appreciate very much the leadership that Senator McCAIN has provided on this. With all of the other cosponsors, I am confident we will have an opportunity to get a good, strong vote on behalf of this measure. I urge my colleagues to support the amendment when it comes before the Senate on Thursday. As I indicated, we will be conferring with Senator SPECTER as he recuperates. I know he has strongly supported veterans and wanted to be here for this amendment. We are doing this in his behalf and will continue to work with him to provide additional resources for veterans as and where we can find them and they are necessary.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mr. KERRY. Mr. President, I know the Senator from North Dakota, Senator CONRAD, is coming to the floor to take a few minutes to share some thoughts with colleagues. But before he arrives, I just wanted to take a minute to refocus some of the discussion that we had earlier this morning, and perhaps in the waning hours of a week ago, and that is to address this question that has been raised by a number of opponents to the bill.

The tobacco industry is now spending multimillions of dollars across the country. A number of colleagues heard in their home States their names being mentioned in radio ads as opponents are being ginned up to try to stop this bill. Americans should understand as they listen to these advertisements.

I heard one of the advertisements that Dr. Koop is doing. Dr. Koop wisely asks every American to stop and consider the source of the advertising against the bill. When you hear people talk about big tax or big Government, or to stop the big hand of Washington from reaching in, all of these things try to elicit a kind of primal response that most of us have in America about politics and Washington and being told what to do, and so forth. It is all a very legitimate feeling, but the tobacco companies are trying to once again fake it with Americans. They are trying to once again cloak the reality of what is happening here. They are, ironically, doing so even as they settle lawsuits in certain parts of the country that have them doing the very things that they are fighting us doing on a national basis.

Let me be more specific. In Minnesota, they have just come to a settlement for literally billions of dollars over a number of years. They have agreed to most of the terms that the attorney general was fighting for. They are going to engage in many of the programs that we are hearing colleagues come to the floor saying, no, no, no, don't do that. But the tobacco companies are actually entering into agreements with the attorneys general to do these very things. If you take the amount of money that the tobacco companies have agreed to in these States individually and you extrapolate that and apply it to the concept of a national settlement, you in fact wind up with more money being raised and dispensed than we are trying to do in this legislation.

So there is an enormous amount of duplicity—both duplicity, I suppose, and hypocrisy in what the big tobacco companies are trying to do. Dr. Koop says, "Be wary of who is sponsoring these ads." When you hear the list of sponsors, you know that the very same people who told America that they weren't selling an addictive substance, the very same people who said to America, "Oh no, no, no, we are not targeting young people," are back again with a series of advertisements to try to distort the debate.

The fact is that we have also heard a lot of focus about the cost of raising the tax on a pack of cigarettes, raising the fee on cigarettes, a tax, or whatever you want to call it. The price of cigarettes go up; that is the bottom line. The bottom line is that the cigarette companies themselves signed onto an agreement earlier in the summer, last year, that would have wound up doing exactly that. They agreed to raise the price. And the reason they agreed to raise the price was because everybody agreed that by raising the price, we would reduce the numbers of young people who would access cigarettes. We also know, according to every analysis, that the more you raise the price—every 10 cents that you raise the price, there is a 5- to 7-percent reduction in the numbers of kids who are smoking. So these are not pennies of taxes, these are lives of children that you are saving because we know that every 3,000 kids who get hooked on smoking every day, 1,000 of them are going to die early.

We know that from the statistics. We know that 420,000 people die every year of tobacco-related diseases. It is a phenomenal, staggering number of people. It is phenomenal enough that we lose something like 58,000, I think it is, in traffic accidents, or due to driving under the influence, and so forth, over a year in America. We are talking about, five, six times that now that we lose, as a consequence, or six or seven times that that we lose as a consequence of smoking—every year. And every one of those people don't just suddenly die without any cost, except in the case, I suppose, of those who have heart disease related to smoking and suffer a massive coronary. But for those suffering from cancer of the larynx, or cancer of the throat, or cancer of the pancreas, or any of the forms of cancer, or kidney disease, which come from smoking, those are prolonged and very expensive diseases.

We know to a certainty that people with those diseases are paying many tens of thousands of dollars more than people who aren't suffering from those smoking-related diseases. The truth is also that many of those people don't have health insurance, or many exhaust their health insurance. Then what happens? Mr. President, then every single American is taxed. It is the tobacco tax; it is the unwanted, unasked-for tobacco tax in America that every single one of our citizens pays to cover the cost of the deaths, the cost in the loss of productivity, the cost of the health care—$80 billion a year—and the Medicare costs of tobacco-related disease alone, which is $24 billion; $24 billion is parceled out by Americans, right out of their pockets, to cover the costs of other Americans smoking.

So we need to stay focused and understand that all of the 98.5 million American households are each paying the unwanted tobacco tax of $1,370 a year for smoking. That is the cost of not passing a tobacco bill. That is the cost of leaving the situation the way it is today.

America, if you want a tax cut, you want this bill passed because this bill offers tax relief by reducing the numbers of young people who will become smokers and, ultimately, the amount of our hospital and health care costs in this country. This is a tax cut bill. The only people who pay an additional tax are voluntary. If you go and buy a pack of cigarettes, which nobody is forcing you to do, you pay an additional amount for that pack of cigarettes.

Now, they pay that amount in Canada. They pay that amount in Europe. When we finish raising the price of a pack of cigarettes in the United States by the $1.10 that is in this bill, we will still be lower in the cost of a pack of cigarettes than some European countries. We will be at the mean, at the average of most European countries. That will reduce smuggling between the United States and Europe. It will equalize our payments, and it will allow us to do the other things that the Senator from Missouri, Mr. BOND, just said we need to do—the outreach programs, the cessation programs, the counteradvertising programs, all of the things that buttress the raising of the price and help us create a compliance rate in this country that is significant.

I must say also it is a known fact that cigarettes are a gateway drug, and they are a gateway to marijuana or to other drugs. It is a known fact, just as marijuana is a gateway drug to other drugs. So if you want to deal with the drug problem that we have heard a number of colleagues come to the floor and talk about, if you want to reduce the dramatic increase in the number of our young people smoking marijuana, then this is a way to also begin. This is not just an anticigarette program. This is an antinarcotic substance program. It is an antidrug program. And the way you provide a comprehensive drug program—just ask Gen. Barry McCafrey—is by having a comprehensive program on the demand side.

I saw today that Admiral Kramek, Commandant of the Coast Guard, just retired, and I have dealt with Admiral Kramek over the last years through the Commerce Committee on the Oceans Subcommittee. Year after year, he would come before our committee as the Coast Guard has been charged more and more with the responsibilities for dealing with drugs but less and less money has been going to them, less and less capacity to do the greater amount of work on the demand side and interdiction side.

So here is an opportunity for us to do something further with respect to the overall drug policy of this country. If our young people can be the beneficiaries of the kind of cessation and self-esteem programs that are part of this effort and part of our States' efforts now, we have a much greater hope of having young people who will be able to say no—not just say no to this narcotic, smoke that goes into their lungs, but say no to the other narcotic smoke that goes into their lungs.

So this is a program that in our best estimate is a very significant tax reduction, long-term investment in the young people of our country. It is a way to reduce the overall costs of smoking to our Nation. It is time for the Senate to take that action which hopefully can resolve some of the remaining issues that we have on this legislation.

I am very hopeful that we can work out an approach in a number of those difficult areas that still remain so that we could rapidly move forward. I think there is a capacity to do that if Senators are determined to try to act in good faith, and that will obviously be the test of the next days.

I see the Senator from North Dakota is now here, and I yield the floor.

Mr. CONRAD. Mr. President, I thank the Senator from Massachusetts for the extraordinary leadership he has brought to this issue. The Commerce Committee was given jurisdiction over this matter, and the Commerce Committee reported out a good beginning, a bill that provided a floor from which we could move in this Chamber to strengthen the provisions that were reported out of the Commerce Committee. Indeed, over a series of weeks, there was a negotiation between members of the Commerce Committee and representatives of the White House, and others, to improve what was reported out of the Commerce Committee, and, indeed, this bill was improved and improved dramatically, and in no small measure because of the leadership of the Senator from Massachusetts, Mr. KERRY. I want to recognize the tremendous contribution he has made to this legislation.

Mr. President, sometimes I think we get lost around here as to what this bill is about. Some of our colleagues talk about this as a tax bill. They talk about it as every other kind of legislation other than what it really intends to do. This legislation is intended to protect the public health and to reduce youth smoking. That is the fundamental reason for this bill.

I know it gets confusing because we have had some of our colleagues who really are the apologists for the tobacco industry who are out here trying to confuse the issue, and they are talking about every subject under the sun other than protecting the public health and reducing youth smoking. They are talking about all kinds of issues that are really sideshows, and they are doing it to try to distract attention from the fundamental question: are we going to protect the public health? Are we going to do something serious about reducing youth smoking? I think it is very simple. This debate is about kids, and it is about health. It is about stopping the tobacco industry's cynical attempt to hook our kids on a deadly and addictive product.

At the end of the day, the hard reality is this is the only legal product sold in this country when used as intended by the manufacturer that addicts and kills its customers. That is harsh language, and I am not somebody who is given to harsh language. I am a Scandanavian. We Scandanavians typically do not talk in harsh terms. But after chairing the task force on tobacco on our side of the aisle for 6 months, I must say I have developed a very strong view about what this industry is doing to our country and what it is doing to our kids. That impression was indelibly changed by the release of what had been secret documents, documents we had never seen before. Document after document after document, that were the industry's own documents, revealed what they have been up to—what they knew and what they told the American people. And the two are at very great variance.

We all remember when the executives of the tobacco industry came before Congress and swore under oath that their products did not cause serious disease problems. They swore under oath that their products were not addictive. They swore under oath that they had not targeted our children. And they asserted that they had never manipulated nicotine levels to further addict our kids.

Now, with the release of their documents, we now know that each and every one of those claims, each and every one of those statements, was false. I do not know how else to say it. It is just as clear as it can be. They did not tell the truth. The fact is they knew at the time they were here swearing under oath that their products caused serious health problems. They knew that they were targeting our kids. They knew that their products were addictive. In fact, in their internal memos they talked about how important that was to the effectiveness of their various campaigns to children. The fact that their products were addictive strengthened their position financially. And it is now absolutely clear from reading their documents that they knew they were manipulating nicotine levels to further hook kids.

All these things are very clear. Let me just show you one chart. I developed, after the work on this task force, the "Top Ten Tobacco Tall Tales," and the corresponding truths. No. 10, the tall tale told by the tobacco companies was they do not market to children. That is what they said. They came to my office and said, "Oh, no, Senator, we don't market to children; it is illegal to sell to children. There is no way we would condone marketing to kids."

Well, the truth is from their own documents. This is from a Brown & Williamson document that was released in the court actions, and I quote:

> The studies reported on youngsters' motivation for starting, their brand preferences, as well as the starting behavior of children as young as 5 years old . . . the studies examined . . . young smokers' attitudes towards addiction, and contained multiple references to how very young smokers at first believe they cannot become addicted, only to later discover, to their regret, that they are.

These are their documents. I could speak a whole afternoon just from their documents. They are the most damning things that could be presented in this debate, because one document after another indicts this industry. They have lied to the American people, and their own words reveal it.

Why is it important to take on this battle and win it now? Let me just review a few of the facts on tobacco use and its cost to society. Despite decades of misinformation, there can be no question that tobacco imposes enormous costs on society. Some of our colleagues have said: Look, you are going to impose a regressive price increase on those who are the customers. Mr. President, this industry has been imposing costs on all of us, and they have been doing it for a long time. That is the hard reality.

First, there are the human costs. Obviously, they are the most important. Tobacco is the No. 1 preventable cause of death in America today. Mr. President, 425,000 of our fellow citizens die every year from tobacco-related illness. That is a fact. That is one tobacco-related death every 75 seconds.

Every 75 seconds, somebody dies in this country because of tobacco-related illnesses. That is a fact. For each of those deaths, there are dozens of Americans who are struggling with terrifying illnesses and terrifying diagnoses from their habits and their lifetime of smoking addiction. There are dozens of friends and relatives and loved ones who must also pay the price and experience the pain caused by tobacco products.

Second, there are future costs. Three thousand children start smoking every day in this country. One thousand of them will die prematurely from smoking-related illnesses. If we don't act to stop kids from starting to smoke, we condemn those children to a future painful death. They are not adults making a decision fully informed; they are subject to a massive advertising and marketing campaign by this industry, targeted directly to them.

Make no mistake, that is precisely what this industry has done. Again, their documents reveal that they have targeted teenagers, and they have targeted them because they have understood they have to have replacement smokers for the 425,000 of their customers who die every year. They know it is best to get them when they are young. That is when kids are looking to rebel, looking to make a statement as to their maturity. What better way than to take up the habit of smoking? That has been the message of the tobacco industry, and they have done it knowingly. Make no mistake about it, they have done it absolutely knowing what they were doing, and the documents reveal it.

Third, there are the financial costs. The Treasury Department reports that tobacco use costs American taxpayers $130 billion a year. We hear from our friends, some who are on the other side, who say: Wait a minute, if we increase the prices, it is going to impose a regressive tax on those who are the customers. How about all the folks in this country who are having costs imposed on them, $130 billion a year? They didn't choose to have these costs. They didn't choose to pick up the tab for somebody's lung cancer. They didn't choose to pick up the tab to cover the cost because of lost productivity in this society. Those costs are being imposed on them, and those are regressive, and they are far higher than the health fee that we would be imposing here to redress the imbalance of $130 billion a year. That is what this industry is costing America, and we are asking $18 billion or $20 billion as a balancing mechanism, imposing a health fee to start to ask this industry to bear a fairer share of the costs they are imposing on all the rest of us. That is not unreasonable or unfair.

Of the $130 billion a year of costs being imposed on American taxpayers by this industry, $60 billion is direct health care costs—higher costs for Medicare, higher costs for Medicaid, and for private health insurance. When we hear them say: Gee, you are going to raise the prices, and that is going to be regressive and have an adverse effect on low-income people in this country—nothing could have a more regressive effect, nothing could have a more unfair result than sticking $130 billion in costs onto the American taxpayer, costs that are borne disproportionately by those with low incomes, because they are the ones who smoke the most. They are the ones who have most of the health-related disease. They are the ones who are disproportionately picking up the tab. These are costs that are borne by all taxpayers, and, as I say, it is time to redress the imbalance.

As I headed this task force, we heard from the victims. We had hearings all across the country, and we listened to the victims. I can remember so well a young woman named Gina Seagraves, who testified in New Jersey about her mother dying at a young age, and what it did to their family, how devastating it was when her mother died, how it really disrupted their entire family.

I remember very well a big, tough football coach who came and testified. When he testified, you could barely hear him. He spoke in a very raspy voice, and he spoke that way because, as he told the committee, he had developed cancer of the larynx, and when it was diagnosed the doctor said, "We have one chance to save your life, and that's for you to undergo a laryngectomy and have your larynx taken out. And if we do not do it now, you are going to die."

This big, tough football coach told us of the terror he felt when the doctor looked across the examining table from him and told him, "If we don't operate, and operate now, you are going to die." He told us about how he feels now when he goes back to the high school where he is also the assistant principal, and he sees kids lighting up. He thinks to himself how much he had hoped that his story could prevent some of them from taking up the habit, because he started when he was 14 or 15 years old, was unable to quit, was addicted. He said: "You know, if I could just convince a few of these young people that they are going to suffer the same fate I did, maybe I could make a difference. Maybe I could prevent some of the suffering that I have experienced."

Those were not the only victims we heard from. We heard from a Mr. Harold Taylor, who testified that he began smoking when he was 15, eventually developed cancer of the throat. His larynx and his vocal cords were removed, much like Mr. Fravenheim. The operation left a hole in his neck, and he will have to live with that for the rest of his life. Because of that hole in his neck, he can never again breathe through his nose or mouth. He told what it is like to have this particular disability. He has lost his sense of smell. He can no longer enjoy the smells that we take for granted. He said he always loved to walk into his wife's kitchen and smell whatever was cooking there.

He walks in now and doesn't smell a thing. He has also lost his sense of taste. He has told us he is unable to distinguish between a bowl of spaghetti and a bowl of beans.

We also had the opportunity to hear from a Ms. Janet Sackman from Long Island, NY. Ms. Sackman had a successful modeling career. Ironically, she was a model for the tobacco industry. That success had a tremendous price. In 1983, she was diagnosed with cancer of the larynx and had her vocal cord and larynx removed. She completely lost her ability to talk. She was only able to testify because she learned esophagal speech, which is very, very difficult.

She was encouraged by the company that hired her to take up smoking. In fact, it was in her contract. They required her to take up smoking in order to be paid to be a model for the tobacco company for which she worked.

To listen to these victims is a powerful experience. This particular woman's suffering has continued. In 1990, after being diagnosed with lung cancer, she had one-third of her lung removed. Again, this was a woman who took up smoking not because she wanted to, but because she was a Lucky Strike model, and Lucky Strike in her contract required her to take up smoking. She did, became addicted, and now has suffered these incredible health threats.

A third witness, Mr. Alan Landers, was a Winston man, Winston cigarettes. He was a representative of the company. He was told to portray smoking as stylish, pleasurable, and attractive. Indeed, he is a very handsome man, a very stylish man. He was required to smoke on the set to achieve the correct appearance.

The tobacco industry did not tell Mr. Landers what they knew at the time, because as early as the 1950s, tobacco industry scientists had already established from their own research that smoking caused very serious health risks.

In 1987, Mr. Landers learned the true danger of cigarette smoking when he was diagnosed with lung cancer. Although 95 percent of lung cancer victims do not survive, Mr. Landers has had large sections of both lungs removed and is suffering from emphysema, while he waits for his day in court. I can tell you, Mr. Landers knows that his chances of ever getting to court are limited because he is under a death sentence.

I could go on and on talking about the victims from whom we heard. Everyplace we went, every community we visited, people came up to us and said, "You know, my father died of a tobacco-related illness;" "my mother," "my aunt," "my brother," "my sister"—the emotional pain that is out there brought on by the use of these products is staggering.

I grew up in a family where virtually nobody smoked. My grandfather did. He died at a ripe old age. I don't know if a tobacco-related illness was a part of his death, although I wouldn't be surprised if it was. He was a heavy smoker. Of the others in my family, very few ever took up the habit. But in traveling around the country, holding the hearings of this task force, we heard over and over and over of the addiction, disease, and death caused by these products.

Some have said, "What are you going to do about it? What business does the Government have to do anything about this? The Government ought to stay out of it. This is a personal decision whether somebody smokes or not." That is true, it is a personal decision. But you know what? There is more than the individual involved, because this industry, as I have described, is imposing enormous costs on all the rest of us. I chose not to smoke, but I am picking up the tab for those who have chosen to smoke. Mr. President, $130 billion a year are the costs that are being imposed by this industry—$130 billion, $60 billion in direct health care costs every year—$60 billion; Medicare, $20 billion; Medicaid, $12 billion, $13 billion a year. We are paying for costs imposed by that industry, and they are not covering the tab, make no mistake about that.

That is the hard reality of what is occurring. If we want to do something about it—every witness who came before our committee said there is no silver bullet, you have to have a comprehensive approach. You have to do all kinds of different things to reduce the level of youth smoking.

Why is youth smoking so important? Because we know that 90 percent of smokers take up the habit before they are 19, about half before they are age 14. When somebody is not hooked when they are young, they probably are not going to get hooked. That is in the tobacco industry documents. They knew they had to get people when they were young. They knew when somebody didn't start when they were young, they probably were not going to take up the habit.

Some of the comments in the tobacco industry documents are startling. I remember one is: How are you going to get somebody to take up what is really a dirty habit and unpleasant? You have to convince them that it is cool, you have to convince them that it shows maturity, that it is stylish.

The cynicism of this industry in trying to hook kids is really incredible. Here is a 1972 Brown and Williamson document:

> It's a well-known fact that teenagers like sweet products. Honey might be considered.

They are thinking about putting honey in cigarettes to attract teenagers.

> Smoking a cigarette for the beginner is a symbolic act. I'm no longer my mother's child. I'm tough. I'm an adventurer. I'm not square. As the force from the psychological symbolism subsides, the pharmacological effect takes over to sustain the habit.

That was from a 1969 draft report to the board of directors of Philip Morris.

Here is a good one. When the industry comes up here and says, "We never targeted kids," this is a quote from a 1973 RJR marketing memo:

> Comic-strip-type copy might get a much higher readership among younger people than any other type of copy.

Talk about cynical; talk about people who are thinking about themselves and didn't give a hoot what the effect was on somebody else. And they say they didn't target kids?

I have read the documents. Document after document shows they directly targeted kids as young as 12 years old. That is who they are going after. These Joe Camel ads, do you think they designed those to go after adults? No, no, no. They designed those ads because they knew that they were slipping among the youth market, and they were trying to figure out a way to get to the kids. So they said comic-strip-type might get a much higher readership among young people. That is where Joe Camel came from. How brilliant that strategy was. It really worked to hook kids.

Here is another 1973 Brown and Williamson memo:

> Kool—

That is a brand—

> Kool has shown little or no growth in the share of users in the 26-plus-age group. Growth is from 16 to 25-year-olds. At the present rate, a smoker in the 16 to 25-year-age group will soon be three times as important to Kool as a prospect in any other broad-age category.

You have to wonder what these people thought when they went home at night after writing these memos, after coming up with these strategies, after coming up with these marketing schemes to hook kids. I wonder if they were proud of themselves when they went home at night.

Here is another 1973 memo from an RJR assistant director of research and development. And I quote:

> Because brands of the new type continue to show vigorous growth in sales; because a high proportion of beginning smokers are learning to like Marlboro, the leading brand of the new type; and because we have no current brand in this newly identified, major segment of the market; it has become appropriate for us to consider moving our present brands in the direction of the new type of cigarette.

And why? Because they needed to hook beginning smokers. Well, it goes on and on and on. The documents are so overwhelmingly clear.

> Evidence is now available to indicate that the 14- to 18-year-old [age] group is an increasing segment of the smoking population. RJR-T[eam] must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

That is a 1976 draft report, "Planning Assumptions and Forecast for the Period 1977–1986 for R.J. Reynolds Tobacco Company."

"Evidence is now available to indicate that the 14- to 18-year-old [age] group is an increasing segment of the smoking population" and they have to establish a successful brand there if they are going to be successful.

Mr. President, I go back to the basic question: What do we do? We know we have a problem. We know people are suffering from addiction, disease and death. As I said earlier, every witness that came before us said you have to have a comprehensive approach. No single thing will address this health threat, and that is what the McCain bill does. It pursues exactly the sort of comprehensive approach that every public health expert has testified is necessary.

Yes, it contains price increases. And why? Because every study, every public health expert has told us that price increases are the most effective thing to reduce consumption and use, especially important among young people. The studies indicate that for every 10-percent increase in price, you get a corresponding 5- to 7-percent reduction in consumption among youth.

These studies are consistent. They are clear. They are not done by the tobacco companies. They are not done by the apologists for the tobacco companies. They are done by the scientific community. They are done by the Congressional Research Service. They are done by the National Institutes of Health. They are done by the American Cancer Society, the American Lung Association. Those are the people that I intend to listen to in this debate.

I am not going to be listening to the sweet swan song of the tobacco lobby who, by the way, have hired virtually every lobbying firm in this town. In fact, I am told they have hired a lobbying firm for every U.S. Senator. And I would not be surprised if it is true.

As you look at the list, they are spending hundreds of millions of dollars on this attempt—hundreds of millions of dollars to mislead the American people; hundreds of millions of dollars to influence public opinion; hundreds of millions of dollars to try to fool people here in the Congress of the United States.

I had a man call me from North Dakota the other day. He got on the phone with me, and he said, "Senator, I'm against that tax bill." I said, "What tax bill are you talking about?" He said, "I don't know." He said, "I had somebody call me and ask me if I was against taxes. I told them I was.

and he said, 'I'll connect you with your Senator right away.'" He said, "I didn't even have to call. They connected me to your office." And he did not even know what the bill was about, but he knew he was against it because they asked him if he was against taxes.

I tell you, these guys are shameless. They are shameless in what they have said up here. They are shameless in the negotiating strategy they pursued on this legislation, and they are shameless in what they are saying to people trying to mislead them about this legislation.

This bill, sponsored by Senator McCAIN—yes, it contains price increases because that is central to any strategy to actually reduce consumption and to save people's lives. But it does much more than that. It clarifies the Food and Drug Administration's authority to regulate advertising targeted to children. It gives the Food and Drug Administration authority to regulate the manufacture and distribution of tobacco products, to protect children and reduce the ill-health effects associated with tobacco use. It includes provisions to reduce youth access to tobacco products, including a requirement that States enact laws to make it illegal for minors to purchase or possess tobacco products.

It provides look-back surcharges to create an incentive for companies to stop targeting children and to hold those companies accountable that fail to reduce youth smoking of their brands. It requires document disclosure.

Mr. President, an awful lot of what we have learned we have learned only because of the Minnesota trial. I want to commend Attorney General Humphrey of Minnesota who was tough and determined and who won a massive lawsuit against the tobacco industry. In winning that suit, he was able to release millions of documents that formed the basis of our knowledge of what this industry has been doing. Thank goodness for what he has accomplished because, as I say, I could read from these documents for days on end, these documents that indict this industry, because this industry knew that their products were killing people. They absolutely knew their products were addictive. They absolutely knew that they were targeting kids and they absolutely knew that they were manipulating nicotine levels to further—to further—hook customers.

It was written across the pages of these documents time after time after time. There is no question, none, about what these guys were doing. It was cynical. It was manipulative. And it was targeted at kids.

I have nothing against anybody that seeks to engage in a legal business and make a profit. That is the American way. I am proud of people that do that. I come from a business family myself. I am educated in business. But I tell you, to make your livelihood targeting kids for addiction and disease is not a very proud way to conduct oneself. This industry was so incredibly cynical in the way they operated. They ought to be ashamed of themselves. They say now, well, they have a new culture. Well, I tell you, I do not see it. I do not see their new culture. I see them operating just as they have in the past.

I have indicated some of the provisions of this bill. There are others, as well, that are important. Because this legislation also funds tobacco control programs, including smoking cessation, countertobacco advertising, smoking prevention, education and health research. You know, if there is nothing else that comes out of this—I hope we are able to discourage people from smoking—but I hope we are also able to fund medical research to help the victims of the past. I hope we are able to do some things that will be positive for those that have already suffered. I hope we are able to find the cure for cancer. I hope we are able to find a cure for emphysema or at least treatments that can reduce the suffering of people who are inflicted.

But this bill does more than that. It also includes environmental tobacco smoke provisions to protect nonsmokers in public buildings because one of the things we have learned from the research of the industry itself is that secondhand smokers also suffer. And what they suffer is irreversible. We did not know that before. We used to think, well, not just the smoker is going to be affected and be affected adversely. I think all of us knew for a long time that was the case. But we probably did not realize that those of us who are around smokers also are affected, and the way we are affected is irreversible. It cannot be improved. That is what the latest scientific evidence tells us.

So it is important to do something about limiting where smoking can occur so nonsmokers are not having imposed on them the health risks because somebody else has made a choice that they are going to smoke. That is fine. That is their business. But it is not their business to have an adverse effect on somebody else's health, and certainly not on a child.

This legislation also provides generous assistance to tobacco farmers and their communities for the effect they will experience. Clearly, this is a comprehensive approach. It is multifaceted because that is what the experts say is necessary. We don't need experts to tell us what will be effective here. I have heard from all the experts. They came before our task force. We heard from hundreds of them. I respect them. This is a matter of common sense. We don't need an expert to tell us if you raise the price, consumption goes down. That is Economics 101. We don't need an expert to tell us if you do countertobacco advertising that warns people of the health risks of tobacco products, that will have an effect. Why else would the industry spend billions of dollars a year advertising tobacco products? Because they know advertising works. Countertobacco advertising, we also know, will be effective. And we also know you have to fund smoking cessation and smoking prevention programs, because that helps people.

Now, it is true that very few people are able to quit. Seventy percent of the smokers in America today say they want to quit. Only 2 or 3 percent a year are actually able to. That is because smoking is addictive. In fact, the testimony of the experts told us that smoking addiction is in the same class as cocaine addiction. We went to Brown University and had a hearing there. We had an addiction expert come before us. He said, if you think a smoking addiction is something easy to escape, but you think cocaine addiction is hard, don't be fooled, don't be misled. Because the fact is the one is as difficult as the other.

I will talk a little more about the look-back provisions because that is the pending business before the U.S. Senate. We may have forgotten that around here, but that is the pending business. That is the business before this body, the look-back provisions of this bill.

Before I go into that, I want to talk about an issue that has been raised several times by the opponents of this legislation. That is the effect of the bill on low-income people. It is very interesting around here to hear those who are the chief defenders of the tobacco industry all of a sudden develop a newfound concern for lower-income Americans. I must say, I would be more persuaded by their concern if many of those same people had not spent most of their Senate careers opposing the minimum wages, opposing the earned-income tax credit, and opposing other measures that would help low-income, working Americans. I would be more persuaded if these same Senators had not spent much of their time in the Senate pushing for special tax breaks, tax giveaways and tax loopholes for the wealthiest among us at the expense of programs that benefit lower-income Americans.

Before I talk further about the so-called regressive impact of this legislation, I just want to point out that inaction imposes a cruel tax on low-income Americans. The tobacco industry has deliberately targeted lower-income Americans as its customers. In fact, they are disproportionately the customers of the tobacco industry. They have gone after that low-income market. They have succeeded. And this industry that all of a sudden is so concerned about low-income Americans' has charged them rates of profit that are three times the level of profit in the consumer goods industry in America today. The profit margins in tobacco are 30 percent—triple the profit margins of other consumer goods industries in America today. If they are so concerned about low-income Americans in the tobacco industry, why don't they cut their profits if that is their concern. That is not their concern. Who are they kidding? Their concern is their bottom line. That is their children. And it comes out in every document that has been revealed in these court proceedings. They aren't concerned about low-income Americans other than trying to hook them, addict them, and let them suffer the consequences of disease and death that accompany the use of these products.

The simple fact is that a failure to act will kill low-income Americans and their children in disproportionate numbers. The Senators who now say they are concerned for low-income Americans are nowhere to be found when we talk about protecting children or providing cessation programs for low-income Americans. Instead, they spend their time talking about the costs that this legislation will impose on lower-income Americans. They completely leave out the rest of the story—the fact that lower-income Americans will disproportionately benefit from this legislation.

The facts are that this legislation will reduce costs on low-income Americans more than it will increase costs on them. First, the nonpartisan Congressional Budget Office has concluded that the income distribution tables our opponents have been using exaggerate the effects on lower-income people. The fact is that people's incomes are not the same throughout their lives, and their expenditure patterns reflect that. Opponents also count on what we see as a claim that this legislation will hurt lower-income people because study after study has shown that lower-income smokers are much more likely to respond to a price increase by quitting or reducing their use of tobacco products.

The Congressional Budget Office has estimated the price increase will reduce average consumption of tobacco products by about a third. That means that lower-income Americans will reduce their consumption by even more than a third. So they will actually reduce their overall spending on tobacco products, and for every dollar they pay in increased costs for each pack of cigarettes, they will save more than $1 by purchasing fewer packs.

Third, the health benefits of reduction in smoking will be largest for low-income populations. By not smoking, lower-income Americans can reduce their lifetime health costs by $14,000, on average, because lower-income people are the least likely to have health insurance. The direct health cost benefits to reducing smoking will go disproportionately to lower-income Americans.

Finally, the main focus is, and should be, on our children. Lower-income Americans love their children just like every other American loves theirs. They want to make certain that their children get a healthy start in life. I don't believe they will say that a few hundred dollars is too much to pay to ensure that their kids don't get addicted to these deadly products.

The bottom line, nobody is going to pay the increased fees associated with this bill unless they decide to go to the counter and buy these products. There is nobody saying you have to buy cigarettes in America. Nobody has to pay this additional fee unless they decide they want to, unless they decide they are going to buy cigarette products. You only pay it if you buy the product. Frankly, if you buy the product, you ought to pay it because otherwise you are imposing costs on everybody else in society. Mr. President, $130 billion a year is what is being taken out of this society by the use of these products.

I will, at a later time, talk about the pending amendment, the Durbin-DeWine amendment, but I think at this point I am going to turn it back to the Senator from Arizona, Senator McCAIN, and again thank him for his leadership. His courage and his character shine through in this entire debate. I want to thank him very much for his leadership.

Mr. McCAIN. Mr. President, again, I thank my friend from North Dakota for his kind remarks and for all his effort on behalf of the young people of America. I am very appreciative. I tell my friend from North Dakota that I think we will prevail on this issue.

AMENDMENT NO. 2446, AS MODIFIED

Mr. McCAIN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2446), as modified, is as follows:

On page 407, insert the following:

SEC. 1302. VETERANS' ADMINISTRATION TOBACCO-RELATED HEALTHCARE AND COMPENSATION PROGRAMS.

(a) IN GENERAL.—The Secretary of the Veterans' Administration shall use amounts under subsection (b) to carry out tobacco-related healthcare activities under chapter 17 of title 38, United States Code, and to provide other appropriate assistance for tobacco-related veterans' health care illnesses and disability under such title.

(b) FUNDING.—From amounts in the trust fund established under section 400, not less than $600,000 per year are to be used to carry out Veterans' Administration tobacco-related healthcare activities under subsection (a) to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(c) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—Section 1981C of the Public Health Service Act (as added by section 261 of this Act) is amended—

(1) by inserting "veterans," after "uninsured individuals," in subsection (a)(1)(D); and

(2) by inserting "veterans," in subsection (b)(1)(H) after "low-income,".

NUCLEAR WASTE POLICY ACT OF 1997—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 2 hours of debate, equally divided between the proponents and opponents of H.R. 1270.

Who seeks recognition?

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Nevada be allowed to control the time under the agreement with Senator BUMPERS, the senior Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Nevada, Mr. REID, will be considered as controlling time on his side.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that floor privileges be extended to Bob Perret during the debate to follow regarding H.R. 1270.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BRYAN. If the Senator will yield, I ask unanimous consent that Polly Synk be granted the privilege of the floor for the purposes of the following debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I yield myself such time as I may consume.

Mr. President, this Congress, especially the House of Representatives, has been referred to as the "do-nothing House," or the "do-nothing Congress." Today, this debate will only add to the fact that it is a do-nothing Congress; it is a do-nothing House of Representatives.

The House is rarely in session. They vote sparingly and very pointedly. Campaign finance was only brought up following the culmination of a campaign to have a discharge petition filed, which forced action on that issue. This issue here today is part of the aura of a do-nothing Congress. We have the fact that this legislation—interim storage of nuclear waste—is an absolute waste of everyone's time. The President has said on numerous occasions that he will veto this legislation. We have had votes on this Senate floor that indicate, without any reservation or hesitation, that we have sufficient votes to make sure that the President's veto is sustained.

In addition, we have the incomprehensible development that the Speaker of the House of Representatives has stated that nuclear waste is dead in this Congress, that he won't touch nuclear waste. Well, I say, what are we doing? The President has said that he will veto this legislation. The Speaker of the House of Representatives has said that he won't allow nuclear waste legislation to move in the House of Representatives this year. It seems very difficult to me why we are moving forward on this. I finally figured out a reason; I am told—tobacco. Are we moving forward on this legislation so that there will be nothing happening with the tobacco bill? I seem to have hit the nail on the head.

The fact that this legislation stands absolutely no chance is because the President said he will veto it and there are enough votes, as proven on the Senator floor, that the veto will be sustained. Only yesterday, the Speaker of the House of Representatives said that nuclear waste is dead. Then there must be a reason. That reason is there is a movement to stop tobacco legislation.

Mr. President, this is a rip-off, this is a payoff for the tobacco industry. They simply want to continue having kids smoke. They know that every day 3,000 kids are locked in and addicted to cigarettes—3,000 every day. Every day we waste in this Congress on something other than tobacco, we are addicting 3,000 children. Should we not be investing in public health research and programs to help smokers quit and protect tobacco farmers and their communities? Obviously, Mr. President, that issue has taken second fiddle to the big stall. Kids are most vulnerable to tobacco company tactics, and we all know that. We know that tobacco companies have, for decades, targeted kids because they are the most vulnerable to nicotine addiction and the most easily affected by the slick advertising and promotional ploys. Joe Camel just didn't show up in the middle of the night. This was done in the boardrooms of the tobacco industry. "What can we do to addict children, kids? We will come up with something that will be as noticeable and identifiable as Bugs Bunny or Mickey Mouse." And they have done it. Joe Camel is more noticeable than those.

So the evidence is overwhelming that smoking is a pediatric disease; it is a disease that affects kids. Almost 90 percent—that is a slight exaggeration—89 percent of all people who try a cigarette try one by age 18. Virtually nobody starts smoking during adulthood—no one. Of the people who have ever smoked on a daily basis, 71 percent were smoking by the age of 18. Now, if Joe Camel isn't enough identification, realize that almost 37 percent of children in high schools throughout America smoke cigarettes. Don't we have an obligation to move forward on this legislation? The answer is yes. I repeat, 3,000 kids start smoking every day. Is this a pediatric disease? Of course it is. Mr. President, it is extremely important that everyone understand that this is nothing more than a transparent effort to kill the tobacco bill.

Today, the majority is setting out to reward two very powerful industries—big tobacco and nuclear utilities. I think there are other parties we should be concerned about. Why should we not be rewarding children—3,000 children a day? That seems to be a little better motive. But, no, the majority is setting out today to reward big tobacco and the nuclear utility lobby.

By invoking cloture on the motion to proceed, the Senate is taking the anti-teen-smoking bill off the floor, period. We must not vote to invoke cloture. Literally, without being overdramatic, Mr. President, by voting to invoke cloture we are signing the death warrants for kids in America. Adults don't start smoking, kids start smoking; the tobacco companies know that. For every day we stall this legislation, we have signed death warrants for kids.

Mr. President, a number of years ago, my wife was in a hospital. She had been there for quite a long period of time. Finally, we had no alternative, and she had to have some very extensive surgery. The surgery took a lot longer than we thought it was going to take or should have taken. We were very worried. We were waiting in the room where loved ones wait while these traumatic things go on. A physician walked into the room—somebody we had never seen before—and he said, "I am a cardiologist. During surgery, your wife's heart malfunctioned." Then, without a second breath, he said, "but we are not worried because she is not a smoker." Doesn't that say it all? Why don't we in this body vote for the children of America and not invoke cloture?

Mr. President, we are talking about terrorism sweeping this country. Today, this is legislative terrorism. We are being asked to support big tobacco and nuclear utilities and, in effect, voting against kids. When it is all over and done with, I think we are not going to find people voting with big tobacco and utilities.

Now, we do not have a lot of time, Mr. President, in the presentation that we have, to get into a lot of the merits of this legislation, that is, the underlying legislation. We will have ample time to do that, and everyone knows that if cloture is not invoked, the Senators from Nevada will be involved in their own legislative terrorism; that is, we feel so strongly about this, as does the environmental community of America, that we are going to do everything we can to protect the health and safety of people in this country—not only the people of the State of Nevada but the people of this country.

Let me just close this part of my presentation by saying that the Energy and Water Subcommittee held a hearing. I, frankly, was involved in other things. And the Senator, the senior Senator from New Mexico, spent a great deal of time working on setting up this very interesting set of hearings. Testimony took place last month, the middle of last month. We had a number of very important people testifying on nuclear technology but, interestingly enough, they all said that spent nuclear fuel—that is what we are talking about here—should be stored on-site.

For example, Dr. Richard Wilson was one of those who testified. He is a professor of physics at Harvard University. He is the lead physics professor at Harvard University. I have a direct quote:

> There is no doubt in my mind that the waste from a power plant is much safer than operating a power plant, and you can put it next to a power plant as we are doing in some places without appreciably increasing any risk to anybody.

I had that confirmed on a number of other occasions during that hearing that took place.

Mr. President, in short, we cannot, today, reward tobacco and the nuclear utilities. They have a cabal here to defeat tobacco legislation, recognizing that nuclear waste legislation is all through anyway; the President has said he will veto it. We have enough votes to sustain the veto. The Speaker of the House has said that he is not going to move that legislation. It seems pretty clear to me today's issue here before this body is a gesture in futility.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The majority leader.

Mr. LOTT. Mr. President, in order to make this perfectly clear, I do have a unanimous-consent request that would accommodate my desire on behalf of the Senate to have a vote on this very important nuclear waste issue and then return to the pending business, the tobacco bill. So I do want to ask unanimous consent—and I am not propounding it right now—that would say that once we have this vote, notwithstanding rule XXII, with respect to the nuclear waste bill, we would come back to the tobacco bill.

This is not in any way intended to delay or to drag out the tobacco bill. There is nobody here, I do not believe, who would not like to see us find a way to deal with the tobacco issue and move on. At the same time, as the majority leader, I have to continue doing things as we go along. We have some Executive Calendar things we want to vote on. We have some other bills that I believe Senators on both sides might agree that we want to do as we go along. We have to think about the appropriations bills next week, beginning to move those appropriations bills.

The thing with the nuclear waste issue, the way it comes to us, because the issue was blue-slipped in the House, or the objections because we did it before they did it in the House, we have to go through a series of hoops that take time so that we can take action on nuclear waste and then go on about our business on the tobacco bill or defense bill, whatever it may be. So my purpose here is to get this issue started, and then, after we have a vote, go on back to the tobacco bill. So that is the intent here.

I would ask unanimous consent that it be in order for the majority leader, after notification of the Democratic leader, to resume consideration of the tobacco bill notwithstanding rule XXII with respect to the nuclear waste bill.

Mr. REID. I object.

Mr. BRYAN. I object.

Mr. DASCHLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I appreciate the majority leader's intent as he has expressed it and the unanimous consent request. As he knows, taking this action would actually put the tobacco bill back on the calendar, and it would then subject the leadership to a request to take the bill off the calendar once again and move the legislation. We would have to get either unanimous consent to move the bill or we would have to make a motion to proceed back to the tobacco bill. So this is a very, very difficult parliamentary challenge.

Obviously, we are in a very different set of circumstances if this unanimous consent request would go into effect. It would put us at the mercy of every single opponent of the tobacco bill. They know that. I give the majority leader great credit for attempting to try to expedite our legislative calendar. There are a lot of things we should be doing. But I will not subject this tobacco bill to the fate that would be destined this legislation if we were to require that we be at the mercy of every opponent of the tobacco bill when we want to bring it back.

I would ask unanimous consent, reserving the right to object, that regardless of the outcome, the Senate resume consideration of the tobacco bill and remain on the bill until its completion.

Mr. REID. Reserving the right to object, I suggest the absence of a quorum.

Mr. LOTT addressed the Chair.

Mr. REID. I suggest the absence of a quorum.

Mr. LOTT. Will the Senator withhold so we can clarify this?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. LOTT. If I could just clarify, the Senator did not object; he was reserving his right to object to my request. Did you propound a modification to that?

Mr. DASCHLE. I did propound a modification.

Mr. LOTT. Then I believe the correct thing would be for me to reserve my right to object to his modification of my unanimous consent request.

The alternative here is to have the vote on the nuclear waste cloture motion on the motion to proceed, and if we get cloture, we are on the nuclear waste bill. If the unanimous consent that I propounded is accepted, we could set that aside and come on back to the tobacco bill.

The problem I have with the addition that the Senator has propounded here that we remain on the tobacco bill until it is completed is that we don't know whether that would be a day, a week, or a month. I know that there is other work we will need to get done over a period of days and weeks and that we could, in fact, continue to work on the tobacco bill.

For instance, there is a meeting that will be occurring here in the next few minutes. Senator DASCHLE is familiar with it. Senator McCAIN, Senator GRAMM, Democrats and Republicans, are going to be involved in that meeting at 4:30. You need a little time sometimes to work out an agreement, a compromise even.

Under this agreement, we wouldn't be able to set it aside and go to any other issue. So that is all I am saying. We have a lot of work we need to get done during the month of June. It is going to take a lot of cooperation. The tobacco bill is on the agenda. My intent is for us to continue to make progress on it but not to the exclusion of everything else. So I would object to the modification.

Mr. REID. Reserving the right to object.

Mr. LOTT. I withhold but I do object. I object to the modification.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Presiding Officer rules that since the majority leader has the floor, the minority leader reserved the right to object and his unanimous consent will be construed to be a request of the majority leader to amend his unanimous consent request to include that of the Democratic leader.

The Chair gathers the majority leader has declined to do so.

Mr. LOTT. I do, Mr. President.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader has still reserved the right to object to the majority leader's unanimous consent request.

Mr. DASCHLE. I thank the President for that clarification and his interpretation of what has just been presented to him.

Mr. President, I have heard the majority leader on many occasions come to this floor and make an impassioned speech to all of our colleagues that we are going to stay on this bill until we get it done. I heard him say that eloquently and passionately on NATO. I heard him say that when we talked about the budget. I heard him say that when we talked about the Coverdell bill. I have heard him say that on so many occasions this year—we are going to stay on this piece of legislation until we get it done because we have to finish it so we can move on.

I do not want to misinterpret his remarks. I know he would like to see some completion of the tobacco bill. I just wish he and our colleagues would show the same passion and resolve to finish this bill so that we can move on. That is all we are asking. Let's move on to other pieces of legislation once we have completed our work on this. This is an open invitation to go off of this legislation, move on to other things, and, oh, by the way, if there is time, and if my Democratic colleagues play their cards right and behave, we will probably have a chance to come back to tobacco.

That is the problem. I want very much to make this month as productive as the last month was. But you know how it was productive? It was productive when we said we were going to stay on a bill until we finished it. We finished the highway bill. We finished the technical bills. We finished an array of pieces of legislation because we showed some focus and we resolved to stay on that legislation until it was completed. That is what we are asking here. Let's stay on this bill until it is done, and then let's move on to the array of other pieces on the calendar that have to be addressed, too.

So because we fail to do that, unfortunately, I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? Who yields time? The Senator from Alaska.

Mr. REID. Mr. President, I just want to take 1 minute.

Mr. MURKOWSKI. I defer.

Mr. REID. I also want to say I have the greatest respect for the leader, and of course the Democratic leader also. But I have to say, unless cloture is not invoked, the Senators from Nevada are going to have a lot to say about what goes on on this floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me try to clarify where we stand. What we have pending is the nuclear waste bill, the motion to proceed. The cloture vote is set at 6 p.m. That is cloture to H.R. 1270. After cloture, if we prevail I will introduce an amendment in the nature of a substitute, which will be S. 104, and that is the bill that passed this body. I propose to include in the substitute the Bingaman amendment. I know this is very important to a number on the other side of the aisle.

Let me be clear about another matter. The idea of mixing resolution of the tobacco legislation with nuclear waste—that is a chemical compound that simply does not mix.

The nuclear waste bill has been before this body previously, and I would like to recount a little history of S. 104, the Nuclear Waste Policy Act of 1997. It passed this body 65 to 34; 53 Republicans voted for it as did 12 Democrats, specifically: Senator CLELAND, Senator GRAHAM, Senator HARKIN, Senator HOLLINGS, Senator JOHNSON, Senator KOHL, Senator LEAHY, Senator LEVIN, Senator MOSELEY-BRAUN, Senator MURRAY, Senator ROBB, Senator WYDEN.

It is my understanding that somehow, in the minds of some, by voting for cloture we are somehow setting aside our responsibility to address and resolve the tobacco issue. You have heard the generalization that by prolonging this effort to resolve the tobacco legislation, we are hastening the number of young people who will initiate the use of tobacco. Mr. President, we had a vacation. We had a week off for the Memorial recess. We have lost yesterday. We have lost today. The point is, at some point in time the nuclear waste policy matter has to be resolved by this body. The fact that we have voted 65 to 34 previously on the issue, and the leadership has indicated a willingness to take it up today and set aside the tobacco bill—and further, make no mistake, it is the leader's intention to go back to the tobacco bill. As a matter of fact, he proposed a unanimous consent request that was objected to. So clearly the intention of the leadership on the Republican side is to proceed with tobacco. But there is a lot going on to resolve the tobacco issue and there will be a lot more time taken in order to reach a conclusion that is satisfactory to this body. So let's be realistic and recognize that today belongs to the issue of nuclear waste. The Senate has an obligation to resolve this issue, to vote for cloture. After cloture, set it aside, go back to the tobacco bill, and then come back on the issue of nuclear waste.

Make no mistake about it. There is a lot of politics involved in this bill. I know what is going on in Nevada. There is an eager House Member who has issued a press release relative to the attitude of the House. I am not going to go down that particular avenue. But it is fair to say the politics in Nevada is against a nuclear waste site in that State. But to be realistic, nobody wants to have nuclear waste in their State. Yet 65 Members of this body voted on August 15, 1997, to put the Nuclear Waste Policy Act in order and designate Yucca Mountain to be a site for an interim facility. Furthermore, as passed, S. 104 set deadlines for the Department of Energy to meet its contractual obligations to accept and store at a single permanent repository the nuclear waste generated at the commercial nuclear power industry site that will be used to store all Federal nuclear waste. Congress selected Yucca Mountain, NV, as the site to be considered for the repository.

So there you have it. You have a situation where we have designated an area. We have expressed, by a vote of 65 to 34, the attitude of this body. Now we are seeking cloture so we can proceed with the obligation to address and resolve this.

So what is a "yes" vote for? Mr. President, a "yes" vote is for storage of nuclear waste at one, safe, Government-controlled site; responsible action to meet the Government's obligation to take our nuclear waste after collecting $14 billion from the consumers of electricity in this country. Currently, the Government is in violation of its contractual commitments to the nuclear waste industry. The suits that are pending on this could cost the taxpayers somewhere between $60 and $80 billion because the Government was supposed to take the waste beginning this year. What we are attempting to do with this legislation is address the responsibility, with finality, for the Government to deliver on its commitments. Also, as we address global warming, the Kyoto accord, and other concerns, there is definitely a role for the nuclear power industry from the standpoint of its contribution to air quality. Nuclear energy provides clean air.

What does a "no" vote do for us? Storing high-level waste in over 80 sites instead of one site is what a "no" vote does for us. It is a continuation of a breach of contract that will cost the taxpayers, as I have said, untold dollars in damages, an estimated $60 to $80 billion. It will basically eliminate our largest single source of emission-free power, and it will result in moving over to another alternative which is not clean, in the sense of nuclear power.

Today's vote is an opportunity for triumph, if you will. It is the issue of safety of people over politics. A successful vote today will allow us to consider and adopt a bill that will lead us to a safer future for all Americans.

As we look at the history of this, as I have said, we passed this bill by large margins, bipartisan margins. The House passed the underlying bill with 307 votes. There you have a pretty good idea of the attitude in the House.

It would be the height of irresponsibility to let our process down at this time, and obviously, as we look to our environmental concerns, to not have an answer to our high-level waste problem is basically a cop-out on our responsibility.

We have, as the map on the right indicates, a number of sites around the country. Forty States are affected, Mr. President. There are 80 sites in the 40 States. This is in addition to the waste stored at the Department of Energy waste disposal facility.

What we have is waste being stored in the backyard of constituents, young and old, across the country, near our neighborhoods, near our schools. Each year that goes by, our ability to continue storage of nuclear waste at each of these sites in a safe and responsible way is diminished. Why, Mr. President? Because many of these sites are filling up. They are designed for a certain capacity of nuclear waste and in many of those pools, at reactor sites, we are seeing storage up to its maximum-designed capacity.

As I have indicated, the Government agreed to take that waste beginning this year, in 1998, but it can't fulfill its contractual obligation, and that is a contractual obligation of every Member of this body to address the responsibility of the ratepayers who have paid in $14 billion. It is irresponsible to let this situation continue. I for one am not going to let that happen.

Again, I would like to identify in my State of Alaska I don't have a constituency associated with nuclear power or nuclear waste, but it is an obligation that I have as committee chairman and that we have as Members of this body who struggled with this issue of nuclear waste for more than a decade.

Let me display a chart that shows the payments that have been made by each State. Here is what the electric consumers of the United States have contributed over the years to take care of nuclear waste beginning this year. There they are, Mr. President, in millions of dollars. They total $14 billion. They are asking for this Senate and the House of Representatives to mandate the removal of the waste as a consequence of what they have paid in so that the waste can safely be stored in Nevada. The U.S. Court of Appeals has ruled that the Department of Energy has an obligation to take possession of this waste in 1998 whether or not a repository is ready. Last November, the court ordered the Department of Energy to pay contractual damages.

I told you those contractual damages are estimated to be up to $80 billion of taxpayers' money, unless we address our obligation to put this waste out in the desert in Nevada. Neither the consumers nor the taxpayers deserve to bear the cost of the Government's failure.

The administration has simply ducked this issue. They don't want to deal with it on their watch. They just as soon have the nuclear waste issue be resolved by somebody else at another time, regardless of the liability to the taxpayers, regardless of the fact that the ratepayers have paid in the $14 billion.

Mr. President, we are here today trying again to address a responsible resolve, and to adopt a responsible resolve, we are going to have to get on the bill. This is a motion to proceed to the bill. That is all it is.

Again, I reflect on the opening statements of my colleagues on the other side relative to tying this to the tobacco issue. Tobacco is complex enough without mixing it with nuclear waste. It doesn't belong there, and we have the obligation now to address it.

The statement of the administration bases its objections on a misreading of the bill and a disregard for the reality of the Federal Government's obligation to take the waste beginning in 1998. The administration claims it cares about clean air and preventing climate change.

Currently, 22 percent of our electric power is generated by nuclear energy. This is emission-free nuclear energy. The Department of Energy's information administration says the Kyoto treaty would require a 41-percent reduction of CO_2 emissions from a predicted level in the year 2008 to 2012. Keep in mind, this administration isn't going to be here in the year 2008 to 2012.

How do you get there from here in the Kyoto accord without the nuclear industry? You don't. You can't. There are no new emission-free sources that can economically take the place of nuclear energy. For the moment, we can forget about the Kyoto treaty and think about the present, the present time. Between 1990 and 1995, 37 percent of the sulfur dioxide reductions required by the Clean Air Act came from increased generation of existing nuclear power plants. That is where the reduction is coming from, and this administration doesn't want to accept the responsibility to take care of the waste. Why? It doesn't want to address it on its watch.

Why are my colleagues on the other side mixing tobacco in the issue and saying each day that we delay when the leadership has asked unanimous consent to go back to tobacco after we resolve this matter? This is a cop-out, Mr. President.

That is why I urge my colleagues to reflect on how their votes are going to be recorded. Those on the other side who voted with us last time are Senator CLELAND, Senator GRAHAM, Senator HARKIN, Senator HOLLINGS, Senator JOHNSON, Senator KOHL, Senator LEAHY, Senator LEVIN, Senator MOSELEY-BRAUN, Senator MURRAY, Senator ROBB, Senator WYDEN.

I encourage them to reflect, again, that this shouldn't get mixed up with Nevada politics. If we look at polling in Nevada, we have to acknowledge Nevada does not want to be the resting place, even temporarily, for our nuclear waste. But both sides are against putting nuclear waste in Nevada. So it isn't a matter of competition among the Members who are against it. They are all against it.

If you ask a Nevadan whether they want nuclear waste in their State, the answer is no. You can go to 49 other States and you will get the same answer. But we have a responsibility to put it somewhere, and we are proposing to put it in the desert where we have had over 50 years of nuclear testing.

There it is. This is the location for the nuclear waste storage at the Nevada site that was used previously for more than 800 tests of nuclear weapons. If you don't want to put it there, you tell me where you want to put it. We spent over $7 billion at Yucca Mountain already testing it. We are proposing that the waste be moved in accordance with the Government's contract, move it out to a temporary repository until Yucca Mountain can be licensed and certified.

If it isn't licensed and certified, then it is going to have to go someplace else, but until then, this is the site, and to suggest we shouldn't take it up simply means more storage piling up at our reactors. Some of those reactors are going to shut down. We are going to have to get that power someplace else. We will probably have to go to coal-fired power which, obviously, is not going to have the same effect that this has on our air quality.

EPA can pass all the regulations in the world, but if the administration really does not care about clean air—well, they can do something about it, if the President would get behind this legislation. Instead, the administration intends to delay this issue, delay this issue, delay this issue, and the whole time telling the American people that it really cares for its safety, the environment, and their pocketbook.

Let me tell you again, if you are concerned about the safety, you are not going to put this around in the number of States where we have it, that is 40 States with 80 sites. If you care about the dollars, you are not going to stop the realization that the taxpayers have paid $14 billion; and now we are looking at claims for nonperformance of the contract to the taxpayers in over $70 to $80 billion.

Is the President really concerned about clean air and climate change or is this a cynical diplomatic or, more realistically, a political excuse? I think it is the latter, Mr. President. There is politics in this issue. There is politics in the mix of this issue and tobacco. This issue should stand on its own.

Finally, Mr. President, we have really reached a crossroad. The job of fixing this program is ours. Time for fixing this program is now. The vote before the Senate is to move forward with a motion to proceed. Then we are going to move back to tobacco.

We have made progress on this issue. We have made progress at Yucca Mountain. As I have indicated, the 5-mile tunnel is complete. We spent $7 billion of the consumers' money. We have to build on this progress. Our bill continues site characteristics, activities for permanent repository. It allows each State to designate the route that the nuclear waste will move to the site proposed in Nevada.

I remind the President that we have waste moving throughout the United States, military waste across State lines. We can move it safely. We know how. Europe moves it safely by rail and by ship. There is no magic in this. But the realization is that today we need a temporary storage facility or we are going to be storing spent fuel all across this Nation for decades to come. We are going to be in violation of our contract, which will cost the taxpayers more money to settle the suit.

And we can choose today whether to start on this process to resolve the issue of whether the Nation is going to continue to have 80 interim storage sites or just one safe site—that arid, remote Nevada test site where I have indicated we have exploded scores of nuclear bombs during the cold war. And it is safe and it is remote. And, unfortunately, it has to be in one of our States, and it happens to be in the State of Nevada. But it has brought a lot of jobs to Nevada, a lot of prosperity to Nevada over the years.

And there is the realization that if Yucca is licensed—and it is likely to be—it is going to be a very, very easy task to move the spent fuel to the repository. And in the unlikely event that Yucca is not licensed, or found to be unsuitable, Congress and the administration are going to have to consider our options. In either case, we will be ahead of the game regardless of what happens at Yucca.

This is a step that we should take. And remember today, yes is a vote for cloture. It is a vote for the storage of nuclear waste at one safe Government-controlled site. It is a responsible action to meet Government's obligation to take the nuclear waste, after collecting $14 billion from the consumers of electricity. It is for cleaner air. And a no vote, again, is for continuing to store high-level nuclear waste in over the 80 sites instead of the 1 safe site. It is a continuation of a breach of contract that is going to cost the taxpayers of this country some $70 to $80 billion as a consequence of our inaction.

A no vote is for eliminating our largest source of emission-free power, resulting in dirtier air. And isn't it extraordinary that this Nation, with all of our technology, cannot address or resolve our high-level nuclear waste; but the French, the Japanese, the British, the Swedes have all addressed it responsibly? We cannot even get our Government to commit to its contractual commitment.

The time is now. I urge my colleagues—I know the politics of this body. I know this is an issue in the race in Nevada, and I can understand and be sensitive of that, but each one of us has an obligation as statesmen to address responsibly the obligation we have towards taking this waste and putting it out in a temporary repository in Nevada.

I understand the arguments from my colleagues from Nevada relative to their bottom line. They do not want it in their State. But we have an obligation to put it somewhere. We have voted previously to put it in Nevada, in a temporary repository. To back down now is to shirk a duty and an obligation that we were elected to address, Mr. President, address with a resolve; namely, the sanctity of a contractual commitment that is due to take that waste this year and the recognition that the Government, the administration, refuses to accept that responsibility, therefore, that obligation becomes ours; furthermore, the litigation and cost to the taxpayers who are going to be confronted with this, and the full employment for lawyers if we do not address it now.

So do not let politics enter into the vote and the resolve on this issue. This issue should stand on its own. This issue does not belong in consideration of the tobacco bill. This legislation should be addressed and resolved with a vote in favor today so we can move on and meet our responsibility.

Mr. President, I ask how much time I have remaining on this side.

The PRESIDING OFFICER. Twenty-nine minutes 40 seconds.

Mr. MURKOWSKI. I thank the President, and reserve the remainder of my time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before yielding to my colleague from Nevada, I would like to ask my friend, the junior Senator from Alaska, do you disagree with Dr. Richard Wilson, professor of physics, Harvard University, who testified before the Energy and Water Subcommittee 2 weeks ago, recognizing this man is one of the foremost experts on things physics and nuclear power in this country, when he said, "And you can put it [nuclear waste] next to a power plant, as we are doing * * *, without appreciably increasing any risk to anybody"?

Do you disagree with his statement?

Mr. MURKOWSKI. Relative to powerplants, let me advise the President there are safety and economic advantages to having 1 central storage facility rather than 80. I think my colleagues would agree on the other side. Throughout the debate, we keep hearing suggestions like: "Why don't we study the issue some more? Why don't we just leave it at the plant sites?" which is what is suggested, and "Why do we have to solve the problem now?"

Well, why should we leave spent fuel at the nuclear power plants in 34 States when there is a less costly storage method with an increased margin of safety in an area that has already been proven for its storage of waste?

Mr. REID. Let me reclaim my time.

Mr. MURKOWSKI. Let me try to finish.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. I would say, of course, my friend from Alaska did not answer the question because the answer is so obvious. We have here one of the most eminent scientists in America dealing with nuclear waste, with things nuclear. He said, "And you can put it next to a power plant [nuclear waste], as we are doing * * *, without appreciably increasing any risk to anybody."

I also say to those within the sound of my voice, it is cheaper to have dry cast storage containment. It only costs about $5 million to establish one onsite.

It would seem to me that this is so clear that it is easy to see through the transparency of what the nuclear utilities are trying to do. They are trying to wash their hands of this terribly deadly waste that they produced; namely, plutonium, wash their hands of it and give the responsibility to somebody else. Otherwise we would go for the cheaper, safer version that has been underscored as being safe by Dr. Richard Wilson, professor of physics, Harvard University.

I yield to my colleague from the State of Nevada whatever time he may consume.

The PRESIDING OFFICER. The Senator from Nevada, Mr. BRYAN.

Mr. BRYAN. I thank the Chair and I thank my colleague.

Mr. President, for those who are not familiar with the parliamentary intricacies of the Senate process, I think a reasonable question should be raised, and that is why are we debating this issue; namely, the placement of a temporary nuclear waste dump at the Nevada test site in Nevada, when, No. 1, the Speaker of the House has indicated that no such legislation will be processed in the House; and, No. 2, the President of the United States has said if any such legislation should reach his desk, he will veto it.

Mr. MURKOWSKI. May I ask my colleague a question?

Mr. BRYAN. I yield briefly.

Mr. MURKOWSKI. Mr. President, could the Senator identify the statement of the Speaker of the House of Representatives relative to the statement of the Senator from Nevada that the House will not take it up? I have not seen that statement from the Speaker of the House.

Mr. BRYAN. I am happy to respond to my colleague. Let me just say very briefly that statement appears in the form of a statement issued by the Congressman from the First Congressional District in Nevada in which he quotes the Speaker directly and explicitly, I must say, based upon a previous statement that the Speaker made with respect to the same House Member in 1996, when he indicated at that time no action would be taken on the temporary nuclear waste bill. In 1996, the Speaker was good to his commitment and did not do so. I presume that he would be in the same vein committed to honor the commitment he has made.

I say to my friend from Alaska, I have no reason to challenge that. I have seen nothing from the Speaker to indicate that the Congressman's statement is inaccurate.

Mr. MURKOWSKI. Mr. President, I have been unable to get a copy of his statement from the Speaker. I read the statement from Congressman ENSIGN on the issue relative to the attitude of the Speaker, but we have not been able to get a release.

I suggest at this time we are perhaps misleading in the sense of suggesting that is the Speaker's position.

I thank my colleague.

Mr. BRYAN. Let me reclaim the floor and simply make the point that this bill, if it ever reaches the President's desk, will be vetoed. I have no question, based on the assertion not contradicted in any way, this statement was released yesterday. It has not been contradicted. I can understand why the Speaker may be reluctant to talk with my friend from Alaska because of the strong views. I suspect the nuclear power industry has also been unable to get a response.

Mr. MURKOWSKI. Is this not the statement from the Congressman that is running for the Senate seat that is vacant in Nevada?

Mr. REID. Vacant? Vacant?

The PRESIDING OFFICER. The Senator from Alaska should address the questions through the Chair.

Mr. BRYAN. I reclaim the floor and I simply say, because I want to talk about a number of issues, I inform my friend and colleague that a House leadership aide today told one of the local publications here on Capitol Hill.

> . . . that the nuclear industry and other bill proponents should have seen this one coming. It was presumed among the leadership that a vote on an issue as contentious as nuclear waste storage could never take place in an election year.

That is June 2, 1998. It comes from Congress Daily, a confirmation from a House leadership aide. I have no doubt it is true.

Let me get to the point as our time is limited. There is a lot more in operation here than nuclear waste. We are talking, my friends, about an unholy alliance between two of the largest corporate entities in America—the nuclear power industry and the tobacco lobby. Here is how both of them win and the American taxpayer and the kids of America lose. The Democratic leader was absolutely correct when he said we should stay on the tobacco bill until we complete it, just as we have with other issues that are deemed priorities by the leadership in this Chamber.

The way to do that is to stay on it, not to get sidetracked on another issue. From a procedural point of view, the majority leader, at any time, can file a motion to proceed to invoke cloture at any time. It seems to me more is in operation here than might meet the eye. No. 1, if we get off tobacco, and that will be the effect if cloture is granted—everybody in this Chamber knows that our time limit for this session is extremely limited, 13 weeks or less; there are 13 appropriations bills that have to be processed, and many other pieces of legislation—in effect, a vote to invoke cloture is a vote to kill tobacco. That is a vote that kills children in America. Three thousand each day take up smoking for the first time; 1,000 of them will die prematurely as a result of smoking-related complications.

A decade ago we thought we had made progress in reducing smoking of the underage. However, from 1990 to 1996 the statistics have been tragic and disastrous. The rates of teenage smoking have soared. In some categories of youngsters, African-American, they have more than doubled. In my view, it is absolutely important and imperative as a matter of public policy that we deal with the tobacco issue.

Obviously, the nuclear waste industry has its own agenda but they find common ground with another industry in America, and that is the tobacco industry. The two of them come up with this strategy and both are winners and the American people are losers.

Let's talk a little bit about the process for a moment. We are urged to move to consideration of a bill that is the House bill. That bill, by every standard, is much worse than a bad bill processed out of this Senate earlier in this Congress. The chairman of the Energy Committee has indicated that he has an amendment that will be offered shortly after—but everybody here understands what is happening. There is a so-called substitute that most of us have never seen—that at best is a work in progress—that we have no idea what it might be. There has been no conference, no conference. The Democratic members of the committee have not been involved or consulted in any way. This has been the nuclear utilities working out various provisions in the back room which serve their best interests, and which we have not yet seen in the light of day.

My colleagues, you are asked to bring to the floor a bill that ultimately, if the substitute is offered, we don't have any indication as to what its contents may be. I agree with the majority leader when he said the responsible thing to do is to deal with each of these issues, tobacco and nuclear waste, separately and the way to do that is to vote no on the cloture motion and to stay on tobacco until we have completed it. Then if there is any desire to proceed, something that the majority leader has every right under the rule to do, he can proceed along that line. But there is no reason—none—to bring this issue to a head now.

Now, let's just talk a little bit about the merits of this legislation and the need. For the last 18 years, the nuclear power industry in America has been crying there is an urgent need, catastrophe will fall upon us, that there is a crisis.

Here is a statement made by our former colleague on the floor of the Senate, July 28, 1980—18 years ago—referring to a piece of legislation which was then referred to as away-from-reactor legislation, but essentially the same thing, a so-called temporary nuclear waste dump. Our former colleague said in discussing this:

> It is an urgent problem, Mr. President, for this Nation. It is urgent, first, because we are running out of reactor space at reactors for the storage of the fuel, and if we do not build what we call away-from-reactor storage and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983.

Didn't happen, didn't happen. No nuclear utility in America has ever been closed down because of inadequate space. Some have been closed down because they are dangerous and they constitute a public health and safety risk, and others have shut down because simply in the evolving electrical markets of the day they are simply no longer economic. So that is the need argument. We are hearing that it is urgent; we need to deal with it.

Let me talk about what the scientific community has said, the Nuclear Waste Review Board, not comprised of Nevada citizens who have strong views, as the chairman of the committee properly addresses. This is the scientific community. "The board sees no compelling technical or safety reasons to move spent fuel to a specialized safety facility."

None. Indeed, our colleagues have specifically incorporated into the law a provision that would be changed if this piece of legislation is processed that specifically precludes the establishment of a temporary nuclear waste dump until such time as a permanent dump is established. They knew then, as we ought to know now, that something that becomes temporary is de facto permanent in America.

So the scientific community is not supportive. The President of the United States has indicated that he will veto this legislation. It is said the great joy of this piece of legislation is that all nuclear waste will be congregated in a single site. Not true, Mr. President. Not true. In effect, what we do is we will add one additional site. These designated sites on this chart indicate commercial reactors around the country.

Those who are familiar with nuclear power understand that a nuclear reactor is powered by spent-fuel rods. Those spent-fuel rods, after a period of time, lose efficiency, so that they need to be removed from the reactor core and placed in storage. Those spent-fuel rods are what we are talking about here. That is the commercial nuclear waste. What is done, because they generate enormous amounts of heat, is they are placed in pools of water at the reactor site, so every commercial nuclear reactor in the country that has an active reactor will have someplace that by necessity they will have to store these spent nuclear rods for a period of 8, 9, 10 years. So this allusion that sometime we will have a single site is simply not the case at all. So long as there are commercial reactors in America, that is the process we must go through.

Finally, a word about the court case and the responsibility of the Department of Energy. Mr. President, the Nuclear Waste Policy Act was enacted in 1982. It indicated there would be a series of contracts that would be entered into by each of the reactor sites and, indeed, that is what has occurred. Those contracts defined the responsibilities of the parties. The responsibility of the Department of Energy is, in the event that there is a delay in taking the nuclear waste from the reactor site—everyone must concede that is the case; there is no way possible that those dates can be met, and January 31, 1998, was the date—it expressly indicates that the remedy that is provided is that, to the extent the delay is ascertained, "the contract will be equitably adjusted to reflect any additional cost incurred by the party not responsible for or contributing to the delay."

What that means is to the extent that a nuclear utility incurs additional expense for on-site storage that it would not otherwise have incurred had the Department of Energy been able to take the nuclear waste, the nuclear utility and its ratepayers are entitled to be compensated. I do not disagree with that. I have introduced legislation since coming to this body that would provide for that. The simple way that could be done is to reduce the amount of a contribution which the nuclear utility makes to the nuclear waste fund in the form of a mill tax levy on each kilowatt hour of nuclear power generated so that the ratepayers may be whole. That has been offered time and time again. The nuclear utilities reject that because they have a different agenda. We will talk more about that. Their agenda is to transfer the financial responsibility from the nuclear utilities to the American taxpayer, and that is one of the most outrageous features of this legislation.

I yield the floor and reserve the balance of my time.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Who yields time?

Mr. MURKOWSKI. Mr. President, I yield 10 minutes to my friend from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me join my colleague from Nevada and say we are debating a motion to proceed. To proceed to what? To proceed to something that the House and the Senate of the U.S. Congress have spoken to in a substantial majority for the last 3 years, which is that the Government of the United States should honor the 1982 Nuclear Waste Act and take possession of the waste that they promised the utilities they would take in return for the ratepayers paying out billions of dollars to build a permanent repository.

The Senators from Nevada have alluded that there is no cost or obligation. It is the word of our Government; it is the law that speaks. It is a solemn obligation under taxes that we have taken to take possession and build a permanent repository. The courts have also, just in the last year, clearly reflected that. This administration has had to quietly admit it. Now they are fighting in court saying, "We don't want our hands dirtied by our obligation."

Mr. President, you are without claim, you are without program, but you aren't without politics. I must say that when the Senators from Nevada talk about the Nuclear Waste Technical Review Board saying certain things, let me remind the Senate the chairman of that board was appointed by this President. Would it be so unusual that he would reflect the political attitudes of this President? I suggest not.

Now, I find it very interesting that the Senators from Nevada are standing on the floor today wringing their hands and suggesting that we are avoiding the debate on tobacco. Since when has the Senate been a single legislative body? Under the leadership of Democrats and Republicans alike, for the purpose of moving timely policy issues, this Senate has dealt with a multitude of issues. That is exactly what the majority leader is attempting to do today—to start a process on the nuclear waste bill and to move on with tobacco.

Who has denied the Senate the right to do two things at one time? The Senators from Nevada. They are the ones that say it is either/or and it is not both. So I find it a bit ironic that they would suggest today that thousands of children may die from tobacco. Let me tell you that any child that starts smoking tobacco doesn't die from it immediately; 10, 15, 20 or 30 years down the line, if they are foolish enough to continue, they might. So back off. That is an illogical argument, and the reality is very clear. This Senate is capable of doing a multitude of things, and we must if we are going to move timely policy issues for this country.

Oh, my goodness, Dr. Richard Wilson is suggesting that waste stored at generating sites is safe. What is the difference between storage at a generating site and storage at a temporary site awaiting final disposition in the Nevada desert? Well, I will tell you that there is a difference. The difference is that neither is a problem. So to the Senators from Nevada who claim this great difficulty of human risk to the State of Nevada, there is no risk, by the admission of Dr. Richard Wilson. What there is, is the reality of the law and a timely responsible disposition of this issue.

How can any Senator stand on the floor and say we are going to collect $14 billion in taxes, which we have done, and then we are going to turn and run away from the issue and spend the money elsewhere? That is what the Senators from Nevada are suggesting. They are suggesting that somehow we collect the money, but we have no obligation after the fact.

The law and the courts are clear. The reality is that we move toward the development of a permanent repository. And while we are doing that, and while it is the Congress of the United States that, by law, designated Yucca Mountain for the purpose of the necessary scientific and engineering studies to determine its desirability for that, we have the responsibility of the law to fulfill the obligation.

By the way, what Dr. Richard Wilson did not say is that every site that stores waste at every generating site today, by definition, is temporary—by definition, is temporary. And yet it is safe. Yes, it is safe. It has been well managed. But because it is temporary, the Congress of the United States in 1982 said it is time this country developed a permanent—permanent—resolution of this issue.

I would suggest, with a smile on my face, that the Senators from Nevada, when using the tobacco argument, are hiding behind a bit of a smokescreen today. But let's clear the smoke and face the reality that we can deal with more than one issue at one time in this Chamber. The Senators from Nevada are denying us the ability to deal with tobacco, because if we get cloture today, we are on nuclear waste, and we will stay there until this issue is resolved, when we could move forth and debate both tobacco and nuclear waste with a timely allocation to each issue for the purpose of resolving it to final disposition.

That is what the majority leader was talking about. That is what this Senate is trying to do. It is our obligation, and it is our responsibility. The Senator from Alaska has talked about the waste, the amount of storage facilities, and what we are attempting to do—81 sites in 41 States, commercial spent fuel. Are big utility companies trying to shove off the responsibility, as has been alluded to by the Senators from Nevada? Quite the contrary. The big utility companies entered into an agreement with their Government. They signed a contract, and they paid the tax. Is that shoving anything off? Absolutely not. It is the reality of the law, and the Senators from Nevada know that.

Can I blame them for their arguments in defense of their State? No. But they are not entitled to their own truth when it does not match the reality of the law. Facts cannot be generated on a daily basis. The reality is very clear—$14 billion later and better than a decade and a half, the Congress of the United States has not forced their Government and has not forced this administration to own up to the law, and it is now time we do so. A majority of this body agrees with that; 65 Senators agree with it, 307 House Members, because they understand that they have an obligation to uphold the contractual relationship of this Government as was established.

And what did our courts say? Yes, contracts mean something. Last year, the Supreme Court said: You have a contract; the Government is responsible for delivering on the contract. The Senators from Nevada say quite the contrary. Well, they can debate about the Supreme Court if they want to; I will not. What the legislation that we have before us proposes to do is to honor the contract and to do so in a reasonable and timely way, to build a temporary repository, to begin to handle waste in the very way, the very safe way, by the admission of the Senator from Nevada, that it is being handled at temporary sites.

So what is the fear? I think there is none. In fact, if you study the issue, you know there is no fear. How many nuclear bombs were trucked right down through the middle of Las Vegas—hundreds of them were—as they moved out to the test site in Nevada for the purpose of their testing. We in this country have the phenomenal integrity of managing nuclear waste in a sound and safe way. And that is the record. We know that is the record. But the legislation that we have before us, or at least that we are attempting to get to, even tightens up on that. It even gets much, much tougher. It goes on to talk about the responsibility of establishing the transportation sites and working with the States to assure that those transportation sites' integrity is maintained.

Nevada as a State, as does my State of Idaho, has had a long history of dealing safely and soundly with nuclear materials and doing it in a way that has been cost-effective, that has brought hundreds of millions of dollars to our State in the form of revenue, jobs, and taxation.

Is it a double standard we talk about today? Not this Senator. It is a contractual obligation of our Government to find and build a permanent repository for the long-term safe disposition of nuclear waste material. That is the debate today. I cannot blame the Senators from Nevada for the fight they put up. But it is very clear where this Congress and where this Government intends to go, and it has been very clear since 1982, because that is what the citizens of our country have wanted, and that is what we have obligated ourselves to do.

We have a nuclear legacy that some would like to walk away from, but it is a nuclear legacy of which this country can well be proud.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. CRAIG. Will the Senator from Alaska yield me additional time?

Mr. MURKOWSKI. May I ask the Chair, Mr. President, how much remaining time we have on this side.

The PRESIDING OFFICER. The Senator from Alaska has 18 minutes 30 seconds.

Mr. MURKOWSKI. About 8 minutes.

Mr. CRAIG. Mr. President, this Nation has a nuclear legacy that some would like to shy away from. It is, in fact, the legacy of which I am proud. It has brought safety and security to this country for decades. Now we must handle it in a responsible fashion, because from that legacy there is a debt, and the debt is the safe and responsible management of nuclear waste from the military side.

Some years ago, we decided that a permanent repository would also house high-level military nuclear waste. While all of that legacy is a responsibility of our Government and our citizens, there is another legacy that we can be even more proud of, and that is the history of the commercial electrical generating industry that chose to generate electricity from nuclear energy. About 20 percent of our electrical base today is nuclear, and our scientists and environmental friends tell us that if we are to obtain the clean air standards in the nonattainment areas, we will probably have to have more nuclear generated electricity, or at least we will have to keep the same ratios even with the growth of our country.

All of a sudden, out of a Kyoto discussion comes a new recognition of a phenomenally clean, safe form of electrical generation. We all understand that. We all find it terribly important. If we are going to address the reality of climate change—and all of us are concerned about it—one of our obligations is to provide a safe, clean source of energy, and it is nuclear. And to do so, we must find a safe, clean way to handle the spent fuel. That is what we have understood for a long time, and that is what this country will demand.

That is what we are putting forth today—to deal with this legislation, to put it to the President, hopefully, for his signature. And I will tell you that the Senators from Nevada have said he might veto it. Well, the President of the United States does not run the legislative branch of Government, nor should we view that threat as something that would deter or direct our policy formation. We are a separate branch, and while the President might suggest he would veto it, we also have the power to override. And in the last vote we had on this issue, we missed that by one vote. I am convinced today, based on the increased importance of this issue and the reality of the court tests and the simple explanation of our President as he throws his political hands up and says, "I have no solution to the problem, and I will do nothing," even though the courts and the law say he must, that he is acting in a fully irresponsible fashion. The Congress of the United States knows that, and 41 States know that. And the public is beginning to say, "Wait a moment, Mr. President. You have an obligation under the law. Didn't you take an oath of office? Aren't you responsible for upholding the law?"

But so is the Congress. And the Congress and the President, in concert, can resolve this issue. The resolution is in the very legislation that we are attempting to debate on the floor, to build a safe, temporary repository to begin to take possession of the waste that we promised we would in 1982 as we began this process and as we began to tax the ratepayers of the nuclear-generating utilities of this country.

We can do that and we should do that, if that is what we debate today. This is not a debate about tobacco. That is a false argument. It was the Senators from Nevada and the minority leader who denied the Senate the right to debate both issues. So let us not use that again. It is a phony argument. It is a false-based argument. This Senate, under Democrat or Republican leadership, has dealt with two or three issues at a time. When we get under time constraints, as we are in this political year when our colleagues will want to be out campaigning by early October, there will be many times on the floor of the Senate when we will want to deal with multiple issues.

This is one where some have chosen to be selective, but let the record show that is a false choice. We can do both. We should do both. That is the intent. That is why we are here today, to debate a motion to proceed so we can handle both at the same time in a responsible way, so we can turn to our citizens and our electorate and say, as we close the business of the 105th session of the U.S. Senate, that we dealt in a timely fashion with our environmental responsibilities with nuclear waste, high-level waste materials, and that we also dealt with the responsibility to the teenagers of America, and that is to deal with tobacco and try to restrict it from their access and their use. We can do both, and we should, and that is what we are attempting here this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I hope my friend from Idaho would review the comments that he made. I, of course, recognize that a child who begins smoking today doesn't die today. No, that is true. As the Senator from Idaho said, that person doesn't die today. That person dies later, an agonizing death from lung cancer, emphysema, heart disease. No, they don't die today. They die later.

Also, I think my friend should go back and look at the statement he made about those who are not teenagers who are foolish enough to continue smoking. The tobacco legislation is about addiction. The tobacco companies addict our children. Mr. President, 3,000 children a day are addicted to tobacco. It is not something they can just stop when they turn 19, something they can stop when they turn 32. They are addicted to a substance that causes them to want this product. They pay huge amounts for it. Why? Because they are addicted to it. They are addicted—when? They are addicted, 90 percent of them, when they are teenagers.

So, for my friend from Idaho to say, "if they are foolish enough to continue smoking"—I think the facts should be reassessed, as, I submit, should be a number of the other facts stated by my friend from Idaho. For example, he agrees with Dr. Wilson. He said that storing nuclear waste at a repository next to the nuclear generating facility is safe. The problem is with the logic that he carries forward, that it is also safe if you put it 3,000 miles away. We lose track of the fact that this has to be hauled 3,000 miles away or 2,000 miles away or whatever the distance. The logic is not there. His review of Dr. Wilson's statement is simply without foundation.

Dr. Wilson said, "And you can put it next to a power plant, as we are doing sometimes, without appreciably increasing any risk to anybody." Dr. Wilson does not say you can haul it 3,000 miles and it will be safe.

Also, I am amazed that my friend from Idaho does not understand a basic truth—that nuclear bombs aren't hauled through Nevada and then set off in the desert. There are components, separate components, like a puzzle, none of which standing alone will cause any damage to anyone, that are brought to the Nevada test site. Many of the parts are shipped by air to the Test Site landing strip. And these components are then assembled. We have an assembly facility out there that cost almost $1 billion. That is where they are assembled. So, for someone to say these have been hauled through the highways of Nevada or the city of Las Vegas for years is baseless, without foundation.

This is a debate on tobacco. This is a subterfuge to stop us from going to tobacco. I could talk about tobacco all day, and I will talk about it a little while longer. But I just want to mention a little bit about where my colleagues on the other side of the aisle—and I am sorry to say, I do say this "on the other side of the aisle," because this has become a partisan issue. There are matters passed out, "Senate vote analysis," passed out on everyone's desk, compiled and written by the staff of the Republican Policy Committee. This is not a bipartisan issue. This is being pushed by the leadership of the House and the leadership of the Senate.

I also say, however, if we go to this partisan issue that wants to put the above-ground storage at the Nevada test site—I show you this chart. It has on it information, not gathered by the Senators from the State of Nevada, but from the Council of National Seismic System Composite Catalog. It shows earthquakes of magnitude 2.5 and greater in the vicinity of the repository right here, the above-ground repository. This area is loaded with earthquakes. Not one, not two, not three—there are so many of them you cannot count, right on-site. These are earthquakes that have already taken place in the last 20 years. Don't you think it would be nice if this issue were debated in committee, that they hold some hearings on this?

This is stealth legislation.

We are proceeding on a bill that came from the House. Anyone would consider this legislation an environmental abomination. I should not say "anyone." But the vast majority of the people of this country would. The bills that have passed the House and Senate cannot be reconciled. With time running out, the nuclear utilities are furiously working behind closed doors to come up with a final bill. No one has any idea what they are going to come up with. Maybe the nuclear industry does. I wouldn't be surprised if they wrote it. But the final surprise bill is going to be proposed and sprung upon us at a later time, yet this body is voting to proceed to this measure. That should be reason enough not to proceed.

It is important to keep in mind that the President of the United States has already promised to veto this legislation, not once, not twice, but numerous times. I would say scores of times. He doesn't like this legislation. It is unfair. We should stick with what has been talked about, and that is whether or not there should be a deep repository at Yucca Mountain. Let the scientists go ahead and work on that. But that is not good enough for the very powerful, greedy nuclear utilities. That is not good enough for them. What they want is to short-circuit the system, go to the Nevada test site where we have all of these earthquakes, and pour a big cement pad on top of the ground and dump the canisters on top of the ground. It is easy. It is out of their hair. Even though my friend from Idaho agrees it is safe if they leave it where it is, why should we worry about transporting it all those miles? Why? Because the nuclear utilities want to get rid of it. They created the most poisonous substance known to man. They created it.

So, is it any wonder that this has been decried as a do-nothing Congress? The President said he will veto it. The Speaker of the House of Representatives said, "I'm not going to touch nuclear waste." Yet, we are marching forward on this legislation. Why? Why? Because, if the motion to invoke cloture prevails, we will go to nuclear waste and tobacco is history.

There seems to be an unhealthy obsession with satisfying the legislative interests of the nuclear waste industry. Are we satisfying them at the expense of a bill designed to curb teenage smoking, a goal that many publicly support. But secretly, do some want this legislation, tobacco legislation, to go away?

Preventing teenage smoking is something that is important. This room is not big enough to put in 3,000 kids. If they did, they would be jammed in pretty tight, on top of each other. Three thousand kids a day become addicted to tobacco smoking. And, no, they don't die today. But many, many of them are going to die because of one thing, tobacco, inhaling tobacco.

In the State of Nevada, almost 20 percent of high school kids chew tobacco, smokeless tobacco—18 percent.

We may have our differences over the best way of bringing about the cessation of teenage smoking and other forms of tobacco abuse, but I hope we don't disagree on the goal.

The two Senators from Nevada, I want it spread across the record of this Senate, will exercise every right that we have as Senators today, tomorrow, next week, the week after. We will make sure this issue is considered fully and fairly; that if cloture is invoked on this very inopportune legislation, we are going to do everything we can to make sure that our message is heard.

This is the wrong time to bring up legislation that has been guaranteed a veto by the President, and the Speaker of the House has said he will not move forward on it. We are prepared to spend as much time as possible debating this measure, even at the expense of other business that is important to this Senate.

There is a lot to go over on this legislation. We are voting to proceed to either a House bill that is an unacceptable environmental disaster or a substitute measure that has been written by the nuclear industry and seen by very few. I haven't seen the substitute. I assume the nuclear industry has. I haven't seen it. It has not been the subject of any hearings. It has not been given the opportunity to be marked up. It is not enjoying the benefit of public scrutiny and input from other interests.

Yet, the proponents of this measure are getting ready to spring this on this body and file cloture on it. That is the way they do it, because they know the longer it is subject to the light of day, the more warts will be revealed. Environmental groups will rip this substitute apart. Proponents would have you believe they are sweetening the pot to broaden their support. Nuclear waste is a witches' brew that is unacceptable and cannot be made palatable.

I urge all Members—Democrats and Senators of good will—recognizing the importance of tobacco, to vote against cloture. We need to get back to the problems of addressing teenage smoking. We don't need to be wasting this body's time on a measure that the President said he will veto and just yesterday the Speaker of the House said, "We're not going to touch nuclear waste."

I ask the Chair how much time the Senators from Nevada have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes.

Mr. REID. I reserve the remainder of my time.

The PRESIDING OFFICER. If neither side yields time, time is equally charged.

Mr. MURKOWSKI. Mr. President, I wonder if the Chair will advise how much time is remaining.

The PRESIDING OFFICER. The Senator from Alaska has 12 minutes and 30 seconds; the Senator from Nevada has 13 minutes and 39 seconds.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, in the last few minutes we have heard from our friends from Nevada a good deal about the status of tobacco. How tobacco relates to high-level nuclear waste is beyond this Senator from Alaska. I think both can kill. Certainly tobacco, as we have evidenced, can kill and high-level nuclear waste, if not properly stored and not properly transported and not properly basically put to rest, can kill. But when I look at the reality of where we are in this debate, I refer my good friends to reflect on the action that was taken by the majority leader when he asked:

> I ask unanimous consent that it be in order for the majority leader, after notification of the Democratic leader, to resume consideration of the tobacco bill, notwithstanding rule XXII with respect to the nuclear waste bill.

That was objected to, Mr. President. It was objected to by the minority leader. Let's not make any mistake about who is whom in wanting to go back to the tobacco bill. This was a unanimous consent request of the majority leader, a legitimate request, to guarantee going back, and it was objected to by the other side. So who is objecting to moving on tobacco? It is pretty clear. It ought to be clear to everybody.

We are all concerned about the disposition of the tobacco bill, but this bill has no relation. We have an obligation on this bill to address it with a resolve.

Do you have a few questions? Well, let's take a few, Mr. President. Anyone who buys the line that the tobacco industry and the nuclear power industry are somehow in bed together, why that is preposterous. It is absolutely preposterous. There is absolutely no connection, and we all know it. The Nevadans would have the alternative of doing absolutely nothing—absolutely nothing—about high-level nuclear waste.

Mr. President, this also is about Nevada politics, not about tobacco. It is Nevada politics, again, on who can generate the responsibility for killing this issue in the Congress of the United States, whether it be the House Member who is running for the Senate office or the Nevada Senator who is up for reelection. Whoever can put the best spin on it in Nevada is going to claim a victory. That is politics, but make sure we understand it, Mr. President.

When my good friend on the other side says that he has no idea what the substitute is about, well, somebody's memory is short because we debated the issue. We had a vote on the issue. The substitute we debated on April 15, 1997. The substitute was adopted 65 to 34. When he indicates that he has no idea relative to the amendment proposed to be offered, that was the Bingaman amendment. That was debated and debated extensively. So the record will note that the substitute was voted on 65–34 and was adopted. The Bingaman amendment was debated on the floor; it was rejected. The Senator from Alaska is proposing to take the Bingaman amendment, if we can move off the motion to proceed, and get this issue behind us.

Mr. President, let's make sure we understand what this issue is all about. It is about ducking our responsibility. It is about Nevada politics, and we are now told that the House won't take it up. I haven't seen a statement from the Speaker of the House of Representatives. Anyone can issue a press release, and it is important to recognize who is issuing the press release. It is the Congressman who is seeking the Nevada Senate seat so he can get aboard and claim that he is responsible for killing it.

As I said, anyone can issue a press release, but I can tell you what is true: We have a bill that received a big bipartisan vote. This is not a partisan issue, as evidenced by the vote last time.

We had 12 Democrats that voted with 53 Republicans. All right, that is a fact. I have the word of Chairman BLILEY in the House that he is committed to getting this bill done. I know the majority and minority staff of the Commerce Committee spent all day every day in the last recess negotiating a compromise. I do not think they would have done that if the leadership did not intend to take up the bill.

I think this is a blatant attempt to influence the vote today in effect to perhaps become a self-fulfilling prophecy. We have to focus on the substance of the bill and vote to do what is right, not put this off, not listen to political posturing from the other body or political posturing that affects this body.

So I urge my colleagues to vote yes on cloture. You know, if you look at this picture, here is the Nevada test site, Mr. President. The last weapon there was exploded underground in 1991. Underground tests are still performed there with nuclear materials being exploded with conventional explosives, all with the wholehearted support—the wholehearted support—of whom?

Well, here it is, Mr. President. Here is what the State of Nevada in its resolution says about the site. I would like to read relevant portions of the Nevada Assembly Joint Resolution No. 15 of February 26, 1975.

> Whereas, the people of Southern Nevada have confidence in the safety record of the Nevada Test Site and in the ability of the staff of the site to maintain safety in the handling of nuclear materials * * * [and]
>
> Whereas Nuclear waste disposal * * * can * * * be carried out at the Nevada Test Site with minimal capital investment relative to other locations; now, therefore, be it
>
> *Resolved, by the Assembly and the State of Nevada, jointly,* That the legislature of the State of Nevada strongly urges the Energy Research and Development Administration to choose Nevada Test Site for the disposal of nuclear wastes. . . .

That is what some people in Nevada and the Nevada legislature think about this idea. It is a pretty good idea. It means jobs. They want to see the ongoing development, if you will, of this area.

Let me tell you what the Sierra Club has to say about it. The Sierra Club is quite succinct. And I will read it as follows:

> "They're never going to be able to reclaim [this site, the Nevada test site] for 10,000 or 15,000 years," says Randy Harnes of the Sierra Club's Las Vegas chapter. "They might as well do [their research] there."

He concludes:

> Given the constant monitoring, the site "is probably the safest place in the whole United States."

There you have the Sierra Club, if you put a good deal of faith in their analysis.

Why can't we leave the waste at the reactors? First of all, as my friend from Idaho indicated, the court said the Department of Energy has a contract obligation. The Government has a contract obligation to take the waste in 1998. Congress cannot change that obligation. It is a taxpayers' liability. And the spent fuel was never meant to be stored for long-term storage. We know that.

It is estimated that if you are going to store it at the sites of the nuclear plants, it is going to cost you almost $8 billion. Who is going to pay for that? The ratepayers—ultimately the taxpayers.

We have heard a lot about Dr. Wilson today. Let me tell you what Ivan Selin, the chairman of the NRC said. Spent fuel can be managed more effectively and efficiently at a single site rather than at multiple sites. Dr. Selin, in a statement in March of 1995 to the Senate Energy Committee, said the NRC—that is the law of the nuclear land—"believe[s] that a centralized facility will provide safety advantages relative to dispersed storage at individual sites. Considering the 100-year potential time frame of licensed storage, a centralized facility would allow for a more focused inspection and surveillance program by both DOE and NRC."

So make no mistake about it, putting it in one site simply makes sense, and it is a logical observation that anybody would make relative to having temporary sites near the location of the reactors where it was never intended.

Mr. President, I would like to save a few minutes on this side for concluding remarks. So I ask how much time we have remaining?

The PRESIDING OFFICER. One minute 45 seconds.

Mr. MURKOWSKI. I ask that we may withhold that time.

Mr. REID. I yield to my colleague from Nevada such time as he may consume.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank my senior colleague, and I thank the Chair.

Mr. President, this debate is winding down, but I think we need to make very clear that there is no misimpression created that somehow the Senators from Nevada have injected the nuclear waste and the tobacco issue together. It is my strong preference, as a member of the Commerce Committee, having served on that committee, and having voted with the great majority 19–1 to report this bill out—I am referring to Senator MCCAIN's legislation—and serving on the Finance Committee where it was reported out by a 12–6 vote—I was with the prevailing majority—my priority is to consider the tobacco legislation.

It was not the Senators from Nevada who interjected nuclear waste in the midst of our discussion on tobacco. Now we have a way in this body of determining what our priorities are. If our priorities are addressed to finishing and completing a piece of legislation, neither hell nor high water can divert our attention and focus, and as the majority leader has said many times, and rightly so, we are going to stay on this issue until it is finished.

What is different here? It is a matter of priorities, I suspect, an agenda that may not be spoken. The best and the most effective way to deal with the tobacco issue is to stay on the bill until we complete it, and that is the logical thing to do. To go off that bill, go on nuclear waste, back and forth, is not the logical way to do it.

Mr. President, there is absolutely no urgency in the world to move to nuclear waste today. There is urgency to process this tobacco legislation. At the end of this day, when we return to our respective homes, another 3,000 young people in this country will have taken up smoking. And as we have said time and time again, 1,000 of them—1,000 of them—one-third will die prematurely as a result of smoking-related complications.

That is the urgency. That is the priority that I attach. Let me say that there are some things that have been said about this legislation that I do not have time to respond to completely, but the Nevada legislature has very strongly expressed its opposition. It is suggested by the chairman of the Senate Energy Committee that you can understand why Nevadans would be opposed to this legislation.

Let me suggest that opposition to this legislation has not come from Nevadans alone. When the American people are asked—the country as a whole—66 percent indicate they oppose temporary nuclear waste storage as proposed in this legislation. Only 17 percent support it; and another 17 percent do not know. This is a product of research done for the University of Maryland's 1997 National Omnibus Survey.

I have very little time, Mr. President, but I want to talk about what I call the "dirty little secret" that is involved here. What the nuclear utility industry wants more than anything else is for the American public—the taxpayers in America—to lift this financial responsibility.

Our friends in opposition who urge cloture frequently invoke the sanctity of this contract. This contract, as well as the legislation before us, requires those utilities to make a contribution to the nuclear waste trust fund of $1 million. That is a tenth of a penny for each kilowatt hour of nuclear power generated by these reactors. Here are the numbers. At no time did it contemplate, in addition to the expense incurred in terms of a permanent repository, that there would be an interim that would be added to this cost.

Here are the total costs to this program: $53.9 billion that is kind of broken down in terms of the Nevada transportation crosscountry, the so-called centralized interim storage facility that is being talked about here, all of the other expenditures.

So, $53.9 billion is what nuclear waste storage is going to cost us in America when this program ultimately winds down.

Here is the agenda, here is the agenda: total program costs, $53.9 billion; total revenue derived from the utilities, and that is at the current rate of 1 mill for each kilowatt-hour, is $28.1 billion.

Guess who gets stuck with that number? Guess who gets stuck with that number? All of you, all of you. Every taxpayer in America, $25.8 billion. That is at the current rate. If that gives you a little bit of elevated blood pressure, under H.R. 1270, the contribution of 1 mill would be roughly reduced by a third. So it would be, like, three-tenths of 1 mill, which would mean this number—rather than going to $25.8 billion, billions of additional dollars will have been added.

That is what the agenda is on the part of the utilities. Their contract, the same contract that has been invoked with such sanctity, as well as the legislation, requires the nuclear utility industry to cover the costs of the high-level waste disposal program in America. They would like to shift that burden to you.

Now, we haven't talked about one other issue, and that is, finally, the transportation issue. It is absolutely crazy, and the Congress recognized this, to "site" an interim storage, whatever merit an interim storage might have. Assume for the sake of argument there was some conceivable merit to it, although I must say I find none and there is no compelling reason and none of the scientists tells us it ought to be done. Assume for the sake of argument, no one agrees we should have a site for interim storage until the permanent site is determined.

This chart depicts the transportation routes. Nevada is frequently the focus because we wind up at the end. But there are over 50 million Americans who will be affected within 1 mile or less of the site of the various transportation routes. This chart shows rail routes and highway routes. Every American is placed at risk. That makes no sense, either. That is why the current law, the law that would be changed by H.R. 1270—no temporary facility until we make a judgment with respect to the permanent.

I conclude as I began. There is a lot more to this than meets the eye. The President of the United States has indicated he is going to veto this legislation and he has indicated the reasons for that. Bad policy and bad science conclude that this ought not to be passed. The Speaker of the House, who wears a different political jersey than the Senators of Nevada, indicates that this legislation is not going to be enacted or acted upon by the House this year. He made a similar statement in 1996 and it was not processed.

So, why are we doing this? Why are we going off of the tobacco bill? Could it be that there are some in this Chamber who really don't want to see tobacco legislation enacted? There is no conceivable reason that we have to have the vote on nuclear waste today. The leadership has every right at any time to file a motion to invoke cloture under our rules to proceed to the bill, and it is simply a matter of time elapsing for that to mature. That could be done next week, the week thereafter, or in anticipation of the conclusion of the tobacco debate.

I respectfully submit, Mr. President, that the timing of this issue is highly suspect. To those of us who are committed to the tobacco legislation, that is a priority in America. Can there be any greater priority than the young people in America, at a time when the data reflects that the rate of increase of youngsters under the age of 18 has increased dramatically? We need comprehensive tobacco legislation. A vote invoking cloture jeopardizes that bill, may kill the tobacco legislation. Oppose the cloture vote, we stay on tobacco. We do what the American people have a right to expect us to do, and that is to act on behalf of the young people of America.

I reserve any remainder of time I may have.

Mr. JOHNSON. Mr. President, as we begin our second week of debate on the tobacco settlement legislation introduced by Senator McCAIN, we are faced with a cloture vote on H.R. 1270, the Nuclear Waste Policy Act. As we all know, the issues surrounding nuclear waste storage are extremely complex, often contentious, and no simple solutions exist. While I do not agree with everything in the bill, I have supported legislative action on this critical issue in the past and hope to in the future. This country cannot afford inaction on this issue, and it is my hope that we will soon move to address this vital issue.

That being said, I oppose the effort to invoke cloture on H.R. 1270 today. We concluded one week of debate on a national tobacco settlement prior to the Memorial Day recess. That legislation, which is absolutely critical to public health, and especially children's health, remains the pending business before the Senate, and I cannot support any effort to substitute other legislation before this body at this time.

We all know the vital statistics surrounding underage tobacco use. Every day, 3,000 children will start smoking. One thousand of them will die prematurely from this addiction. It is time to pass comprehensive tobacco legislation that addresses the critical public health issues caused by tobacco use. Such an approach will reduce teen smoking, invest in public health research and programs to help smokers quit, and protect tobacco farmers and their communities.

Let us keep in mind that the tobacco industry has carefully targeted children. They have done this because children are most vulnerable to nicotine addiction and they are most easily affected by slick advertising and promotional ploys. The evidence is overwhelming that smoking is a pediatric disease. Almost ninety percent of all people who ever try a cigarette, do so by age 18, and 71 percent of people who have ever smoked daily were smoking by age 18.

My own state of South Dakota ranks second among all states in underage tobacco use. Almost 40 percent of our high school kids smoke cigarettes, and even more use smokeless tobacco. Almost a quarter of all expectant mothers in South Dakota report using tobacco during pregnancy; an appalling statistic that results in low birth weight and other natal difficulties.

Mr. President, we face an historic opportunity to address a critical public health problem. I firmly believe that this legislation will be remembered as a dramatic change in our government's efforts and policies. This bill will be one of the most socially significant items this Congress tackles. Therefore, I will oppose cloture on H.R. 1270 at this time. The Senate should maintain focus on tobacco legislation that will help our children withstand the pressures and inducements of the tobacco industry to addict them to tobacco products.

I must also express my frustration over a recent statement from the Speaker of the House. He has apparently determined that the nuclear waste conference report will not be considered by the House of Representatives. If that is the case, any further action on the Senate floor is obviously for partisan political purposes, and I will not support furthering that goal.

Mr. KOHL. Mr. President, I will vote against cloture on the motion to proceed to the House version of the nuclear waste bill, but I want to be very clear that my vote does not change my strong support for nuclear waste legislation—and for passing such legislation this year. The federal government must act to fulfill its legal responsibility to store used fuel from more than 100 nuclear power plants across America. Over a decade ago, the federal government promised the ratepayers of Wisconsin that it would take possession of all the spent nuclear waste in the State by 1998 and send it to the desert of Nevada for long-term storage. On the basis of that promise, the ratepayers of Wisconsin have paid over $250 million into a fund to help pay for the construction of the storage site. But we have seen no return on that investment, only delays.

This vote today has nothing to do with nuclear waste. The fate of that legislation lies in the House. The vote today is about tobacco—and whether we will continue to work on the strong tobacco control legislation that we started on two weeks ago.

Let me be clear about that because most people watching this debate outside of Washington D.C. may not understand how these two important issues are linked. Very simply, if we invoke cloture right now, the tobacco bill will be bumped off the Senate floor and will not come back until the majority leader, and every Member of this body, agrees to bring it back. Though I think there is tremendous support for tobacco legislation, I do not think there is unanimous support—and that's what we would need to bring the bill up again.

So I will oppose cloture today, but I will continue to support the nuclear waste bill; I will vote for it if it comes up again this year; and I will support cloture motions related to it—as long as they are not simply legislative maneuvers to kill other important initiatives.

Mr. MURKOWSKI. How much time is remaining on this side?

The PRESIDING OFFICER. One minute 41 seconds and the other side has 4 minutes 14 seconds.

Mr. GRAHAM. Would the Senator from Alaska or the Senator from Idaho yield for a question?

Mr. MURKOWSKI. I am pleased to yield, but I would like to ask on whose time.

Mr. GRAHAM. I have no time.

I ask unanimous consent I be allowed to ask questions for no longer than 2 minutes without counting against either side.

Mr. MURKOWSKI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, in light of what the Speaker announced were his intentions, is it your understanding that if we made any amendment to this legislation and therefore caused it to have to return to the House, that we would essentially be defeating the legislation?

Mr. MURKOWSKI. Mr. President, if I may respond to my friend from Florida, first of all, we have not been able to obtain a copy of any statement from the Speaker. The statement that has been alluded to on the floor is a statement by the Congressman from Nevada who is running for the Senate office. He released a statement which indicated that the House leader would not take up the bill. We have not been able to confirm that with the House leader.

It would be my intention to offer the Senate-passed bill, Senate bill 104, with an addition of the Bingaman amendment, which was circulated at the time of the Senate consideration. If informal negotiations with the House bear fruit, which they certainly have been, I will probably offer a perfecting amendment, but there is no agreement at this time.

Mr. GRAHAM. Would the Senator not agree, in order to deal with the statement that the Speaker made as well as his actions over the past period in frustrating the adoption of a Nuclear Waste Policy Act, we would be well advised before we take up this cloture vote to adopt by unanimous consent agreement that no amendments would be in order to H.R. 1270, thus to assure that the bill would, if passed, go directly to the President?

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MURKOWSKI. If I may respond, I don't have any type of vote counts on the House bill, and I would have to defer from any guesstimate.

If I may reclaim my remaining time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, we have heard tobacco brought into this discussion. Tobacco certainly is a problem. We recognize that. So is nuclear waste responsibility. We have that before the Senate now. But with nuclear waste, the Government has a liability already established and established in a court of law. There is no such obligation with respect to tobacco. We are trying to address that now.

On nuclear waste, we have collected $14 billion from the taxpayers for its disposal. On tobacco, we have not collected one dime.

I also remind my colleagues we have had a unanimous consent request to take up tobacco next. It has been objected to by the minority leader.

So make no mistake about it, Mr. President, we spent a lot of time trying to resolve this important issue. We are in the homestretch now. The House bill got 307 votes, if there is any question about the attitude prevailing in the House. The Senate bill we are voting on today had 65 votes the last time. That is the kind of overwhelming bipartisan support—and there is no reason this bill should not be passed now. Democrats who were with us last time included Senators CLELAND, GRAHAM, HARKIN, HOLLINGS, JOHNSON, KOHL, LEAHY, LEVIN, MOSELEY-BRAUN, MURRAY, ROBB, and WYDEN.

The whole business is there today. The obligation remains here today to address this and not put it off. The Senators from Nevada say not today, not today, not today. Well, when? How many dollars does the taxpayer have to address as far as his responsibility, when the ratepayers have paid $14 billion and the taxpayers are now stuck for liability when we go to court and we don't have a resolve of this problem.

There is no use putting it off today. The time to act is now.

I yield the floor.

Mr. REID. I yield 2 minutes to the Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate this opportunity. I strongly support the Nuclear Waste Policy Act. As the Senator from Alaska just stated, I was one of the 65 Senators who voted for it when we last passed it. I think it is very important that we pass a Nuclear Waste Policy Act as part of a national effort to assure that nuclear energy will continue to play a significant part in America's energy future. This importance is underscored by the contribution which nuclear energy can make to the United States meeting its global warming commitments without incurring major economic disruption in the rest of our economy.

I am concerned, however, Mr. President, that I do not believe what we are about this afternoon is serious legislation but, rather, is a subterfuge. If I felt that by invoking cloture today and then passing it today or tomorrow we would move toward the adoption of the National Waste Policy Act, I would be a strong supporter. But the Speaker of the House, through a statement of an honorable Member of the House, has indicated that it is not his intention to take this legislation up in the House of Representatives. Therefore, unless we are willing to adopt precisely what the House has submitted and send it directly to the President for signature, any amendment that we might consider would have the effect of dooming this legislation.

I am also concerned, Mr. President, that the effect of this would not only be to send the Nuclear Waste Policy Act to sure death in the House of Representatives, but it would also kill the tobacco bill here in the U.S. Senate. Without a unanimous consent agreement that assures that we would return immediately to the tobacco legislation, I am unwilling to take the risk of removing it as the business before the Senate and substituting the Nuclear Waste Policy Act, as much as I support that legislation.

So for those reasons, I will vote against invoking cloture.

Mr. REID. Mr. President, what time remains?

The PRESIDING OFFICER (Mr. BROWNBACK). There is 1 minute 30 seconds remaining.

Mr. REID. I yield 1 minute to my colleague from Nevada.

Mr. BRYAN. Mr. President, I think the Senator from Florida has cut to the core of this issue. From the perspective of those who want this legislation to proceed, the question of adopting the House bill without amendment obviously moves that process forward. We are now told that, no, that is not the strategy, that we want to offer a so-called Bingaman amendment; and then we hear that there is a so-called perfecting amendment, which nobody has seen. Out our way, that is called keeping some cards up your sleeve. We don't have any idea what we are going to be asked to vote on. I think our colleague makes a good point. I urge rejection of the motion to invoke cloture.

Mr. REID. Mr. President, the action today is a waste of time. Let's move to tobacco, to the Patients' Bill of Rights, to IRS reform, or to the appropriations bills—13 in number—or let's move to school construction; let's do something that is worth while. The President said he will veto this. The Speaker has said he won't consider it. This is a waste of time.

I urge everybody to vote no on cloture.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 6 p.m. having arrived, the clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar No. 312, H.R. 1270, the Nuclear Waste Policy Act:

Trent Lott, Frank H. Murkowski, Chuck Hagel, Slade Gorton, Pat Roberts, Olympia J. Snowe, Jon Kyl, Tim Hutchinson, Rod Grams, Spencer Abraham, Pete Domenici, Bill Roth, Don Nickles, Thad Cochran, Michael B. Enzi, Charles Grassley.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 1270, an act to amend the Nuclear Waste Policy Act of 1997, shall be brought to a close?

The yeas and nays are required under the rules.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), and the Senator from Illinois (Ms. MOSELEY-BRAUN), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 39, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Jeffords
Kempthorne
Kyl
Levin
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Akaka
Baucus
Bingaman
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Lieberman
Mikulski
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—5

Biden
Boxer
Inhofe
Moseley-Braun
Specter

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I just received a statement from the Speaker of the House concerning the last vote we had on the high-level nuclear waste bill. I would like to enter the Speaker's statement on the nuclear waste bill in the RECORD so that there will not be any confusion as to the position of the Speaker of the House of Representatives. I ask unanimous consent that this statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SPEAKER'S STATEMENT ON NUCLEAR WASTE BILL

WASHINGTON, DC.—House Speaker Newt Gingrich released the following statement on the status of the nuclear waste bill.

"Although I strongly support a legislative resolution to the nuclear waste issue, it is unlikely that such a bill will make it past the President's veto to become law this year. Because of the crowded calendar and the strong opposition of some members, I do not expect to schedule floor action this year.

"Along with his colleague Jim Gibbons, John Ensign has been a forceful and effective voice for the citizens of Nevada in opposing the nuclear waste bill.''—House Speaker Newt Gingrich.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

NOMINATION OF ROSEMARY S. POOLER, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under a previous order, the Senate will now proceed to executive session to consider the nomination of Rosemary S. Pooler, of New York, to be United States Circuit Judge for the Second Circuit, Calendar No. 622.

The nomination is confirmed.

The nomination considered and confirmed is as follows:

THE JUDICIARY

Rosemary S. Pooler, of New York, to be United States Circuit Judge for the Second Circuit.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

May we please have order.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2446, AS MODIFIED

The PRESIDING OFFICER. The question is now on the McCain amendment No. 2446, as modified.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, so Members will have some idea—maybe a little better than I do—as to exactly how we are going to proceed——

Mr. FORD. May we have order, Mr. President, to listen to the majority leader?

The PRESIDING OFFICER. Let's have order in the body, please.

Mr. LOTT. I believe the pending business is the McCain amendment. Senator McCAIN had hoped he could have a recorded vote on his amendment, but I know it has unanimous support. Because a number of Senators are having problems with schedules, Senator McCAIN has agreed that we will go ahead and have a voice vote on his amendment. I thank him for that cooperation. I know he feels very strongly about it, and it is the right thing to do for the veterans of our country. So that will be then the next order, the voice vote.

Mr. DASCHLE. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Can we please have order in the body? The majority leader has the floor and is discussing important business. May we please have order in the body?

Mr. LOTT. After the McCain amendment is unanimously accepted, I am sure there will be some further general debate or discussion about the tobacco bill, and we will work then on exactly the time we will come in on Thursday and when the first votes will occur with regard to the Durbin amendment or the Gramm amendment, or if they agree to set them aside so we can go to other business we will make that announcement either later on tonight or tomorrow during the day, even though we will be out. We will put it on the recording so Senators will know.

There will not be, it doesn't appear at this time, an early vote on Thursday, but we do hope to get a couple votes before noon on Thursday. We will be working on that. We will do this by voice vote, and that will be the last vote for the night.

Mr. CHAFEE. Mr. President, I wonder, if I can ask the majority leader a question.

Mr. LOTT. Mr. President, just to make clear, that will be the last recorded vote for tonight. We may be able to do other business by unanimous consent. I didn't want to leave the wrong impression there.

Mr. CHAFEE. Mr. President, if I can ask the majority leader, it is my understanding that there will be an effort to hot line the technical corrections on the transportation legislation.

Mr. LOTT. There certainly will be, Mr. President. It is very hot. We are trying to get it done before it gets worse. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 2446.

The amendment (No. 2446), as modified, was agreed to.

Mr. ROCKEFELLER. Mr. President, I am pleased that my colleagues have agreed to secure a small piece of the tobacco revenue to improve veterans' access to health care. The amendment offered by my colleague, Senator McCAIN, is similar to an amendment I had planned to offer which would have set aside $2.7 billion for veterans health care; and I am delighted that he shares my views on this matter. In my view, given the significant increased costs of providing VA health care due to smoking-related illnesses, it only seems fair to do something to fortify the veterans' health care system.

Specifically, this amendment, Amendment No. 2446 to S. 1415, would dedicate $600 million per year of the spending included in the tobacco bill to help reimburse VA for their smoking-related expenses and expand access for direct smoking-related services to other veterans.

I want to talk about the amount of funding for the moment. I arrived at this formula because the VA's increased costs due to smoking are about 7 percent of the estimated total federal health care costs due to tobacco-related illnesses.

This amendment is really a modest one. I ask my colleagues to look at the estimates for VA's cost of providing smoking-related health care. In 1997, VA spent $3.6 billion, and over the next five years, will spend $20 billion.

I believe many of my colleagues would be surprised to learn that VA spends so much. But it is true. Veterans have a very high prevalence of smoking-related diseases and illnesses, because as young servicemembers, they were encouraged to smoke by the military and became addicted. Let me remind my colleagues that the military distributed free cigarettes in C-rations and K-rations and sold tobacco products at vastly reduced prices to service members, a practice that continued until very recently.

And in the aggregate, veterans are older, and, therefore, the long-term effects of smoking are likelier to have taken a toll on their health status.

To put it all in perspective, we are not asking our colleagues to approve an amendment to completely reimburse VA for their full health care costs—though many believe this would be justified. No, this amendment would be limited to just a fraction of VA's true costs—approximately 15% of what they are actually spending taking care of veterans afflicted by diseases and illnesses caused by smoking.

Quite obviously, providing tobacco-related health care places a tremendous financial burden on the VA health care system. I want to make one thing perfectly clear: because of limited resources, the VA health care system is not and has never been accessible to any veteran who walks in the door. There is no entitlement to health care for all veterans.

Because all of the health care provided at VA hospitals and clinics is subject to the availability of funding, VA enrolls veterans according to certain priorities. Those veterans with service-connected disabilities, or low incomes, or those who are members of certain groups, like former prisoners of war, are enrolled first, and second, and third, and so on.

With an essentially frozen budget, when VA covers the health care costs for smoking-related care, it means that other veterans are denied care.

Though modest, the amendment would do wonders to VA's ability to provide more health care to veterans. Some 240,000 veterans who would not gain access to VA's health care system would now be able to see VA doctors and nurses. Veterans dying of smoking-related illnesses could spend their final days in VA hospices.

Finally, Mr. President, I find it quite ironic that this amendment comes on the heels of the elimination of a $16 billion existing veterans' benefits to offset funding in the highway bill. That particular battle has been lost, and nothing can make amends for cutting an existing veterans benefit to pay for highways. Though the damage is done, I am pleased that my colleagues have chosen with this amendment to provide a measure of security for veterans and the health care system dedicated to serve their needs.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEA-21 RESTORATION ACT

Mr. WARNER. Mr. President, there has been a concerted effort by the majority leader and the Democrat leader, Chairman CHAFEE, myself, and the distinguished ranking member, Mr. BAUCUS, to try and get a voice vote tonight on a technical corrections bill to the ISTEA legislation which was adopted by the Senate just before we went on recess. I regret that we are not going to be able to handle that matter tonight.

But a part of that very important Technical Corrections Act would address an error that was made in the drafting of the bill which related to veterans. Being a veteran myself, and many others in this body, we were quite concerned about that mistake. And the purpose of my taking the floor now is to advise the Senate this matter will be corrected in the TEA-21 Restoration Act, which is a euphemism for the Technical Corrections Act, when we get to it. We will renew or efforts on Thursday.

I think it is important to put in tonight's RECORD a little of the background how this mistake was made.

The TEA-21 Restoration Act, which is, as I said, the Technical Corrections Act, corrects drafting errors to section 8201, also known as the Veterans Benefits Act of 1998.

Specifically, the corrections to this subtitle of the conference report relate to using funds estimated for the veterans smoking-related disability benefits as a budget offset for transportation spending.

The use of funds identified to finance the veterans tobacco-related smoking disability benefits for other domestic discretionary programs was first proposed in President Clinton's fiscal year 1999 budget request.

The Senate budget resolution also identified these funds as potential offsets for transportation spending.

During the conference on the Transportation Equity Act for the 21st Century (TEA-21), the Senate and House leadership and the Clinton administration agreed to use the funds estimated for the veterans smoking-related disability benefit as an offset so that transportation spending would equal gas tax revenues collected for the highway trust fund.

The provision included in the conference report on TEA-21 to use the veterans smoking-related disability benefits for transportation was drafted incorrectly and had the unintended consequence of identifying smoking as an act of "willful misconduct" by veterans.

That was a tragic error, drafting error, that took place in the legislative counsel's office. It was unintended.

I have gone back and read the code, found the section from which this concept was withdrawn, and it was just one of those mistakes. There was a great deal of rushed effort toward the end of this bill and those types of mistakes happen. What is most regrettable, it has caused a great deal of emotional stress among veterans. For that, I and many others apologize.

Today, at our midday caucus, Senator MCCAIN raised this matter and spoke most passionately on it, about his concern to have it corrected. That is one of the reasons I have come to the floor tonight, to assure Senators if and when we get to this technical correction bill it will be corrected.

The provision in the TEA-21 Restoration Act corrects any reference to smoking as an act of "willful misconduct" by veterans.

This provision also clarifies that veterans who have filed claims for smoking-related benefits are grandfathered.

The provision also makes clear that those active-duty service personnel who have a smoking-related illness will continue to qualify for disability compensation.

Another correction in this bill relates to ensuring that survivors and their dependents will receive the increased benefits of the Montgomery G.I. Bill provided in the conference report.

The offsets clarified in the TEA-21 Restoration Act remain those that were identified in the President's budget request and the Senate budget resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a letter from the Executive Office of the President dated May 29, 1998. This is a transmission from the President through the Office of Management and Budget to advise the Senate on how best to make this correction.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1)

Mr. WARNER. I also ask unanimous consent immediately following that to have printed in the RECORD a copy of the bill to be known as the Technical Corrections Act, or Restoration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2)

Mr. WARNER. This afternoon, Chairman CHAFEE and the ranking member, Mr. BAUCUS, and myself had a meeting of the Committee on Environment and Public Works. It was well attended by Members. We explained this situation and how there were three committees working on this important piece of legislation. Of course, the committee of original jurisdiction, the Environment and Public Works, another committee of original jurisdiction, the Banking Committee, which dealt with the mass transit part of the bill, and also throughout Chairman DOMENICI and the distinguished ranking member, the Senator from New Jersey, Senator LAUTENBERG, worked with us from the standpoint of the Budget Committee, which had an important role, of course, in the offset issue.

So many people were involved—three staffs, three committees. We regret sincerely that this error took place. We hope we have taken the appropriate corrective measures.

This language has been submitted to the veterans committee for review. I understand the Senator from West Virginia, Mr. ROCKEFELLER, will have some views to express on this matter, and also the Budget Committee. There is a report to the Senate and to those who are following this issue in hopes that we can put to rest a very serious problem which was accidental, I am convinced of it. We regret most sincerely, speaking to myself and I think many other veterans, that this caused such consternation among the veterans of the United States.

EXHIBIT 1

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 29, 1998.

NOTE FOR BILL HOAGLAND

From: Jack Lew
Subject: Technical Corrections to the TEA Bill

Attached per our conversation is the Administration's original legislative proposal for the Veterans tobacco offset, which would correct all of the problems created by the language included in the enrolled TEA bill. We have drafted this as an amendment to TEA that would delete the incorrect language and insert the original Administration proposal.

We are continuing to discuss administrative remedies with the Department of Veterans Affairs, but those discussions have not yet reached a final conclusion.

Please call me if you have any questions. (I will be out on Monday, and Josh Gotbaum or Dan Mendelson will be able to help you.)

EXHIBIT 2

SEC. 14. CORRECTIONS TO VETERANS SUBTITLE.

(a) TOBACCO-RELATED ILLNESSES IN VETERANS.—Section 8202 of the Transportation Equity Act for the 21st Century is amended to read as follows (and the amendments made by that section as originally enacted shall be treated for all purposes as not having been made):

"SEC. 8202. TREATMENT OF TOBACCO-RELATED ILLNESSES OF VETERANS.

"(a) IN GENERAL.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

'§ 1103. Special provisions relating to claims based upon effects of tobacco products

'(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.

'(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.'.

"(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

'1103. Special provisions relating to claims based upon effects of tobacco products.'.

"(b) EFFECTIVE DATE.—Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act.".

(b) GI BILL EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS OF VETERANS.—Subtitle B of title VIII of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new section:

"SEC. 8210. TWENTY PERCENT INCREASE IN RATES OF SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.

"(a) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—Section 3532 of title 38, United States Code, is amended—

"(1) in subsection (a)(1)—

"(A) by striking out '$404' and inserting in lieu thereof '$485';

"(B) by striking out '$304' and inserting in lieu thereof '$365'; and

"(C) by striking out '$202' and inserting in lieu thereof '$242';

"(2) in subsection (a)(2), by striking out '$404' and inserting in lieu thereof '$485';

"(3) in subsection (b), by striking out '$404' and inserting in lieu thereof '$485'; and

"(4) in subsection (c)(2)—

"(A) by striking out '$327' and inserting in lieu thereof '$392';

"(B) by striking out '$245' and inserting in lieu thereof '$294'; and

"(C) by striking out '$163' and inserting in lieu thereof '$196'.

"(b) CORRESPONDENCE COURSE.—Section 3534(b) of such title is amended by striking out '$404' and inserting in lieu thereof '$485'.

"(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) of such title is amended—

"(1) by striking out '$404' and inserting in lieu thereof '$485';

"(2) by striking out '$127' each place it appears and inserting in lieu thereof '$152'; and

"(3) by striking out '$13.46' and inserting in lieu thereof '$16.16'.

"(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) of such title is amended—

"(1) by striking out '$294' and inserting in lieu thereof '$353';

"(2) by striking out '$220' and inserting in lieu thereof '$264';

"(3) by striking out '$146' and inserting in lieu thereof '$175'; and

"(4) by striking out '$73' and inserting in lieu thereof '$88'.

"(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998.".

Mr. WARNER. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION OF ROSEMARY S. POOLER TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

Mr. LEAHY. Mr. President, I congratulate Judge Rosemary Pooler on her confirmation as a member of the Second Circuit. She has been providing a great service as a United States District Court Judge in the Northern District of New York. President Clinton nominated her last November to fill a vacancy on the Second Circuit. I worked very hard to have her included in a prompt confirmation hearing, was finally able to get her included in a hearing on May 14 and, with the cooperation of Chairman HATCH, have her reported by the Judiciary Committee on May 21. With her confirmation, Judge Pooler becomes the second woman to serve as a member of the United States Court of Appeals for the Second Circuit.

Ironically, her confirmation also brings into sharp relief the harm that is being perpetuated in the Northern District of New York by the Senate's refusal to consider Clarence Sundrum, another nominee for a longstanding vacancy on an overburdened court. Mr. Sundrum was first nominated in September 1995, over two and one-half years ago. The vacancy has long been considered a judicial emergency. This judicial nomination is the oldest pending judicial nomination before the Senate. After two hearings and almost three years, Mr. Sundrum has still not been considered by the Judiciary Committee or the Senate.

I was very disappointed that Judge Pooler was not confirmed before the Senate left for its Memorial Day recess. Along with the confirmations of Judge Sonia Sotomayor, Robert Sack and Chester Straub, her confirmation will help end the continuing emergency caused by the vacancy crisis on the Second Circuit. I want to thank the Majority Leader for calling up the nomination of Judge Rosemary Pooler today and Chester Straub yesterday.

As I noted most recently on May 21 and May 22, the Second Circuit is suffering from an unprecedented emergency caused by the vacancies crisis on that court. We have had four nominees before the Senate for many months who together could help end this crisis.

On March 25, the five continuing vacancies on the 13-member court caused Chief Judge Ralph Winter to certify a circuit emergency, to begin canceling hearings and to take the unprecedented step of having 3-judge panels convened that include only one Second Circuit judge. On April 23, Chief Judge Winter was forced to issue additional emergency orders.

The people of the Second Circuit need additional federal judges confirmed by the Senate. Indeed, the Judicial Conference of the United States recommends that in addition to the current vacancies, the Second Circuit be allocated an additional two judgeships to handle its workload. The Second Circuit is suffering harm from the vacancy crisis and Senate inaction.

This past weekend the Second Circuit held its annual circuit conference. I was pleased that this year's meetings could be held in Manchester, Vermont, and congratulate Chief Judge Murtha of the District Court of Vermont on the success of those meetings.

In connection with the annual conference, the Chief Judge of the Second Circuit issued his annual report. Chief Judge Winter concentrates on "the problem, now chronic as well as aggravated, of obtaining resources equal to the jurisdictional responsibilities entrusted to the Court." In particular, he notes that the filings with the Court of

Appeals rose 20 percent over the last two years while its active judges went down by 33 percent, from 12 to eight.

After thanking the senior judges, district judges and visiting judges from other circuits, without whom the Second Circuit "would have been engulfed by a backlog that would not be amenable to future reduction," he went on to note:

> The semblance of normalcy, however, is still just a semblance. Ten panel days in April and June had to be canceled outright. Seven panels were able to hear cases only after I certified that a judicial emergency existed so that the panel could proceed with only one member of the court and two visiting judges. The number of pending cases is increasing at an alarming rate, and the Court has the largest backlog in its history.

The Chief Judge had some blunt talk for congressional critics.

He concludes:

> The political branches have steadily increased our federal question jurisdiction, have maintained an unnecessarily broad definition of diversity jurisdiction, and then have denied us resources minimally proportionate to that jurisdiction. That is the problem. The result is that a court with proud traditions of craft in decision-making and currency in its docket is now in danger of losing both.

I conclude by noting my regret that the Senate is not proceeding to consider the longstanding nomination of Judge Sonia Sotomayor. I will continue to press for her confirmation and that of Robert Sack to the Second Circuit. I have been urging favorable Senate action on the nomination of Judge Sonia Sotomayor to the Second Circuit for many months.

Judge Sonia Sotomayor is a qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She attended Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in New York. She is strongly support by Senator MOYNIHAN and Senator D'AMATO. She is a source of pride to Puerto Rican and other Hispanic supporters and to women. When confirmed she will be only the second judge of Puerto Rican descent to serve on the Second Circuit.

By a vote of 16 to 2, the Judiciary Committee reported the nomination of Judge Sonia Sotomayor to the Senate. That was on March 5, 1998, almost three months ago. No action has been taken or scheduled on that nomination and no explanation for the delay has been forthcoming. This is the oldest judicial nomination pending on the Senate Executive Calendar. In spite of a bipartisan April 9 letter to the Senate Republican Leader signed by all six Senators from the three States forming the Second Circuit urging prompt action, this nomination continues to be stalled by anonymous objections. Our bipartisan letter to the Majority Leader asked that he call up for prompt consideration by the Senate the nomination of Judge Sonia Sotomayor. That was almost three months ago.

I do not know why this distinguished jurist, who was nominated by President Bush to the District Court and by President Clinton to the Court of Appeals, is being denied consideration by the Senate. I have heard from the Hispanic Caucus and a number of bar associations in support of her confirmation and have to tell them that I cannot dispel the impression that they have that she is being delayed because she is Hispanic.

Last Friday, Paul Gigot speculated in a column in the May 29 Wall Street Journal that Judge Sotomayor might be a top candidate for the United States Supreme Court should a vacancy arise there. Although his column mischaracterizes her and her judicial record, it confirms the impression of so many that she is being penalized for being an accomplished Hispanic woman.

I ask unanimous consent that a copy of the April 9, 1998 letter to the Majority Leader from Senators MOYNIHAN, D'AMATO, DODD, LIEBERMAN, JEFFORDS and myself be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 9, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: On March 23, faced with five vacancies on a 13-member Court, Chief Judge Winter of the United States Court of Appeals for the Second Circuit certified the judicial emergency caused by these vacancies, began canceling hearings and took the unprecedented step in the Second Circuit of authorizing 3-judge panels to be composed of two visiting judges and only one Second Circuit Judge. The Judiciary Committee has reported to the Senate the nomination of Judge Sotomayor by a vote of 16 to 2. Three additional outstanding Second Circuit nominees are pending before the Judiciary Committee and await their confirmation hearings: Judge Rosemary Pooler; Robert Sack, a partner in the law firm of Gibson Dunn & Crutcher; and Chester J. Straub, a partner in the law firm of Wilkie Farr & Gallagher.

We urge prompt and favorable action on the nomination of Judge Sonia Sotomayor to the Second Circuit when the Senate returns on April 20 and thank you for your consideration of this important matter.

Sincerely,

PATRICK LEAHY,
ALPHONSE D'AMATO,
JAMES JEFFORDS,
DANIEL PATRICK MOYNIHAN,
CHRISTOPHER J. DODD,
JOSEPH LIEBERMAN.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

Mr. ABRAHAM. Mr. President, I rise today as an original cosponsor of the National Center for Missing and Exploited Children Authorization Act of 1998. I applaud the Senator from Utah's fine efforts in support of this important legislation.

The National Center for Missing and Exploited Children (NCMEC) has an extraordinary record of success. The Center boasts a recovery rate that has grown from 62% to 91% over the past 14 years. This particular legislation directs the Office of Juvenile Justice and Delinquency Prevention (OJDDP) at the Department of Justice to issue annual grants to the NCMEC in the amount of $10 million for fiscal years 1999–2003. The $10 million is an authorization and is subject to appropriations procedures.

The bill will allow the Center to bypass the competitive selection process it must go through to obtain grant money from the OJDDP on an annual basis. Moreover, by providing an authorization, the bill will also allow for increased Committee oversight of the Center's activities.

This bill will better enable the Center to pursue national efforts to locate and recover missing children. It will also aid the NCMEC, in conjunction with the U.S. Department of Justice, in raising public awareness about ways to prevent child abduction, molestation, and sexual exploitation.

I urge my colleagues to join me, Senator HATCH, Senator DEWINE, and a number of our colleagues in supporting this worthwhile bill.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, we are now in what should be one of our most productive and thoughtful legislative periods this year. Many important items are pending before the Senate, and there is no reason to believe that we cannot successfully address each of them. We must act to protect the nation's children from tobacco, and we must move forward on appropriations and authorization bills. But, there are many other important measures waiting to be brought to the floor. Patients across the country are urging Congress to enact the "Patients' Bill of Rights." I would like to take this opportunity to share with members of the Senate another tragic story that demonstrates the need for action.

This is a story about Mrs. Peggy Earhart of Sun Valley, California. At the age of 63, she was being treated by her HMO for arthritis. Her treatment required her to visit her doctor every six to eight weeks for cortisone injections. During a period of treatment, she noticed a mole on her ankle. She brought this mole to her doctors' attention, but her doctor reassured her that it looked fine and she need not worry about it.

Initially, she trusted her doctor's judgment. As the mole changed shape and color, she brought these changes to the attention of her doctor, who looked at the mole again and assured Mrs. Earhart that it was fine. On the next visit, Mrs. Earhart once again pointed out changes in size and color, and again, the doctor did nothing.

Worried and exasperated, Mrs. Earhart requested a change of doctor. She filled out the necessary paperwork and waited—and waited, and waited. Six months later, the HMO finally responded, permitting her to see another physician. The first time she saw the new doctor, he examined the mole and immediately referred her to a dermatologist. The dermatologist took a biopsy and found that the "mole" was in fact a malignant melanoma.

Further tests were ordered, which showed that the cancer had metastasized. It was then too late to treat Mrs. Earhart, and she died a year later.

As this tragic story shows, the heart of the issue is providing patients with access to needed health care—a guarantee that patients shall receive the care they paid for with their hard-earned premiums.

In talking about the rights of patients, it is no answer to simply say "Let the Patient Beware." Purchasing health insurance is not like buying a car, and it never will be.

Patients deserve to know that, if they notice something wrong and report it to their doctor, their health needs will be met. Mrs. Earhart should have been treated by the appropriate specialist, without the long delay that ultimately cost her life.

Mrs. Earhart should have had access to an appropriate review procedure that would have allowed her to seek outside help in time. Her family should have been able to hold the health plan accountable for its actions, and for the inexcusable delay that took her life.

The Patients' Bill of Rights provides these protections and more. The Senate should act on this bill as soon as possible. It has the strong support of more than 100 organizations, representing millions of patients, doctors, nurses, working families and consumers. Every day we delay, more tragedies like this take place. They shouldn't have to happen to any family, and they won't happen when this needed legislation is enacted into law.

MESSAGES FROM THE HOUSE

At 9:32 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 99. Concurrent resolution authorizing the flying of the POW/MIA flag.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. MCKEON, Mr. RIGGS, Mr. GRAHAM, Mr. BOB SCHAFFER of Colorado, Mr. CLAY, Mr. MARTINEZ, and Mr. KILDEE, as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ARCHER, Mrs. JOHNSON of Connecticut, Mr. PORTMAN, Mr. RANGEL, and Mr. COYNE, as the managers of the conference on the part of the House.

At 10:18 a.m., a message from the House of Representatives, delivered by Mr. Hays one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 282. Concurrent resolution to correct the enrollment of H.R. 2400.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5179. A communication from the Director of the Office of Government Relations of the Smithsonian Institution, transmitting, pursuant to law, a report relative to the National Society of the Daughters of the American Revolution; to the Committee on Rules and Administration.

EC-5180. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands" (Docket RM86-2-000) received on May 26, 1998; to the Committee on Energy and Natural Resources.

EC-5181. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding the implementation of DOE acquisition regulations (AL98-05) received on May 26, 1998; to the Committee on Energy and Natural Resources.

EC-5182. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding safety of nuclear explosive operations (Order 452.2A) received on May 26, 1998; to the Committee on Energy and Natural Resources.

EC-5183. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled "The Franklin Delano Roosevelt National Historic Site and Eleanor Roosevelt National Historic Site Act"; to the Committee on Energy and Natural Resources.

EC-5184. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Veterans Education: Increase in Rates Payable for Cooperative Training Under the Montgomery GI Bill—Active Duty" (RIN 2900-AJ10) received on May 26, 1998; to the Committee on Veterans' Affairs.

EC-5185. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to provide for qualification for members of the Board of Veterans' Appeals; to the Committee on Veterans' Affairs.

EC-5186. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of the Mid-Session Review of the Budget of the United States Government for fiscal year 1999; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to Committee on the Budget.

EC-5187. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the second special impoundment message for fiscal year 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, Committee on the Budget, Committee on Agriculture, Nutrition, and Forestry, Committee on Commerce, Science, and Transportation, Committee on Environment and Public Works, Committee on Energy and Natural Resources, and the Committee on Indian Affairs.

EC-5188. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revision of Patent Cooperation Treaty Application Procedure" (Docket 980511124-9124-01) received on May 26, 1998; to the Committee on the Judiciary.

EC-5189. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Disclosures" (RIN0651-AA88) received on May 26, 1998; to the Committee on the Judiciary.

EC-5190. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the prison impact assessment report for 1996 and 1997; to the Committee on the Judiciary.

EC-5191. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled "Compliance Simplification and Enforcement Reform Under Sections 213 and 223 of the Small Business Regulatory Enforcement Fairness Act of 1996"; to the Committee on the Judiciary.

EC-5192. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers" (Docket 90F–0310) received on May 28, 1998; to the Committee on Labor and Human Resources.

EC–5193. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the biennial report of the Director of the National Institutes of Health for fiscal year 1995 and 1996; to the Committee on Labor and Human Resources.

EC–5194. A communication from the Acting Assistant General Counsel, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Preschool Grants for Children With Disabilities" (RIN 1820–AB47) received on May 29, 1998; to the Committee on Labor and Human Resources.

EC–5195. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments" (RIN 1212–AA87) received on May 29, 1998; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 1702: A bill to encourage the development of a commercial space industry in the United States, and for other purposes (Rept. No. 105–198).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105–199).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 2127. A bill to forgive certain debt owed by the city of Dickinson, North Dakota; to the Committee on Energy and Natural Resources.

By Mr. STEVENS:

S. 2128. A bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2129. A bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THOMAS (for himself, Mr. GRAMS, and Mr. SMITH of Oregon):

S. Res. 240. A resolution expressing the sense of the Senate with respect to democracy and human rights in the Lao People's Democratic Republic; to the Committee on Foreign Relations.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. WARNER, and Mr. SESSIONS):

S. Res. 241. A resolution relative to the death of the Honorable Barry Goldwater, formerly a Senator from the State of Arizona; considered and agreed to.

By Mr. LOTT (for Mr. SPECTER):

S. Con. Res. 100. A concurrent resolution regarding American victims of terrorism; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 2127. A bill to forgive certain debt owed by the city of Dickinson, North Dakota; to the Committee on Energy and Natural Resources.

PRIVATE RELIEF LEGISLATION

• Mr. CONRAD. Mr. President, today I introduce a bill to permit the Secretary of the Interior to accept a one-time, lump-sum payment from the city of Dickinson, North Dakota, in lieu of the annual payments required under the city's existing repayment contract for construction of the "bascule gates" on the Dickinson Dam on the Heart River. In exchange for reducing the debt the City would pay, this legislation calls on the City to work to improve the water quality on Patterson Lake. This bill would resolve a longstanding issue for the city of Dickinson and the Bureau of Reclamation.

Mr. President, the history of the Bascule Gates is long and complex. The Bureau of Reclamation constructed the Dickinson Dam on the Heart River in 1949 and 1950 to supply water to the city of Dickinson, and for flood control, recreation, and other purposes. The reservoir created by this dam was named Patterson Lake in about 1960.

The need for additional water supply for the City was identified in the early 1970s, and the bascule gates were constructed in the early 1980s, to provide additional water storage capacity in Lake Patterson. At the time, the City expressed reservations over the cost of the bascule gates and the viability of the gates, since the City was not aware of any other location in a northern climate in which the gates had been tested or proven. In 1982, shortly after the gates were operational, a large ice block caused excessive pressure on the hydraulic system, causing it to fail. Construction modifications were made to the gate hydraulic system and a deicing system was added in 1982, adding further costs to the project.

In 1991, the City began to receive its municipal water supply from the Southwest Pipeline Project, a project constructed in part with funds provided for North Dakota's statewide water project, the Garrison Diversion project, which is another Bureau of Reclamation project. The Southwest Pipeline brings high-quality water from Lake Sakakawea on the Missouri River to the city of Dickinson and other communities in southwest North Dakota. The water is of much higher quality that the water from the City's previous supply from Lake Patterson, and has helped spur economic development in the region. While the citizens of the area now benefit from a higher quality water supply, the City no longer benefits from the additional water supply provided by the bascule gates. The result is the City is paying for two Bureau of Reclamation projects, while it is using water from only one of those projects for its municipal water supply. The City has repaid more than $1 million to the United States for the bascule gates, despite the fact that the gates now provide almost no direct benefit to the City.

The City has previously investigated alternatives to the current situation. The City has discussed the option of assuming title to the dam and bascule gates, as well as attempting to negotiate a new agreement with the Bureau of Reclamation administratively. However, because the terms of the existing contract are outlined statutorily, new legislation is required to make any changes to the current repayment contract.

The legislation I am introducing today would do four primary things. First, it would permit the Interior Secretary to accept a lump-sum payment of $150,000 from the City and terminate the remaining annual payments required under the existing repayment contract. This would end the issue of paying for the construction of these gates for both the City and the Federal government.

Second, my bill would require the Secretary to reallocate the costs of operation and maintenance for the bascule gates and the Dickinson Dam. The bill does not prescribe any particular reallocation formula, but does require the Secretary to consider the fact that the current benefits of the dam and bascule gates are primarily for flood control, recreation, and fish and wildlife purposes. In my view, operation and maintenance costs should be borne by those who benefit from a particular project.

Third, this legislation would permit the Secretary to enter an agreement with the City to give the City responsibility for improving the water quality and recreation value of the lake. The City has expressed its interest in developing the area to promote and enhance recreation and the environment in the area. In recent years, the City has been working with the U.S. Geological Survey and the North Dakota Department of Health and Department of Game and

Fish to improve the lake's water quality.

Finally, my bill would permit the Secretary to enter any appropriate water service contracts in the future if the City uses water from Patterson Lake for its municipal water supply or for other purposes. It is only fair that if the City benefits in the future from the water stored behind the bascule gates that we preserve an option for recovering additional costs from those beneficiaries.

Mr. President, this legislation represents a win-win situation for the residents of the Dickinson area and for the Federal government. I hope this Congress will carefully study this issue and quickly pass this important legislation. I ask unanimous consent that the bill and a letter from the City Administrator of Dickinson be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the Bureau of Reclamation constructed structures known as the bascule gates on top of the Dickinson Dam on the Heart River, North Dakota, to provide additional water supply in the reservoir known as Patterson Lake for the city of Dickinson, North Dakota, and for additional flood control and other benefits;

(2) the gates had to be significantly modified in 1982 because of damage resulting from a large ice block causing excessive pressure on the hydraulic system, causing the system to fail;

(3) since 1991, the City has received its water supply from the Southwest Water Authority, which provides much higher quality water from the Southwest Pipeline Project;

(4) the City now receives almost no benefit from the bascule gates because the City does not require the additional water provided by the bascule gates for its municipal water supply;

(5) the City has repaid more than $1.1 million to the United States for the construction of the bascule gates, and has been working for several years to reach an agreement with the Bureau of Reclamation to alter its repayment contract;

(6) the City has a longstanding commitment to improving the water quality and recreation value of the reservoir and has been working with the United States Geological Survey, the North Dakota Department of Game and Fish, and the North Dakota Department of Health to improve water quality; and

(7) it is in the public interest to relieve the United States from further risk or obligation in connection with the collection of construction costs for the bascule gates by providing for a single payment to the United States in lieu of the scheduled annual payments and for the termination of any further repayment obligation.

SEC. 2. DEFINITION.

In this Act:

(1) BASCULE GATES.—The term "bascule gates" means the structure constructed on the Dam to provide additional water storage capacity in the Lake.

(2) CITY.—The term "City" means the city of Dickinson, North Dakota.

(3) DAM.—The term "Dam" means Dickinson Dam on the Heart River, North Dakota.

(4) LAKE.—The term "Lake" means the reservoir known as "Patterson Lake" in the State of North Dakota.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 3. FORGIVENESS OF DEBT.

(a) IN GENERAL.—The Secretary shall accept a 1-time payment of $150,000 in lieu of the existing repayment obligations of the City under the Bureau of Reclamation Contract No. 9–07–60W0384, dated December 19, 1988.

(b) OWNERSHIP.—Title to the Dam and bascule gates shall remain with the United States.

(c) COSTS.—

(1) IN GENERAL.—In consultation with the City and the State of North Dakota, the Secretary shall reallocate responsibility for the operation and maintenance costs of the Dam and bascule gates.

(2) CONSIDERATION OF BENEFITS.—The reallocation of costs shall reflect the fact that the benefits of the Dam and bascule gates are mainly for flood control, recreation, and fish and wildlife purposes.

(d) WATER QUALITY.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the City to make activities to improve water quality of the Lake and to enhance the recreational value of the Lake the responsibility of the City .

(2) ASSISTANCE.—The City may seek the assistance of Federal agencies to assist in improving the water quality of the Lake.

(e) WATER SERVICE CONTRACTS.—The Secretary may enter into appropriate water service contracts if the City seeks to use water from the Lake for municipal water supply or other purposes.

CITY OF DICKINSON,
Dickinson, SD, March 3, 1998.

Senator KENT CONRAD,
c/o Kirk Johnson,
Hart Office Building,
Washington, DC.

DEAR KIRK: Thanks for your call this morning. As I said on the phone, the city of Dickinson is grateful for the assistance Senator Conrad is providing to the City as a means of resolving the Bascule Gate issue. Following our conversation, I spoke to our City Attorney, Tim Priebe and asked him to consider any points that he feels might add to our argument necessitating legislation on this matter. I have included his input in developing the points to consider in developing the legislation.

Here are a few ideas we came up with:

The city of Dickinson has never agreed with the placement of the Bascule Gate device on Dickinson Dam.

The Bureau of Reclamation has been unable at this point to provide us with information showing other locations in northern climates, affected by severe winter conditions, in which Bascule Gates have been used.

We feel the Bascule Gates have more of a flood control benefit than the water impoundment benefit that the City sought in the 1970's prior to the installation of the gates.

Since 1991, the city of Dickinson has benefited greatly from a new source of water, the Missouri River, which was made possible through the construction of the Southwest pipeline. For this reason, the City no longer uses Patterson Lake as a water source.

The Southwest Water Authority has informed the City that it has no desire to ever use Patterson Lake as a backup source of water.

The city of Dickinson has a long standing commitment to the maintenance of Patterson Lake as a recreational resource, the improvement of water quality and the extension of the possible life of Patterson Lake. In recent years, the City has actively participated in a study headed by the US Geological Survey and the North Dakota Department of Health to study the Patterson Lake watershed as a means of identifying potential threats to Patterson Lake and water quality due to both sediment and nutrient loading. The final document for this study was produced in December, 1997.

In accordance with Bureau of Reclamation recommendations, the City recently worked on the transfer of Patterson Lake, Dickinson Dam and related properties from the US Government to the city of Dickinson as a means of resolving the Bascule Gate issue. This effort was abandoned over local concerns regarding the potential liability the City might be taking on if the effort were successful. Prior to abandonment of the transfer issue, the City paid for studies, the outcome of which was a direct benefit to the public. These included a cultural resources study and beginning work on a NEPA study. We understand that the Bureau of Reclamation used the information gathered and completed the studies, which will have a long lasting benefit by having cultural resources and potential cultural resources identified.

In recent years the City has been working with the North Dakota Department of Game and Fish to improve water quality in the lake and thereby increase its usefulness as a fishery.

Also while discussing this matter with Tim Priebe, he suggested referring to a document prepared a few years ago in conjunction with Senator Dorgan's office and the North Dakota State Water Commission. It points more toward the recreation and environmental aspects of this effort, rather than simply an asset buydown. I am enclosing a copy of that study.

If I can be of further assistance, please let me know.

Sincerely,

GREG SUND,
City Administrator.●

By Mr. STEVENS:

S. 2128. A bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes; to the Committee on the Judiciary.

NO GUN TAX OF 1998

● Mr. STEVENS. Mr. President, I introduce for proper referral the No Gun Tax Act of 1998 to address the implementation of the National Instant Criminal Background Check System (NICS) which takes effect November 30, 1998.

As you know, the Brady Act had two provisions: an interim provision, which will expire on November 29, 1998, and permanent provision which will take effect on December 1, 1998. The permanent provision mandates the establishment of a National Instant Criminal

Background Checks System (NICS). The operation of the NICS will be the responsibility of the Justice Department.

The Department of Justice now proposes to charge fees for the NICS using the authority of a provision in the 1991 Commerce, Justice, State Appropriations Act (Public Law 101–515)—an Act that was passed two years before the NICS program and which was never intended to allow fees under the NICS program. This limited 1991 authority allowed fees only "to process fingerprint identification records and name checks for non-criminal justice * * * and licensing purposes." It was not intended to apply to programs like the NICS program, which checks the criminal background of purchasers and has nothing to do with licensing.

For years I and others pushed for the instant check system as the most thorough and efficient way to ensure that criminals cannot buy firearms. The imposition of a fee would encourage some to try to obtain firearms on the black market. No matter how you feel about gun control, we should all do what we can to make sure the new background check system works.

I ask unanimous consent that the text of the bill be printed in the RECORD. I urge all of my colleagues to support this very important bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "No Gun Tax Act of 1998".

SEC. 2. IDENTIFICATION RECORDS AND NAME CHECKS FEES.

The first paragraph under the subheading "SALARIES AND EXPENSES" under the heading "FEDERAL BUREAU OF INVESTIGATION" in title II of Public Law 105–515 (28 U.S.C. 534 note) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing or any other provision of law, the Director may not collect any fee, assessment, third party collection, or other charge from any person or agency in connection with any background check required under subsections (s) or (t) of section 922 of title 18, United States Code.".•

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2129. A bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park; to the Committee on Energy and Natural Resources.

HAWAII VOLCANOES NATIONAL PARK ADJUSTMENT ACT OF 1998

• Mr. AKAKA. Mr. President, in behalf of myself and Senator DAN INOUYE, I am introducing legislation today that would enable the National Park Service to acquire a valuable parcel of land at the southern tip of the Island of Hawaii for inclusion in Hawaii Volcanoes National Park (HVNP).

My bill, which is supported by the Administration, would revise HVNP's enabling act to allow the Secretary of the Interior to use appropriated funds to acquire a certain 1,951–acre tract of privately held land on the southern boundaries of the park. HVNP's existing statutory authority precludes the acquisition of additional contiguous properties except by donation.

Mr. President, the small parcel of land that the Park Service wishes to acquire is clearly defined by the "Great Crack," a landform which extends to the summit of the Kilauea Caldera and is characterized by extensive pili grasslands. The area contains historic and prehistoric lava flows with related geological features, major lava tube systems of significant biological and cultural value, and over two miles of coastal environment with associated cultural sites and marine resources.

Located adjacent to HVNP's designated Wilderness Area, one of the most remote areas of the wilderness in Hawaii, the proposed acquisition would be managed as undeveloped land sharing the same wilderness qualities of natural quiet, grand vistas, and solitude.

Mr. President, the acquisition of this parcel will significantly enhance the environmental and cultural values of Hawaii Volcanoes National Park. I hope that my colleagues will support this measure.

Thank you, Mr. President. I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Volcanoes National Park Adjustment Act of 1998".

SEC. 2. HAWAII VOLCANOES NATIONAL PARK.

The first section of the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b), is amended by inserting before the period at the end the following: ", except for the land depicted on the map entitled 'NPS–PAC 1997HW', which may be purchased with donated or appropriated funds.".•

ADDITIONAL COSPONSORS

S. 375

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 852

At the request of Mr. LOTT, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 981

At the request of Mr. LEVIN, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1534

At the request of Mr. TORRICELLI, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1534, a bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces.

S. 1578

At the request of Mr. MCCAIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1578, a bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

S. 1641

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1641, a bill to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. FORD), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1705

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1705, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1924

At the request of Mr. MACK, the names of the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from New Jersey

(Mr. LAUTENBERG) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2054

At the request of Mr. JEFFORDS, the names of the Senator from Nevada (Mr. REID) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2054, a bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a model project to provide the Department of Veterans Affairs with medicare reimbursement for medicare health-care services provided to certain medicare-eligible veterans.

S. 2100

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2100, a bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses.

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution urging the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the first Women's Rights Convention held in Seneca Falls, New York.

SENATE CONCURRENT RESOLUTION 83

At the request of Mr. WARNER, the names of the Senator from Minnesota (Mr. GRAMS), the Senator from South Carolina (Mr. THURMOND), the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from South Dakota (Mr. JOHNSON), the Senator from Montana (Mr. BURNS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Ohio (Mr. GLENN), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of Senate Concurrent Resolution 83, a concurrent resolution remembering the life of George Washington and his contributions to the Nation.

SENATE RESOLUTION 207

At the request of Mr. JEFFORDS, the names of the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Oklahoma (Mr. INHOFE), the Senator from Washington (Mrs. MURRAY), the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. DURBIN), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. COVERDELL), the Senator from New York (Mr. D'AMATO), the Senator from Louisiana (Ms. LANDRIEU), the Senator from North Dakota (Mr. DORGAN), the Senator from Louisiana (Mr. BREAUX), the Senator from South Dakota (Mr. DASCHLE), the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Carolina (Mr. HELMS), the Senator from Nebraska (Mr. KERREY), the Senator from Virginia (Mr. WARNER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Georgia (Mr. CLELAND), the Senator from Indiana (Mr. LUGAR), the Senator from Nebraska (Mr. HAGEL), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from California (Mrs. BOXER), the Senator from Alabama (Mr. SHELBY), the Senator from New Hampshire (Mr. SMITH), the Senator from Minnesota (Mr. GRAMS), the Senator from Minnesota (Mr. WELLSTONE), the Senator from New Hampshire (Mr. GREGG), the Senator from Virginia (Mr. ROBB), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of Senate Resolution 207, a resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

SENATE CONCURRENT RESOLUTION 100—REGARDING AMERICAN VICTIMS OF TERRORISM

Mr. LOTT (for Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 100

Whereas the traditional policy of the United States, reiterated by this Administration, has been to vigorously pursue and apprehend terrorists who have killed American citizens in other countries;

Whereas numerous American citizens have been killed by Palestinian terrorists, most of them in Israel or the Israeli administered territories, including 9 since the signing of the Oslo Accords in 1993, namely Nachshon Wachsman (New York, Alisa Flatow (New Jersey), Sara Duker (New Jersey), Matthew Eisenfeld (Connecticut), Joan Davenny (Connecticut), David Boim (New York), Yaron Ungar (New York), Leah Stern (New Jersey), and Yael Botwin (California);

Whereas at least 20 of the terrorists suspected in the killings of American citizens in Israel or the Israeli administered territories during 1993-1997 have been identified by Israel as Mohammed Dief, Nabil Sharihi, Nafez Sabih, Imjad Hinawi, Abd al-Maid Dudin, Adel Awadallah, Ibrahim Ghneimat, and Mahmoud Abu Hanudeh, Abd al-Rahman Ghanelmat, Jamal al-Hur, Raid Abu Hamadayah, Mohammad Abu Wardah, Hassan Salamah, Abd Rabu Shaykh'Id, Hamdallah Tzramah, Abd Al-Nasser Atallah Issa, Hataham Ibrahim Ismail, Jihad Mahammad Shaker Yamur, and Mohammad Abbasm;

Whereas, according to the Israeli Government, 10 of those 20 terrorist suspects are currently believed to be free men;

Whereas the Anti-Terrorism Act of 1986 permits the prosecution, in the United States, of individuals who murder American citizens abroad; and

Whereas the United States has previously acted to bring to justice those responsible for the deaths of American citizens and has established a precedent of United States intervention by demanding that Libyan leader Moammar Qadaffi transfer to the United States the Libyan terrorists suspected of bombing Pan Am flight 103: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States should demand the prosecution of all suspected perpetrators of these attacks against the United States citizens;

(2) the United States should seek the cooperation of the Palestinian Authority and all other appropriate authorities in the prosecution of these cases; and

(3) the suspects should be tried in the United States unless it is determined that such action is contrary to effective prosecution.

● Mr. SPECTER. Mr. President, this measure expresses the sense of the Congress regarding the murder of U.S. citizens by Palestinian terrorists. This resolution addresses specific concerns that I have regarding the failure of the Palestinian Authority to apprehend and bring to justice perpetrators of terrorist acts involving American citizens who have been killed in recent months and years in terrorist attacks in Israel. A companion resolution, introduced by Congressman JON FOX, passed the House by a vote of 406-0 on May 5, 1998.

Since the signing of the Oslo Accords in 1993, at least nine American citizens in Israel have been killed by Palestinian terrorists. They are our parents, our children, and our citizens. The traditional policy of our nation has been to pursue and apprehend any terrorists who have killed American citizens abroad. This in no way contravenes or conflicts with either international or constitutional law. While criminal jurisdiction is customarily limited to the place where the crime occurred, it is well established constitutional doctrine that Congress has the power to apply U.S. law extra territorially if it so chooses. *United States* versus *Bowman*, 260 U.S. 94, 98 (1922). It was on the basis of this doctrine that I spearheaded efforts to enact the Anti-Terrorism Act of 1986, which extended the reach of U.S. criminal jurisdiction to acts of violence perpetrated against Americans anywhere in the world. But, making murder committed by terrorists a U.S. crime will not, on its own, protect Americans abroad. We must also demonstrate our seriousness by applying the law regularly and consistently.

At the heart of the Anti-Terrorism Act was the fundamental notion that international terrorists are criminals and ought to be treated as such—they should be promptly located, apprehended, and brought to trial for their heinous crimes. The United States government in conjunction with the government of Israel knows the location of 10 of the 20 terrorists suspected in the murders of these United States citizens. I am aware that from March 6–10, an interagency task force comprised of individuals from the Department of State, Justice Department, FBI and National Security Commission was in Israel in the Palestinian controlled areas to investigate the deaths of these Americans. Cooperation from the Palestinian Authority is critical as investigative authorities attempt to discover and develop evidence for prosecution. However, the Palestinian Authority has failed to cooperate and has not honored requests for the transfer of many of these suspects.

The Anti-Terrorism Act of 1986 provides the necessary subject matter jurisdiction to prosecute those who attack U.S. citizens abroad. But, to obtain personal jurisdiction over the culprits themselves, the suspect must first be seized or arrested and brought to the United States to stand trial. Under current constitutional doctrine, both U.S. citizens and foreign nationals can be seized and brought to stand trial in the United States without violating due process of law. *Frisbie* versus *Collins*, 342 U.S. 519, 522 (1952).

My resolution calls for the United States to demand the prosecution of all suspected perpetrators of these attacks against United States citizens by seeking the cooperation of the Palestinian Authority and all other appropriate authorities in the prosecution of these cases. In addition, my resolution calls for these suspects to be tried in the United States unless it is determined that such action is contrary to effective prosecution.

We must utilize all our laws properly and remain persistent in seeking justice for these American families. We must remain vigilant in our search for all suspected perpetrators of these atrocious attacks against U.S. citizens. I urge my colleagues to support this measure and to help push for justice in this important matter.•

SENATE RESOLUTION 240—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO DEMOCRACY AND HUMAN RIGHTS IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

Mr. THOMAS (for himself, Mr. GRAMS, and Mr. SMITH of Oregon) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 240

Whereas in 1975, the Pathet Lao party supplanted the existing Lao government and the Lao Royal Family, and established a "people's democratic republic," in violation of the 1962 Declaration on the Neutrality of Laos and it's Protocol, as well as the 1973 Vientiane Agreement on Laos;

Whereas since the 1975 overthrow of the existing Lao government, Laos has been under the sole control of the Lao People's Democratic Party;

Whereas the present Lao Constitution provides for human rights protection for the Lao people, the Laos is a signatory to international agreements on civil and political rights; and

Whereas Laos has become a member of the Association of Southeast Asian Nations, which calls for the creation of open societies in each of its member states by the year 2020;

Whereas despite that, the State Department's "Country Reports on Human Rights Practices for 1997" notes that the government has only slowly eased restrictions on basic freedoms and begun codification of implementing legislation for rights stipulated in the Lao Constitution, and continues to significantly restrict the freedoms of speech, assembly and religion; and

Whereas on January 30, 1998, the Lao government arrested and detained forty-four individuals at a Bible study meeting in Vientiane and on March 25 sentenced thirteen Christians from the group to prison terms of three to five years for "creating division among the people, undermining the government, and accepting foreign funds to promote religion;" Now therefore, be it

Resolved by the Senate, That it is the sense of the Senate that the present government of Laos should—

(1) respect international norms of human rights and democratic freedoms for the Lao people, and fully honor its commitments to those norms and freedoms as embodied in its constitution and international agreements, and in the 1962 Declaration on the Neutrality of Laos and it's Protocol and the 1973 Vientiane Agreement on Laos;

(2) issue a public statement specifically reaffirming its commitment to protecting religious freedom;

(3) fully institute a process of democracy, human rights and openly-contested free and fair elections in Laos, and ensure specifically the National Assembly elections—currently scheduled for 2002—are openly contested.

Mr. THOMAS. Mr. President, today as the Chairman of the Subcommittee on East Asian and Pacific Affairs I submit S. Res. 240, a resolution expressing the sense of the Senate with respect to democracy and human rights in Laos.

In 1975, the Pathet Lao party supplanted the legitimate Lao government and the Lao Royal Family, and established a "people's democratic republic," in violation of the 1962 Declaration on the Neutrality of Laos and its Protocol, as well as the 1973 Vientiane Agreement on Laos. Since that time, Laos has been under the sole control of the communist Lao People's Democratic Party.

Although the present Lao Constitution provides for human rights protection for the Lao people, is a signatory to international agreements on civil and political rights, and has become a member of the Association of Southeast Asian Nations—which calls for the creation of open societies in each of its member states by the year 2020—the State Department's "Country Reports on Human Rights Practices for 1997" notes that the government has only slowly eased restrictions on basic freedoms and begun codification of implementing legislation for rights stipulated in the Lao Constitution, and continues to significantly restrict the freedoms of the press, speech, and assembly.

Mr. President, would-be opposition political leaders in Laos continue to be jailed in horrible conditions solely because they espouse democratic ideals. While Laos recently conducted the country's most open elections since 1975, that is not to say that the elections came close to meeting even the minimal norms for what we would consider free and fair; Laos is still a one-party state and all of the candidates for election were vetted by the party. And the Hmong and Yao ethnic minorities continue to face discrimination and, in some cases, persecution.

In addition, on January 30 of this year, a group of 44 people, including five foreigners, were arrested at a Bible study meeting in Vientiane. Charged with creating divisions among the people, undermining the government and accepting foreign funds to promote religion, a Laotian court sentenced 13 Christians from the group to prison on March 25. Eight were sentenced to three-year prison terms, including five Lao affiliated with Partners in Progress (PIP), a U.S.-based evangelical humanitarian aid organization. Lao authorities had prevented the prisoners from meeting with their families until the sentencing.

Last month the Lao Foreign Ministry accused the group of making negative comments about the government and interfering in the internal affairs of the country by insulting the reputation of Lao leaders. A foreign ministry spokesman added that the three Americans, all PIP workers, had taken advantage of their non-governmental organization status to "promote the worship of Christ" to Lao nationals.

Mr. President, Laos doesn't receive a lot of attention from the outside. It is a land-locked, impoverished country of just slightly over five million people, where only three percent of the land is arable. Subsistence farming accounts for more than half of the GDP, and provides more than eighty percent of total employment. It has few roads, no railroads, and electricity in only a few scattered urban areas. Needless to say, it is of little strategic or economic interest to the rest of the world.

But Mr. President, that does not mean that we can or should turn a blind eye to the human rights situation in that country. We need to urge Laos to respect international norms of human rights and democratic freedoms for the Lao people, and fully honor its commitments to those norms and freedoms as embodied in its constitution and international agreements. The resolution calls on the Lao government to issue a public statement specifically reaffirming its commitment to protecting religious freedom, and to fully institute a process of democracy, human rights and openly-contested free and fair elections in Laos, and ensure specifically that the National Assembly elections—currently scheduled for 2002—are openly contested. I hope they get the message.

Mr. President, before I close I would like to thank my good friend from Minnesota, Mr. GRAMS, for cosponsoring—indeed, for inspiring—this resolution. Senator GRAMS has significant Lao and Hmong populations in his state, and has been active in getting their message heard in Congress; I've attended several meetings, including one with members of the Lao royal family, which he sponsored. I would also like to thank my friend the Senator from Oregon, Mr. SMITH, for his cosponsorship; there is a large Hmong population in Portland, and I know Senator SMITH has followed events in Laos closely.

Mr. GRAMS. Mr. President, I am pleased to join Senator THOMAS as cosponsor of S. Res. 240, a resolution which hopefully will focus more Congressional attention on the situation in Laos. With 50,000 Hmong and 7,000 other ethnic Lao living in Minnesota, I am well aware that the atrocities being committed in that country and the lack of progress toward a democratic government are far more serious than press reports would lead us to believe. It is rare indeed that any of us, even those of us who serve on the Senate Foreign Relations Committee, ever hear anything about Laos. Yet many Lao and Hmong fought with us in the Vietnam War. In fact, they are still being "punished" for their loyalty to the United States through continued violence against them by the Lao government. But, the State Department recently responded to an inquiry I made by saying they do not see evidence of abuses.

We owe the Hmong and other Lao a great debt of gratitude for their service during the Vietnam War. We owe them our renewed efforts to end the violence in Laos and to enforce the agreements signed by Communists in Laos in 1962 and 1973 which committed them to a coalition government including the Lao Royal Family. As you may know, this government was overthrown in 1975, and now the country is under sole control of the Lao People's Democratic Party.

Since there has been so little focus on Laos, Mr. President, there has been little progress there. While the Lao government approved a Constitution in 1990 claiming human rights protection, and while Laos has signed international agreements on civil and political rights and is a member of ASEAN, the record shows these promises are being ignored.

Several months ago, the United Lao Movement for Democracy of Minnesota hosted a staff briefing. The briefing included a videotape which showed death, violence, and evidence that "yellow rain" has been used against Lao citizens recently—despite comments by the State Department these atrocities do not exist. We were told during the briefing that the "killing fields" are still going on in the countryside, mostly against the Hmong. The leaders of the Minnesota group, Shoua Cha, Xiong Pao Moua, and Cha Vang have been instrumental in calling these atrocities to our attention and maintaining valuable contact with the people of Laos. There were many cries on the tape that war hero General Vang Pao should return to Laos to help stop the violence.

Mr. President, the Thomas-Grams resolution expresses Senate opposition to human rights abuses in Laos, including religious persecution. It calls for free and fair elections and a process toward democracy.

I would like to call attention to one American, Steve Young, an expert and activist in Indochinese matters for over 30 years. Steve has helped us focus on problems in Laos, Cambodia, and Vietnam, and I have always valued his counsel. If Steve, and my many Hmong and Lao constituents, say there is a serious problem here, I believe them. Mr. President, I ask unanimous consent that an article by Steve Young printed in the May 14, 1998 edition of the Minneapolis Star Tribune be printed in the RECORD.

Mr. President, to those seeking changes in Laos, this resolution provides hope. I ask that my colleagues give it their support, as an expression by the Senate of our renewed interest in improving the situation in Laos. Please join me in co-sponsoring this resolution and facilitating its passage in the near future.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN PUTTING LAOS OUT OF SIGHT, AMERICA HAS ABANDONED ITS HONOR

(By Steve Young)

Laos: on the losing side of history, one of only four remaining Communist states, a genuine backwater in international affairs, a little country with no geopolitical importance, no raw materials, no seaport, no beautiful beaches, no ski resorts.

Why should I, or anyone else, care a whit about Laos?

The Lao people have no Dalai Lama to win friends and influence Hollywood; their ancient royal family is also in exile but commands no attention. Their holy relic, the Prabang Buddha statue, is rumored to be in Moscow, hidden away as a now-forgotten and irrelevant trophy of the Cold War.

Fifty thousand Hmong people from Laos now live in Minnesota, along with some 7,000 ethnic Lao. But is that any reason to care about the tiny, faraway homeland of a people who don't speak English?

Life in Laos is hard, especially for the Hmong, for the ethnic Khamu people and for the poor. The country's Communist leadership is awful. There are arbitrary arrests, no economic development, lousy schools, no free speech. Corruption is rampant.

The self-centered whims of Communist Party cadres are the law.

Opium is still a cash crop in Laos, feeding the world's supply of heroin. Communist officials, it is said, protect and profit from the vile traffic.

With help from the United States, many Lao and Hmong fought the Communists until 1973. Then, the United States walked away to "give peace a chance," as John Lennon demanded.

Today, years later, fighting still goes on. The Hmong in the hills are still loyal to the cause of the United States in the Cold War. They don't understand why the Americans went into a sulk and gave up fighting an evil political movement.

In December and January, and again in March, Communist Lao forces numbering several battalions attacked Hmong hamlets on the slopes of the Phu Bia mountain massif. Communist forces were repulsed. Their wounded filled the military hospital in the capital city of Vientiane.

In the far south of Laos, the Khamu people have turned against their former patrons—Lao and Vietnamese Communists. Young Khamu men have taken to the jungles to fight and put on their left arms the white elephant patch of the Lao royal family.

American officials in Vientiane make the best of a tour of duty in a place that counts for nothing except oppression. They argue for a form of appeasement, calling it "constructive engagement."

Poor little Laos: Back then, its needs were hidden behind the secrecy of an unpublicized war. The grim fighting, the terror for innocent villagers, the heroism of the Hmong, the illegalities of the Vietnamese Communists in invading a neutral country were out of sight and out of mind for the experts and gurus whose duty it is to tell our collective national psyche when, and how, and for whom to emote compassion.

Today, Laos is equally forgotten and still the victim of that past war. The bad guys won.

In putting Laos out of sight, America has abandoned its honor.

Promises were made to the peoples of Laos by the American government, among others. International agreements were signed in 1962 by all the great powers, pledging peace, neutrality, multiparty government. In 1973 the promises were renewed; yet again treaties were signed. International law protected the peoples of Laos, so it was said. Henry Kissinger got a Nobel Peace Prize for his efforts.

In 1975 the Communists broke their agreements, killed the king, queen, crown prince and many others—all to impose the justice of a really stupid ideology and, let us not forget, to gain a little *joie de vivre* for themselves.

A solution to the continuing troubles in Laos is at hand. The Communists need only return to the agreements they signed in 1962 and 1973, restoring coalition government, the monarchy and human freedoms. Such a Laos would be a buffer between Thailand and Vietnam, adding to the peaceful stability of

Southeast Asia. Such a Laos would also protect Vietnam from penetration by China through the mountains around Dien Bien Phu.

To forget the promises made is willfully to choose dishonor.

We can mediate successfully in Northern Ireland, we send troops to watch over ethnic brutality in Bosnia, we mobilize to crack down on Saddam Hussein's inhumanities. Why can't we care as well about Laos?

SENATE RESOLUTION 241—RELATIVE TO THE DEATH OF THE HONORABLE BARRY GOLDWATER, FORMERLY A SENATOR FROM THE STATE OF ARIZONA

Mr. LOTT (for himself, Mr. DASCHLE, Mr. WARNER, and Mr. SESSIONS) submitted the following resolution; which was considered and agreed to:

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Barry Goldwater, formerly a Senator from the State of Arizona.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it stand recessed as a further mark of respect to the memory of the deceased Senator.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

McCAIN (AND OTHERS) AMENDMENT NO. 2446

Mr. McCAIN (for himself, Mr. KERRY, Mr. BOND, Mr. CAMPBELL, Mr. ROCKEFELLER, Mr. SPECTER, Mr. BINGAMAN, Mr. CONRAD, Mr. DASCHLE, Mr. WELLSTONE, Mr. LEAHY, Mr. COVERDELL, Ms. COLLINS, Mrs. MURRAY, Mr. BIDEN, Ms. MIKULSKI, Mr. HUTCHINSON, and Mr. SESSIONS) proposed an amendment to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 403, beginning with line 3, strike through line 19 on page 407, and insert the following:

SEC. 1301. VETERANS' ADMINISTRATION TOBACCO-RELATED HEALTHCARE AND COMPENSATION PROGRAMS.

(a) IN GENERAL.—The Secretary of the Veterans' Administration shall use amounts under subsection (b) to carry out tobacco-related healthcare activities under chapter 17 of title 38, United States Code, and to provide other appropriate assistance for tobacco-related veterans' health care illnesses and disability under such title.

(b) FUNDINGS.—From amounts in the trust fund established under section 40b not less than $600,000,000 per year are to be used to carry out Veterans' Administration tobacco-related healthcare activities under subsection (a) to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(c) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—Section 1981C of the Public Health Service Act (as added by section 261 of this Act) is amended—

(1) by inserting "veterans," after "uninsured individuals," in subsection (a)(1)(D); and

(2) by inserting "veterans," in subsection (b)(1)(h) after "low-income,".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, June 2, 1998, at 10 a.m. in open session, to consider the nominations of Dr. Hans Mark, to be Director of Defense Research and Engineering; Mahlon Apgar, IV, to be Assistant Secretary of the Army for Installations, Logistics and Environment; and Joseph W. Westphal, to be Assistant Secretary of the Army for Civil Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 2, 1998, at 10 a.m. on the nominations of Clyde Hart to be Administrator of the Maritime Administration, Neal Lane to be Director and Rosina Bierbaum to be Associate Director of the Office of Science and Technology Policy (OSTP).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled "e-commerce & Y2K: What's Ahead for Small Business." The hearing will begin at 10 a.m. on Tuesday, June 2, 1998, in room 428A Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 2, 1998, at 10 a.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 2, 1998, at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CRAIG. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on June 2, 1998, at 11 to 2 p.m. in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the sessions of the Senate on Tuesday, June 2 and Wednesday, June 3, 1998, to conduct an oversight hearing on the programs and operations of the Federal Housing Administration (FHA).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Tuesday, June 2, 1998, at 2 p.m. for a hearing on the "International Postal Services Act of 1998."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STATEWIDE PLANNING PROVISIONS CONTAINED IN THE TRANSPORTATION EQUITY ACT

• Mr. D'AMATO. Mr. President, I ask that a letter to the majority and minority leaders on statewide planning provisions contained in the Transportation Equity Act for the 21st Century be printed in the RECORD. The letter describes an integral component of the legislative package pertaining to statewide planning provisions that was agreed to by the chairmen and ranking members of the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs.

The letter follows:

U.S. SENATE,
Washington, DC, June 2, 1998.

Hon. TRENT LOTT,
Russell Senate Office Building, Washington, DC.

Hon. THOMAS A. DASCHLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LOTT AND SENATOR DASCHLE: The Committee on Environment and Public Works and the Committee on Banking, Housing and Urban Affairs share jurisdiction over Section 135 of Title 23, United States Code. This title provides for the development of transportation plans and programs, including highways and mass transportation, that serve all areas of a State efficiently and effectively. We are writing to request unanimous consent for sequential referral of any legislation that amends, modifies or deletes any statewide planning provision contained within this title.

Although jurisdiction is shared, our respective committees have reached agreement that these joint planning provisions appear only in Title 23. Therefore, it is requested that you propound an unanimous consent agreement that:

(1) If and when the Committee on Environment and Public Works reports legislation that amends, modifies, deletes, or in any way affects transit provisions contained within section 135 of title 23, United States Code, it be referred to the Committee on Banking, Housing, and Urban Affairs for a period not to exceed 20 session days of the Senate; and that if not reported by the Committee on Banking, Housing, and Urban Affairs by that time it be discharged and placed on the Senate Calendar.

(2) If and when the Committee on Banking, Housing, and Urban Affairs reports legislation that amends, modifies, deletes, or in any way affects highway transportation provisions contained within section 135 of title 23, United States Code, it be referred to the Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate; and that if not reported by the Committee on Environment and Public Works by that time, it be discharged and placed on the Senate Calendar.

Should you have any questions or need additional information, please let us know.

ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs.
PAUL S. SARBANES,
Ranking Member, Committee on Banking, Housing, and Urban Affairs.
JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works.
MAX S. BAUCUS,
Ranking Member, Committee on Environment and Public Works.●

TRIBUTE TO MARY MOONEY-KEITH

● Mr. JOHNSON. Mr. President, I rise today to pay tribute to a very special South Dakotan—Mary Mooney-Keith.

On July 1, 1998, Mary Mooney-Keith, of Rapid City, South Dakota will retire after many years of diligent service for the school children of South Dakota. Mary is retiring to a lifestyle where hopefully someone can serve her just like all the years she served children through her wonderful food service career.

Mary's outstanding food service career allowed her to demonstrate her knowledge, leadership, and passion for nutrition at all levels. From her work at the small school district of Faith, South Dakota to her service at Meade, South Dakota (one of the largest geographical districts in the nation), to her role at the South Dakota Child and Adult Nutrition Services, Mary always strived to make it her goal to make the school nutrition program the best possible.

Mary's nutrition expertise did not stop in the classroom. She also was very active in the School Food Service Association at the local, state, and national levels. She held elected offices at all levels within the Association—including Midwest Regional Director.

Mary's passion for child nutrition came through in her teaching style. She wasn't the teacher who went in and just talked to her students. Instead, she went to a clown school in Wisconsin during the summers and developed "Mario the Clown" to assist with her instruction.

Mary is the type of person whose career may not have made her famous or wealthy. But, for 32 years, Mary Mooney-Keith taught our most precious citizens, our school children, one of the most important lessons in life—good nutrition. And, the greatest thing about it all, she lived her life with one basic principle that sometimes we all forget, to simply be yourself."

I am proud of Mary Mooney-Keith and offer her my best wishes in her upcoming retirement.●

TOM WHITTAKER REACHES EVEREST SUMMIT

● Mr. CRAIG. Mr. President, I would like to take a moment to congratulate a former Idahoan on his successful climb of the world's tallest peak.

Mr. President, last month I reported to the Senate a story of my constituents who were climbing Mount Everest. While the climb is not a new adventure to the world, the climbers are. A group of disabled Idahoans, led by former Idahoan Tom Whittaker, successfully reached the base camp of the Everest peak on May 19. On May 27 Tom continued on to the summit with another group, becoming the world's first amputee to reach the top.

Tom had fallen ill the week prior to his final ascent; however, he would not be deprived of his ultimate goal. He had tried unsuccessfully to make the climb twice in the past, but was forced back by bad weather. This time, at the Everest website, climbers from around the world are congratulating Tom on his achievement, writing, "May his success inspire you to follow your dreams and know that your abilities are far more important than your disabilities, whatever they may be."

I would like to share that sentiment with America today. Tom did not get to his goal without hard work and sacrifice. He did not succeed on the first try. But he would not be denied his dream, and in my mind, Tom Whittaker has set an example to be emulated by all.●

OHIOAN NAMED SMALL BUSINESS PERSON OF THE YEAR

● Mr. GLENN. Mr. President, I rise today to recognize the outstanding entrepreneurial achievement of a resident from my home state of Ohio, Mr. Ross O. Youngs. The President of Univenture Incorporated, Ross was recently named as Small Business Person of the Year. The decision was made by Vice President AL GORE and Aida Alvarez, Administrator of the Small Business Administration. Mr. Youngs was selected from a highly competitive field of 53 small businesses representing all 50 states, the District of Columbia, Puerto Rico and Guam.

Ross Youngs began Univenture 10 years ago with an idea, hard work, perseverance and a limited budget. In the long standing tradition of the American Entrepreneur, Ross took a $20,000 personal bank loan and started a company in his basement. Over the following nine years, two Small Business Administration guaranteed loans helped Mr. Youngs expand production. Sales have risen in 10 years from $111,000 to $15 million. Ross Youngs' company Univenture has proven itself to be an outstanding example of American small business.

Univenture is not only a successful company but also a contributor to the community in a number of ways. The firm works with a local organization to employ people with disabilities. Univenture supports the Columbus Police Department's Shop-With-A-Cop Program to provide gifts for needy children during the holiday season and contributes to the Wexner Center for the Arts.

Mr. Youngs continues to be an example of outstanding achievement in business and his community. It is with great pride that I recognize Mr. Ross Youngs as the National Small Business Person of the Year during National Small Business Week. I extend my congratulations and wish him continued success.●

CRIME IDENTIFICATION TECHNOLOGY ACT

● Mr. ABRAHAM. Mr. President, I am pleased to rise today as an original cosponsor of the "Crime Identification Technology Act" recently introduced by my colleague from Ohio, Senator DEWINE. I applaud the Senator from Ohio's fine efforts in getting this important bill introduced and shepherding it through the Senate Judiciary Committee so quickly.

In my view S. 2022 will provide significant assistance to federal, state, and local law enforcement groups as they work to integrate their identification, information, communications, and forensic systems. Currently, federal, state, and local crime databases are not universally maintained in a format that makes them compatible with one another. Right now law enforcement officials often have trouble accessing information and transferring it among themselves.

Important technologies such as the Integrated Automated Fingerprint Identification System (IAFIS) which is operated by the Federal Bureau of Investigation (FBI), the National Integrated Ballistics Network, and the National Incident-Based Reporting System all would be much more effective if all states and localities had compatible systems. The federal government has provided agencies with the funds necessary to create this technology. Unfortunately, a number of states, and local communities in particular, often have not had sufficient funds to implement them. Moreover, particular states and localities often lack sufficient incentive to standardize because standardization's benefits become clear only if all states and localities participate. Thus it is important that the federal government provide assistance in order to maintain a uniform national system.

The "Crime Identification Technology Act" will better enable federal, state, and local governments to work in tandem in the fight against crime. In a nutshell, this bill authorizes $250 million in grant money over five years to states in conjunction with local governments and Indian tribes, to establish or improve information and identification technologies and make them more compatible with one another and with federal systems. Grants will be distributed by the Bureau of Justice Statistics, which will consult with the Governor of each state to determine how much money is needed and for which programs. For example, some states may feel they need better fingerprint-scanned devices while others may want to integrate their ballistics programs into the National Integrated Ballistics Network.

Federal and state governments share an interest in the interstate compatibility of these technology systems and in quickly identifying whether an individual has a federal, state, or local record. Ensuring the accuracy and accessibility of criminal history records must be a joint endeavor among law enforcement agencies at all levels. This legislation will be of critical assistance in bringing this about.

I urge my colleagues to join me, my colleague from Ohio, the Chairman and Ranking Member of the Judiciary Committee, and a number of other colleagues in supporting this important piece of legislation.●

TRIBUTE TO ADMIRAL CHARLES R. LARSON, UNITED STATES NAVY

● Ms. MIKULSKI. Mr. President, today I rise to honor a remarkable naval officer and good friend, Admiral Charles R. Larson. Having served a distinguished career in the United States Navy, Admiral Larson will enjoy a well deserved retirement after forty years of service. Over his forty years of service, Admiral Larson has served in 11 positions, spanning more than nineteen years as a flag officer. Admiral Larson is a man of honor, integrity, and patriotism.

For the past four years, Admiral Larson has served as the 55th Superintendent of the United States Naval Academy. It was in this position that I got to know and admire him. Under Admiral Larson's leadership, honor and discipline were restored following the most scandal-ridden period of the Academy's history. As a member of the Naval Academy Board of Visitors, I worked closely with Admiral Larson as he developed and implemented his successful reform agenda. I was highly impressed with the tough choices he had to make to change the Academy. Under his leadership, he led the full integration of women into the academy. He also initiated many new programs and improved the curriculum. Always he led the midshipmen by example.

We in Maryland are very proud of the United States Naval Academy. It is important to our state and our nation. The Board of Visitors recently conducted a comprehensive investigation of the Naval Academy. We concluded that while we must continue to improve the Naval Academy, this vital national resource is on the right track and will produce top-notch cadets for the twenty-first Century. Admiral Larson's leadership is what made this possible.

I would also like to take this opportunity to commend Admiral Larson's wife, Sally, and his family, who have greatly contributed to the success of his naval career. I ask my colleagues to join me in thanking Admiral Larson for his service to our nation. I wish Admiral Larson the very best for the future.●

HARBOR MAINTENANCE TAX

● Mr. BREAUX. Mr. President, since colonial times, waterborne commerce has been key to the economic growth and vitality of our Nation. It has been especially important for my home state of Louisiana. The entire U.S. economy, and that of Louisiana, depends on an efficient and reliable transportation system to remain competitive in domestic and international markets. Navigable channels, railways, highways, and ports are links in the transportation chain that allow manufacturers, buyers, and sellers to send and receive goods quickly, safely, and efficiently. Congress has recognized the importance and need for promoting a system of seamless intermodal connections, from ship to shore, and then to rail or truck, and ultimately to the consumer's local retail store. The original ISTEA legislation, was named for intermodalism, in recognition of the importance of fostering and promoting intermodalism, and I am confident that ISTEA II will continue our efforts to expand and modernize the infrastructure needed to facilitate intermodalism.

Continued adequate investment in our Nation's transportation infrastructure, including federal navigation channels, is critical. In fact, in Louisiana we have literally hundreds of miles of navigable waterways crisscrossing our state. The resulting benefits of this waterway system are efficient access to a wide variety of products and services, internationally competitive exports, and lower costs for consumers. Maintaining deep draft navigation channels is one of the most important, and least understood, factors in maintaining an efficient national transportation system. The need for both maintenance and deepening of navigational channels will drastically increase as vessel operators continue to switch to newer and larger vessels.

The most modern and largest container ships available today are capable of carrying over 6,000 TEUs. By way of comparison, this cargo load would translate into a train length of over 27 miles. However, these vessels require navigable channels in excess of 45 feet of depth in order to get into port in a fully laden mode. We can have the greatest system of intermodal infrastructure available, but if the gigantic vessels that will be plying the seven seas cannot enter our ports, our importers and exporters will not benefit, and we will lose the competitive advantages of having cheap and safe transportation.

U.S. port development and maintenance is currently a shared responsibility of federal, state, and local governments, with extensive private sector participation. Under this relationship, rooted in the U.S. Constitution, the Federal government has maintained harbor access channels and contributed a share towards channel improvements, while individual ports construct and maintain the land-side terminal facilities, including developing rail and highway access, dredging their own shipping berths, and contributing to channel improvement cost-sharing programs.

Since 1789, the Federal Government has authorized navigation channel improvement projects, and the General Survey Act of 1824 established the U.S. Army Corps of Engineers as the agency responsible for the Nation's navigation system. Relying in good faith on this long-standing partnership, local port authorities spend approximately $1.3

billion annually to construct and maintain the land-side facilities. These local investments have been paid for through state taxes and bonds and have resulted in a port system that can be relied on to meet our country's national defense needs and accommodate our ever growing international trade.

Traditionally, the Federal Government funded maintenance dredging of federal navigation channels from General Treasury revenues. However in 1986, Congress enacted the Harbor Maintenance Trust Fund to pay for a portion of channel maintenance dredging. Revenue for this trust fund is generated by assessing a fee, the "Harbor Maintenance Tax" or HMT, on the value of export, import, and domestic cargo moving through the nation's deep draft ports. At the same time, local cost-sharing was instituted for funding new construction projects. These projects allow a Port to either widen or deepen navigable channels. By way of contrast, on the inland waterways, operations and maintenance costs are paid out of the General Treasury, and new construction costs are funded, in part, by an inland waterways fuel tax.

THE FUNDING FOR MAINTENANCE DREDGING IS IN JEOPARDY

Recently, the Supreme Court has ruled that the Ad Valorem nature of the HMT and the surplus of revenues in the HMT makes it a tax rather than a user fee, and that the collection of the HMT violates Article I, section 9, clause 5 of the U.S. Constitution which restricts Congress from enacting taxes or duties on U.S. exports. As a result of this determination, the U.S. Customs Service has been forced to cease collection of the HMT on exports. In addition, previous to the determination of the Supreme Court, the European Union challenged the HMT as a tariff barrier and an unfair trade practice under GATT. It will be unlikely that we will now be able to prevail in a GATT panel in a challenge to the HMT given that we only would collect the HMT for imported items.

THE FEDERAL GOVERNMENT MUST RESUME RESPONSIBILITY FOR CHANNEL MAINTENANCE

The debate over the creation of a user fee in 1986 to fund maintenance dredging was a long and acrimonious one and one that divided the port, shipper, and carrier communities. Congress recognized and considered that the assessment of a tonnage fee on cargo or vessels would have severely affected bulk commodities, such as grain or coal, which compete in international markets where even the slightest price fluctuation can make or break a sale. The final product, assessing an Ad Valorem fee on cargo, ending up adding hundreds of dollars to the cost of shipping a single container of high value cargo, such as electronic equipment or computers, has caused traffic to be diverted to non-U.S. ports to avoid payment. For instance, the imposition of the HMT caused a railcar-carrier service on the Great Lakes to go out of business.

When the HMT was enacted in 1986, Congress tried to be sensitive to the impact of a user fee on trade, and set the HMT at a level to collect 40 percent of the costs thought to be required to cover maintenance dredging. However, in 1990 in the budget agreement, Congress tripled the fee with very little debate, and since then the trust fund has accumulated a $1.2 billion surplus and that surplus has been projected to grow to $1.9 billion by the end of fiscal year 1999.

The cost of maintenance dredging is expensive, and many U.S. ports could not perform routine maintenance dredging programs given the scope of the need of certain ports and the hydrographical particulars of certain channel waterways. Without routine maintenance dredging, many of these channels would be rendered unnavigable. It should be remembered that the prime beneficiaries of adequately maintained navigation channels are not the ports themselves, although local port communities do benefit from the economic activity generated through the port, but U.S. producers and consumers. In fact, the beneficiaries include the entire national economy, as well as the Federal Government, as well as the vessels of the U.S. Navy, Coast Guard, and other public agencies which travel our navigable channel waterways—all benefit from the public sector payments into the HMT to defray maintenance dredging costs.

Without today's access to ports, there would be fewer and more expensive transportation options. U.S. exports would suffer as producers' transportation costs increased, thus decreasing our international competitiveness and the availability or accessibility of certain imports. Since 95% of U.S. international trade moves through our ports, the channels and harbors must be kept safe and navigable through essential routine maintenance by removing sediment that can clog shipping lanes.

USER FEES FOR DREDGING HURT OUR INTERNATIONAL TRADE COMPETITIVENESS

Imposing new taxes on trade to fund maintenance dredging would run counter to our government's trade promotion efforts. Our nation cannot hope to reap the economic benefits of the global marketplace without providing the infrastructure necessary to transport those goods as cheaply and efficiently as possible. A 1993 General Accounting Office study found that 12 Federal agencies already levy 117 assessments on waterborne trade. Making our exports more expensive through additional fees makes the U.S. less competitive in international markets.

U.S. ports annually handle more than one billion metric tons of international trade cargo valued in excess of $600 billion. Customs revenues in FY 1996 totaled $22.3 billion, of which roughly 70 percent (or $15.6 billion) is attributable to seaport activity. International trade's impact on the U.S. Gross Domestic Product (GDP) is growing by astronomical bounds. In 1970, trade represented only 13 percent of U.S. GDP. By 1996, trade had grown to account for 30 percent of GDP, or about $2.3 trillion. More than 11 million U.S. jobs now depend on exports, and this figure represents an increase of 1.5 million jobs in just four years. Significantly, the wages earned by workers manufacturing goods for export are, on average, 13–17 percent higher than non trade-related jobs.

WHY DREDGE?

Over 90 percent of the nation's top 50 ports in foreign waterborne commerce, including ports in Louisiana, require regular maintenance dredging. Together these ports move nearly 93 percent of the volume of all U.S. waterborne commerce. Routine maintenance dredging is necessary in many parts of the country to remove sediment from rivers and harbors that builds up due to tidal and other hydrographical forces. Without dredging, many port facilities and navigation channels would be rendered unsafe and non-navigable to users in less than a year. For example, the Columbia River accumulates sediment at a rate of five to six feet a year in some areas. Without routine dredging, areas of the navigation channel that serves the water highway for many ports in Oregon and Washington State could change from a 40-foot to a 35-foot deep channel in one year. Since 90% of the ship traffic use the maximum depth of the channel, such a dramatic change would prohibit many ships from entering the channel or force ships to carry only a fraction of their intended load, making their voyages expensive and inefficient.

Failure to adequately maintain navigation channels affects not only the local economy around the port, but has far-reaching impacts throughout the country. For example, agricultural and natural resource products such as grain or timber will be unable to reach export markets. In addition, imports such as clothing, consumer electronics, and automobiles will become more scarce and expensive. Since ships and ports provide the means to facilitate the flow of interstate and international commerce, the Federal Government should bear a large portion of the responsibility to ensure that these trade conduits remain viable.

THE ECONOMIC BENEFITS OF WATERBORNE SHIPPING ARE PLENTIFUL

The economic benefit of our waterborne system is nationwide: goods from 27 states leave the country through the ports in Louisiana alone. Midwestern grain supplies the Pacific rim market through ports in the Pacific Northwest. Crude oil that is brought to and refined in New Jersey and Pennsylvania reaches consumers on the entire East Coast—from Maine to Florida. Steel that travels to major Midwestern industrial centers is delivered cheaply and efficiently through ports on the Great Lakes. Ports on the West Coast handle high value goods destined for consumers throughout the country.

Costs associated with waterborne shipping are three to four times less per ton-mile than any other freight transportation, and waterborne shipping is the most cost effective method of freight movement. Our waterborne transportation efficiency contributes mightily to our ability to compete in the price sensitive bulk commodity markets. Grain and coal are just two examples of price-sensitive bulk commodities. Because shipping contracts can hinge on a few tenths of a cent per bushel of grain or ton of coal, transportation costs can be the deciding factor for foreign buyers choosing between American or foreign bulk products.

Maintaining the right channel depth allows U.S. commodities to stay competitive. For each foot of draft vessel depth not dredged, vessels carry less product—making each voyage less efficient and more costly. For instance, maintaining a channel at 43 feet instead of 44 feet may mean the difference of 750 tons of additional coal capable of being loaded on a ship. Properly maintained channels can make or break a contract in the international marketplace.

SAFETY AND ENVIRONMENTAL BENEFITS OF DREDGING

Making waterways safe for navigation is one of the most important benefits of routine maintenance dredging. Deepened channels that accumulate sediment become dangerous because they increase the chance of ships running aground. Groundings are expensive not only in cargo and time lost, but groundings may also pollute the environment if ships' hulls are breached and cargo is spilled. The cost of responding to and cleaning up oil pollution impacts everyone. Well-maintained channels eliminate any surprise shoalings or buildups that may cause mishaps harmful to the environment.

When waterways are not regularly dredged, ships have to be lightered; that is, they have enough cargo removed to smaller, shallower vessels so that the primary ship is light enough to enter the harbor safely. Aside from the additional handling costs associated with the practice and the loss of time and potential productivity, lightering of bulk liquids increases the chance of spillage and pollution.

Waterborne freight transportation is also the most efficient mode of surface transportation in terms of fuel use per ton-mile. Waterborne commerce contributes the least amount of pollution in terms of hydrocarbons, carbon monoxide, and nitrous oxide emitted per ton-mile, and is also the safest in terms of death or injury per ton-mile. Waterborne shipping emits five times fewer hydrocarbons than trains and seven times fewer than trucks. A shift of less than 1 million tons of cargo from ship to truck would increase fuel use by a factor of ten, and probable accidents by a factor of six annually.

FUTURE ROLE OF U.S. AT STAKE

Since the first wooden vessels arrived on our shores, this nation has relied on and prospered due to its access to water and thereon to the rest of the world. Both economically and strategically, thereby are no greater national assets than our ports and federal navigation channels—our water connections to the global marketplace and our means of projecting our national defense.

Until 1986, the Federal Government fully funded the maintenance of our Nation's navigation channels, maintaining a partnership with state and local port authorities. Contributing to, and relying on this partnership, these local port agencies have invested billions of dollars in land-side terminals to develop the array of ports along our three sea coasts, Great Lakes, and inland waterways. The HMT, instituted in 1986 to recover first 40%, then 100%, and more, of dredging maintenance costs, has been ruled unconstitutional as applied to exports by the U.S. Supreme Court. Based both on this decision and the rancorous debate during the 1980s, any alternative trade tax/user fee funding mechanism will have significant legal and political challenges to overcome.

With the United States' future role in the global economy at stake, it is critical that we approach this issue delicately, and I would urge the Administration to carefully review this issue and not rush to any judgment. This issue has too many different constituencies with an important stakeholder interest.

Accordingly, I have written to Secretary Slater to request his assistance in establishing a private sector task force to review the issues confronting any reformulated approach to maintenance dredging. At a minimum, this task force should include various carrier and shipper interests and port and port-related labor interests and should allow the affected interests to air their concerns and make recommendations. The problem that we face with the potential elimination of the HMT is severe, and any action to replace it, or reformulate it, should be done only after an informed airing of the issues from affected parties. Mr. President, this issue is critical not only to Louisiana but to the entire country. I look forward to working with all interested parties to develop a workable solution.●

PRESIDENT CLINTON NAMES CLYDE J. HART AS ADMINISTRATOR OF THE MARITIME ADMINISTRATION

● Mr. TORRICELLI. Mr. President, I rise today in support of Clyde J. Hart's nomination as Administrator of the Maritime Administration. Mr. Hart is originally from my home State of New Jersey and I am proud to stand with him as he prepares for his confirmation process before the Senate.

Mr. Hart is currently the senior Democratic Counsel for the Committee on Commerce, Science, and Transportation, Surface Transportation and Merchant Marine Subcommittee in the Senate. I have had the great privilege of working with him in the past on the issue of hazardous waste transportation, and have found him to be very intelligent and extremely effective.

Before coming to work for the Senate, Mr. Hart had extensive experience in a variety of fields. He has practiced law here in Washington, D.C., taught courses at the University of Virginia and served his nation in uniform from 1965–1969. He is a scholar and a patriot.

I commend President Clinton for such an excellent choice for Maritime Administrator and look forward to working closely with Mr. Hart as he assumes control of this critical agency. I join my colleagues in support of this nomination and am confident of Mr. Hart's prompt approval by the full Senate.●

DEATH OF THE HONORABLE BARRY GOLDWATER

Mr. McCAIN. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 241, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution.

The bill clerk read as follows:

> A resolution (S. Res. 241) relative to the death of the Honorable Barry Goldwater, formally a Senator from the State of Arizona.
>
> *Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Barry Goldwater, formerly a Senator from the State of Arizona.
>
> *Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.
>
> *Resolved*, That when the Senate recesses today, it stand recessed as a further mark of respect to the memory of the deceased Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCAIN. I yield to the Senator from Virginia.

Mr. WARNER. I wish to commend my distinguished friend and colleague for this resolution, and I ask that I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I had the privilege of serving with the distinguished Senator Goldwater for many years and worked with him diligently these years as an understudy, if I may say with great humility, on the Armed Services Committee. He was truly a man who left a profound impact on this humble Senator, as he did many others.

I wish to commend my colleague from Arizona.

Mr. McCAIN. I want to thank my friend from Virginia concerning his kind remarks.

I know that Senator Goldwater considered Senator WARNER of Virginia one of his dear and close friends. As I have remarked on several occasions, the Goldwater-Nichols Act was the product of many individuals, but the Senator from Virginia played a key role in assisting Senator Goldwater in the completion of legislation that played a major role in our victory in Operation Desert Storm.

Mr. President, I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 241) was agreed to.

JUSTICE JOHN McKINLEY FEDERAL BUILDING

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 375, S. 1298.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1298) to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1298) was considered read the third time, and passed, as follows:

S. 1298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JUSTICE JOHN MCKINLEY FEDERAL BUILDING.

The Federal building located at 210 North Seminary Street in Florence, Alabama, shall be known and designated as the "Justice John McKinley Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Justice John McKinley Federal Building".

RICHARD C. LEE UNITED STATES COURTHOUSE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 376, S. 1355.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1355) to designate the United States courthouse located in New Haven, Connecticut, as the "Richard C. Lee United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1355) was considered read the third time, and passed, as follows:

S. 1355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF RICHARD C. LEE UNITED STATES COURTHOUSE.

The United States courthouse located in New Haven, Connecticut, shall be known and designated as the "Richard C. Lee United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Richard C. Lee United States Courthouse."

JOSEPH P. KINNEARY UNITED STATES COURTHOUSE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 377, S. 1800.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1800) to designate the Federal building and United States Courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1800) was considered read the third time, and passed, as follows:

S. 1800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JOSEPH P. KINNEARY UNITED STATES COURTHOUSE.

The Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, shall be known and designated as the "Joseph P. Kinneary United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Joseph P. Kinneary United States Courthouse".

RONALD V. DELLUMS FEDERAL BUILDING

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 378, S. 1898.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1898) to designate the Federal building located at 1301 Clay Street in Oakland, California, as the "Ronald V. Dellums Federal Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1898) was considered read the third time, and passed, as follows:

S. 1898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF RONALD V. DELLUMS FEDERAL BUILDING.

The Federal building located at 1301 Clay Street in Oakland, California, shall be known and designated as the "Ronald V. Dellums Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the

United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Ronald V. Dellums Federal Building".

HURFF A. SAUNDERS FEDERAL BUILDING

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 379, S. 2032.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2032) to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2032) was considered read the third time, and passed, as follows:

S. 2032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF HURFF A. SAUNDERS FEDERAL BUILDING.

The Federal building in Juneau, Alaska, shall be known and designated as the "Hurff A. Saunders Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Hurff A. Saunders Federal Building".

HOWARD T. MARKEY NATIONAL COURTS BUILDING

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 380, H.R. 824.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 824) to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the "Howard T. Markey National Courts Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 824) was considered read the third time, and passed.

ORDERS FOR THURSDAY, JUNE 4, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess, in accordance with the provisions of S. Res. 241, until 9:30 a.m. on Thursday, June 4. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 1415, the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. Mr. President, for the information of all Senators, the Senate will reconvene on Thursday of this week. There will be no session in the Senate tomorrow to allow a large number of our colleagues to attend the funeral service of former Senator Barry Goldwater.

On Thursday, the Senate will resume the tobacco legislation. There are several amendments still pending to the bill, and it is hoped that those issues can be disposed of Thursday at an early hour so that the Senate can consider additional amendments to the tobacco bill. Rollcall votes are therefore expected throughout Thursday's session of the Senate.

I remind all Senators that there are a number of items that the Senate may also resume or begin, including the Department of Defense authorization, and/or conference reports available, and any appropriations bills that are ready for action. As always, other executive or legislative matters may be considered as they are cleared.

RECESS UNTIL 9:30 A.M., THURSDAY, JUNE 4, 1998

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess in accordance with Senate Resolution 241.

There being no objection, the Senate, at 7:05 p.m., recessed until Thursday, June 4, 1998, at 9:30 a.m.

CONFIRMATION

Executive Nomination Confirmed by the Senate June 2, 1998:

THE JUDICIARY

ROSEMARY S. POOLER, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

HOUSE OF REPRESENTATIVES—*Wednesday, June 3, 1998*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PEASE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 3, 1998.

I hereby designate the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Help us, O gracious God, to remember that You are the creator of the world, the giver of life and the spirit that is within us. As we meditate on Your daily blessings, may we not only see Your gifts to us in our personal lives, but motivate us to see beyond ourselves and understand more clearly how we are all bound together as people sharing the mark of Your creation. So give us tolerance in our appreciation of other traditions, give us awareness of the needs of others, and give us responsive hearts to Your gifts. May Your benediction of grace and peace be with us now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TIAHRT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TIAHRT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a resolution of the following title:

S. RES. 241

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Barry Goldwater, formerly a Senator from the State of Arizona.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it stand recessed as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 824. An act to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the "Howard T. Markey National Courts Building".

The message also announced that the Senate passed bills of the following titles, in which concurrence of the House is requested:

S. 1298. An act to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building".

S. 1355. An act to designate the United States courthouse located in New Haven, Connecticut, as the "Richard C. Lee United States Courthouse".

S. 1800. An act to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse".

S. 1898. An act to designate the Federal building located at 1301 Clay Street in Oakland, California, as the "Ronald V. Dellums Federal Building".

S. 2032. An act to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 1 of rule I, the Speaker pro tempore signed the following enrolled bill on Thursday, May 8, 1998:

H.R. 2400, to authorize funds for highways, highway safety programs, and transit programs, and for other purposes.

COMMUNICATION FROM STAFF MEMBER OF THE HON. JOHN BALDACCI, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from Judith A. Cadorette, office manager for the Hon. JOHN BALDACCI, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 19, 1998.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER. This is to formally notify you, pursuant to Rule L (50) of the rules of the House of Representatives, that I have been served with a subpoena duces tecum issued by the United States District Court for the district of Maine in the case of Desrosiers v Runyon, No. 97-CV-391-P-C.

I will make the determinations required by Rule 50 in consultation with the Office of General Counsel.

Sincerely,

JUDITH A. CADORETTE,
Office Manager for John Baldacci.

ON CHINA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, just when we think we have heard it all, yesterday China asked the United States for this, and get this, permanent most-favored-nation trading status. It seems that the Chinese feel that our annual congressional reviews are an obstacle, a roadblock to improved relations between the United States and China. Did my colleagues catch that? It is Congress' fault that our countries are not closer.

Mr. Speaker, several obstacles to better U.S. China relations come to mind, but none of them are the fault of the United States Congress. It was 9 years ago this week that China cracked down on pro-democracy protesters in Tiananmen Square; 250 people are still jailed as a result of that protest. China

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□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

has been implicated in a scheme to funnel money to the DNC. This administration placed business issues over U.S. national security by approving the transfer of highly classified missile technology to the Chinese. Now the CIA says that China has at least 13 nuclear-tipped missiles pointed at the United States.

Most-favored-nation status? My foot.

SERBIAN PRESIDENT MILOSEVIC

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, when Serbian President Milosevic promised to work with Albanian leaders in Kosovo, the White House lifted sanctions on Serbia. Milosevic then proceeded to slaughter thousands of ethnic Albanians, many of them helpless women and children.

Milosevic is a liar. Milosevic is a brutal killer, and ethnic cleansing has reared its ugly head once again. Milosevic must be challenged. The United States should reimpose strict sanctions on Serbia, and it is time for Europe to stop coddling this bum. I believe Milosevic must be made to understand that Albanian children are God's children, too.

IN SUPPORT OF H.R. 2604, RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today as a cosponsor and strong supporter of H.R. 2604, the Religious Liberty and Charitable Donation Protection Act. This legislation, which will be on the floor later today, will provide churches and charities with equal protection under this Nation's bankruptcy laws.

Under current law, local churches and charities could be forced to return a contribution if the donor filed for bankruptcy. Imagine what would happen to the financial structure of one's church if a major donation made 11 months earlier and already spent was forced to be returned. Churches run on tight budgets and retroactively forcing them to return gifts is wrong. This practice might even be okay if we applied the same standard to restaurants, hotels or casinos, but we do not. Churches and charities are singled out.

Mr. Speaker, right now our bankruptcy code places casinos above churches. This is wrong, and I look forward to passage of H.R. 2604 later today.

SUDAN

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I have just returned from a visit to Sudan's killing fields. As we all know, a civil war in that country has raged for 15 years and slavery is alive and well in this last dark corner of our world. But the situation is more desperate today than it has ever been.

During my 4-day visit to the famine-stricken areas, I saw vultures pick clean the bones of people and their cows. They are slaughtering people and livestock alike, seizing human beings as slaves.

One picture all the way over there, these are terrible, awful pictures, but we have a lot of pictures like that, that were just slaughtered and vultures just picking their bones.

I also saw hundreds of survivors at aid stations. Many had lost their families along the way, and many will not survive. This little boy is one of them.

I have not seen anything like what I saw in Sudan last week since I first saw Ethiopia's great famine in 1984, not in Rwanda, not in Somalia, not in North Korea, not anywhere. Today, 700,000 people like this are facing starvation in Sudan. If help does not arrive in the coming weeks, the planting will not be done and the crisis will continue into next year.

This House, this country, indeed this world must do more to help these people. They are innocent. They are absolutely destitute, and they are being starved and slaughtered.

CHILD CUSTODY PROTECTION ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, some of the most important laws we pass in this body are those that strengthen America's families. For that reason it is imperative that the House move immediately to curtail activity which undermines a relationship so vital to the future of this country: the parent-child relationship.

The Child Custody Protection Act, legislation which makes it a Federal offense to transport a minor across State lines for an abortion in order to circumvent that State's parental involvement laws, does just that. This act supports laws already in place in 22 States, States that reinforce the authority of parents, requiring parental or judicial notification before a young girl seeks an abortion.

Mr. Speaker, while the pregnancy of a young girl is an extremely difficult situation, these young women are exactly those who parental consent State laws are in place to protect.

Those who wish to undermine parental authority are aiding in the breakdown of the family. This cannot be allowed to continue. Congress has a responsibility to support laws that strengthen, not weaken families.

CALIFORNIA ELECTION RESULTS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, before I give my one minute, I just would like to publicly thank our colleague, the gentleman from Ohio (Mr. HALL) for his trip to Sudan and calling attention to a tragic, tragic situation. I thank him.

Mr. Speaker, yesterday, in the California elections, the people of California rejected a cynical attempt to stifle the voices of working families in America, to stifle the voices of concerned nonprofit organizations.

Proposition 226 was an effort by the Republican leadership and the Republican Party to lash out at working families and to deny members of unions the ability to participate in the political process in this country, a right that they are guaranteed under the Constitution. It was cynically dubbed the Paycheck Protection Act. It had nothing to do with protecting people's paychecks. It had everything to do with trying to get back at organized labor in this country for the very effective campaign they ran in the last national elections on behalf of President Clinton and on behalf of many Members of the Congress where they told the truth about what the Republican leadership and majority was trying to do in this House of Representatives in denying people the rights and fundamental basic ability to raise their family.

ON CHARACTER

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, in many foreign countries it is difficult to do business without a payoff or a bribe. Just slide some money across the hand and doors open. It happens in many countries that do not have high moral standards of right and wrong. But it is not acceptable in America. Not until now. It appears something has changed.

Our high moral standards driven by character and a strong sense of right and wrong now seem to have sunk to a new low of a mere political contribution and doors open. Just a few lucrative political donations from the Communist Chinese and a big U.S. corporation will change export policy and doors will open.

The administration has taken high-tech satellite export waivers from the Department of Defense and the State Department and given it to the Commerce Department, making it easier for doors to open. Now an American company may have exported high technical information that jeopardizes our security, our national security.

It may happen in other countries, but it should never happen here.

CALIFORNIA PROPOSITION 226

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise today to commend the voters of California for rejecting Proposition 226. Republican leaders in the House were supporting this initiative in order to silence the voices of American workers and America's working families. And by voting down Proposition 226, California voters stood up for their right to participate in the political process.

Right now, working families do not have enough say in our political process. In 1996, wealthy corporations and business representatives poured more than $650 million into campaigns, 11 times what labor unions, the representatives of working Americans, were able to spend.

We need to pass genuine campaign finance reform that increases the participation of average working families and limits the role of wealthy special interests. We need less money in our political process. We need to restore Americans' faith in our political process. We need to pass meaningful campaign finance reform today.

□ 1415

DIABETES

(Mr. CUMMINGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUMMINGS. Mr. Speaker, diabetes is a disease of national impact. According to the American Diabetes Association, there are an estimated 15.7 million people who suffer from this disease. The frightening fact is that there are over 5 million people that have it and are unaware of it.

Medical technology has not yet discovered a way to prevent this disorder. Only treatment is available. It is known as the silent killer because it seldom gives any warning of its presence. Many people are unaware that they have diabetes until they suffer from one of its life-threatening complications, blindness, kidney disease, nerve disease, amputations, heart disease and stroke.

The African-American community is nearly twice as likely to suffer from this disorder that can cause the body to not produce enough insulin or not properly use it. Over 2.3 million African-Americans have been diagnosed and over half are unaware that they have this silent and deadly disorder.

I urge this Congress to reduce the number of Americans suffering from diabetes and increase funding for biomedical research.

TEA 21 RESTORATION ACT

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3978) to restore provisions agreed to by the conferees to H.R. 2400, entitled the "Transportation Equity Act for the 21st Century", but not included in the conference report to H.R. 2400, and for other purposes, and that the bill be considered as passed.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Pennsylvania?

Mr. BARRETT of Wisconsin. Mr. Speaker, reserving the right to object, if I could, just to embellish a little bit on my reservation, the bill that passed Congress last week had a provision that had a major impact on southeastern Wisconsin. This was a provision that was not contained in the original House version of the bill nor was it contained in the bill when it passed the Senate. However, during the conference committee, there was an amendment added to the conference committee report. That amendment basically gives the Governor of the State of Wisconsin unilateral authority, from my perspective, as to how $241 million should be spent for transportation projects in Wisconsin, money which was by agreement originally set aside for southeastern Wisconsin. The reason that we heard from the State and from others that this provision was in the bill was because of the concern that the State of Wisconsin would lose this $241 million. It is my belief that at this point, that is no longer a danger. And so what I am going to propose to the chairman of the committee in just a moment or two is unanimous consent for an amendment which would return the language to what I perceive to be the original agreement between the parties. If I may, Mr. Speaker, the conference report language, section 1211(n) Substitute Project, Section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 has several sections to it. My amendment would strike the second paragraph and would insert the following two paragraphs:

Paragraph 2. "Notwithstanding paragraph (1) and subsection (c) of this section, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials by October 1, 2000, the Secretary may approve 1 or more substitute projects in lieu of the substitute project approved by the Secretary under paragraph (1) and subsection (c) of this section."

"(3) Funds available for 1 or more substitute projects under paragraph (2) shall be used for transportation priorities associated with the East-West Corridor Project in southeastern Wisconsin."

That would be the amendment that I am going to ask the gentleman for unanimous consent for. The reason I am doing this, Mr. Speaker, is that I believe that this is a fight, and it truly is a fight, in the State between State officials and local officials as to how this money should be spent. There was a delicate balance of power that had been achieved in the prior language that had been agreed to on a bipartisan basis. It is my understanding that the State Transportation has asked for this language. Unfortunately, I was not aware of this language until very, very late in the process. I do not think that it is good public policy for one person whether it is a Governor, a Mayor or a President to have sole discretion over $241 million. I think that the balance of power shifted dramatically under this amendment.

Mr. Speaker, I ask the gentleman from Pennsylvania to amend his unanimous consent request to permit this amendment to the bill.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. BARRETT of Wisconsin. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I must reluctantly decline to my good friend's unanimous consent request. I will certainly try to be helpful, but I must reluctantly object.

The TEA 21 Restoration Act makes certain technical corrections to the Transportation Equity Act for the 21st Century (TEA 21), which was approved by Congress on May 22, 1998, and restores provisions agreed to by conferees but inadvertently not included in TEA 21.

The striking of section 1211(j) of TEA 21 is not intended to suggest that a home heating oil pilot program should not be conducted as originally contemplated by Congress in 1995. Rather, because the Secretary has been given new authority under section 4007 of TEA 21 for waivers, exemptions and pilot programs, the heating oil pilot can be conducted under such authority so that section 1211(j) is redundant and no longer necessary. The home heating oil pilot program was first authorized in section 346 of the National Highway System Designation Act of 1995. Due to its limited, one-year duration and delays in establishing the pilot, it was never fully implemented by the Department of Transportation. While this extension is being dropped, the Secretary should utilize the general authority to conduct the heating oil pilot program.

In addition, because of the unique seasonal nature of the heating oil industry, it is essential that a pilot program be implemented on or before December 1 if it is to have any value for the following winter heating season. Because the Secretary has previously issued regulations, following an opportunity for public comment, with regard to the heating oil pilot program enacted in 1995, the Secretary is urged to utilize that prior experience in order to expedite a pilot program, or to consider an exemption, if requested, under section 4007 of TEA 21.

Section 1204 of TEA 21 makes improvements to the current statewide planning provisions. The Conference agreement provides for enhanced consultation between local officials and States when compiling the State transportation improvement programs. This consultation may occur through a variety of mechanisms, including, where appropriate, regional development organizations. In certain areas, regional development organizations may serve to ensure the participation of local officials and the public in the planning process in a coordinated manner.

Section 3030(c) of TEA 21 makes funds available for certain new starts projects. This section is not intended to be a limitation on the level of federal funding provided under any future full funding grant agreement. The actual federal share for projects eligible for full funding grant agreements shall be negotiated between the designated recipient and the Secretary. For example, the amounts included in subsection 3030(c) for the Dallas-North Central Extension project do not reflect a cap on the Federal share of project costs included in a future full funding grant agreement. Since this project is also authorized in subsection 3030(a) for final design and construction, the amount included is a minimum amount which will be provided in a full funding grant agreement. The actual Federal share will be negotiated between DART and the Secretary.

The following is a summary of the bill:

HOUSE/SENATE JOINT SUMMARY OF TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

This legislation restores and corrects provisions agreed to by the conferees to the Transportation Equity Act for the 21st Century. This legislation has been developed jointly by the conferees to reflect the conference agreement.

This legislation does not change the formula allocations contained in the Conference Report to the Transportation Equity Act for the 21st Century.

Provisions previously agreed to by conferees and restored in this legislation:

National Historic Covered Bridge Preservation program.

Substitute Project for the Barney Circle Freeway project, Washington, D.C.

Discretionary Grant Selection Criteria and Process.

Open Container Laws.

Minimum Penalties for Repeat Offenders for Driving while Intoxicated.

Making Intelligent Transportation System activities eligible for innovative financing.

Corrections to duplicate provisions:

San Mateo County, California—eligibility for the Emergency Relief program.

Value Pricing Pilot program.

National Defense Highways Outside the United States.

Other technical corrections:

Conforms authorization levels with the list of high priority projects.

Modifies funding level for the Highway Use Tax Evasion program.

Retains practice under current law which allows multi-year obligation authority for research programs.

Continues current law requirement for Puerto Rico to comply with the minimum drinking age law and identifies program category funding distribution.

Modifies the Magnetic Levitation Transportation Technology Deployment Program as it relates to low speed magnetic levitation technologies.

Conforms credit levels in TIFIA to agreed upon distribution of budget authority.

SUMMARY OF TECHNICAL CORRECTIONS TO TEA 21

Section 2:

Adjusts funding levels for high priority projects to conform with list in the conference report and to correct other errors.

Adjusts funding levels for Highway Use Tax Evasion projects to allow for implementation of the Excise Fuel Tracking System.

Makes corrections to obligation limitation levels.

Retains practice in current law to continue multi-year obligation authority for research programs.

Corrects description of Interstate routes used in apportionments.

Section 3:

Restores the National Historic Covered Bridge Preservation program.

Restores the Substitute Project for the Barney Circle Freeway, Washington, D.C.

Restores Fiscal, Administrative and Other Amendments included in both House and Senate bills.

Clarifies program funding categories for Puerto Rico and continues current law penalties for Puerto Rico for non-compliance with the federal minimum drinking age requirements.

Modifies Sec. 1217(j) to allow for effective implementation of this subsection.

Modifies Magnetic Levitation Deployment Program to clarify eligibility of low-speed magnetic levitation technologies.

Section 4:

Restores the Discretionary Grant Selection Criteria program.

Conforms Environmental Streamlining to include mass transit projects.

Section 5:

Restores the Open Container Law safety program.

Restores the Minimum Penalties for Repeat Offenders program.

Section 6:

Eliminates duplicate provisions for San Mateo County, California, the Value.

Pricing Pilot Program, and National Defense Highways Outside the United States.

Restores the Minnesota Transportation History Network program.

Section 7:

Conforms the credit levels in the Transportation Infrastructure Finance and Innovation program to agreed upon distribution levels of budget authority.

Section 8:

Makes technical corrections, description changes and previously agreed upon additions to high priority projects.

Section 9:

Makes corrections to transit planning provisions to conform to provisions in title 23.

Clarifies eligibility of clean diesel under clean fuels program.

Makes technical corrections to section 5309 and clarifies the Secretary's full funding grant agreement authority.

Funds University Transportation Centers authorized under title 5.

Restores requirement that transit grantees accept non-disputed audits of other government agencies when awarding contracts.

Makes corrections to the authorizations for planning, University Transportation Centers, the National Transit Institute and the additional amounts for new starts.

Makes technical corrections, description changes, and previously agreed upon additions to new starts projects.

Makes technical corrections to the access to jobs and reverse commute programs.

Corrects funding level for the Rural Transportation Accessibility Incentive Program and makes other technical corrections.

Makes technical corrections to study on transit in national parks.

Makes corrections to obligation limitation levels.

Section 10:

Conforms section references for the Motor Carrier Safety program.

Section 11:

Adjusts authorization levels for university transportation centers to conform with modifications made in the Transit title in Section 9.

Restores eligibility of Intelligent Transportation System activities for innovative financing.

Corrects drafting errors to Oklahoma State University and University of Oklahoma research activities.

Corrects drafting errors to Fundamental Properties of Asphalts and Modified Asphalts research program.

Section 12:

Corrects reference to the National Highway Traffic Safety Administration.

Section 13:

Makes corrections to offsetting adjustments for discretionary spending limits.

Section 14:

Makes corrections to the Veterans subtitle.

Section 15:

Makes technical corrections to the Revenue title.

Section 16:

Provides for the effective date of this act to conform with the effective date of TEA-21.

I would also like to add that the Statement of Managers included in the Conference Report also contains errors. A corrected Statement of Managers will be worked out with the Senate and included in both records shortly.

Mr. BARRETT of Wisconsin. Mr. Speaker, further reserving the right to object, I appreciate that. What I felt was necessary was for the body to hear the other side of the story here so that individuals know that this is a very, very, very important concern for the people of southeastern Wisconsin. I wanted to make sure that the people in this Chamber realize how important this is, at least for this Member and I think for the two Senators from the State of Wisconsin as well as the gentleman from Wisconsin (Mr. KLECZKA).

Mr. BLILEY. Mr. Speaker, I rise in strong support of H.R. 3978, the TEA 21 Restoration Act. As you know, Title VII of the TEA 21 conference report contained provisions within the jurisdiction of the Committee on Commerce which reauthorized the National Highway Traffic Safety Administration. Among those provisions was a restriction on the use of funds authorized by the legislation for the lobbying of state and local legislators.

While both the House and Senate conferees intended that the provision apply only to NHTSA, the language ultimately sent to the

President inadvertently applied to the entire Department of Transportation. Section 12(a) of H.R. 3978 corrects this drafting error and restores the intent of the conferees.

Mr. Speaker, the Committee on Commerce has no objection to this change, and I support the adoption of this provision.

Mr. PETRI. Mr. Speaker, the bill before us simply makes corrections to inadvertent errors that were contained in the conference report to accompany H.R. 2400, known as the Transportation Equity Act for the 21st Century, which was approved by the Congress on May 22.

This legislation reinstates certain provisions agreed to by the conferees but which, for whatever reason, were not included in the final version. Again, these provisions simply reflect agreements reached by the conferees. In addition, upon review by the Transportation and Infrastructure Committee and the Department of Transportation, certain other inadvertent errors and technical problems have been discovered and the bill before us today will correct these errors.

Congressional approval of the Transportation Equity Act for the 21st Century, known as TEA 21, has already been heralded as one of the landmark achievements of the 105th Congress. Building upon the success of its predecessor, ISTEA, TEA 21 continues our nation's highway, transit and safety programs and will lead us into the 21st Century. Perhaps the most important reform in TEA 21 is that transportation spending will now be linked to the taxes being paid by motorists and deposited into the Highway Trust Fund. In addition, major reforms were made to benefit donor states, with each state being guaranteed at least a 90.5 percent Highway Trust Fund return on apportioned programs and projects.

TEA 21 also included a number of provisions that give states additional opportunity to finance highway projects through the use of tolls. The provisions include a new pilot program that allows tolls on three Interstates requiring major rehabilitation, and a value pricing program which allows up to 15 projects, up to 3 on the Interstates, as part of programs to reduce congestion. New and existing innovative finance programs could likely encourage additional tolls.

Highway user groups, including the American Trucking Associations, the American Automobile Association and the American Highway User Alliance, have expressed concern about the potential impact of additional tolls on their members and the general public. They believe that new tolls will adversely affect interstate commerce and travel by increasing congestion, posing safety problems and increasing air quality problems. These groups also believe that new tolls are really taxes that constitute double taxation of highway users who are already paying the bill for our highways in the form of fuel taxes and registration fees. Recent polls suggest the public may have similar concerns.

As these pilot programs are implemented, we will continue to monitor, through possible hearings and in other ways, the impacts on highway users of these programs as Congress determines what role tolls should play in the future in meeting transportation needs around the country.

The final sentence of Section 4014(c) of TEA 21 allows motor carriers to obtain a driver applicant's motor vehicle record without complying with any requirement to obtain the prior written consent of the applicant that might be imposed by any other provision of federal or state law. This language is intended to address a very limited safety concern for motor carriers who are mandated to obtain such records by the Federal Highway Administration.

Finally, section 1211(n) of TEA 21 makes certain revisions to a Wisconsin Substitute project originally authorized in section 1045 of ISTEA. It is my understanding that, in carrying out this provision, the Governor of Wisconsin will consult with local officials and that the $241 million of Interstate Substitute funds will be spent in the Milwaukee area.

Mr. BARRETT of Wisconsin. Mr. Speaker, with that and with the indulgence of the chairman of the committee, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of H.R. 3978 is as follows:

H.R. 3978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "TEA 21 Restoration Act".

SEC. 2. AUTHORIZATION AND PROGRAM SUBTITLE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1101(a) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (13)—

(A) by striking "$1,025,695,000" and inserting "$1,029,473,500";

(B) by striking "$1,398,675,000" and inserting "$1,403,827,500";

(C) by striking "$1,678,410,000" the first place it appears and inserting "$1,684,593,000";

(D) by striking "$1,678,410,000" the second place it appears and inserting "$1,684,593,000";

(E) by striking "$1,771,655,000" the first place it appears and inserting "$1,778,181,500"; and

(F) by striking "$1,771,655,000" the second place it appears and inserting "$1,778,181,500"; and

(2) in paragraph (14)—

(A) by striking "1998" and inserting "1999"; and

(B) by inserting before "$5,000,000" the following: "$10,000,000 for fiscal year 1998".

(b) OBLIGATION LIMITATIONS.—

(1) GENERAL LIMITATION.—Section 1102(a) of such Act is amended—

(A) in paragraph (2) by striking "$25,431,000,000" and inserting "$25,511,000,000";

(B) in paragraph (3) by striking "$26,155,000,000" and inserting "$26,245,000,000";

(C) in paragraph (4) by striking "$26,651,000,000" and inserting "$26,761,000,000";

(D) in paragraph (5) by striking "$27,235,000,000" and inserting "$27,355,000,000"; and

(E) in paragraph (6) by striking "$27,681,000,000" and inserting "$27,811,000,000".

(2) TRANSPORTATION RESEARCH PROGRAMS.—Section 1102(e) of such Act is amended—

(A) by striking "3" and inserting "5";

(B) by striking "VI" and inserting "V"; and

(C) by inserting before the period at the end the following: "; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years".

(3) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Section 1102(f) of such Act is amended by striking "(other than the program under section 160 of title 23, United States Code)".

(c) APPORTIONMENTS.—Section 1103 of such Act is amended—

(1) in subsection (l) by adding at the end the following:

"(5) Section 150 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.";

(2) in subsection (n) by inserting "of title 23, United States Code" after "206"; and

(3) by adding at the end the following:

"(o) TECHNICAL ADJUSTMENTS.—Section 104 of title 23, United States Code, is amended—

"(1) in subsection (a)(1) (as amended by subsection (a) of this section) by striking 'under section 103';

"(2) in subsection (b) (as amended by subsection (b) of this section)—

"(A) in paragraph (1)(A) by striking '1999 through 2003' and inserting '1998 through 2002'; and

"(B) in paragraph (4)(B)(i) by striking 'on lanes on Interstate System' and all that follows through 'in each State' and inserting 'on Interstate System routes open to traffic in each State'; and

"(3) in subsection (e)(2) (as added by subsection (d)(6) of this section) by striking '104, 144, or 157' and inserting '104, 105, or 144'.".

(d) MINIMUM GUARANTEE.—Section 1104 of such Act is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 105 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (a) by adding at the end the following: 'The minimum amount allocated to a State under this section for a fiscal year shall be $1,000,000.';

"(2) in subsection (c)(1) by striking '50 percent of';

"(3) in subsection (c)(1)(A) by inserting '(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)' after 'subsection (a)';

"(4) in subsection (c)(1)(B) by striking 'all States' and inserting 'each State';

"(5) in subsection (c)(2)—

"(A) by striking 'apportion' and inserting 'administer'; and

"(B) by striking 'apportioned' and inserting 'administered'; and

"(6) in subsection (f)—

"(A) by inserting 'percentage' before 'return' each place it appears;

"(B) in paragraph (2) by striking 'for the preceding fiscal year was equal to or less than' and inserting 'in the table in subsection (b) was equal to'; and

"(C) in paragraph (3)—

"(i) by inserting 'proportionately' before 'adjust';

"(ii) by striking 'set forth'; and

"(iii) by striking 'do not exceed' and inserting 'is equal to'.".

(e) REVENUE ALIGNED BUDGET AUTHORITY.—Section 1105 of such Act is amended by adding at the end the following:

"(c) TECHNICAL CORRECTIONS.—Section 110 of such title (as amended by subsection (a)) is amended—

"(1) by striking subsection (a) and inserting the following:

'(a) IN GENERAL.—

'(1) ALLOCATION.—On October 15 of fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) if the amount determined pursuant to such section for such fiscal year is greater than zero.

'(2) REDUCTION.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) for fiscal year 2000 or any fiscal year thereafter is less than zero, the Secretary on October 1 of the succeeding fiscal year shall reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) by an aggregate amount equal to the amount determined pursuant to such section.';

"(2) in subsections (b)(2) and (b)(4) by striking 'subsection (a)' and inserting 'subsection (a)(1)'; and

"(3) in subsection (c) by striking 'Maintenance program, the' and inserting 'and'.".

(f) INTERSTATE MAINTENANCE PROGRAM.—Section 1107 of such Act is amended by adding at the end the following:

"(d) TECHNICAL AMENDMENTS.—Section 119 of such title (as amended by subsection (a)) is amended—

"(1) in subsection (b)—

"(A) by striking '104(b)(5)(B)' and inserting '104(b)(4)'; and

"(B) by striking '104(b)(5)(A)' each place it appears and inserting '104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)'; and

"(2) in subsection (c) by striking '104(b)(5)(B)' each place it appears and inserting '104(b)(4)'.".

(g) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 1110(d)(2) of such Act is amended—

(1) by striking "149(c)" and inserting "149(e)"; and

(2) by striking "that reduce" and inserting "reduce".

(h) HIGHWAY USE TAX EVASION PROJECTS.—Section 1114 of such Act is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 143 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (c)(1) by striking 'April 1' and inserting 'August 1';

"(2) in subsection (c)(3) by inserting 'PRIORITY' after 'FUNDING'; and

"(3) in subsection (c)(3) by inserting 'and prior to funding any other activity under this section,' after '2003,'.".

(i) FEDERAL LANDS HIGHWAYS PROGRAM.—Section 1115 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) CONFORMING AMENDMENTS.—

"(1) FEDERAL SHARE.—Subsections (j) and (k) of section 120 of title 23, United States Code (as added by subsection (a) of this section), are redesignated as subsections (k) and (l), respectively.

"(2) RESERVATION OF FUNDS.—Section 202(d)(4)(B) of such title (as added by subsection (b)(4) of this section) is amended by striking 'to, apply sodium acetate/formate de-icer to,' and inserting ', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions'.

"(3) ELIMINATION OF DUPLICATIVE PROVISION.—Section 144(g) of such title is amended by striking paragraph (4).".

(j) WOODROW WILSON MEMORIAL BRIDGE CORRECTION.—Section 1116 of such Act is amended by adding at the end the following:

"(e) TECHNICAL CORRECTION.—Sections 404(5) and 407(c)(2)(C)(iii) of such Act (as amended by subsections (a)(2) and (b)(2), respectively) are amended by striking 'the record of decision' each place it appears and inserting 'a record of decision'.".

(k) TECHNICAL CORRECTION.—Section 1117 of such Act is amended in subsections (a) and (b) by striking "section 102" each place it appears and inserting "section 1101(a)(6)".

SEC. 3. RESTORATIONS TO GENERAL PROVISIONS SUBTITLE.

(a) IN GENERAL.—Subtitle B of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1224. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

"(a) HISTORIC COVERED BRIDGE DEFINED.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations under subsection (d), the Secretary shall—

"(1) collect and disseminate information concerning historic covered bridges;

"(2) foster educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research, and study techniques, on protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) DIRECT FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) TYPES OF PROJECT.—A grant under paragraph (1) may be made for a project—'

"(A) to rehabilitate or repair a historic covered bridge; and

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2003. Such funds shall remain available until expended.

"SEC. 1225. SUBSTITUTE PROJECT.

"(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Mayor of the District of Columbia, the Secretary may approve substitute highway and transit projects under section 103(e)(4) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), in lieu of construction of the Barney Circle Freeway project in the District of Columbia, as identified in the 1991 Interstate Cost Estimate.

"(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute project or projects under subsection (a)—

"(1) the cost of construction of the Barney Circle Freeway Modification project shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(2) substitute projects approved pursuant to this section shall be funded from interstate construction funds apportioned or allocated to the District of Columbia that are not expended and not subject to lapse on the date of enactment of this Act.

"(c) FEDERAL SHARE.—The Federal share payable on account of a project or activity approved under this section shall be 85 percent of the cost thereof; except that the exception set forth in section 120(b)(2) of title 23, United States Code, shall apply.

"(d) LIMITATION ON ELIGIBILITY.—Any substitute project approved pursuant to subsection (a) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction, or construction must have commenced, before the last day of the 4-year period beginning on the date of enactment of this Act. If the substitute project is not under contract for construction, or construction has not commenced, by such last day, the Secretary shall withdraw approval of the substitute project.

"SEC. 1226. FISCAL, ADMINISTRATIVE, AND OTHER AMENDMENTS.

"(a) ADVANCED CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

"(1) in subsection (b)—

"(A) by moving the text of paragraph (1) (including subparagraphs (A) and (B)) 2 ems to the left;

"(B) by striking 'PROJECTS' and all that follows through 'When a State' and inserting 'PROJECTS.—When a State';

"(C) by striking paragraphs (2) and (3);

"(D) by striking '(A) prior' and inserting '(1) prior'; and

"(E) by striking '(B) the project' and inserting '(2) the project';

"(2) by striking subsection (c); and

"(3) by redesignating subsection (d) as subsection (c).

"(b) AVAILABILITY OF FUNDS.—Section 118 of such title is amended—

"(1) in the subsection heading of subsection (b) by striking '; DISCRETIONARY PROJECTS'; and

"(2) by striking subsection (e) and inserting the following:

'(e) EFFECT OF RELEASE OF FUNDS.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure.'.".

"(c) Advances to States.—Section 124 of such title is amended—

"(1) by striking '(a)' the first place it appears; and

"(2) by striking subsection (b).

"(d) Diversion.—Section 126 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1222 the following:

"Sec. 1223. Transportation assistance for Olympic cities.
"Sec. 1224. National historic covered bridge preservation.
"Sec. 1225. Substitute project.
"Sec. 1226. Fiscal, administrative, and other amendments.".

(c) Metropolitan Planning Technical Adjustment.—Section 1203 of such Act is amended by adding at the end the following:

"(o) Technical Adjustment.—Section 134(h)(5)(A) of title 23, United States Code (as amended by subsection (h) of this section), is amended by striking 'for implementation'.".

(d) Amendments to Prior Surface Transportation Laws.—Section 1211 of such Act is amended—

(1) in subsection (i)(3)(E) by striking "subparagraph (D)" and inserting "subparagraph (C)";

(2) in subsection (i) by adding at the end the following:

"(4) Technical amendments.—Section 1105(e)(5)(B)(i) of such Act (as amended by paragraph (3) of this subsection) is amended—

"(A) by striking 'subsection (c)(18)(B)(i)' and inserting 'subsection (c)(18)(D)(i)';

"(B) by striking 'subsection (c)(18)(B)(ii)' and inserting 'subsection (c)(18)(D)(ii)'; and

"(C) by adding at the end the following: 'The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I–86.'.";

(3) by striking subsection (j);

(4) in subsection (k)—

(A) by striking "along" in paragraph (1) and inserting "from"; and

(B) by adding at the end the following:

"(4) Texas state highway 99.—Texas State Highway 99 (also known as 'Grand Parkway') shall be considered as 1 option in the I–69 route studies performed by the Texas Department of Transportation for the designation of I–69 Bypass in Houston, Texas."; and

(5) by redesignating subsections (g) through (i) and (k) through (n) as subsections (f) through (h) and (i) through (l), respectively.

(e) Miscellaneous.—Section 1212 of such Act is amended—

(1) in the second sentence of subsection (q)(1) by striking "advance curriculum" and inserting "advanced curriculum";

(2) in subsection (r)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $2,000,000 for fiscal year 1999 and $2,500,000 for fiscal year 2000.";

(3) in subsection (s)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $23,000,000 for fiscal year 1999.";

(4) in subsection (u)—

(A) by inserting "the Secretary shall approve, and" before "the Commonwealth";

(B) by inserting a comma after "with"; and

(C) by inserting "(as redefined by this Act)" after "80"; and

(5) by redesignating subsections (k) through (z) as subsections (e) through (t), respectively.

(f) Puerto Rico Highway Program.—Section 1214(r) of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(3) Treatment of funds.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

"(A) For purposes of this subsection, such amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206 of title 23, United States Code, for each program funded under such sections in an amount determined by multiplying—

"(i) the aggregate of such amounts for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(II) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(B) The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under such section for purposes of the imposition of any penalty provisions in titles 23 and 49, United States Code.

"(C) Subject to subparagraph (B), nothing in this subsection shall be construed as affecting any allocation under section 105 of title 23, United States Code, and any apportionment under sections 104 and 144 of such title.".

(g) Designated Transportation Enhancement Activities.—Section 1215 of such Act—

(1) is amended in each of subsections (d), (e), (f), and (g)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) the amounts specified in such paragraph for the fiscal years specified in such paragraph."; and

(2) in subsection (d)(1) by inserting "on Route 50" after "measures".

(h) Eligibility.—Section 1217 of such Act is amended—

(1) in subsection (d) by striking "104(b)(4)" and inserting "104(b)(5)(A)";

(2) in subsection (i) by striking "120(l)(1)" and inserting "120(j)(1)"; and

(3) in subsection (j) by adding at the end the following: "$3,000,000 of the amounts made available for item 164 of the table contained in section 1602 shall be made available on October 1, 1998, to the Pennsylvania Turnpike Commission to carry out this subsection.".

(i) Magnetic Levitation Transportation Technology Deployment Program.—Section 1218 of such Act is amended by adding at the end the following:

"(c) Technical Amendments.—Section 322 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(3) by striking 'or under 50 miles per hour';

"(2) in subsection (d)—

"(A) in paragraph (1) by striking 'or low-speed'; and

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking '(h)(1)(A)' and inserting '(h)(1)'; and

"(ii) in subparagraph (B) by striking '(h)(4)' and inserting '(h)(3)';

"(3) in subsection (h)(1)(B)(i) by inserting '(other than subsection (i))' after 'this section'; and

"(4) by adding at the end the following:

'(i) Low-Speed Project.—

'(1) In general.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

'(2) Noncontract authority authorization of appropriations.—

'(A) In general.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

'(B) Availability.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

'(i) shall not be available in advance of an annual appropriation; and

'(ii) shall remain available until expended.'.".

(j) Transportation Assistance for Olympic Cities.—Section 1223(f) of such Act is amended by inserting before the period at the end the following: "or Special Olympics International".

SEC. 4. RESTORATIONS TO PROGRAM STREAMLINING AND FLEXIBILITY SUBTITLE.

(a) In General.—Subtitle C of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1311. DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS.

"(a) Establishment of Criteria.—The Secretary shall establish criteria for all discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account). To the extent practicable, such criteria shall conform to the Executive Order No. 12893 (relating to infrastructure investment).

"(b) Selection Process.—

"(1) Limitation on acceptance of applications.—Before accepting applications for grants under any discretionary program for which funds are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this Act (including the amendments made by this Act), the Secretary shall publish the criteria established under subsection (a). Such publication shall identify all statutory criteria and any criteria established by regulation that will apply to the program.

"(2) Explanation.—Not less often than quarterly, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the projects selected under discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account) and an explanation of how the projects were selected based on the criteria established under subsection (a).

"(c) MINIMUM COVERED PROGRAMS.—At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

"(1) The intelligent transportation system deployment program under title V.

"(2) The national corridor planning and development program.

"(3) The coordinated border infrastructure and safety program.

"(4) The construction of ferry boats and ferry terminal facilities.

"(5) The national scenic byways program.

"(6) The Interstate discretionary program.

"(7) The discretionary bridge program.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of such Act is amended—

(1) by striking the following:

"Sec. 1309. Major investment study integration."

and inserting the following:

"Sec. 1308. Major investment study integration.";

and

(2) by inserting after the item relating to section 1310 the following:

"Sec. 1311. Discretionary grant selection criteria and process.".

(c) REVIEW PROCESS.—Section 1309 of the Transportation Equity Act for the 21st Century is amended—

(1) in subsection (a)(1) by inserting after "highway construction" the following: "and mass transit";

(2) in subsection (d) by inserting after "Code," the following: "or chapter 53 of title 49, United States Code,"; and

(3) in subsection (e)(1)—

(A) by inserting "or recipient" after "a State";

(B) by inserting after "provide funds" the following: "for a highway project"; and

(C) by inserting after "Code," the following: "or for a mass transit project made available under chapter 53 of title 49, United States Code,".

SEC. 5. RESTORATIONS TO SAFETY SUBTITLE.

(a) IN GENERAL.—Subtitle D of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1405. OPEN CONTAINER LAWS.

"(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

'§ 154. Open container requirements

'(a) DEFINITIONS.—In this section, the following definitions apply:

'(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given the term in section 158(c).

'(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

'(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term "open alcoholic beverage container" means any bottle, can, or other receptacle—

'(A) that contains any amount of alcoholic beverage; and

'(B)(i) that is open or has a broken seal; or

'(ii) the contents of which are partially removed.

'(4) PASSENGER AREA.—The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

'(b) OPEN CONTAINER LAWS.—

'(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

'(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

'(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or

'(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

'(c) TRANSFER OF FUNDS.—

'(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

'(A) to be used for alcohol-impaired driving countermeasures; or

'(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

'(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

'(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

'(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

'(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

'(A) The apportionment of the State under section 104(b)(1).

'(B) The apportionment of the State under section 104(b)(3).

'(C) The apportionment of the State under section 104(b)(4).

'(6) TRANSFER OF OBLIGATION AUTHORITY.—

'(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

'(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

'(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

'(ii) the ratio that—

'(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

'(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

'(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.'.

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 153 the following:

'154. Open container requirements.'.

"SEC. 1406. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

"(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

'§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

'(a) DEFINITIONS.—In this section, the following definitions apply:

'(1) ALCOHOL CONCENTRATION.—The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

'(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

'(3) LICENSE SUSPENSION.—The term "license suspension" means the suspension of all driving privileges.

'(4) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

'(5) REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

'(A) receive a driver's license suspension for not less than 1 year;

'(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

'(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

'(D) receive—

'(i) in the case of the second offense—

"(I) an assignment of not less than 30 days of community service; or

'(II) not less than 5 days of imprisonment; and

'(ii) in the case of the third or subsequent offense—

'(I) an assignment of not less than 60 days of community service; or

'(II) not less than 10 days of imprisonment.

'(b) TRANSFER OF FUNDS.—

'(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

'(A) to be used for alcohol-impaired driving countermeasures; or

'(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

'(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

'(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

'(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

'(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

'(A) The apportionment of the State under section 104(b)(1).

'(B) The apportionment of the State under section 104(b)(3).

'(C) The apportionment of the State under section 104(b)(4).

'(6) TRANSFER OF OBLIGATION AUTHORITY.—

'(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

'(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

'(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

'(ii) the ratio that—

'(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

'(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

'(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.'.

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

'164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.'.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1403 the following:

"Sec. 1404. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
"Sec. 1405. Open container laws.
"Sec. 1406. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

(c) ROADSIDE SAFETY TECHNOLOGIES.—Section 1402(a)(2) of such Act is amended by striking "directive" and inserting "redirective".

SEC. 6. ELIMINATION OF DUPLICATE PROVISIONS.

(a) SAN MATEO COUNTY, CALIFORNIA.—Section 1113 of the Transportation Equity Act for the 21st Century is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (c) as subsection (d).

(b) VALUE PRICING PILOT PROGRAM.—Section 1216(a) of such Act is amended by adding at the end the following:

"(8) CONFORMING AMENDMENTS.—

"(A) Section 1012(b)(6) of such Act (as amended by paragraph (5) of this subsection) is amended by striking '146(c)' and inserting '102(a)'.

"(B) Section 1012(b)(8) of such Act (as added by paragraph (7) of this subsection) is amended—

"(i) in subparagraph (C) by striking 'under this subsection' and inserting 'to carry out this subsection';

"(ii) in subparagraph (D)—

"(I) by striking 'under this paragraph' and inserting 'to carry out this subsection'; and

"(II) by striking 'by this paragraph' and inserting 'to carry out this subsection';

"(iii) by striking subparagraph (A); and

"(iv) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.".

(c) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—Section 1214(e) of such Act is amended to read as follows:

"(e) MINNESOTA TRANSPORTATION HISTORY NETWORK.—

"(1) IN GENERAL.—The Secretary shall award a grant to the Minnesota Historical Society for the establishment of the Minnesota Transportation History Network to include major exhibits, interpretive programs at national historic landmark sites, and outreach programs with county and local historical organizations.

"(2) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate with officials of the Minnesota Historical Society.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

"(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.".

(d) ENTRANCE PAVING AT NINIGRET NATIONAL WILDLIFE REFUGE.—Section 1214(i) of such Act is amended by striking "$750,000" each place it appears and inserting "$75,000".

SEC. 7. HIGHWAY FINANCE.

(a) IN GENERAL.—Section 1503 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(c) TECHNICAL AMENDMENTS.—Section 188 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(2) by striking '1998' and inserting '1999'; and

"(2) in subsection (c)—

"(A) by striking '1998' and inserting '1999'; and

"(B) by striking the table and inserting the following:

'Fiscal year:	**Maximum amount of credit:**
1999	$1,600,000,000
2000	$1,800,000,000
2001	$2,200,000,000
2002	$2,400,000,000
2003	$2,600,000,000.'.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in the item relating to section 1119 by striking "and safety"; and

(2) by striking the items relating to subtitle E of title I and inserting the following:

"Subtitle E—Finance

"CHAPTER 1—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

"Sec. 1501. Short title.
"Sec. 1502. Findings.
"Sec. 1503. Establishment of program.
"Sec. 1504. Duties of the Secretary.

"CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

"Sec. 1511. State infrastructure bank pilot program.".

SEC. 8. HIGH PRIORITY PROJECTS TECHNICAL CORRECTIONS.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended—

(1) in item 1 by striking "1.275" and inserting "1.7";

(2) in item 82 by striking "30.675" and inserting "32.4";

(3) in item 107 by striking "1.125" and inserting "1.44";

(4) in item 121 by striking "10.5" and inserting "5.0";

(5) in item 140 by inserting "-VFHS Center" after "Park";

(6) in item 151 by striking "5.666" and inserting "8.666";

(7) in item 164—

(A) by inserting ", and $3,000,000 for the period of fiscal years 1998 and 1999 shall be made available to carry out section 1217(j)" after "Pennsylvania"; and

(B) by striking "25" and inserting "24.78";

(8) by striking item 166 and inserting the following:

"166.	Michigan	Improve Tenth Street, Port Huron	1.8";

(9) by striking item 242 and inserting the following:

"242.	Minnesota	Construct Third Street North, CSAH 81, Waite Park and St. Cloud	1.0";

(10) by striking item 250 and inserting the following:

"250.	Indiana	Reconstruct Old Merridan Corridor from Pennsylvania Avenue to Gilford Road	1.35";

(11) in item 255 by striking "2.25" and inserting "3.0";

(12) in item 263 by striking "Upgrade Highway 99 between State Highway 70 and Lincoln Road, Sutter County" and inserting "Upgrade Highway 99, Sutter County";

(13) in item 288 by striking "3.75" and inserting "5.0";

(14) in item 290 by striking "3.5" and inserting "3.0";

(15) in item 345 by striking "8" and inserting "19.4";

(16) in item 418 by striking "2" and inserting "2.5";

(17) in item 421 by striking "11" and inserting "6";

(18) in item 508 by striking "1.8" and inserting "2.4";

(19) by striking item 525 and inserting the following:

"525.	Alaska	Construct Bradfield Canal Road	1";

(20) in item 540 by striking "1.5" and inserting "2.0";

(21) in item 576 by striking "0.52275" and inserting "0.69275";

(22) in item 588 by striking "2.5" and inserting "3.0";

(23) in item 591 by striking "10" and inserting "5";

(24) in item 635 by striking "1.875" and inserting "2.15";

(25) in item 669 by striking "3" and inserting "3.5";

(26) in item 702 by striking "10.5" and inserting "10";

(27) in item 746 by inserting ", and for the purchase of the Block House in Scott County, Virginia" after "Forest";

(28) in item 755 by striking "1.125" and inserting "1.5";

(29) in item 769 by striking "Construct new I–95 interchange with Highway 99W, Tehama County" and inserting "Construct new I–5 interchange with Highway 99W, Tehama County";

(30) in item 770 by striking "1.35" and inserting "1.0";

(31) in item 789 by striking "2.0625" and inserting "1.0";

(32) in item 803 by striking "Tomahark" and inserting "Tomahawk";

(33) in item 836 by striking "Construct" and all that follows through "for" and inserting "To the National Park Service for construction of the";

(34) in item 854 by striking "0.75" and inserting "1";

(35) in item 863 by striking "9" and inserting "4.75";

(36) in item 887 by striking "0.75" and inserting "3.21";

(37) in item 891 by striking "19.5" and inserting "25.0";

(38) in item 902 by striking "10.5" and inserting "14.0";

(39) by striking item 1065 and inserting the following:

"1065.	Texas	Construct a 4-lane divided highway on Artcraft Road from I-10 to Route 375 in El Paso	5";

(40) in item 1192 by striking "24.97725" and inserting "24.55725";

(41) in item 1200 by striking "Upgrade (all weather) on U.S. 2, U.S. 41, and M 35" and inserting "Upgrade (all weather) on Delta County's reroute of U.S. 2, U.S. 41, and M 35";

(42) in item 1245 by striking "3" and inserting "3.5";

(43) in item 1271 by striking "Spur" and all that follows through "U.S. 59" and inserting "rail-grade separations (Rosenberg Bypass) at U.S. 59(S)";

(44) in item 1278 by striking "28.18" and inserting "22.0";

(45) in item 1288 by inserting "30" after "U.S.";

(46) in item 1338 by striking "5.5" and inserting "3.5";

(47) in item 1383 by striking "0.525" and inserting "0.35";

(48) in item 1395 by striking "Construct" and all that follows through "Road" and inserting "Upgrade Route 219 between Meyersdale and Somerset";

(49) in item 1468 by striking "Reconstruct" and all that follows through "U.S. 23" and inserting "Conduct engineering and design and improve I–94 in Calhoun and Jackson Counties";

(50) in item 1474—

(A) by striking "in Euclid" and inserting "and London Road in Cleveland"; and

(B) by striking "3.75" and inserting "8.0";

(51) in item 1535 by striking "Stanford" and inserting "Stamford";

(52) in item 1538 by striking "and Winchester" and inserting ", Winchester, and Torrington";

(53) by striking item 1546 and inserting the following:

"1546.	Michigan	Construct Bridge-to-Bay bike path, St. Clair County	0.450";

(54) by striking item 1549 and inserting the following:

"1549.	New York	Center for Advanced Simulation and Technology, at Dowling College	0.6";

(55) in item 1663 by striking "26.5" and inserting "27.5";

(56) in item 1703 by striking "I–80" and inserting "I–180";

(57) in item 1726 by striking "I–179" and inserting "I–79";

(58) by striking item 1770 and inserting the following:

"1770.	Virginia	Operate and conduct research on the 'Smart Road' in Blacksburg	6.025";

(59) in item 1810 by striking "Construct Rio Rancho Highway" and inserting "Northwest Albuquerque/Rio Rancho high priority roads";

(60) in item 1815 by striking "High" and all that follows through "projects" and inserting "Highway and bridge projects that Delaware provides for by law";

(61) in item 1844 by striking "Prepare" and inserting "Repair";

(62) by striking item 1850 and inserting the following:

"1850.	Missouri	Resurface and maintain roads located in Missouri State parks	5";

(63) in item 661 by striking "SR 800" and inserting "SR 78";

(64) in item 1704 by inserting ", Pittsburgh," after "Road"; and

(65) in item 1710 by inserting ", Bethlehem" after "site".

SEC. 9. FEDERAL TRANSIT ADMINISTRATION PROGRAMS.

(a) DEFINITIONS.—Section 3003 of the Federal Transit Act of 1998 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Section 5302"; and

(2) by adding at the end the following:

"(b) CONFORMING AMENDMENTS.—Section 5302 (as amended by subsection (a) of this section) is amended in subsection (a)(1)(G)(i) by striking 'daycare and' and inserting 'daycare or'.".

(b) METROPOLITAN PLANNING.—Section 3004 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(B) in paragraph (3) by striking "and" at the end;

(C) in paragraph (4) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following:

"(3) in paragraph (4)(A) by striking '(3)' and inserting '(5)'; and";

(2) in subsection (d) by striking the closing quotation marks and the final period at the end and inserting the following:

'(5) COORDINATION.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

'(6) LAKE TAHOE REGION.—

'(A) DEFINITION.—In this paragraph, the term "Lake Tahoe region" has the meaning given the term "region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

'(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

'(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

'(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23.

'(C) INTERSTATE COMPACT.—

'(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

'(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

'(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

'(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

'(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

'(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

'(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.'."; and

(3) by adding at the end the following:

"(f) TECHNICAL ADJUSTMENTS.—Section 5303(f) is amended—

"(1) in paragraph (1) (as amended by subsection (e)(1) of this subsection)—

"(A) in subparagraph (C) by striking 'and' at the end;

"(B) in subparagraph (D) by striking the period at the end and inserting '; and';

"(C) by adding at the end the following:

'(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.'; and

"(2) by adding at the end the following:

'(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (1)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (1)(B).'.".

(c) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 3005 of the Federal Transit Act of 1998 is amended—

(1) in the section heading by inserting "METROPOLITAN" before "TRANSPORTATION"; and

(2) by adding at the end the following:

"(d) TECHNICAL ADJUSTMENTS.—Section 5304 is amended—

"(1) in subsection (a) (as amended by subsection (a) of this section)—

"(A) by striking 'In cooperation with' and inserting the following:

'(1) IN GENERAL.—In cooperation with'; and

"(B) by adding at the end the following:

'(2) FUNDING ESTIMATE.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.';

"(2) in subsection (b)(2)—

"(A) in subparagraph (B) by striking 'and' at the end; and

"(B) in subparagraph (C) (as added by subsection (b) of this section) by striking 'strategies which may include' and inserting the following: 'strategies; and

'(D) may include'; and

"(3) in subsection (c) by striking paragraph (4) (as amended by subsection (c) of this section) and inserting the following:

'(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

'(A) IN GENERAL.—Notwithstanding subsection (b)(2)(D), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(D).

'(B) ACTION BY SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the plan under subsection (b)(2) for inclusion in an approved transportation improvement plan.'.".

(d) TRANSPORTATION MANAGEMENT AREAS.—Section 3006(d) of the Federal Transit Act of 1998 is amended to read as follows:

"(d) PROJECT SELECTION.—Section 5305(d)(1) is amended to read as follows: '(1)(A) All federally funded projects carried out within the boundaries of a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge and interstate maintenance program) or under this chapter shall be selected from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

'(B) Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the interstate maintenance program shall be selected from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.'.".

(e) URBANIZED AREA FORMULA GRANTS.—Section 3007 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) TECHNICAL ADJUSTMENTS.—

"(1) GENERAL AUTHORITY.—Section 5307(b) (as amended by subsection (c)(1)(B) of this section) is amended by adding at the end the following: 'The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.'.

"(2) REPORT.—Section 5307(k)(3) (as amended by subsection (f) of this section) is amended by inserting 'preceding' before 'fiscal year'.".

(f) CLEAN FUELS FORMULA GRANT PROGRAM.—Section 3008 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5308(e)(2) (as added by subsection (a) of this section) is amended by striking '$50,000,000' and inserting '35 percent'.".

(g) CAPITAL INVESTMENT GRANTS AND LOANS.—Section 3009 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(k) TECHNICAL ADJUSTMENTS.—

"(1) CRITERIA.—Section 5309(e) (as amended by subsection (e) of this section) is amended—

"(A) in paragraph (3)(C) by striking 'urban' and inserting 'suburban';

"(B) in the second sentence of paragraph (6) by striking 'or not' and all that follows through ', based' and inserting 'or "not recommended", based'; and

"(C) in the last sentence of paragraph (6) by inserting 'of the' before 'criteria established'.

"(2) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) (as amended by subsection (f) of this section) is amended in paragraph (4) by striking '5338(a)' and all that follows through '2003' and inserting '5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems'.

"(3) ALLOCATING AMOUNTS.—Section 5309(m) (as amended by subsection (g) of this section) is amended—

"(A) in paragraph (1) by inserting '(b)' after '5338';

"(B) by striking paragraph (2) and inserting the following:

'(2) NEW FIXED GUIDEWAY GRANTS.—

'(A) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

'(B) FUNDING FOR FERRY BOAT SYSTEMS.—

'(i) AMOUNTS UNDER (1)(B).—Of the amounts made available under paragraph (1)(B), $10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

'(ii) AMOUNTS UNDER 5338(H)(5).—Of the amounts appropriated under section 5338(h)(5), $3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.';

"(C) by redesignating paragraph (4) as paragraph (3)(C);

"(D) in paragraph (3) by adding at the end the following:

'(D) OTHER THAN URBANIZED AREAS.—Of amounts made available by paragraph (1)(C), not less than 5.5 percent shall be available in each fiscal year for other than urbanized areas.';

"(E) by striking paragraph (5); and

"(F) by inserting after paragraph (3) the following:

'(4) ELIGIBILITY FOR ASSISTANCE FOR MULTIPLE PROJECTS.—A person applying for or receiving assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) may receive assistance for a project described in any other of such subparagraphs.'.".

(h) References to Full Funding Grant Agreements.—Section 3009(h)(3) of the Federal Transit Act of 1998 is amended—

(1) by striking "and" at the end of subparagraph (A)(ii);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

"(C) in section 5328(a)(4) by striking 'section 5309(m)(2) of this title' and inserting '5309(o)(1)'; and

"(D) in section 5309(n)(2) by striking 'in a way' and inserting 'in a manner'.".

(i) Dollar Value of Mobility Improvements.—Section 3010(b)(2) of the Federal Transit Act of 1998 is amended by striking "Secretary" and inserting "Comptroller General".

(j) Intelligent Transportation System Applications.—Section 3012 of the Federal Transit Act of 1998 is amended by moving paragraph (3) of subsection (a) to the end of subsection (b) and by redesignating such paragraph (3) as paragraph (4).

(k) Advanced Technology Pilot Project.—Section 3015 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c)(2) by adding at the end the following: "Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code."; and

(2) by adding at the end the following:

"(d) Training and Curriculum Development.—

"(1) In general.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

"(2) Special rule.—If the institutions identified in paragraph (1) are selected pursuant to 5505(i)(3)(B) of such title in fiscal year 2002 or 2003, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.".

(l) National Transit Institute.—Section 3017(a) of the Federal Transit Act of 1998 is amended to read as follows:

"(a) In General.—Section 5315 is amended—

"(1) in the section heading by striking '**mass transportation**' and inserting '**transit**';

"(2) in subsection (a)—

"(A) by striking 'mass transportation' in the first sentence and inserting 'transit';

"(B) in paragraph (5) by inserting 'and architectural design' before the semicolon at the end;

"(C) in paragraph (7) by striking 'carrying out' and inserting 'delivering';

"(D) in paragraph (11) by inserting ', construction management, insurance, and risk management' before the semicolon at the end;

"(E) in paragraph (13) by striking 'and' at the end;

"(F) in paragraph (14) by striking the period at the end and inserting a semicolon; and

"(G) by adding at the end the following:

'(15) innovative finance; and

'(16) workplace safety.'.".

(m) Pilot Program.—Section 3021(a) of the Federal Transit Act of 1998 is amended by inserting "single-State" before "pilot program".

(n) Architectural, Engineering, and Design Contracts.—Section 3022 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(b) Conforming Amendment.—Section 5325(b) (as redesignated by subsection (a)(2) of this section) is amended—

"(1) by inserting 'or requirement' after 'A contract'; and

"(2) by inserting before the last sentence the following: 'When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23.'.".

(o) Conforming Amendment.—Section 3027 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c) by striking "600,000" each place it appears and inserting "900,000"; and

(2) by adding at the end the following:

"(d) Conforming Amendment.—The item relating to section 5336 in the table of sections for chapter 53 is amended by striking 'block grants' and inserting 'formula grants'.".

(p) Apportionment for Fixed Guideway Modernization.—Section 3028 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) Conforming Amendments.—Section 5337(a) (as amended by subsection (a) of this section) is amended—

"(1) in paragraph (2)(B) by striking '(e)' and inserting '(e)(1)';

"(2) in paragraph (3)(D)—

"(A) by striking '(ii)'; and

"(B) by striking '(e)' and inserting '(e)(1)';

"(3) in paragraph (4) by striking '(e)' and inserting '(e)(1)';

"(4) in paragraph (5)(A) by striking '(e)' and inserting '(e)(2)';

"(5) in paragraph (5)(B) by striking '(e)' and inserting '(e)(2)';

"(6) in paragraph (6) by striking '(e)' each place it appears and inserting '(e)(2)'; and

"(7) in paragraph (7) by striking '(e)' each place it appears and inserting '(e)(2)'.".

(q) Authorizations.—Section 3029 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) Technical Adjustments.—Section 5338 (as amended by subsection (a) of this section) is amended—

"(1) in subsection (c)(2)(A)(i) by striking '$43,200,000' and inserting '$42,200,000';

"(2) in subsection (c)(2)(A)(ii) by striking '$46,400,000' and inserting '$48,400,000';

"(3) in subsection (c)(2)(A)(iii) by striking '$51,200,000' and inserting '$50,200,000';

"(4) in subsection (c)(2)(A)(iv) by striking '$52,800,000' and inserting '$53,800,000';

"(5) in subsection (c)(2)(A)(v) by striking '$57,600,000' and inserting '$58,600,000';

"(6) in subsection (d)(2)(C)(iii) by inserting before the semicolon ', including not more than $1,000,000 shall be available to carry out section 5315(a)(16)';

"(7) in subsection (e)—

"(A) by striking '5317(b)' each place it appears and inserting '5505';

"(B) in paragraph (1) by striking 'There are' and inserting 'Subject to paragraph (2)(C), there are';

"(C) in paragraph (2)—

"(i) in subparagraph (A) by striking 'There shall' and inserting 'Subject to subparagraph (C), there shall';

"(ii) in subparagraph (B) by striking 'In addition' and inserting 'Subject to subparagraph (C), in addition'; and

"(iii) by adding at the end the following:

'(C) Funding of centers.—

'(i) Of the amounts made available under subparagraph (A) and paragraph (1) for each fiscal year—

'(I) $2,000,000 shall be available for the center identified in section 5505(j)(4)(A); and

'(II) $2,000,000 shall be available for the center identified in section 5505(j)(4)(F).

'(ii) For each of fiscal years 1998 through 2001, of the amounts made available under this paragraph and paragraph (1)—

'(I) $400,000 shall be available from amounts made available under subparagraph (A) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3); and

'(II) $350,000 shall be available from amounts made available under subparagraph (B) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3).

'(iii) Any amounts made available under this paragraph or paragraph (1) for any fiscal year that remain after distribution under clauses (i) and (ii), shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998.'; and

"(D) by adding at the end the following:

'(3) Special rule.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.';

"(8) in subsection (g)(2) by striking '(c)(2)(B),' and all that follows through '(f)(2)(B),' and inserting '(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),';

"(9) in subsection (h) by inserting 'under the Transportation Discretionary Spending Guarantee for the Mass Transit Category' after 'through (f)'; and

"(10) in subsection (h)(5) by striking subparagraphs (A) through (E) and inserting the following:

'(A) for fiscal year 1999 $400,000,000;

'(B) for fiscal year 2000 $410,000,000;

'(C) for fiscal year 2001 $420,000,000;

'(D) for fiscal year 2002 $430,000,000; and

'(E) for fiscal year 2003 $430,000,000;'.".

(r) Projects for Fixed Guideway Systems.—Section 3030 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)—

(A) in paragraph (8) by inserting "North-" before "South";

(B) in paragraph (42) by striking "Maryland" and inserting "Baltimore";

(C) in paragraph (103) by striking "busway" and inserting "Boulevard transitway";

(D) in paragraph (106) by inserting "CTA" before "Douglas";

(E) by striking paragraph (108) and inserting the following:

"(108) Greater Albuquerque Mass Transit Project."; and

(F) by adding at the end the following:

"(109) Hartford City Light Rail Connection to Central Business District.

"(110) Providence–Boston Commuter Rail.

"(111) New York–St. George's Ferry Intermodal Terminal.

"(112) New York–Midtown West Ferry Terminal.

"(113) Pinellas County–Mobility Initiative Project.

"(114) Atlanta–MARTA Extension (S. DeKalb-Lindbergh).";

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) Sioux City–Light Rail.";

(B) by striking paragraph (40) and inserting the following:

"(40) Santa Fe–El Dorado Rail Link.";

(C) by striking paragraph (44) and inserting the following:

"(44) Albuquerque–High Capacity Corridor.";

(D) by striking paragraph (53) and inserting the following:

"(53) San Jacinto–Branch Line (Riverside County)."; and

(E) by adding at the end the following:

"(69) Chicago–Northwest Rail Transit Corridor.

"(70) Vermont–Burlington-Essex Commuter Rail."; and

(3) in subsection (c)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i) by inserting "(even if the project is not listed in subsection (a) or (b))" before the colon;

(ii) by striking clause (ii) and inserting the following:

"(ii) San Diego Mission Valley and Mid-Coast Corridor, $325,000,000.";

(iii) by striking clause (v) and inserting the following:

"(v) Hartford City Light Rail Connection to Central Business District, $33,000,000.";

(iv) by striking clause (xxiii) and inserting the following:

"(xxiii) Kansas City–I-35 Commuter Rail, $30,000,000.";

(v) in clause (xxxii) by striking "Whitehall Ferry Terminal" and inserting "Staten Island Ferry-Whitehall Intermodal Terminal";

(vi) by striking clause (xxxv) and inserting the following:

"(xxxv) New York–Midtown West Ferry Terminal, $16,300,000.";

(vii) in clause (xxxix) by striking "Allegheny County" and inserting "Pittsburgh";

(viii) by striking clause (xvi) and inserting the following:

"(xvi) Northeast Indianapolis Corridor, $10,000,000.";

(ix) by striking clause (xxix) and inserting the following:

"(xxix) Greater Albuquerque Mass Transit Project, $90,000,000.";

(x) by striking clause (xliii) and inserting the following:

"(xliii) Providence–Boston Commuter Rail, $10,000,000.";

(xi) by striking clause (xlix) and inserting the following:

"(xlix) SEATAC–Personal Rapid Transit, $40,000,000."; and

(xii) by striking clause (li) and inserting the following:

"(li) Dallas-Ft. Worth RAILTRAN (Phase-II), $12,000,000.";

(B) by striking the heading for subsection (c)(2) and inserting "Additional amounts"; and

(C) in paragraph (3) by inserting after the first sentence the following: "The project shall also be exempted from all requirements relating to criteria for grants and loans for fixed guideway systems under section 5309(e) of such title and from regulations required under that section.".

(s) New Jersey Urban Core Project.—Section 3030(e) of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(4) Technical adjustment.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (as amended by paragraph (3)(B) of this subsection) is amended—

"(A) by striking 'of the West Shore Line' and inserting 'or the West Shore Line'; and

"(B) by striking 'directly connected to' and all that follows through 'Newark International Airport' the first place it appears.".

(t) Baltimore-Washington Transportation Improvements.—Section 3030 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) Technical Adjustment.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) (as amended by subsection (g)(1)(C) of this section) is amended by inserting after 'expenditure of' the following: 'section 5309 funds to the aggregate expenditure of'.".

(u) Bus Projects.—Section 3031 of the Federal Transit Act of 1998 is amended—

(1) in the table contained in subsection (a)—

(A) by striking item 64;

(B) in item 69 by striking "Rensslear" each place it appears and inserting "Rensselaer";

(C) in item 103 by striking "facilities and"; and

(D) by striking item 150;

(2) by striking the heading for subsection (b) and inserting "Additional Amounts";

(3) in subsection (b) by inserting after "2000" the first place it appears "with funds made available under section 5338(h)(6) of such title"; and

(4) in item 2 of the table contained in subsection (b) by striking "Rensslear" each place it appears and inserting "Rensselaer".

(v) Contracting Out Study.—Section 3032 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a) by striking "3" and inserting "6";

(2) in subsection (d) by striking "the Mass Transit Account of the Highway Trust Fund" and inserting "funds made available under section 5338(f)(2) of title 49, United States Code,";

(3) in subsection (d) by striking "1998" and inserting "1999"; and

(4) in subsection (e) by striking "subsection (c)" and inserting "subsection (d)".

(w) Job Access and Reverse Commute Grants.—Section 3037 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)(4)(A)—

(A) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(B) by inserting a comma after "and agencies";

(2) in subsection (b)(4)(B)—

(A) by striking "at least" and inserting "less than";

(B) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(C) by inserting "and agencies," after "authorities";

(3) in subsection (f)(2)—

(A) by striking "(including bicycling)"; and

(B) by inserting "(including bicycling)" after "additional services";

(4) in subsection (h)(2)(B) by striking "403(a)(5)(C)(ii)" and inserting "403(a)(5)(C)(vi)";

(5) in the heading for subsection (l)(1)(C) by striking "FROM THE GENERAL FUND";

(6) in subsection (l)(1)(C) by inserting "under the Transportation Discretionary Spending Guarantee for the Mass Transit Category" after "(B)"; and

(7) in subsection (l)(3)(B) by striking "at least" and inserting "less than".

(x) Rural Transportation Accessibility Incentive Program.—Section 3038 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)(1)(A) by inserting before the semicolon "or connecting 1 or more rural communities with an urban area not in close proximity";

(2) in subsection (g)(1)—

(A) by inserting "over-the-road buses used substantially or exclusively in" after "operators of"; and

(B) by inserting at the end the following: "Such sums shall remain available until expended."; and

(3) in subsection (g)(2)—

(A) by striking "each of"; and

(B) by adding at the end the following: "Such sums shall remain available until expended.".

(y) Study of Transit Needs in National Parks and Related Public Lands.—Section 3039(b) of the Federal Transit Act of 1998 is amended—

(1) in paragraph (1) by striking "in order to carry" and inserting "assist in carrying"; and

(2) by adding at the end the following:

"(3) Definition.—For purposes of this subsection, the term 'Federal land management agencies' means the National Park Service, the United States Fish and Wildlife Service, and the Bureau of Land Management.".

(z) Obligation Ceiling.—Section 3040 of the Federal Transit Act of 1998 is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) $5,797,000,000 in fiscal year 2000;"; and

(2) in paragraph (4) by striking "$6,746,000,000" and inserting "$6,747,000,000".

SEC. 10. MOTOR CARRIER SAFETY TECHNICAL CORRECTION.

Section 4011 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(h) Technical Amendments.—Section 31314 (as amended by subsection (g) of this section) is amended—

"(1) in subsections (a) and (b) by striking '(3), and (5)' each place it appears and inserting '(3), and (4)'; and

"(2) by striking subsection (d).".

SEC. 11. RESTORATIONS TO RESEARCH TITLE.

(a) University Transportation Research Funding.—Section 5001(a)(7) of the Transportation Equity Act for the 21st Century is amended—

(1) by striking "$31,150,000" each place it appears and inserting "$25,650,000";

(2) by striking "$32,750,000" each place it appears and inserting "$27,250,000"; and

(3) by striking "$32,000,000" each place it appears and inserting "$26,500,000".

(b) Obligation Ceiling.—Section 5002 of such Act is amended by striking "$403,150,000" and all that follows through "$468,000,000" and inserting "$397,650,000 for fiscal year 1998, $403,650,000 for fiscal year 1999, $422,450,000 for fiscal year 2000, $437,250,000 for fiscal year 2001, $447,500,000 for fiscal year 2002, and $462,500,000".

(c) Use of Funds for ITS.—Section 5210 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(d) Use of Innovative Financing.—

"(1) In general.—The Secretary may use up to 25 percent of the funds made available to carry out this subtitle to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this subtitle and that have significant intelligent transportation system elements.

"(2) Consistency with other law.—Credit assistance described in paragraph (1) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998.".

(d) University Transportation Research.—Section 5110 of such Act is amended by adding at the end the following:

"(d) Technical Adjustments.—Section 5505 of title 49, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (g)(2) by striking 'section 5506,' and inserting 'section 508 of title 23, United States Code,';

"(2) in subsection (i)—

"(A) by inserting 'Subject to section 5338(e):' after '(i) Number and Amount of Grants.—'; and

"(B) by striking 'institutions' each place it appears and inserting 'institutions or groups of institutions'; and

"(3) in subsection (j)(4)(B) by striking 'on behalf of' and all that follows before the period and inserting 'on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia, and Bluefield State College'.".

(e) Technical Corrections.—Section 5115 of such Act is amended—

(1) in subsection (a) by striking "Director" and inserting "Director of the Bureau of Transportation Statistics";

(2) in subsection (b) by striking "Bureau" and inserting "Bureau of Transportation Statistics,"; and

(3) in subsection (c) by striking "paragraph (1)" and inserting "subsection (a)".

(f) Corrections to Certain Oklahoma Projects.—Section 5116 of such Act is amended—

(1) in subsection (e)(2) by striking "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001" and inserting "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002"; and

(2) in subsection (f)(2) by striking "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002" and inserting "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001".

(g) Intelligent Transportation Infrastructure Reference.—Section 5117(b)(3)(B)(ii) of such Act is amended by striking "local departments of transportation" and inserting "the Department of Transportation".

(h) Fundamental Properties of Asphalts and Modified Asphalts.—Section 5117(b)(5)(B) of such Act is amended—

(1) by striking "1999" and inserting "1998"; and

(2) by striking "$3,000,000 per fiscal year" and inserting "$1,000,000 for fiscal year 1998 and $3,000,000 for each of fiscal years 1999 through 2003".

SEC. 12. AUTOMOBILE SAFETY AND INFORMATION.

(a) Reference.—Section 7104 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(c) Conforming Amendment.—Section 30105(a) of title 49, United States Code (as amended by subsection (a) of this section), is amended by inserting after 'Secretary' the following: 'for the National Highway Traffic Safety Administration'.".

(b) Clean Vessel Act Funding.—Section 7403 of such Act is amended—

(1) by inserting "(a) In General.—" before "Section 4(b)"; and

(2) by adding at the end the following:

"(b) Technical Amendment.—Section 4(b)(3)(B) of the 1950 Act (as amended by subsection (a) of this section) is amended by striking '6404(d)' and inserting '7404(d)'.".

(c) Boating Infrastructure.—Section 7404(b) of such Act is amended by striking "6402" and inserting "7402".

SEC. 13. TECHNICAL CORRECTIONS REGARDING SUBTITLE A OF TITLE VIII.

(a) Amendment to Offsetting Adjustment for Discretionary Spending Limit.—Section 8101(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (1) by striking "$25,173,000,000" and inserting "$25,144,000,000"; and

(2) in paragraph (2) by striking "$26,045,000,000" and inserting "$26,009,000,000".

(b) Amendments for Highway Category.—Section 8101 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) Technical Amendments.—Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (c) of this Act) is amended—

"(1) by striking 'Century and' and inserting 'Century or';

"(2) by striking 'as amended by this section,' and inserting 'as amended by the Transportation Equity Act for the 21st Century,'; and

"(3) by adding at the end the following new flush sentence:

'Such term also refers to the Washington Metropolitan Transit Authority account (69-1128-0-1-401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96–184 and Public Law 101–551.'.".

(c) Technical Amendment.—Section 8102 of the Transportation Equity Act for the 21st Century is amended by inserting before the period at the end the following: "or from section 1102 of this Act".

SEC. 14. CORRECTIONS TO VETERANS SUBTITLE.

(a) Tobacco-Related Illnesses in Veterans.—Section 8202 of the Transportation Equity Act for the 21st Century is amended to read as follows (and the amendments made by that section as originally enacted shall be treated for all purposes as not having been made):

"SEC. 8202. TREATMENT OF TOBACCO-RELATED ILLNESSES OF VETERANS.

"(a) In General.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

'§1103. Special provisions relating to claims based upon effects of tobacco products

'(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.

'(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.'.

"(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

'1103. Special provisions relating to claims based upon effects of tobacco products.'.

"(b) Effective Date.—Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act.".

(b) GI Bill Educational Assistance for Survivors and Dependents of Veterans.—Subtitle B of title VIII of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new section:

"SEC. 8210. TWENTY PERCENT INCREASE IN RATES OF SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.

"(a) Survivors and Dependents Educational Assistance.—Section 3532 of title 38, United States Code, is amended—

"(1) in subsection (a)(1)—

"(A) by striking out '$404' and inserting in lieu thereof '$485';

"(B) by striking out '$304' and inserting in lieu thereof '$365'; and

"(C) by striking out '$202' and inserting in lieu thereof '$242';

"(2) in subsection (a)(2), by striking out '$404' and inserting in lieu thereof '$485';

"(3) in subsection (b), by striking out '$404' and inserting in lieu thereof '$485'; and

"(4) in subsection (c)(2)—

"(A) by striking out '$327' and inserting in lieu thereof '$392';

"(B) by striking out '$245' and inserting in lieu thereof '$294'; and

"(C) by striking out '$163' and inserting in lieu thereof '$196'.

"(b) Correspondence Course.—Section 3534(b) of such title is amended by striking out '$404' and inserting in lieu thereof '$485'.

"(c) Special Restorative Training.—Section 3542(a) of such title is amended—

"(1) by striking out '$404' and inserting in lieu thereof '$485';

"(2) by striking out '$127' each place it appears and inserting in lieu thereof '$152'; and

"(3) by striking out '$13.46' and inserting in lieu thereof '$16.16'.

"(d) Apprenticeship Training.—Section 3687(b)(2) of such title is amended—

"(1) by striking out '$294' and inserting in lieu thereof '$353';

"(2) by striking out '$220' and inserting in lieu thereof '$264';

"(3) by striking out '$146' and inserting in lieu thereof '$175'; and

"(4) by striking out '$73' and inserting in lieu thereof '$88'.

"(e) Effective Date.—The amendments made by this section shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998.".

SEC. 15. TECHNICAL CORRECTIONS REGARDING TITLE IX.

(a) Highway Trust Fund.—Subsection (f) of section 9002 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new paragraphs:

"(4) The last sentence of section 9503(c)(1), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(5) Paragraph (3) of section 9503(e), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

(b) Boat Safety Account and Sport Fish Restoration Account.—Section 9005 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new subsection:

"(f) Clerical Amendments.—

"(1) Subparagraph (A) of section 9504(b)(2), as amended by subsection (b)(1), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(2) Subparagraph (B) of section 9504(b)(2), as added by subsection (b)(3), is amended by striking 'such Act' and inserting 'the TEA 21 Restoration Act'.

"(3) Subparagraph (C) of section 9504(b)(2), as amended by subsection (b)(2) and redesignated by subsection (b)(3), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(4) Subsection (c) of section 9504, as amended by subsection (c)(2), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

SEC. 16. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century. For purposes of all Federal laws, the amendments made by this Act shall be treated as being included in the Transportation Equity Act for the 21st Century at the time of the enactment of such Act, and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act) that are amended by this Act shall be treated as not being enacted.

The SPEAKER pro tempore. Without objection, the bill is passed.

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3978, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS AUTHORIZATION ACT OF 1998

Mr. KIM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3504) to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance, as amended.

The Clerk read as follows:

H.R. 3504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "John F. Kennedy Center for the Performing Arts Authorization Act of 1998".

SEC. 2. CAPITAL REPAIR DUTIES.

Section 4(a)(1)(G) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)(G)) is amended to read as follows:

"(G) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary to maintain the functionality of the building and site at current standards of life, safety, security, and accessibility;".

SEC. 3. OPERATION AND MAINTENANCE DUTIES.

Section 4(a)(1)(H)(ii) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)(H)(ii)) is amended to read as follows:

"(ii) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operations of, the building and site, in a manner consistent with requirements for high quality operations; and".

SEC. 4. REPEAL OF AUDIT REQUIREMENT.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended by striking subsections (a) and (b) and inserting the following:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

"(1) $13,000,000 for fiscal year 1999;

"(2) $14,000,000 for each of fiscal years 2000 and 2001; and

"(3) $15,000,000 for each of fiscal years 2002 and 2003.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

"(1) $20,000,000 for each of fiscal years 1999, 2000, and 2001;

"(2) $19,000,000 for fiscal year 2002; and

"(3) $17,000,000 for fiscal year 2003.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3504, as amended, the John F. Kennedy Center for the Performing Arts Authorization Act of 1998, authorizes appropriations for operations, maintenance, security, and capital improvements and repair of the facility through the year 2003. In addition, the bill provides further criteria for defining capital repair and operation and maintenance.

The bill provides authorization of $59 million for operations, maintenance, security; and $87 million for capital improvements.

Initially the bill provided for an 11-year authorization. However, it was amended in committee to limit the authorization of appropriations to a 5-year period, and further to eliminate the requirement for the General Accounting Office to conduct periodic audits of the financial operations of the Center. Why? Because the Center performs annual audits which fulfill entirely the original statutory mandates anyway.

Mr. Speaker, the John F. Kennedy Center for the Performing Arts is a national Presidential monument and a living memorial. H.R. 3504 ensures that the Center remains a living memorial to the late President.

When Congress designated the National Cultural Center as the John F. Kennedy Center for the Performing Arts in 1964, it set a policy of the presentation of classical and contemporary music, opera, drama, dance and other performing arts from the United States and other countries.

The act directed the board of trustees to promote and maintain the Kennedy Center as the National Center for Performing Arts by developing a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults and educators.

The Kennedy Center was also charged with the responsibility of initiating, developing and maintaining a program for national and community outreach for the arts. These responsibilities are in addition to the responsibility of maintaining a memorial to President Kennedy.

I am pleased to say the board has achieved these objectives through successful fund-raising to support the performing arts and the prudent expenditure of Federal funds to operate, maintain and improve the building. The legislation before us today will continue the work begun in 1991 to upgrade, improve and maintain the 1.5 million square foot facility.

Since its opening in 1971, the facility has exceeded all expectations in visitor attendance. Today the Kennedy Center attracts 3.5 million visitors annually. This is in addition to the 1.7 million children who attend the 2.800 performances held annually at the Center.

The building is a blend of modern architecture and functional requirements. This 1.5 million square foot structure houses 8 theaters, 3 restaurants, 3 foyers, parking for 1,450 vehicles, and 23 elevators, 6 escalators, office space, rehearsal rooms, and 2,000 doors, all requiring some form of security. Originally constructed at the cost of $78 million, the replacement value of the Kennedy Center today in today's dollars is estimated at $500 million.

For over two decades the building received minimal care. The roof leaked, the facade was crumbling, systems were wearing out. The Park Service and Kennedy Center could not communicate on priorities for needed repair.

In 1994 Congress transferred the responsibilities of the care and maintenance to the board of the Kennedy Center and provided a steady stream of funding to repair, maintain, secure and improve the building. This legislation directed the board to develop and submit to Congress a comprehensive building plan for capital improvement programs. That plan was submitted, and annual updates have been submitted as well.

The authorization for capital repair for the next 5 years will allow the Center to undertake a major renovation to the Opera House and related facilities called the central block. This will include reconfiguration to the Opera House to allow for full accessibility, and improved life and fire safety features. Improvements to the mezzanine level of the foyers will include the addition of eating facilities. Office space, rehearsal rooms and related space will also be renovated.

Mr. Speaker, this legislation enjoys the support of both sides of the aisle in Congress, as well as the administration and the Kennedy Center.

In closing, I want to pay particular tribute to the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Minnesota (Mr. OBERSTAR) members of the board of trustees who also cosponsored this legislation, and who have taken a personal interest in ensuring the Kennedy Center remains on track through this massive building renovation program.

I support H.R. 3504 and urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as she may consume to the tremendous gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman from Ohio (Mr. TRAFICANT) for yielding this time to me, and I thank the chairman and the ranking member for their prompt and diligent work on this bill that would indeed give to what I think every Member recognizes as a national treasure funds necessary for its upkeep, maintenance and security.

Mr. Speaker, this bill passed our committee by a voice vote not only because it is noncontroversial but because it involves an institution that has the support of the Nation and the great respect and gratitude of the Nation.

If there has been anything controversial about the Kennedy Center, it has been its maintenance and security. To the credit of this body, the Congress in 1991 transferred its maintenance and upkeep from the Park Service to the Board of the Kennedy Center. The Park Service was miscast in this role and, of course, with all that it has to do, could not fulfill that role in the way we expect it. What we now expect in this bill is that necessary maintenance and security matters will be upgraded.

For example, the ADA provisions which now need to be fully recognized and implemented will be taken care of by this bill.

Mr. Speaker, this is a facility built in 1971. We are coming onto 30 years old. Its upkeep and maintenance becomes more and more important when we recognize that it has become a more and more popular facility for all of our constituents and people around the world to visit.

I must say that the Kennedy Center has been wonderfully innovative in its outreach to the American people, and I am sure every Member of this body and of the other body are grateful for the way in which it has become a truly national institution.

As for those of us fortunate enough to live in the District of Columbia, we have formed an increasing working partnership with the Kennedy Center. Most recently, we have begun to talk with the Kennedy Center about a specific relationship to the Duke Ellington School of the Arts; and those talks and that partnership would be uniquely promising; and I would hope ultimately for the support for this body on that matter.

Meanwhile, this bill simply assures that the Kennedy Center will be in good repair and will be secure when 25 million Americans and people from around the world visit the Nation's Capital and when so many of them believe they simply cannot leave without visiting the Kennedy Center.

Mr. Speaker, I thank the gentleman for having yielded this time to me.

Mr. KIM. Mr. Speaker, I do not have any other speakers at this time.

I yield back the balance of my time, Mr. Speaker.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR) our ranking member, who probably did not get the credit he deserved on the recent BESTEA bill.

I want to thank him as one of his members of the committee and thank him for the job he has done at the Kennedy Center because his fingerprints are on every improvement possibly since I have been in Congress for 14 years, and they certainly are in this bill, and we are glad to take his leadership.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio (Mr. TRAFICANT) the former chairman of the Subcommittee on Public Buildings and Economic Development for those kind remarks. I thank the gentlewoman from the District of Columbia for her strong advocacy for the Kennedy Center and the chairman, the gentleman from California (Mr. KIM) for leading the way on this reauthorization and bringing it to the floor so expeditiously.

The gentleman from Pennsylvania (Mr. SHUSTER) and I both serve on the Board of Trustees of the Kennedy Center and have participated very actively and vigorously in the deliberation of the Board on the improvements that have been made and will continue to be made under the 5-year reauthorization.

Literally, the activities authorized under this bill will transform the Kennedy Center into the vision of a national, vital Center for the performing arts, far beyond its already outstanding accomplishments. It will make the Center more accessible and available to the general public, will bring a wide variety of new activities and life to the Center's public spaces. Work already has been completed on replacement of the roof at the various levels, replacing of the roof terrace and repairs to the planters.

Next to come are security improvements. Sad to say, we have to think about security at the Kennedy Center as one of the most visible and public centers in our Nation's capital but one that also is an inviting target for terrorists, and a very extensive security analysis has been completed. The authorization will allow for a centrally controlled security system, door access controls for the building, the garage and for sight monitoring and better access that will move traffic in a continuous flow through the Center, access for people buying tickets so that there will be no stoppage of traffic and invitation for opportunity for terrorist activities.

Site work will include new signs, modification to the plaza circulation pattern and improved landscaping to preserve the good-neighbor spirit of the Kennedy Center with its nearby neighbors.

The comprehensive building plan has been established around a series of remedial actions to improve the many building deficiencies and make the interior space more attractive and more user friendly.

In the future, visitors to the Center who come to the two principal halls will be excited about the new level of activities, the new opportunities, I should say, and the many activities that will be offered at different levels of the Center halls. It will be much more friendly to users of the Kennedy Center, to the visitors, more opportunity for food and for relaxation of the guests. It just is going to make this whole Kennedy Center come alive.

And I really compliment President Larry Wilker for the splendid job he has done in developing the improvements that we have been discussing in this reauthorization bill as well as his important work as the artistic director at the Kennedy Center and bringing so many high-level performances to the Center and for his initiative with the Millennium Stage that has opened the great hall of the Kennedy Center to the public every day at 6 o'clock for free performances. This makes the Kennedy Center truly a people's center for cultural activities and for the performing arts in all of their exciting and stimulating manner.

I only wish that all of us in this Chamber could have more time to partake of those cultural activities rather than being locked up here in session late night after late night so that we, too, could be enlivened and enriched by the many offerings of the Kennedy Center.

Again, I want to thank the gentleman from Ohio for his persistent leadership over many, many years on issues involving the Kennedy Center. His fingerprints, too, are on all the building improvements and innovations that have come about at the Center, and I thank him for his vigilance, and I thank the gentleman from California (Mr. KIM) for his splendid participation and partnership in this great endeavor.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to once again thank the ranking member and our chairman, the gentleman from Minnesota (Mr. OBERSTAR) for his work with the Kennedy Center on an ongoing basis in all areas and the gentleman from Pennsylvania (Mr. SHUSTER) the chairman of the committee who works very well. Both the ranking member and the chairman at the top of this committee work well.

I want to thank the gentleman from California (Mr. KIM). I want to thank Mr. KIM for his contributions on this legislation, and I want to thank him for his friendship and, understanding that he had not experienced well in the election, we will miss him. I want to compliment him for the hard job that he has done and how he has addressed himself to details, and I want to thank him for his bipartisanship and his attitude and spirit in doing that.

With that, I would like to say this: I think President of the Kennedy Center Larry Wilker deserves a lot of credit. I believe the Kennedy Center right now does not look as good as it should as the focal point of arts, theater and culture in America. Quite frankly, when one goes by the building it is not all that it should be. We must make it all that it should be.

Now the Kennedy Center asked and Mr. Wilker proposed a long 11-year program; and, quite frankly, he was looking at long-range scenarios to affect those goals.

We particularly felt at the subcommittee/committee level that we should maybe take a couple bites of that apple, and we made a 5-year restriction in here, but that could be addressed. We want the Kennedy Center people to know that did not fall on deaf ears and that will be looked at in the upcoming Congress, and an extension of that is very possible considering the type of activity that they are involved in.

But this is our treasure. This is the focal point. And ladies and gentlemen of Congress, when we go around this beautiful city and see all these great monuments, the Kennedy Center is simply not all it should be. It must become everything that it is possible of being.

I will, furthermore, like to see in years to come, envision a day where there may be three, four, or maybe five or six regional satellite Kennedy Centers operated by the Kennedy Center that takes it closer to all of our people so they do not have to come all the way down here to the Nation's capital.

But, in any regard, I want to thank the gentleman from California (Mr. KIM), thank the committee. I want to thank Rick Barnett and Susan Brita of our staff.

And, with that, I ask for an aye vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and pass the bill, H.R. 3504, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 3504, as amended.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from California?

There was no objection.

CARL D. PURSELL POST OFFICE

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3808) to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the "Carl D. Pursell Post Office," as amended.

The Clerk read as follows:

H.R. 3808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 47526 Clipper in Plymouth, Michigan, shall be known and designated as the "Carl D. Pursell Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in section 1 shall be deemed to be a reference to the "Carl D. Pursell Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 3808, a bill to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, was introduced by the gentleman from Michigan (Mr. UPTON) on May 7, 1998, and was originally cosponsored by the entire Michigan State delegation which is pursuant to full committee policy.

Mr. Speaker, this legislation is unanimously amended by the Committee on Government Reform and Oversight to correct the address to 47526 Clipper, creating the deletion of the word Drive pursuant to information that was received from the Postal Service.

Mr. Speaker, H.R. 3808 represents a former Member of this body, Representative Carl D. Pursell, who was elected to the 95th Congress and was reelected to represent the Second Congressional District of Michigan for seven succeeding terms from 1977 through 1992.

Born in Imlay City, Michigan, in his home State, after receiving his bachelor's degree from Eastern Michigan University he served in the United States Army for 2 years and then earned his master's degree. He then went on to a long and distinguished career in public service and, as I have mentioned already, coming to this House for an equally distinguished term.

Currently, Mr. Pursell resides in Plymouth, Michigan, where he has been for his entire life; and I think most importantly, Mr. Speaker, he and the contributions that he has made to his community, to his State and, ultimately, to his Nation compile the kind of record that I think certainly merits this kind of designation.

We do have several Members here today from the Michigan State delegation to whom I will eventually yield time. I know we will have more particular comments upon this man and his life and his service, and we are all looking forward to that.

But, for the moment, Mr. Speaker, I reserve the balance of my time.

☐ 1445

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first of all thank the gentleman from New York (Mr. MCHUGH) who, throughout his service as chairman of this very important subcommittee, has extended every courtesy to those of us on the Democratic side of the aisle. I would like to thank the gentleman.

I would also like to rise in support of H.R. 3808, offered by another of my colleagues, one who I serve on the Committee on Education and Workforce with, the gentleman from Michigan (Mr. UPTON).

Mr. Speaker, I would like to say, obviously we fully support the naming of this postal facility on behalf of a former colleague who served for more than a decade and a half as a distinguished Member of the United States Congress, and especially since the gentleman served prior to that as a member of the State Senate in Michigan, and I, as a member of the State Senate in Pennsylvania, have a certain affection for people who come to the House from important roles in our State legislative bodies. I want to also recognize his contributions and service on the Committee on Appropriations.

Mr. Speaker, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me return the kind words of the ranking member. It has been on these bills, as well as all business before the subcommittee, my honor and pleasure to work with the gentleman and the members of the minority side. They come to this subcommittee with only the best of intentions, and I do think it makes for, perhaps not unique, but certainly a very enjoyable experience that is reflected in these three bills.

Mr. Speaker, I yield three minutes to the gentleman from Michigan (Mr. UPTON), the main sponsor of this legislation.

Mr. UPTON. Mr. Speaker, this was an easy bill for me to introduce, and it was cosponsored by every single member, Republican and Democrat, of the Michigan delegation.

Carl Pursell served in this House from 1977 to 1993, and the post office we are naming today is in fact very close to Carl's home in Plymouth, Michigan. Carl served in the Army, he was a businessman, he was an elected official, both at the county level as well as a State senator, and he and his wife, Peg, a teacher in Plymouth, have lived in Plymouth virtually all their life.

I got to know Carl as a member of his softball team when I was a staffer on the Hill back in the seventies, and I got to know him quite a bit more when I served at the Office of Management and Budget, as Carl Pursell was a founder of the Gypsy Moths.

The Gypsy Moths, this was a Republican group, certainly a distinct minority, Republicans were, back in the early eighties, but they led the way to forging bipartisan cooperation and agreements with the other side of the aisle and were able to pursue Ronald Reagan's successful agenda that passed here in the 1980's.

Carl Pursell served as ranking member on the Subcommittee on Labor-HHS of the Committee on Appropriations. The chairman of that subcommittee, Mr. Natcher, he and Carl were very committed to education and health research, and helped maneuver those bills through law, and impacted millions and millions of Americans through this House floor.

Carl Pursell deeply cared about the budget deficit. In fact, through his work in the 92 Group and others, he worked on a freeze budget, freezing outlays, no more than inflation, and his budget, in fact, failed in the House by only one vote, as I recall. Had that budget passed back in the eighties, we would have gotten a balanced budget long before today.

In 1992, Michigan lost two Congressional seats because of redistricting. Sadly, Carl Pursell's was one of those. Yes, he could have run in another part of his old district, but he would have had to move from his residence and his community of Plymouth, Michigan, and he decided that he would stay.

Always a competitor, Carl Pursell, whether it be on a tennis court or rooting for the Detroit Tigers, thank goodness for the Detroit Red Wings, he now serves on Eastern Michigan's board and coaches kids' soccer in Plymouth, where he was, in fact, earlier this afternoon. Only he and Ebeneezer Pennimon, who served as a Whig in this House from 1851 to 1852, have ever served in the Congress hailing from Plymouth, Michigan.

This Federal facility is deserving of his fine name through his excellent public service, and I would urge all of my colleagues to respect Carl Pursell and to vote "yes" on this bill later this afternoon.

Mr. MCHUGH. Mr. Speaker, I yield three minutes to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I want to second the remarks of my good friend, the gentleman from Michigan (Mr. UPTON), and rise in support of H.R. 3808, the bill to name the United States Post Office in Plymouth, Michigan, after our former colleague, Carl D. Pursell.

The gentleman from Michigan (Mr. UPTON) spoke about Carl's leadership, particularly to bring Congress to its fiscal senses, but I want to speak about him on just a personal note. He was a leader within our delegation. He took great personal interest in the committee assignments Members received and their ability to get started in the Congress. It was his intellect and I think his experience with people, serving at different levels of government, teaching, publishing, as a State senator, and then in Congress on the Committee on Appropriations, but it was that leadership quality that he had, that ability to work with people, certainly his sense of humor, that brought us together and made us a more effective delegation here in Washington.

So it is with great honor that I rise to support this legislation. I think it is a fitting tribute to our colleague. Without redistricting, I am sure he would be serving here today in the Congress. We miss him very much.

Mr. MCHUGH. Mr. Speaker, I yield three minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I want to thank the chairman, the gentleman from New York (Mr. MCHUGH) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for being down here for what we consider a very large, extraordinary Michigan moment, and I rise in strong support of H.R. 3808.

Carl Pursell is a lifelong Michigan resident. He served, as you probably caught from my colleagues, eight terms in this body. He was a friend of mine. I sought his counsel, in fact, on a very important matter because I represent part of his district. The gentleman from Michigan (Mr. UPTON) spoke to the fact that he lost out in some reapportionment matter in 1992, and so I am very familiar with not just Carl Pursell but also his constituents.

From his position on the Committee on Appropriations, Carl utilized his experience as a former educator to become a national leader on education. As the ranking member on the Subcommittee on Education of the Committee on Education and the Workforce, Carl was instrumental in improving the quality of the local schools in the district and making the University of Michigan one of the premier institutions of higher learning in this country. He also was responsible for securing funding that enabled Madonna University, which is a private college in my district, to offer a degree program for interpreters for the hearing-impaired.

Prior to being elected to Congress in 1976, Carl served, as I believe my colleague mentioned also, on the Wayne County Board of Commissioners and in the Michigan State Senate. His dedication to public service was second to none, and his accomplishments, I believe, reflect the commitment and tireless effort he put into his work as a legislator.

As has been mentioned, he currently resides in Plymouth, Michigan with his wife Peggy, and is making a difference in that community even today by serving on the Eastern Michigan University Board of Regents.

I want to commend the gentleman from Michigan (Mr. UPTON) for introducing this bill to designate the United States Post Office located at Clipper Drive in Plymouth as the Carl D. Pursell Post Office. Carl was responsible for securing the funding to build this post office, and I believe it is only appropriate that it bear his name.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with a final thanks to my friend, the gentleman from Pennsylvania (Mr. FATTAH), and the staff who worked on this, I would urge my colleagues all to join in supporting this very worthy piece of legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 3808, as amended.

The question was taken.

Mr. McHUGH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3808.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

STEVEN SCHIFF POST OFFICE

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3630) to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road NE. in Albuquerque, New Mexico, as the "Steven Schiff Post Office," as amended.

The Clerk read as follows:

H.R. 3630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The facility of the United States Postal Service located at 9719 Candelaria Road NE. in Albuquerque, New Mexico, and known as the Eldorado Station Post Office, shall be known and designated as the "Steven Schiff Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Steven Schiff Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3630, honoring our late colleague, Steven Schiff of New Mexico, was introduced by the chairman of the full committee, the gentleman from Indiana (Mr. BURTON) on April 1, 1998. Pursuant to the policy of the Committee on Government Reform and Oversight, the legislation is indeed cosponsored by all the Members of the New Mexico delegation, although the sponsor himself is from Indiana.

It is a fitting tribute to Steve, as all of us knew him better, that the chairman of the committee on which he served with dedication and concern for issues, would sponsor this legislation as an outgoing tribute to his memory.

The legislation in fact redesignates the facility of the United States Postal Service located at 9719 Candelaria Road NE., in Albuquerque, New Mexico, as the "Steven Schiff Post Office." The Committee on Government Reform and Oversight amended the bill to read "Steve Schiff," as I mentioned, the name by which many more of us knew him, known as Steve, of course, by his friends, his family and his constituents, and the name change was suggested indeed by Mrs. Schiff, and was unanimously accepted by his colleagues on the committee on which Steve served with distinction.

Steven Harvey Schiff was born in the great City of Chicago. He earned his undergraduate degree from the University of Illinois, but moved to earn his law degree from the University of New Mexico Law School. He was admitted to the bar and stayed in New Mexico to become the assistant district attorney of Bernalillo County for two years. He then became a trial attorney, but returned to public service as an assistant city attorney, counsel for the Albuquerque Police Department, and district attorney for his county for eight years.

Steve earned the reputation of being tough on crime and going by the book. He served in the New Mexico Air National Guard and was an Air Force Reserve Colonel. During the Persian Gulf crisis in 1991, Steve performed legal duties, such as drafting wills for military reservists. In 1996 he served for several days in the Bosnia theater as a judge advocate general involved in international legal matters.

Steve Schiff was elected by the First District of New Mexico to the 101st Congress, and to three succeeding Congresses. He succeeded a gentleman who left the house after 20 years and became Secretary of Interior under President Bush.

Steve was a member of several committees during his service in the House: The Committee on Standards of Official Conduct; the Committee on the Judiciary, on which he served as Vice Chair of the Subcommittee on Crime; the Committee on Science, on which he served as Chairman of the Subcommittee on Basic Research; and, as I have mentioned, the Committee on Government Reform and Oversight.

□ 1500

Steve will be remembered as a Member who voted his conscience. He sponsored legislation and asked questions that were not always popular, though his tough stands and his caring spirit made him very popular himself on both sides of the aisle by Members and staff.

We have the honor of having before us today, Mr. Speaker, two bills, this and the prior one considered, who are bestowing honors on gentlemen that are still fresh in the memories of many of the Members of this House.

Having served with Steve, I can say he was always what was good about this House, always what was good about this Congress, a man who cared only about his constituents and what was best for his country. It is with a great deal of honor that I ask my colleagues to join with me today in supporting this bill in honor of Steve Schiff.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, utilizing whatever time I may consume, let me, first of all, join in support of H.R. 3630, which would name an appropriate facility in New Mexico after our former colleague. As someone who serves on the House Ethics Committee and also had an opportunity to serve with Congressman Schiff on the Committee on Government Reform and Oversight, I would like to offer my personal condolences to his wife of some 29 years and also for the rest of his immediate and extended family.

His service, not only in this Congress as one of some 12,000 or so Americans who have served in this body but in the Armed Forces and as someone who is deeply committed to a whole host of principles, it was the 1998 American Almanac of American Politics in which it said that he was a person who followed what was right, irrespective of the politics of the moment. I think that that best exemplifies the colleague that we all knew and understood to be someone who we could respect for his independence here in the House.

Mr. Speaker, I would like to join in the favorable consideration and hopefully unanimous consideration of this naming bill after someone who has not only served but served this institution with dignity. We have the finest postal service in the world, and we want to also take a minute to utilize the opportunity to name some of these facilities after some of the finest people that we know.

Mr. Speaker, I reserve the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker, it is perfectly responsible for the House to name a building after one of our most respected Members. Steve Schiff would be on anyone's bipartisan list of the five most respected Members in the House of Representatives. He was a workhorse. He was diligent. He was thoughtful. Above all, he was wise.

I served with him when we were in the minority in the 103rd Congress, and he was the ranking member on a subcommittee of the Committee on Government Operations and in the 104th and 105th Congress, where he was active on the Committee on Government Reform and Oversight.

Steve was an inspiring person, even though he was a very quiet person. He did his work. He came prepared. He asked the intelligent question that went to the very core of the issue. That skill probably came from background as a prosecutor. He could get to the core matter and get the evidence that was needed by an investigating committee.

When he passed away after the serious illness that he had for the last year or so, every person I knew in this House used the very words I have used to describe Steve. I know all of us will unanimously approve this legislation so that his name will be on that building as long as the United States Postal Service exists, which is hopefully going to be a very long time.

Mr. FATTAH. Mr. Speaker, I yield whatever time he may want to utilize to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I rise in support of this piece of legislation. As the gentleman from California (Mr. HORN) has just suggested, I think anybody who worked with Steve Schiff would use the same kind of words.

I sat with him on the Ethics Committee and watched him deal with matters affecting Members on both sides of the aisle. Steve always kept his eye on the view that he wanted to know what was right, what was the situation and how should it be remedied. It did not make any difference to him who it was. He was fair beyond what I think we see very often in this House.

I think that one of the things that is missing, Steve had a great sense of humor. When we were into some kind of tight spot in the Ethics Committee, he could always come up with a joke or some sort of wry phrase that would take the tension out of the situation.

In many ways, he was the finest example of what people should expect from Members of Congress. I think it is a real honor that we can give this honor to him today and to his family.

Mr. FATTAH. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time either. And with final urging to honor as a unanimous body the deeds and the life of a great American and a fine human being, I urge my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill H.R. 3630, as amended.

The question was taken.

Mr. MCHUGH. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 3630.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1891

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 1891.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

NANCY B. JEFFERSON POST OFFICE BUILDING

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2798) to redesignate the building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, as the "Nancy B. Jefferson Post Office Building."

The Clerk read as follows:

H.R. 2798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, and known as the Midwest Post Office Building, shall be known and designated as the "Nancy B. Jefferson Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Nancy B. Jefferson Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2798 was introduced by the gentleman from Illinois (Mr. DAVIS), our distinguished colleague, who, indeed, serves on the Subcommittee on the Postal Service of the Committee on Government Reform and Oversight.

The legislation was introduced November 4, 1997, and enjoys the cosponsorship of the entire House delegation from that State as pursuant to the policy of the full committee.

H.R. 2798 redesignates the building of the United States Postal Service located at 2419 West Monroe Street in Chicago, Illinois, as the Nancy B. Jefferson Post Office Building.

Mr. Speaker, I know that the gentleman from Illinois (Mr. DAVIS) is here, and I certainly look forward to his comments, and I am sure he will detail what is a very interesting and, I think, a very admirable life. But I would simply note that many times when we come to the floor of this House to extend this honor, the bills are brought on behalf of individuals who are known to their communities but often on a more wide basis as well.

The first two examples today, fully meritorious, of course, but did provide the opportunity to honor two gentlemen who, through their really unselfish actions in this House, were known way beyond the borders of their home communities.

We have before us today in these last two bills the opportunity to honor people who, perhaps, were not known over a wide geographic area but who made remarkable impacts in their communities, people who I think really do embody the spirit of this great country and tell the tale in many ways about how America has become the greatest democracy that the world has ever known.

Nancy Jefferson was a community organizer, one who is affectionately known as the Mother of the West Side. She led the fight to ensure equal rights for all people, the disabled, welfare recipients, single parents, the widowed, and the poor.

As I know we will hear, she acted from the time she overcame rather impressive obstacles as a young girl to her later years in public service some amazing challenges to be, in the lives of many, an inspiration and truly the kind of person. I think, that this House can be proud in bestowing the honor of a postal naming upon.

I have a great deal of pride and I thank the gentleman from Illinois (Mr. DAVIS) for allowing us to share in this moment.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me again thank the chairman of the subcommittee for his cooperation in these matters. H.R. 2798 is a naming bill that should enjoy the unanimous support of this House, for it does in such a very real way represent the naming of a facility in honor of someone who has improved the life chances of so many through her work and through her actions as a community organizer.

I want to use the time that I will exercise here really to thank the gentleman from Illinois (Mr. DAVIS), my colleague, for bringing this matter to our attention; for it was through his extraordinary leadership and persistence that the House now today will consider this naming bill and the one that will follow.

It is, as the chairman mentioned, quite easy sometimes for us to proceed along a course when we are naming a facility after someone who all of us know or whose work that we are all familiar with, but the gentleman from Illinois (Mr. DAVIS), serving as the representative of the people of the Chicago and of the West Side, really worked tirelessly to have our committee act on this bill.

Mr. Speaker, I yield whatever time that may be necessary to the gentleman from Illinois (Mr. DAVIS) for him to express the importance of this legislation prior to the House's final action on it.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to take this moment to express my appreciation to the gentleman from New York (Mr. MCHUGH), the subcommittee chairman, and to the gentleman from Pennsylvania (Mr. FATTAH), the ranking member, not only for the outstanding work that they do with this committee but also for yielding time to me.

Mr. Speaker, I rise today to pay tribute to a heroine, a great "shero" in my district, Ms. Nancy B. Jefferson, who meant a great deal to the City of Chicago and to the State of Illinois.

Prior to her death on October 18, 1992, Nancy B. Jefferson was recognized as one of the premier grassroots community organizers in the Nation. She served as president and chief executive officer of the Midwest Community Council, a nonprofit grassroots community organization for more than 25 years.

She spent a lifetime helping others. She became a friend to the friendless and provided hope for the hopeless, which led to her being affectionately called the Mother Theresa of the West Side.

While serving as CEO of the Midwest Community Council, Ms. Jefferson led efforts to ensure equal rights and equal protection and equal justice for all people.

Her extensive exposure to social concerns as a nurse in a West Side clinic compelled her to do something about the ills of a community. She served as a champion for welfare recipients, the disabled, the poor, single parents, and those who were disenfranchised.

She dreamed of a day where the least and the left out of society would have a voice and adequate representation. To that end, she put together a network of more than 100 block clubs where there was not only an exchange of ideas but support for spiritual and physical development of the community.

□ 1515

She sought to rebuild and transform decaying and dying communities. She developed several social service programs which are currently in place, including the Chicago Parent Union, and Crime and Parent Intervention.

Her commitment, dedication, and zeal for excellence netted her an appointment to the Chicago Police Board by former Mayor Jane Byrne. Governor Jim Edgar saw her talents and appointed her to the Illinois Human Rights Commission in 1990. She was also a confidante of the late Mayor Harold Washington.

She was, indeed, an individual who walked with kings and queens but never lost the common touch. She left a legacy that raised standards and ensured that the poor had equal rights and equal opportunity. Hers was a light that shines bright with the words that there was hope, even in the midst of hopelessness.

She was the essence of what democracy is all about. I am delighted to have introduced this bill to name a United States post office in her honor.

Mr. Speaker, I again thank the gentleman from New York (Mr. MCHUGH) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it should be clear that, along with the rules and precedents set by our subcommittee, that this has been a piece of legislation that has been jointly cosponsored by all of the members of the Illinois delegation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would, first of all, note the addition to my comment about Mother Teresa. I think that is even more appropriate, although certainly the accolade of being a mother to a community is high praise, indeed. But that even, it seems to me, reflects more clearly the high regard, the respect and admiration that this community held this great woman in. I urge my colleagues to support this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 2798.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2798.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RETURN TO HOUSE AFTER MEDICAL LEAVE

(Mr. BATEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATEMAN. Mr. Speaker, I come to the well of the House to make what is, at least for me, a very happy announcement. The announcement is that I have ended the medical leave of absence that has prevented me from participating in the normal activities of the House.

To my colleagues and so many others who since my surgery on April 17 have remembered me in their prayers and expressed their concern for my recovery, I wish to say, thank you. Your prayers have been answered. The medical prognosis is that when I have fully recovered from the lung surgery, my pulmonary and cardiovascular systems should be stronger than before I entered the hospital and that no further medical treatment is needed. For this, I am truly blessed and deeply grateful.

I would like to express my appreciation to our attending physician, Dr. John Eisold; to a remarkable thoracic surgeon, Dr. Edward Zech, and his staff at the National Naval Medical Center in Bethesda, Maryland; to Dr. David Ferguson, a cardiologist on the staff of the National Naval Medical Center; and to Dr. William Harris and his staff, who treated me at Riverside Hospital in my hometown of Newport News, Virginia.

Mr. Speaker, I am pleased to rejoin my colleagues of the House and to more fully share in the work of the people's House.

PERSONAL EXPLANATION

Mr. BATEMAN. Mr. Speaker, while on medical leave of absence, I missed the following votes. Had I been present, I would have voted as follows:

Rollcall votes: 100—Yea; 101—Yea; 102—Nay; 103—Nay; 104—Nay; 105—Nay; 106—Nay; 107—Yea; 108—Yea; 109—Nay; 110—Yea; 111—Yea; 112—Yea; 113—Nay; 114—Yea; 115—Nay; 116—Yea; 117—Yea; 118—Nay; and 119—Yea.

120—Yea; 121—Yea; 122—Nay; 123—Nay; 124—Nay; 125—Yea; 126—Yea; 127—Yea; 128—Yea; 129—Yea; 130—Yea; 131—Yea; 132—Nay; 133—Yea; 134—Yea; 135—Yea; 136—Nay; 137—Nay; 138—Yea; 139—Yea; 140—Yea; 141—Yea; 142—Yea; 143—Yea; 144—Yea; 145—Yea; 146—Nay; and 147—Nay.

148—Yea; 149—Yea; 150—Yea; 151—Yea; 152—Nay; 153—Yea; 154—Yea; 155—Nay; 156—Nay; 157—Nay; 158—Nay; 159—Nay; 160—Yea; 161—Yea; 162—Yea; 163—Yea; 164—Yea; 165—Yea; 166—Yea; 167—Yea; 168—Yea; 169—Yea; 170—Yea; 171—Nay; 172—Yea; 173—Yea; 174—Yea; and 175—Yea.

176—Yea; 177—Yea; 178—Yea; 179—Yea; 180—Nay; 181—Yea; 182—Nay; 183—Yea; 184—Nay; 185—Nay; 186—Yea; 187—Nay; 188—Nay; 189—Yea; 190—Yea; 191—Yea; and 192—Yea.

REVEREND MILTON R. BRUNSON POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2799) to redesignate the building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, as the "Reverend Milton R. Brunson Post Office Building."

The Clerk read as follows:

H.R. 2799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, and known as the Austin Post Office Building, shall be known and designated as the "Reverend Milton R. Brunson Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Reverend Milton R. Brunson Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2799, a bill that redesignates the building of the United States Postal Service located at 324 South Laramie Street in Chicago, Illinois, as the Reverend Milton R. Brunson Post Office Building, was also introduced by our distinguished colleague, the gentleman from Illinois (Mr. DAVIS) on November 4, 1997, and cosponsored by each member of the Illinois delegation, which is pursuant to the policy of the full committee.

Once again, as with H.R. 2798, Mr. Speaker, the gentleman from Illinois (Mr. DAVIS) reminds us all that it is not just appropriate but in many ways the duty of this House to recognize people who make a difference in the lives of people and make a difference in the quality of life and fortunes of their community.

Indeed, H.R. 2799 honors such a man. Mr. Milton R. Brunson was the founder of the Thompson Community Singers and guided them for 48 years. These singers indeed became well known around the world for gospel music. In fact, in 1995, Mr. Brunson and the Choir won a Grammy Award for the song entitled "Through God's Eyes."

He used the voice of his gospel not just to bring the word of God, although that is certainly the most important outcome of that type of activity, but, as well, to provide positive role models for others to help them to become productive citizens.

In fact, many of the members of the Thompson Community Singers have become lawyers and judges and teachers and doctors. So through this gentleman's work he made a difference not only in the lives of those who he touched but the lives that those good people went on to touch after him.

Here again, as with the previous bill, I want to extend my appreciation particularly to the gentleman from Illinois (Mr. DAVIS) for reminding us that this House can indeed, through these kinds of honors, recognize truly extraordinary people.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also join in support of H.R. 2799. The naming of this postal facility in Chicago is also quite important.

One might wonder why the United States Congress would take time to go through the process of naming postal facilities after Americans. But I think, as the chairman has mentioned, there are people among us who have risen above the ordinary and achieved extraordinary accomplishments and achievements in their lives and, even beyond that, have made a contribution to the broader community and to the country as a whole.

In this case, I refer to Reverend Milton Brunson for his work and the inspiration that he has brought through the gospel singing, and not only his recognition with a Grammy Award but his comforting of really millions of American families through their opportunity to listen to his work and his words in song.

I would like to thank my colleague again, the gentleman from Illinois (Mr. DAVIS), who has been quite persistent in making sure that this subcommittee appropriately recognizes people who have made these types of contributions in his community and has been eager to find the time within the House's schedule in which both the subcommittee and full committee and now the House could act on these bills. This is quite important to the people that he represents, and he has done a very good job in making sure that our committee understands its role in helping him achieve his purpose here in the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS), to give the House a full understanding of the importance of this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FATTAH) for yielding time to me, and I also thank the gentleman from New York (Mr. McHUGH).

Mr. Speaker, I am pleased to have introduced this bill in honor of the late Milton R. Brunson. Reverend Brunson was born and raised in Chicago and served as pastor and music director of the 2,500-member Christ Tabernacle Baptist Church until his death last year. He was dynamic, energetic, and a leader in the African American and world community for nearly half a century.

Reverend Brunson was a giant in the music world. He and his choir, the Thompson Community Singers, became known from the West Side of Chicago all the way to Europe and around the world. As a matter of fact, they just recently returned from a concert tour in Italy.

It is often said that the measure of one's life is in the number of lives he or she touches in a positive way. Reverend Brunson touched thousands of lives through his ministry and music. His was a ministry of resurrection and restoration. He refused to quit, for even in his congregation and the community at large he saw great hope and untapped potential.

In 1948, he founded the Thompson Community Singers, which he used as a tool to get people to dream beyond their circumstances. He guided the Thompson Community Singers for 48 years; and throughout that time, as we have heard, he and the group were nominated for several Grammies and had several albums reach number one on the gospel charts. In 1995, Reverend Brunson and his choir won a Grammy award for "Through God's Eyes."

In order to be a member of the choir, he set strict standards. One could not be a gang member, a drug user, or high school dropout. He set high standards, and thus his choir turned out members who would go on to become lawyers, doctors, teachers, judges, and gospel singers, as well as other productive citizens in society.

The Choir's famous gospel alumni include Jesse Dixon, Ethel Holloway, Delores Stamps, his wife, Jo Ann Brunson, and the great Rickey Dilliard, among others.

His positive message through his gospel music continues to reach and uplift millions of people even from the grave. Although Reverend Brunson is not with us today, his legacy continues to live, and his commitment to positive values lives on. The words that he preached and sang echo in the hearts of men and women even today.

Therefore, I am honored to have introduced this bill, and I am even honored that members of the community from which he came, students from the South Loop school, are present in the audience. I am pleased to have them here with us this afternoon.

I want to again thank the gentleman from New York (Mr. McHugh), the chairman, and the ranking member, the gentleman from Pennsylvania (Mr. Fattah).

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank Denise Wilson from my staff and Neil Snyder for their work on these and other matters related to the Subcommittee on Postal Service, and also, again, to the majority staff. It is not yet perfect, but nonetheless, I think all would agree that we have the best Postal Service anywhere in the world, and we are working through the good efforts of our chairman and others to improve it even beyond its present status.

I want to thank all of the staff for their efforts on these bills and others.

Mr. Speaker, I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I echo the words of the ranking member when he praises the staff, Heea Vazirani-Fales, Robert Taub, and others who have worked so hard, as the gentleman from Pennsylvania (Mr. Fattah) suggested, to really bring these very worthy initiatives to the floor. I appreciate their support and their effort.

Mr. Speaker, I urge our colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHugh) that the House suspend the rules and pass the bill, H.R. 2799.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2799.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1530

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT OF 1998

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2604) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Liberty and Charitable Donation Protection Act of 1998".

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

"(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

"(A) is made by a natural person; and

"(B) consists of—

"(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

"(ii) cash.

"(4) In this section, the term 'qualified religious or charitable entity or organization' means—

"(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

"(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.".

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "(1) made" and inserting "(A) made";

(3) by striking "(2)(A)" and inserting "(B)(i);

(4) by striking "(B)(i)" and inserting "(ii)(I)";

(5) by striking "(ii) was" and inserting "(II) was";

(6) by striking "(iii)" and inserting "(III)"; and

(7) by adding at the end the following:

"(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

"(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

"(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.".

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking "(b) The trustee" and inserting "(b)(1) Except as provided in paragraph (2), the trustee"; and

(2) by adding at the end the following:

"(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.".

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)";

(2) in subsection (f)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)"; and

(3) in subsection (g)—

(A) by striking "section 548(a)(1)" each place it appears and inserting "section 548(a)(1)(A)"; and

(B) by striking "548(a)(2)" and inserting "548(a)(1)(B)".

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: ", including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made".

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: "In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).".

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The SPEAKER pro tempore (Mr. Pease). Pursuant to the rule, the gentleman from Pennsylvania (Mr. Gekas) and the gentleman from New York (Mr. Nadler) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Gekas).

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of this legislation and wish to set the stage for some of the comments that we will hear during the debate on this measure.

This issue was brought to our attention by the gentlewoman from Idaho (Mrs. CHENOWETH) and the gentleman from California (Mr. PACKARD) on two separate pieces of legislation that dealt with the same issue. Their legislative efforts came from different angles and from different perspectives, but the ultimate purpose was the same: to try to rectify a situation in which a contributor to a charitable organization, for the purpose of our hypothetical say to a church organization, makes a contribution, he subsequently files for bankruptcy, and a decision is made by the bankruptcy court and direction is given to the bankruptcy trustee to recover that amount paid by contribution to the church because it came within a certain period of time and, therefore, was not subject to be clear of the bankruptcy laws. So now we have the strange situation of a bankruptcy trustee having to assert a claim against a church.

Mr. Speaker, that seemed unseemly to a great number of people. The gentlewoman from Idaho and the gentleman from California took to the legislative process to try to bring about a change. Hence their legislation, hence the action of the Committee on the Judiciary, and we have arrived at this stage.

What we have done ultimately is to mirror, or try to mirror as much as we can, the Senate version of this same issue in legislation that they have passed so that we can be better prepared when the time comes for ultimate decision to be made by a conference in the two bodies. That is why we have come to the floor at this moment with the vehicle being H.R. 2604.

Mr. Speaker, after the gentleman from New York (Mr. NADLER) presents his opening statement, I will yield to these two Members so that they can fully explain the contents of the legislation, the purpose, et cetera.

Mr. Speaker, I urge adoption of H.R. 2604, the "Religious Liberty and Charitable Donation Protection Act of 1998." This legislation, introduced by my colleague, Mr. PACKARD, on October 2, 1997, has as of today more than 120 bipartisan co-sponsors. It was reported out of the Judiciary Committee without objection.

H.R. 2604, with amendment, which is before you for consideration today, contains one substantial change from the bill as reported by the Judiciary Committee which is in accord with the members of the other body. The additional provision it contains prevents creditors from using remedies available under state law to avoid transfers of religious or charitable contributions. H.R. 2604, as amended, is now identical to its Senate counterpart, S. 1244, which passed the other body on a vote of 100 to 0 on May 13, 1998. Favorable action today in this body can send this legislation to the President for his approval.

The principal component of H.R. 2604 protects certain prepetition charitable contributions made by an individual debtor to qualified religious or charitable entities within one year preceding the filing date of the debtor's bankruptcy petition from being subsequently avoided by a bankruptcy trustee under Section 548 of the Bankruptcy Code. The bill defines "charitable contribution" and "qualified religious or charitable entity or organization" by reference to applicable provisions of the Internal Revenue Code. In addition, its sets certain limits on the amount of charitable contributions that would be exempt from Section 548.

Important policy considerations support this bill. Voluntary donations should be treated differently than other types of property transfers under the Bankruptcy Code. The inherent nature of charitable contributions is that they are made specifically without the intent of receiving anything in return. This principal is recognized in the Internal Revenue Code's provisions concerning the deductibility of certain charitable contributions.

Under current law, the courts often conduct a very fact-specific analysis to determine whether a debtor received reasonably equivalent value in exchange for a charitable contribution. In the religious context, courts consider, for example, whether the debtor received certain services from the religious entity, such as counseling, in exchange for his or her donation. This analysis essentially places courts in the untenable position of having to value spiritual benefits and has led to disparate case law development.

Other policy considerations favoring the exemption of charitable contributions from the purview of Section 548 include the fact that religious and charitable organizations provide valuable services to society and serve the common good. Another consideration is the fact that most religious and charitable organizations simply lack the funds to litigate a recovery action filed a bankruptcy trustee under Section 548 and therefore must simply return the funds received. Particularly in light of the longer reachback period permitted under state law made applicable under Section 544(b) of the Bankruptcy Code, a charitable organization or religious entity may have to return funds it received from a debtor over a period extending several years.

The bill also addresses problems presented by the current unclear state of the law that exists in light of a recent decision by the Supreme Court that places the continuing validity of the Religious Freedom Restoration Act in doubt.

It is important to keep in mind that H.R. 2604 is not intended to diminish any of the protections against prepetition fraudulent transfers available under section 548 of the Bankruptcy Code. First, it applies to transfers that a debtor makes on an aggregate basis during the one-year reachback period preceding the filing of the debtor's bankruptcy case. Second, if a debtor, on the eve of filing for bankruptcy relief, suddenly donates 15 percent of his or her gross income to a religious organization, the debtor's fraudulent intent, if any, would be subject to scrutiny under section 548(a)(1) of the Bankruptcy Code. This fifteen percent "safe harbor" merely shifts the burden of proof and limits litigation to where there is evidence of a change in pattern large enough to establish fraudulent intent.

In addition, H.R. 2604 protects the right of certain debtors to tithe or make charitable contributions after filing for bankruptcy relief. This protection is required because some courts have held that tithing is not a reasonably necessary expense or have dismissed these debtors' bankruptcy cases on the ground that such tithing constituted a "substantial abuse" under section 707(b) of the Bankruptcy Code.

For all of these laudatory reasons, I urge the adoption of H.R. 2604, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by thanking the honorable gentleman from California (Mr. PACKARD), my friend, for originally introducing this legislation. I also thank the honorable gentleman from Pennsylvania (Mr. GEKAS), for bringing this legislation forward.

Mr. Speaker, given the spirited debates we have been having on our subcommittee and on the full committee on certain other bankruptcy legislation the gentleman is sponsoring, I am glad we have been able to work together to develop this bill and to bring it to the floor as bipartisan legislation today.

This bipartisan legislation would protect religious and other charitable institutions that receive donations from individuals who later declare bankruptcy, and would permit debtors in bankruptcy to continue to make donations to such organizations of up to 15 percent of their gross annual income.

This bill is needed to address a problem that originated with the Supreme Court's decision in 1990 in Employment Division versus Smith, which said that the government may impose substantial burdens on an individual's free exercise rights so long as the government does so in a manner that is facially neutral toward religion.

Congress attempted to correct this decision in 1993 by enacting the Religious Freedom Restoration Act, RFRA. The Court of Appeals in the Eighth Circuit ruled in 1996 that RFRA protected tithed donations to a charitable organization from creditors in bankruptcy proceedings.

The following year, last year, the Supreme Court unfortunately struck down RFRA in City of Boerne versus Florez, and later, in accordance with its decision in Boerne that RFRA was unconstitutional, vacated and remanded the Eighth Circuit decision.

Since the Supreme Court decision struck down RFRA only with respect to State laws, however, it is uncertain today whether RFRA remains good law as applied to Federal statutes such as the Bankruptcy Code. While the Supreme Court may ultimately decide this question, I see no reason to wait for a decision when a simple and straightforward remedy is at hand as to the tithing problem.

This legislation would protect religious and charitable donations in bankruptcy proceedings by clarifying that they are not "fraudulent transfers" within the meaning of the statute. As modified by the Senate language, the legislation also deals with the problem of State fraud statutes which might otherwise, under some circumstances, be used to undercut the Federal protection which I trust we will institute today. So this legislation takes care of that potential problem.

Mr. Speaker, I would like at this time to engage the gentleman from Pennsylvania (Mr. GEKAS) in a colloquy to confirm my understanding of the legislative intent with respect to section 3(a) of this bill which adds a new section 548(a)(2)(A) to title 11 of the U.S. Code. This section provides a safe harbor for qualified contributions of up to 15 percent of the debtor's gross annual income for the year in which such contributions were made. Under the new section 548(a)(2)(B), if the debtor's aggregate donations exceed 15 percent, the debtor would have to establish that the transfer was consistent with his or her prior pattern of charitable giving in order for that donation to be protected.

Mr. Speaker, I would ask the gentleman from Pennsylvania (Mr. GEKAS) to confirm my understanding as set forth in the committee report that the intent of this provision is to protect qualified contributions of up to 15 percent of the debtor's gross annual income in the aggregate for the year in which the contribution was made, and that we do not intend this language to allow multiple contributions to a given organization or to more than one organization which in the aggregate exceed 15 percent of the debtor's gross annual income to be protected. Would the gentleman confirm whether this is his understanding as well?

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I appreciate the opportunity at this juncture to explain in response to the gentleman's question that this legislation is not intended to diminish any of the protections against pre-petition, fraudulent transfers available under section 548 of the Bankruptcy Code.

First, it applies to transfers that a debtor makes, and I emphasize this, on an aggregate basis during the one year reach-back period to which the gentleman has referred proceeding the filing of the debtor's bankruptcy case.

Second, if the debtor on the eve of filing for bankruptcy relief suddenly donates 15 percent of his or her gross income to a religious organization, the debtor's fraudulent intent, if any, would be subject to scrutiny under section 548(a)(1) of the Bankruptcy Code. This 15 percent safe harbor merely shifts the burden of proof and limits litigation to where there is evidence of a change in pattern large enough to establish fraudulent intent. We hope this satisfies the inquiry that the gentleman has posed.

Mr. NADLER. Mr. Speaker, reclaiming my time, I thank the gentleman very much for his response. Yes, indeed it does satisfy the inquiry. I thank the gentleman for his assistance in clarifying the intent of the legislation and of the Congress in regard to this matter. Mr. Speaker, I urge my colleagues to adopt this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PACKARD).

Mr. PACKARD. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me this time. I would like to take this moment to heartily thank the gentleman from Illinois (Mr. HYDE), chairman of the full Committee on the Judiciary, the gentleman from Pennsylvania (Mr. GEKAS), the chairman of the subcommittee, and the gentleman from New York (Mr. NADLER), the ranking Democrat on the subcommittee, for bringing this bill to the floor today and for their support of the Religious Liberty and Charitable Donations Protection Act which is before us.

Mr. Speaker, in the Old Testament it says, "Will a man rob God? Yet ye have robbed me. But ye say, Wherein have we robbed thee? In tithes and offerings. Bring ye all the tithes into the storehouse, that there may be meat in mine house, and prove me now herewith, sayeth the Lord of Hosts, if I will not open you the windows of heaven, and pour you out a blessing, that there shall not be room enough to receive it."

To many Christians this is a sacred commandment, and they cannot practice their religions unless they can obey this commandment that says they need to bring their tithes to Him.

A person often in times of financial and other problems turns to God and their church for strength and for blessings. To close those windows of heaven and prevent God from pouring out a blessing at the very time that bankrupt families need His blessings would be unconscionable, for the law of the land to prevent a person from being able to practice that part of their religion.

Mr. Speaker, many churches and charitable organizations across this country live from hand to mouth, when what comes into the collection plate on one day is usually spent the next. When a creditor is allowed to sue a church or a charity in order to recover a donation made possibly months or even years earlier, the church or charity is usually put in a position of hardship. What is more, they rarely have the ability or the resources to fight the suit in court. In some cases, that can lead to financial ruin for the church or for the charitable organization.

I do not believe that a church or a charity that receives a tithe or a donation ought to have to check the financial background of the donor before they donate. They certainly should not be penalized for receiving a donation from anybody, but that is exactly what current law requires.

My bill, along with Senator GRASSLEY's bill, S. 1244, would correct this problem. In addition to protecting churches and charities, our bill also assists the individual donor himself. Currently, a person who files for bankruptcy under chapter 13 is not allowed to make charitable contributions or tithes to a church. Amazingly, the court has said that in making this type of contribution, the donor receives nothing of value in return. Mr. Speaker, I cannot accept this. I contribute to my church and I am here to say that I do receive something of significant value, and it is tangible to me, in return.

Under chapter 13, a person can go to a bar, to a beer hall. They can get advice on a 1–900 psychic advice line. They can gamble their money away. They can fill their basement full of alcohol. But they cannot contribute to their church or to a charity. That is unconscionable and ought to be corrected, and this bill will correct that.

I hope and pray that every Member of this House will follow the lead of the Senate. The Senate, when this was called for on a rollcall vote on the floor of the Senate, 100 Senators voted for it. Not a single one voted against it. We hope the House will follow that example.

Again, I thank the gentleman from Pennsylvania (Mr. GEKAS), the chairman of the subcommittee, and the gentleman from New York (Mr. NADLER), ranking member, for bringing this to the floor of the House today.

Mr. Speaker, I submit the following three letters that deal with this bill for inclusion in the RECORD:

CHRISTIAN LEGAL SOCIETY,
Annandale, VA, May 13, 1998.

Re support for H.R. 2604.

Hon. RON PACKARD,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE PACKARD: The 4,000 member attorneys and law students of the

Christian Legal Society unequivocally endorse your "Religious Liberty And Charitable Donation Protection Act," for a number of reasons.

First, your bill would prevent bankruptcy trustees or creditors under section 544 from using state fraudulent transfer laws that allow confiscation of donations going back as far as six years prior to bankruptcy filing. H.R. 2611 does not.

Second, H.R. 2604 ensures the right of Americans to continue to give to their church or charity while they are paying off their debts pursuant to a Chapter 13 plan. Otherwise, religious believers will be barred for years from exercising this form of worship. H.R. 2611 does not address Chapter 13.

Third, H.R. 2604 would protect tithes and offerings received by churches and charities from donors who gave either from a sense of religious obligation or motivation. Some judges will inevitably conclude that the clause in H.R. 2611 that limits protection to gifts made "from a sense of religious obligation" does not extend to the millions of Americans who give not because of a commandment but out of gratitude to God.

Fourth, H.R. 2604 is constitutionally sound. It extends protection to donations given to religious as well as non-religious donees. H.R. 2611 only protects gifts to "a religious group or entity"; consequently, it is likely to be challenged as violative of the First Amendment's prohibition on an establishment of religion.

With the Senate's near unanimous approval today of the identical Grassley language (S. 1244), it is apparent that H.R. 2604 enjoys broad bipartisan support. The Packard-Grassley bill can pass this Congress, providing immediate relief for churches and ministries that are otherwise bound to continue losing in the courts. Unlike H.R. 2611, it would protect debtors in Chapter 13 who wish to continue their donations. Unlike H.R. 2611, H.R. 2604 would prevent the misuse of state laws to confiscate multiple years of giving. And H.R. 2604 would protect far more churches (not just those that require tithing) and would not likely be a target of a lawsuit challenging its constitutionality.

For any and all of these reasons, Christian Legal Society will work for the earlier passage in the House of H.R. 2604.

Respectfully,

STEVEN T. MCFARLAND,
Director, Center For Law and Religious Freedom.

P.S. We understand that some may question whether the 15% figure in section 3 of H.R. 2604 is a cap. We believe the answer is clearly "no." Rather than inviting trustees across the country to litigate over whether the tithe was a consistent practice of the donor, H.R. 2604 creates a bright-line test, a "safe harbor" that defuses this issue. Churches would not have to waste precious funds on legal fees defending their offerings in court. It would be clear; if the donations are no more than 15%, then trustee cannot challenge them, unless he has evidence of actual fraud (section 548a(1) would remain available). With the 15% shield, Congress would be clarifying what creditors cannot challenge, not prescribing how much a donor should give. A donor can give more than 15% of his income to charity, but will have to prove that this has been his consistent practice over several years.

SCHOOL OF LAW,
THE UNIVERSITY OF TEXAS AT AUSTIN,
Austin, TX, May 6, 1998.

Hon. RON PACKARD,
Rayburn House Office Building,
Washington, DC.

DEAR REP. PACKARD: The question has arisen whether S. 1244 and H.R. 2604 would protect unincorporated churches. The answer is yes; unincorporated churches would be protected.

These bills protect organizations defined in §170(c)(2) of the Internal Revenue Code, which includes any "corporation, trust, or community chest, fund, or foundation" organized and operated exclusively for charitable, religious, or other listed purposes. The Internal Revenue Code defines "corporation" to include an "association." 26 U.S.C. §7701(a)(3). An unincorporated association may also be a "fund."

The language of §170(c)(2) dates to shortly after World War I. Related sections drafted more recently use the word "organization," which more obviously includes unincorporated associations. *See, e.g.,* §170b and §§502–511. The implementing regulations under §170 and §501(c)(3) also used the word "organization." 26 CFR §§1.170 and 1.501. "Organization" does not appear to be a defined term. But Treasury Regulations define "articles of organization" in inclusive terms: "The term 'articles of organization' or 'articles' includes the trust instrument, the corporate charter, *the articles of association*, or any other written instrument by which an organization is created." 26 CFR §1.501(c)(3)(b)(2) (emphasis added). "Articles of association" clearly seems designed to include unincorporated associations.

The clearest statement from the Internal Revenue Service appears to be Revenue Procedure 82–2 (attached), which sets out certain rules for different categories of tax exempt organizations. Section 3.04 provides a rule for "Unincorporated Nonprofit Associations." This Procedure treats the question as utterly settled and noncontroversial.

Tax scholars agree that §170 includes unincorporated associations. The conclusion appears to be so universally accepted that there has been no litigation and no need to elaborate the explanation. The leading treatise on tax-exempt organizations states: "An 'unincorporated association' or 'trust' can qualify under this provision, presumably as a 'fund' or 'foundation' or perhaps, as noted, as a 'corporation.'" Bruce R. Hopkins, *The Law of Tax-Exempt Organizations* §4.1 at 52 (7th ed. 1997).

Borris Bittker of Yale and Lawrence Lokken of NYU say: "Since the term 'corporation' includes associations and 'fund or foundation' as used in IRC §501(c)(3) is construed to include trusts, the technical form in which a charitable organization is clothed rarely results in disqualification." Boris I. Bittker & Lawrence Lokken, 4 *Federal Taxation of Income, Estates and Gifts* ¶100.1.2 at 100–6 (2d ed. 1989).

Closely related provisions of the Code expressly cover churches. I.R.C. §170(b)(1) states special rules for a subset of organizations defined in §170(c), including "a church, or a convention or association of churches." I.R.C. §508(c)(1) provides that "churches, their integrated auxiliaries, and conventions or associations of churches" do not have to apply for tax exemption. These provisions plainly contemplate that churches are covered; they also prevent the accumulation of IRS decisions granting tax exempt status to unincorporated churches. These churches are simply presumed to be exempt.

There are tens of thousands of unincorporated churches in America. I am not aware that any of these churches has ever had difficulty with tax exemption or tax deductibility of contributions because of their unincorporated status. I work with many church lawyers and religious leaders, and none of them has ever mentioned such a problem. There are no reported cases indicating litigation over such a problem. If unincorporated churches were having this problem, Congress would have heard demands for constituent help or corrective legislation.

The fact is that legitimate unincorporated churches that otherwise qualify for tax deductibility under §170 and for tax exemption under §501(c)(3) are not rendered ineligible by their failure to incorporate. There is so little doubt about that that neither Congress, the IRS, nor the courts has ever had to expressly elaborate on the rule that everyone knows. This is a question that can be safely dealt with in legislative history affirming Congress's understanding that unincorporated associations are included in §170(c)(2) and Congress's intention that they be protected by these bills.

I consulted informally with Deirdre Halloran, the expert on tax exempt organizations at the United States Catholic Conference, and with tax professors here and elsewhere, who confirmed these conclusions. Ms. Halloran would be happy to respond to inquiries from your office if you need a second opinion.

Very truly yours,

DOUGLAS LAYCOCK.

REV. PROC. 82–2

SECTION 1. PURPOSE

The purpose of this revenue procedure is to identify the states and circumstances in which the Service will not require an express provision for the distribution of assets upon dissolution in an exempt organization's articles of incorporation, trust instrument, or other organizing document to satisfy the "organizational" test in section 1.501(c)(3)–1(b)(4) of the Income Tax Regulations. Also, this procedure provides a sample of an acceptable dissolution provision for organizations that are required to have an express provision for the distribution of assets upon dissolution.

SEC. 2. BACKGROUND

.01 Section 1.501(c)(3)–1(b)(4) of the regulations provides that:

"(4) *Distribution of assets on dissolution.* An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court *to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.* However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders. [Emphasis added.]

.02 The issue of the applicability of state law in relation to section 1.501(c)(3)–1(b)(4) of the regulations as to a particular organization arises only where the organization itself has not provided for the distribution of its assets upon dissolution in its articles of incorporation, organizing document, or trust instrument. When state law satisfies the provisions of section 1.501(c)(3)–1(b)(4), it is not necessary to require an organization to amend its articles of incorporation or organizing document, or to require a trust to obtain a judicial decree amending its trust instrument, in order to satisfy the organizational test for qualification as an exempt organization described in section 501(c)(3) of the Code, where all the other requirements for exemption are met.

.03 The issue of whether section 1.501(c)(3)–1(b)(4) of the regulations is satisfied under state law can be broken down into four areas according to the type of entity involved:

(1) the *cy pres* doctrine as to *inter vivos* charitable trusts;

(2) the *cy pres* doctrine as to testamentary charitable trusts, which can exist in a particular state by case law and/or by statute;

(3) state corporate law containing statutes that provide for the distribution of assets upon the dissolution of nonprofit corporations; and

(4) state law by court decision or statute relating to unincorporated associations.

Each of these four areas will be treated separately in this revenue procedure.

SEC. 3. GUIDELINES

.01 Inter Vivos Charitable Trusts.

1. Because there is no guarantee under the law of any jurisdiction, except Delaware, that *cy pres* would be used to keep an *inter vivos* charitable trust from failing, any *inter vivos* charitable trust, except in Delaware, should be required to have an adequate dissolution provision in its trust instrument to satisfy the requirements of section 1.501(c)(3)–1(b)(4) of the regulations.

.02 Testamentary Charitable Trusts.

1. The courts in the following states always apply the *cy pres* doctrine or the doctrine of equitable approximation to keep a charitable testamentary trust from failing, and thus section 1.501(c)(3)–1(b)(4) of the regulations with respect to charitable testamentary truss is satisfied:

Alabama.
Delaware.
Louisiana.
Pennsylvania.
South Dakota.
Virginia.

West Virginia (However, a state court decision has held that the *cy pres* doctrine does not apply to a scientific organization in West Virginia.)

2. The courts in the jurisdictions listed below will apply the *cy pres* doctrine to keep a charitable testamentary trust from failing when the language of the trust instrument demonstrates that the settlor had a general intent to benefit charity, and not merely a specific intent to benefit a particular institution. In such jurisdiction the *cy pres* doctrine may be relied upon by a charitable testamentary trust to satisfy section 1.501(c)(3)–(b)(4) of the regulations only when the settlor has demonstrated a general charitable intent in the language of the trust instrument. Unless the testator manifests a general intent to benefit charity, the Service will require the testamentary charitable trust to provide an express dissolution provision in the trust instrument to satisfy section 1.501(c)(3)–1(b)(4).

Arkansas.
California.
Colorado.
Connecticut.
District of Columbia.
Florida.
Georgia.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.

Missouri—MO. ANN. STAT. §352.210.3 satisfies the provisions of section 1.501(c)(3)–1(b)(4) of the regulations while MO. ANN. STAT. §355.230.(3) does not satisfy the requirements.

Nebraska.
New Hampshire.
New Jersey.
New York.
North Carolina.
Ohio.
Oklahoma.
Oregon.
Rhode Island.
Tennessee.
Texas.
Vermont.
Washington.
Wisconsin.

3. Charitable testamentary trusts in the following states need a dissolution provision in the trust instrument to satisfy section 1.501(c)(3)–1(b)(4) of the regulations because these states have either expressly rejected or have never applied the *cy pres* doctrine:

Alaska.
Arizona.
Hawaii.
Idaho.
Montana.
Nevada.
New Mexico.
North Dakota.
South Carolina.
Utah.
Wyoming.

.03 Nonprofit Charitable Corporations.

1. The statutes applicable to nonprofit charitable corporations in the states listed below will satisfy the provisions of section 1.501(c)(3)–1(b)(4) of the Regulations:

Arkansas.
California.
Louisiana.
Massachusetts.
Minnesota.
Missouri.
Ohio.
Oklahoma.

All other states, and the District of Columbia do not have statutes applicable to nonprofit charitable corporations that will satisfy the provisions of section 1.501(c)(3)–1(b)(4). Thus, nonprofit corporations in the eight named states do not need a dissolution provision to satisfy section 1.501(c)(3)–1(b)(4). A nonprofit corporation in a jurisdiction not listed needs an adequate dissolution provision in its organizing document to satisfy section 1.501(c)(3)–1(b)(4).

.04 Unincorporated Nonprofit Associations.

None of the fifty-one jurisdictions provides certainty by statute or case law, for the distribution of assets upon the dissolution of an unincorporated nonprofit association. Therefore, any unincorporated nonprofit association needs an adequate dissolution provision in its organizing document to satisfy the requirements of section 1.501(c)(3)–1(b)(4) of the regulations.

.05 Sample Dissolution Provision.

1 For any organization that needs a dissolution provision in its organizing instrument to satisfy the provisions of section 1.501(c)(3)–1(b)(4) of the regulations, the following language is illustrative of what may be used:

(a) *Upon the dissolution of [this organization] assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose.*

.06 Periodic Update.

This Revenue Procedure will be updated periodically as changes in state laws come to the attention of the Service.

HOME SCHOOL
LEGAL DEFENSE ASSOCIATION,
Purcellville, VA, May 8, 1998.

DEAR SENATOR GRASSLEY AND REPRESENTATIVE PACKARD, I received a copy of the letter from Professor Doug Laycock concerning my question regarding the inclusion of unincorporated associations in S. 1244 and H.R. 2604. His letter more than answers my question.

Although an attorney with substantial constitutional practice, I am not a non-profit tax expert by any means. Doug Laycock has outstanding credentials in all relevant areas and his opinion is conclusive for me.

I would note that the expert commentators he quotes appear to point to different terms in the phrase "corporation, trust, or community chest, fund, or foundation" to include unincorporated churches. Taken literally, unincorporated associations do not fall in any of these categories. Reading laws literally is generally a good idea, but was my mistake on this occasion.

Despite the lack of statutory clarity, the practice of the IRS appears clear. And if an appropriate legislative record is made, this should settle the matter for all judges with the possible exception of Justice Scalia.

Thanks for getting an answer so quickly.

Sincerely,

MICHAEL FARRIS,
President.

Mr. GEKAS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I rise to engage in a colloquy with the gentleman from California (Mr. PACKARD), my friend and the author of this bill.

As the gentleman knows, I have legislation that also addresses the issue of bankruptcy trustees disgorging from innocent churches the tithes of members who have filed for bankruptcy. I applaud the gentleman's efforts and thank him very much for his hard work.

As we have discussed together numerous times, our primary concern is that anything that we do to address this issue will not lead to the future government regulation of the church and the interference in the free exercise of religion. We have had many discussions over that.

Mr. Speaker, with the passage of H.R. 2064, we provide the Federal Government absolutely no opportunity to extend its reach to regulate churches in this country. I would ask, is that the intent of the gentleman's legislation?

□ 1545

Mr. PACKARD. Mr. Speaker, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from California.

Mr. PACKARD. Absolutely, the gentlewoman is certainly right. I have no intentions in this bill or in any other way for the government to regulate churches.

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman.

With the passage of H.R. 2604, there is no opportunity to have the Federal Government define tithes or to place a floor or a limit on the amount of tithes that a parishioner can give to his or her church. Is that the gentleman's intent?

Mr. PACKARD. Mr. Speaker, that is certainly my intent.

Mrs. CHENOWETH. And, Mr. Speaker, it is my understanding of the intent of H.R. 2604 that we are not including churches in the same legal classifications as 501(c)(3)s, which are an artificial creation of the State, while the churches are a creation of God. Is this the intent of H.R. 2604?

Mr. PACKARD. Mr. Speaker, the gentlewoman is correct.

Mrs. CHENOWETH. Lastly, Mr. Speaker, in solving this problem between churches and the bankruptcy courts, we are not intending the Federal Government to be involved in any way in overriding scripture or taking away the autonomy and the free exercise of religion in America's churches. Is this the intent of H.R. 2604?

Mr. PACKARD. Mr. Speaker, if the gentlewoman will continue to yield, it is certainly the intent of the bill.

Mrs. CHENOWETH. Mr. Speaker, I want to thank the gentleman from California (Mr. PACKARD) for all of his hard work on this issue. I also want to thank his staff for their hard work. The gentleman is a true champion of religious freedom, and he has my deepest respect and admiration. I want to thank the gentleman and my friend from California.

I also join with the gentleman from California (Mr. PACKARD) in thanking the gentleman from Illinois (Mr. HYDE), the gentleman from Pennsylvania (Mr. GEKAS) and the ranking member, the gentleman from New York (Mr. NADLER).

Mr. PACKARD. Mr. Speaker, if the gentlewoman will continue to yield, I want to personally thank her for her leadership on this issue. She wrote a bill that is very similar and I think it has the same basic goals. I applaud the gentlewoman for that. I have sponsored her bill. It is just that this was the bill that moved through the committee structure. I thank the gentlewoman very much.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

I simply wanted to make a number of observations on this bill.

One, this bill does afford to religious institutions and to nonreligious charitable institutions the same protection. If someone in good faith gives a charitable contribution, whether to a church or the American Cancer Society, the trustee in bankruptcy, if the person subsequently declares bankruptcy, should not go into the church or to the Cancer Society or the Lung Society, whatever it may be, and try to get them to repay the money. That is what this bill does. It sets up those protections.

The second thing I want to say, in light of what I said earlier about the history of this bill, the religious liberty protections, is that some of us in this House are very strong advocates of separation of church and State. I will be opposing the so-called Istook amendment on the floor later in the week. We do believe very strongly in the separation of church and State, but we also believe that government should not be hostile to religion and government should be accommodating to people with religious beliefs and also to people with charitable intentions, and this legislation is very much in that direction.

I think no matter what position someone may take on some of the other legislation such as the Istook amendment, we can all unite in supporting this type of legislation which does not breach the will of separation of church and State but says that the freedom to contribute money to the church or to the synagogue or the mosque or to the nonreligious charitable institution should not be violated and that government should not be hostile to these institutions.

Again, I thank my colleague from Pennsylvania and my colleague from California for their leadership in bringing this bill to the floor. I urge all my colleagues to vote for it.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I thank the chairman for yielding me this time and commend the gentleman from California (Mr. PACKARD) for his leadership in this important area of religious liberty and charitable contributions. There is nothing more important to our society than trying to strengthen the voluntary time and money commitments as an alternative, as a supplement to the efforts that government and other organizations make in their communities.

As has been pointed out, I am sure, this legislation is particularly needed to protect religious freedom in this country because of the Crystal Evangelical Free Church in Minneapolis, Minnesota, which has had a prolonged legal fight for over 6 years in an effort to prevent the church from being forced to return money which had been regularly tithed by a parishioner who subsequently filed for bankruptcy.

At the lower court, a Federal bankruptcy trustee recaptured $13,500 in past tithes from the Minnesota congregation. The church appealed the ruling and the Eighth Circuit Court vacated the decision, ruling that the Religious Freedom Restoration Act, RFRA, passed by this Congress, prevented bankruptcy trustees from voiding debtor's tithes to their church as fraudulent transfers.

Unfortunately, as a result of the Supreme Court's decision on June 25, 1997, that RFRA was unconstitutional as applied to the States. The Eighth Circuit was required to vacate its earlier decision on behalf of the church and reconsider its ruling in light of the Supreme Court.

The tragic result is that churches and charities around this country are now vulnerable to aggressive bankruptcy lawyers and other creditors while, at the same time, we are allowing people to take cruises, gamble, even call psychic hotlines, but denying them the right to exercise their faith through contributing to charities and/or other, as the gentleman from New York (Mr. NADLER) pointed out, other charities, not just religious based.

I believe that this situation is intolerable. It violates the first amendment religious clauses of the Constitution, while encouraging an outbreak of bankruptcy litigation against churches and other charities. This bill provides an excellent resolution to a serious threat to religious freedom and charities across the board.

The full text is also included in the community renewal legislation which I support along with members of the Renewal Alliance.

I once again congratulate the chairman on his leadership.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. CANNON), a member of the Committee on the Judiciary.

Mr. CANNON. Mr. Speaker, one of the common threads throughout the American experience is the strong yearning for religious liberty. It is what brought the Puritans to Plymouth Rock, the Mennonites to Lancaster County and the Mormons to Utah. It is part of what we are as Americans.

Protection of religious expression is a bedrock principle of the Constitution enshrined in the very first amendment to the Bill of Rights. The freedom to fully participate in religion includes the right to make offerings.

Sometimes those who make contributions will fall into financial problems and end up before the local bankruptcy court. Over the past few years bankruptcy courts with neither divine guidance nor the direction of Congress have struggled with reconciling competing interests of creditors and churches. In my view, it is inappropriate for the bankruptcy court system to force religious denominations to disgorge good-faith offerings or tithes in order to comply with rigid formulas.

S. 1244 seeks to resolve this by establishing a simple formula: Religious contributions by a debtor, if consistent with past practice or if totaling less than 15 percent of gross income, shall not be reachable by a creditor in the context of bankruptcy.

In a sense, this measure follows Christ's admonition to render therefore unto Caesar the things that are Caesar's and unto God the things which are God's. It avoids the effect of our current course that puts Federal bankruptcy court judges in the position of knocking on the doors of our churches wearing the hat of the repo man and demanding the return of tithes, offerings and other contributions.

I compliment the gentleman from California (Mr. PACKARD) and the gentleman from Pennsylvania (Mr. GEKAS) for their hard work and encourage a yes vote.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. BENTSEN.

Mr. BENTSEN. Mr. Speaker, I rise in strong support of the bill. I appreciate the sponsors for doing this.

I had a church in Baytown, Texas, in my district which has experienced a problem with the current law. I appreciate the sponsors of the bill for correcting this situation. I hope the other body takes it up, and it is passed and signed and corrected.

Mr. Speaker, I rise as a co-sponsor and strong supporter of H.R. 2604, the Religious Liberty and Charitable Donation Protection Act.

This legislation provides much-needed protection to churches and other charitable organizations by preventing creditors from attempting to seize tithes and other donations made by individuals who later file for bankruptcy. Business and individuals should have the right to vigorously pursue the repayment of bad debts. But they should not have the right to reach into church offering plates and the limited budgets of charities providing invaluable services.

I know from the experience of a church in my district, the Cedar Bayou Baptist Church in Baytown, how harmful current law can be. Cedar Bayou was sued by creditors in 1995 and in September of 1997, the church was ordered to return $23,000 in tithes given by a member who later declared bankruptcy. The church has run up more than $7,000 in legal bills defending itself in court and expects the costs to rise even higher as it proceeds with an appeal of its case. Other churches across the country have incurred even higher costs, with one church in Minnesota spending $280,000 on legal fees in a case that reached the U.S. Supreme Court.

Unfortunately, the courts have ruled that tithes and donations are not protected from bankruptcy proceedings and instead are considered fraudulent transfers under current bankruptcy law. So there is an urgent need for this legislation.

This legislation provides much needed protection for houses of worship and charities. Our churches, synagogues, and charities often operate on small budgets and depend on donations for basic operations and services. They should not have to pay the price for someone else's financial problems.

In addition, this legislation also would allow debtors to make a charitable contribution of up to 15 percent under their Chapter 13 bankruptcy protection budget plans. I believe it is appropriate that we give people the peace of mind that, in the event of personal financial difficulties, they can continue to contribute to their favorite church or charity.

I urge approval of this important legislation to protect our charities and houses of worship.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H.R. 2604, the Religious Liberty and Charitable Donation Protection Act of 1997. First of all, I am glad that we are considering this bill that I think, in some part, affects all of us. The important question that rests before us today is not simply whether our bankruptcy laws, as they stand, are effectively negating the protections for religious freedom afforded by the 1st Amendment of our Constitution, but whether this Congress will continue to be a strong defender of civil and Constitutional rights.

Although we often do so, the Constitution and the rights it extends to the citizens of this country is something that we must not take for granted. According to Judge Alphonzo Taft, father of President and Chief Justice William Howard Taft, "The ideal of our people as to religious freedom is absolute equality under the law of all religious opinions and sects * * * the government is neutral and while protecting all, it prefers none and disparages none."

The right to express one's religious beliefs freely, as long as their expression does not harm others, is a fundamental part of the American experience. Those who came to this country found the early American colonies nearly four centuries ago, did so in order to escape the bitter sting of religious persecution. So it is no surprise that the first Amendment to the Constitution crafted by the descendants of these brave trailblazers was an attempt to ensure free religious expression. Although at times it is difficult to see, as Americans, we are the products of a great legacy of freedom. A legacy that we, as Members of the United States Congress, have been duly empowered to continue on the people's behalf.

However, in large part, the lasting impact of the 105th Congress, on the people that we have been elected to serve, still remains to be determined. One thing is for sure, whether we are Democrat or Republican, liberal or conservative, male or female, is the fact that the Members of this Congress have a sacred duty to be vigilant defenders of the public good. I believe that a vote of confidence, at least, for the civil libertarian spirit of H.R. 2604, the Religious Liberty and Charitable Donation Protection Act is a necessary step in the right direction. As a proponent of freedom, I can say without reservation that this bill cuts to the heart of what our Constitution and country are really all about.

However, at another level, this bill reminds us of the challenge before us to be at the forefront of the many sorely-needed reforms to our consumer and commercial bankruptcy laws. H.R. 2604, of which I am a co-sponsor, seeks to protect any religious and charitable contribution of a debtor made within one year of their filing for bankruptcy from possible recovery by a Trustee or creditor. Essentially, a Chapter 13 participant can be barred from tithing to their local church if their creditors object to the addition of this gift to their debt restructuring plan. Additionally, in Chapter 7 cases, religious contributions can be used as suitable basis to dismiss a debtor's case on the grounds that they are substantially abusing the Chapter's many favorable bankruptcy provisions. At some point, this subtle form of religious persecution must stop.

Especially at this time when several other sections of Title 11 of our Federal Code are under serious legislative review by this Congress, efforts to provide protection for the charitable and religious donations of debtors are particularly important. If any of the current legislative initiatives that encourage debtors to enter into Chapter 13 recommitment plans are passed, without first enacting these necessary protections for the religious contributions of debtors, then this growing deficiency in our bankruptcy laws will surely be exacerbated. For all of these reasons, I urge all of my colleagues to please support H.R. 2604.

Mr. NADLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GEKAS) that the House suspend the rules and pass the bill, H.R. 2604, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. GEKAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1244) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Liberty and Charitable Donation Protection Act of 1998".

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

“(3) In this section, the term ‘charitable contribution’ means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

“(A) is made by a natural person; and

“(B) consists of—

“(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

“(ii) cash.

“(4) In this section, the term ‘qualified religious or charitable entity or organization’ means—

“(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

“(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.”.

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “(1) made” and inserting “(A) made”;

(3) by striking “(2)(A)” and inserting “(B)(i)”;

(4) by striking “(B)(i)” and inserting “(ii)(I)”;

(5) by striking “(ii) was” and inserting “(II) was”;

(6) by striking “(iii)” and inserting “(III)”; and

(7) by adding at the end the following:

“(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

“(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

“(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.”.

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking “(b) The trustee” and inserting “(b)(1) Except as provided in paragraph (2), the trustee”; and

(2) by adding at the end the following:

“(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.”.

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”; and

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”;

(2) in subsection (f)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”; and

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”; and

(3) in subsection (g)—

(A) by striking “section 548(a)(1)” each place it appears and inserting “section 548(a)(1)(A)”; and

(B) by striking “548(a)(2)” and inserting “548(a)(1)(B)”.

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: “, including charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made”.

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: “In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).”.

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2604) was laid on the table.

TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 450 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 450

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) a further amendment printed in the Congressional Record pursuant to clause 6 of rule XXIII, if offered by Representative Rangel of New York or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Before the Memorial Day recess, the Committee on Rules met and granted a modified closed rule for consideration of H.R. 3433 in the House without intervention on any point of order. The rule provides that the amendment recommended by the Committee on Ways and Means shall be considered as adopted, as modified by the amendment printed in the report of the Committee on Rules.

The rule provides for 1 hour of debate on the bill, as amended, equally divided between the chairman and ranking minority member of the Committee on Ways and Means. The rule provides for consideration of an amendment printed in the CONGRESSIONAL RECORD, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered as read and shall be separately debatable for 1 hour, equally divided between the proponent and opponent.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3433 would reform the system under which people collect Social Security disability benefits and receive vocational rehabilitation services. Under the bill, recipients would receive a ticket or voucher to obtain job training services in a variety of private sector agencies. The Federal Government would then reimburse these agencies based on the number of recipients they have moved into gainful employment.

CBO estimates that H.R. 3433 would add $38 million to the Federal surplus from 1999 to 2003 because the bill will help to move disability recipients off welfare and into work. Many individuals with disabilities want to work. They are limited, though, in their ability to access rehabilitation services; and they fear losing health care coverage and benefits.

Having served on the board of Learning How in Charlotte for many years, I have seen the frustrations firsthand and the concerns.

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This bill removes such disincentives. It broadens the rehabilitation choices of the disabled and it extends Medicare coverage for an additional 2 years for those who participate in the Ticket to Work program.

Mr. Speaker, it is interesting because a lot of us do not even have any idea that we may one day become disabled. I had a good friend in this field who was disabled who called the rest of us TADs, it was temporarily disabled. The idea is that any day, any time it could happen to one of us and we would be in the same position. The bill makes sense. It grants the disabled a measure of independence while adding to the projected Federal surplus.

I urge my colleagues to support this rule and to support the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, H. Res. 450 is a modified closed rule. The rule allows one amendment, if offered by Ways and Means Ranking Member the gentleman from New York (Mr. RANGEL) and if the amendment is previously printed in the CONGRESSIONAL RECORD.

In general, open rules best protect all Members' rights to fully represent their constituents. However, I recognize the potential problems of allowing an unfettered amendment process on bills, such as this one, that amend the Social Security and Medicare Acts. The Rules Committee has followed the useful tradition of allowing only limited floor amendment during consideration of bills that revise these basic safety net programs.

Mr. Speaker, the current disability system has not kept pace with the development of new technologies and therapies that allow individuals with disabilities to live and work in the mainstream of our society. Too often, our disability system punishes those who wish to work toward living independently by reducing benefits and ending the Medicare benefits on which they depend for their health care.

I am proud to have supported legislation that would aid individuals with disabilities in education, housing, transportation, and many other areas. I was a cosponsor of the Americans with Disabilities Act and have sponsored legislation to prevent genetic discrimination. I am now equally pleased to support H.R. 3433, the Ticket to Work and Self-Sufficiency Act. I am a cosponsor of this legislation, and I urge my colleagues to vote for its passage today.

H.R. 3433 will help to bring our Nation's disability system into line with the reality experienced by persons living with a disability. Individuals with disabilities do want to work, but they need rehabilitation and support services to better enable them to become self-sufficient over time. In particular, Medicare must be maintained for individuals who rely on these services to remain healthy and to be able to work.

H.R. 3433 gives individuals with disabilities the ability to choose the provider of employment or vocational rehabilitation services that meets their particular needs. The chosen employment network will work with the beneficiary to develop an individual plan, including the specific services needed to achieve that individual's employment goal. Perhaps most importantly, during this transition period, Medicare coverage is guaranteed for an additional 2 years. This will allow beneficiaries to concentrate on building their employment skills and careers without the fear that they will lose their health care if they earn above a minimum threshold.

To encourage the best and most comprehensive assistance for beneficiaries, this Act has provider payment plans keyed to the successful attainment of milestones toward permanent employment. For example, under the outcome payment system, the provider could receive 40 percent of the average monthly benefit for each month the beneficiary did not receive benefits because he was working.

Mr. Speaker, this legislation provides a responsible and humane alternative to our current disability system, by empowering individuals with disabilities to take charge of their own lives. It will enable many people to break free of a system that, too often, forces persons with disabilities to remain impoverished to continue to receive benefits. Instead it rewards those who want to work. I look forward to casting my vote today in strong support of this bill.

I urge my colleagues to support the rule so that we may move this important legislation forward toward enactment into law.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 450, I call up the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PEASE). The bill is considered read for amendment.

The text of H.R. 3433 is as follows:

H.R. 3433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ticket to Work and Self-Sufficiency Act of 1998".

SEC. 2. THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

"SEC. 1147. (a) IN GENERAL.—The Commissioner of Social Security shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

"(b) TICKET SYSTEM.—

"(1) DISTRIBUTION OF TICKETS.—The Commissioner of Social Security may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

"(2) ASSIGNMENT OF TICKETS.—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

"(3) TICKET TERMS.—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may agree to provide to the beneficiary.

"(4) PAYMENTS TO EMPLOYMENT NETWORKS.—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

"(c) STATE PARTICIPATION.—

"(1) PERIODIC ELECTIONS.—Each State agency described in section 222 or 1615 may elect to participate in the Program (or to revoke any such election) as an employment network. The Commissioner shall provide for periodic opportunities for exercising such elections (and revocations).

"(2) TREATMENT OF STATE AGENCIES.—Any such election (or revocation) by a State agency described in section 222 or 1615 taking effect during any period for which an individual residing in the State is a disabled beneficiary and a client of the State agency shall not be effective with respect to such individual to the extent that such election (or revocation) would result in any change in the method of payment to the State agency with respect to the individual from the method of payment to the State agency with respect to the individual in effect immediately before such election (or revocation).

"(3) EFFECT OF PARTICIPATION BY STATE AGENCY.—

"(A) STATE AGENCIES PARTICIPATING.—In any case in which a State agency described in section 222 or 1615 elects under paragraph (1) to participate in the Program—

"(i) the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973, and

"(ii) the provisions of section 222(d) and the provisions of section 1615 shall not apply with respect to such State.

"(B) STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

"(d) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

"(1) SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.—The Commissioner of Social Security shall enter into agreements with one or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

"(2) TENURE, RENEWAL, AND EARLY TERMINATION.—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include (but are not limited to)—

"(A) measures for ease of access by beneficiaries to services, and

"(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

"(3) PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.—Agreements under paragraph (1) shall preclude—

"(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager's agreement, and

"(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

"(4) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

"(5) TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS..—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

"(6) QUALITY ASSURANCE.—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall take into account the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure the performance of periodic surveys of beneficiaries receiving services under the Program designed to measure customer service satisfaction.

"(7) DISPUTE RESOLUTION.—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks and between program managers and employment networks. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

"(e) PROGRAM MANAGERS.—

"(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

"(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager's agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

"(3) FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks for good cause, as determined by the Commissioner, without being deemed to have rejected services under the Program. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public.

"(4) ENSURING AVAILABILITY OF ADEQUATE SERVICES.—The program manager shall ensure that employment networks provide employment services, vocational rehabilitation services, or other support services to beneficiaries throughout specified service areas, including rural areas.

"(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving their services under the Program has reasonable access to employment services, vocational rehabilitation services, or other support services. Such services may include case management, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program.

"(f) EMPLOYMENT NETWORKS.—

"(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, which assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b). No employment network may serve under the Program unless it demonstrates to the Commissioner substantial expertise and experience in the field of employment services, vocational rehabilitation services, or other support services for individuals with disabilities and provides an array of such services. An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

"(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

"(A) serve prescribed service areas,

"(B) meet, and maintain compliance with, both general selection criteria (such as professional and governmental certification and educational credentials) and specific selection criteria (such as the extent of work experience by the provider with specific populations), and

"(C) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual employment plans meeting the requirements of subsection (g).

"(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

"(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network pertaining to the beneficiary. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.

"(g) Individual Employment Plans.—

"(1) In general.—Each employment network shall—

"(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual employment plans as defined by the Commissioner, and

"(B) develop and implement each such individual employment plan, in the case of each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

A beneficiary's individual employment plan shall take effect upon approval by the beneficiary.

"(2) Employment evaluation.—In devising the employment plan, the employment network shall undertake an employment evaluation with respect to the beneficiary. Each employment evaluation shall set forth in writing such elements and shall be in such format as the Commissioner shall prescribe.

"(h) Employment Network Payment Systems.—

"(1) Election of payment system by employment networks.—

"(A) In general.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

"(B) Method of payment to employment networks.—Any such election by an employment network taking effect during any period for which a disabled beneficiary is receiving services from such employment network shall not be effective with respect to such beneficiary to the extent that such election would result in any change in the method of payment to the employment network with respect to services provided to such beneficiary from the method of payment to the employment network with respect to services provided to such beneficiary as of immediately before such election.

"(2) Outcome payment system.—

"(A) In general.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) Payments made during outcome payment period.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month described in paragraph (4)(B) in connection with such individual which occurs during the individual's outcome payment period.

"(C) Computation of payments to employment network.—The payment schedule of the outcome payment system shall be designed so that—

"(i) the payment for each of the 60 months during the outcome payment period which are described in paragraph (4)(B) is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs, and

"(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

"(3) Outcome-milestone payment system.—

"(A) In general.—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) Early payments upon attainment of milestones in advance of outcome payment periods.—The outcome-milestone payment system shall provide for one or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, which are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure which provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

"(C) Limitation on total payments to employment network.—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

"(4) Definitions.—For purposes of this subsection—

"(A) Payment calculation base.—The term 'payment calculation base' means, for any calendar year—

"(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year, and

"(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) to all beneficiaries having attained 18 years of age for months during the preceding calendar year.

"(B) Outcome payment period.—The term 'outcome payment period' means, in connection with an individual who is a disabled beneficiary, a period—

"(i) beginning with the first month—

"(I) for which benefits are not payable to such individual by reason of engagement in substantial gainful activity, and

"(II) which ends after such beneficiary has assigned a ticket to work and self-sufficiency to an employment network, and

"(ii) ending with the 60th month (consecutive or otherwise) following the first month for which benefits are not payable to such individual by reason of engagement in work activity.

"(5) Periodic review and alterations of prescribed schedules.—

"(A) Percentages and periods.—The Commissioner of Social Security shall periodically review the percentages specified in paragraphs (2)(C) and (3)(C) and the period of time specified in paragraph (4)(B) to determine whether such percentages and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter any of such percentages or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner's review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

"(B) Number and amount of milestone payments.—The Commissioner shall periodically review the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to determine whether to allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, or other reliable sources.

"(i) Authorizations.—

"(1) Title II disability beneficiaries.—There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to carry out the provisions of this section with respect to title II disability beneficiaries. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Commissioner of Social Security shall determine according to such methods and procedures as shall be prescribed under this section—

"(A) the total amount to be paid to program managers and employment networks under this section, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(2) Title XVI disability beneficiaries.—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

"(j) Definitions.—For purposes of this section—

"(1) Disabled beneficiary.—The term 'disabled beneficiary' means a title II disability beneficiary or a title XVI disability beneficiary.

"(2) Title II disability beneficiary.—The term 'title II disability beneficiary' means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

"(3) TITLE XVI DISABILITY BENEFICIARY.—The term 'title XVI disability beneficiary' means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

"(k) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as are necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE II.—

(A) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(B) Section 222(b) of such Act is repealed.

(C) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking "a program of vocational rehabilitation services" and inserting "a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services".

(2) AMENDMENTS TO TITLE XVI.—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 16, and

"(2) with respect to whom benefits are paid under this title,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.".

(B) Section 1615(c) of such Act is repealed.

(c) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following one year after the date of the enactment of this Act.

(d) GRADUATED IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—Not later than 360 days after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(B) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments.

(2) REQUIREMENTS.—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) FULL IMPLEMENTATION.—The Commissioner shall ensure that the Program is fully implemented as soon as practicable on or after the effective date specified in subsection (c) but not later than six years after such date.

(4) ONGOING EVALUATION OF PROGRAM.—

(A) IN GENERAL.—The Commissioner shall design and conduct a series of evaluations to assess the cost-effectiveness of activities carried out under this section and the amendments made thereby, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) METHODOLOGY.—

(i) DESIGN AND IMPLEMENTATION.—The Commissioner shall design the series of evaluations after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation. In designing and carrying out such evaluations, the Commissioner shall consult with the Comptroller General of the United States and other agencies of the Federal Government and with private organizations with appropriate expertise. Before provision of services begins under any phase of Program implementation, the Commissioner shall ensure that plans for such evaluations and data collection methods are in place and ready for implementation.

(ii) SPECIFIC MATTERS TO BE ADDRESSED.—Each such evaluation shall address (but is not limited to):

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of providers whose services are provided within an employment network under the Program;

(VII) the extent (if any) to which employment networks display a greater willingness to provide services to disabled beneficiaries;

(VIII) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome payment system and of those beneficiaries who receive services under the outcome-milestone payment system; and

(IX) measures of satisfaction among beneficiaries in receipt of tickets under the Program.

(C) PERIODIC EVALUATION REPORTS.—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(e) THE TICKET TO WORK AND SELF-SUFFICIENCY ADVISORY PANEL.—

(1) ESTABLISHMENT.—There is established in the Social Security Administration a panel to be known as the "Ticket to Work and Self-Sufficiency Advisory Panel" (in this subsection referred to as the "Panel").

(2) DUTIES OF PANEL.—It shall be the duty of the Panel to—

(A) advise the Commissioner of Social Security on establishing phase-in sites for the Ticket to Work and Self-Sufficiency Program and on fully implementing the Program thereafter,

(B) advise the Commissioner with respect to the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program,

(C) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to subsection (h), and

(D) furnish progress reports on the Program to the President and each House of the Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 6 members as follows:

(i) 1 member appointed by the Chairman of the Committee on Ways and Means of the House of Representatives;

(ii) 1 member appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives;

(iii) 1 member appointed by the Chairman of the Committee on Finance of the Senate;

(iv) 1 member appointed by the ranking minority member of the Committee on Finance of the Senate; and

(v) 2 members appointed by the President, not more than 1 of whom may be of the same political party.

(B) REPRESENTATION.—Of the members appointed under subparagraph (A)—

(i) at least one shall represent the interests of recipients of employment services, vocational rehabilitation services, and other support services,

(ii) at least one shall represent the interests of providers of employment services, vocational rehabilitation services, and other support services, and

(iii) at least one shall represent the interests of private employers.

(C) TERMS.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii).

(ii) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

(I) 3 of the members appointed under subparagraph (A) shall be appointed for a term of 2 years, and

(II) 3 of the members appointed under subparagraph (A) shall be appointed for a term of 4 years.

(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(D) Basic pay.—Members shall each be paid at a rate equal to the daily equivalent of the rate of basic pay for level 4 of the Senior Executive Service, as in effect from time to time under section 5382 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Panel.

(E) Travel expenses.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) Quorum.—4 members of the Panel shall constitute a quorum but a lesser number may hold hearings.

(G) Chairperson.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.

(H) Meetings.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.

(4) Director and staff of panel; experts and consultants.—

(A) Director.—The Panel shall have a Director who shall be appointed by the Panel. The Director shall be paid at a rate not to exceed the maximum rate of pay payable for GS–15 of the General Schedule.

(B) Staff.—Subject to rules prescribed by the Panel, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.

(C) Experts and consultants.—Subject to rules prescribed by the Panel, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(D) Staff of federal agencies.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.

(5) Powers of panel.—

(A) Hearings and sessions.—The Panel may, for the purpose of carrying out its duties under this subsection, hold such hearings, sit and act at such times and places, and take such testimony and evidence as the Panel considers appropriate.

(B) Powers of members and agents.—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) Mails.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(D) Administrative support services.—Upon the request of the Panel, the Administrator of General Services shall provide to the Panel, on a reimbursable basis, the administrative support services necessary for the Panel to carry out its duties under this subsection.

(6) Reports.—

(A) Interim reports.—The Panel shall submit to the President and the Congress interim reports at least annually.

(B) Final report.—The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

(7) Termination.—The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

(8) Authorization of appropriations.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

(f) Specific Regulations Required.—

(1) In general.—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

(2) Specific matters to be included in regulations.—The matters which shall be addressed in such regulations shall include (but are not limited to)—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to existing beneficiaries pursuant to section 1147(b)(1) of such Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program (and revoke such an election) pursuant to section 1147(c)(1) of such Act and provision for periodic opportunities for exercising such elections (and revocations);

(D) the status of State agencies under section 1147(c)(2) at the time that State agencies exercise elections (and revocations) under such section 1147(c)(1);

(E) the terms of agreements to be entered into with program managers pursuant to section 1147(d) of such Act, including (but not limited to)—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1147(d)(3) of such Act,

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1147(d) and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1147(e), and

(iii) the format under which dispute resolution will operate under section 1147(d)(7).

(F) the terms of agreements to be entered into with employment networks pursuant to section 1147(d)(4) of such Act, including (but not limited to)—

(i) the manner in which service areas are specified pursuant to section 1147(f)(2)(A) of such Act,

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1147(f)(2)(B) of such Act in selecting service providers,

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1147(f)(3) of such Act, and

(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1147(f)(4) of such Act;

(G) standards which must be met by individual employment plans pursuant to section 1147(g) of such Act;

(H) standards which must be met by payment systems required under section 1147(h) of such Act, including (but not limited to)—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1147(h)(1)(A),

(ii) the terms which must be met by an outcome payment system under section 1147(h)(2);

(iii) the terms which must be met by an outcome-milestone payment system under section 1147(h)(3);

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1147(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1147(h); and

(v) annual oversight procedures for such systems; and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

(g) Work Incentive Specialists.—The Commissioner shall establish a corps of trained, accessible, and responsive work incentive specialists to specialize in title II and title XVI disability work incentives for the purpose of disseminating accurate information to disabled beneficiaries (as defined in section 1147(j)(1) of the Social Security Act as amended by this Act) with respect to inquiries and issues relating to work incentives.

(h) Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings. —

(1) Authority.—The Commissioner shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1147(j)(2) of the Social Security Act, as amended by this Act) under which each $1 of benefits payable under section 223, or under section 202 based on the beneficiary's disability, is reduced for each $2 of such beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

(2) Scope and scale and matters to be determined.—

(A) In general.—The demonstration projects developed under paragraph (1) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

(i) the effects, if any, of induced entry and reduced exit,

(ii) the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program, and

(iii) the savings that accrue to the Trust Funds under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Self-Sufficiency Advisory Panel pursuant to subsection (e)(2)(C).

(B) Additional matters.—The Commissioner shall also determine with respect to each project—

(i) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project,

(ii) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project, and

(iii) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

(3) WAIVERS.—The Commissioner may waive compliance with the benefit requirements of title II of the Social Security Act, and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act, in so far as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) INTERIM REPORTS.—On or before June 9 in 2000 and each of the succeeding years thereafter, the Commissioner shall submit to the Congress an interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Commissioner may consider appropriate.

(5) FINAL REPORT.—The Commissioner shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than one year after their completion.

(6) EXPENDITURES.—Expenditures made for demonstration projects under this subsection shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

SEC. 3. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS WHO ARE USING TICKETS TO WORK AND SELF-SUFFICIENCY.

(a) IN GENERAL.—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended—

(1) by striking "throughout all of which" and inserting "throughout the first 24 months of which", and

(2) by inserting after "but not in excess of 24 such months" the following: "(plus 24 additional such months in the case of an individual who the Commissioner determines is using a ticket to work and self-sufficiency issued under section 1147, but only for additional months that occur in the 7-year period beginning on the date of the enactment of the Ticket to Work and Self-Sufficiency Act of 1998)".

(b) REPORT.—Not later than 6 months prior to the end of the 7-year period beginning on the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security shall submit in writing to each House of the Congress their recommendations for further legislative action with respect to the amendments made by subsection (a), taking into account experience derived from efforts to achieve full implementation of the Ticket to Work and Self Sufficiency Program under section 1147 of the Social Security Act.

SEC. 4. CREDIT FOR IMPAIRMENT-RELATED WORK EXPENSES OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

"SEC. 25B. IMPAIRMENT-RELATED WORK EXPENSES OF HANDICAPPED INDIVIDUALS.

"(a) ALLOWANCE OF CREDIT.—In the case of a handicapped individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the impairment-related work expenses which are paid or incurred by the taxpayer during the taxable year.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) with respect to the expenses of each handicapped individual shall not exceed $5,000 for the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' has the meaning given such term by section 190(b)(3).

"(2) IMPAIRMENT-RELATED WORK EXPENSES.—The term 'impairment-related work expenses' means expenses—

"(A) of a handicapped individual for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(B) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—The amount of impairment-related work expenses which is allowable as a deduction under section 162 (determined without regard to this paragraph) for the taxable year shall be reduced by the amount of credit allowed under this section for such year.

"(2) ELECTION TO HAVE SECTION NOT APPLY.—No credit shall be allowed under subsection (a) for the taxable year if the taxpayer elects to not have this section apply for such year."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Impairment-related work expenses of handicapped individuals."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

The SPEAKER pro tempore. Pursuant to House Resolution 450 the amendment printed in the bill, modified by the amendment printed in House Report 105–553, is adopted.

The text of H.R. 3433, as amended pursuant to House Resolution 450, is as follows:

H.R. 3433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Ticket to Work and Self-Sufficiency Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. The Ticket to Work and Self-Sufficiency Program.
Sec. 3. Extending medicare coverage for OASDI disability benefit recipients who are using tickets to work and self-sufficiency.
Sec. 4. Technical amendments relating to drug addicts and alcoholics.
Sec. 5. Extension of disability insurance program demonstration project authority.
Sec. 6. Perfecting amendments related to withholding from social security benefits.
Sec. 7. Treatment of prisoners.
Sec. 8. Revocation by members of the clergy of exemption from social security coverage.
Sec. 9. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.

SEC. 2. THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

"SEC. 1147. (a) IN GENERAL.—The Commissioner of Social Security shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

"(b) TICKET SYSTEM.—

"(1) DISTRIBUTION OF TICKETS.—The Commissioner of Social Security may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

"(2) ASSIGNMENT OF TICKETS.—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

"(3) TICKET TERMS.—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may provide to the beneficiary.

"(4) PAYMENTS TO EMPLOYMENT NETWORKS.—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

"(c) STATE PARTICIPATION.—

"(1) PERIODIC ELECTIONS.—Each State agency administering or supervising the administration of the State plan approved under title I of the

Rehabilitation act of 1973 may elect to participate in the Program (or to revoke any such election) as an employment network. The Commissioner shall provide for periodic opportunities for exercising such elections (and revocations).

"(2) TREATMENT OF STATE AGENCIES.—Any such election (or revocation) by a State agency described in paragraph (1) taking effect during any period for which an individual residing in the State is a disabled beneficiary and a client of the State agency shall not be effective with respect to such individual to the extent that such election (or revocation) would result in any change in the method of payment to the State agency with respect to the individual from the method of payment to the State agency with respect to the individual in effect immediately before such election (or revocation).

"(3) EFFECT OF PARTICIPATION BY STATE AGENCY.—

"(A) STATE AGENCIES PARTICIPATING.—In any case in which a State agency described in paragraph (1) elects under paragraph (1) to participate in the Program—

"(i) the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973, and

"(ii) the provisions of section 222(d) and the provisions of subsections (d) and (e) of section 1615 shall not apply with respect to such State.

"(B) STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

"(4) SPECIAL REQUIREMENTS APPLICABLE TO CROSS-REFERRAL TO CERTAIN STATE AGENCIES.—

"(A) IN GENERAL.—In any case in which an employment network has been assigned a ticket to work and self-sufficiency by a disabled beneficiary, no State agency shall be deemed required, under this section, title I of the Rehabilitation Act of 1973, or a State plan approved under such title, to accept any referral of such disabled beneficiary from such employment network unless such employment network and such State agency have entered into a written agreement that meets the requirements of subparagraph (B).

"(B) TERMS OF AGREEMENT.—An agreement required by subparagraph (A) shall specify, in accordance with regulations prescribed pursuant to subparagraph (C)—

"(i) the extent (if any) to which the employment network holding the ticket will provide to the State agency—

"(I) reimbursement for costs incurred in providing services described in subparagraph (A) to the disabled beneficiary, and

"(II) other amounts from payments made by the Commissioner to the employment network pursuant to subsection (h), and

"(ii) any other conditions that may be required by such regulations.

"(C) REGULATIONS.—The Commissioner of Social Security and the Secretary of Education shall jointly prescribe regulations specifying the terms of agreements required by subparagraph (A) and otherwise necessary to carry out the provisions of this paragraph.

"(D) PENALTY.—No payment may be made to an employment network pursuant to subsection (h) in connection with services provided to any disabled beneficiary if such employment network makes referrals described in subparagraph (A) in violation of the terms of the contract required under subparagraph (A) or without having entered into such a contract.

"(d) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

"(1) SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.—The Commissioner of Social Security shall enter into agreements with one or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

"(2) TENURE, RENEWAL, AND EARLY TERMINATION.—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include (but are not limited to)—

"(A) measures for ease of access by beneficiaries to services, and

"(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

"(3) PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.—Agreements under paragraph (1) shall preclude—

"(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager's agreement, and

"(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

"(4) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

"(5) TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

"(6) QUALITY ASSURANCE.—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall take into account the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure the performance of periodic surveys of beneficiaries receiving services under the Program designed to measure customer service satisfaction.

"(7) DISPUTE RESOLUTION.—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks and between program managers and employment networks. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

"(e) PROGRAM MANAGERS.—

"(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

"(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager's agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

"(3) FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks for good cause, as determined by the Commissioner, without being deemed to have rejected services under the Program. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible format.

"(4) ENSURING AVAILABILITY OF ADEQUATE SERVICES.—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager's agreement, including rural areas.

"(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Such services may include case management, benefits counseling, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are coordinated.

"(f) EMPLOYMENT NETWORKS.—

"(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, which assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b). No employment network may serve under the Program unless it demonstrates to the Commissioner substantial expertise and experience in the field of employment services, vocational rehabilitation services, or other support services for individuals with disabilities and provides an array of such services. An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their *resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.*

“(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

“(A) serve prescribed service areas,

“(B) meet, and maintain compliance with, both general selection criteria (such as professional and governmental certification and educational credentials) and specific selection criteria (such as the extent of work experience by the provider with specific populations), and

“(C) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans meeting the requirements of subsection (g).

“(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

“(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network pertaining to the beneficiary. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.

“(g) INDIVIDUAL WORK PLANS.—

“(1) IN GENERAL.—Each employment network shall—

“(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans as defined by the Commissioner, and

“(B) develop and implement each such individual work plan, in the case of each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

A beneficiary's individual work plan shall take effect upon approval by the beneficiary.

“(2) VOCATIONAL EVALUATION.—In devising the work plan, the employment network shall undertake a vocational evaluation with respect to the beneficiary. Each vocational evaluation shall set forth in writing such elements and shall be in such format as the Commissioner shall prescribe. The Commissioner may provide for waiver by the beneficiary of such a vocational evaluation, subject to regulations which shall be prescribed by the Commissioner providing for the permissible timing of, and the circumstances permitting, such a waiver.

“(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

“(1) ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—

“(A) IN GENERAL.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

“(B) METHOD OF PAYMENT TO EMPLOYMENT NETWORKS.—Any such election by an employment network taking effect during any period for which a disabled beneficiary is receiving services from such employment network shall not be effective with respect to such beneficiary to the extent that such election would result in any change in the method of payment to the employment network with respect to services provided to such beneficiary from the method of payment to the employment network with respect to services provided to such beneficiary as of immediately before such election.

“(2) OUTCOME PAYMENT SYSTEM.—

“(A) IN GENERAL.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

“(B) PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual's outcome payment period, for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable to such individual.

“(C) COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome payment system shall be designed so that—

“(i) the payment for each of the 60 months during the outcome payment period for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs, and

“(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

“(3) OUTCOME-MILESTONE PAYMENT SYSTEM.—

“(A) IN GENERAL.—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

“(B) EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.—The outcome-milestone payment system shall provide for one or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, which are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure which provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

“(C) LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) PAYMENT CALCULATION BASE.—The term ‘payment calculation base’ means, for any calendar year—

“(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year, and

“(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained at least 18 years of age.

“(B) OUTCOME PAYMENT PERIOD.—The term ‘outcome payment period’ means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

“(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable to such individual by reason of engagement in work activity, and

“(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in work activity.

“(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—

“(A) PERCENTAGES AND PERIODS.—The Commissioner of Social Security shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner's review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

“(B) NUMBER AND AMOUNT OF MILESTONE PAYMENTS.—The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, or other reliable sources.

“(i) SUSPENSION OF DISABILITY REVIEWS.—During any period for which an individual is using a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual' is or is not under a disability or a review under

title XVI similar to any such review under section 221.

''(j) AUTHORIZATIONS.—

''(1) TITLE II DISABILITY BENEFICIARIES.—There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to carry out the provisions of this section with respect to title II disability beneficiaries. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Commissioner of Social Security shall determine according to such methods and procedures as shall be prescribed under this section—

''(A) the total amount to be paid to program managers and employment networks under this section, and

''(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

''(2) TITLE XVI DISABILITY BENEFICIARIES.—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

''(k) DEFINITIONS.—For purposes of this section—

''(1) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means a title II disability beneficiary or a title XVI disability beneficiary.

''(2) TITLE II DISABILITY BENEFICIARY.—The term 'title II disability beneficiary' means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

''(3) TITLE XVI DISABILITY BENEFICIARY.—The term 'title XVI disability beneficiary' means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

''(4) SUPPLEMENTAL SECURITY INCOME BENEFIT.—The term 'supplemental security income benefit under title XVI' means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

''(l) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as are necessary to carry out the provisions of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE II.—

(A) Section 221(c) of such Act (42 U.S.C. 421(c)) is amended by adding at the end the following new paragraph:

''(4) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1147(i).''.

(B) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(C) Section 222(b) of such Act (42 U.S.C. 422(b)) is repealed.

(D) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking ''a program of vocational rehabilitation services'' and inserting ''a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services''.

(2) AMENDMENTS TO TITLE XVI.—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

''SEC. 1615. (a) In the case of any blind or disabled individual who—

''(1) has not attained age 16, and

''(2) with respect to whom benefits are paid under this title,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.''.

(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is repealed.

(C) Section 1631(a)(6)(A) of such Act (42 U.S.C. 1383(a)(6)(A)) is amended by striking ''a program of vocational rehabilitation services'' and inserting ''a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services''.

(D) Section 1633(c) of such Act (42 U.S.C. 1383b(c)) is amended—

(i) by inserting ''(1)'' after ''(c)''; and

(ii) by adding at the end the following new paragraph:

''(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1147(i).''..

(c) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following one year after the date of the enactment of this Act.

(d) GRADUATED IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(C) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

(2) REQUIREMENTS.—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) FULL IMPLEMENTATION.—The Commissioner shall ensure that the Program is fully implemented as soon as practicable on or after the effective date specified in subsection (c) but not later than six years after such date.

(4) ONGOING EVALUATION OF PROGRAM.—

(A) IN GENERAL.—The Commissioner shall design and conduct a series of evaluations to assess the cost-effectiveness of activities carried out under this section and the amendments made thereby, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) METHODOLOGY.—

(i) DESIGN AND IMPLEMENTATION.—The Commissioner shall design the series of evaluations after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation and individuals using tickets to work and self-sufficiency under the Program. In designing and carrying out such evaluations, the Commissioner shall consult with the Comptroller General of the United States and other agencies of the Federal Government and with private organizations with appropriate expertise. Before provision of services begins under any phase of Program implementation, the Commissioner shall ensure that plans for such evaluations and data collection methods are in place and ready for implementation.

(ii) SPECIFIC MATTERS TO BE ADDRESSED.—Each such evaluation shall address (but is not limited to):

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of providers whose services are provided within an employment network under the Program;

(VII) the extent (if any) to which employment networks display a greater willingness to provide services to disabled beneficiaries;

(VIII) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome payment system and of those beneficiaries who receive services under the outcome-milestone payment system;

(IX) measures of satisfaction among beneficiaries in receipt of tickets under the Program; and

(X) reasons for (including comments solicited from beneficiaries regarding) their choice not to use their tickets or their inability to return to work despite the use of thier tickets.

(C) PERIODIC EVALUATION REPORTS.—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how

the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(5) EXTENT OF STATE'S RIGHT OF FIRST REFUSAL IN ADVANCE OF FULL IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.—

(A) IN GENERAL.—In the case of any State in which the amendments made by subsection (a) have not been fully implemented pursuant to this subsection, the Commissioner shall determine by regulation the extent to which—

(i) the requirement under section 222(a) of the Social Security Act for prompt referrals to a State agency, and

(ii) the authority of the Commissioner under section 222(d)(2) of such Act to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals,

shall apply in such State.

(B) EXISTING AGREEMENTS.—Nothing in subparagraph (A) or the amendments made by subsection (a) shall be construed to limit, impede, or otherwise affect any agreement entered into pursuant to section 222(d)(2) of the Social Security Act before the date of the enactment of this Act with respect to services provided pursuant to such agreement to beneficiaries receiving services under such agreement as of such date, except with respect to services (if any) to be provided after six years after the effective date provided in subsection (c).

(e) THE TICKET TO WORK AND SELF-SUFFICIENCY ADVISORY PANEL.—

(1) ESTABLISHMENT.—There is established in the executive branch a panel to be known as the "Ticket to Work and Self-Sufficiency Advisory Panel" (in this subsection referred to as the "Panel").

(2) DUTIES OF PANEL.—It shall be the duty of the Panel to—

(A) advise the Commissioner of Social Security on establishing phase-in sites for the Ticket to Work and Self-Sufficiency Program and on fully implementing the Program thereafter,

(B) advise the Commissioner with respect to the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program,

(C) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to subsection (h),

(D) advise the Commissioner on the development of performance measurements relating to quality assurance under section 1147(d)(6) of the Social Security Act, and

(E) furnish progress reports on the Program to the President and each House of the Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 6 members as follows:

(i) 1 member appointed by the Chairman of the Committee on Ways and Means of the House of Representatives;

(ii) 1 member appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives;

(iii) 1 member appointed by the Chairman of the Committee on Finance of the Senate;

(iv) 1 member appointed by the ranking minority member of the Committee on Finance of the Senate; and

(v) 2 members appointed by the President, who may not be of the same political party.

(B) REPRESENTATION.—Of the members appointed under subparagraph (A), at least 4 shall have experience or expert knowledge as a recipient, provider, employer, or employee in the fields of, or related to, employment services, vocational rehabilitation services, and other support services, of whom—

(i) at least one shall represent the interests of recipients of employment services, vocational rehabilitation services, and other support services,

(ii) at least one shall represent the interests of providers of employment services, vocational rehabilitation services, and other support services,

(iii) at least one shall represent the interests of private employers,

(iv) at least one shall represent the interests of employees, and

(v) at least one shall be an individual who is or has been a recipient of benefits under title II or title XVI based on disability.

(C) TERMS.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this Act.

(ii) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

(I) 3 of the members appointed under subparagraph (A) shall be appointed for a term of 2 years, and

(II) 3 of the members appointed under subparagraph (A) shall be appointed for a term of 4 years.

(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(D) BASIC PAY.—Members shall each be paid at a rate equal to the daily equivalent of the rate of basic pay for level 4 of the Senior Executive Service, as in effect from time to time under section 5382 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Panel.

(E) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) QUORUM.—4 members of the Panel shall constitute a quorum but a lesser number may hold hearings.

(G) CHAIRPERSON.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.

(H) MEETINGS.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.

(4) DIRECTOR AND STAFF OF PANEL; EXPERTS AND CONSULTANTS.—

(A) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Panel. The Director shall be paid at a rate not to exceed the maximum rate of pay payable for GS–15 of the General Schedule.

(B) STAFF.—Subject to rules prescribed by the Panel, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.

(C) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Panel, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(D) STAFF OF FEDERAL AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.

(5) POWERS OF PANEL.—

(A) HEARINGS AND SESSIONS.—The Panel may, for the purpose of carrying out its duties under this subsection, hold such hearings, sit and act at such times and places, and take such testimony and evidence as the Panel considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(D) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Administrator of General Services shall provide to the Panel, on a reimbursable basis, the administrative support services necessary for the Panel to carry out its duties under this subsection.

(6) REPORTS.—

(A) INTERIM REPORTS.—The Panel shall submit to the President and the Congress interim reports at least annually.

(B) FINAL REPORT.—The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

(7) TERMINATION.—The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

(f) SPECIFIC REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

(2) SPECIFIC MATTERS TO BE INCLUDED IN REGULATIONS.—The matters which shall be addressed in such regulations shall include (but are not limited to)—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1147(b)(1) of such Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program (and revoke such an election) pursuant to section 1147(c)(1) of such Act and provision for periodic opportunities for exercising such elections (and revocations);

(D) the status of State agencies under section 1147(c)(2) at the time that State agencies exercise elections (and revocations) under such section 1147(c)(1);

(E) the terms of agreements to be entered into with program managers pursuant to section 1147(d) of such Act, including (but not limited to)—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1147(d)(3) of such Act,

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1147(d) and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1147(e), and

(iii) the format under which dispute resolution will operate under section 1147(d)(7).

(F) the terms of agreements to be entered into with employment networks pursuant to section 1147(d)(4) of such Act, including (but not limited to)—

(i) the manner in which service areas are specified pursuant to section 1147(f)(2)(A) of such Act,

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1147(f)(2)(B) of such Act in selecting service providers,

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1147(f)(3) of such Act, and

(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1147(f)(4) of such Act;

(G) standards which must be met by individual work plans pursuant to section 1147(g) of such Act;

(H) standards which must be met by payment systems required under section 1147(h) of such Act, including (but not limited to)—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1147(h)(1)(A),

(ii) the terms which must be met by an outcome payment system under section 1147(h)(2);

(iii) the terms which must be met by an outcome-milestone payment system under section 1147(h)(3);

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1147(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1147(h); and

(v) annual oversight procedures for such systems; and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

(g) WORK INCENTIVE SPECIALISTS.—The Commissioner shall establish a corps of trained, accessible, and responsive work incentive specialists to specialize in title II and title XVI disability work incentives for the purpose of disseminating accurate information to disabled beneficiaries (as defined in section 1147(k)(1) of the Social Security Act as amended by this Act) with respect to inquiries and issues relating to work incentives.

(h) DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS. —

(1) AUTHORITY.—The Commissioner shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1147(k)(2) of the Social Security Act, as amended by this Act) under which each $1 of benefits payable under section 223, or under section 202 based on the beneficiary's disability, is reduced for each $2 of such beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

(2) SCOPE AND SCALE AND MATTERS TO BE DETERMINED.—

(A) IN GENERAL.—The demonstration projects developed under paragraph (1) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

(i) the effects, if any, of induced entry and reduced exit,

(ii) the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program, and

(iii) the savings that accrue to the Trust Funds and other Federal programs under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Self-Sufficiency Advisory Panel pursuant to subsection (e)(2)(C).

(B) ADDITIONAL MATTERS.—The Commissioner shall also determine with respect to each project—

(i) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project,

(ii) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project, and

(iii) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.

(3) WAIVERS.—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act, and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act, in so far as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) INTERIM REPORTS.—On or before June 9 in 2000 and each of the succeeding years thereafter, the Commissioner shall submit to the Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials which the Commissioner may consider appropriate.

(5) FINAL REPORT.—The Commissioner shall submit to the Congress a final report with respect to all demonstration projects carried out under this section no later than one year after their completion.

(6) EXPENDITURES.—Expenditures made for demonstration projects under this subsection shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

(i) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 and other Federal laws. In such study, the Comptroller General shall specifically address the extent to which such credits and other incentives would encourage employers to hire and retain individuals with disabilities under the Ticket to Work and Self-Sufficiency Program.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General may determine to be appropriate.

(j) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING COORDINATION OF THE DI AND SSI PROGRAMS AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAVING CONCURRENT ENTITLEMENT.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to evaluate the coordination under current law of the disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, as such programs relate to individuals entering or leaving concurrent entitlement under such programs. In such study, the Comptroller General shall specifically address the effectiveness of work incentives under such programs with respect to such individuals and the effectiveness of coverage of such individuals under titles XVIII and XIX of such Act.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General may determine to be appropriate.

SEC. 3. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS WHO ARE USING TICKETS TO WORK AND SELF-SUFFICIENCY.

(a) IN GENERAL.—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended—

(1) by striking "throughout all of which" and inserting "throughout the first 24 months of which", and

(2) by inserting after "but not in excess of 24 such months" the following: "(plus 24 additional such months in the case of an individual who the Commissioner determines is using a ticket to work and self-sufficiency issued under section 1147, but only for additional months that occur in the 7-year period beginning on the date of the enactment of the Ticket to Work and Self-Sufficiency Act of 1998)".

(b) REPORT.—Not later than 6 months prior to the end of the 7-year period beginning on the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security shall submit in writing to each House of the Congress their recommendations for further legislative action with respect to the amendments made by subsection (a), taking into account experience derived from efforts to achieve full implementation of the Ticket to Work and Self Sufficiency Program under section 1147 of the Social Security Act.

SEC. 4. TECHNICAL AMENDMENTS RELATING TO DRUG ADDICTS AND ALCOHOLICS.

(a) CLARIFICATION RELATING TO THE EFFECTIVE DATE OF THE DENIAL OF SOCIAL SECURITY

Disability Benefits to Drug Addicts and Alcoholics.—Section 105(a)(5) of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 853) is amended—

(1) in subparagraph (A), by striking "by the Commissioner of Social Security" and "by the Commissioner"; and

(2) by adding at the end the following new subparagraphs:

"(D) For purposes of this paragraph, an individual's claim, with respect to benefits under title II of the Social Security Act based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

"(i) there is pending a request for either administrative or judicial review with respect to such claim, or

"(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

"(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) of the Social Security Act shall not apply to such redetermination.".

(b) Correction to Effective Date of Provisions Concerning Representative Payees and Treatment Referrals of Social Security Beneficiaries Who Are Drug Addicts and Alcoholics.—Section 105(a)(5)(B) of such Act (Public Law 104–121; 110 Stat. 853) is amended to read as follows:

"(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—

"(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act, or

"(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).".

(c) Effective Dates.—The amendments made by this section shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 852 et seq.).

SEC. 5. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) In General.—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96–265; 94 Stat. 473), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272; 100 Stat. 282), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2472), section 5120(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–282), and section 315 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1531), is further amended—

(1) in paragraph (1) of subsection (a), by adding at the end the following new sentence: "The Commissioner may expand the scope of any such demonstration project to include any group of applicants for benefits under such program with impairments which may reasonably be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.";

(2) in paragraph (3) of subsection (a), by striking "June 10, 1996" and inserting "June 10, 2001";

(3) in paragraph (4) of subsection (a), by inserting "and on or before October 1, 2000," after "1995,"; and

(4) in subsection (c), by striking "October 1, 1996" and inserting "October 1, 2001".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6. PERFECTING AMENDMENTS RELATED TO WITHHOLDING FROM SOCIAL SECURITY BENEFITS.

(a) Inapplicability of Assignment Prohibition.—Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

"(c) Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee.".

(b) Proper Allocation of Costs of Withholding Between the Trust Funds and the General Fund.—Section 201(g) of such Act (42 U.S.C. 401(g)) is amended—

(1) by inserting before the period in paragraph (1)(A)(ii) the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee";

(2) by inserting before the period at the end of paragraph (1)(A) the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee";

(3) in paragraph (1)(B)(i)(I), by striking "subparagraph (A))," and inserting "subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee,";

(4) in paragraph (1)(C)(iii), by inserting before the period the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee";

(5) in paragraph (1)(D), by inserting after "section 232" the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 207(c)"; and

(6) in paragraph (4), by inserting after the first sentence the following: "The Board of Trustees of such Trust Funds shall prescribe the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee.".

(c) Effective Date.—The amendments made by subsection (b) shall apply to benefits paid on or after the first day of the second month beginning after the month in which this Act is enacted.

SEC. 7. TREATMENT OF PRISONERS.

(a) Implementation of Prohibition Against Payment of Title II Benefits to Prisoners.—

(1) In General.—Section 202(x)(3) of the Social Security Act (42 U.S.C. 402(x)(3)) is amended—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B)(i) The Commissioner shall enter into an agreement under this subparagraph with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii). Under such agreement—

"(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the individuals confined in the institution as the Commissioner may require for the purpose of carrying out paragraph (1); and

"(II) the Commissioner shall pay to the institution, with respect to information described in subclause (I) concerning each individual who is confined therein as described in paragraph (1)(A), who receives a benefit under this title for the month preceding the first month of such confinement, and whose benefit under this title is determined by the Commissioner to be not payable by reason of confinement based on the information provided by the institution, $400 (subject to reduction under clause (ii)) if the institution furnishes the information to the Commissioner within 30 days after the date such individual's confinement in such institution begins, or $200 (subject to reduction under clause (ii)) if the institution furnishes the information after 30 days after such date but within 90 days after such date.

"(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 1611(e)(1)(I).

"(iii) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.

"(iv) There is authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II).

"(v) The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any agency administering a Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes.".

(2) Effective Date.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(b) Elimination of Title II Requirement That Confinement Stem From Crime Punishable by Imprisonment for More Than 1 Year.—

(1) In General.—Section 202(x)(1)(A) of such Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in the matter preceding clause (i), by striking "during" and inserting "throughout";

(B) in clause (i), by striking "an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed)" and inserting "a criminal offense"; and

(C) in clause (ii)(I), by striking "an offense punishable by imprisonment for more than 1 year" and inserting "a criminal offense".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(c) CONFORMING TITLE XVI AMENDMENTS.—

(1) FIFTY PERCENT REDUCTION IN TITLE XVI PAYMENT IN CASE INVOLVING COMPARABLE TITLE II PAYMENT.—Section 1611(e)(1)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)) is amended—

(A) in clause (i)(II), by inserting "(subject to reduction under clause (ii))" after "$400" and after "$200";

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv) respectively; and

(C) by inserting after clause (i) the following new clause:

"(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 202(x)(3)(B).".

(2) EXPANSION OF CATEGORIES OF INSTITUTIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in the matter preceding subclause (I) by striking "institution" and all that follows through "section 202(x)(1)(A)," and inserting "institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act in section 1611(e)(1)(I)(i) of such Act as amended by paragraph (2) shall be deemed a reference to such section 202(x)(1)(A)(ii) as amended by subsection (b)(1)(C).

(d) CONTINUED DENIAL OF BENEFITS TO SEX OFFENDERS REMAINING CONFINED TO PUBLIC INSTITUTIONS UPON COMPLETION OF PRISON TERM.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii)(IV), by striking the period and inserting ", or"; and

(C) by adding at the end the following new clause:

"(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.".

(2) CONFORMING AMENDMENT.—Section 202(x)(1)(B)(ii) of such Act (42 U.S.C. 402(x)(1)(B)(ii)) is amended by striking "clause (ii)" and inserting "clauses (ii) and (iii)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to benefits for months ending after the date of the enactment of this Act.

SEC 8. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second taxable year beginning after December 31, 1998. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1998, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402 (c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1998, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 9. ADDITIONAL TECHNICAL AMENDMENT RELATING TO COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS UNDER TITLES II AND XVI.

(a) IN GENERAL.—Section 1110(a)(3) of the Social Security Act (42 U.S.C. 1310(a)(3)) is amended by striking "title XVI" and inserting "title II or XVI".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in the CONGRESSIONAL RECORD, if offered by the gentleman from New York (Mr. RANGEL), or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Texas (Mr. ARCHER) and the gentlewoman from Connecticut (Mrs. KENNELLY) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3433.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Social Security disability program provides essential income to those who are unable to work due to severe illness or injury. Last year, benefits were paid to more than 6.1 million workers, their wives, and their children.

Since arriving on Capitol Hill 27 years ago, I have worked to make this complex, and often very unfriendly, program work better.

That is why I am so pleased today that my effort has been carried forward by the fine work of the gentleman from Kentucky (Mr. BUNNING) our subcommittee chairman and the gentlewoman from Connecticut (Mrs. KENNELLY) the ranking minority member, as well as all of the other members of the Subcommittee on Social Security who have created this important bipartisan legislation aimed at providing real opportunities for those who want to work.

Mr. Speaker, so often we hear about the cacophony of this body, the fractionalism, the partisanship. It is to be noted that here we are doing something together, reaching across the aisle, without distinction as to party, to help give opportunity to those who are disabled.

Most of those receiving disability benefits, due to the severity of their impairments, cannot attempt to work. Today, however, the Americans with Disabilities Act, along with advances in assistive technology, medical treatment, and rehabilitation therapies are opening doors of opportunity, never thought possible, to individuals with disabilities.

Yet current law still tends to chain these disabled persons to an outmoded system, through complex, so-called work incentives. In essence, individuals who try to work lose cash benefits along with access to medical coverage which they so desperately need while they make the move to self-sufficiency.

This legislation will finally help beneficiaries pass through these new doors of opportunity. We are, I believe, our brothers' and sisters' keepers. I consider it very important for us to provide the support which permits disabled individuals the freedom to reach their utmost potential.

This bill, as I mentioned, is bipartisan and is supported by the administration. It also is supported by individuals with disabilities, their advocates, rehabilitation service providers, and many others.

This, therefore, is a proud day for the Committee on Ways and Means and for the House of Representatives. America stands for opportunity. Today we rise together to provide greater opportunities for those individuals with disabilities who want to be gainfully employed.

I know all of my colleagues will join me with pride in support of this pivotal legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

I would like to do a few things before I make my statement. First, I would like to make reference to the letter, the statement of the administration on this bill that we have before us today, President Bill Clinton and his administration. The letter states:

> The Administration supports H.R. 3433, and is pleased that the House is taking action on the critical issue of making it possible for more people with disabilities to return to or enter the workforce. H.R. 3433 would implement a Presidential initiative to increase flexibility and choice for individuals with disabilities who seek services to help them successfully return to work. This is an Administration priority, as reflected in the President's March 13th Executive Order that established a task force of Federal agencies to identify additional actions required to increase the employment of adults with disabilities.

Bill Clinton, his administration supports this bill.

Mr. Speaker, I would like to take this opportunity to thank the gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) for allowing the committee to take the time, and the staff effort for bringing this bill forth today so it could be on the floor. I would like to also thank Mr. Tony Young from the United Cerebral Palsy agency for his time and his effort and being with us not only to testify at the hearings but at the various other meetings that we had, the United Cerebral Palsy Association is behind this bill, but he has been remarkable in his efforts in supporting this and making sure that every single "I" was dotted and all the work was done as an advocate for disabilities. I would also like to thank Marty Ford from AARP for the work that she did, the support that she found for us, and I obviously want to thank the gentleman from Kentucky (Mr. BUNNING) the chairman of the Subcommittee on Social Security for his efforts. We would not be here if it was not for him today. He was so wonderful in making sure all the advocates were able to come forth and to show us exactly what happens in the day-to-day life of those with disabilities and what we had to do in this legislation to make their lives that much better.

And so, Mr. Speaker, we are here today to send a very, very simple message. That message is that a disability should not mean retirement. Americans with disabilities have tremendous skills, talents and abilities that are very, very, very important to employers. This legislation, therefore, attempts to help people voluntarily to return to work after they have suffered a disability.

Mr. Speaker, more than 6 million Americans now receive Social Security disability insurance. These people, Mr. Speaker, have paid taxes into public insurance and into the system and they have a right to these benefits to protect them against the loss of income due to retirement or disability.

Another 4 million adults with disabilities receive SSI payments, which are designed to keep low-income Americans who have disabilities from having to live below the poverty line. And so we have these 10 million people being addressed in this legislation today.

There can be no doubt that these are worthwhile programs that millions of Americans depend on. But it is also equally true that given the choice, many of these individuals who have disabilities would much rather be working. However, Americans with disabilities now find a multitude of barriers standing between them and a job. The loss of disability benefits, the need for training in a different profession, difficulty in learning how to do a new job if in fact you did one particular type of work, then had your accident or your sickness, then going back into the workforce, could not do that job that you had previously done but you could get the training to do a new job, this would make all the difference in the world to somebody with a disability. Obviously, there is another fear, the great fear of losing medical coverage. This very definitely can stand in the way of many individuals when daring to go back into the workforce because they have that fear that if they go back in, they might not be able to make it and then they would lose their health care. Obviously this is something that we had to address and we did in this bill.

This legislation we are now considering would reduce the severity of some of these impediments to work. For example, the legislation would provide recipients with a much greater choice in vocational rehabilitation providers who help train and find jobs for individuals with disabilities. Additionally, the measure would provide a clear incentive for these providers to help beneficiaries not only get jobs but also to stay in them since provider payments would be based on a person's work history over a 5-year period.

□ 1615

This bill would also provide continued Medicare coverage for those leaving the SSDI rolls for work. More specifically, the legislation would guarantee Medicare coverage for at least 6 years after that individual went off disability and returned to the work rolls. Six years sounds like a long time, but if you have a serious disability, it is the time that you need, and this is an additional 2 years. We have under present law 4 years of disability, 4 years of Medicare if you have a disability. This increases that number of years to 6 years.

And, finally, the legislation would test the idea of gradually reducing SSDI benefits for individuals who leave the disability rolls for work rather than immediately ending their benefits of any month in which they earn more than $500, as is the case under current law. In other words, what we want to examine is the possibility of providing a ramp to get off disability benefits rather than all of a sudden $500 a month and a cliff and they are off.

We do not offer this legislation as the last word in helping individuals voluntarily leave the disability rolls for work, but we do see this bill as a very constructive first step toward opening the doors of employment a little wider for people with disabilities, a little larger chance to get back into the mainstream, one opportunity more to make sure that they could go back to where they want to be.

And let me once again point out that even if this bill only increases, only increases the number of people leaving the disability rolls for work by 1 percent, we would save the Social Security system $3 billion. Now that sounds almost imaginable. You cannot imagine that, Mr. Speaker; but the fact of the matter is, under the present system we are losing $3 billion a year for the system if we do not get at least 1 percent off the rolls.

So this bill is truly a win-win proposition. It will help people work, and it will strengthen the Social Security system.

Before I conclude, let me once again thank the gentleman from Kentucky (Mr. BUNNING) without whom we would not be here, because he called those meetings, he kept us at those meetings, he listened to the advocates from around the country bring their testimony to the Congress to show what we had to do.

I have enjoyed working with the chairman of the subcommittee, and I really think, I say to the gentleman from Kentucky (Mr. BUNNING) that we have reduced some of those barriers that are so impossible for people to get beyond to get back to work where they want to be. And I thank the gentleman very much for letting me work with him, for both of us working together, and I am pleased and delighted that this bill is on the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the ranking member, the gentlewoman from Connecticut (Mrs. KENNELLY) for her input on this bill and particularly the staffs who worked very well in cooperation to make it complete.

Sandy, thank you very much; and we appreciate all the hard work Kim and others on our side have done.

The Social Security program is vitally important, as everyone knows, to all Americans. The disability program is particularly critical in protecting those workers and their families who become smitten by an incapacitating illness or accident.

Through our Subcommittee on Social Security hearings over the last 3 years we have been told over and over by individuals with disabilities, their advocates, rehabilitation experts and various providers of services that, due to advances in medicine, technology and the field of rehabilitation, many individuals with disabilities want to work and they believe they could work if provided needed rehabilitation and support services and if the program could be changed to remove the barriers preventing beneficiaries from becoming self-sufficient through employment.

Topping the list, and we have heard it before, is the fear of losing health care coverage and cash benefits. Another disincentive is that beneficiaries currently have limited choices in selecting rehabilitation services and who provides those services.

The gentlewoman from Connecticut (Mrs. KENNELLY) and I, along with all of the members of the subcommittee, have worked very hard on a bipartisan basis and with the administration to replace disincentives with real incentives. Our legislation empowers beneficiaries first by allowing them to choose the public or private provider of services which best suits their needs and to choose the type of services most likely to assist them in entering the work force. The bill pays providers of services for results by permitting them to share in the savings to the Social Security Trust Funds incurred when the beneficiary is working and no longer receiving benefits. The provider payment system is designed to ensure that as many providers as possible are available to beneficiaries.

To address one of the primary obstacles facing disability beneficiaries who attempt to work, our bill extends, as we have heard before, Medicare coverage for an additional 2 years for those who participate in the program. To help beneficiaries who have mental disabilities or chronic conditions transition into work, our bill includes a requirement that SSA test a gradual offset of disability cash benefits by reducing benefits $1 for every 2 earned over a determined level.

The Subcommittee on Social Security has crafted a solid bill, a bill that, according to preliminary CBO estimates, will more than quadruple the number of beneficiaries who will receive rehabilitation and other support services as the program is implemented. In addition, this bill will save the Social Security Trust Funds and general revenues millions of dollars over the years.

Let me make one point perfectly clear. This is a voluntary program providing real opportunities for those who want to work. No one will be forced to leave the disability rolls. The Social Security and supplemental Social Security income disability programs are preserved as a much-needed safety net for people who are unable to work.

Under this bill, personal responsibility is maximized by allowing beneficiaries to take charge of their own lives and become employed. This legislation, once signed into law, will transform the disability program to a program of investment versus entitlement, encouraging self-sufficiency versus dependency. I urge my colleagues to support this legislation.

I also would like to include in the record a letter from the American Association of Retired Persons in support of this legislation and also a letter from the United States Chamber of Commerce also in support of this legislation.

Mr. Speaker, I reserve the balance of my time.

The documents referred to are as follows:

AARP,
June 3, 1998.

Hon. JIM BUNNING,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE BUNNING: AARP commends you and Respresentative Kennelly for your leadership on H.R. 3433, the Ticket to Work Act. We believe your legislation could set the stage for important improvements in both the Social Security and Supplemental Security Income (SSI) disability programs that will benefit society, our economy, and beneficiaries who are able to return to work.

The Ticket to Work Act provides a series of incentives to encourage SSDI and SSI beneficiaries to work to the greatest extent of their abilities. While income support for those who can never return to the workforce is critical, we must do a better job of helping individuals with disabilities who want to, and can, work. This legislation begins the process by phasing-in and then evaluating incentives that many disability experts agree would promote additional work.

Again, we commend you and your committee for developing a program that will promote greater work effort by disabled beneficiaries who have the ability and desire to return to the labor force—a result that helps returning workers, their families, and society.

Sincerely,

MARTIN CORRY,
Director, Federal Affairs.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, June 3, 1998.

Hon. JIM BUNNING,
Chairman, Ways and Means Subcommittee on Social Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, we commend you for your sponsorship of H.R. 3433, the Ticket to Work and Self-Sufficiency Act of 1998.

As the largest business federation, the U.S. Chamber of Commerce has made it a priority to help meet the growing challenge that businesses face in finding skilled workers to sustain a growing economy. Central to combating this problem is the exploration and training of non-traditional sources of labor, such as persons with disabilities. Studies indicate that faced with inadequate rehabilitation and training, as well as the threat of loss of benefits and health care, many persons with disabilities are discouraged to enter the workforce.

Accordingly, we support H.R. 3433, the Ticket to Work and Self-Sufficiency Act of 1998 which will reduce employment obstacles for Social Security and Supplemental Security Income disability recipients. This bipartisan legislation addresses these employment obstacles by expanding their choices for providers of vocational rehabilitation, by extending their Medicare coverage from four to six years, and by offering them a tax credit of 50 percent for the cost of impairment-related work expenses.

Workforce development is a top priority of the U.S. Chamber. We therefore pledge to work with both Houses of Congress to enact this critical legislation which empowers disability recipients with the ability to return to a life of economic security and self-sufficiency—a goal that is shared by the American business community.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I want to thank the gentlewoman from Connecticut (Mrs. KENNELLY) for yielding this time to me.

I would like to express my strong support for this bipartisan legislation. I think, given the choice, most disability beneficiaries would rather be working. However, as we have learned during committee hearings, there are currently numerous obstacles facing these beneficiaries in their pursuit of employment including the fear of losing health and cash benefits and little known and complex work incentives.

In a true bipartisan manner Congress has addressed these issues in the legislation before us today. After five hearings over nearly 4 years involving individuals with disabilities, advocates, rehabilitation experts, providers and the administration, we finally have a comprehensive bill which we believe will significantly ease the transition of SSDI and SSI disabled beneficiaries into the work force.

In short, H.R. 3433 would establish a ticket to work and self-sufficiency program which would provide beneficiaries with a ticket to obtain vocational rehabilitation employment or other support services. These tickets would provide beneficiary choices and essential rehabilitation and support services. More specifically, this legislation would institute employment networks which would encourage disabled beneficiaries to establish employment goals.

This measure also addresses the fears associated with potentially losing one's health care during pursuit of employment by extending health care coverage an additional 2 years. And another important component of this proposal is that these networks would be paid on a results-oriented basis. In other words, payments to providers would be based on the success of returning the beneficiary to work. Is not this making government and these programs more efficient and effective?

I would like to thank the Committee on Social Security and, more specifically, the chairman, the gentleman from Kentucky (Mr. BUNNING) and ranking member, the gentlewoman from Connecticut (Mrs. KENNELLY) for their hard work and commitment to opening these doors to employment. This is a strong and effective piece of legislation, and I urge my colleagues to give this measure their full support.

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this is truly a red letter day for disabled Americans, and I congratulate the gentleman from Kentucky (Mr. BUNNING) and the gentlewoman from Connecticut (Mrs. KENNELLY) on this bipartisan legislation that is going to change so many lives. They worked together and closely with the disabled community to put together a bill that will begin to break down the barriers to work and personal fulfillment that are now so ingrained in our Social Security disability program.

I am also pleased that the House has made passage of this bill a priority during this session.

Mr. Speaker, it is our job to be sure that every American has the opportunity to develop the skills and abilities they have to fulfill their potential in our free society. It is our job to break down barriers in old laws so that people can create their futures.

The current system has had very limited success in helping people, indeed even allowing people, to take the steps they desperately want to take to change their lives. Currently, less than 5 percent of beneficiaries return to work because the program barriers are so insurmountable, and this in spite of, as the gentleman from Kentucky (Mr. BUNNING) alluded to, the dramatic changes that have taken place in our rehabilitative resources.

One of the greatest of these barriers is lack of access to affordable health care once a person returns to work. People leaving disability usually find employment first in low-paying jobs that rarely offer employer-sponsored health coverage. H.R. 3433 takes a powerful step to address this problem by extending availability of Medicare coverage.

However, Medicare does not provide coverage for some of the critical services that some disabled people depend upon. For example, traditional Medicare does not cover prescription drug coverage or provide prescription drug coverage or personal assistance services, services critical to disabled people and currently covered by Medicaid for low income recipients.

In meetings with people and organizations in my district over the last year I have become keenly aware of the problems faced by people with severe psychiatric disabilities in their search for meaningful employment. The single largest issue affecting their ability to work is their ability to afford psychotropic drugs that help them manage their illness. Because traditional Medicare does not provide prescription drug coverage, this proposal still leaves many people with limited options.

According to a letter I received from the Connecticut Northwest Regional Mental Health Board regarding H.R. 3433, they say persons with long-term psychiatric illness experience significant impairment in cognitive, behavioral, vocation and interpersonal skills. The impact of mental illness on these clients is usually lifelong, with vocational capacity varying significantly over the course of a client's illness.

Mr. Speaker, this is an important piece of legislation, and I urge favorable action by the House.

□ 1630

Mrs. KENNELLY of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I would like to thank the gentlewoman for yielding me time, and congratulate her and the chairman of our subcommittee on their very diligent and effective work, and now successful work.

Mr. Speaker, I have no doubt this will become law. The reason for that is the basic thrust of this legislation, and that is to enhance the opportunities of the disabled who want to work, while always protecting those who cannot. We must never forget that so many people who are receiving disability payments simply are not able to return to the workforce, and we must never forget them.

But for those who are receiving disability payments who could return to work or to part-time work, what this bill does is attempt to enhance those opportunities, and it does so in a number of imaginative ways. It improves the rehabilitative services that are so critical by definition, and it does that by changing the scheme and structure of payments to try to encourage the effectiveness of their rehabilitation.

It also, as has been mentioned, undertakes another very vital aspect of this, and that is to make sure that there will be continued longer Medicare coverage when people move from the disability roll payments to work. Without that kind of protection of health care, it is pretty clear that there would be continued disincentive to work.

We have found in other instances that we cannot expect those whose only source of medical care is receipt of a payment from the Federal Government to forfeit that, and many of the disabled by definition, as is true of the nondisabled, would be moving into positions that have no health care or very inadequate health care, when the disabled by definition need very, very comprehensive health care.

So I congratulate the gentleman from Kentucky (Mr. BUNNING) and the gentlewoman from Connecticut (Mrs. KENNELLY) for this provision. Also there is an effort to look at the possibility of a new structure so disability payments can continue in some amount while people are moving from disability to work. So I congratulate the authors. I have been proud to be a cosponsor and work with them. I hope this will pass, not only overwhelmingly but unanimously, and we can all go to the White House, or at least maybe in the quiet of night or day it will be signed. One way or another, it will become law.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Mr. Speaker, first of all I want to thank the gentleman from Kentucky (Mr. BUNNING), who more than anyone has put in long years to bring this legislation to the floor. It is a great tribute to him and his efforts.

Mr. Speaker, every American should have the right to aspire to the American dream. In America, every citizen should have the opportunity to participate in our economy to the extent of their talent or abilities.

Unfortunately, many individuals with disabilities have had the American dream recede beyond their reach, not because of physical limitations but because of roadblocks created within our system of social services. These artificial barriers unfairly and unnecessarily reduce workforce participation and economic opportunity for many Americans whose disability should not bar them from gainful employment.

Mr. Speaker, in my view the time has come to empower these Americans to participate fully in the broad emporium of our national economy. I rise in strong support of the Ticket to Work and Self-Sufficiency Act. This bipartisan bill establishes a new program that will provide SSDI and SSI disabled beneficiaries with a ticket to a variety of support services, enabling these beneficiaries to reenter the work force.

Private sector providers, known as employment networks, would be established to assist beneficiaries, and the Social Security Administration would contract with program managers to administer the Ticket to Work and Self-Sufficiency Program nationwide.

The program will include vocational rehabilitation and employment services, and beneficiaries would be in a position to choose the service provider that they would like to participate in. This will create competition and improve quality.

The Ticket to Work and Self-Sufficiency Program would pay employment networks for results, rather than merely for the cost of their services. It also contains a significant demonstration project that allows the disabled to maintain their benefits while earning more at work than allowed under current law.

Right now, we have a situation which I consider obscene. Once a Social Security disability beneficiary reaches an income level of only $500 a month, all of their cash benefits are cut off. This has the effect of retarding workforce participation by recipients and punishing hard work and ambition among some of our most vulnerable citizens.

Under this bill, Social Security would be required to conduct a demonstration project to study the effects of replacing that income cliff with a $1 for $2 withholding of benefits for earnings at the current cutoff level. Instead of a cliff, it would be a slope, and we know intuitively that more people would be able to participate.

This is balanced and much-needed legislation that finally begins to address the needs of disabled individuals who want to work, but are discouraged from doing so by a variety of irrational roadblocks. I urge passage of this legislation.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the gentlewoman for yielding me time, and commend her and the committee on which she serves for the work they have done on this bill.

Mr. Speaker, I rise in support of this legislation. I think it is important to understand with all the discussion that has gone on with regard to the Social Security programs that nearly 40 percent, 38 percent, actually, of the benefits that are payable by the Social Security Administration from those funds go to those on disability and to survivors and to dependents. Almost 40 percent, 38 cents out of a dollar, go for that purpose.

This bill, of course, attempts to begin to review and try to, I think in a common sense way, provide a positive path for those on Social Security disability to move back into the mainstream of our society and back into the world of work.

It is called a Ticket to Work, and it is very important, as we look at the structure of our Social Security disability system with the $500 earnings limit, all of a sudden one day you have the benefits coming in for a month, which probably are far in excess of that $500, plus you have the opportunity for health benefits and other support programs, but you simply would, as indicated, be dropped off a cliff. So it makes it very difficult. This begins to look at trying to change that system.

Of course, as most of my colleagues are aware, Social Security disability recipients, a small number of them, actually do participate in vocational rehabilitation programs. But I believe there is not enough of an emphasis upon that, especially considering the fact that many Social Security disability beneficiaries may be young people. They may have been the victim of an auto accident or some other type of instance. Or they may be older workers that find it is easier to be on Social Security disability than to be involved in retraining. When they are 62, then they are mandatorily retired at that point. In fact, most of us recognize that their efforts in terms of work could well extend beyond the normal retirement age today of 65, and they could be working until they are 70.

This is one of the really important ways to try and rectify some of the problems with the Social Security insurance program. Many of my constituents, and I think many of the people across this country are not aware of the fact that they are insured by this particular system and the amount of resources that move in this direction.

I think it is also, of course, workable for those on SSI. This bill embraces both, and I note in reading the summary that we have been given of this that this bill actually in five years, while just a pilot program, I guess, in most respects, will save almost $40 million. So it is actually saving money by investing in people, investing in training and providing incentives to those who do the vocational training so they can share in some remuneration from this. It actually saves the taxpayer and saves the Social Security Administration money.

So, Mr. Speaker, I urge my colleagues to vote for this. I think it is a good idea, and I hope it is a great success when put in place.

Mr. BUNNING. Mr. Speaker, it is my pleasure to yield 4 minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, as both a member of the Subcommittee on Social Security and a cosponsor of the Ticket to Work and Self-Sufficiency Act, I rise to express my strong support for this important and well-conceived piece of legislation. I do commend the gentleman from Kentucky (Mr. BUNNING), the chairman of the subcommittee, as well as the gentlewoman from Connecticut (Mrs. KENNELLY), the ranking member, for their efforts in working together.

Over the last 18 months that I have been a member of the subcommittee we have had, I think, three separate hearings on the current SSDI and SSI programs and their existing work incentives. What our subcommittee heard, Mr. Speaker, was heartening testimony from disabled individuals who have a genuine desire to return to work and provide for their own well-being.

What we also discovered is that the existing programs, as has been mentioned, and as are currently structured, often serve as a barrier for these individuals to achieve the noble and worthwhile goal of becoming productive citizens. We cannot as a body in good conscience allow a program that is meant to help the disabled turn into a system that restricts the potential of the motivated and talented individuals who, despite simply a disability, want to move on with their lives.

What this Ticket to Work Act does is give those who are afflicted with a disability a helping hand. Recognizing that the challenges that no two persons face are alike, this bill gives those that are disabled the ability to receive rehabilitation services from the provider of their choosing and then, as empowered consumers, the disabled will be able to receive rehabilitation services from the provider that can best provide their specific needs.

As has been mentioned, under current law the disabled are required to see State agencies for help. This legislation will allow individuals in the public or private or not-for-profit sectors to work together to help those disabled individuals who want to return to the work force. Private agencies offering vocational training would be reimbursed according to the agency's success in helping people return to work and then remain in the work force.

Since one of the major inhibitions preventing the disabled from enjoying economic success is the fear of losing health insurance, this bill we are considering extends Medicare eligibility for an additional two years. Again, under current law people on SSDI, as the gentleman from Pennsylvania pointed out very eloquently, SSDI abruptly terminates benefits once a disabled individual earns $500 a month.

This legislation authorizes the Social Security Administration to conduct a demonstration project to replace this current income cliff with a gradual, sliding scale reduction in SSDI benefits as individuals enjoy more success in the workforce and their earnings increase.

Mr. Speaker, it takes courage and it takes dedication for a disabled individual to return to work. I have the utmost respect and admiration for those who are willing to take this important step. Again, we should be looking to knock down, not erect, barriers for these courageous individuals. This legislation does just that.

The Ticket to Work Act will go a long way in achieving everyone's goal of helping people move on with their lives, allow our society to benefit, and I urge support. I thank the chairman and ranking member for their great work in fashioning this bill.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I am delighted we have reached this juncture where we are about to pass this bill that sends a message of hope to millions of people on disability that there will be additional help to make that transfer back to the workplace, if possible.

Mr. Speaker, having no further speakers, I yield back the balance of my time.

□ 1645

Mr. BUNNING. Mr. Speaker, I have the great pleasure of yielding 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I am pleased to rise in support of H.R. 3433, and commend the gentleman from Kentucky (Mr. BUNNING) and the gentlewoman from Connecticut (Mrs. KENNELLY) for all of their hard work in putting together this important, comprehensive, and what I would call historic legislation and bringing it to the floor today.

This bill will provide a true Ticket to Work for disabled individuals by bringing them back into the work force while providing them with a safety net of needed government services. It addresses the disincentives which exist in current law that discourage disabled individuals from joining the work force.

According to a recent Washington Post article, 6.6 million working-age Americans receive disability checks from the Federal Government every month. All too often, these individuals are unable to return to the work force.

Among the barriers they face upon returning to work is that they risk the loss of important medical benefits such as Medicare health coverage. Under this legislation, individuals would be eligible for up to 6 years of Medicare benefits. In addition, this bill provides a voucher that individuals can exchange for rehabilitation, employment or other necessary services.

The Ticket to Work bill will change the Social Security Administration's disability programs for the better. As Tony Young of the United Cerebral Palsy Association said in his testimony before the Committee on Ways and Means in March, these programs, and I quote, "are transformed from a safety net into a trampoline; not only catching people with disabilities as they fall out of work, but also giving them a boost back into work as they are ready."

I know how important this work is. One of my constituents, Matt Conway of Florham Park, New Jersey, has been honored by the Foundation for Excellent Children's Yes I Can! Program for his achievements in the working world. This type of bill will assure that the Mat Conways of this world have future opportunities.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, as a member of the Subcommittee on Social Security, let me begin by commending the gentleman from Kentucky (Mr. BUNNING), the chairman, and the gentlewoman from Connecticut (Mrs. KENNELLY), the ranking member, for their leadership and hard work in producing some real successful results, legislation that is going to help people, people who want to work and become self-sufficient.

I am proud that it has earned overwhelming bipartisan support; and that is a result of hard work by the two leaders of our subcommittee. The bottom line is this is a good bill, legislation that helps the disabled.

Disabled people have said we need to do a better job. When I came to Washington in 1994, one of our goals was, of course, to change how Washington works and to make government work better for those who need help. It is this type of legislation that can make that kind of difference for those who need help.

People want to work. In this case, the disabled have asked for a helping hand with training and rehabilitation. This legislation works towards that goal, giving the disabled an opportunity to work and become more self-sufficient.

Unfortunately, our current disability system has not been working very well, only enabling about 8,000 Americans who are disabled to join the workforce each year. This legislation will give disability beneficiaries a ticket or voucher so they can use State or nonprofit or private employment training programs, and also give service providers incentives to do a better job, better train their clients, provide them with permanent employment and job opportunities.

There is another important provision I would like to mention, and I particularly want to commend the gentleman from California (Mr. HERGER), my colleague, for his work with this particular provision included in this legislation. That is the legislation that was originally contained in H.R. 530, the Criminal Welfare Prevention Act, Part II, which was included as part of this legislation.

As you know, in 1996 the welfare reform legislation cracked down on convicted criminals, prison inmates, receiving SSI payments, a concern many taxpayers were shocked to discover. Since that legislation was signed into law, as many as 500,000 criminals no longer qualify for SSI. This legislation goes one step further and helps deny Social Security payments to convicted criminals in prison.

I find one frustration of many senior citizens is why, they ask, do we give Social Security benefits to convicted criminals in prison? Thanks to the efforts of the gentleman from Kentucky (Mr. BUNNING) and the gentlewoman from Connecticut (Mrs. KENNELLY), and of course the gentleman from California (Mr. HERGER), this new legislation will potentially save taxpayers $3.5 billion over the next 7 years.

I am proud to support this legislation. It deserves bipartisan support. It enables those who want into the workforce, and of course to become self-sufficient, to accomplish that goal. We lend them a helping hand. It deserves bipartisan support, and for that, I ask my colleagues to lend that bipartisan support to H.R. 3433, the Ticket to Work and Self-Sufficiency Act.

Mr. BUNNING. Mr. Speaker, may I ask how much time we have remaining?

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Kentucky (Mr. BUNNING) has 7 minutes remaining. The gentlewoman from Connecticut (Mrs. KENNELLY) has yielded back her time.

Mr. BUNNING. Mr. Speaker, I yield myself whatever time I may consume.

Mr. Speaker, I want to thank everyone for their cooperation in the subcommittee; the gentlewoman from Connecticut (Mrs. KENNELLY), who has done a very good job in helping craft this legislation.

I think this is the type of legislation that we ought to work for on a daily basis, a bipartisan piece of legislation that I am sure when it goes to the other body, we will find people that will work to make sure that we finally get this bill to the President's desk for his signature.

I am very, very proud of the 3 years of work that we have put in on this legislation to iron out the many differences that we had so that we can bring a bill that everyone in the subcommittee and everyone in the full Committee on Ways and Means supports.

Mr. Speaker, I yield whatever time he may consume to my good friend, the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I want to start by commending the gentleman from Kentucky (Mr. BUNNING) for spending the last couple of years putting together this legislation. It was a great example of rolling up your sleeves and working on a tough problem that not many people want to face.

I also want to congratulate the gentlewoman from Connecticut (Mrs. KENNELLY) who worked on a bipartisan basis with the gentleman from Kentucky (Mr. BUNNING).

We have heard over the last couple years on the subcommittee from a lot of people who have disabilities but they truly want to work, and technological as well as medical advances might permit them to work, might make it possible for them to work. Unfortunately, the current Social Security disability program has an inherent number of obstacles and disincentives that make it pretty difficult and undesirable for people to leave the rolls and seek gainful employment, because they might lose cash or critical Medicare benefits.

This proposal is designed today to eliminate obstacles. I know there has been a lot of discussion on it already. Again, I want to say it is good common sense work. It took a lot of time to put together something that makes sense. It is bipartisan. In the end, what is exciting about this is it is going to help people to work, to be able to have gainful employment, to be able to take care of themselves. It also, in the end, saves the taxpayer money.

The information we have is that it will save the Social Security system nearly $40 million over the next 5 years alone. Again, the key to it is it can provide people with opportunities and means that they have asked for to become productive members of society.

It is a good, fiscally responsible bill, and I want to congratulate again the gentleman from Kentucky (Mr. BUNNING) for spending the time and effort to put this together, and his cosponsor, the gentlewoman from Connecticut (Mrs. KENNELLY).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise on behalf of the Ticket to Work and Self-Sufficiency Act of 1998.

I support this bill because it facilitates the task of rejoining the workforce for the over 8 million people with disabilities who are currently collecting monies from Social Security Income (SSI) or Social Security Disability Insurance (SSDI). More than 30,000 of these people live in Harris County, in which my district sits.

I truly believe that the majority of people with disabilities want to work. This act opens up a multitude of resources that they can use to find work that were only sporadically available to them before. Under current law, vocational counseling for people receiving SSI or SSDI can only be done by state-run Vocational Rehabilitation (VR) agencies, who are only able to serve about 10% of the disabled people referred to them. This bill allows nonprofit and private organizations to help these people find meaningful and productive work.

Furthermore, by extending benefits to people who join this program for two years, it alleviates a fear common to almost all people who receive public assistance—that in reentering the workforce, they will lose the entirety of their benefits. Without this loss of necessary income to stop their progress, these people will no longer feel inhibited to go out and find work.

I also support this Act because it furthers the goals of the Americans with Disabilities Act (ADA)—to help disabled persons participate in a meaningful way in our society. This bill, coupled with the ADA, not only prohibits employers from discriminating against disabled persons, but also gives those employers access to a new pool of potential recruits, who are both qualified and willing to work.

Finally, I am happy to report to you that current estimates have this bill saving the taxpayers $38 million over the next five years. Colleagues, this bill is fiscally and socially beneficial for all Americans.

I ask that all my colleagues join this bipartisan effort to give hope and meaning to millions of people's lives.

Mr. RAMSTAD. Mr. Speaker, I rise today in strong support of H.R. 3433, the "Ticket to Work and Self-Sufficiency Act."

The National Council on Disability said it best in its report to the 105th Congress on removing barriers to work when it wrote, "Social Security programs can be transformed from a lifelong entitlement into an investment in employment potential for thousands of individuals."

Historically, fewer than 1% of people with disabilities leave the Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) rolls following successful rehabilitation.

Individuals with disabilities have insufficient access to, and choice of, the services and supports they need to achieve employment. In fact, most SSI and SSDI beneficiaries are never even offered rehabilitation services.

This legislation empowers individuals with disabilities to choose from the state Vocational Rehabilitation agency or among private-sector employment networks which provide an array of vocational rehabilitation, employment and other support services to beneficiaries.

It also breaks through the complexities of the current system by establishing a corps of work incentive specialists to accurately disseminate information on SSI and SSDI work incentives.

While I wish the bill included a more comprehensive approach for tackling the complex health care needs of individuals who return to work, I am glad it does include a provision to at least extend Medicare eligibility for two years during the program's implementation.

I look forward to continuing to work on these critical health care issues during the conference with the Senate on this legislation, or next year when the Commerce Committee looks at health care needs under the Medicaid program.

Mr. Speaker, despite my concerns about the health care provisions in this bill, I urge my colleagues to support this legislation before us today because it begins the process of breaking down the barriers to work for individuals with disabilities.

Preventing people from working run counter to the American spirit, a spirit that thrives on individual achievements and the larger contributions to society that result.

Creating work incentives for people with disabilities is not just humane public policy, it is sound fiscal policy.

Removing the barriers that discourage people with disabilities from working will mean they can earn a regular paycheck, pay taxes and move off public assistance. It means they can return to work and live up to their full potential.

Mr. Speaker, I want to thank Reps. BUNNING and KENNELLY for this work in this area. Again, I urge members to vote yes on H.R. 3433.

The SPEAKER pro tempore. Pursuant to House Resolution 450, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced the ayes appeared to have it.

Mr. BUNNING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until tomorrow.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

EXTENSION OF WAIVER AUTHORITY FOR THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–262)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended (the "Act"), with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to the People's Republic of China. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect or the People's Republic of China will substantially promote the objectives of section 402 of the Act, and my reasons for such determinations.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1998.*

EXTENSION OF WAIVER AUTHORITY FOR VIETNAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-263)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to Vietnam. This document constitutes my recommendation to continue in effect this waiver of a further 12-month period and includes my determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1998.*

EXTENSION OF WAIVER AUTHORITY FOR BELARUS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-264)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended (the "Act"), with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for the Republic of Belarus will substantially promote the objectives of section 402 of the Act, and my reasons for such determination. I will submit separate reports with respect to Vietnam and the People's Republic of China.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1998.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed earlier today in the following order: on agreeing to the Speaker's approval of the Journal; and on motions to suspend the rules and pass the following two bills on which the yeas and nays were ordered: H.R. 3808 and H.R. 3630.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 354, nays 35, not voting 44, as follows:

[Roll No. 193]

YEAS—354

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Foley
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Roybal-Allard
Royce
Rush
Ryun
Sánchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Vento
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—35

Brown (CA)
Clay
Costello
DeFazio
English
Ensign
Etheridge
Fazio
Filner
Ford
Fox
Gephardt
Hastings (FL)
Hefley
Hilliard
Kucinich
LoBiondo
Manzullo
McDermott
Menendez
Moran (KS)
Nussle
Oberstar
Pickett
Rogan
Sabo
Schaffer, Bob
Sessions
Taylor (MS)
Thompson
Velázquez
Visclosky
Watts (OK)
Weller
Wicker

NOT VOTING—44

Barcia
Blagojevich
Bono
Boucher
Burton
Clyburn
Cox
Crane
DeLay
Diaz-Balart
Dickey
Doolittle
Forbes
Furse
Gonzalez
Harman
Hayworth
Hooley
Inglis
Kolbe
LaFalce

Lampson
Lee
Martinez
McInnis
Meehan
Mica
Moakley
Obey
Parker
Porter
Poshard
Rohrabacher
Rothman
Roukema
Salmon
Sawyer
Shadegg
Smith (OR)
Smith, Linda
Stokes
Thune
Torres
Wamp

☐ 1720

Mr. NADLER changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, On roll call vote number 193, approval of the journal, I was detained in New Jersey attending my son's concert recital. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

CARL D. PURSELL POST OFFICE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3808, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 3808, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 44, as follows:

[Roll No. 194]

YEAS—389

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Roybal-Allard
Royce
Rush
Ryun
Sabo
Sánchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—44

Baesler
Blagojevich
Bono
Boucher
Burton
Buyer
Clyburn
Cox
Crane
DeLay
Diaz-Balart
Dickey
Doolittle
Forbes
Furse
Gonzalez
Harman
Hayworth
Hooley
Inglis
Kolbe
LaFalce
Lee
Martinez
McInnis
Meehan
Mica
Moakley
Obey
Porter
Poshard
Rohrabacher
Rothman
Roukema
Salmon
Sawyer
Shadegg
Smith, Linda
Stokes
Thune
Tiahrt
Torres
Wamp
Young (AK)

☐ 1729

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office located at 47526 Clipper in Plymouth, Michigan, as the 'Carl D. Pursell Post Office'.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DIAZ-BALART. Madam Speaker, had I been present for the vote on H.R. 3808, I would have voted "aye."

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, On roll call vote number 194, Designating the Carl Pursell Post Office (H.R. 3808), I was detained in New Jersey attending my son's concert recital. Had I been present, I would have voted "yea."

☐ 1730

ANNOUNCEMENT REGARDING AMENDMENTS TO H.R. 3150, BANKRUPTCY REFORM ACT AND H.R. 3494, CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Madam Speaker, I wish to make two announcements on two bills that affect Members in the body.

The Committee on Rules will meet next week to grant a rule which may limit the amendments to be offered to H.R. 3150, the Bankruptcy Reform Act. Subject to the approval of the Committee on Rules, this rule may include a provision limiting amendments to those specified in the rule.

I also would like to announce that the Committee on Rules will meet early next week to grant a rule which may limit the amendments to be offered to H.R. 3494, the Child Protection and Sexual Predator Punishment Act. Subject to the approval of the Committee on Rules, the rule may include a provision limiting amendments to those specified in the rule.

STEVEN SCHIFF POST OFFICE

The SPEAKER pro tempore (Mrs. EMERSON). The pending business is the question of suspending the rules and passing the bill, H.R. 3630, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 3630, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were— yeas 391, nays 0, not voting 42, as follows:

[Roll No. 195]

YEAS—391

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Roybal-Allard
Royce
Rush
Ryun
Sabo
Sánchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—42

Armey
Blagojevich
Bono
Boucher
Burton
Clyburn
Cox
Crane
DeLay
Diaz-Balart
Dickey
Doolittle
Forbes
Furse
Gibbons
Gonzalez
Harman
Hayworth
Hostettler
Inglis
Kolbe
LaFalce
Lee
Martinez
McInnis
Meehan
Mica
Moakley
Neal
Obey
Porter
Poshard
Rohrabacher
Rothman
Roukema
Salmon
Sawyer
Shadegg
Stokes
Thune
Torres
Wamp

□ 1738

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road NE. in Albuquerque, New Mexico, as the 'Steve Schiff Post Office'.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DIAZ-BALART. Madam Speaker, had I been present for the vote on H.R. 3630, I would have voted "aye."

PERSONAL EXPLANATION

Mr. GIBBONS. Madam Speaker, on rollcall No. 195, I was unavoidably detained with committee business. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. OBEY. Madam Speaker, I rise to simply note that on the last three votes in some buildings on Capitol Hill the bells are simply not working, and so a number of us have apparently missed three votes in a row because the bells were malfunctioning. I just wanted the RECORD to show that.

PERSONAL EXPLANATION

Mrs. BONO. Madam Speaker, as I was unavoidably detained, I wish to announce my support and that I would have voted "yea" on the following business of today: Roll Call Vote #193—Approving the Journal; Roll Call Vote #194—H.R. 3808 Designating the Carl D. Pursell Post Office Building; Roll Call Vote #195—H.R. 3630 Designating the Steven Schiff Post Office Building.

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, On roll call vote number 195, Designating the Steven Schiff Post Office (H.R. 3630), I was detained in New Jersey attending my son's concert recital. Had I been present, I would have voted "yea."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 716

Mr. JONES. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 716.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMUNICATION FROM THE HON. DAVE CAMP, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Hon. DAVE CAMP, Member of Congress:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 27, 1998.

Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena duces tecum issued by the 6th Judicial Circuit for the State of Michigan, in the case of *Ann Marie Reynolds v. Resource Solutions Group, Inc., et al.,* Case No. 97-002709-CZ.

After consultation with the Office of General Counsel, I have determined that the subpoena relates to my official duties, and that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

DAVE CAMP,
Member of Congress.

□ 1745

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Mr. SOLOMON. Madam Speaker, I ask unanimous consent that it may be in order at any time to consider the conference report to accompany the Senate bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes; and, Madam Speaker, that all points of order against the conference report and against its consideration be waived, except those arising under section 425 of the Congressional Budget Act of 1974, which is the unfunded mandate point of order.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and includes extraneous material.)

Mr. WELLER. Madam Speaker, there is a big, important question that needs to be asked. That is, why it is so important that we pass the Marriage Tax Penalty Elimination Act?

I think that question is best answered with a series of questions. Do Americans feel that it is fair that an average working married couple pays more in taxes just because they are married? Do Americans feel that it is fair that 21 million married working couples pay on the average of $1,400 more in taxes just because they are married, $1,400 more than an identical couple with identical incomes that live outside of marriage?

Of course not. Americans recognize that the marriage tax penalty is not only unfair, it is wrong. It is morally wrong that we tax our society's most basic institution, 21 million married working couples, $1,400 more.

That is 1 year's tuition at Joliet Junior College in the district I represent. That is 3 months of day care at a local child care center, real money for real people. Let us make elimination of the marriage tax penalty a bipartisan priority. Let us make elimination of the marriage tax penalty our No. 1 priority this year.

Madam Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax Code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus. A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15 percent.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple	Weller/ McIntosh II
Adjusted Gross Income ...	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	$6,550	$6,550	$11,800	$13,100 ([1] 2)
Taxable Income	$23,950 (.15)	$23,950 (.15)	$49,200 ([2] .28)	$47,900 (.15)
Tax Liability	$3592.5	$3592.5	$8563	$7,185
Marriage Penalty	....	....	$1378	[3] $1378
Weller-McIntosh II Eliminates the Marriage Tax Penalty				

[1] Singles.
[2] Partial.
[3] Relief.

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or a car, one year's tuition at a local community college, or several months' worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15 percent for the first $24,650 for singles, whereas married couples filing jointly pay 15 percent on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15 percent tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15 percent tax rate as opposed to the current 28 percent tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty—a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

IN OPPOSITION TO RELIGIOUS FREEDOM AMENDMENT

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. EDWARDS. Madam Speaker, tomorrow in this House I will vote to oppose the Istook amendment which would amend our cherished Bill of Rights for the first time in our Nation's history. Numerous religious organizations support this position. Yet incredibly and sadly the Christian Coalition has sent out a mailing in my district which I would like to submit for the RECORD accusing me of, quote, religious bigotry because I oppose the Istook amendment.

They say this about me: "His attitudes have no place in Texas or anywhere in America."

Madam Speaker, I never thought that my position in defending the first amendment of the Bill of Rights would be the basis for someone accusing me of being anti-American. Such a claim is outrageous. If I am a religious bigot for believing in the first amendment, the first 16 words of the Bill of Rights, then I shall say I will be in good company with James Madison, Thomas Jefferson, and our Founding Fathers.

Perhaps the author of this hate mail should be reminded of the ninth commandment which says, "Thou shalt not bear false witness against thy neighbor."

STOP THE BIGOTRY!

Your congressman, Rep. Chet Edwards, is trying to stop Christians and other people of faith from exercising two of their First Amendment rights: the freedom of religion and the freedom of expression. Rep. Edwards is the leading opponent of the Religious Freedom Amendment to the U.S. Constitution.

This Amendment would allow all Americans the freedom of religious expression in public places and would ensure that school children are not punished for creating a Valentine to Jesus, or for reading a Bible during free time.

The Edwards bigotry directed at Christians and other people of faith is outrageous and must be stopped! His attitudes have no place in Texas or anywhere in America.

People of faith cannot sit silently and allow this bigotry to be used as a tool to stop the Religious Freedom Amendment. We must stand for our right to express our religious beliefs.

Call Rep. Edwards now and (1) ask him to stop trying to silence people of faith and (2) encourage him to support the Religious Freedom Amendment.

CALL TO ACTION—PRAYER MONITORS IN THE PUBLIC SCHOOL HALLS!

Blatant disregard for the rights of people of faith are becoming more and more commonplace as our judges and politicians turn their backs on religious freedom.

WE NEED A RELIGIOUS FREEDOM AMENDMENT

Call your congressman at the numbers listed on this postcard today!

COMMENDING HONORABLE TONY HALL FOR SUDAN VISIT

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WOLF. Madam Speaker, I rise to commend the gentleman from Ohio (Mr. HALL) for traveling to Sudan to see firsthand what is taking place. He saw starvation, devastation, basically an entire generation of people have been lost. The people of Southern Sudan are voiceless. They have no big law firms downtown to represent them. They have no powerful lobbyists. They have no interests in this Congress. I am pleased that the gentleman from Ohio took the time to go to be a voice for the voiceless.

Let us hope with his trip, we can begin to put together a process whereby we can bring peace to Southern Sudan and not lose another generation. I thank the gentleman from Ohio for his efforts.

Madam Speaker, I rise today to commend my good friend Rep. TONY HALL for traveling to Sudan to see first-hand what is taking place there. He saw devastation and starvation—an entire generation lost on account of the brutal war that has been raging for over a decade. Slavery, terrorism, starvation, and genocide—all are occurring on a regular basis in Sudan.

Now is the time to do more to bring peace to Sudan—a place where over 1.5 million people have died. The Sudanese people cannot take much more. An entire generation has already been lost.

The people of Southern Sudan are poor and voiceless. They have no access to high-priced lobbyists or expensive public relations firms. They are relying on the American Government to help them. They have no other hope.

I am glad my good friend, the gentleman from Ohio (Mr. HALL), went to look at the atrocities taking place in Sudan. I look forward to working with him to help bring an end to this brutal war.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REMEMBERING ROBERT F. KENNEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Madam Speaker, 30 years ago this week, Bobby Kennedy was taken from us by an assassin's bullet. I remember that night all too clearly, and I still feel the sadness of the loss. Today I want to take a moment to honor this public servant who was so committed to the cause of social justice and fairness.

It was my great pleasure, my great honor, to have worked with Bobby Kennedy, to have known him. As I worked with this man, I grew to respect, admire and love him. He cared so much and he cared so deeply. He was a man so full of life, so driven by a vision for a better world. He had a fierce determination to enforce the civil rights laws of this Nation. And later he became a one-man crusade across the country, speaking out against hunger and poverty. To paraphrase his brother, Senator Ted KENNEDY, Bobby Kennedy "saw wrong and tried to right it, saw suffering and tried to heal it, saw war and tried to stop it."

This man, this great man that we lost when he was so young, he spoke from his heart and from his gut. He had the ability and the capacity to look beyond the accepted way.

This was a man who took off his jacket, his coat. He had the ability to loosen his tie and to travel outside of the usual circles. He went to visit poor blacks in the heart of the Mississippi delta and gave them hope. He visited low-income whites in Appalachia to bring them encouragement. He went to the barrios in the Southwest and he brought them inspiration. He went to the reservations and brought care and compassion. He knew that some in this great Nation of ours were in trouble, and he wanted to help.

He was a wonderful, loving, compassionate person and leader. Bobby Kennedy used to say that we did not need a revolution in the streets, but in our hearts and in our minds. He wanted people to engage in meaningful dialogue, on poverty, on race, on the pressing issues of the day.

Today, 30 years after his death, his voice, his commitment and his leadership are deeply missed and remembered. I for one will never forget Robert F. Kennedy, his wisdom, his wit, his moral courage, and his vision.

PROTECTING INNOCENT SPOUSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. EHRLICH) is recognized for 5 minutes.

Mr. EHRLICH. Madam Speaker, a few months ago I wrote an article in one of my local papers concerning a constituent who left her ex-husband 13 years ago after what she described as an abusive marriage. The Internal Revenue Service had targeted my constituent for payment of a $29,000 tax debt which was her former husband's personal responsibility. As a result, for a decade the IRS became a fixed, unwanted presence in her life.

When my constituent appealed to the IRS for relief under what are known as the innocent spouse provisions of the Tax Code, the IRS told her she did not qualify, even though she is a textbook example of the kind of person the innocent spouse provisions are supposed to help. The fact that she does not qualify for help under existing law told me all I needed to know about the need for change in the IRS code.

The IRS reform bill passed by the House last year did not specifically address the plight of many innocent spouses. Similar legislation under consideration by the Senate, however, does toughen innocent spouse protections. The House should follow suit and enact legislation to ensure women like my constituent will never be twice victimized, first by an abusive spouse and then by the government.

Accordingly, I have introduced H.R. 3650, a bill to repeal joint and several liability of spouses who file their tax returns married filing jointly. My bill will enable a spouse to accept liability for Federal taxes resulting only from his or her income rather than the total liability for all of the couple's taxes. Had the Ehrlich bill been law at that time, my constituent and countless others would have been spared years of IRS pressure.

Moreover, I am impressed by the fact that someone would step forward in order to help prevent future innocent spouses from going through what my constituent had to go through. Mr. Speaker, I unveiled my bill at an April 15 Tax Day news conference in front of IRS headquarters in Baltimore. That night, a local TV news anchor, informed of how the bill would alleviate unwarranted IRS pressure on innocent spouses, called H.R. 3650 a no-brainer. I am optimistic that a majority of my colleagues in the House will agree.

H.R. 3650 has been referred to the Committee on Ways and Means. Both Democrats and Republicans have shown a keen interest in the bill. Senator ALPHONSE D'AMATO of New York is actively working to pass identical legislation in the United States Senate. I hope that my colleagues will join me in taking IRS reform a step further to protect many of our Nation's most vulnerable taxpayers.

INDIA AND PAKISTAN'S RECENT NUCLEAR DETONATIONS

The SPEAKER pro tempore (Mr. MCKEON). Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, 3 weeks ago India detonated five nuclear devices, a course of action that it has not followed for 24 years since its first nuclear test in 1974. A week ago Pakistan, too, detonated five devices. This was Pakistan's first testing ever. Through the irresponsible actions of both India and Pakistan, two more nations of the world have declared themselves nuclear weapons states. In the course of these critical 2 weeks, our planet has returned towards the days of nuclear peril, the likes of which have not been seen since the most tense days of the Cold War.

To be fair, both nations gave what were seemingly plausible reasons for their nuclear arms program. For India, Prime Minister Vajpayee stated that its nuclear development was due to the fact that it was surrounded by two hostile neighbors. One, which has clashed with India in three wars this century, engaged in a subversive war in the Indian states of Jammu and Kashmir and has engaged in a provocative ballistic missile program, and the other neighbor, the PRC, a declared nuclear weapons state, has fought against India along its northern border.

□ 1800

Pakistan claims that India provoked it. Pakistan, a nation of 132 million, has been in the shadow of its much larger neighbor since the partition that divided the subcontinent and created both nations in 1947. Fearful of its larger neighbor's intentions, Pakistan began its nuclear program clandestinely after the Indian test of 1974.

But, Mr. Speaker, the real issue here is not who did what to who. Both nations can point to a litany of reasons why they should be suspicious of each other. While the two nations are but 50 years old, their shared cultural history spans thousands of years, and we know that their grievances do as well.

Today, South Asia is on the brink of a nuclear arms race. Yesterday, the New York Times reported that India's defense budget has been increased by 14 percent. In addition, the Indian Department of Space's budget was increased by 62 percent and the Indian Atomic Energy Commission by 68 percent. You can be sure that the military accounts on these two agencies received the lion's share of this increase. In all likelihood, Pakistan is sure to match these increases in their own nuclear and military programs.

The tragedy in this spiraling arms race is that many millions of impoverished and illiterate men, women and children of Pakistan and India are being left out in the cold as scarce resources are being spent on ballistic weapons and nuclear missiles.

Since its adoption, both India and Pakistan have never been party to the Comprehensive Test Ban Treaty; and, despite the fact that 149 nations have endorsed it, both have refused recently to endorse its recent renewal. Their citing of the so-called inequity of the CTBT, which does not require the five declared nuclear states to abandon their nuclear programs, rings hollow in light of their recent actions. Indeed, India has long called for complete worldwide nuclear disarmament. Yet regardless of India's perceived security threats, it has never had to follow this course of action. Equally, Pakistan missed a golden opportunity to take the high road by not performing nuclear tests in response to India's. Despite efforts by the Clinton administration, Pakistani Prime Minister Nawaz Sharif decided to follow India on the path towards nuclear bliss and strategic uncertainty.

Mr. Speaker, I rise to strongly protest the actions of the governments of India and Pakistan. Nuclear weapons are not the answer. These tests were an act of extreme violence, and the testing of nuclear weapons have opened a Pandora's box in South Asia. Through this violence they show the world how meek they truly are, for it is the emboldened and brave who choose the path of peace.

I ask all my colleagues to join me in sending India and Pakistan a strong message of disapproval and to support the President in his use of economic and military sanctions.

Mahatma Gandhi once said: "Nonviolence is the first article of my faith. It is the last article of my faith. But I had to make my choice. I believe nonviolence is infinitely superior to violence, forgiveness is more manly than punishment, strength does not come from physical capacity, it comes from indomitable will. We have better work to do, a better mission to deliver to the world."

I sincerely hope that both Pakistan and India remember the words of Gandhi. The prayers of humanity rest on the hope that the millions of India and Pakistan will find a way to live together peacefully in the next century. We know the horrors that nuclear weapons can bring, and that cannot be the road to peace.

GLOBAL NUCLEAR DISARMAMENT: THE ONLY ALTERNATIVE TO A NUCLEAR ARMS RACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, the 11 nuclear detonations conducted by India and Pakistan this past month demonstrated in graphic fashion the weakness of present international efforts to control nuclear proliferation. The tests also revealed the folly of economic sanctions in deterring nuclear proliferation when balanced against asserted interests of national security.

In a recent opinion editorial piece in the Washington Post, physicist Zia Mian and professor Frank Von Hippel of Princeton University provide an answer to proliferation that I fully support, and I want to share this with my colleagues.

They advocate, and I quote, "India's and Pakistan's nuclear tests are a challenge that can be met in either of two ways. One would be to simply recreate the nuclear status quo with two more nuclear weapon states and accept the enormous dangers for the people of India and Pakistan and the rest of the world. The alternative would be to take international steps to devalue nuclear weapons' possessions by moving the nuclear goal posts towards disarmament.

"The history of the past 50 years teaches that nuclear weapons are unusable for rational military purposes and that their existence makes ordinary human miscalculation or madness potentially catastrophic. Yet the nuclear weapon states act as if they are giants in the world of pygmies, creating imagination in many countries and a temptation for nationalistic parties such as India's newly governing BJP."

And I further quote from this article, Mr. Speaker. "India is behaving like a state that has successfully broken into the nuclear club, and Pakistan, after hesitating over the likely ruinous price of membership, has decided that it must join as well. Israel slipped in long ago, thanks to the United States being willing to cast a blind eye in its direction. Other States such as Iran and Iraq and perhaps South Korea, Taiwan and Japan wait in the wings.

"To break this dynamic, the United States, Russia and other charter members of the nuclear club must make it more credible that they really intend to put the nuclear club out of business.

"The first step would be to end the civilization endangering practice of keeping nuclear missiles on hair-trigger alert, a posture that India and Pakistan are threatening to imitate."

Secondly, "The United States should also immediately ratify the test ban treaty and thereby encourage Russia and China to ratify. Britain and France have already done. Bringing the treaty into force is a key first test of the world's willingness to walk away from nuclear weapons. The United States, Russia and China should underline the irreversibility of their commitments by shutting down their test sites."

Third, "The United States should also cut back drastically its lavish stockpile stewardship program, which has inspired fears both at home and abroad that the United States intends to continue the arms race alone."

And I would note Mr. Speaker, that this $61 billion 13-year-old program costs more annually than what the U.S. spent on major nuclear weapons programs during the height of the Cold War. Moreover, the enormous funding is being used to develop facilities to research and design nuclear warheads, not just monitoring our present arsenal while it awaits dismantlement.

Fourth, "The United States, Russia, Britain and France should also act on their commitment at the April, 1996, Moscow Nuclear Safety and Security Summit to place excess fissile materials under international safeguards as soon as possible. Russia and the United States can start it immediately by committing to reduce their stockpiles on unsafeguarded fissile materials to the levels required to maintain only the 2,000 to 2,500 strategic warheads that have been agreed to for the past START Treaty III."

Mr. Speaker, this would be a 90 percent reduction of our arsenals from the peak Cold War levels.

Last, the authors urge that the U.S. and Russia announce that they intend to reduce further, on a bilateral basis and rapidly, these warheads.

In addition to these steps, they should demonstrate the good faith of the nuclear powers to pursue elimination of nuclear weapons as promised and committed to under article VI of the Nonproliferation Treaty. It is important that the United States initiate multilateral talks for the negotiation of a nuclear weapons convention.

On this matter, Mr. Speaker, I would deeply commend the gentlewoman from California, the honorable LYNN WOOLSEY, for her leadership in introducing legislation later this week that recognizes the security interests of the United States in furthering complete global nuclear disarmament.

I am proud to be an original cosponsor, along with several other of our colleagues, of this measure that supports discussion in Congress of a model nuclear weapons convention and urges the President to initiate multilateral negotiations leading to the early conclusion of a nuclear weapons convention.

Mr. Speaker, both India and Pakistan have called for the global elimination of nuclear weapons by adoption of a nuclear weapons convention with verification and compliance measures. It should be clear to all that our Nation's continued reliance on nuclear weapons undermines the international efforts to persuade other countries not to acquire nuclear weapons.

Mr. Speaker, to curb the global spread of the only weapon that can utterly destroy the United States and her people, it is vital that we take steps now leading to the elimination and outlawing of nuclear weapons worldwide, as we have done with chemical and biological weapons of mass destruction; and to this, Mr. Speaker, I ask unanimous consent also to submit two articles that I would like to be submitted to be made part of the RECORD.

The articles referred to are as follows:

[From the Wall Street Journal, May 13, 1998]

REVIEW AND OUTLOOK

DESERT BLASTS

When a lawyer's client too loudly protests, "I'm innocent," it probably means he's just the opposite. So it is with the Indian statement of bravado in Monday's nuclear weapons tests beneath the Rajasthan desert. While New Delhi basks in the eerie glow of "equally" among nuclear powers, the tests are an indication not so much of strength among nations, but of profound weakness at home.

That makes the gauntlet the Indian government has just thrown down to Beijing and Islamabad even more dangerous. But it shouldn't have come as any surprise that India wants to join the club in which so many of its neighbors are already members.

Optimists hope India intends to go the route of France and China, and cap its explosive debut into the hydrogen bomb club with a signature on the Nuclear Non-Proliferation and Comprehensive Test Ban treaties. Pessimists fear that steering New Delhi in such a direction would require a sustained application of global persuasive powers that may fail. And really deep pessimists would worry that the Indians concluded that the Clinton Administration's policy on exporting commercial satellite technology did in fact improve China's missile guidance capability.

The most realistic approach may be to say that if New Delhi can test, so can the rest of the nuclear powers—to modernize and refine their arsenals. If India is safer with a modern nuclear weapons programs, wouldn't we all be?

It's very well for nations like Denmark and Japan to talk of freezing aid in protest at the tests, or for Americans to speak of anti-nuclear sanctions kicking in. In the end, though, such efforts usually dissipate or even reverse themselves in the form of offers to pay the offender hug sums to mend his ways. Indians may be behaving irresponsibly, but they aren't dumb. these tests were part of a calculated plan to call attention to themselves as big players, and the world outrage will be taken for now as proof that the message was received.

In a different universe, the most effective response to Monday's explosions might have been to pretend no one notices. As things are, what's incredible is the outpouring of surprise, as if no one in Washington or other capitals heard members of the Bharatiya Janata Party campaign promise to rev up India's nuclear program. Washington's statement that the United States—operating the World's most sophisticated technical intelligence facilites—failed to detect preparations for the tests may be more astonishing than the tests themselves.

It will be awhile before India is ready to bargain, if it ever is, so perhaps more immediate attention should be paid to Pakistan. This erstwhile staunch U.S. ally during the Cold War has borne the brunt of antinuclear outrage all along; indeed, the moment its usefullness as an Afghan war ally ended, Pakistan was socked with American sanctions on suspicion of having a nuclear program. All the years India got grudging respect and no slaps at all for its if-rich-big-countries-have-nukes-then-poor-countries-can-too stance, Pakistan was under bombardment from the antiproliferation community for every purchase, real or imagined, of any kind of modern weaponry.

But anything Washington can do to help persuade Pakistan that it is safe without matching India will do a huge service—both to Pakistan, whose long-suffering people cannot afford and do not deserve the crushing burden of a heightened arms race, and to all those who rightly fear nuclear warfare in the Subcontinent.

Which brings us to China and Russia. India's old friends in Moscow have some tough choices to make. India was a Cold War comrade and remains a steady arms customer. But what about Beijing, whose recent hand of friendship and multibillion-dollar nuclear power market could be worth so much more than anything India has to offer?

China, which India's defense minister has identified as his country's "potential threat No. 1," can't ignore New Delhi's explosions. Beijing signed the test ban treaty in 1996 after a final series of much-criticized tests, and it may choose now to mount the podium of generalized international moral outrage—perhaps while delivering a more forceful bilateral response in private. But if China wants its claim as a force for regional stability to be taken seriously, it must demonstrate leadership here, not merely sit back while the feathers fly.

When the clouds settle, the BJP's decision to do openly what India has only boasted and postured about for so long may be seen as a good thing. Monday's tests in Rajasthan, like France's Pacific tests of 1995–96, remind us that nations that rely for their security or for that of their allies on a credible nuclear deterrent have a responsibility to be honest about their arsenal, and to make sure it works. If nothing else, India's tests have blown away the dangerous hypocrisy that has characterized so much of its behavior over the years. No longer holier-than-thou, India is now revealed as being just like everyone else.

[From the New York Times, May 13, 1998]

A BLAST OF REALITY

(By Henry Sokolski)

It may be difficult to acknowledge, but India's test of three nuclear devices on Monday morning was, among other things, an act of impatience with failed American efforts to stop China and North Korea from developing and spreading strategic weapons. "It is clear that by the time the Clinton Administration wakes up to the danger posed by the China-Pakistan-North Korean axis, it will be too late for India" The Times of India, said on Tuesday.

None of this restiveness can justify India's action, which was self-defeating. But it should sting for those still anxious to avoid the worst. Indeed, if the United States and its friends are to stem the spread of strategic weapons to Pakistan and beyond, we need to recognize that Monday's event was in no small part the result of an American nonproliferation policy so disjointed and consessionary that it was prone to be disregarded and misread.

White House officials admit they were caught flat-footed, that the Central Intelligence Agency failed to provide adequate warning of the tests. To press this point, however, is to miss the warning the Administration had months earlier: the winter election of the Hindu nationalist Bharatiya Janata Party, which had long championed India's right to nuclear weapons.

What did the White House do with this warning? It sent its United Nations Ambassador, Bill Richardson, to India to emphasize the importance of issues other than nonproliferation (lest it sour relations) as well as the chairman of the Nuclear Regulatory Commission, Shirley Ann Jackson, to emphasize our desire for expanded nuclear cooperation.

Not surprisingly, the Indian press interpreted these visits in the worst way possible. The United States, it argued, has finally gotten over its preoccupation with blocking India's rightful development of strategic technology. What's unclear is when, if at all, American officials bothered to brief leaders of the Bharatiya Janata Party about the sanctions that the White House would be forced to impose if India followed through on its pledge.

What can we do now? The White House should immediately impose the sanctions called for in the Nuclear Proliferation Prevention Act of 1994, rather than bargain for some new pledge of restraint.

Indian officials speculate that the United States may not impose sanctions or that if it does they will have little effect. We must prove them wrong. In fact, the value of the Indian stock market had already fallen by 5 percent by Tuesday in anticipation of sanctions. The Indian financial market understands what sanctions will mean to the banks, which are seriously overextended and undercapitalized.

By Indian law, at least 51 percent of the shares of every bank are owned by the Government. Under the American nonproliferation law, no United States bank, public or private, can make loans or extend credit to these institutions for at least one year. Carrying out the sanctions would hurt. But it would strengthen the hand or Indians who understand that their nation can best compete against China by being economically powerful and that without such strength, a military competition of the sort now being undertaken will be disastrous.

Certainly, the world is watching including Pakistan (whose financial and political institutions can even less afford an American financial cut-off). If the White House is to have any chance of having its commitment to nonproliferation taken seriously, its sanctions must be seen as something more than a bluff. Pakistan, at the least, must understand it has much more to lose than gain by testing.

Congress and the White House must also use the Indian tests to revise our overly generous, a la carte nonproliferation policies. We must recognize that the case of India is related to those of China and North Korea; our catering to both these nations' demands for military-related technology—whether it be for missile or nuclear goods—is a prescription for more proliferation. Indeed, the White House has smothered these nations and Russia with all manner of nuclear and space assistance (actually subsidizing known proliferators like China's Great Wall Industries, the Chinese National Nuclear Corporation and the Russian Space Agency with licensed American technology).

But what the United States has all too scrupulously avoided is the use of any sticks—from enforcing sanctions against China and Russia, to penalizing Russian investments in Iran's oil industry, to keeping our military and diplomats from purposeful action against Iraq, to holding North Korea responsible for its continued violation of the global Nuclear Nonproliferation Treaty. This and the continued American export of high technology to known proliferators must end.

Finally, we need to be more confident. We always have plenty of warning, if we are willing to act on less than conclusive proof of a completed weapons program. And we have plenty of options to deter proliferation, assuming we're willing to act early enough.

ELIMINATE THE MARRIAGE PENALTY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Indiana (Mr. MCINTOSH) is recognized for 50 minutes as the designee of the majority leader.

Mr. MCINTOSH. Mr. Speaker, I rise today to come before my colleagues and the American people to talk about an issue that is finally gaining the attention of policymakers here in Washington, and that is the need to eliminate the marriage penalty in our Tax Code system.

What is the marriage penalty? Essentially, it is the way in which our Federal income tax operates that says to more than 21 million couples, you are going to pay, on average, $1,400 more each year simply because you are married.

It comes up in a lot of different provisions. Married people have less of a personal deduction. Married couples pay higher rates on much of their income. So oftentimes what happens is that when two young people get married, they are both working, they both earn an income, maybe receive a little bit of a return on April 15 when they do their taxes. As soon as they get married, they get hit with this marriage penalty and suddenly have to pay more taxes.

Then it is carried throughout their lives if, as adults, they start having children and save money so that they can invest in a savings account for their children to go to college. When they take that savings account back out, they get hit with another marriage penalty.

And then, finally, when they retire, many, many senior citizens are hit with a penalty on their Social Security because they remarry in their later years of their life.

What our bill does is eliminates the penalty in the Tax Code, and I have been talking about this issue for the last year. JERRY WELLER and I introduced a bill last fall that would eliminate it, and I have urged people to contact me at my web site www dot House dot gov slash McIntosh and talk to me about how the marriage penalty effects them.

We have literally received hundreds of e-mails from people all around the country saying how the marriage penalty has hurt them after their wedding.

One person told me that they had postponed their honeymoon and were expecting to go this year; but when the tax bill came on April 15, they owed more money because of this marriage penalty, had to once again forego their honeymoon; and the young lady's husband would not be able to go to summer school to finish some of his classes, all because the government punishes marriage in this country.

I first learned about this when two of my constituents wrote to me last year, Sharon Mallory and Darryl Pierce. Sharon and Darryl, pictured here in this picture, wrote to me and talked about what the marriage penalty meant in their lives. Sharon works for about $10 an hour at a Ford electronics plant in Connersville, Indiana, and Darryl works there as well, does a little farming on the side. They want to get married, and they went to H&R Block and asked the accountant, "What will happen to us if we get married?"

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The accountant explained to Sharon that not only would she have to give up her $900 tax refund, together they would be penalized $2,800, just because they got married.

Sharon went on in her letter and told me, "We can't afford it. It breaks our heart, but we can't afford to get married. I urge you, Congressman, to eliminate this marriage penalty."

Well, it broke my heart when I received her letter, and I started researching exactly how comprehensive is this marriage penalty. I found out that 21 million families in America pay on average $1,400 extra taxes just because they are married.

Now, many of the people in this country are saying we need to strengthen families, we need to be on the side of families, families are the organization in our society that are raising our children, teaching them the moral values they need in order to become future citizens. And today families truly are under assault. You not only have the marriage penalty, you have problems with drugs and gangs, problems with different images that are exposed to the families being broken down, and too often we see families where there is no father involved with the children.

I am not saying that a single mom is not loving her children as much as possible. My mom was a single mom, and I know all the sacrifices she made for me, but we were always hoping we would have dad there.

The consequences of not having an intact family can be tremendous. Studies show that children who come from split homes or single parent homes are more likely to divorce themselves. They are four times as likely to die at an earlier age. Their health is worse.

Sadly, many of them pass on these problems to the next generation. Seventy-two percent of juvenile murders come from divided homes. Sixty percent of rapists grew up in broken homes. They are more likely to use drugs, more likely to commit suicide and more likely to drop out of school.

We have to reverse that, and we can start by putting the Federal Government on the side of families, eliminating the marriage penalty, saying to parents, we are going to give you a break. We know it is tough when both mom and dad have to work just to pay all the bills and make ends meet. We do not want to make it worse for you by having the government every April 15 take out $1,400 more in your taxes.

So, as Congress considers the budget, which will be coming up later this week, we have received a commitment from the Committee on the Budget that we will put eliminating the marriage penalty at the top of our priorities for tax cuts. $100 billion of tax cuts are written into that budget, and this tax cut will say to those families, we are finally going to be on your side. We are going to eliminate the marriage penalty; we are going to make it our number one priority.

Now, the way to do this is through legislation that the gentleman from Illinois (Mr. WELLER), the gentleman from California (Mr. HERGER), the gentleman from Alabama (Mr. RILEY) and I introduced. It is H.R. 3734, the Marriage Tax Penalty Elimination Act.

What it does is it says, quite simply, in two areas we are going to redress the penalty. If you are a single person and you get a deduction of $4,100, when you marry you are going to continue to get that same deduction and your wife is going to get the same deduction. So when you file married, you do not end up being penalized on that personal standard deduction.

The second way in which we help families is to say if you are making $24,000 and are taxed at the 15 percent rate, and your wife is making $24,000 and is taxed at that 15 percent rate, today when you get married, suddenly part of that income, about $8,000 of it, is taxed at the higher rate, at 28 percent. Our bill would eliminate that and say when you are single, the cutoff in the brackets is $24,650. For married people, it is going to be exactly double that. We eliminate the inequity that says just because you are going to get married, you are going to slip into a higher tax bracket.

It is time that we pass this bill as part of our budget and move forward next fall in the tax bill that we send to the American people, and that this Congress comes squarely on the side of the American family and says, once and for all, we are going to eliminate the marriage penalty, so Sharon and Darryl can get married and not have to worry about how to make ends meet on their family budget.

Tonight, many of us wanted to come forward and talk about this issue and what we plan to do with it in Congress. I would like to recognize one of my colleagues, a Member who came to us in the class of 1994, who has done a great job of representing Florida, (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding. I want to commend the gentleman not only for convening this special order on this very important issue, but as well for being one of the leaders in the Congress and introducing H.R. 3734, the legislation to repeal the marriage tax penalty.

I believe the institution of marriage was ordained by God. If you travel all over the world, it is very obvious that it is a universal institution, and its obvious primary function is to be the place where new citizens, future citizens, are nourished and raised up and learn to become contributors to society. I am talking, obviously, there about our children.

To have provisions within our Tax Code, to have provisions within the law of the Government of the United States that discourage marriage and encourage people to live outside of wedlock, to me is almost criminal. To allow the very existence of this marriage tax penalty to develop in our Tax Code to me is an offense, not only to the American people, but as well to common sense.

Prior to getting elected to Congress I practiced medicine. I am a physician by training. I was able to see this firsthand, and I remember it very well, seeing people, particularly senior citizens, often who were widowed and living together out of wedlock, setting a terrible example for their children and their grandchildren. But like the couple in your district that you mentioned, they were doing so primarily because of the tax burden that they would face if they were to walk down the aisle and get married.

I have to say it literally breaks my heart that we have to actually fight here in Washington, D.C. for these kinds of common sense reforms. To me, the people back home described this to me as being a no-brainer, but yet we have to struggle and fight and argue.

But I am very, very pleased that we have a commitment from the chairman of the Committee on the Budget, we have the vast majority of our Republican Conference strongly behind this, and we even have some of the Democrats getting behind this, which is always refreshing when you are talking about reducing taxes and we see Democrats standing up for that, and I want to commend the gentleman again.

Let me just add, the points that the gentleman made about the impact on children, this is another reason why this is so critical, because if you look at what is the primary indicator for health in a community in terms of issues like drug abuse, issues like illiteracy, juvenile crime, the liberals will tell you, oh, it is income, and in reality it is not income. The thing that correlates most with problems like drug abuse, declining educational scores and juvenile delinquency, it is actually the amount of fatherlessness in that community. It is actually an intact family that is the best indicator of the health of that community.

To have a Tax Code that is actually encouraging people not to get married, to me it is crazy. I strongly commend the gentleman, and I do hope that all of our colleagues will support this effort.

Now, it will come at a price. It will cost us, the Federal Government, money to get rid of the marriage penalty. But, amazingly, as I understand it, it will mean a reduction in spending of 1 percent over the next 5 years, which to me is a price well worth paying. That, might I add, is just discretionary spending. I am not including entitlement spending in that mix.

As I understand the numbers on this over the next 5 years, it means the difference between Washington spending $9.1 trillion versus $9.0 trillion. It is a $100 billion difference. A lot of money, $100 billion, but, in my opinion, this is clearly the right thing to do. I think Washington can tighten its belt a little bit so that the American families can have a little bit more money.

The gentleman was talking about a couple that wants to take a honeymoon. I will tell you what this boils down to for a lot of couples in my Congressional District. It boils down to things like being able to afford braces for the kids; being able to set money aside for college or not; it means new tires for the car or not.

So I say, let us put Washington on a little bit of a diet, and let us give married couples a little bit of a break, and let us pass this. I do commend the gentleman for, again, convening this special order. Twenty-one million American families will be affected by this. That is not a small number of people.

Mr. MCINTOSH. Let me reemphasize the gentleman's last point. When President Clinton was asked what does he think about eliminating the marriage penalty, he agreed that there is no justification for penalizing married people with this marriage tax. But, he said, I am not sure we can find the revenue to be able to do that.

So that has been the prevailing worry in Washington for 30 years. They have let the penalty grow and grow and grow, so that now it is a huge impact on many working families, because they do not want to give up the money.

Our message is, let us do it. Let us eliminate the marriage penalty. Nobody will stand up on the floor of this House and say yes, I like penalizing married couples and they should pay more taxes, because they know it is wrong, but they will not give up the money.

As the gentleman pointed out, it is one cent on the dollar. All we have to did is hold a little bit back. It is not even a cut, because the budget continues to grow at the rate of inflation. It is only a little bit of restraint, and every family in America knows if you are doing something wrong, you have to change your budget priorities, you have to save a little bit here and not spend everything, that you can do that. A 1 percent savings in order to protect families in this country is tremendous.

Mr. WELDON of Florida. If the gentleman would yield for a question, now, if I understand the gentleman correctly, we can pass this marriage penalty while actually letting the government continue to grow. The issue just is, how quickly will the Federal budget increase? In other words, are we going to increase at a rate of the inflation rate, or are we going to increase government spending? Am I correct?

Mr. MCINTOSH. That is exactly right. The President's budget, and he said I am not sure we give up the money, increases the rate of government growth at twice the rate of inflation, about 3.5 percent each year. By holding it down to a little bit more than the rate of inflation, which is the Committee on the Budget's proposal, we can have $100 billion in that budget to eliminate the marriage penalty. I think that is exactly what we need to do.

I had hoped to be able to share with you some of my E-mails, but apparently my computer is not working and we cannot get them printed out. Angie keeps track of all of them in my office for me, but was not able to get them over to me. I would like to emphasize with everybody watching how important this is to average working families in this country.

Now I would like to recognize one of our new Members, a freshman from Pennsylvania who has served many years on the appropriations committee in that chamber, in the Pennsylvania legislature, and he knows you can get the job done in saving money on these appropriations bills if you put your mind to it.

So let me introduce now the gentleman from Pennsylvania (Mr. PITTS), and recognize the gentleman for a comment on this.

Mr. PITTS. Mr. Speaker, I am very pleased to join my colleagues. I want to commend the gentleman from Florida (Mr. WELDON) for his eloquence. I want to commend the gentleman from Indiana (Mr. MCINTOSH) for his leadership on this issue. It is a real honor to join the gentlemen this evening to discuss really one of the number one 1998 budget goals for many Members of this Congress, and that is the repeal of the marriage penalty tax.

As many of us have realized, and most Americans I think recognized long ago, the marriage penalty tax works against the very fundamental institution that we claim is the center of our social fabric, the family.

How paradoxical that marriage, the very foundation of our social structure, is currently undermined in our Federal Tax Code. Our current Tax Code, instead of being fair to a husband and wife who both work full-time, places an unnecessary burden on married couples solely for the fact they are married. Under the current code, had this man and woman chosen to live together and file separately, they would not be punished by the Tax Code.

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This is just plain wrong, and it is warped.

For instance, in my office alone, within 1 year, I have four staff members getting married. None of these individuals is living with his or her fiance before they get married.

All eight of these young people are young professionals. All eight of them are paying individual income taxes to the Federal Government. But when these eight individuals choose to wed, when each one of them chooses to become a husband or a wife, automatically, by the very virtue of that decision, they will suffer under the tax status by which they file because they are choosing marriage. They are doing the right thing.

But our Tax Code, in effect, tells them to do something else. If our Tax Code can speak, it would tell them that it is financially better for them if they refrain from making that marriage commitment. Our Tax Code essentially encourages two professional individuals to remain unmarried.

What is the financial cost here? Couples such as those I mentioned will pay an average of $1,400 a year in higher taxes due to the marriage penalty. In 1996, 21 million married couples were affected. And this must come to an end. So we must press for this budget agreement that includes $100 billion in tax relief for our married couples.

It is time that our Tax Code reflects this Nation's emphasis on the social virtue and the value of marriage. It is inconceivable that our tax policy should discourage the very fundamental unit of society, family and marriage, but that is what it does.

As our budget negotiations continue, as we seek continued and lasting tax relief for the American people, a repeal of the marriage penalty tax must be part of that mix. What may appear to be a seemingly small penalty hidden within the Tax Code harms in a very large way the institution on which we have based our society, the family.

So elimination of the marriage penalty restores tax fairness. It increases take-home pay for families. It strengthens marriage and families. It helps working women. It is the right thing to do, to repeal the marriage penalty tax.

On the comment in question that the gentleman from Florida (Mr. WELDON) mentioned previously, if we look historically at the growth of government, the rate of government spending, I think if you will look back 5 years, we have spent about $7.8 trillion on the Federal Government. Looking ahead for 5 years, it is proposed that we spend $9.1 trillion.

All we are doing with this marriage penalty tax is just moving that $9.1 trillion to $9.0 trillion. In other words, we are just saving 1 penny on the dollar. There is no better way to give tax relief to the American family than to repeal the marriage penalty tax.

Mr. McINTOSH. Mr. Speaker, by the way, I would like to mention that the new freshman class had a budget proposal this year that included addressing this marriage penalty problem. I wanted to thank all of the new Members of Congress for getting behind us.

Oftentimes, the wisdom of some of the new Members gets lost on people who have been here a long time because they get used to spending that money. The gentleman has helped us make that point; that is, 1 penny on the dollar allows us to do what is right for the American family.

One other thing I wanted to point out, I mentioned a letter from my constituents. Sharon Mallory is the one who wrote it to me. I have also said that, in many ways, this tax relief is the working woman's tax relief bill of 1998, because the majority of this penalty ends up going to women who enter the workforce.

Oftentimes, a young lady will get married. She may have a career, put that on hold in order to raise her children. Then, when they get old enough, she wants to have the option of going back into the workforce or, in many cases, has to go back into the workforce just to make ends meet and be able to pay the monthly bills.

When that happens, the marriage penalty kicks in; and, for women, it almost means that they can pay as much as 50 percent or half of the money that they earn in taxes because all of that penalty comes out of her additional income.

So it is often the mothers in this country, the wives, the women who want to work and have a career or need to work to help their family, who are penalized most by this marriage penalty.

We need to recognize in the modern era that it is wrong to say to somebody we will give you equal opportunity to enter the workforce, but we are going to come around and tax you more, as much as 50 percent on your marginal tax rate for your income just because you are married.

A lot of the e-mails that I have received have been from women, mothers, young ladies who are getting married, women who are engaged and looking forward to seeing what will happen once they do get married. They are the ones who are most concerned, and rightfully so, because the incidence of this tax and the unfair burden falls most heavily upon women in this country. We need to eliminate it to allow them to have a chance to keep more of that money and use it for their family.

Other people have pointed out to me that, in some ways, it would allow women to have the choice of maybe working only part-time and spending more time with their children. If they did not have to pay that 50 percent tax on that extra income, they could cut back on their hours and spend more time at home where they would like to spend more time with their children.

So for women who would like to be at home and with their children but feel forced to go into the workplace to make ends meet and pay the bills, this bill, the marriage tax elimination bill, will also help them make that choice for their families.

Let me now recognize the gentleman from Florida (Mr. WELDON) again for another comment.

Mr. WELDON of Florida. Mr. Speaker, I appreciate the gentleman for yielding.

I just want to stress the point that you were just making, that the burden of this so often does fall to the women, particularly when marriages fail. Much of the consequences of that falls to the women because, frequently, they do end up with the children and they have the added responsibility of raising the kids.

For the government to be establishing and maintaining tax policies that discourage marriage, to me, borders on criminal. The people who, more often than not, pay the real price for this are the wives, the mothers, and obviously the people who are really paying the price are the kids.

I was going through earlier some of the statistics on the impact on children. I have this chart here, and it is really very, very dramatic if you actually look at the numbers: 72 percent of juvenile murderers coming out of broken homes or single-parent homes; 60 percent of rapists; three of four teen suicides; twice as likely to drop out of school.

It has an impact on the parents. The parents have shorter life expectancy, poorer health, lower economic well-being.

Let me just say there are a lot of single moms and single dads who do a great job, and I meet them every day in my district. My hat is off to them, and I applaud them and their work. Many, many great Americans have been raised by very many heroic single parents going it alone; but as any one of them will testify to you, it is much, much harder.

God ordained the two-parent family, and raising kids is just tough. Anybody who has done that knows that is a fact.

I have done some numbers for the impact that this bill has for people in my district. What I did is I looked at a schoolteacher, two schoolteachers. They meet at school in Brevard County where I live in Florida. If they were making $30,500 a year, they get married, their combined income is $61,000 a year. So $30,500 single; they get married, $61,000.

If they file as singles, they would pay $3,592 in Federal taxes, for a total of $7,184. So they are living together out of wedlock, and that is their tax burden. When they get married, when they walk down the aisle, when they go to church and have their marriage blessed, their tax goes up to $8,563. That is $1,379 that they will pay as a marriage penalty.

In my opinion, that is obscene to have a Tax Code here in Washington that would actually apply that kind of a penalty on people who do the common-sense thing of getting married. It is for that reason that I have fought for this. I have supported this.

I just wanted to underscore what we were talking about earlier, because the people who will oppose this will point to all that money that the Federal Government will not get anymore, and they will make these arguments that it is going to hurt the environment or it is going to hurt education or it is going to hurt the elderly or the poor.

The real issue here, the real debate is, is the Federal Government going to grow at double the inflation rate, or is it going to grow at the inflation rate? The inflation rate is about 2 percent, 2.5 percent. There are people here who want to grow the Federal Government at 3½ and 4 percent per year, and they do not want to pass this marriage penalty.

I say, let us pass the marriage penalty, that we can manage business here in Washington with a little less money and give a little more money to working families.

That is such a critical issue here. These are working families, working moms. These are the people who are literally the backbone, the foundation of our country. More often than not, they are trying to raise kids. We are just trying to make it a little bit easier on them.

Yes, we can have the money to protect the environment. We can have the money to pay for programs for the poor and the needy. We can have the money to pay for a national defense and the other needs and still do this.

I see the gentleman from Indiana is going to go into that in a little bit of detail. He has a chart that I think demonstrates that very nicely, so I yield back to him.

Mr. MCINTOSH. Mr. Speaker, this chart here is something that we produced to show people the differences in spending levels for the various budget proposals that Washington is considering right now.

The President's budget that he introduced earlier this year has government increasing by 3½ percent for 5 years. That is 3½ percent each year for 5 years. It is roughly twice what the rate of inflation is.

By the way, the President did nothing to eliminate the marriage penalty. He says we need the money. We have got to keep penalizing married folks, make them pay more taxes so we can spend that 3½ percent more each year.

The Senate did a little bit better, reduced that down to slightly over 3 percent. They had about $30 billion from tax cuts. Well, that eliminates one-fifth of the marriage penalty. But people are still paying over four-fifths in the marriage tax each year.

The House budget that JOHN KASICH put out is about 2.7 percent, which is $100 billion in tax relief. That penny on the dollar, that would allow us to phase out over the 5 years the marriage penalty.

Then the final one is the Conservative Action Team or the CAT's budget. That holds it just under inflation or about 2.6 each year in the rate of growth of government. With that, we are able to have $150 billion in tax cuts, totally eliminate the marriage penalty this year so that next year on their income tax parents will not be penalized because they are married anymore.

Those are the choices. What is at stake right now is how we are negotiating with these different parties. But it is very clear the President is for more government spending and keeping the marriage penalty. The Senate is for splitting the difference, still having some marriage penalty, but spending a lot of money for the Federal Government. The House is for eliminating the marriage penalty, and that is what we are going to be voting on later this year.

While we were listening to the gentleman from Florida (Mr. WELDON), Angie was able to get the computer to work, and I have got some of these e-mails that I wanted to share with you just to show exactly what people around the country are saying about this marriage tax penalty.

The first one is from Christopher Schleifer who is from Fairfield, Ohio. Christopher writes: One of the biggest shocks my wife and I had when we decided to get married was how much more we would have to give the government because we decided to be married rather than live together. It does not make sense that I was allowed to keep a larger portion of my pay on Friday and less of it on Monday with the only difference being that I was married over the weekend.

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Another e-mail came in from Wayne in Dayton, Ohio. He said,

> Penalizing for marriage flies in the face of common sense. This is a classic example of government policy not supporting that which it tries to promote. In our particular situation, my girlfriend and I would incur a net annual penalty of $2,000, or approximately $167 per month. Though not huge, this is enough to pay our monthly phone, cable, water, and home insurance bills.

That was from Wayne in Dayton, Ohio.

Then Thomas Smith, from Columbus, said,

> I am engaged to be married, and my fiance and I have discussed the fact that we will be penalized financially. We have postponed the date of our marriage in order to save up and have a "running start," in part because of this nasty, unfair tax structure.

Then I have one from Thana and Emily in Everett, Washington. They write,

> My wife and I support McIntosh's bill 100 percent. I'd like to use the money that we could save for my 1-year-old daughter's college fund. My wife and I have made a commitment to one another that I work to pay bills and she works to pay taxes. It is not that funny, but we don't have any other choice but to just laugh it off.

I am hoping, Thana and Emily, that this House will pass the Marriage Tax Elimination Act so you can have a little bit extra for your 1-year-old daughter.

Finally, I wanted to share with Members a part of an e-mail from Andrew and Connie Barrington from Alexandria, Virginia.

> We grew up together and began dating when we were 18. After dating for 3 years, we decided that the next natural step in our lives together would be to get married. I cannot tell you the joy that this has brought, but I must tell you that the tax penalty that was inflicted on us has been the only real source of pain that our marriage has suffered. Thank you for all you are doing to eliminate this horrible punishment for fulfilling our lives together.

Well, Andrew and Connie, it is my fondest hope that we will act this year. We will overcome the President's reluctance, we will overcome the Senate's shyness about eliminating the tax, and we will be able to say to you next year, no longer are you penalized on your taxes just because you are married.

I think it is critical that this House also make a resolution in the budget to hold the line on the spending in order to get there. In 1994 when the gentleman from Florida (Mr. WELDON) and I were first elected, the biggest difference between a Republican and a Democratic Congress was that we said we wanted to shrink the size of government. We have worked hard and we have balanced the budget. We have not shrunk it yet, but at least we are holding the line on spending.

This year, if we can hold that line to just under the rate of inflation or just around the rate of inflation, we can eliminate this unfair marriage penalty, allow everybody to pay the same, whether they are married or single, strengthen families, give the typical family in America more money out of their paycheck, so they can make for themselves the decision on how to spend that money, whether to save it for their children, for their college funds, whether to pay their cable bill, whether to get the braces, whether to go on a vacation this year.

All of those decisions should be left to the family. We want to end the fights that people have because they do not have enough money to pay the bills each month. One of the biggest reasons is the government takes more and more and more out of married people's payroll in taxes. I hope, and I think we have come farther than ever before, that this House will come together and eliminate this marriage penalty.

I yield to the gentleman from Florida (Mr. WELDON), and would ask if he has any further remarks to make on this.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding. I just wanted to close out my contribution to this special order to say how pleased I am to see us moving in this direction, and that we may be able to pass the repeal of the marriage penalty.

Many people ask me, how did you get into politics? You are a doctor, and most doctors do not go into politics. The way I got involved in it is I actually started a community group in the county that I live in called the Space Coast Family Forum. We call it the Space Coast because we launch the shuttle there, and as well, the Titan and Atlas rockets, and many may have seen the shuttle launch we had yesterday. It was a beautiful launch.

But we formed that group, myself and other people, because of our concern about the breakdown of the family in the United States. I felt very strongly, as do the others who helped me join together to form that group, that the family was the foundation upon which our society was based. It was really strong families that made for strong communities that made for strong States and nations. It was not great policies that emanate from the Capitol in Washington, DC, but it was just strong communities that really made a difference.

One of the reasons I went further and ran myself, and became a candidate, and got elected, is I wanted to be able to come here and make a difference, and to do something to help families, to help working families. I am very pleased to see that we are heading in this direction. The President has made statements to indicate that he will support this. I am very pleased that the Committee on the Budget has incorporated provisions to allow for the end of the marriage penalty in this. I am very pleased to be able to support the gentleman and those others who have been involved with this effort.

Mr. MCINTOSH. Mr. Speaker, for the closing portion of our special order, and I think we have about 10 minutes more, I will yield to one of my colleagues who has worked tremendously on the CATS budget, the Conservative Action Team budget.

As I mentioned earlier, using one of the charts of the gentleman from Wisconsin (Mr. NEUMANN), the President spends more and does nothing to eliminate the marriage tax penalty. The Senate spends a little less but keeps most of the marriage penalty. The House does eliminate the marriage penalty, and then the CATS budget keeps the budget under the rate of inflation, so we can totally eliminate the marriage penalty, plus have some tax cuts to spur job growth and save Social Security.

One of the reasons we have been able to do this is that one of our colleagues, a fellow who also came in with the gentleman from Florida (Mr. WELDON) and me in 1994, has worked tirelessly to study this budget to find out where we are spending too much money, where we are wasting taxpayers' dollars, where we can do a better job of holding back on this rate of growth in order to fulfill our promises of smaller government, lower taxes, saving Social Security, and returning our national defense to its proper place.

I yield the balance of the time on this special order to the gentleman from Wisconsin (Mr. MARK NEUMANN), one of the people in this House who has made a big impact on this budget.

Mr. NEUMANN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, if the gentleman will point to the chart once more, point to the line of inflation in the President's budget, and then go up to where he is actually spending. The real question is, would we rather spend that extra money out here in Washington, in Washington-run programs, or would we be better off leaving that money in the pockets and hands of the people who earned the money in the first place? That is what this really is all about.

The marriage tax penalty is one of those commonsense issues in this country that makes people so angry out there in America. It is one of those issues, when you go to people and say, did you know that if four people work at the same job, they earn exactly the same money, and two of them are married to each other and two are living together, that the two that are living together pay less taxes than the two that are married to each other? People just go, why would we do that? What kind of government would allow that to happen? It is a commonsense kind of thing.

Then we would look at that chart and say, we could continue more Washington spending programs, have more spending going on in this community. The President has some ideas on how to start some new programs. He has laid out a whole list of new spending programs. That is what the distance from that black line that is the inflationary level up to where he is actually spending is. That is what that extra is, new spending programs that are going to be started here in Washington.

We could do that, if that is what we wanted to do. But we had Kelly Ann Fitzpatrick, a pollster here in Washington, a well-respected pollster out here, she went out and asked 2,000 Americans, she said, do you think government spending should go up faster than the rate of inflation, at the rate of inflation, or slower than the rate of inflation? And it was a 90 to 3 question. Ninety percent of the people said at or below the rate of inflation. Only 3 percent thought that government spending should go up faster than the rate of inflation.

I cannot emphasize enough what we are really talking about here is should we spend more of that hard-earned money out here in Washington, or should we leave that money in the pockets of the American people? I do not know if the gentleman mentioned earlier in the hour about the tax cuts that have already passed.

I think there is very little understanding in this country that when we look at what we have already passed, because of the savings we have been able to enact so far, things like $400 per child, 550,000 Wisconsin families next April when they figure out their taxes, they will get down to how much they would have paid in taxes to Washington, and subtract $400 off the bottom line for the $400 per child tax credit.

This is just common sense. Who can spend this money better? I believe that our Wisconsin families can spend it better than the people out here in Washington.

Or the college tuition, I have two in college myself. I know a lot of our middle-income families that are struggling to pay college tuition bills. When they struggle to pay these college tuition bills, we looked at this picture and said, they earned $1,500. Would it not be nice if in the middle-income families, they could keep the $1,500 to help pay for college tuition, instead of sending to Washington?

I believe those 250,000 Wisconsin families and others like them all across America can spend that $1,500 better to help their kids go to college than the bureaucrats could if they got their hands on the money here in Washington. That is what this is all about.

Take capital gains. I have been having a lot of fun, and I do not know if my colleague from Indiana has been doing this. I have been asking when I am out in groups, how many own a stock, bond, or mutual fund? What I have been finding is that almost every single hand in the room has gone up. The number of people in America today who own stocks, bonds, mutual funds, or some sort of retirement plan like that is astronomical.

Then I say, well, shoot, I hope you earn a profit on it. I really hope you make a profit on your investment, because this is America. After all, is that not why you are investing? They all nod their head. When you make a profit, instead of sending $28 out of every hundred you now make in profit, you now only send $20, because our government has reeled in the growth of spending. It is still growing at the rate of inflation, like that chart shows, but we have reeled it in and stopped it from growing faster than the rate of inflation, so when you make a profit you do not have to send as much out here to Washington. That is just common sense.

Mr. MCINTOSH. Mr. Speaker, the amazing thing about that is as we have cut that tax by almost one-third, people are investing more in stocks and bonds and mutual funds, as the gentleman said, and as a result, the government is actually receiving more money with lower taxes.

Ronald Reagan was right: If we cut taxes, people will engage in more economic activity, and the government will actually receive the revenues it needs to do its business. I am glad the gentleman brought that up as a key part of what we have been doing here.

Mr. NEUMANN. The other one I like to talk about is the death and estate tax. We pay taxes on this money once. We go all through our lives, build up this estate. Would it not be nice if we got to the point in America again where we could pass this estate to our kids instead of giving it to the government?

I hope every American has the right to build their estate while they are living. I hope they are successful. I really do. That is what this country is all about. When we look forward to the next generation, I hope there are a lot of successful people out there. I think every American citizen should have the right to pass their estate on to their children, rather than to the United States government.

We have a long ways to go on the estate tax, but we did take the first shot last year. It is better than it used to be, at least. A lot of progress is being made. When we really look at this picture, it comes down to the question of whether Washington should spend the money, or should the people who earned the money keep it in their homes and families and do a better job of spending?

Mr. McINTOSH. Let us look back at this chart again. I would ask the gentleman to explain to our colleagues and to Americans watching tonight, when we hold the line on the spending, and instead of going to 3.5 percent increases each year we just keep it to inflation, which the CATS budget does, the gentleman was also able to write into that budget some tremendous help for Social Security.

Would the gentleman share for us exactly what the difference is? The President spends the money on government programs that are supposed to go into the Social Security trust fund, and the gentleman has been able to write it so we actually actually put the money aside to be there for the senior citizens.

Mr. NEUMANN. That is an important part of the CATS budget. It spends less and it can provide more tax relief. It also provides more money set aside to preserve and protect Social Security than any of the other three budgets under consideration out here. We actually set aside all of the money that is coming in above and beyond what we are actually paying back out to seniors in benefits. We should be very clear on this.

Right now, today, with us baby boomers still in the work force, there is more money coming in for Social Security than what we are actually paying back out to our senior citizens in benefits. Today the government takes that money and spends it on other government programs and puts IOUs in the trust fund.

Under the CATS budget, that extra cash that is coming in for Social Security this year, over and above what is being paid back out to seniors, actually gets set aside in real money. We buy negotiable Treasury bonds and put them into the Social Security trust fund. It is very different than any other proposal out here at this time. It is really the right way to make sure that my mother's Social Security is safe in the near term.

We hear a lot of people talking about Social Security post 2030. The real problem in Social Security is not 2030, it is 2012. In 2012, we have more money going out to seniors in benefits. That is when the baby boom generation reaches retirement, and there are a lot of us racing toward retirement.

When the baby boom generation gets to retirement, there is more money going out than dollars coming in. That is when we are supposed to be able to go to the savings account trust fund, take the money, and make good on our Social Security promise.

The CATS budget actually puts real money into the savings account, so when 2012 gets here and we need the money, we can go to the savings account and make good on Social Security without raising taxes on the hardworking people in this country.

Mr. McINTOSH. One other important point that I think is so important to stress on the gentleman's budget is that we have also been able to take care of the problem in defense.

We now realize, with China developing the technology to deliver nuclear weapons, not only to Hawaii but all across the United States, with India testing a nuclear weapon and Pakistan testing a nuclear weapon, that the world is a dangerous place.

□ 1900

Now, after the Cold War was over, we held our defense spending even, which meant with inflation we were actually going down each year in real terms. But because we held the line on everything else to just below inflation, we were able to raise defense up to the level of inflation over the 5 years. And I was going to have the gentleman share more with people how we were able to do that.

Mr. NEUMANN. Well, this is a reprioritizing of how we are spending the taxpayers' money. We can spend it on any one of a number of programs out here. We simply said, look, if the rest of the budget is going to be allowed to increase at the rate of inflation, we want our defense spending to increase at the rate of inflation too.

Everybody out here called that an increase. They call it cuts when we are actually spending much more than the rate of inflation. They call it an increase when we are only letting it go up at the rate of inflation. It is a very strange community when we start thinking about the actual language.

I had this discussion as a matter of fact with a well-respected reporter from Milwaukee, Wisconsin. And I mean it. He is a good reporter from the community of Milwaukee, Wisconsin, and we had this discussion.

My opponent was talking to me about how we were increasing spending by $9 billion in defense. I took out the numbers. Our first year here we spent $272 billion on defense. We are now spending $264 billion. We spent $272 billion the first year; we are now spending $264 billion.

Now in Wisconsin we would call that a decrease in spending, but that is not what they call it. They call it an increase. Let me explain why that is an increase in spending, even though spending went down from $272 billion to $264 billion.

The President only requested $255 billion. So when we spent $264 billion, they called that an increase over what the President requested even though it was a decrease. And if listeners are not confused yet, I will give more numbers. But the facts are it gets twisted when one tries to listen to people in this community.

The bottom line in the CATS budget, defense spending is frozen in real dollars. That is to say, it is allowed to increase at the rate of inflation, and this is the only budget on the Hill that actually allows for inflationary increase in defense spending.

There are people out there that bought $75 hammers and $200 toilet seats. We ought to can those people. We ought to fire those people today. The people responsible for the waste in the military ought to be booted out and booted out right now.

But that does not mean that because of those few we should place our men and women in uniform in jeopardy, and that is what has been going on out here. They have been demagoguing it based on the few people who are making the horrible mistakes and wasting the defense dollars, and the result is that our young men and women in uniform are being put in jeopardy.

Mr. McINTOSH. Mr. Speaker, with that let me yield back the balance of our time and urge all of my colleagues to vote "yes" on the CATS budget and support the elimination of the marriage penalty.

COMMEMORATING THE 130TH ANNIVERSARY OF NAVAJO TREATY OF 1868

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Mexico (Mr. REDMOND) is recognized for 10 minutes as the designee of the majority leader.

Mr. REDMOND. Mr. Speaker, 1998 is a very significant year in the history of the Navajo Nation. It is the 130th anniversary of the signing of the treaty between the Navajo people and the United States Government.

In honor of this 130th anniversary, this week I will be reading segments of the treaty until it has been read in full and people in America know what the treaty contains and what the agreement is between the government of the United States and the Navajo people. The treaty begins like this:

> Andrew Johnson, President of the United States of America, ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:
>
> Whereas a Treaty was made in Fort Sumner, in the Territory of New Mexico, on the first day of June, in the year of our Lord one thousand eight hundred and sixty-eight, by and between Lieutenant General W.T. Sherman and Samuel F. Tappan, Commissioners, on behalf of the United States of America, and Barboncito, Armijo, and other Chiefs and Headmen of the Navajo tribes of Indians, on the part of said Indians, and duly authorized thereto by them, which Treaty is in the words and figures following, to wit:

> Articles of a Treaty and agreement made and entered into at Fort Sumner, New Mexico, on the first day of June, 1868, by and between the United States, represented by its Commissioners, Lieutenant General W.T. Sherman and Colonel Samuel F. Tappan, of the one part, and the Navajo Nation or tribes of Indians, represented by their Chiefs and Headmen, duly authorized and empowered to act for the whole people of said Nation or tribe, (the names of said Chiefs and Headmen being hereto subscribed,) of the other part, witness:
>
> Article I. From this day forward all war between the parties to this agreement shall for ever cease. The government of the United States desires peace, and its honor is thereby pledged to keep it. The Indians desire peace, and they now pledge their honor to keep it.
>
> If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington city, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also to reimburse the injured persons for the loss sustained.
>
> If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States and at peace therewith, the Navajo tribe agree that they will, on proof made to their agent, and on notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws; and in case they willfully refuse to do so, the person injured shall be reimbursed for his loss for the annuities or other moneys due or to become due them under this Treaty, or any others that may be made with the United States. And the President may prescribe such rules and regulations for ascertains damages under this article as in his judgment may be proper; but no such damage shall be adjusted and paid until examined and passed upon by the Commissioner of Indian Affairs, and no one sustaining loss whilst violating, or because of his violating, the provisions of this treaty or the laws of the United States shall be reimbursed therefore.
>
> Article II. The United States agrees that the following district of country, to wit: bounded on the north by the 37th degree of north latitude, south by an east and west line passing through the site of old Fort Defiance, in Canon Bonito, east of the parallel of longitude which, if prolonged south, would pass through old Fort Lyon, or the Ojo-de-oso, Bear Spring, and west by a parallel of longitude about 109 degrees and 30 minutes west of Greenwich, provided it embraces the outlet of Canon-de-Chilly, which canon is to be all included in this reservation, shall be, and the same is hereby, set apart for the use and occupation of the Navajo tribe of Indians, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them; and the United States agrees that no persons except those herein authorized to do so, and except such officers, soldiers, agents, and employees of the government, or of the Indians, as may be authorized to enter upon Indian reservations in discharge of duties imposed by law, or the orders of the President, shall ever be permitted to pass over, settle upon, or reside in, the territory described in this article.
>
> Article III. The United States agrees to cause to be built at some point within said reservation, where timber and water may be convenient, the following buildings: a warehouse, to cost not exceeding twenty-five hundred dollars; an agency building for the residence of the agent, not to cost exceeding three thousand dollars; a carpenter shop and blacksmith shop, not to cost exceeding one thousand dollars each; and a school-house and chapel, so soon as sufficient number of children can be induced to attend school, which shall not cost to exceed five thousand dollars.
>
> Article IV. The United States agrees that the agent for the Navajos shall make his home at the agency building; that he shall reside among them and shall keep an office at all times for the purpose of prompt and diligent inquiry into such matters of complaint by or against the Indians as may be presented for investigation, as also for the faithful discharge of other duties enjoined by law. In all cases of depredation on person or property shall cause the evidence to be taken in writing and forwarded, together with his finding, to the Commissioner of Indian Affairs, whose decision shall be binding on the parties to this treaty.

Mr. Speaker, I thank the Chair for allowing me this time to read once again the Treaty between the Navajo Nation and the United States Government, the Treaty of 1868, Articles I, II, and III. We will continue to read on a sequential basis the rest of the articles of this Treaty, but the purpose of this is to celebrate the 130th anniversary of peace between the Navajo people and the people of the United States.

IN SUPPORT OF H.R. 2604, THE RELIGIOUS LIBERTY AND CHARITABLE DONATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, first I would like to thank the gentlewoman from New York (Mrs. MALONEY) for her kindness. I realize how important an issue we have to discuss in just a few minutes, and I wanted to add my support and respect for the importance of legislation that we just discussed here on the House floor just a short while ago.

One in particular, H.R. 2604, the Religious Liberty and Charitable Donation Act, particularly comes to mind as we are poised for some other discussions dealing with the First Amendment and, as well, religious liberty.

This bill is a bill that must and should have been passed, for it recognizes and respects the freedom of religion, and it was captured in the words of Judge Alphonzo Taft, father of President Howard Taft:

> The ideal of our people as to religious freedom is absolute equality under the law of all religious opinions and sects . . . the government is neutral and while protecting all, it prefers none and disparages none.

This legislation protects donations to charities and to one's religious institution in the form of tithe or offering, and separates it in protecting it from bankruptcy laws. I think it is crucial, as we move toward reforming or trying to do a better job in the bankruptcy arena, that we clearly emphasize the sanctity of the separation of church and State and the ability of an individual, an individual American, to give money to the religion of their choice.

As a proponent of freedom, I can say without reservation that this bill cuts to the heart of what our Constitution and our country are all about. It is so very important that we make sure that commercial public bankruptcy laws do not interfere with anyone who desires to indicate their choice of religion and their charity, particularly if that person is a debtor.

So, Mr. Speaker, I support this particular legislation and welcome its passage. If the person is a chapter 13 participant, they could be barred from tithing to their local church if their creditors object to the addition of this gift to their restructuring plan. By this legislation, we assure that will not occur. I believe this is a vote for religious freedom and opportunity.

With that, Mr. Speaker, I also would like to make sure and to emphasize my support for the Ticket to Work and Self-Sufficiency Act of 1998, H.R. 3433. There could not be a better bill recognizing the value of people with disabilities.

This bill allows the rejoining to the workforce of over 8 million people with disabilities who are currently collecting money from Social Security income or Social Security disability insurance. More than 30,000 of those people live in Harris County in the State of Texas.

I believe that the majority of the people with disabilities want to work, but under the current law, vocational counseling for people receiving SSI or SSDI can only be done by State-run vocational rehabilitation agencies who are only able to serve about 10 percent of disabled people.

This bill allows nonprofit and private organizations to help these people find meaningful and productive work. I think this certainly adds to the ability of getting individuals who want to stand up for themselves, who do not want to be discriminated against, who want to show people they can be independent, but at the same time helping them to move from dependence, along with many in the welfare arena, to independence.

□ 1915

This bill saves money for taxpayers. I do not think it precludes our public agencies from being involved, but it is extremely important that we allow more and more people with disabilities to find their way into the work force as they so choose.

ON THE CENSUS

The SPEAKER pro tempore (Mr. McKEON). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from New York (Mrs. MALONEY) is recognized for 60 minutes as the designee of the minority leader.

Mrs. MALONEY of New York. Mr. Speaker, we are here today because we believe that a fair and accurate census is fundamental to the democratic principles on which our country was founded. We are here today because those principles are being threatened as never before. We have vowed to fight that threat to the very end.

There are some in this Congress who seek to manipulate the census process to assure that the errors that have been made in the past continue. There is nothing that they will not do to achieve their ends. They began 2 years ago by saying that sampling is unscientific. When that did not work, they said that modern scientific methods are unconstitutional. When that did not work, they began to attack the plan for the 2000 census as too complicated. I suspect that the next tactic will be to attack the Census Bureau's ability to take the census. Their goal is to make sure that the errors of 1990 are repeated in the 2000 census, because they believe those errors are to their political advantage.

Yesterday, the President of the United States was at a forum in Houston, Texas; and he called on the opponents of an accurate census to recognize that the census is about people, not about politics. This forum was held in Texas, Houston, Texas, in the district of my colleague, the gentleman from Texas (Mr. GREEN), who is here, and he will share with us more information that the President gave at this forum and will put a human face on his constituents, on people who are running programs, planning services, planning the roads, sociologists, professors, an entire forum of many people who could speak from a personal point of view of why an accurate census is important to our country.

I yield to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank my colleague from New York who journeyed to Houston yesterday and experienced our 98 degree temperature to discuss the census at a roundtable discussion with the President of the United States and people from my district, in fact, from all over Houston. Our colleague, the gentlewoman from Texas (Ms. JACKSON-LEE) was also there and here tonight.

It was estimated that the 1990 census undercounted 8.4 million people. Another 4.4 million people were actually counted twice. This undercount greatly reduces the Federal funding sent to a locality, particularly if one has an area like my State, where the undercount could be dramatic, whether it be California, Texas, Arizona, Florida.

It has been estimated that Texas, because of the undercount in 1990, lost $1 billion in Federal funds. That $1 billion is not just social welfare, as a lot of people think of it.

First, it is education funding, Title I funding that has a baseline in the census and an update every 2 years, health care. Veterans benefits is based on an accurate census and the number of veterans and the number of people in a given community. Highway construct funding is based on census. So that is why it is so important to have an accurate count.

An accurate count for Title I funding is so important because of the effort that is the Federal program to help children who are the most in need. And we need to have an accurate count. And, again, our Congress changed the law to have an update every 2 years in 1994, but we still have to have a baseline that is correct.

It is necessary to forecast information on accuracy for Social Security and Medicare. So without an accurate count, we are hurting, not only as a Nation but also individually, our communities.

Census Bureau officials have said that Houston was one of the most affected by the last census count. Over 66,000 people in the City of Houston were undercounted or uncounted. It estimates that, in 1990, Census missed 4.4 percent of the African American population, 5.5 percent of the Hispanic population, 2.3 percent of Asians and Pacific Islanders. It is a shame that our census is missing these people and these people are not being counted.

A fair count is necessary to ensure that all people in our country are represented and that they have a voice. A fair and accurate count is vital for information that is used by everyone, from the Department of Education to a small business marketing a new product.

Yesterday, again, President Clinton visited the congressional district I am honored to represent to discuss the need for an accurate count. He met with everyday people, not only people in the audience who were there, but he conducted a panel discussion by people who rely on census data in their everyday life.

Here is what some of the participants said:

Gilbert Moreno, who is the executive director of the Association for the Advancement of Mexican Americans, said that the census must accurately chart the growth of Hispanics in America. Over the next 50 years, Hispanics and Asians will provide almost half of the country's growth; and the accuracy of these statistics is crucial. And yet in the last census they were one of the two groups that were the most undercounted in our country.

Dr. Mary Kendrick, director of the City of Houston Health Department, said accurate census data is critical to the public health. She noted census data on child poverty helps determine nutrition programs and children's health programs in the City of Houston as well as around the country.

Glenda Joe, who is the owner of Great Wall Enterprises, a marketing firm aimed at the Asian American community, called the census the bible of corporations looking to plan their business allocations for marketing and advertising. An inaccurate count means she has trouble selling corporations on the idea of Asian American outreach because that community is uncounted.

Again, as a business person before I was elected to Congress, I used census data; and businesses, I know, use it. An uncount or a not accurate count hurts businesses trying to make a decision on marketing their products in our community.

The question arises, what is the best way to count our country's population? The past two censuses have shown that the current procedure undercounts our population, especially minorities. Some Members of the House believe that an accurate enumeration is the only way to take a census. In other words, what I would like to do, and in the past two censuses we have had where you count everyone. You have the mail brochures. You have people actually go out and see those people.

But I have people in my district, as all of us have, who may not want to mail back that information, who may not want to answer that door because the census does not have the right to come in our home and investigate us. They may because of their own privacy concerns. So they are being undercounted; that is, not counting people who may be concerned that there may be a language problem because the census takers in their neighborhood may not be conversant in the language that is customarily used in that neighborhood.

So we want to count everyone that we can by the old system, but we also need to make sure that the undercount, that we recognize there is an undercount, a mechanism to adjust that, and that is why sampling is so important.

That is why we need to count everyone we can and then have the statistical community endorse the use of sampling as a way of ensuring that the undercount that occurred in 1990 is not repeated.

Businesses use the same sampling techniques. That is all I think we, as a government, ought to use, is the same sampling techniques that businesses use to get the best we can for the dollars we spend for those census takers.

Let us also use sampling to make sure everyone is counted, even if they do not want to be, because that is the basis of not only allocation of our districts, but also it is so important for the next 9 years after redistricting for the allocation of resources to serve those constituents.

It was a great day yesterday. It talked about putting a human face on the need to have census data. We were at the Magnolia Multipurpose Center in the City of Houston. They have a senior citizen nutrition program. They have a WIC program. They have a health care clinic that serves children, and plus we have conducted a lot of our own town hall meetings at that location. It is a utilized facility, but that facility would not have the funds that they have today if we do not have an accurate count. In fact, they are doing with less today because of the undercount in that neighborhood in 1990.

We need to make sure we have an accurate count. I was glad my colleague from New York came to Houston, again, to brave our warm temperatures and to talk about how important the census, an accurate census is.

I thank the gentlewoman for yielding to me.

Mrs. MALONEY of New York. Mr. Speaker, yesterday at the Multipurpose Center in the gentleman's district, we met with real people, and we could see the real impact that an accurate census has on their lives.

Information gathered in the census is used by States and local governments to plan schools and highways, by the Federal Government to distribute funds for health care and other programs, and by businesses in making economic plans.

There was a person there from the private sector who said he needed to know where the people were so he knew where he would invest the expansion of his businesses. Because the census is so important, we must do everything that we possibly can to make sure that everyone is included in the count.

We know that previous censuses overlooked millions of Americans, especially young people, children and minorities. That is not fair, it is not accurate, and it is not acceptable. That is why the President went to Houston and met with Mr. Green and with the gentlewoman from Texas (Ms. JACKSON-LEE) and some of their constituents.

I yield to the gentlewoman from Texas (Ms. JACKSON-LEE), who was also at this meeting at the Multicenter yesterday. I thank her for being there yesterday and being here today.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman very much for her very sound, very pivotal leadership on this issue of census.

One of the things that I have been saying, as I have been speaking to community groups, and my colleague, the gentleman from Texas (Mr. GREEN) knows that we have been trying to raise this issue up all over our community. I appreciate both his leadership and the opportunity to have been in his district. We happen to be neighbors. Census sometimes is not an exciting issue, but it can be a life-and-death issue, because the hope of America is its people, and everyone should count.

In fact, one of the posters that we had inside the Multipurpose Center was the idea that everyone counts. It was an artist's work done by the children of that community. Let me thank the children so very much for the beautiful work that they did, a beautiful rendition of the concept that everyone counts, because the people represented so many different racial groups and so many different language groups. We are very proud to be in that center.

My colleague already said that 66,000 people were not counted in Houston in 1990; 400,000 Texans were not counted. What do the numbers 4 percent, 5 percent and 2 percent mean, again, to us? Four percent African Americans not counted. Almost 5 percent or more Hispanics not counted. Two percent or more Asians not counted. That means almost 11 percent of our people in this country not counted.

I cannot believe, and I appreciate as well the presence of the gentleman from Ohio (Mr. SAWYER) who has been a leader on this issue. He joined us in Texas. That is how important it was to make this issue so prominent nationally.

How can anyone refuse to count a single person? How can anyone ignore the cultural differences of this very diverse Nation, not acknowledge that each and every one of those persons have a valuable role and are a contributor to society.

Glenda Joe made the point, as an Asian American and as a businesswoman, that her market depends upon knowing where her community lives, their likes and dislikes, to be able to make the point, the argument almost, that they should not be left out. Her numbers rely upon accurate census data. We already heard in 1990 that Asians were not counted.

Dr. Judith Craven, President of the United Way, doing an excellent job in all of our communities, she is president of the Houston Gulf Coast United Way, made a very vital point. We work together in this community. The monies that they raise, some 60 plus million by the private sector, is key to the census that knows how they can leverage those private dollars to the amount of public dollars. They use the census to know where to go, where to use these precious private sector dollars, what communities need, what are the ailments that are facing these communities.

□ 1930

She frankly said we would be lost without accurate census data, and also to be able to argue the case of where the Federal dollars should be spent.

Reverend Harvey Clements, who pastors in the same community that Barbara Jordan grew up in and Mickey Leland, former Members, now deceased, in the body of this House, Members who cared about people. Reverend Harvey Clements has seen Fifth Ward, a very old and historic neighborhood, be revitalized because he was able to use some of the census data. Unfortunately the 1990 data was certainly not accurate. But he was able to use some of the data to show where pockets of people in that community had left because of the degradation of that area. He was able to show banks the potential of those people coming back, so that he could build 165 units, Pleasant Hill senior citizen units, he could build that with Federal money and FannieMae money in order to bring senior citizens back into the area, an area that they love but they had to leave because there was no housing. He could build over 100 housing units for families to come back into that area because he could prove by the census data that it had been a vital area in the past and it had the potential for being a vital area.

Mr. Speaker, there could be nothing more important than giving to every human being in this country the dignity of being counted. We have already proven that enumeration does not work. We have also proven that enumeration has not been able to count every American. And we have proven by the law of courts that sampling is constitutional. What more do we want? Our scientific leaders have already said sampling is accurate.

I know the gentlewoman from New York (Mrs. MALONEY) will join me in a smile, because we know that this may hit people differently, of an example used by Dr. Mineola, a sociologist from the University of Houston, who made a very obvious point. When we go to our doctors, our blood samples are taken. Out of those samples, we are diagnosed for a variety of things. Potential of heart disease, potential of any blood disease or blood concerns, any sort of hypertension or other matters may come out of that tiny, small sample. Now, it sounds as if we are going somewhere very sacred, but people understand what that means, that when you go to a doctor, they cannot sometimes take an assessment of everything, but they can get a lot of reading, accurate reading, of what your situation is out of that very tiny blood sample.

What is wrong with recognizing the scientific leaders of this issue, with recognizing the legal points of this issue that have already said that this is the correct way to do it, sampling? And might I add as I see the gentleman from Connecticut (Mr. SHAYS) come to the floor and certainly the gentlewoman from Connecticut (Ms. DELAURO), this is a bipartisan issue. I would simply say to the gentlewoman from New York (Mrs. MALONEY), I was delighted to be with my next-door neighbor, the gentleman from Texas

(Mr. GREEN), to be joined by so many leaders in the community including Dr. Stephen Klineberg, a Rice University sociologist, that have been doing surveys in our community for years and discovered the emerging and exciting Asian population who also affirmed that sampling is the best and most accurate way to go and really sort of challenged us: Do we have to tolerate this political process? Can we not just simply do what is right?

The hope of America are its people. If that is the case, everyone must be counted. I hope that we will do the right thing in this Congress and allow the census to be taken by sampling, and thereby not leave anyone outside of the circle, the senior citizen, the mother and baby needing WIC, the youngster needing Pell grants, the children needing to be educated, then we will be a very proud country and as well we will have reached the promise that we have made as our commitment that every American should be counted.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for her statement and for her attending the conference yesterday in Houston.

The President made the point over and over again that the census is about people, not about politics. Our goal is the most accurate census employing the most up-to-date scientific methods with the most cost-effective use of taxpayers dollars.

We have been joined tonight on this special order by the gentlewoman from Connecticut (Ms. DELAURO). I yield to one of our Democratic whips. I thank her for coming down to the floor.

Ms. DELAURO. I thank the gentlewoman from New York. I applaud her and commend her for the work that she has been doing over, it is more than several months, it is the last couple of years, on this issue. She has been indefatigable and once more oftentimes crying out in the wilderness alone on this issue, but she has really brought to everyone's attention the importance of the accuracy of the census.

Census counting happens only every 10 years. The goal, as she has said, is to have accuracy, to be cost effective, and to allow for every single American to be counted amongst the population of this country. I was listening to her comments and the comments of the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Texas (Mr. GREEN) and wishing I was in Houston. This sounded like a wonderful effort, if you will, to bring life to the numbers. Because these are not just numbers, they are not numbers on a page, it is not statistics. This is flesh and blood, real human beings who mean something in this Nation. We are a Nation of people. The necessity for statistical sampling in the year 2000 will guarantee a fair count, an accurate count for all Americans.

In our Connecticut delegation, and I am delighted to see the gentleman from Connecticut (Mr. SHAYS) on the floor, we were locked arm in arm, Republicans and Democrats, in support of sampling when the House voted on this issue in September. This is not a partisan issue. The men, women and children in this Nation are all Americans. This is not a partisan issue. It should not be a political issue. The only way to achieve this fair count, as has been stated over and over again tonight, is with statistical sampling. This reduces the error rate to .1 percent. It would complement and not replace the traditional method of counting. The Census Bureau would avoid undercounts, again that has been said, of minorities, children, seniors, everyone in this country. We have to have a full and accurate picture as we enter into a new century. We cannot fulfill our obligations and our responsibilities to help Americans succeed in their everyday life, in that struggle to create a better way of life for their families and for their communities.

I would say to my colleagues who went to Houston, I do not know if there are any more opportunities, if you will, to be on the road, because people are not paying attention to this issue. It does not come up around their kitchen table. The issues that come up around our kitchen tables are, Will we have enough money to get our children to school? What is going to happen with our retirement? What is our security all about? Am I going to be eligible for Social Security and for Medicare and a whole variety of other kinds of programs, and education programs that the Federal Government participates in? That is why we need to bring this issue to the American public so that when they are thinking about those kitchen table issues and in those discussions that in fact the census and the counting of all Americans has a direct bearing on the ability, their own ability in their families to participate in some of these efforts.

We have all said on this floor that government is not going to solve all of people's problems. We cannot do that. But we sure as heck have the obligation to help people in crafting the tools that they need to meet the challenges in their lives.

The census, if you will, is a blueprint and an infrastructure in order to look at some of these programs and who is eligible for them. Each year census data determines the distribution of $170 billion in Federal spending. As we have all said, the dollars go to programs, Social Security, Medicare, road improvements, child care for low-income families, for middle-income families, Head Start, school lunch programs. It saves us money in sampling. With the use of sampling, the census will cost $4 billion. Without it, as I understand it, it will cost $7.2 billion.

I would just say, and I have said that this is not a partisan issue, but I will say that the leadership on the other side of the aisle, the Republican leadership, I believe is playing politics with the American people when, as we have characterized, this should not be a part of the debate.

Some of the claims on the sampling from the majority leadership in this body is that sampling will delete responses to the census. This is not true. There are people on this floor tonight who have spent a lot more time with this issue and can address it. No responses will be deleted. Instead, it is the Republican plan, the Republican leadership's plan of avoiding sampling that in fact will delete important populations across the Nation from the count.

Often we hear on this floor that what we ought to do is to run government more like a business. I will just say that America's largest corporations use statistical sampling every single day. They base billions of dollars on the results, and their decisions, which are billions of dollars, are directly based on these statistical sampling results. What we do not want to do is what happened in the last census, is that as many as 10-million people were not counted. We need to correct that.

Let me say that, further, we should put this question to the American people. We have two options. One will give us inaccurate information. It will cost more. The other will provide accurate information and cost less. Sometimes we wonder why we are even having a debate on an issue when it is as clear-cut and when there is bipartisan support in this effort. Nevertheless, there is a debate.

I applaud my colleagues for taking out this special order. I think in fact what we need to do is to bring this issue, as unglamorous sometimes as it is, but we need to bring it to the attention of the American public, because so much of what their lives are about is going to be determined by how in fact we do count every single American in this country.

I want to thank my colleagues for asking me to join in this effort tonight. I look forward to the continuing weeks when we will have more debate on this issue on the floor of the House. I thank the gentlewoman.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman from Connecticut. What she pointed out is that so much of it is part of our everyday lives, that this data is important to us and we must have accurate data.

To prove the point, I just took one day of USA Today and cut out of the paper all of the articles that were based on census data. I really challenge all my colleagues and all of the listening public to do the same thing. When you read the paper, notice how many articles really are based on the census. On the front page, one of the articles that was cut out is about the recent successes in the war on cancer. Measurement of these successes requires information on national disease rates, which rely on census data. There is also a little front page article on recent college graduate jobs and pay situations. The column on "What's Up in Washington," it talks about Social Security, transportation, it talks about grant moneys, that are based on census numbers.

We must have an accurate count. It is a bipartisan effort. With me is the gentleman from Connecticut (Mr. SHAYS). I would like to yield to him. He has been a leader on this issue in our bipartisan effort to get a fair and accurate count.

Mr. SHAYS. I thank the gentlewoman for yielding and want to take this time to thank the gentlewoman from Connecticut (Ms. DELAURO). It is very satisfying to me that of the eight members in the Connecticut delegation, we all see eye to eye on this very important issue. It may be in Connecticut we are sensitized to this fact because Connecticut tends to be an urban State. We do not have large cities, but it is a very urbanized type of State. We know that the census has overlooked the count, particularly in urban areas.

Mr. Speaker, as the gentlewomen have pointed out, we need an accurate census. It truly is the basis of our democracy, and as important as the Voting Rights Act. When I looked at the 1990 census, the census itself has determined they missed 8.4 million people. Totally missed them. It counted 4.4 million people twice. It also counted more than 13 million people in the wrong place, for a total error rate of 10 percent, a significant error rate.

The undercount in urban areas is significant. It is in rural areas as well, but its impact in urban areas is quite significant given the large number of people who live in urban areas.

This to me is quite distressing, 5.7 percent of those in the black community were not counted compared to 1.3 percent in the white community. And Latinos were also disproportionately missed. Now, to improve the count, the Census Bureau needs to test intensive door-to-door surveys.

□ 1945

The Census Bureau needs to test various outreach programs. It needs to test various ways to advertise. It needs to test hiring practices and whom to hire. It needs to test telephone responses. It needs to test multi-site form distributions. It needs to test polling by mail.

Now they are going to send out more than once to a household that has not responded; and, yes, it also needs to test and review the results of statistical sampling.

Now when we talk about sampling I think there is a tendency to think that what you do is you find one-tenth of 1 percent and then determine what 99.99 percent are. But this is not the way it works under the statistical method. Basically, you do all those other things. You go into a census tract and you send out the mail, you have outreach, you telephone, you have door-to-door canvassing. But in the end they arrive at about 90 percent, and there is about 10 percent they have not found, and so what they do is they use the statistical methods to take 90 percent to determine the remaining 10 percent. They are not taking 1 percent to determine 99 percent or a half of 1 percent. They are taking 90 percent of the population to determine the 10 percent.

Now I realize that more Republicans then Democrats oppose using statistical methods in the political environment, but I have not yet found one Republican opposed who is familiar with statistical systems who works in New York or in other urban areas and uses statistical methods to determine so many things in their own businesses. I have not encountered one who has not said that you get a fairer and more accurate count by using statistical methods.

And the whole point is we want to just test it. We want to test to see how accurate it will be, and we are having to confront some in our aisle and particularly on my side of the aisle who do not even want to test it, do not even want to allow it to show its validity or not. If the tests prove not to work, then we should not use statistical methods. But that would be surprising because when you count 90 percent it is quite easy to determine the 10 percent.

I just would like to conclude by saying to you that the politicians in Congress that are Republicans, many of them oppose it, and I think their basis for opposing it are groundless. We will have a more accurate count. That is the only thing that should matter.

It will mean, yes, we will count more blacks and more Latinos. I do not make an assumption that more blacks and more Latinos are going to vote against Republicans. They might if they realize we do not want them to be counted. That might be cause to not want to vote for Republicans. But we do want them to be counted. We want to know where every American lives. We want every census tract to be accurate, not just on the basis of the financial aid that is distributed by the Federal Government and how businesses use the data, but also to make sure that we have the most accurate count, to make sure we draw the lines accurately for not just congressional seats but for State representative and State Senate seats and for even council seats.

I would like to conclude by thanking Dr. Barbara Bryant, who was the census director under President Bush. She was the individual who, working with experts of all political persuasions, determined that we needed to test sampling. There is uniform agreement on the part of those who are the experts that we should proceed.

I would like to thank Mayor Giuliani of New York and Mayor Richard Riordan of Los Angeles, who both support using statistical methods. They know if we do not their cities will be undercounted, and their constituents will not be receiving the rights they are entitled to.

And I would like to conclude by thanking Congresswoman MALONEY for being the true champion on this issue, doing it in a very bipartisan way, just dealing with the facts. Obviously, there are more on her side of the aisle that support using statistical methods; but, at the same time, she has consistently reached out to Republicans and others to just say, "Let's just do what is right."

And I would also like to thank her for her outstanding contribution in campaign finance reform, something that I am spending even more time on than on an issue like this, to say that she is truly a leader on this issue, and it has been a pleasure to work with her on both the census and campaign finance reform.

Mrs. MALONEY of New York. I, too, would like to thank the gentleman for his leadership on campaign finance reform and also the census. CHRIS SHAYS and myself, we are both co-chairs of the Census Caucus, and we have been working this year trying to build a broad base of support on both sides of the aisle for a fair and accurate census. Thank you for your statement tonight.

Mr. SHAYS. Thank you very much.

Mrs. MALONEY of New York. With us tonight is a leader on so many issues and on the census as well, Congresswoman JUANITA MCDONALD.

Ms. MILLENDER-MCDONALD. Thank you so much, Congresswoman MALONEY. And let me just thank you for your leadership, along with Congressman CHRIS SHAYS, for your tenacity in ensuring that everyone is counted and everyone will be counted in this next census 2000. It is your leadership that has forced us to come and join you on this very critical issue.

I am happy to stand with you tonight as you organize this special order to discuss the census. It is an important discussion because, one, I represent California; and California was undercounted by 800,000 votes, citizens I should say, last census count. 800,000 persons were undercounted in California in 1990, which has now been shown as the worst census count ever in the years that we have been doing the census count.

California could ill afford to lose a seat in the House when our population has grown far beyond any other State in this Nation, and so it is important that we have statistical sampling so that we can count all of California's citizens in the next census.

It is also an important discussion for African Americans and other minorities because the outcome of the controversy over the methodology the Bureau of Census uses will say a great deal about whether the three branches that make up our government truly believe that everyone counts. It will stand as a test of how far our Nation has come from the days when people of African decent were considered three-fifths of a person by our Constitution. Indeed, this whole debate would make an interesting case study about contemporary race relations in the United States.

On one side we have the forces of science, two centuries of experience and political leaders committed to insuring that the census that determines the apportionment of seats in the people's House is fair and that everyone is counted. On the other side, we have the forces of tradition inspired by two centuries of experience fighting to keep some people in this country from being made whole and political leaders determined to ensure that this census undercounts some and overcounts others.

Instead of using offensive terminology in a direct frontal attack on the principles of equality, fairness and respect for diversity, they resort to sophisticated and obscure legal reasoning and obstructionist tactics. And why? What do they fear? The opponents of sampling claim that the modern statistical methods being proposed in this census and overwhelmingly supported by the scientific community are subject to political manipulation.

However, a memorandum prepared by Stuart M. Gerson, Assistant Attorney General of the Civil Division of the Justice Department for the Commerce Department's General Counsel, noted that a head count, quote, might be subject to political manipulation in the form of a congressional refusal to appropriate sufficient funds for census programs aimed at reducing the undercount of minorities or by an overly restrictive local review procedure. On the other hand, the Census Bureau statisticians might perform a statistical adjustment in a manner yielding highly accurate results, unquote.

The opponents believe that if African Americans were counted as whole individuals using accurate methods instead of the nine-tenths they were during the 1990 census, it could shift control of the House from the Republicans to the Democrats. How else can we explain the Speaker's flip-flop from being a supporter of statistical adjustments based on sampling in 1992 to heading a lawsuit against sampling now?

The opponents are using an interpretation of the constitutional mandate to conduct an enumeration in an effort to preclude the Bureau from using methodologies demonstrated to improve accuracy in the most cost-effective way. By claiming the Constitution requires a physical head count of the entire population, they deliberately seek to avoid reaching the populous in densely populated urban centers unwilling to open their doors to strangers asking intrusive questions about living arrangements and those in isolated rural communities. And we know which demographic profile predominates in these areas, do we not?

What the opponents of an accurate census really fear are the American people themselves in the glory of their ethnic racial gender and socioeconomic diversity. The opponents do not believe that everyone counts, only those that look like them and live in the same types of neighborhoods they do. By assuming an accurate count of the Latino, Asian American, Native American and African American communities as well as the residents of rural areas, it will lead to unpredictable political shifts in power. They display their contempt for any notion changing their agenda in an effort to address these constituencies' needs, hopes and aspirations.

Mr. Speaker, we must make sure everyone is counted in the year 2000, and no one should be left out. This is why I am joining the gentlewoman from New York (Mrs. MALONEY), the gentleman from Connecticut (Mr. SHAYS) and all others who are sensitive and do know the importance of counting everyone.

Mrs. MALONEY of New York. Thank you for your statement and thank you for being a leader on making sure that all Americans are counted, no matter where they live, no matter what their ethnic background.

Yesterday, the President in Houston not only met with people who were speaking about what the census meant in real terms to their lives, but he also called upon the opponents of an accurate census to recognize that the census is about people, not about politics.

Unfortunately, they responded, the opponents that is, with politics as usual. The chairman of the Republican conference tried once again to invoke the Constitution, but, as we all know, actual enumeration is not a specification for what methodology should be used in the census, and the Constitution is quite clear on that point.

You see, Mr. Speaker, the chairman only quoted part of the Constitution because it suited his purpose to distort and to confuse. What the Constitution says is that the actual enumeration shall be made, and I quote, in such manner as they, meaning the Congress, shall by law direct, end quote. Congress passed a law in the 1940s delegating to the Secretary of Commerce the authority to determine the manner in which the census shall be taken.

If that were not bad enough, recently there was a lengthy brief filed in the case of the House of Representatives versus the Department of Commerce that looks at the dictionaries used by the Supreme Court to interpret the Constitution. Those dictionaries defined enumeration as the act of, quote, numbering or counting over, and they define to number as to reckon how many to compute or to input.

The chairman of the Census Subcommittee accused the President of, and I quote, pedaling statistical snake oil, end quote, but the chairman showed his true colors. He is more concerned with protecting the double counts in the census, and there were 4.4 million people overcounted, in making sure that those people missed are forever left out. He claims that real people are going to be deleted from the census.

That is simply not true. No one's form is going to be deleted from the census, and no one other than the chairman has ever suggested such a possibility.

Last month, the chairman tried to frighten the public by claiming that the census was on the path to failure.

□ 2000

He likened it to the Titanic. Once again the chairman failed to do his homework. Modern technology has shown that the failure of the Titanic was not in the design, but because the manufacturer used substandard rivets.

The real parallel to the Titanic is that the chairman wants to make sure that we use substandard technology in the census so that fails too. Why? Because he believes that errors in the census are to his party's political advantage.

Two years ago the Census Bureau put forth a new plan for the 2000 census. It is a plan founded on 200 years of experience in conducting the census. It is a plan created with the understanding of 60 years of research on who was missed in the census. It is a plan with the advice of hundreds of experts, inside and outside the Census Bureau.

The plan for the 2000 census has been endorsed by dozens of organizations and hundreds of individuals, groups like the American Chamber of Commerce, the Researchers Association, the American Statistical Association, the Cities of New York and Los Angeles, the Leadership Conference on Civil Rights, the National Academy of Sciences, the National Association of Regional Councils, the National Association of Latino Elected and Appointed Officials, the National League of Cities, the National Association of Counties, the Paralyzed Veterans of America, and the United States Conference of Mayors. These are all organizations committed to a fair and accurate census in the year 2000.

Despite this broad and overwhelming support, the opponents of the census continue their attack. Why? Because they believe the errors in the census are to their political advantage. I used to believe that all of the misstatements in their rhetoric were just because the speakers did not know much about the census, and I would go to the floor and try to set the record straight so that my colleagues could judge the facts for themselves. But now I truly believe that the mistakes in my opponents' statements are purposeful and they are there to confuse and mislead the public.

Today you have already heard a number of my colleagues talk about the importance of a fair and accurate census and the high cost of the errors in the census. That cost is very human and very real. The 1990 census, according to the General Accounting Office, had 26 million errors in it, people missed, people counted twice, and people counted in the wrong place. Most of those missed were urban and rural poor; most of those counted twice are suburban and white.

The opponents of an accurate census cry out against the idea that we should correct the census for those counted twice. "Don't you dare take people out of my county," they cry. At the same time, they fight with the same energy to make sure that nothing is done to account for those missed in the census for those that have historically been undercounted. Why? Because they believe that errors in the census are to their political advantage.

The opponents of a fair and accurate census say that the 1990 census was pretty good; the second best ever, they say.

The 1990 census was the most unfair census ever measured. Is that what they consider pretty good? Unfortunately, it is.

The opponents of an accurate census want to continue this system, where those fortunate enough to have two homes are counted twice, and the poor and the minorities are missed. It is time for the American public to reject ideas like that and the people who promote them. We need an accurate census and we need to support the plan that has been put forward by the National Academy of Sciences and the Census Bureau to count every single American.

GENERAL LEAVE

Mrs. MALONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the special order just presented.

The SPEAKER pro tempore (Mr. MCKEON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

THE CHILDREN'S PROTECTION FROM INTERNET PREDATORS ACT OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, as Chairman of the Congressional Missing and Exploited Children's Caucus, I am introducing the Children's Protection From Internet Predators Act of 1998 to help combat the exploitation of our children on the Internet.

While the Internet is one of the most powerful tools in finding missing children, its vast reach is unfortunately also being used to hurt our children. Child pornography has resurfaced with a vengeance with the advent of computer technology. Now, child predators have a new medium to lure our children away through chat rooms and web pages.

Child pornography has flourished on the Internet, with child pornography being traded freely in chat rooms, news groups and private E-mail.

During one week in March of this year, the Houston Chronicle reported that U.S. customs agents, who are charged with investigating Internet crimes against children, seized computers from a home and a church, saying the equipment was used to send and receive child pornography through the Internet.

Apparently that was not the only seizure of child porn during that week. A man was accused of possessing and distributing pornographic images of children on the Internet. A subsequent search of his home revealed thousands of pornographic images on his computers, including at least 150 illegal pornographic images of children as young as six years of age.

Chat rooms on the Internet are being used by predators to lure our children away from their families. We read in the newspapers about tragic incidents. One of a chemical engineer who traveled from Oklahoma to Corpus Christi, planning a sexual rendezvous with a 13-year-old girl he met over the Internet. In Tacoma, Washington, a 36-year-old man was arrested for raping a girl he met and lured over an Internet chat room.

Well, today I am introducing the Children's Protection from Internet Predators Act of 1998 in Congress. It will fund the U.S. Customs Service child pornography enforcement program. That program is called the International Child Pornography Investigation and Coordination Center. It is designed to help combat the growing problem of child pornography and child predators on the Internet.

Child pornography and incidents of children being lured on the Internet vastly outnumber the people and the resources in the law enforcement community who are trained to handle such crimes. Well, this legislation gives an extra $2 million to law enforcement to track, monitor and stop child exploitation on the Internet.

My concern with the lack of funding provided for the U.S. Customs Service child pornography enforcement program is obvious. Ever mindful of the widespread benefits which the Customs Service provides, I am greatly discouraged that the fiscal year 1999 budget does not provide adequate funding for this program. So I urge my colleagues to take this issue seriously, that we fund the $2 million necessary to help protect our children from victimization.

Mr. Speaker, I am sure you will agree that this is a small price to pay to reduce the exploitation of our children.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Connecticut (Mr. SHAYS) is recognized for 60 minutes.

Mr. SHAYS. Mr. Speaker, I want to address the Chamber on campaign finance reform and to just base some brief remarks about that.

First, I wish to express tremendous gratitude to the 104th Congress for the work it did on a bipartisan basis to pass Congressional accountability. Getting Congress under all the laws that we impose on the rest of the Nation was the first bill that the 104th Congress, the Congress of the last term, presented to President Clinton to sign, and it puts Congress under all the laws it exempted itself from, the civil rights laws, OSHA, fair pay provisions, a 40 hour workweek and so on.

Now, some Members of Congress may not like all those laws, but the fact is that we imposed those laws on the rest of the Nation, and we need to make sure we abide by them ourselves. We will write better laws if we have to live by the laws that we impose on the rest of the Nation. That was the first bill we passed, and I think it is a major reform.

Another reform was the gift ban. We were going to model what was in the Senate side to limit gifts. In fact, we actually outlawed any gift, unless it was inconsequential. A hat or a T-shirt would still be allowed under our rules, but we got rid of all those free meals that were quite expensive and being abused, and that was a reform that passed on a bipartisan basis.

We also passed a lobby disclosure bill in the last term. The significance of that was it had not been amended since 1947, and in 1954 the Supreme Court basically gutted the provisions, so we had a very weak lobby disclosure law. The 104th Congress passed lobby disclosure.

Congressional accountability, getting us under all the laws we impose on the rest of the Nation, gift ban, lobby disclosure, passed in the last Congress on a bipartisan basis, and they are reforms I am very proud we passed.

The one area we left really unanswered was campaign finance reform. We have had votes during the 11 years I have been here, but we have never really coalesced on a bipartisan basis around a bill that we could pass. There was one bill presented to President Bush, but when that bill had the opportunity to be presented to President Clinton, it never got there.

Right now we have an historic opportunity to take up 11 substitute bills on campaign finance reform. We have a complete and open rule. We will have nongermane amendments made in order. There are important amendments, but the technicality of not being germane will be disallowed by the Committee on Rules. In other words, they will make in order these nongermane amendments that some perceive will improve the very substitutes that will be offered.

I would like to address one of those substitutes. I would like to address the McCain-Feingold bill in the Senate and a bill that my colleague, the gentleman from Massachusetts (Mr. MEEHAN) and I and so many other Members on the Republican and Democrat sides of the aisle have offered.

One of the substitutes, referred to as either Meehan-Shays or Shays-Meehan or McCain-Feingold or Feingold-McCain, is a bipartisan amendment that bans soft money. Now, soft money is the unlimited sums that individuals, corporations, labor unions and other interest groups give to the political parties, supposedly for party building and registration, but they get right back down to the candidates and have circumvented our campaign laws. We seek to ban soft money on both the Federal and State level for Federal candidates.

We also want to call the sham issue ads what they are, campaign ads. We want to make sure that these issue ads that really are campaign ads are called what they are, campaign ads. Therefore, they come under the campaign laws.

We do this by adding to the "magic word test" that moves an issue ad to a campaign ad. Right now an issue ad that says "vote for" or "vote against," "reelect," "defeat," that trips from an issue ad into a campaign ad and then comes under campaign laws.

□ 2015

It does not mean people's freedom of speech has been deprived, it just means they come under the same rules that everyone else comes under who has to abide by the campaign laws.

We do this by adding another provision to the magic word test. If you use the candidate's name or an image of that candidate, it becomes a campaign ad 60 days prior to an election. When it becomes a campaign ad, it means that the expenditures have to be reported and the limits of contributions have to be adhered to. It means that no corporate money can be used in those ads, and no union dues money can be used in those ads.

We also codify Beck. The Beck decision is a decision by the Supreme Court that says if you are not a union worker, your agency fee, does not have to include money going for political purposes. It means you will pay less.

We codify the Beck decision and require that unions notify nonunion members covered by union contracts that they do not have to participate in the political process through their union dues.

We also improve the, Federal Election Commission's, disclosure and enforcement requirements. Disclosure will be done by filing electronically within 4 hours after receiving a major contribution in the last 20 days of an election; and then 48 hours later it will be made public and be available on the Internet for anyone who is interested.

We also say that wealthy candidates can contribute up to $50,000 to their own campaigns and still have the $62,000 contribution from their political party. But anything more than $50,000 means that then the political parties cannot contribute to a wealthy candidate who is using his or her own money.

We ban unsolicited mass mailings using the frank 6 months prior to the election. That means, by May no franked mail can be sent that is district-wide, the kind that would be a newsletter or questionnaire.

Then we also make sure that it is clear that foreign money and money raised on government property is illegal. We would intuitively think it is illegal. But if it is soft money, it is basically viewed by most as not being illegal.

In other words, it is not illegal to call from the White House or from Congress for a soft money donation, because soft money, the unlimited sums that individuals, corporations, and labor unions give to the political parties, is not deemed campaign money. It is deemed soft money for party building. We know now it is used as campaign money; but technically, under the law, someone who seeks foreign money contributions or raises money from a government building is not breaking the law.

Now, I believe strongly that we need to hold every executive branch employee accountable for his or her actions, and every President. One of my concerns has been that my own party is very eager to hold President Clinton accountable for wrongdoing, and that part I acknowledge is important, but then there is a big disconnect because too many of my own party do not want to do the other part of that process. The other part of the process is to reform the law where it needs to be reformed.

When this Congress investigated President Nixon, a Democrat Congress, they did two things. They held President Nixon accountable for the misdeeds he did and his administration did, and they reformed the law, the 1974 campaign finance law reforms. They did both. They held the President accountable and they reformed the system. In my view, that gave them credibility to look at what the President had done.

Unfortunately, in this Chamber too many of my colleagues, I think, on the other side of the aisle do not want to hold the President accountable where he needs to be held accountable but want to reform the system, which I am grateful for. Too many on my side of the aisle want to hold the President accountable but do not want to reform the system. We have to do both. That is our job. Our job is to do both.

In the next few weeks we will be debating a constitutional amendment presented by the gentleman from Texas (Mr. DELAY), and then we will be debating 11 substitutes. One of them is a commission bill. The commission bill has merit, if it was not being compared to a bill that bans soft money and takes the sham issue ads and calls them what they are, campaign ads, codifies Beck, improves the FEC disclosure and enforcement, deals with franking, and makes illegal the foreign money and fund-raising on government property. You might need a commission bill if you did not have this bill to choose.

But we are going to deal with 11 substitutes and we have a fair and open rule. Any amendments can be offered. It means we are going to have extensive debate on the floor. It means it is going to be protracted. It is going to be a very long process.

But I do think, if Members on both sides of the aisle just do what they think is right, if they try not to be partisan in the process, that this will be a good education for us and the American people.

My hope is the commission bill will not pass, at least not get as many votes as the Shays-Meehan or Meehan-Shays bill, because we structured the debate so that 11 substitutes are being offered, and each substitute can have unlimited amendments.

So we are going to take each substitute, we are going to debate it, offer amendments, and then we are going to vote it up or down. It is conceivable that the commission bill could get 230 votes. If it did, and Meehan-Shays or Shays-Meehan got 225, even though the Shays-Meehan bill got more than 218 votes it is trumped by one that did better.

My hope is that while the commission bill, under certain circumstances, on a certain day and at a certain time would have made sense, it does not make sense now. I am hoping that my colleagues will choose not to vote for that bill and trump the Meehan-Shays bill.

I am also hopeful that the bill offered by the freshmen, which is a bipartisan bill and has many meritorious parts to it, it bans soft money on the Federal level, not the State, and we think while we have an honest disagreement with our colleagues, mostly freshmen, that we just think it really relocates a lot of the soft money to the States' political parties for them to spend for the candidates.

We feel that you have to deal with the sham issue ads. I mean, we have an extraordinary problem that these ads have become more and more blatant and more and more dishonest. They are dishonest in not disclosing who is paying for them allowing unlimited sums by some individuals. They also allow groups that may represent a particular interest that do not want to disclose their interest, to spend money and campaign against an opponent without disclosing that their real interest is something else.

For example, the NRA, the National Rifle Association, may campaign against someone, never bringing up the issue that they really oppose them on, that person supported the assault weapon ban, and making it sound like that candidate is bad for other reasons. We want the NRA to just be up front and say it is their ad, and we want them to have to abide by all the rules that anyone else has to disclose where they get their money, and raise their money under the requirements of the campaign law.

You will have pro-choice groups and pro-life groups that want to do the same thing. And you have pro-assault weapon ban groups as well as the NRA that opposes the assault weapon ban. So it is going to apply to everyone, and it should.

The bottom line is that we are going to have extensive debate on campaign finance reform in the next few weeks. I am very hopeful that it will do credit to this Congress to debate this issue. That is why I ran for public office, not to deal with this issue behind closed doors but to do it in the light of day.

I conclude by pointing out that some on my side of the aisle, in particular, will say behind closed doors that the American people do not care about campaign finance reform. I challenge them to say it publicly. I submit that the American people do care about campaign finance reform. They are not apathetic, they are just frustrated. I think we sometimes confuse their frustrations with apathy.

I send out a questionnaire in the fall of the first year; and then in the winter of the second year, I sent out the results. I also send out every vote that I have made in the first year. This document will tell people how I voted on every issue, besides also pointing out where I had 38 community meetings that people could come to.

But in the questionnaire results, I asked the question, which is the most important issue for Congress to address? That was question A. There were about 30 choices, or close to that. The last choice was "other", in case they had something other than the choices I offered. The balanced budget came up as the first concern, the most important issue. Tax is the second. Campaign finance reform came third. Some could say, well, it was only their third choice. It beat education, health care and crime.

Admittedly, it was a mutually exclusive list, so only 8.3 percent of my constituents chose that as the most important issue. I would not have even been one of them. As much as I believe campaign finance reform is important, I would have chosen the balanced budget as the most important issue to deal with, getting our country's financial house in order.

It does not mean that I think taxes or campaign finance reform or education or health care are unimportant, they are just not my first choice. But it showed up as the third choice in the question, what is the most important issue? It showed up as the seventh choice as what is the second most important issue.

Then I made this very biased statement and asked my constituents whether or not they agreed with it: Our democracy is threatened by the influence of unlimited campaign contributions by individuals, corporations, labor unions, and other interest groups. Our democracy is threatened.

I asked people whether they strongly agreed, agreed, no opinion, disagreed, strongly disagreed. The response was the following: 51.7 percent of my constituents believed that our democracy is threatened by the influence of unlimited campaign contributions by individuals, corporations, labor unions, and other interest groups.

The unlimited contributions, that is soft money. That is what we are banning. And 32.5 percent of my constituents agreed with that statement. In other words, 84.2 percent of my constituents believe our democracy is threatened by soft money, the unlimited campaign contributions by individuals, corporations, labor unions, and other interest groups.

I realize that every district is different. I realize that I represent a district of very informed voters, in many cases well-to-do, although I have a lot of poor people who live in my urban areas of Stamford and Norwalk and Bridgeport. But when 84.2 percent of my constituents believe their democracy is threatened, it certainly is a message to me.

I wager if other Members ask the same question, they would get the same result. They could have chosen that they had no opinion or they disagreed or they strongly disagreed with the statement, but 84 percent of my constituents strongly agree or agree.

I am hopeful, almost prayerful, that we will be able to look back at the end of this month and say we did our job, we responded to the wishes of our constituency, and we also responded to our own intuitive sense.

I do not think there is a Member in this Chamber who does not recognize that soft money is polluting the system. It has become a narcotic that both political parties are getting addicted to.

My hat is off to my colleagues on the other side of the aisle who have taken a disproportionate share of support for the Meehan-Shays or Shays-Meehan bill, and I am respectfully appreciative of my colleagues on this side of the aisle who are taking a strong stand for this bill, even though they still constitute a minority of those who are supporting Shays-Meehan or Meehan-Shays.

I thank my colleagues on both sides of the aisle and particularly, if I could, my colleagues on this side of the aisle for kind of bucking the trend. I think you are doing the right thing. I am convinced of it. I believe if we do the right thing, if we ban soft money, if we call sham issue ads what they are, campaign ads, and have them come under the campaign laws, and have everyone have their freedom of voice under the same rules that everyone else has to deal with, codify Beck, improve FEC disclosure and enforcement, make sure that wealthy candidates cannot buy an election by getting support from the political parties when they are already putting so much of their own money in, banning unsolicited franked mass mailings 6 months to an election, and making sure that foreign money and raising money on government property is illegal, making sure that that is illegal, passing that bill without amendment, without amendment, and sending it on back to the Senate, I think that you will see an amazing response from our Senators.

□ 2030

I think they will know that this House had the courage to do what was right, and there will be extraordinary pressure, and maybe even a bit of conscience taking on the part of our Senators, saying, "We know only 53 voted for it last time," which is a majority in the Senate, "we need to pick up 7 more votes."

But I feel pretty confident that if we do our job, the Senate will do its job and pass their bill, McCain-Feingold, which is the compatible piece to Shays-Meehan.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 30 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 11 o'clock and 55 minutes p.m.

THE USER FEE ACT OF 1998

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

The SPEAKER pro tempore. Without objection, the gentleman from New York is recognized for 1 minute.

There was no objection.

Mr. SOLOMON. Mr. Speaker, tonight I do the unimaginable. On behalf of the President of the United States of America, I am introducing the "User Fee Act of 1998." This is a 96-page bill and it contains over $25 billion of increases in what are technically called "user fees," but what they should more accurately be called is tax increases, because that is what a user fee is, Mr. Speaker.

These 36 tax increases were included in President Clinton's budget for fiscal year 1999 that is not going to be brought on this floor by the Democratic minority. The President, of course, included these 36 tax increases in an attempt to provide his administration with more taxpayer dollars to spend on big government spending schemes.

These user fees increase the cost on families through increased entrance fees for national parks, on farmers through increased safety and inspection fees, and on older Americans through increased Food and Drug Administration costs, Medicare costs, and Social Security fees, if you would believe that, Mr. Speaker.

Passing costs from the government to taxpayers, no matter we call it, are tax increases on the American people. American families would have less money in their pockets if President Clinton's initiative were made law. I introduce this bill today not as a show of support for the President, but as a crystal clear opportunity for the House to show who is taking more of the taxpayers' dollars.

Account Title		1999	2000	2001	2002	2003
Discretionary Fee Proposals						
Offsetting Collections Deposited in Appropriations Accounts:						
Department of Agriculture Animal and Plant Health Inspection Service Fees	President	−10	−10	−10	−10	−10
	CBO	−7	−15	−15	−25	−25
Grain Inspection, Packers and Stockyards Administration Licensing Fees	President	−17	−21	−21	−21	−21
	CBO	−10	−21	−21	−21	−21
Food Safety and Inspection Service, Meat, Poultry, and Egg Products Inspection Fee	President	−473	−573	−573	−573	−573
	CBO	0	−573	−573	−573	−573
Natural Resources Conservation Service (NRCS) Cost-Share Fee	President	−10	−15	−15	−25	−25
	CBO	−2	−5	−5	−10	−10
Farm Services Administration, Farm Service Fee	President	−10	−15	−15	−25	−25
	CBO	−7	−15	−15	−25	−25
Department of Commerce National Oceanic and Atmospheric Administration (NOAA), Navigational Assistance Fee	President	−3	−11	−11	−11	−11
NOAA, Fisheries Management Fee	President	−20	−20	−20	−20	−20
	CBO	−22	−22	−22	−22	−22
Patent and Trademark Office, Patent Fees	President	−182	−189	−207	−219	−228
	CBO	−182	−197	−210	−225	−241
International Trade Administration, Trade Promotion Fees	President	−6	−12	−12	−12	−12
	CBO	−6	−12	−12	−12	−12
Department of Health and Human Services Food and Drug Administration Fees	President	−128	−128	−128	−128	−128
	CBO	−12	−128	−128	−128	−128
Physician, Provider, and Supplier Enrollment Registration Fees	President	−20	−21	−21	−22	−23
	CBO					
Managed Care Organization Application and Renewal Fees	President	−37	−38	−39	−41	−42
	CBO					
Initial Provider Certification Fees	President	−10	−10	−11	−11	−12
	CBO					
Provider Recertification Fees	President	−52	−54	−56	−58	−61
	CBO					
Paper Claims Submission Fees	President	−110	−114	−118	−122	−126
	CBO					
Duplicate and Unprocessable Claims Fees	President	−36	−37	−38	−39	−41
	CBO					
Department of the Interior Bureau of Land Management, Hardrock Location and Maintenance Fees	President	−39	−40	−41	−42	−43
	CBO	−39	−40	−41	−42	−43
Department of Labor Alien Labor Certification Fee	President	0	−40	−40	−40	−40
	CBO					
Department of Transportation Coast Guard, Navigational Assistance Fee	President	−35	−165	−165	−165	−165
	CBO	0	0	0	0	0
Surface Transportation Board Fees	President	−16	−16	−16	−16	−16
	CBO	−5	0	0	0	0
Army Corps of Engineers, Wetlands Permit Fee	President	−7	−14	−14	−14	−14
	CBO	−7	−14	−14	−14	−14
Federal Emergency Management Administration, Radiological Emergency Preparedness Fees	President	−13	−13	−13	−13	−13
	CBO	0	0	0	0	0
National Transportation Safety Board, Aviation Accident Investigation Fee	President	−6	−6	−6	−6	−6
	CBO					
Social Security Administration, Claimant Representative Fees	President	−7	−9	−9	−9	−9
	CBO	−1	−9	−9	−9	−9
Offsetting Collections Deposited in Receipt Accounts:						
Department of Transportation, Federal Railroad Administration, Railroad Safety Inspection Fees	President	−82	−82	−82	−82	−82
	CBO	−83	−83	−83	−83	−83
Department of Treasury, Customs Merchandise Processing Fee	President	−48	−48	−48	−48	−48
	CBO	−48	−48	−48	−48	−48
Environmental Protection Agency (EPA), Pesticide Registration Fees	President	−16	−16	−16	−16	−16
Pesticide Registration Fees EPA, Chemical Pre-Manufacturing Notification Fee	President	−8	−8	−8	−8	−8
	CBO	−15	−24	−24	−24	−24
Nuclear Regulatory Commission, Extend NRC Fee	President	−313	−314	−322	−332	−342
	CBO	−313	−314	−322	−332	−342
Social Security Administration, Claimant Representative Fees	President	−12	−17	−17	−17	−17
	CBO	−12	−17	−17	−17	−17
Mandatory Fee Proposals						
Offsetting Collections Deposited in Appropriations Accounts:						
Department of Health and Human Services, Medicare Cost-Based Provider Audit Fees	President	−395	−395	−395	−395	−395
	CBO	−265	−274	−283	−293	−305
Bank Examination Fees	President	−89	−94	−97	−101	−106
	CBO	−48	−100	−109	−118	−128
Offsetting Collections Deposited in Receipt Accounts:						
Department of Health and Human Services, Medicare Premiums	President	−127	−679	−814	−1025	−1234
	CBO					
Department of the Interior, Interior/USDA, Entrance and Recreation Fees	President	0	−86	−88	−88	−90
	CBO		−94	−97	−99	−102
Department of the Interior, National Park Service, Concession Fees	President	−3	−6	−12	−18	−25
	CBO	−3	−3	−3	−3	−3

Account Title		1999	2000	2001	2002	2003
Collections Deposited in Governmental Receipt Accounts:						
Federal Aviation Administration, Proposed User Fees	President	0	−1700	−1700	−1700	−850
	CBO	0	−1700	−1700	−1700	−850

REMEMBERING BARRY GOLDWATER

The SPEAKER pro tempore. The gentleman from Arizona (Mr. HAYWORTH) is recognized for the balance of the time remaining until midnight.

Mr. HAYWORTH. Mr. Speaker, I rise this evening having just returned from my home State and a gratifying service in remembrance of a true American patriot.

Family, friends, and an entire Nation remembered Barry Goldwater today for his contributions to our country, for his outspoken conservative convictions, indeed for his conservative conscience.

Mr. Speaker, we watched as the Goldwater family so eloquently remembered their brother, father, husband, grandfather, for Barry Goldwater was all of these things and yet more. For Arizonians, and indeed for many Americans, it seems that we remember Barry Goldwater as a member of our families giving voice to common sense, conservative ideals; willing at times to stand alone for the courage of his convictions; always foremost in his mind the ideals of freedom and the notions of liberty.

Indeed, today in route to the auditorium on the campus of Arizona State University, there were protestors. One can imagine our friend Barry, with that outlook of his saying, "You know, I don't agree with what these protestors have to say, but I would defend their right to say it."

There are many personal recollections I have of the gentleman. One in particular is one of our final joint appearances together in front of the Phoenix 100 Rotary Club. He had his name place card there and he wrote three words on it: Russia, China, freedom. From those three words, Mr. Speaker, Barry Goldwater stood and delivered a 30-minute speech, all-encompassing, enlightening, about the state of geopolitics and the emerging freedoms in previously enslaved countries around the world.

Barry Goldwater, an American original. He will be missed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 78, PROPOSING AN AMENDMENT TO CONSTITUTION OF UNITED STATES RESTORING RELIGIOUS FREEDOM

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–563) on the resolution (H. Res. 453) providing for consideration of the joint resolution (H.J. Res. 78) proposing an amendment to the Constitution of the United States restoring religious freedom, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. CON. RES. 285, EXPRESSING SENSE OF CONGRESS THAT PRESIDENT OF THE UNITED STATES SHOULD RECONSIDER HIS DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY GOVERNMENT OF PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–564) on the resolution (H. Res. 454) providing for consideration of the concurrent resolution (H. Con. Res. 285) expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. CON. RES. 284, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–565) on the resolution (H. Res. 455) providing for consideration of the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCINNIS (at the request of Mr. ARMEY) for today on account of attending a funeral.

Mr. MICA (at the request of Mr. ARMEY) for today on account of official business.

Mr. KOLBE (at the request of Mr. ARMEY) for today on account of attending the funeral of former U.S. Senator Barry Goldwater.

Mr. SHADEGG (at the request of Mr. ARMEY) for today on account of attending the funeral of the late Senator Barry Goldwater.

Mr. SALMON (at the request of Mr. ARMEY) for today on account of attending the funeral of the late Senator Barry Goldwater.

Mr. HAYWORTH (at the request of Mr. ARMEY) for today on account of attending the funeral of the late Senator Barry Goldwater.

Mr. DICKEY (at the request of Mr. ARMEY) for today on account of attending the funeral of former U.S. Senator Barry M. Goldwater.

Mr. COX of California (at the request of Mr. ARMEY) for today on account of attending the funeral of former U.S. Senator Barry M. Goldwater.

Mr. DOOLITTLE (at the request of Mr. ARMEY) for today on account of attending the funeral of former U.S. Senator Barry M. Goldwater.

Mr. ROTHMAN (at the request of Mr. GEPHARDT) for today on account of family business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DELAHUNT) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. BARRETT of Nebraska) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of Texas, for 5 minutes, today.

Mr. JONES, for 5 minutes, on June 4.

Mr. MCHUGH, for 5 minutes, on June 10.

Mr. SOLOMON, for 5 minutes, on June 10.

Mr. BOEHLERT, for 5 minutes, on June 10.

Mr. LEWIS of Kentucky, for 5 minutes, on June 10.

(The following Members (at his own request) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of Georgia, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DELAHUNT) and to include extraneous matter:)

Mr. KIND.
Mr. STARK in two instances.
Mr. DAVIS of Illinois.
Ms. SÁNCHEZ.
Mr. DEUTSCH.
Mr. PALLONE.
Mr. SHERMAN.
Mr. RANGEL.
Mr. KILDEE.
Mr. UNDERWOOD.
Mr. TOWNS.
Ms. KIRKPATRICK.
Mr. MCDERMOTT.
Mr. MILLER of California.
Mr. BENTSEN.
Ms. KAPTUR.
Mr. KUCINICH.
Mr. LANTOS.
Mr. VISCLOSKY.
Mr. BONIOR.
Mr. KLECZKA.
Mr. PASCRELL.
Ms. NORTON.
Mr. STOKES.

(The following Members (at the request of Mr. BARRETT of Nebraska) and to include extraneous matter:)

Mr. OXLEY.
Mr. RADANOVICH.
Mr. ROGAN.
Mr. SOLOMON.
Mr. BEREUTER.
Mr. COBLE.
Mr. PAPPAS.
Mr. BUYER.

(The following Members (at the request of Mr. SHAYS) and to include extraneous matter:)

Mr. WELLER.
Mr. GILLMOR.
Mr. DIXON.
Mr. HASTERT.
Mr. SAM JOHNSON of Texas.
Mr. BOB SCHAFFER of Colorado.
Ms. LEE.
Mrs. MCCARTHY of New York.
Mr. CONDIT.
Mr. GALLEGLY.
Mr. ACKERMAN.
Mr. TRAFICANT.
Mr. MENENDEZ.
Ms. ROS-LEHTINEN.
Mr. RILEY.
Mr. FILNER.
Mr. BOUCHER.
Mr. STOKES.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1800. An act to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse"; to the Committee on Transportation and Infrastructure.

S. 2032. An act to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building"; to the Committee on Transportation and Infrastructure

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 2400. An act to authorized funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On May 28, 1998:

H.R. 2400. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 1 minute a.m.), the House adjourned until today, Thursday, June 4, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9295. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Tuberculosis in Cattle and Bison; State Designation: Hawaii [97–063–2] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9296. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports [98–051–1] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9297. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—1998 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental' Assessment on Imports [CN–98–002] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9298. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Revision in Minimum Grade, Container, and Pack Requirements [Docket No. FV98–925–3 IFR] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9299. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—General Regulations and Standards for Certain Agricultural Commodities (RIN: 0580–AA54) received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9300. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Melons Grown in South Texas; Decreased Assessment Rate [Docket No. FV98–979–1 FIR] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9301. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1997–98 Marketing Year [Docket No. FV98–982–1 FIR] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9302. A letter from the Manager, Federal Crop Insurance Corporation, Risk Management Agency, transmitting the Agency's final rule—General Crop Insurance Regulations, Stonefruit Endorsement; and Common Crop Insurance Regulations, Stonefruit Crop Insurance Provisions (7 CFR Parts 401 and 457) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9303. A letter from the the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of May 1, 1998, pursuant to 2 U.S.C. 685(e); (H. Doc. No. 105—257); to the Committee on Appropriations and ordered to be printed.

9304. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation authorizing the Secretary of Defense to fund international inspector expenses from the Organization for the Prohibition of Chemical Weapons (OPCW) related to verification activities at Department of Defense facilities; to the Committee on National Security.

9305. A letter from the Director, Washington Headquarters Services, Department of Defense, transmitting the Department's final rule—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Waiver of Collection of Payments Due From Certain Persons Unaware of Loss of CHAMPUS Eligibility [DoD 6010.8–R] (RIN: 0720–AA43) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9306. A letter from the Secretary, Panama Canal Commission, transmitting the Commission's final rule—Tolls for Use of Canal; Rules for Measurement of Vessels (RIN: 3207–AA45) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9307. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Single Family Mortgage Insurance; Electronic Underwriting [FR–4311–I–01] (RIN: 2502–AH15) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9308. A letter from the Chairman, Federal Housing Finance Board, transmitting the Board's annual report for the 1997 calendar year, pursuant to 12 U.S.C. 1422b; to the Committee on Banking and Financial Services.

9309. A letter from the Director, Office of Management and Budget, transmitting a report to Congress on H.R. 3579, the Supplemental Appropriations Act, FY 1998, pursuant to Public Law 99—177; to the Committee on the Budget.

9310. A letter from the Secretary of Education, transmitting Final Regulations—Preschool Grants for Children with Disabilities, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

9311. A letter from the Acting Assistant General Counsel, Department of Education, transmitting the Department's final rule—Preschool Grants for Children with Disabilities (RIN: 1820–AB47) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9312. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of Treasury, transmitting the report, "The Financial Viability of the Government-Guaranteed Student Loan Program"; to the Committee on Education and the Workforce.

9313. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments (RIN: 1212–AA87) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9314. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting Annual uranium purchase reports, pursuant to 42 U.S.C. 2296b—5; to the Committee on Commerce.

9315. A letter from the Secretary, Consumer Product Safety Commission, transmitting the Commission's final rule—Requirements for Child-Resistant Packaging; Household Products with More Than 50 mg of Elemental Fluoride and More Than 0.5 Percent Elemental Fluoride; and modification of Exemption for Oral Prescription Drugs with Sodium Fluoride [16 CFR Part 1700] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9316. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a report to Congress on Reserve component equipment and military construction requirements not included in a fiscal year's budget request; to the Committee on Commerce.

9317. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Acquisition Regulation: Limitation on Allowability of Compensation for Certain Contractor Personnel (RIN: 1991–AB43) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9318. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Sinorhizobium meliloti strain RMBPC–2; Significant New Use Rule [OPPTS–50630A; FRL–5789–5] (RIN: 2070–AB27) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9319. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Enhanced Motor Vehicle Inspection and Maintenance Program [DC–036–2011; FRL–6103–3] received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9320. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Identification of Ozone Areas Attaining the 1–Hour Standard and to Which the 1–Hour Standard is No Longer Applicable [FRL–6105–6] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9321. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Lead; Requirements for Hazard Education Before Renovation of Target Housing [OPPTS–62131; FRL–5751–7] (RIN: 2070–AC65) received May 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9322. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Wyoming; Control of Landfill Gas Emissions from Existing Municipal Solid Waste Landfills [WY–001–0001a; FRL–6104–7] received May 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9323. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Perry, Florida) [Docket No. 97–205 RM–9161] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9324. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Telephone Number Portability [CC Docket No. 95–116 RM 8535] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9325. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Shelley and Island Park, Idaho) [MM Docket No. 97–194 RM–9128] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9326. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (McFarland and Coalinga, California) [MM Docket No. 97–204 RM–9143, RM–9158] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9327. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Macon, Mississippi) [MM Docket No. 97–188 RM–9137] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9328. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bozeman, Montana) [MM Docket No. 98–23 RM–9226] received May 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9329. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Revisions to Part 21 of the Commission's Rules regarding the Multipoint Destribution Service [CC Docket No. 86–179] received May 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9330. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Brinkley and Colt, Arkansas) [MM Docket No. 98–15 RM–9142] received May 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9331. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices [ET Docket No. 95–19] received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9332. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Speculator, New York) [MM Docket No. 98–12 RM–9220] received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9333. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Vergennes, Vermont, Willsboro and Malone, New York) [MM Docket No. 97–185 RM–9080 RM–9197] received May 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9334. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Federal-State Joint Board on Universal Service [CC Docket 96–45] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9335. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Changes to the Board of Directors of the National Exchange Carrier Association, Inc. [CC Docket No. 97–21] Federal-State Joint Board on Universal Service [CC Docket No. 96–45] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9336. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe; Sheanut Oil [88G–0288] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9337. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 90F-0310] received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9338. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Package Size Limitation for Sodium Phosphates Oral Solution and Warning and Direction Statements for Oral and Rectal Sodium Phosphates for Over-the-Counter Laxative Use [Docket No. 78N-036L] (RIN: 0910-AA01) received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9339. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 96F-0489] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9340. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives Permitted in Food for Human Consumption; Monester of alpha-Hydro-omega-Hydroxy-Poly (Oxyethylene) Poly(Oxypropylene) Poly(Oxyethylene)(15 Mole Minimum) Blocked Copolymer [Docket No. 97F-0283] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9341. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Year 2000 Readiness Of Computer Systems At Nuclear Power Plants [NRC Generic Letter No. 98-01] received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9342. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Custody of Investment Company Assets Outside the United States [Release Nos. IC-23201; File No. S7-23-95] (RIN: 3235-AE98) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9343. A communication from the President of the United States, transmitting notification that the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs emergency is to continue beyond May 30, 1998, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 105—259); to the Committee on International Relations and ordered to be printed.

9344. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 105—260); to the Committee on International Relations and ordered to be printed.

9345. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services (Transmittal No. 98-39), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9346. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 10-98 which constitutes a Request for Final Authority to Conclude a Framework Memorandum of Understanding (MOU) and Phase I Project Arrangement (PA) with the United Kingdom for the Joint Anti-Armor Weapons System Project, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9347. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services (Transmittal No. 98-17), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9348. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 12-98 which constitutes a Request for Final Authority to conclude Project Arrangement with Canada concerning Distributed Mission Training technologies, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9349. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on employment of United States citizens by certain international organizations, pursuant to Public Law 102—138, section 181 (105 Stat. 682); to the Committee on International Relations.

9350. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's 1997 annual report on international terrorism entitled "Antiterrorism Assistance Program," pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

9351. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective May 10, 1998, the danger pay allowance for Cambodia has been eliminated, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

9352. A communication from the President of the United States, transmitting determination that Pakistan, a non-nuclear-weapon state, detonated a nuclear explosive device on May 28, 1998, pursuant to section 102(b)(1) of the Arms Export Control Act; (H. Doc. No. 105—258); to the Committee on International Relations and ordered to be printed.

9353. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Cuban Assets Control Regulations: Family Remittances; Travel Remittances; Carrier Service Providers; Currency Carried by Travelers [31 CFR Part 515] received May 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9354. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the determination and certification of eight countries that are not cooperating fully with U.S. antiterrorism efforts: Afghanistan, Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria, pursuant to AECA section 40A; to the Committee on International Relations.

9355. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of Treasury, transmitting the Department's final rule—Cuban Assets Control Regulations: Fully-Hosted or Fully-Sponsored Travel and Restrictions on Travel Transactions [31 CFR Part 515] received May 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9356. A letter from the Secretary of Defense, transmitting the proposed obligation of FY 1995 funds to implement the Cooperative Threat Reduction Program, pursuant to Public Law 104-106; to the Committee on International Relations.

9357. A letter from the Secretary of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9358. A letter from the Secretary of Health and Human Services, transmitting the semiannual report to Congress for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9359. A letter from the Secretary of Labor, transmitting the Semiannual Report of the Department of Labor's Inspector General covering the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9360. A letter from the Chief Financial Officer, District of Columbia, transmitting the 1997 Management Letter Report issued by the District's independent auditors, KPMG Peat Marwick, LLP, pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform and Oversight.

9361. A letter from the Executive Director, Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List—received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9362. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Acquisition Regulation: Acquisition Streamlining (RIN: 1991-AB35) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9363. A letter from the Chairman, Federal Reserve System, transmitting the semiannual report on the activities of the Office of Inspector General ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9364. A letter from the Public Printer, Government Printing Office, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9365. A letter from the Acting Associate Administrator for Legislative Affairs, National Aeronautics and Space Administration, transmitting a report on NASA's FY 1999 Performance Plan, pursuant to Public Law 103-62; to the Committee on Government Reform and Oversight.

9366. A letter from the Senior Deputy Chairman, National Endowment for the Arts, transmitting a Semiannual Report of the Inspector General and the Chairman's Semiannual Report on Final Action for the National Endowment for the Arts for the period of October 1, 1997 to March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform and Oversight.

9367. A letter from the Chairman, National Science Board, transmitting the report from the Acting Inspector General covering the activities of his office for the period of October 1, 1997—March 31, 1998, pursuant to 5

U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9368. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Federal Employees Health Benefits Program: Removal of Minimum Salary Requirement (RIN: 3206–AI05) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9369. A letter from the Inspector General, Securities and Exchange Commission, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9370. A letter from the Chairman, Federal Election Commission, transmitting the 1997 Annual Report about the activities performed by the Commission, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Oversight.

9371. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a report entitled "America's Historic Landmarks at Risk: The Secretary of the Interior's Report to the 105th Congress on Threatened National Historic Landmarks," pursuant to 16 U.S.C. 1a—5(a); to the Committee on Resources.

9372. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report on the Lewiston Orchards, Project Idaho, Safety of Dams Modification Report, pursuant to 43 U.S.C. 509; to the Committee on Resources.

9373. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report on the necessity to construct modifications to Pueblo Dam, Fryingpan-Arkansas Project, Colorado for safety reasons, pursuant to 43 U.S.C. 509; to the Committee on Resources.

9374. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in Bering Sea and Aleutian Islands [Docket No. 971208298–8055–02; I.D. 051598A] received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9375. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Scup Fisheries; Rescission of the 1998 Summer Period Scup Fisheries Closures in Delaware, New Hampshire, Maryland, and Massachusetts [Docket No. 971015246–7293–02; I.D. 051498C] received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9376. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries [Docket No. 980212038–8117–02; I.D. 020298A] (RIN: 0648–AF41) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9377. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Annual Quota Specifications and Effort Controls [Docket No. 980320071–8128–02; I.D. 012198C] (RIN: 0648–AK87) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9378. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Bycatch Reduction Device Certification [Docket No. 980505118–8118–01; I.D. 042798C] (RIN: 0648–AL14) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9379. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Halibut and Sablefish Fisheries Quota-Share Loan Program; Final Program Notice and Announcement of Availability of Federal Assistance [Docket No. 980324076–8076–01; I.D. 031798B] (RIN: 0648–ZA38) received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9380. A letter from the Secretary of Health and Human Services, transmitting the thirtieth in a series of reports on refugee resettlement in the United States covering the period October 1, 1995 through September 30, 1996, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

9381. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Carrier Regulations; Authority Corrections (RIN: 2125–AE41) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9382. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100 and -200 Series Airplanes [Docket No. 96–NM–264–AD; Amendment 39–10531; AD 98–11–04] (RIN: 2120–AA64) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9383. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes [Docket No. 96–NM–263–AD; Amendment 39–10530; AD 98–11–03] (RIN: 2120–AA64) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9384. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class C Airspace and Revocation of Class D Airspace, Springfield-Branson Regional Airport; MO [Airspace Docket No. 95–AWA–10] (RIN: 2120–AA66) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9385. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Mason City, IA [Airspace Docket No. 98–ACE–31] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9386. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Ainsworth, NE [Airspace Docket No. 98–ACE–16] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9387. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Livingston, MT, and Butte, MT, and Removal of Class E Airspace; Coppertown, MT, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9388. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Gordon, NE [Airspace Docket No. 98–ACE–9] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9389. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D and Class E Airspace; Fort Leonard Wood, MO [Airspace Docket No. 98–ACE–17] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9390. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Kimball, NE [Airspace Docket No. 98–ACE–10] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9391. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. Model TFE731–40R–200G Turbofan Engines [Docket No. 98–ANE–30–AD; Amendment 39–10527; AD 98–10–15] (RIN: 2120–AA64) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9392. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B16 Series Airplanes [Docket No. 98–NM–21–AD; Amendment 39–10425; AD 97–25–11R1] (RIN: 2120–AA64) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9393. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes [Docket No. 98–CE–40–AD; Amendment 39–10528; AD 98–11–01] (RIN: 2120–AA64) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9394. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0070 and Mark 0100 Series Airplanes [Docket No. 98–NM–153–AD; Amendment 39–10529; AD 98–11–02] (RIN: 2120–AA64) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9395. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29225; Amdt. No. 1868] (RIN: 2120–AA65) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9396. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29227; Amdt.

No. 1870] (RIN: 2120–AA65) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9397. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class D Airspace, Lubbock Reese AFB, TX, and Revision of Class E Airspace, Lubbock, TX [Airspace Docket No. 98–ASW–18] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9398. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29226; Amdt. No. 1869] (RIN: 2120–AA65) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9399. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes [Docket No. 97–NM–331–AD; Amendment 39–10538; AD 98–11–11] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9400. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Livingston, MT, and Butte, MT, and Removal of Class E Airspace; Coppertown, MT [Airspace Docket No. 97–ANM–20] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9401. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes [Docket No. 97–NM–102–AD; Amendment 39–10549; AD 98–11–24] (RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9402. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes [Docket No. 97–CE–38–AD; Amendment 39–1045; AD 98–11–20] (RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9403. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–202, and 228–212 Airplanes [Docket No.97–CE–121–AD; Amendment 39–10541; AD 98–11–16] (RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9404. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders [Docket No. 98–CE-AD] (RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9405. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders [Docket No. 98–CE–14–AD; Amendment 39–10543; AD 98–11–18] (RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9406. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes [Docket No. 96–NM–172–AD; Amendment 39–10544; AD98–11–19](RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9407. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–301,-311, -314 and -315 Series Airplanes [Docket No. 97–NM–330–AD; Amendment 39–10539; AD 98–11–12] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9408. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 96–NM–211–AD; Amendment 39–10532; AD 98–11–05] (RIN: 2120–AA64) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9409. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; The Great Chesapeake Bay Swim Event, Chesapeake Bay, Maryland [CGD 05–98–035] (RIN: 2115–AE46) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9410. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42–300 and -320, and Model ATR72 Series Airplanes [Docket No. 98–NM–24–AD; Amendment 39–10533; 98–11–06] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9411. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Coney Island Air Show Days, Coney Island Channel, Brooklyn, New York [CGD01–98–009] (RIN: 2121–AA97) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9412. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: Fireworks displays within the First Coast Guard District [CGD01–98–057] (RIN: 2115–AE46) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9413. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9- and DC–980 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes [Docket No. 97–NM–251–AD; Amendment 39–10537; AD 98–11–10] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9414. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model Hawker 800XP Series Airplanes, and Hawker 800 (U–125A Military Derivative) Airplanes [Docket No. 98–NM–165–AD; Amendment 39–10540; AD 98–11–13] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9415. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–40–AD; Amendment 39–10534; AD 98–11–07] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9416. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes [Docket No. 98–NM–13–AD; Amendment 39–10535; AD 98–11–08] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9417. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes [Docket No. 98–NM–34–AD; Amendment 39–10536; AD 98–11–09] (RIN: 2120–AA64) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9418. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Knoxville, IA [Airspace Docket No. 98–ACE–12] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9419. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Braked Roll Conditions [Docket No. 28643; Amdt. No. 25–97] (RIN: 2120–AF83) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9420. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Oceanside, CA [COTP San Diego 98–011] (RIN: 2115–AA97) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9421. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Clear Creek, TX [CGD08–98–015] (RIN: 2115–AE47) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9422. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 29221; Amdt. No. 409] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9423. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Rail Service Continuation Subsidy Standards [STB Ex Parte No. 566] received May 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9424. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Revision to the NASA FAR Supplement on Technical Performance Incentive

Guidance received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9425. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Revision to the NASA FAR Supplement on Contractor Performance Information received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9426. A letter from the the Adjutant General, the Veterans of Foreign Wars of the U.S., transmitting proceedings of the 98th National Convention of the Veterans of Foreign Wars of the United States, held in Salt Lake City, Utah, August 17–21, 1997, pursuant to 36 U.S.C. 118 and 44 U.S.C. 1332; (H. Doc. No. 105—261); to the Committee on Veterans' Affairs and ordered to be printed.

9427. A letter from the Acting Secretary, Department of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment and forfeiture by the Administrator in 1997, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

9428. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Veterans' Training: Time Limit for Submitting Certifications under the Service Members Occupational Conversion and Training Act (RIN: 2900–AI85) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9429. A letter from the Secretary of Labor, transmitting the 1996 Annual Report to Congress, describing employment and training programs for veterans during program year 1995 and fiscal year 1996; to the Committee on Veterans' Affairs.

9430. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update (Notice 98–32) received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9431. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-In, first-out inventories [Revenue Ruling 98–29] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9432. A letter from the Chief, Regulations Branch, United States Customs Service, transmitting the Service's final rule—Procedural Change Regarding American Shooks and Staves [T.D. 98–54] (RIN: 1515–AC18) received May 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9433. A letter from the Acting General Counsel, Department of Defense, transmitting drafts of proposed legislation to provide specific exemptions under the Freedom of Information Act; jointly to the Committees on National Security and Government Reform and Oversight.

9434. A letter from the Secretary of Energy, transmitting notification that the Department of Energy will open the Waste Isolation Pilot Plant for disposal operations; jointly to the Committees on Commerce and National Security.

9435. A letter from the Attorney General of the United States, transmitting the 1997 annual report on the number of applications that were made for orders and extension of orders approving electronic surveillance under the Foreign Intelligence Surveillance Act, pursuant to 50 U.S.C. 1807; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

9436. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to authorize a new tobacco use cessation program, permanently authorize VA to collect payments from third-party private health insurance carriers for care VA provides to certain veterans, collect copayments from certain veterans receiving VA care, verify the income of certain veterans, and authorize medical care related construction projects and leases; jointly to the Committees on Veterans' Affairs and Ways and Means.

9437. A letter from the Secretary of Health and Human Services, transmitting the Service's final rule—Medicare Program; Waiver Requirements and Solvency Standards for Provider-Sponsored Organizations [HCFA-1011–IFC] (RIN: 0938–AI83) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

9438. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities [HCFA–1913–IFC] (RIN: 0938–AI47) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

9439. A letter from the Commissioner, Social Security, transmitting a draft of proposed legislation to make improvements in the administration of the Supplemental Security Income program, and for other purposes; jointly to the Committees on Ways and Means and Government Reform and Oversight.

9440. A letter from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting the Department's March 1998 "Treasury Bulletin," pursuant to 26 U.S.C. 9602(a); jointly to the Committees on Ways and Means, Commerce, Transportation and Infrastructure, Education and the Workforce, Resources, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 22, 1998, the following report was filed on May 27, 1998]

Mr. KASICH: Committee on the Budget. House Concurrent Resolution 284. Resolution revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003 (Rept. 105–555). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 3, 1998]

Mr. BURTON: Committee on Government Reform and Oversight. H.R. 1704. A bill to establish a Congressional Office of Regulatory Analysis; with an amendment (Rept. 105–441, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GEKAS: Committee on the Judiciary. H.R. 2604. A bill to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes (Rept. 105–556). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 3494. A bill to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes; with an amendment (Rept. 105–557). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Education and the Workforce. H.R. 2888. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees; with an amendment (Rept. 105–558). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1635. A bill to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes; with an amendment (Rept. 105–559). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3520. A bill to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington (Rept. 105–560). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3796. A bill to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management (Rept. 105–561). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 3007. A bill to establish the Commission on the Advancement of Women in Science, Engineering, and Technology Development; with an amendment (Rept. 105–562 Pt. 1). Ordered to be printed.

Mrs. MYRICK: Committee on Rules. House Resolution 453. Resolution providing for consideration of the joint resolution (H.J. Res. 78) proposing an amendment to the Constitution of the United States restoring religious freedom (Rept. 105–563). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 454. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 285) expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China (Rept. 105–564). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 455. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003 (Rept. 105–565). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X, the Committees on Commerce and Transportation and Infrastructure discharged from further consideration.

H.R. 860 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following actions occurred on June 2, 1998]

H.R. 860. Referral to the Committees on Commerce and Transportation and Infrastructure extended for a period ending not later than June 3, 1998.

H.R. 1778. Referral to the Committees on Government Reform and Oversight, Commerce and Transportation and Infrastructure extended for a period ending not later than June 3, 1998.

[Submitted June 3, 1998]

H.R. 1778. Referral to the Committees on Commerce, Government Reform and Oversight, and Transportation and Infrastructure extended for a period ending not later than June 4, 1998.

H.R. 3035. Referral to the Committee on Agriculture extended for a period ending not later than June 5, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H.R. 3978. A bill to restore provisions agreed to by the conferees to H.R. 2400, entitled the "Transportation Equity Act for the 21st Century", but not included in the conference report to H.R. 2400, and for other purposes; considered and passed.

By Mr. POMEROY:

H.R. 3979. A bill to amend the Internal Revenue Code of 1986 to allow certain individuals a credit against income tax for contributions to individual retirement accounts; to the Committee on Ways and Means.

By Mr. STEARNS (for himself, Mr. GUTIERREZ, Mr. STUMP, Mr. EVANS, and Mr. KENNEDY of Massachusetts):

H.R. 3980. A bill to amend title 38, United States Code, to extend the authority for the Secretary of Veterans Affairs to treat illnesses of Persian Gulf War veterans, to provide authority to treat illnesses of veterans which may be attributable to future combat service, and to revise the process for determining priorities for research relative to the health consequences of service in the Persian Gulf War, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BATEMAN (for himself and Mr. BLUNT):

H.R. 3981. A bill to modify the boundaries of the George Washington Birthplace National Monument, and for other purposes; to the Committee on Resources.

By Mr. ETHERIDGE (for himself, Mr. PRICE of North Carolina, Mr. HEFNER, Mr. COBLE, Mr. WATT of North Carolina, Mr. BALLENGER, Mrs. CLAYTON, Mr. MCINTYRE, Mr. TAYLOR of North Carolina, Mr. BURR of North Carolina, Mrs. MYRICK, and Mr. JONES):

H.R. 3982. A bill to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. GIBBONS:

H.R. 3983. A bill to provide for certain procedures applicable to the issuance of passports for children under 16; to the Committee on International Relations.

By Mr. HASTINGS of Washington:

H.R. 3984. A bill to require the Secretary of Energy to establish an Office of River Protection at the Hanford Reservation, Richland, Washington, for the management of Hanford Tank Farm operations; to the Committee on Commerce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMPSON (for himself, Ms. NORTON, Mr. BENTSEN, Mr. GUTKNECHT, Mr. PETERSON of Minnesota, Ms. GRANGER, Mr. NEAL of Massachusetts, Ms. LOFGREN, Mr. FOLEY, Ms. ROS-LEHTINEN, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, Ms. RIVERS, Mr. BOSWELL, Mr. FROST, Mr. REYES, Mr. LEWIS of Georgia, Mr. MALONEY of Connecticut, Mrs. THURMAN, Mr. DEFAZIO, Mr. MCGOVERN, Mr. SHERMAN, Mr. PALLONE, Mr. EVANS, Mr. WYNN, Ms. DUNN of Washington, Mr. HINOJOSA, Mr. OXLEY, Mr. CALVERT, Ms. STABENOW, Ms. JACKSON-LEE of Texas, Mr. SANDERS, Ms. FURSE, and Mr. ROTHMAN):

H.R. 3985. A bill to authorize appropriations for the International Child Pornography Investigation and Coordination Center of the Customs Service; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. MEEKS of New York):

H.R. 3986. A bill to improve education, raise standards, and attract the best teachers to the public schools; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINDA SMITH of Washington:

H.R. 3987. A bill to protect and conserve deer and elk and to provide for consistent and equitable hunting laws in the State of Washington; to the Committee on Resources.

By Mr. STARK:

H.R. 3988. A bill to amend part C of title XVIII of the Social Security Act to assure appropriate access to mental health services under Medicare+Choice plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 3989. A bill to provide for the enactment of user fees proposed by the President in his budget submission under section 1105(a) of title 31, United States Code, for fiscal year 1999; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Agriculture, Resources, the Judiciary, Transportation and Infrastructure, Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY:

H. Con. Res. 285. Concurrent resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China; to the Committee on International Relations.

By Mr. LANTOS (for himself, Mr. ACKERMAN, Mr. BROWN of California, Mr. CONYERS, Ms. DELAURO, Mr. FARR of California, Ms. FURSE, Ms. JACKSON-LEE of Texas, Mrs. MALONEY of New York, Mr. MANTON, Mr. OLVER, Ms. MILLENDER-MCDONALD, Mrs. MORELLA, and Mr. SHAYS):

H. Con. Res. 286. Concurrent resolution expressing the sense of the Congress regarding the link between violence against animals and violence against humans and urging greater emphasis upon identifying and treating individuals who are guilty of violence against animals, which is a crime in its own right in all 50 states, in order to prevent violence against humans and urging research to increase understanding of the connection between cruelty to animals and violence against humans; to the Committee on Commerce, and in addition to the Committees on Agriculture, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Illinois:

H. Res. 451. A resolution congratulating the Chicago Board of Trade and the city of Chicago, Illinois, on the occasion of the 150th anniversary of the establishment of the Chicago Board of Trade; to the Committee on Government Reform and Oversight.

By Mr. LATHAM:

H. Res. 452. A resolution expressing the sense of the House of Representatives that the Board of Governors of the United States Postal Service should reject the recommended decision issued by the Postal Rate Commission on May 11, 1998, to the extent that it provides for any increase in postage rates; to the Committee on Government Reform and Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

328. The SPEAKER presented a memorial of the Legislature of the State of Oklahoma, relative to House Concurrent Resolution 1067 memorializing the President of the United States and the Congress of the United States to study and pass the legislation necessary regarding the issue of incorporating poultry growers within the protection provided to livestock producers by the federal Packers and Stockyards Act of 1921, as amended; to the Committee on Agriculture.

329. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Concurrent Memorial 1006 urging the President and the Congress of the United States to refuse to authorize, endorse, ratify or adopt any international treaty or federal designation that would usurp the authority of the states to establish their own environmental standards; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. STRICKLAND.

H.R. 59: Mr. CHABOT.

H.R. 94: Mr. TAYLOR of North Carolina, Mr. TOWNS, and Mr. SOUDER.

H.R. 107: Mr. PALLONE.

H.R. 219: Mr. WELDON of Florida, Mr. DICKEY, and Mr. BERMAN.

H.R. 303: Mr. DREIER.

H.R. 519: Mr. JACKSON of Illinois.

H.R. 538: Mr. ENGEL.

H.R. 633: Mr. EHRLICH.

H.R. 687: Mr. YATES, Mr. HILLIARD, and Mr. JACKSON of Illinois.

H.R. 766: Mr. RUSH.

H.R. 880: Mr. RADANOVICH.

H.R. 979: Mr. LUCAS of Oklahoma, Mr. DEUTSCH, Mr. POSHARD, Mr. ANDREWS, Mr. EHRLICH, Ms. CHRISTIAN-GREEN, and Mr. CANADY of Florida.

H.R. 1126: Mr. DICKEY, Mr. CLAY, Mrs. MALONEY of New York, Mr. BERMAN, Mr. WELDON of Florida, Mr. SKELTON, Mr. BOEHLERT, Mr. MCCOLLUM, and Mr. HOYER.

H.R. 1173: Mr. TOWNS.

H.R. 1200: Mr. CLAY.

H.R. 1261: Mr. RADANOVICH.

H.R. 1283: Mr. REDMOND, Mr. PASTOR, Ms. STABENOW, Mr. CLEMENT, and Ms. FURSE.

H.R. 1320: Mr. MANTON.

H.R. 1362: Mr. FORD.

H.R. 1450: Mr. MCDERMOTT.

H.R. 1505: Mr. HILLIARD.

H.R. 1531: Mr. PASCRELL and Mr. BENTSEN.

H.R. 1842: Mr. PICKERING.

H.R. 1995: Mr. MASCARA and Mr. VISCLOSKY.

H.R. 2023: Mr. OLVER, Mrs. THURMAN, Mr. MILLER of California, Ms. CHRISTIAN-GREEN, Mr. TOWNS, and Mr. EVANS.

H.R. 2070: Mr. LUCAS of Oklahoma.

H.R. 2166: Mr. PAUL.

H.R. 2167: Ms. MILLENDER-MCDONALD.

H.R. 2351: Mr. MOAKLEY.

H.R. 2380: Mr. QUINN.

H.R. 2397: Mr. BALDACCI.

H.R. 2409: Mr. HOLDEN, Mr. NUSSLE, and Mr. LEWIS of Kentucky.

H.R. 2434: Mrs. THURMAN.

H.R. 2450: Mr. LAMPSON, Mr. MATSUI, and Mr. ENGEL.

H.R. 2451: Ms. DELAURO.

H.R. 2477: Mr. LEACH.

H.R. 2478: Mr. LEACH.

H.R. 2504: Mrs. KELLY, Mr. ROMERO-BARCELÓ, Mr. BISHOP, Ms. LOFGREN, and Ms. KAPTUR.

H.R. 2509: Mr. GOSS.

H.R. 2549: Mr. PASCRELL, Mr. PALLONE, Mr. GILMAN, and Mr. DEFAZIO.

H.R. 2568: Mr. ABERCROMBIE and Mr. TANNER.

H.R. 2604: Mr. TOWNS and Mr. BLUNT.

H.R. 2609: Mr. UPTON.

H.R. 2611: Mr. NETHERCUTT.

H.R. 2678: Mrs. THURMAN.

H.R. 2681: Mr. DIXON and Mr. WYNN.

H.R. 2701: Mr. ENGLISH of Pennsylvania.

H.R. 2721: Mr. WAMP and Mr. PETERSON of Pennsylvania.

H.R. 2821: Mr. TURNER, Mr. BURTON of Indiana, and Mr. HOUGHTON.

H.R. 2888: Mr. BARRETT of Nebraska, Mr. SAXTON, Mr. DEAL of Georgia, and Mr. CRAMER.

H.R. 2896: Mr. DAVIS of Illinois, Mr. THOMPSON, and Ms. NORTON.

H.R. 2902: Ms. MCCARTHY of Missouri.

H.R. 2914: Mr. FAZIO of California and Ms. STABENOW.

H.R. 2921: Mr. POMEROY and Ms. SLAUGHTER.

H.R. 2922: Mrs. MYRICK and Mrs. EMERSON.

H.R. 2936: Mr. SNOWBARGER and Mr. DICKEY.

H.R. 2955: Mr. DICKS and Mr. GILMAN.

H.R. 2970: Mr. FORBES.

H.R. 2990: Mr. ORTIZ, Ms. PRYCE of Ohio, Mr. ANDREWS, Mr. MALONEY of Connecticut, Mr. MCHUGH, Mr. MENENDEZ, Mr. MEEKS of New York, Mr. BEREUTER, and Mr. LUCAS of Oklahoma.

H.R. 3008: Ms. LOFGREN and Mr. GILMAN.

H.R. 3014: Ms. LEE, Mrs. TAUSCHER, Mr. CONDIT, Mr. BERMAN, Mr. TORRES, Ms. WATERS, Mr. BROWN of California, Ms. SÁNCHEZ, Mr. FILNER, Mr. LANTOS, Mr. SHERMAN, and Ms. MILLENDER-MCDONALD.

H.R. 3027: Mr. MARTINEZ.

H.R. 3028: Mr. MARTINEZ.

H.R. 3048: Mr. DAN SCHAEFER of Colorado.

H.R. 3050: Mr. HALL of Texas, Ms. DEGETTE, Ms. NORTON, and Mr. TOWNS.

H.R. 3107: Mr. BURTON of Indiana, Mr. PICKERING, and Ms. STABENOW.

H.R. 3126: Ms. MILLENDER-MCDONALD.

H.R. 3156: Mr. REYES and Mr. DAN SCHAEFER of Colorado.

H.R. 3161: Ms. PELOSI.

H.R. 3181: Mrs. JOHNSON of Connecticut.

H.R. 3185: Mr. CALLAHAN, Mr. BRYANT, and Mr. SHIMKUS.

H.R. 3217: Ms. PRYCE of Ohio and Mr. LUCAS of Oklahoma.

H.R. 3234: Mr. PETERSON of Pennsylvania.

H.R. 3279: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3400: Mr. MARTINEZ.

H.R. 3470: Mr. MANTON.

H.R. 3514: Mr. BROWN of Ohio and Mr. YATES.

H.R. 3551: Mr. HINCHEY, Ms. KILPATRICK, Mr. PASCRELL, Mr. ENGEL, Ms. SÁNCHEZ, Mr. WYNN, and Mr. VENTO.

H.R. 3567: Mr. RYUN, Mr. JENKINS, and Ms. DELAURO.

H.R. 3571: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3572: Mr. BURTON of Indiana, Ms. SLAUGHTER, Mr. DEAL of Georgia, and Mr. CRAMER.

H.R. 3605: Mr. PRICE of North Carolina.

H.R. 3607: Mr. TALENT.

H.R. 3615: Mr. MARKEY and Mr. KENNEDY of Massachusetts.

H.R. 3634: Mr. HALL of Texas, Mr. BURTON of Indiana, Mr. GREENWOOD, Mr. SNYDER, Ms. PRYCE of Ohio, Mr. REDMOND, Mr. CLYBURN, Mr. BUNNING of Kentucky, Mrs. JOHNSON of Connecticut, Mr. MORAN of Kansas, Mr. PICKERING, Mr. HOLDEN, Mr. MCCOLLUM, Mr. SANDLIN, and Mr. PETERSON of Minnesota.

H.R. 3636: Mr. EVANS, Mr. EHLERS, and Mr. OXLEY.

H.R. 3650: Mr. ADERHOLT, Mr. MANZULLO, Mr. INGLIS of South Carolina, Mr. ENSIGN, Mr. TALENT, and Mr. KOLBE.

H.R. 3654: Mr. THUNE, Mr. BOSWELL, Mrs. CLAYTON, and Mr. LUCAS of Oklahoma.

H.R. 3674: Mr. BROWN of Ohio.

H.R. 3681: Mr. ENGLISH of Pennsylvania.

H.R. 3682: Mr. WAMP, Mr. NEUMANN, Mr. PICKERING, Mr. HUTCHINSON, Mr. SHIMKUS, Mr. WICKER, and Mr. JENKINS.

H.R. 3701: Mr. ABERCROMBIE.

H.R. 3707: Mr. TALENT, Mr. LARGENT, Mr. ENSIGN, Mr. WELDON of Florida, Mrs. MYRICK, and Mr. MCCOLLUM.

H.R. 3743: Ms. SLAUGHTER and Mr. FILNER.

H.R. 3749: Mr. BAKER.

H.R. 3767: Mr. SNOWBARGER.

H.R. 3792: Mr. BUNNING of Kentucky and Mr. RYUN.

H.R. 3794: Mr. SKAGGS.

H.R. 3798: Ms. KAPTUR.

H.R. 3812: Mr. BRADY of Texas and Mr. RYUN.

H.R. 3815: Ms. DUNN of Washington, Mr. MCNULTY, Mr. KLECZKA, and Mr. KENNEDY of Massachusetts.

H.R. 3821: Mr. STRICKLAND, Mr. WELDON of Pennsylvania, Mr. FOSSELLA, Mr. BRADY of Texas, Mr. ENGLISH of Pennsylvania, Mr. BILIRAKIS, Mr. WELDON of Florida, Mr. LATHAM, Mr. WATTS of Oklahoma, Mr. KING of New York, Mr. WHITFIELD, Mr. STUMP, Mr. EHRLICH, Mr. SHIMKUS, and Mr. HOUGHTON.

H.R. 3835: Ms. HOOLEY of Oregon, Mr. MALONEY of Connecticut, Mr. ANDREWS, and Mr. PETERSON of Minnesota.

H.R. 3837: Mr. ROMERO-BARCELO, Mr. UNDERWOOD, Mr. FROST, Ms. JACKSON-LEE, Ms. DELAURO, and Mr. ACKERMAN.

H.R. 3844: Ms. DANNER.

H.R. 3855: Mr. FROST, Mr. MALONEY of Connecticut, Mrs. KENNELLY of Connecticut, Ms. DEGETTE, Mr. BLAGOJEVICH, and Mr. PORTMAN.

H.R. 3888: Mr. BAKER, Mr. BALDACCI, Mr. GORDON, Mr. JOHN, Mr. PICKERING, Mr. BARTON of Texas, Mr. SCHUMER, Mr. EHLERS, Mr. BUNNING of Kentucky, and Mr. SUNUNU.

H.R. 3893: Mr. HAYWORTH and Mr. ENGLISH of Pennsylvania.

H.R. 3897: Ms. NORTON.

H.R. 3932: Mr. EVANS and Mr. UNDERWOOD.

H.R. 3965: Mr. NEAL of Massachusetts.

H.J. Res. 70: Mr. BARR of Georgia and Mr. BARTON of Texas.

H.J. Res. 89: Mr. LEWIS of Georgia.

H. Con. Res. 203: Mr. MARTINEZ, Mr. RODRIGUEZ, Mr. POSHARD, Mr. NEAL of Massachusetts, Mr. RYUN, Mr. UNDERWOOD, Mr. SUNUNU, and Mr. DAVIS of Illinois.

H. Con. Res. 208: Mr. ABERCROMBIE, Mr. LOBIONDO, Mr. BOUCHER, Mr. ALLEN, Mr. PAPPAS, Mr. HOUGHTON, Mrs. EMERSON, Mr. MASCARA, Mr. JONES, Mr. REDMOND, Mr. TAYLOR of North Carolina, Mr. MCGOVERN, Mr. ROTHMAN, Mrs. ROUKEMA, Mr. FRELINGHUYSEN, Mr. SESSIONS, Mr. BACHUS, Ms. VELÁZQUEZ, Mr. MCCOLLUM, Mr. EHRLICH, Mr. WYNN, Mr. ROMERO-BARCELO, Mr. BUNNING of Kentucky, Mr. HORN, Mr. SCHUMER, Mrs. MYRICK, Mr. NUSSLE, Mr. BOEHNER, Mr. JEFFERSON, Mr. LIVINGSTON, Mr. PICKERING, Mr. DIXON, and Mr. LUCAS of Oklahoma.

H. Con. Res. 239: Mr. GUTIERREZ.

H. Con. Res. 249: Mr. MANTON, Mr. RAHALL, Mr. UNDERWOOD, Ms. LEE, Ms. KILPATRICK, Mr. SAWYER, Mr. LEVIN, and Mr. ACKERMAN.

H. Con. Res. 251: Mr. BOYD.

H. Con. Res. 264: Mr. OLVER, Mrs. MORELLA, Ms. DELAURO, Mr. STUMP, and Mr. BACHUS.

H. Con. Res. 281: Mr. WOLF and Mr. FRANK of Massachusetts.

H. Res. 212: Mr. BARCIA of Michigan, Mr. BOYD, Mr. CALVERT, Mr. CANADY of Florida, Mr. DUNCAN, Ms. DUNN of Washington, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. KILDEE, Mr. MENENDEZ, Mr. METCALF, and Mrs. TAUSCHER.

H. Res. 218: Mr. FROST and Mr. BLAGOJEVICH.

H. Res. 363: Mr. FORD.

H. Res. 404: Mr. MATSUI, Mr. FILNER, and Mr. LANTOS.

H. Res. 424: Mr. POMEROY.

H. Res. 444: Mr. BROWN of Ohio, Mr. HILLIARD, and Mr. FILNER.

H. Res. 447: Mr. PICKERING and Mr. BEREUTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 716: Mr. JONES.

H.R. 1891: Mr. MCDERMOTT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MRS. CAPPS

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 36: Strike titles III and IV and insert the following:

TITLE III—INDEPENDENT AND COORDINATED EXPENDITURES; EXPANDING DISCLOSURE OF INFORMATION

Subtitle A—Independent and Coordinated Expenditures

SEC. 301. DEFINITIONS.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) EXPRESS ADVOCACY.—

"(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1999', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1999', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 302. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 303. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 305. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) Section 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) Meaning of Contribution or Expenditure for the Purposes of Section 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

Subtitle B—Expanding Disclosure of Campaign Finance Information

SEC. 311. REQUIRING MONTHLY FILING OF REPORTS.

(a) Principal Campaign Committees.—Section 304(a)(2)(A)(iii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)(A)(iii)) is amended to read as follows:

"(iii) monthly reports, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of the year, a pre-general election report shall be filed in accordance with clause (i), a post-general election report shall be filed in accordance with clause (ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) Other Political Committees.—Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended to read as follows:

"(4)(A) In a calendar year in which a regularly scheduled general election is held, all political committees other than authorized committees of a candidate shall file—

"(i) monthly reports, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of the year, a pre-general election report shall be filed in accordance with clause (ii), a post-general election report shall be filed in accordance with clause (iii), and a year end report shall be filed no later than January 31 of the following calendar year;

"(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election; and

"(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election.

"(B) In any other calendar year, all political committees other than authorized committees of a candidate shall file a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.".

(c) Conforming Amendments.—(1) Section 304(a) of such Act (2 U.S.C. 434(a)) is amended by striking paragraph (8).

(2) Section 309(b) of such Act (2 U.S.C. 437g(b)) is amended by striking "for the calendar quarter" and inserting "for the month".

SEC. 312. MANDATORY ELECTRONIC FILING FOR CERTAIN REPORTS.

(a) In General.—Section 304(a)(11)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(A)) is amended by striking the period at the end and inserting the following: ", except that the Commission shall require the reports to be filed and preserved by such means, format, or method, unless the aggregate amount of contributions or expenditures (as the case may be) reported by the committee in all reports filed with respect to the election involved (taking into account the period covered by the report) is less than $50,000.".

(b) Providing Standardized Software Package.—Section 304(a)(11) of such Act (2 U.S.C. 434(a)(11)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) The Commission shall make available without charge a standardized package of software to enable persons filing reports by electronic means to meet the requirements of this paragraph.".

SEC. 313. WAIVER OF "BEST EFFORTS" EXCEPTION FOR INFORMATION ON OCCUPATION OF INDIVIDUAL CONTRIBUTORS.

Section 302(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(i)) is amended—

(1) by striking "(i) When the treasurer" and inserting "(i)(1) Except as provided in paragraph (2), when the treasurer"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply with respect to information regarding the occupation or the name of the employer of any individual who makes a contribution or contributions aggregating more than $200 during a calendar year (as required to be provided under subsection (c)(3)).".

TITLE IV—SEVERABILITY; EFFECTIVE DATE; REGULATIONS

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 403. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

H.R. 2183

Offered By: Mrs. Capps

(To the Amendment Offered By: Mr. Campbell)

Amendment No. 37: Strike title IV and insert the following:

TITLE IV—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 401. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Express Advocacy.—

"(A) In general.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1999', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1999', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 402. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 403. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 404. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) SECTION 315(A)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking “shall include” and inserting “includes a contribution or expenditure, as those terms are defined in section 301, and also includes”.

TITLE V—SEVERABILITY; EFFECTIVE DATE; REGULATIONS

SEC. 501. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 502. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 503. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MRS. CAPPS

(To the Amendment Offered By Mr. Doolittle)

AMENDMENT NO. 38: Add at the end the following new sections:

SEC. 7. INDEPENDENT AND COORDINATED EXPENDITURES.

(a) DEFINITIONS.—

(1) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

“(17) INDEPENDENT EXPENDITURE.—

“(A) IN GENERAL.—The term ‘independent expenditure’ means an expenditure by a person—

“(i) for a communication that is express advocacy; and

“(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.”.

(2) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

“(20) EXPRESS ADVOCACY.—

“(A) IN GENERAL.—The term ‘express advocacy’ means a communication that advocates the election or defeat of a candidate by—

“(i) containing a phrase such as ‘vote for’, ‘re-elect’, ‘support’, ‘cast your ballot for’, ‘(name of candidate) for Congress’, ‘(name of candidate) in 1999’, ‘vote against’, ‘defeat’, ‘reject’, or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

“(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

“(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

“(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term ‘express advocacy’ does not include a printed communication that—

“(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

“(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

“(iii) does not contain a phrase such as ‘vote for’, ‘re-elect’, ‘support’, ‘cast your ballot for’, ‘(name of candidate) for Congress’, ‘(name of candidate) in 1999’, ‘vote against’, ‘defeat’, or ‘reject’, or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.”.

(3) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking the period at the end; and

(C) by adding at the end the following:

“(iii) a payment for a communication that is express advocacy; and

“(iv) a payment made by a person for a communication that—

“(I) refers to a clearly identified candidate;

“(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

“(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).”.

(b) CIVIL PENALTY.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking “clause (ii)” and inserting “clauses (ii) and (iii)”; and

(ii) by adding at the end the following:

“(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A).”; and

(B) in paragraph (6)(B), by inserting “(except an action instituted in connection with a knowing and willful violation of section 304(c))” after “subparagraph (A)”; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking “Any person” and inserting “Except as provided in subparagraph (D), any person”; and

(B) by adding at the end the following:

“(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.”.

(c) REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 4(b) and 5(c), is further amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (g); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

“(f) TIME FOR REPORTING CERTAIN EXPENDITURES.—

“(1) EXPENDITURES AGGREGATING $1,000.—

“(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

“(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

“(2) EXPENDITURES AGGREGATING $10,000.—

“(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

“(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

“(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

“(A) shall be filed with the Commission; and

“(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.”.

(d) COORDINATION WITH CANDIDATES.—

(1) DEFINITION OF COORDINATION WITH CANDIDATES.—

(A) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(i) in subparagraph (A)—

(I) by striking “or” at the end of clause (i);

(II) by striking the period at the end of clause (ii) and inserting “; or”; and

(III) by adding at the end the following:

“(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office.”; and

(ii) by adding at the end the following:

“(C) The term ‘provided in coordination with a candidate’ includes—

“(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

“(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(B) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(2) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

SEC. 8. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 10. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MRS. CAPPS

(To the Amendment Offered By: Mr. Snowbarger)

AMENDMENT NO. 39: Add at the end the following new sections:

SEC. 9. INDEPENDENT AND COORDINATED EXPENDITURES.

(a) DEFINITIONS.—

(1) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(2) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) EXPRESS ADVOCACY.—

"(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1999', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1999', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(3) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking the period at the end; and

(C) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

(b) CIVIL PENALTY.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

(c) REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 3(c), is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(e) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

(d) COORDINATION WITH CANDIDATES.—

(1) DEFINITION OF COORDINATION WITH CANDIDATES.—

(A) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(i) in subparagraph (A)—

(I) by striking "or" at the end of clause (i);

(II) by striking the period at the end of clause (ii) and inserting "; or"; and

(III) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(ii) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(B) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(2) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

SEC. 10. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 12. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. DAVIS OF VIRGINIA

AMENDMENT NO. 40: Insert after the heading for title II the following new section (and redesignate the succeeding provisions accordingly):

SEC. 201. INCREASE IN INDIVIDUAL CONTRIBUTION LIMIT.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000;" and inserting the following: "$1,000 (or, in the case of contributions made by an individual, exceed $2,000);".

In the heading for title II, strike "**INDEXING**" and insert "**MODIFYING**".

H.R. 2183

OFFERED BY: MR. DAVIS OF VIRGINIA

(To the Amendment Offered by Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 41. Insert after the heading for title II the following new section (and redesignate the succeeding provisions accordingly):

SEC. 201. INCREASE IN INDIVIDUAL CONTRIBUTION LIMIT.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000;" and inserting the following: "$1,000 (or, in the case of contributions made by an individual, exceed $2,000);".

In the heading for title II, strike "**INDEXING**" and insert "**MODIFYING**".

H.R. 2183

OFFERED BY: MR. FROST

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 42: Strike section 601 and insert the following (and conform the table of contents accordingly):

SEC. 601. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act and any amendments made by this Act shall be treated as invalid.

In the heading for title VI, strike "**SEVERABILITY**" and insert "**NONSEVERABILITY**". (and conform the table of contents accordingly).

H.R. 2183

OFFERED BY: MR. RIGGS

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 43: Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL REGISTERED VOTERS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than local registered voters totaling in excess of the total of contributions accepted from local registered voters.

"(2) As used in this subsection, the term 'local registered voter' means an individual who is registered to vote in the congressional district involved (or with respect to a candidate for the office of Senator, in the State involved)".

H.R. 2183

OFFERED BY: MR. RIGGS

AMENDMENT NO. 44: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL REGISTERED VOTERS

SEC. 401. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL REGISTERED VOTERS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than local registered voters totaling in excess of the total of contributions accepted from local registered voters.

"(2) As used in this subsection, the term 'local registered voter' means an individual who is registered to vote in the congressional district involved (or with respect to a candidate for the office of Senator, in the State involved)".

H.R. 2183

OFFERED BY: MR. RIGGS

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 51: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL REGISTERED VOTERS

SEC. 401. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL REGISTERED VOTERS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than local registered voters totaling in excess of the total of contributions accepted from local registered voters.

"(2) As used in this subsection, the term 'local registered voter' means an individual who is registered to vote in the congressional district involved (or with respect to a candidate for the office of Senator, in the State involved)".

H.R. 2183

OFFERED BY: MR. SHAW

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 46: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. REQUIRING MAJORITY OF AMOUNT OF CONTRIBUTIONS ACCEPTED BY HOUSE CANDIDATES TO COME FROM IN-STATE RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) With respect to each reporting period for an election, the total of contributions accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress from in-State individual residents shall be at least 50 percent of the total of contributions accepted from all sources.

"(2) As used in this subsection, the term 'in-State individual resident' means an individual who resides in the State in which the congressional district involved is located.".

H.R. 2183

OFFERED BY: MR. UPTON

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 47: Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than local residents totaling in excess of the total of contributions accepted from local residents.

"(2) In applying paragraph (1), there shall not be taken into account any contributions accepted by a candidate from any political committee of a political party.

"(3) As used in this subsection, the term 'local resident' means—

"(A) an individual who resides in the State involved; or

"(B) a multicandidate political committee for which the address on its registration under section 303 is located in the State involved.".

H.R. 2183

OFFERED BY: MR. UPTON

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 48: Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN INDIVIDUALS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than individuals totaling in excess of the total of contributions accepted from individuals.".

H.R. 2183

OFFERED BY: MR. UPTON

AMENDMENT NO. 49: Insert after title III the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE IV—LIMITATION ON CONTRIBUTIONS FROM NON-RESIDENTS

SEC. 401. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than local residents totaling in excess of the total of contributions accepted from local residents.

"(2) In applying paragraph (1), there shall not be taken into account any contributions accepted by a candidate from any political committee of a political party.

"(3) As used in this subsection, the term 'local resident' means—

"(A) an individual who resides in the State involved; or

"(B) a multicandidate political committee for which the address on its registration under section 303 is located in the State involved.".

H.R. 2183

OFFERED BY: MR. UPTON

AMENDMENT NO. 50: Insert after title III the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE IV—LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN INDIVIDUALS

SEC. 104. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN INDIVIDUALS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than individuals totaling in excess of the total of contributions accepted from individuals.".

H.R. 2183

OFFERED BY: MR. UPTON

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 51: Insert after title III the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE IV—LIMITATION ON CONTRIBUTIONS FROM NON-RESIDENTS

SEC. 401. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect tc a reporting period for an election from persons other than local residents totaling in excess of the total of contributions accepted from local residents.

"(2) In applying paragraph (1), there shall not be taken into account any contributions accepted by a candidate from any political committee of a political party.

"(3) As used in this subsection, the term 'local resident' means—

"(A) an individual who resides in the State involved; or

"(B) a multicandidate political committee for which the address on its registration under section 303 is located in the State involved.".

H.R. 2183

OFFERED BY: MR. UPTON

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 52: Insert after title III the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE IV—LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN INDIVIDUALS

SEC. 401. LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN INDIVIDUALS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election from persons other than individuals totaling in excess of the total of contributions accepted from individuals.".

EXTENSIONS OF REMARKS

MEDICARE+CHOICE MENTAL HEALTH COVERAGE ACCESS ASSURANCE ACT OF 1998

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. STARK. Mr. Speaker, I rise today to introduce the "Medicare+Choice Mental Health Coverage Access Assurance Act of 1998." This important legislation seeks to provide Medicare beneficiaries with appropriate and medically necessary mental health coverage under managed care.

Last year's Balanced Budget Act opened more managed care choices to Medicare beneficiaries through the establishment of the Medicare+Choice Program. In doing so, we enacted some patient protection measures for individuals enrolled or will be enrolled in Medicare managed care. However, because of managed care's history of putting more restrictive limits on mental health care compared to general health care, I believe that additional steps must be taken to ensure that Medicare patients with mental health needs will receive appropriate mental health care.

The amendments to the Balanced Budget Act that I am introducing today would give Medicare consumers emergency care in the case of a suicide attempt, coordination of post-stabilization care, clear descriptions of mental health and substance abuse benefits, access to mental health specialists and to inpatient treatment.

According to the Health Care Financing Administration, close to five million Medicare beneficiaries are mentally ill. Of these, 1.3 million are under age 65; they receive SSDI and Medicare due to a mental disability. The number of SSDI recipients diagnosed with a mental illness increased 17% between 1993 and 1995. And it is expected that the number of geriatric patients with mental disorders such as depression, anxiety, and Alzheimer's will grow rapidly in the coming years. To address these needs, Medicare spent close to four billion dollars on mental health services in calendar year 1994. Yet, the services presently received by Medicare beneficiaries are viewed by many as inadequate and fragmented.

While one may expect capitated systems to better provide for a full continuum of mental health care and serve individuals with mental health needs better, experience with this sector to date has been mixed. In the public sector, states are struggling to address fundamental questions of coverage, access, quality, and mental health's coordination with the rest of health care as millions of mentally disabled Medicaid beneficiaries are moved into managed care systems. It is worth noting that many public purchasers are placing their mental health and addiction disorder treatment and prevention programs into the hands of private companies far more rapidly than their own contracting abilities or the capabilities of the managed care companies may warrant.

Medicaid's transformation to managed care gives us reasons to proceed with caution. The federal government retains the ultimate responsibility of ensuring that taxpayers' money is well-spent and the mental health needs of Medicare beneficiaries are well-served if we are to turn their care over to private companies. This legislation that I am introducing today address these issues and requires the following minimum standards. from health plans that wish to participate in Medicare.

First, a patient should get the psychiatric emergency care he needs if he has made a suicidal attempt or has made serious threats to inflict harm to himself. It seems that some managed care companies do not take a suicidal attempt seriously enough. According to the report Stand and Deliver: Action Called to a Failing Industry, 1997 by the National Alliance for the Mentally Ill, five of the nine largest behavioral managed companies surveyed failed to provide a response that acknowledged a suicide attempt as a potentially deadly emergency requiring prompt attention.

Second, should a patient show up in an emergency room in an emotional crisis and the managed care plan decides that he does not meet the criteria for an inpatient admission, the plan must still do what it takes to stabilize the patient. Treatment decisions should include a realistic assessment of the availability of community supports and other treatment setting options that would serve as an alternative to inpatient care such as partial hospitalization or acute diversion units.

Third, Medicare beneficiaries are entitled to and should get a clear description of mental health and addictive disorder treatment benefits from health plans. This should include any front-end restrictions on utilization of mental health services such as premiums, co-insurance, deductibles, number of visits and days limits, and the range of services provided. In addition, plans should also disclose annual and lifetime limits on mental health spending. This would enable Medicare beneficiaries, and specifically those with mental disability, to make an informed choice of a plan that best serves their needs.

Fourth, a Medicare+Choice plan should provide beneficiaries access to mental health and addiction specialists. This requirement is particularly important to the severely and persistently mentally ill geriatric patients, whose complex medical, psychiatric, and cognitive impairments are frequently left poorly attended to.

Last of all, it must be emphasized that the treatment of serious brain disorders continues to require the availability of inpatient care. The decision to admit or to refuse a psychiatric hospital admission to a patient in distress can have grave and even life-threatening consequences. Thus, these decisions must be made in close consultation with the physician who wishes to admit a patient with serious symptoms to a hospital setting.

I urge my colleagues to join me in co-sponsoring this important and straightforward legislation. For too long, discussions of mental health and addictive disorders have been lost in the Medicare debate. The elderly and disabled Medicare beneficiaries with mental health needs are a vulnerable population. They deserve our attention and our commitment to provide them with the best care we possibly can.

WHO WILL WIN THE SECOND BATTLE OF SAIPAN?

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. MILLER of California. Mr. Speaker, the following column by the highly respected writer Mark Shields appeared in the Seattle Post-Intelligencer on May 18, 1998 and describes the debate in Congress to reform the outrageous practices in the U.S. territory of the Commonwealth of the Northern Mariana Islands that conflict with core American ethics and values.

"Made in the USA Is at Heart of the Second Battle of Saipan" describes the continuing, widespread labor abuses and problematic immigration policies in the US/CNMI that have prompted a bipartisan group in Congress to support legislation to bring these local laws in conformity with those that apply throughout the rest of our country.

Like the battle of Saipan during World War II when American troops fought for 25 days to capture the island chain, the clash in Congress is an uphill battle between those who are working to instill humanitarian reforms in the island's labor and immigration policies and those who hail the existing policies as a cornerstone of "free enterprise."

At the root of this "second battle of Saipan" is the local control over minimum wage and immigration policies that was temporarily granted to local authorities over twenty years ago when the US/CNMI first became a part of the United States. However, since this local control was granted, the US/CNMI has not made any serious attempts to either increase the local minimum wage to the federal level or closely control its borders to prevent an influx of immigrants as it had promised. Rather, the US/CNMI maintains an artificially low minimum wage of $3.05 per hour and has opened its borders to a flood of foreigners who provide the labor pool for menial, labor-intensive jobs.

Currently, foreign workers compose 91% of the private sector workforce and significantly outnumber U.S. citizens in the US/CNMI. Local labor controls and law enforcement are severely lacking, company housing is squalid, abuse is common and this low-cost foreign

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

workforce is easy prey for exploitation. And the nearly $1 billion in garments produced in these conditions by foreign workers bears the "Made in USA" label, although the labor protections normally associated with this label are nonexistent. Foreign workers in the US/CNMI can be deported at a moment's notice if they complain about conditions and are forbidden from changing jobs if they have a problem with their employer. Clearly, the experience of these workers in the US/CNMI is not representative of a work experience anywhere else in America. According to Mr. Shields, "toiling 12 hours a day, seven days a week, without any of the worker protections Americans are guaranteed, is tragically common."

Congress has the power and the duty to ensure that basic fundamental principals of labor and immigration law are adhered to throughout the United States and its territories. I urge my colleagues to read this column and decide for themselves how they would like to see the "Second battle of Saipan" play out. I think you'll agree that if our efforts to apply federal labor and immigration controls to the US/CNMI are successful, as Mr. Shields notes, "the United States and humanity will win."

[From the Seattle Post-Intelligencer, May 18, 1998]

"MADE IN THE USA" IS AT HEART OF THE SECOND BATTLE OF SAIPAN

(By Mark Shields)

For Americans of a certain age, Saipan will forever remain that Pacific Island battle where, during 25 days of hell in the summer of 1944, the U.S. Marines captured 47 square miles of strategic real estate. The price was high. U.S. combat casualties numbered 16,612, including 3,225 Americans killed in action.

For the Japanese, the numbers are still staggering: 23,811 known soldiers dead added to an overwhelming majority of the 18,000 Japanese civilians on the island who chose death over surrender by jumping off the cliffs into the sea. That mass Japanese civilian suicide helped convince the Truman administration that Japan would never surrender and that the use of atomic weapons would actually save Japanese and American lives.

Today, Saipan is the capital of the Commonwealth of the Northern Mariana Islands (CNMI), a chain of 14 islands in the North Pacific. The approximately 28,000 indigenous people of the CNMI, following their own free vote, are all U.S. citizens. But the CNMI was granted local authority over immigration to the islands and over permitting island employers to pay workers at a lower minimum wage than that of the United States. Still, any clothing manufacturer in Saipan is entitled to sew the "Made in the U.S.A." label in every garment. And all such garments can enter the U.S. mainland market free of tariffs and quotas.

This has led directly to the "Second Battle of Saipan." The island has turned into a legalized sweatshop. Ninety-one percent of the private-sector work force, numbering 42,000, consists of foreign workers from China, the Philippines, Bangladesh and Sri Lanka who are too often exploited on U.S. soil.

According to the sworn testimony of U.S. officials, and human-rights and workers-rights professionals, those foreign workers—being paid barely half the U.S. minimum wage—live behind barbed wire in squalid shacks without plumbing. Toiling 12 hours a day, seven days a week, without any of the worker protections Americans are guaranteed, is tragically common.

Rep. George Miller, D-Calif., has personally visisted the island factories. He has introduced legislation to raise the island minimum wage and impose federal control of immigration. With characteristic bluntness, Miller says: "Let's be clear. Foreign workers using foreign cloth under the eyes of foreign supervisors are working in a foreign-owned factory producing garments into which they sew a label that reads 'Made in the U.S.A.,' and that is the only reason these foreign factories are there—to escape U.S. duties and quotas imposed by the Congress to protect U.S. jobs."

But Miller is in the House minority. And Rep. Tom DeLay, R-Texas, the House majority whip, who with his family was the New Year's Eve guest of the Marianas government, publicly has vowed to fight any federal takeover of Saipan's immigration and labor laws.

As seen and heard on ABC-TV News, DeLay told his host, "You are a shining light for what is happening in the Republican Party, and you represent everything that is good about what we are trying to do in America and leading the world in the free-market system."

DeLay does have a point that the foreign workers in Saipan are earning more and often under less brutal conditions than they could in their own homelands. But for those who remember the first battle of Saipan, the "Made in the U.S.A." label means standards of quality and standards of conduct. But more important than how something is made is how the people who make that something are treated, that they are free to worship and to complain and to quit.

One man who understands that well could be DeLay's worst legislative nightmare: Sen. Frank Murkowski, R-Alaska, chairman of the energy and natural resources committee. Murkowski supports legislation similar to Miller's. But the conservative Alaskan has the clout to make things happen. Showing a sense of history, Murkowski rebuts defenders of the Saipan status quo: "The last time we heard a justification that economic advances would be jeopardized if workers were treated properly was shortly before Appomattox."

Frank Murkowski is right. If he is successful, the United States and humanity will win the second battle of Saipan.

CONGRATULATING THE BOYS' BASEBALL TEAM OF KEY WEST HIGH SCHOOL

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. DEUTSCH. Mr. Speaker, I rise today to honor and congratulate the boys' baseball team of Key West High School. The city of Key West prides itself as the home of the Ernest Hemingway Festival, Duval Street, and magnificent beaches. This year, the Conchs, the Key West High School boys' baseball team, has provided the city with another reason to burst with pride—a first place trophy in a national tournament.

Recently, the Conchs won the Pepsi All-Sport National High School Baseball Tournament with an 11–7 victory in Boca Raton over Monsignor Pace High School. This was the conclusive win which had been preceded by three other victories in five days and which gave the Conchs the much sought after title of national champions.

Although, this is not the first time that the Key West Conchs have participated in a national tournament, it is the first time they have been crowned as victors. Two years ago, the boys lost at the Dole Classic in California and last year at the USA Classic in Tennessee. This year, however, proved to be different. This season the Conchs made history for Key West High School by attaining the first place trophy in a national high school baseball tournament.

The championship roster includes: Michael Anderson, Dane Artman, Devin Butler, John Paul Castro, Lazaro Chavez, Marcus Davila, Peter Dunick, Khalil Greene, Ben Harrison, Daniel Hersey, Tommy Lambeth, Luis Leal, Aaron Marn, Juan Menendez, Sean Morales, Brian O'Connell, Stephen Parker, Troy Phillipps, Tony Ramos, Eduardo Rodriquez, Billy Spottswood, Christian Twyman. Overseeing this group were Head Coach Brooks Carey, Pitching Assistant Coach Randy Sterling, First Base Assistant Coach Chris Valdez, Third Base Assistant Coach Ralph Sanchez, Athletic Director Robert Price and Principal Alma Olson.

Mr. Speaker, I am honored to represent the students of Key West High School who continue to strive to achieve excellence. On behalf of the citizens of the Twentieth District of Florida, we congratulate the Conchs on an outstanding season.

CONGRATULATIONS TO THE FRESNO STATE WOMEN'S SOFTBALL TEAM

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the Fresno State University Women's Softball Team on their 1998 NCAA Women's College World Series victory. The win gave Fresno State its first National Championship in any sport. The Fresno State Women's Softball Team has exhibited the dedication and hard work that it takes to become world renown athletes. I applaud the perseverance of both the team and the coaches. They are all well deserving of this recognition.

Mr. Speaker, I ask that the following individuals of the Fresno State Women's Softball Team be entered into the CONGRESSIONAL RECORD: Laura Berg, Center field; Candice Bowlin, outfield; Kara Campbell, outfield; Angela Cervantez, 1st and 3rd base; Alica Dowland, short stop; Jennifer Jokinen, Left field; Nina Lindenberg, 2nd base; Jaime Maxey, 1st and 3rd base; Lindsay Parker, right handed pitcher; Kim Peck, Left handed pitcher; Amanda Scott, right handed pitcher/outfielder, Jennifer Slaney, Catcher; Janna Todd, Catcher/DP; Vanessa Valenzuela, 1st base; Amber Wall, Catcher; Carolyn Wilson,, Catcher/DP; Daviana Wisener, Outfield; Becky Witt, Outfield, and Margie Wright, Coach.

In the final game of the NCAA Women's College World Series on Monday, May 25, 1998, Nina Lindenberg's home run provided all the scoring as pitcher Amanda Scott limited the Arizona Wildcats to three singles. The victory ended a 29 game winning streak for Arizona, who had won the National title the previous two years.

Mr. Speaker, it is with great honor that I congratulate the Fresno State University Women's Softball Team for their 1998 NCAA Women's College World Series victory. Their commitment and dedication should serve as a model for athletes the world over. I ask my colleagues to join me in wishing the Fresno State Women's Softball Team many more years of success.

THE THIRD QUARTERLY REPORT OF THE SPEAKER'S TASK FORCE ON THE HONG KONG TRANSITION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BEREUTER. Mr. Speaker, this Member rises today to submit the Third Quarterly Report of the Speaker's Task Force on the Hong Kong Transition. It has been nearly one year since Hong Kong reverted to Chinese sovereignty on July 1, 1997. Prior to that historic event, and at your request, Mr. Speaker, this Member formed the House Task Force on Hong Kong's Transition. In addition to myself as Chairman, the Task Force is bipartisanly balanced and includes Representative HOWARD BERMAN (D–CA), Representative SHERROD BROWN (D–OH,), Represenative ENI FALEOMAVAEGA (D–AS), Representative ALCEE HASTINGS (D–FL), Representative JAY KIM (R–CA), Representative DONALD MANZULLO R–IL) and Representative MATT SALMON (R–AZ).

Mr. Speaker, as you requested, the Task Force expects to travel to Hong Kong, and other relevant destinations at least every six months for the foreseeable future to examine how the reversion has affected Hong Kong. The first such visit took place in December, 1997. The second is tentatively scheduled for early July of this year—one year after reversion. To day, the task force has prepared three quarterly reports accessing how the reversion has affected Hong Kong. The third report, which I submit today, covers the alternating quarter—January through March, 1998—in which there was no actual visit to Hong Kong by the Task Force. Despite a number of concerns in the areas of freedom of expression, the independence of the judiciary, the development of democratic institutions and the protection of intellectual property rights, we continue to describe the situation as "so far so good." Mr. Speaker, this Member submits the Task Force report to be printed in the CONGRESSIONAL RECORD.

THE SPEAKER'S TASK FORCE ON THE HONG KONG TRANSITION

THIRD REPORT

(Presented by the Hon. Doug Bereuter, Chairman)

The following is the third quarterly report of the Task Force on the Hong Kong Transition. If follows the first report dated October 1, 1997, and the second report dated February 25, 1998. This report focuses on events and developments relevant to United States interests in Hong Kong between January 1, 1998 and March 31, 1998—the third quarter following Hong Kong's reversion to China. (This is the alternating quarter in which there was no actual visit to Hong Kong by the Task Force since the mandate given to the Task Force by the Speaker is to visit Hong Kong only every six months. Therefore, the finding of this report are based upon indirect sources.)

BEIJING COMMITMENTS

The Hong Kong Special Administrative Region (HKSAR) has now been under Chinese sovereignty for over nine months. Concerned observes both inside and outside Hong Kong continue to scrutinize the decisions and behavior of Chinese and Hong Kong authorities for evidence that China is maintaining its commitment to the "one-country, two systems" formula spelled out in the Joint Declaration of 1984 which allows Hong Kong full autonomy in matters other than foreign policy and defense. As a dynamic regional financial and economic center, Hong Kong's continued autonomy is viewed as vital to the continuing economic health of the entire region.

The people of Hong Kong continue to maintain a high degree of confidence in the Hong Kong government. Confidence in Chief Executive C.H. Tung ebbed somewhat in January, as the effects of the Asian financial crisis rippled into Hong Kong and the public voiced its dissatisfaction with the government's handling of the "avian flu" problem. By late February, however, opinion polls showed a bounce back. Tung's overall approval rating rose to 63 percent—a four percent increase over the late-January figure. The polls also continue to show strong popular support for the "democratic" political parties, which are expected to do well in the May election in the seats open to universal suffrage.

Following Hong Kong's reversion to Chinese rule, we find that Chinese authorities continue to refrain from direct involvement in Hong Kong affairs. To date, there is no evidence of explicit Chinese interference in Hong Kong affairs. Our First Quarterly Report on Hong Kong described the situation in this regard as "so far, so good." The Second Quarterly Report echoed this judgment, with a slightly stronger caveat that the areas of concern—freedom of expression, rule of law, and protection of intellectual property rights, among others—warranted closer attention. In this report, we reaffirm or continue this assessment.

We see no clear threat to Hong Kong's autonomy. Chinese officials, both in Beijing and Hong Kong, scrupulously refrain from interference—at least in public. For example, five members of China's world-class swim team were unable to wangle their way into Hong Kong for an important meet after they neglected to apply for visas in time. Separately, the small People's Liberation Army garrison also continues to maintain a low-profile. However, several relatively isolated decisions and statements by Hong Kong officials, described below, have heightened anxieties concerning the apparent spread of a new concept of "political correctness." There is a small but growing concern that some Hong Kong authorities are giving undue consideration to Beijing's possible reaction before making decisions affecting Chinese interests in Hong Kong.

RULE OF LAW CONCERNS—FREEDOM OF EXPRESSION

International confidence in Hong Kong is based on the commitment of the Hong Kong authorities to the rule of law which it inherited from the British. An integral part of this is the "check" on abuse of authority provided by the free expression of opinion. We find that political protesters and demonstrators continue to carry out their activities without restraint. One minor exception during the first three months of 1998 occurred during the January visit to Hong Kong of Chinese President Jiang Zemin. Hong Kong police kept anti-Jiang demonstrators at a considerable distance from the Chinese leader, thus drawing criticism for pandering to Chinese sensitivities. In response, Hong Kong authorities argued that it was important to demonstrate to the Chinese that they were capable of providing adequate security, lest the Chinese feel compelled to provide their own.

Hong Kong has traditionally enjoyed a free and vibrant press. The Hong Kong media continues to operate freely. There are no taboo subjects. Newspapers that appear to tread lightly on issues of concern to China or Hong Kong authorities one day may harshly criticize them the next. There have been no reports of interference with the press by Chinese officials based in Hong Kong, nor by Hong Kong authorities. Nonetheless, self-censorship is widely perceived to exist. A February 1998 survey conducted by the Social Science Research Center of the University of Hong Kong showed that about 43 percent of those interviewed thought the media practiced self-censorship (down from 50.3 percent in December 1997), while 54 percent praised the media for fully exercising freedom of speech (slightly down from 57.5 percent in December).

Self-censorship is a subtle and insidious influence which is difficult to document and impossible to quantify. Official interference in or guidance of the media is a separate and more disturbing matter. The specter of official interference arose on March 4 when Hong Kong media magnate, Xu Simin, while in Beijing as a delegate to the Chinese People's Political Consultative Conference meeting, criticized the Hong Kong government-funded Radio-Television Hong Kong (RTHK) for airing shows critical of Hong Kong policies. Rather than refute Xu's remarks, Hong Kong Chief Executive Tung Chee-hwa, also on March 4 remarked that "while freedom of speech is important, it is also important for government policies to be positively presented."

Tung's statement sent shudders through many concerned observers in Hong Kong. However, Hong Kong Chief Secretary Anson Chan, who heads Hong Kong's bureaucracy, immediately expressed "deep regret" at Xu's remarks, which she branded as "improper." Tung subsequently reassured the public, saying on March 6, "Of course RTHK has editorial independence. The government and I welcome criticism from the news media, and I think the news media has played a very important role in monitoring the activities of the government." We hope that Chief Secretary Chan's defense of RTHK prevails. [In a statement clearly intended to reassure the Hong Kong public, Chinese President Jiang Zemin followed with remarks to the effect that discussion of Hong Kong-related issues should take place in Hong Kong, not Beijing.]

RULE OF LAW CONCERNS—INDEPENDENCE OF THE JUDICIARY

A fair and independent judiciary is another critical element of international confidence in Hong Kong's commitment to the rule of law and to its ability to maintain a high degree of autonomy. In general, the Hong Kong judiciary continues to operate independently and without taint of political influence. Judges continue to rule against the new HKSAR government. For example, in a highly publicized case, the courts ruled that the Hong Kong law denying right of abode to illegitimate children of Hong Kong resident fathers (but not mothers) violated Article 24 of the Basic Law, which grants rights of abode without reference to legitimacy or the sex of either parent.

Within the past three months, however, several incidents have focused attention on the possibility that Hong Kong's highly regarded legal institutions may be vulnerable to Chinese influence. In one case, the government's top legal officer decided not to prosecute a newspaper publisher who was politically well-connected to the mainland, despite the fact that three of the publisher's deputies were charged with fraud and that the publisher herself had been named in a report by Hong Kong's anti-corruption commission. Separately, the Hong Kong government decided not to prosecute the New China News Agency, or Xinhua, for violating Hong Kong's privacy statute, when it failed to respond by the legal deadline to a request under Hong Kong's privacy law by a politician for a copy of Xinhua's file on her. Xinhua subsequently asserted that it had no information on the politician, a claim that left most observers incredulous, in view of the intelligence-gathering role widely attributed to Xinhua. Chief Executive Tung justified the government's decision not to prosecute Xinhua by saying that Xinhua's actions were only a "technical breach" of the statute. [Note: In early April, the Beijing-appointed Provisional Legislature, in one of its last acts before being dissolved, passed a law which classified Xinhua as a body of the "state" and thus exempt from certain Hong Kong laws. The implications of this action will be discussed in the Fourth Quarterly Report.]

THE DEVELOPMENT OF DEMOCRATIC INSTITUTIONS

Hong Kong authorities and political parties continue their preparations for the May 24 election of a new Legislative Council (LegCo). The May elections will be carried out under a new law established under the HKSAR. The new law is controversial because it dismantles key provisions of the electoral reforms put into place by former Governor Patten in 1995. For example, it maintains the original formula of twenty LegCo members to be directly elected by popular vote, thirty to be elected by "functional constituencies" (initiated by the British in 1985), and ten to be chosen by a special Election Committee. However, the "functional constituent" electorate is reduced from approximately 2.7 million votes under the 1995 British reforms to about 180,000 voters. A voter registration campaign to expand the electorate for the 20 seats subject to popular vote was rather disappointing. A door-to-door campaign resulted in 264,000 new voters, but roughly 30 percent of those eligible declined to register. The disappointing response has been attributed to several factors. The complexity of the election system has discouraged many potential voters. Others are simply unfamiliar with or distrust elections. Still others are cynical about their ability to affect the eventual outcome. While others—reflecting Hong Kong's notorious preoccupation with making money—are simply not interested. Despite the widespread dissatisfaction among the political parties with the new election law, none has advocated boycotting the election.

ECONOMIC AND COMMERCIAL DEVELOPMENTS

The United States has significant economic interests in Hong Kong. Hong Kong is the home of over 50,000 U.S. citizens. Over 1,100 resident American firms employ 250,000 Hong Kong workers, or 10 percent of the work force. The financial crisis which has buffeted Southeast and East Asia starting in mid-1997 has not left Hong Kong unscathed. Nonetheless, Hong Kong's economy continues to grow, albeit at a slower rate than before. By the end of March 1998, deposits in banking institutions has increased, as has the ratio between the Hong Kong dollar and foreign currency deposits, suggesting that confidence in Hong Kong's dollar and banking system continues to recover unabated. The Hang Seng index remained relatively stable through the first quarter, while inching slowly upward. And, in a further show of confidence in the Hong Kong economy, new residential mortgage loans began to edge back up in January, in both number and value, and positively surged in March.

Nonetheless, most economic indicators have not returned to their pre-Asian financial crisis levels. Most analysts believe Hong Kong's gross domestic product will grow by only two percent in 1998, compared to the 3.5 percent predicted by the government—and the 5.0 percent and 5.2 percent it grew in 1996 and 1997, respectively. Another trend that bears watching is Hong Kong's growing role as a channel for foreign capital to China. The Chinese companies listed on Hong Kong's stock exchange, which now account for roughly nine percent of Hong Kong's market capitalization, seldom meet international corporate-governance standards. This growing segment of the Hong Kong capital market is expected by some to double in the next ten years. The lack of transparency of these Chinese companies is likely to add further volatility to the market.

Jeffrey Lam, Chairman of the Hong Kong Exporters' Association, stated that Hong Kong's manufacturing industry still maintains competitive advantages over Asian countries despite those countries' currency depreciations. The financial turmoil has not changed the volume of orders coming to Hong Kong. Despite this good news, however, the unemployment rate for the period December 1997–February 1998, rose to 2.9 percent, the highest in the last 18 months. The total number of unemployed reached 85,000, with the retail trade, hotel, property, construction and garments sectors the hardest hit. The government is considering setting up a retraining program for those laid off. Tourism, which has traditionally depended to a large extent on the growing Southeast Asian middle- and upper classes, has also suffered from the regional financial crisis. Furthermore, if China should succumb to the temptation to devalue its currency, as some skeptics have darkly predicted, Hong Kong would find it very difficult to maintain its current Hong Kong dollar-U.S. dollar peg.

INTELLECTUAL PROPERTY RIGHTS AND OTHER CONCERNS

The most serious U.S.-Hong Kong bilateral trade issue is the continued wide availability of pirated movie, audio and software compact discs and pirated trademark goods. This situation led the U.S. Trade Representative to place Hong Kong on the Special 301 Watchlist in April 1996. One disturbing development in the past year has been a change in the nature of intellectual property rights (IPR) violations in Hong Kong. While retail sales of pirated goods were the primary problem in the past, in recent months, the manufacturing of pirated compact discs has become a significant problem. (Some people speculate that this development is a result of greater IPR enforcement in mainland China.) Hong Kong officials have reiterated their commitment to combating piracy. In addition to stepping up Custom's raids on retail outlets, on March 25, 1998, they passed a new copyright law which, among other things, gives enforcement officials greater ability to control illicit production. [Note: Despite these efforts, the IPS situation in Hong Kong remained sufficiently troublesome to warrant its designation on May 1, 1998 by USTR on the Special 301 Watch List for the third year in a row.]

The Hong Kong government continues to cooperate fully with U.S. agencies in combating drug trafficking. We note, however, that many of the same favorable factors that make Hong Kong one of Asia's most important financial centers also make it attractive to criminals who wish to conceal the source of their funds through money laundering. Consequently, it is important that the Hong Kong government work with the international community to improve its laws and enforcement in this vital area.

We are pleased to observe that during the first quarter of 1998 we continued to have full cooperation in the area of export control, and no new incidents were reported. The U.S. Commerce Department continued to conduct pre-license and post-shipment checks. And in January, 1998, U.S. and Hong Kong export control officials strengthened their already strong interaction by beginning a new series of consultations on licensing, enforcement and the exchange of information. The latter will include the U.S. sharing information relevant to Hong Kong's new "brokerage legislation," which was passed just prior to reversion. This new legislation will allow Hong Kong's authorities to prosecute people based in Hong Kong who are engaged in proliferation activities outside of Hong Kong.

We also note that serious concerns have been raised in some quarters about the adequacy of Hong Kong's export control regime and its ability to prevent the transfer of sensitive technology to unintended destinations. [*Note: See* CONGRESSIONAL RECORD, *May 20, 1998, p. H3559.*]

MACAO

Macao, a small Portuguese colony with a population of one-half million, will revert to Chinese rule at midnight on December 20, 1999. Like Hong Kong, it will become a Special Administration Region with a "one-country, two systems" formula. But Macao faces very different transition issues. In the political arena, Macao will not face the contentious debate that Hong Kong went through over its legislative body. In contrast to Hong Kong's legislative body, the Macao Legislative Assembly elected in 1996 will remain in place on a "through train" beyond the December 1999 reversion. But in other areas, there are causes for concern. The Portuguese colonial authorities have not trained and groomed local Macanese to replace Portuguese personnel in many key civil service positions. It also appears that a much smaller proportion of foreigners will remain in Macao, compared to the case in Hong Kong. One would hope that the Portuguese authorities will move with greater speed and resolve to put in place a strong professional local bureaucracy and judiciary, without which Macao cannot be expected to provide the functions required as the territory moves into the 21st century.

U.S. interests in Macao are by no means as large as those in Hong Kong, but they are nonetheless important. The largest bilateral problem is unquestionably Macao's role as a manufacturing center for pirated goods. The production of pirated compact discs is a particularly significant problem. According to knowledgeable sources, in 1997 estimates there were between 80–100 compact disc production lines producing up to 100 million compact discs and movies per year. Although the Macao government maintains that it is committed to tackling the problem, it has been unsuccessful in combating the pirating problem for a variety of reasons. For example, it lacks adequate legislation, enforcement mechanisms and manpower. It was said that the government is drafting legislation for the creation of a full customs service that would take on the anti-piracy function of the economic services department and the maritime police. It is in America's interests that Macanese authorities move forward forcefully. Separately, we note a continuing serious problem with the transshipment of textiles through Macao.

An even more troubling factor affecting bilateral relations, and, indeed, Macao's entire development, is the disturbing influence of organized crime. Macao-based triad societies, which once contained themselves primarily to the colony's lucrative legal gambling industry, have taken on a more public and more violent persona. Several well-publicized street shootings have driven away some of Macao's important tourist clientele. The triads, now in cooperation with crime elements from across the border in China, are believed to be deeply involved in the production of pirated compact discs and other illegal smuggling activities, including the transhipment of drugs and money laundering. Macanese authorities recognize the danger these groups pose to Macao's society and economy and have worked to combat them. The triads have responded with retaliatory attacks against police and other public officials. We applaud the authorities' efforts to combat organized crime. The territory is unlikely to be able to effectively address many of the problems it now faces until it has successfully rooted out this scourge.

CONCLUSION

"So far, so good" continues to be the view of the Hong Kong Transition Task Force. As we noted above, the Asian financial crisis will have a still-to-be determined impact on Hong Kong's economy. As we have also noted, there are continuing concerns within the Special Administrative Region itself, particularly in the areas of freedom of expression, the independence of the judiciary, the development of democratic institutions and the protection of intellectual property rights. Given the complexity of the reversion in Hong Kong, this is, of course, important, but it should not be surprising. Nonetheless, this transition period in Hong Kong warrants the continued scrutiny of the international community and the Congress.

COMMENDING TED KARRAS, SR.

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to commend to true sportsman from Indiana's First Congressional District, Ted Karras, Sr., for his induction into the Indiana Football Hall of Fame. A resident of Gary, Indiana, Ted is one of nineteen inductees in the 1998 Indiana Football Hall of Fame class.

Ted Karras began his role as an important part of Indiana's football legacy during his days as a student at Emerson High School in Gary, Indiana. After graduating from Emerson and attending Purdue University for a semester, Ted transferred to Indiana University and played for Coach Bernie Crimmins. In 1956, Ted graduated from I.U. and joined the San Diego Marines where he played both offense and defense.

Ted's hard work and determination payed dividends when he was subsequently picked up by the Pittsburgh Steelers as an offensive linemen, and he helped his team to a second place finish during the 1957 season. After his short tenure with the Steelers, Ted Karras was signed by the Chicago Bears and played with them for five years. His determination and motivation again helped lead his team to success. This time though, the Chicago Bears won the championship in 1963. Ted eventually finished his career with the Detroit Lions in 1965.

While Ted Karras may have retired as a player, he never retired as a student of the game. Ted came home to Northwest Indiana and shared his knowledge with other students of the game. He remains heavily involved in football and helps mold young athletes into sportsmen as an Assistant Football Coach at Andrean High School in Merrillville, Indiana. From the beginning of his football career as a young student and athlete to his current post as an assistant coach, Ted Karras, Sr. has served as an inspiration to thousands of students, fans, and players of football in the State of Indiana.

Since its founding in 1973, the Indiana Football Hall of Fame has been honoring prominent coaches, players, officials members of the press, and citizens who have made lasting contributions to the advancement of football and sporting excellence. The Hall of Fame commemorates Indiana's prestigious football history throughout the century. Whether they were involved in football during the early twenties or the present day, the Indiana Football Hall of Fame is dedicated to recognizing those who were instrumental in creating, fostering, and adding to Indiana's excellent football legacy.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Ted Karras, Sr. on his induction into the Indiana Football Hall of Fame. His lifetime of service, dedication, and success has left an indelible mark on Indiana football and Indiana's First Congressional District.

HONORING THE PONTIAC CENTRAL DELPHI FIRST TEAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. KILDEE. Mr. Speaker, I rise today to bring to your attention the remarkable efforts and achievements of the Pontiac Central/Delphi Interior and Lighting Systems FIRST Robotics Team. This dedicated partnership has resulted in national recognition and a renewed commitment to excellence in science and technology.

For three years now, the fine students from Central High School located in Pontiac, MI, and the staff of Delphi Interior and Lighting of Troy, MI, have been competing in the FIRST (For Inspiration and Recognition of Science and Technology) national competition. As a rookie team in 1996, their efforts resulted in the National Competition Rookie All Star award. In only their second year of competition they were honored with the competition's highest award, the Chairman's Award for overall excellence. This year they placed first at the Southwest Regional Championship, New England Championship, and Great Lakes Regional Championship.

The Pontiac Central faculty includes: Dr. Willie B. Aldrige, Birta Allen, Michael Martus, Michael McIntyre, Lorene Phillips, Jamie Schutt, and Arthur Williams. The Pontiac Central students include: Tanea Andrews, Ben Arroyo, Stephanie Bonner, Phuong Bui, Dante Cabello, Steven Carpenter, Armand Collins, Lenwood Compton, Jose Diaz, Tabitha Durham, Alia Garrison, Glynn Gooch, Regina Griffin, Janine Harper, Hmong Her, Tawanda Hilliard, Travia Hilliard, Chris Jackson, Yvette Johnson, Albert Lee, Alva Liimatta, Myder Ly, Ilea Lyons, Koua Moua, Ronnitrea Pilgrim, Denneen Russell, Scotte Spencer, Austin St. Peter, Cary Xiong, Bob Yang, Lisa Yang, Mary Yang, Pa Yang, Peter Yang, Yang Yang, John Youngquist, and Timothy Youngquist.

Members of the Delphi Interior and Lighting Systems engineering team include: Dr. Barbara A. Sanders, Hassan Anahid, Mike Aubry, Craig Blanchard, Robert Brooks, Michael Ciavaglia, Joe Cranston, Dan D'Addario, Brian Deplae, Jeremy Husic, Joseph Johnson, Marvin Lewis, Saundra Marion, Jane Maselli, Shannon Moore, Mark Nicholas, Amanda Offer, Joe Otenbaker, Tom Osborne, Chantell Parentea, Joe Picciurro, William Priest, Vijay Srinivas, Mark Steffe, Angelica Tasker, Ronald Wilde, Kimberely Will, Kevin Wright, and Joe Zwolinski.

Mr. Speaker, in order for our nation to remain a leader in the global economy we must recognize the importance of science and technology education. For three years, teachers, volunteers, sponsors and participants of the Pontiac Central/Delphi Interior and Lighting Systems FIRST Robotics team have been committed to ensuring that our nation's future doctors, engineers, and scientists have the skills necessary to succeed in the 21st century.

CONGRATULATING ANNE McKEE

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. DEUTSCH. Mr. Speaker, I rise today to congratulate a much beloved Key West resident, Ms. Anne McKee. For the past twenty-six years, Ms. McKee has dedicated her life to serving her community, and it is therefore, no surprise to hear that she has been named the 1998 Florence Spottswood Humanitarian of the Year by the Monroe County chapter of the American Red Cross.

This is not the first time that Ms. McKee has been recognized. In 1993, she was named the Woman of the Year in Arts. To honor her achievements the mayor of Key West designated November 10, 1993 as Anne McKee Day. During her tenure as chairwoman of the Monroe County Arts Council, she successfully integrated the council into the South Florida Consortium and, in 1991, she founded the Anne McKee Artists Fund which has awarded more than 50 grants to local artists.

In the spirit of Ms. Florence Spottswood, the founder of the Florida Keys chapter of the American Red Cross, I would like to take this opportunity to thank Anne McKee for her tireless contributions to our island city.

CONGRATULATIONS TO LIBERTY ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Clovis Unified School District's Liberty Elementary School for being recognized as a National Blue Ribbon School. Liberty Elementary is one of 263 elementary schools across the nation to be named a Blue Ribbon school. To receive this award, Liberty Elementary had to be recognized as a California Distinguished School and then pass a rigorous screening and two-day site visitation. The faculty and students of Liberty Elementary exemplify excellence in student achievement and are very deserving of this recognition.

A Blue Ribbon Award Ceremony was held in Washington, DC on November 7, 1997 where representatives from Liberty Elementary were honored by the U.S. Department of Education and received a special plaque and flag in recognition of this achievement. Each of the schools were evaluated on outcome measures and conditions of effective schooling, such as leadership, teaching environment, curriculum and instruction, student environment, parent and community support, and organizational vitality. Recommendations on which schools best meet the Blue Ribbon criteria are made to the Secretary of Education by a national panel of distinguished educators and other prominent private citizens.

Liberty Elementary is located in the northeast area of Fresno in one of the fastest growing communities in the Clovis Unified School District. The school mission is to provide a comprehensive, quality education to the Sparthenian concept—"be the best you can be" in mind, body and spirit.

Liberty Elementary has over 700 Students in grades K–6. The student body is composed of 75.1% Caucasian, 10.8% Hispanic, 8.0% Asian, 3.0% black, 1.6% Filipino, and 1.6% American Indian Students. Goals of the school include: (1) earning "superior" ratings in all curricular, co-curricular, and school climate categories of the Clovis Assessment System for Sustained Improvement (CLASSI); (2) implementing a literature-based language arts program; (3) implementing a well-rounded science program utilizing alternative assessment strategies; (4) using team planning at each grade level to promote the concept of a "thinking" curriculum; (5) expanding the concept of technology stations into the classroom; (6) continuing to implement a student assistance program; (7) continuing to develop the philosophy of GoalSharing; and (8) promoting a school environment which fosters the development of character traits that lead to responsible, contributing membership in society.

After receiving the California Distinguished School Award, Liberty students soared to new heights in both academic achievement and co-curricular involvement. Liberty received the highest score in the Clovis West Area on the district's accountability model and earned the CUSD Exemplary School Award. Recognition such as this only comes about through extraordinary efforts of the community, the faculty, and the student body.

Mr. Speaker, it is with great honor that I congratulate Clovis Unified School District's Liberty Elementary. The students and faculty of this school exemplify a care for the community and a dedication to hard work that has gained them national recognition. I ask my colleagues to join me in wishing Liberty Elementary many more years of success.

A SPECIAL TRIBUTE TO MIKE MARSH FOR HIS CONTRIBUTIONS TO THE AMERICAN POLITICAL PROCESS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding individual from Ohio's Fifth Congressional District, Mr. Mike Marsh. On Thursday, June 4, 1998, Mike will step down as the Chairman of the Wood County Republican Party after ten years of service.

Mike has dedicated much of his life to serving the community, to furthering the ability of the citizens of Wood County to participate in the American political process. As Chairman of the Wood County Republican Party, Mike has helped to build one of the most effective, energetic political parties in the state of Ohio.

Mike's contributions to the Wood County community do not stop with his service and dedicated efforts to the Republican Party. Mike is currently serving as Attorney for the City of Bowling Green. In addition, Mike has been a fair and impartial judge of electoral matters in Wood County through his membership on the Wood County Board of Elections.

Mike has a strong sense of dedication to the youth of the Wood County area. He is still serving our youth and pushing to ensure that they are afforded the best education possible as a member of the Bowling Green State University Board of Trustees. Through Mike's hard work, enthusiasm, and innovation, I know the students at BGSU are better equipped to learn and excel in the future.

Mr. Speaker, Mike Marsh has worked tirelessly to ensure that the citizens of Wood County have a community of which they can be proud. It has been said that America works because of the unselfish efforts of her citizens. Our democracy and our political process have certainly been strengthened by the tireless efforts of Mike Marsh. Mr. Speaker, I would urge my colleagues to rise and join me in paying special tribute to a great American, Mr. Mike Marsh, and in wishing him well in the future.

CONGRATULATING JUSTIN R. WOLF

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I congratulate an exceptionally talented and dedicated member of Indiana's First Congressional District, Mr. Justin R. Wolf. A senior at Lake Central High School, Justin was recently named as a Finalist in the Imation Computer Arts Scholarship Program.

This program, announced last year by the Imation Corporation in partnership with the National Art Education Association and the American Association of School Administrators, honors high school students who create original works of computer generated art. This scholarship program is a unique approach to encouraging the use of technology and creativity in the arts today. Of over 1,200 students around the country who participated in this year's program, only twenty-five, including Justin, were honored as finalists. Each finalist received a $1,000 scholarship, a trophy for his or her school, and an all-expense-paid trip with a parent, guardian, or school representative to St. Paul, Minnesota for a national recognition event.

In earning this scholarship, Justin has taken his art from the realm of personal enjoyment to the bright lights of national recognition. Indeed, rather than looking for recognition, Justin began utilizing his artistic talents only for personal enjoyment. Like many young people with artistic talent, Justin's interests have often changed throughout his life and still remain broad and eclectic. As a young student, he expressed himself through sketching and drawing in his spare time. Fueled more by daydream and stream of conscious thought than a specific inspiration, Justin's idle artwork became much more when his talent was wedded to a computer. When his dual interests of art and computers mixed, Justin's gift became evident. However, Justin's interests are not just limited to computer art and design, but include computer graphics, internet web page design, and concept art.

Indeed, one of Justin Wolf's current endeavors includes a web page design company. With his high school days counting down to graduation, Justin is ready for the challenge of higher education. He will begin summer classes this month at Columbia College in Chicago, Illinois. His goal is to pursue a film major and put the justly deserved scholarship to use in learning about film, computer graphic design, desktop publishing, animation, and special effects.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating Justin R. Wolf for his well earned scholarship in the Imation Computer Arts Scholarship Program. This young man's ability, excellence, and budding future are a shining example of the abilities of today's young people when given the proper opportunities for scholastic, artistic, or athletic excellence.

RECOGNIZING THE ZETA PHI BETA SORORITY 1998 HONOREES OF THE YEAR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. KILDEE. Mr. Speaker, I rise to pay tribute to the recipients of the 1998 Woman of the Year and Family of the Year awards presented by Zeta Phi Beta Sorority. Dr. Dorothy L. Brown has been chosen as the Woman of the Year. Irene and Earcy Christmon, Jr. and family are this year's honorees as Family of the Year. Zeta Phi Beta Sorority will present the awards at the 15th Annual Finer Womanhood Scholarship Luncheon on June 6 in Pontiac, Michigan.

Dr. Dorothy L. Brown is a tireless volunteer in the Pontiac community. After retiring from North Oakland Medical Center in 1995 as a nurse, she continues to devote her life to easing the pain of others. Every week she is at the Bowen Center providing health information, taking blood pressures, assisting senior citizens with medical referrals, and providing numerous other services. She has conducted health care seminars at the New Bethel Shelter, the Women's Survival Center, and the Baldwin Shelter. Dr. Brown is a regular volunteer with the St. Joseph's Parish Nurse Project bringing together spiritual and physical healing in the community.

Currently the president of the Michigan Black Nurses Association, Dr. Brown also participates with the National Black Storytellers, the Red Cross, OLSHA, the NAACP, and the National Association of Black Professional Women. In January, 1998 she was awarded an honorary Ph.D. in Humanities from S.J. Williams School of Religion. In addition, Dr. Brown is the mother of seven children by birth and four adopted children. A member of the Liberty Baptist Church, Dr. Brown has previously received the Foster Parent Award.

Over the forty-one years of their marriage, Irene and Earcy Christmon, Jr. have stood as a shining example of family unity. Their deep commitment to God, to each other, to their children, and their community, has touched numerous lives. Their extensive list of community activities includes, but is not limited to, the Urban League, the Credit Union Board, the Missionary Society, the Usher Board, the Food Committee and The Church of God Executive Board.

Their six children are a living testament to Irene and Earcy's love. They have endowed their children with the same strength and dedication that have been the cornerstones of their own lives. All of the children have assumed leadership roles in their chosen professions. Two of the sons have been entrusted by God to be spiritual leaders.

Mr. Speaker, I ask the House of Representatives to join me today to congratulate Dr. Dorothy Brown and Irene and Earcy Christmon, Jr. individuals being honored by the Lambda Rho Zeta Chapter of Zeta Phi Beta Sorority. They richly deserve the accolades being bestowed upon them.

TRIBUTE TO BRUCE HUOT

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. WELLER. Mr. Speaker, I rise today to honor the work and dedication of Bruce Huot who retired after 34 years of service in Kankakee County Government on June 1, 1998. Bruce was first elected to the Kankakee County Board in 1964. He most recently served as Kankakee County Board Chairman.

Bruce says his most significant accomplishments during his service as Board Chairman include the plans for a non-taxing mass transit district, the establishment of a county hearing officer and county Public Safety Committee, the revision of the procedure for revolving loan funds, the comprehensive mobile home parks study, and the establishment of a new Kankakee County Housing Authority board of commissioners. He also believes the strong teamwork displayed among county municipalities has played an important role in many projects.

Bruce and his wife, Patricia, are the proud parents of three children and the proud grandparents of 7 children. Bruce is the son of Beatrice Huot and the late Marvin Huot. He is a graduate of St. Patrick's High School in Kankakee, Illinois and the University of Notre Dame.

Even while maintaining a busy career, Bruce always gave of himself to many community activities which include the Heart Association, the United Way, the Kiwanis, the Elks, St. Martin of Tours Parish Council, and the University of Notre Dame Alumni Senate. He has also served the county in the capacity of the Charter President of Kankakee County Board of Health, of the Past Chair Kankakee Regional Planning Commission, of the Kankakee County Economic Development Council, Past President of Bishop McNamara High School Board, and the City of Kankakee Planning Commission.

Bruce Huot's commitment and impact on his community is not only deserving of congressional recognition, but should serve as a model for others to follow.

At a time when our nation's leaders are asking the people of this country to make serving their community a core value of citizenship, honoring Bruce Huot is both timely and appropriate.

I urge this body to identify and recognize others in their congressional districts whose actions have so greatly benefited and enlightened America's communities.

50TH ANNIVERSARY OF M.V. PANGILINAN ENTERPRISES, INC.

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. UNDERWOOD. Mr. Speaker, fifty years ago a $5,000 bank loan was employed to finance a tailor shop. This small business venture gave rise to one of the most diversified groups of companies on the island of Guam.

For the last fifty years, M.V. Pangilinan Enterprises has been at the forefront in providing goods and services to the people of Guam and the man behind MVP Enterprises and its success is Marciano "Mark" Vega Pangilinan. Born in the town of Mexico in the Philippine province of Pampanga, Mark first established business contacts on the island of Guam immediately after World War II. Serving as a radioman in a Merchant Marine ship bringing troops back to the U.S. mainland, he got well acquainted with the island's business leaders.

In 1948, he opened a tailor shop which was expanded in 1949 and came to be known as the Agana Men's Apparel Shop. Mark went on to open a restaurant and a furniture shop before his ventures in construction, insurance, retailing, sporting goods, publishing, hardware and car dealerships. Several island businesses distinctly bear his name. Mark's Motors, Mark's Sporting Goods and Mark's insurance together with Ben Franklin Department Store, Ace Hardware and Guam Office Supply are companies that have become landmarks on Guam.

November 9, 1991 was proclaimed by Former Governor Joseph Ada as "Mark V. Pangilinan Day" for all his accomplishments as a pioneering entrepreneur. Prior to this, he had been named "Most Outstanding Filipino in Business" by the Philippine government in 1974 and Guam Business News' "Executive of the Year" in 1987. For his strength keenness of vision, and great achievements in business leadership, he was elected to the Guam Business Hall of Fame on April 30, 1994.

Taking time out of his business ventures, Mark Pangilinan has also devoted vast amounts of personal time and resources to civic activities. He was instrumental in the establishment of the University of Guam and the Guam Memorial Hospital. On different instances, he chaired University of Guam Board of Regents and the Guam Power Authority. He was also the campaign chairman of the Guam Chapter of the American Red Cross, a member of the COMNAVMAR Civilian Advisory Board and the Guam Chamber of Commerce. Aside from being a leader and spokesman for the Guam Filipino community, his humanitarian work have gone a long way in relieving his countrymen in Philippines from the devastations of volcanic eruptions and typhoons.

For his civic works and charitable efforts, he had twice been awarded the Ancient Order of the Chamorri, the highest award the Government of Guam can bestow. He had also been conferred an Honorary Doctor of Laws degree from the University of Guam. His Holiness Pope John Paul II awarded him the Pro-Ecclesia Pontificae for services rendered to the Catholic Church.

For fifty years now, Guam's business and commercial activities have reaped great benefits from the goods and services provided by M.V. Pangilinan Enterprises and most especially from the entrepreneurial spirit of its founder Marciano "Mark" Vega Pangilinan and MVP Enterprises has provided Guam, the island's business community and its people. Congratulations, Mark. I hope that the next fifty years would bring continued success to MVP Enterprises.

TRIBUTE TO DR. DONALD D. WARNER ON HIS RETIREMENT AFTER 23 YEARS AS SUPERINTENDENT OF RED BANK REGIONAL HIGH SCHOOL DISTRICT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PALLONE. Mr. Speaker, on Wednesday, May 27, 1998, Dr. Donald Warner was honored on the occasion of his retirement as Superintendent of the Red Bank, NJ, Regional High School District, after 23 years of service. Dr. Warner's many friends and well-wishers, joined to show their gratitude and admiration at a reception at the Shore Casino in Atlantic Highlands, NJ.

Mr. Speaker, Dr. Warner began his long and distinguished career in education 40 years ago, starting out as a classroom teacher. He earned his Bachelor's Degree at Temple University and his Doctor of Education Degree at the Pennsylvania State University. Over the years, he has received school and community awards too numerous to mention. In his nearly a quarter-century in the Red Bank area, he has taken on significant community and professional responsibilities, serving on various boards of trustees, foundations and task forces in Monmouth County and throughout the State of New Jersey.

A native of Pennsylvania, Dr. Warner now lives in Tinton Falls, NJ, with his wife Mercedes, a teacher in the Tinton Falls District. The Warners' three children have all achieved impressive success—not surprising, given the commitment to hard work and excellence instilled in them by both of their parents.

Mr. Speaker, Dr. Warner's retirement will leave a tremendous void for the Red Bank Regional High School District. But Dr. Warner's tremendous legacy will be felt for years to come, through the admirable example he set for other administrators and teachers, and through the thousands of students who have been inspired by his devotion to education. A scholarship being established in Dr. Warner's honor will further that legacy by providing opportunities for students to expand their educational opportunities for years to come. I wish Dr. Warner * * * on his retirement, and hope that he will continue to contribute his energy, enthusiasm and experience to our community.

A SPECIAL TRIBUTE TO RYAN D. GALLAGHER ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT, NEW YORK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Ryan D. Gallagher. Ryan recently accepted his offer of appointment to attend the United States Military Academy in West Point, New York, and will be joining the Cadet Class of 2002.

Ryan, who is from Sandusky, Ohio, will soon be graduating from Perkins High School, and will begin preparing for one of the most challenging, inspiring, and educational opportunities of his life, his four-year commitment to West Point.

During his time at Perkins High School, Ryan has demonstrated a strong commitment to academics. Ryan has excelled very well in the classroom by attaining a 3.54 grade point average. He is a member of the National Honor Society and attended the Carnegie Mellon University Pre-College Program. Ryan is a National Merit Scholar Semi-Finalist, has been placed in the Who's Who Among American High School Students, and attended the USMA Invitational Academic Workshop.

In addition to his outstanding academic achievements, Ryan has distinguished himself as a fine student-athlete. On the fields of competition, Ryan has competed on the Varsity Cross Country Team and is a four-year letter winner. In addition, Ryan has been a member of the Varsity Track Team, the Varsity "P" Club, and the Perkins High School Marching Band and Pep Band.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to nominate young men and women for appointment to the nation's military academies. I am pleased that Ryan was among those nominated for the West Point Class of 2002. He is an outstanding student and a fine young man. I would urge my colleagues to stand and join me in paying tribute to Ryan Gallagher, and in wishing him well at West Point and in the future.

COMMENDING THE ENVIRONMENTAL EFFORTS OF THE YOUTH OF THE CATHOLIC WORKER HOUSE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. VISCLOSKY. Mr. Speaker, I would like to call your attention to a group of young people from East Chicago, Indiana, who have become environmental activists in recent months organizing and demonstrating to keep Northwest Indiana safe and clean. Pablo Villarreall, Daniel Bustos, Monica Bustos, Jennifer Ruiz, San Juan Guajarvo, Samuel Guajarvo, Franky Gonzalez, Alfredo Alsedo Flores, Michael Jimenez, Diana Dela Rosa, Ester Ramirez, Victoria Ramirez, Sandra Wojak, Evelyn Gamez, Josephine Gamez, Jennie Montantes, Jackie Montantes, Olivia Perez, Alex Perez, Nicole Garcia, Moises Cordon, Erik Cordon, Veronica Bustos, Jose Gonzalez, Vito McCormick, Yara Sota, Tlatsin J'shua, Sindy Santos, Santos Santiago, Olivia Bustos, and Roxanne Bustos have taken it upon themselves to become citizens in the best sense of the word. Unlike the negative stereotype of teenagers that pervades our culture, these real teenagers have been active in helping their community, and helping themselves.

They came together through the Catholic Worker House, where they hold regular meetings each week and engage in different projects—photography, poetry, drama—while establishing relationships with one another and the Bustoses, who supervise their activities. They choose to come to the Catholic Worker House instead of participating in gangs, and, in an area with a high drop-out rate, these young people choose to stay in school. But these young adults aren't just the recipients of community volunteerism. They are volunteers themselves. After hearing from a local environmentalist at the Catholic Worker House, these teens decided to get involved. They have garnered attention from local news agencies and helped to make all of the adults in their community become more aware of their environmental concerns.

The late Mother Teresa aptly described the volunteer spirit, when she said: "There is a tremendous strength that is growing in the world through . . . sharing together, praying together, suffering together, and working together." These young people worked together in the spirit of community, to bring attention to their cause and take on the role of active citizens. As young as they are, these students not only care what happens in their community, they accept the responsibility that goes along with that concern. These students are helping themselves, educating themselves, and using the power they get from these activities to help those around them. Mr. Speaker, these fine young men and women have demonstrated that they are clearly on the path to becoming mature, responsible adults, and I commend them to you.

GOLDEN WEDDING ANNIVERSARY OF MR. AND MRS. WILLIAM TREANOR OF PONTIAC, MICHIGAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to rise today to commemorate a very special anniversary. Mr. and Mrs. William Treanor, of Pontiac, Michigan, will mark their Golden Wedding Anniversary on June 19, 1998. The joyous occasion will be celebrated by family and friends on June 28, 1998 with a mass at St. Perpetua Catholic Church followed by a reception at Indianwood Country Club in Lake Orion, Michigan.

William Lawrence Treanor was born in Lansing, Michigan, served in World War II and graduated from Michigan State University in 1948. Rosella Caroline McIntyre was born in Charlotte, Michigan and graduated from St. Lawrence School of Nursing in 1945. Bill and Rosie were married on June 19, 1948 at St. Thomas Aquinas Catholic Church in Lansing, Michigan. They moved to the Pontiac area in 1949, where Bill worked for Interstate Motor Freight and Yellow Transport and Rosie worked at St. Joseph Mercy Hospital in Pontiac.

In 1950, they started their family which grew to include six children: Kenneth, Donald, Richard, Nancy, Janet and Susan. In 1965, Bill took ownership and operated a franchise of North American Van Lines until 1989 when he retired. Treanor North American Van Lines has continued to be a family business. Bill was an active member of the Jaycee's, Elks and Kiwanis clubs as well as involved with St. Benedict Catholic Church Parish, Boy Scouts and various fundraising activities. Rosie worked part time for pediatricians, Dr. James and Dr. Dinger. She was an active Boy Scout and Girl Scout leader throughout the children's elementary years.

Bill and Rosie have been blessed with ten beautiful grandchildren with whom they are very active. Bill and Rosie have lived in their present home for 39 years. They belong to St. Perpetua Church in Waterford, Michigan and are members of the Waterford Elks Club.

Mr. Speaker, I would like to ask my colleagues in the U.S. House of Representatives to join me in wishing Mr. and Mrs. Treanor many more years of health and happiness. Their dedication to their family and community serves as a shining example to us all.

CONGRATULATIONS TO MICHELLE NGUYEN

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. WELLER. Mr. Speaker, I rise today to honor Miss Michelle Nguyen from Bourbonnais, Illinois. Miss Nguyen is a senior at Bradley-Bourbonnais Community High School and has recently won Second Place in the Veterans of Foreign Wars "Voice of Democracy" broadcast script writing contest.

Michelle was one of 93,000 secondary school students from around the United States who were competing for 56 scholarships which were distributed among 54 national winners. The contest theme for this year was "My Voice in Democracy". Michelle's speech about her family' quest for the American Dream is inspiring and a perfect reminder of how precious our democracy and freedom are.

Mr. Speaker, Michelle will be attending the University of Illinois at Champaign/Urbana next fall. She plans on pursuing a degree in Medicine with the hope of one day becoming a doctor. With her long list of achievements in high school, including Class President, I am sure that Michelle will reach her future goals.

I know I speak for the entire House Mr. Speaker, when I say Congratulations Michelle on winning this award, and good luck with your studies in college.

Mr. Speaker, I insert Michelle's speech for the RECORD so that the whole House can enjoy her inspirational words.

"MY VOICE IN OUR DEMOCRACY"

A voice can easily be compared to a rock that is thrown into the most tranquil pond. The size of the rock is irrelevant because the slightest touch can change the water's surface forever. The ripples that emerge cannot be stopped until they reach the edge of the pond.

22 years ago when my parents immigrated to the United States of America, their dream of having a voice in Democracy began as a tiny pebble. They had abandoned the only home they had ever known, to blend into a nation they had yet to understand. They were only 2 foreign people, yet it was the promise of freedom that fueled their desire to leave a war-torn country. The legacy began with my parents' arrival: a stone of hope had been tossed into the pond.

To be the daughter of immigrants is unique. I am a ripple: a continuation of my parents' voice. Their pebble has carried me only so far and now, I am getting ready to throw in my own rock to continue the cycle. My voice in Democracy speaks with the hope that, someday, there will exist a world where everyone can decide how his or her life will progress.

Democracy allows me, as an individual, to express concerns and beliefs without persecution. Many people do not understand that they have a gift. Their voices are heard in their actions as well as their speech. The worst crime an American can commit against his or her country is to be mute. Voices come in all shapes and sizes just like the stones that are thrown into the pond. A voice in Democracy need not be huge and bellowing to be noticed. Americans forget that ripples start out small and grow.

Democracy is not for spectators: it is an active sport that requires flexibility and at times, even arguments with referees. It is a game for and by the people, and its rules can change to help everyone be a winner. Democracy has the word "demo" in it, meaning I must be an example. I must demonstrate what it means to be an active voice. The responsibility I have is not only to myself but also to my neighbor who can gain inspiration from what some may call my courage.

I speak out on behalf of Democracy daily; my simple message is broadcast through my actions as a student, class vice president, and young adult.

My voice as a student interacts with many people of many nationalities and personalities. We share our aspirations and I have respect for the ideas of fellow classmates. Together, we are the future voices of Democracy. The greatest challenge I face is to learn more about the USA in order to effectively use my creativity to become more involved.

The responsibility of leadership can be a burden, as well as a reward. As class vice president, it is essential for me to realize the consequences of my actions beforehand. Democracy must benefit the majority in order to be successful. My voice in Democracy is not only a representation of myself, but also the needs of many. Remember, a voice should never be used selfishly.

As a young adult, my knowledge of the world is limited. However, I am preparing myself to face my country with a conscious effort to change the things that I can. After all, change starts with me. I cannot account for anyone but myself and have much enthusiasm for the power of my own voice in our Democracy. As I grow older, I hope that cynicism and doubt will not diminish the faith I have in my voice.

In his inaugural speech, John F. Kennedy once said: "Ask not what your country can do for you but what you can do for your country." What exactly does each one of us owe to America? Everyone's task is different but it is evident that people are neglecting their duty to simply voice their opinion. America doesn't exist as a Camelot; nor should we pretend that it does. But an active voice in Democracy can open doors that were once locked. It is only through the participation of all that Democracy can be maintained. It is vital for every American to realize that we have the potential to be the rock that begins the ripple.

RECOGNIZING THE TIRELESS EFFORTS OF THE KIDS FOR CORAL ORGANIZATION

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. UNDERWOOD. Mr. Speaker, I proudly rise to recognize an organization from the island of Guam which has demonstrated its ability to raise community awareness of the importance of our oceans. It is befitting to bring such recognition to this organization, at this time, since the United Nations has dedicated this year to the Oceans of the world.

The Kids for Coral organization, will celebrate its tenth year anniversary in the coming year. The organization's initial membership included only a handful of seventh grade students. Oddly enough, what began as a simple class project blossomed quickly to include all other middle and high school grade levels. The prompt response from other students demonstrates a new generation's willingness to weigh in on issues that lay by the wayside on the agenda of policy makers.

The continued existence of the organization confirms its commitment to raise interest in caring for the coral reefs which surround our tropical island. I am sure that some can argue that that which is closest is sometimes forgotten. This may be the case with Guam's reefs. However, despite the maturation of Kids for Coral's original members, its organization continues to grow and pursue its goals of awareness and preservation. This growth assures that coming generations will work towards preserving Guam's reefs and oceans.

Guam is especially dependent on the ocean for its survival. Surrounded by the Pacific Ocean, anything arriving or leaving the island must do so by air or by sea. The majority of our goods and products, are transported in and out of Guam by sea. Though Guam's trade deficit is a reflection of its location, our evolving exports of; fish and crustaceans, mineral fuels, oils, waxes, agricultural products, tobacco, and beverages rely on world oceans.

Historically, our way of life as well as other island nations, states, territories, and possessions are heavily dependant on a clean and healthy ocean environment. More than four thousand years ago, when the ancestors of the people of Guam inhabited the island, their prime source of nourishment, recreation, and education revolved around the existence of the ocean. This still hold true today, and the role of the ever-changing oceans has expanded.

The people of Guam rely on the oceans not only for their own pleasures but for others as well. Guam boasts a tourism industry totaling 1.4 million visitors annually. They come not only for the sun and fun, but for the surf and sand. It is in our best interest to take positive steps to recognize the value the oceans have to offer. It is to this end that we must continue to bring consciousness to preserving this natural resource.

The means by which Kids for Coral has tried to reach this goal is nearly endless. Ideas, wholly generated by the students, have included design and sale of bumper stickers and t-shirts, beach clean-ups, an annual Save the Reef Week, an art show, and presentations to other students. Kids for Coral has also sponsored a Coral Reef Awareness Conference, where more than 350 middle school students gathered to discuss the preservation of Guam's reefs.

Kids for Coral's local achievements and activities brought them quick attention to island residents. In 1993, their popularity was bolstered by placing first runner-up in the Region IX Presidential Environmental Youth Awards Competition. The following year, their hard work again paid off. International recognition of Kids for Coral, and the Island of Guam, culminated in the bestowment of the United Nations Environmental Program Award, one of only six given to children's groups worldwide. This award recognized their dedication to heighten community awareness of the reefs and the oceans that surround the Island of Guam.

We should all be as diligent in our work to recall the importance of the oceans of the world. The majority of our livelihoods are in some way connected to the water. Transportation, recreation, and sustenance of the world population is an ever connecting bond that begins with our very existence. Once again, during this Year of the oceans, I am proud to recognize the hard work of Kids for Coral.

Lauren Ahillen, Joan Baluyut, Owen Bollinger, James Brenner, Chris Butler, Shirley Chu, Joyleen Co, Cody Cousineau, Barbara Cushing, Christina Del Rosario, Jessica Georgelas, Diwang Gomowad, Tara Gonzalo, Chantal Guedon, Yoo San Ha, Thomas Ham, Tera Hannah, Ronson Ho, Eva Huang, Dana Ione, Jean Jastillan and Seena Kallingal.

Sung Yul Kim, Un Kyun Kim, Priya Kodiyanplakkal, Richard Lee, Alex Leon Guerrero, Chalani Leon Guerrero, Adeoye Mabogunje, Maria Manibusan, Mia McCully, Jaya Medabalmi, Maria Perez, Amanda Peterson, Peter Querubin, Lola Rosario, Pika Rosario, Aman Sobti, Margaret Suda, Saori Tembata, Emi Yen, Quinn Yeomans, Whitney Yuen, Deborah Zee and Advisor: Janette Deagle.

KENNY DESAI, PRESIDENT OF TAK CONSTRUCTION, INC., NOMINATED FOR MINORITY CONSTRUCTION FIRM OF THE YEAR

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PALLONE. Mr. Speaker, Mr. Kirti (Kenny) Desai, President of TAK Construction, Inc., of Clark, NJ, has been nominated by the Newark Minority Business Development Center of the Interracial Council for Business Opportunity, Minority Business Development Agency of the U.S. Department of Commerce, for Minority Construction Firm of the year 1998. It is for me a great honor to pay tribute to TAK Construction, and to its President, Mr. Desai, a resident of Livingston, NJ.

Last December, TAK Construction, Inc., celebrated its 10th anniversary. Mr. Desai is the driving force behind the company's success. He is a graduate of the M.S. University of Baroda, India, where he received a Bachelor's Degree in Civil Engineering. More recently, he earned his Masters Degree in Civil Engineering from Stevens Institute of Technology in Hoboken, NJ. Prior to founding TAK in 1987, Mr. Desai was a project manager with a large construction company through which he achieved a broad background in various phases of the construction industry. During the past ten and one-half years, TAK has completed more than 150 projects valued at more than $100 million. The company has demonstrated steady annual growth, taking great pride in its commitment to using new materials, practices and innovation, and working to stay on-time and on-budget.

Kenny Desai clearly takes very seriously the company's slogan of "Building for the 21st Century." Despite his significant investment of time in his business, Mr. Desai still manages to find time for a wide range of professional and community affiliations. He is a partner in the Port Authority of New York and New Jersey's Regional Alliance, and a Member of the New Jersey Chamber of Commerce, as well as local Chambers. He serves as Secretary of the Rotary Club International and is an Honorary Special Deputy Sheriff of Hudson County, NJ. Deeply devoted to his Indian heritage, Mr. Desai is Director and a founding member of the Indo-American Cultural Society of North America, a Trustee of "VRAJ" Religion Institute and Gandhi Mandir, and founding member of Kapol Samaj of North America and Vice President of Vegetarian Vision Inc.

Kenny Desai is a true American success story. As a minority business owner, he has had to overcome significant obstacles on his path to success. In so doing, he stands out as a fine role model for our young people. I wish him and the employees of TAK Construction continued success, and congratulate Mr. Desai on this richly deserved honor.

DECLINE OF THE ASPEN

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, if chaos befalls the Forest Service, and politicians don't care to hear, should Westerners persist in making noise? With apologies to Bishop Berkeley, the answer is a resounding "yes!" That is, at least according to Colorado's Club 20. Celebrating its 45th anniversary, Club 20 is an organization of counties, communities, businesses, conservationists, individuals, and associations cast throughout Colorado's 20 western counties. The group was created by Western Slope business leaders to speak out on issues affecting rural economies and life in Colorado's mountain regions.

The U.S. Forest Service's performance is the subject of a just-released special report, produced by Club 20's Research Foundation. The missive is a must-read for anyone seriously concerned about maintaining a vibrant forest system and healthy environment in the Rocky Mountain West.

The report should also serve as a bright wake-up call to forestry professionals and lawmakers, but most of all to Forest Service higher-ups in Washington, DC.

Entitled "Decline of the Aspen," the report documents the jeopardy Colorado's forests face due to years of mismanagement by the U.S. Forest Service. Citing the serious shortage of accurate scientific data on issues that affect the West, the foundation points out how the Forest Service has strayed from managing for multiple use and sustained yield.

One casualty of poor management is Colorado's aspen inventory. Aspen stands have declined at an alarming rate, causing researchers to predict most of Colorado's aspen trees will disappear within the next 40 to 50 years.

Maintaining and restoring aspen is of paramount importance to Colorado. Not only do the trees help entice $6 billion worth of tourists each year, but aspen communities sustain tremendously high biodiversity covering thousands of acres across the Western Slope.

The aspen, however, are just one indication of the harmful effect of poor planning and misdirected leadership within the Forest Service. In turning away from its "land-of-many-uses" philosophy, the Forest Service has engaged a policy of declining resource uses. Such a policy threatens the health of our public lands and the vitality of our western communities.

There has been an unprecedented increase in the annual net growth of national forests since the turn of the century. According to the report, without responsible harvesting, thinning or prescribed burns, timber inventory accumulates to the point where healthy growth is impeded, and stands become susceptible to wildfires, beetle infestations and disease.

The Club 20 report concludes that the Forest Service has suffered from a lack of direction, if not a lack of a clear mission. Political pressure, rather than science-based objectives for healthy, diverse forests, often motivates management decisions or at best favors poor ones by default.

Congress would do well to consider the findings of Club 20. Recent hearings by the House Resources Committee have focused on the appalling performance and financial audits of the Forest Service by the General Accounting Office (GAO). Club 20 clearly spells out how the GAO-exposed Forest Service deficiencies at the national level are directly threatening life in the West for communities and ecosystems.

Though long on criticism of federal agents, Club 20's report is replete with constructive proposals and thoughtful solutions. The work thoroughly documents the need for an open budget process, private timber management strategies, sound fire policies, professional staffing, and aggressive state leadership in getting federal forest management back on track.

Moreover, Club 20 correctly asserts the federal government's moral obligation as steward to vast public landscapes. "Federal ownership should imply federal responsibility to proper management."

Indeed, with 75 percent of Western Colorado under federal ownership, mismanagement is intolerable to the people of the region whose livelihood and quality of life depend upon these public resources. From a forest health perspective, the environment and the economy are inextricably linked.

Club 20 should be commended for its balanced analysis, and for extending its hand of leadership and partnership in restoring the health of Western forests. In fact, the very future of the Forest Service may well be defined by its ability to accept the offer and thereby resume its historic mission of managing the forests for the benefit of forests, and for us all.

HONORING AUBREY AND SYLVIA FARB ON THEIR 50TH ANNIVERSARY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BENTSEN. Mr. Speaker, I rise to honor Aubrey and Sylvia Farb of Houston, Texas, as they celebrate their 50th anniversary on May 26, 1998. Throughout their lives, Aubrey and Sylvia have provided tremendous examples of public service, contributing unselfishly to numerous causes while raising a fine family.

Originally from Galveston, Aubrey Farb moved to Houston to attend the Rice Institute, known today as Rice University. Because of his academic record, he was selected during the war to attend Japanese language school and become a Japanese interrogation officer. When he returned, he obtained his Master's degree from Columbia University.

Sylvia Farb attended The University of Texas at Austin and graduated shortly before moving back to Houston. In July 1947, Aubrey and Sylvia were invited by mutual friends to play bridge, a hobby they both enjoy. In Aubrey's words, "they have been playing bridge ever since." In fact, they play weekly and have become Grandmasters.

In May 1948, Aubrey and Sylvia were married in Houston, where they have lived during their entire 50 years of marriage. Aubrey worked as a CPA and Sylvia was a stay-at-home mother; both also volunteered their time to help others. The Farbs have been active in politics, the arts, and with the homeless. Their contributions to the community are many. Additionally, they started the Aubrey and Sylvia Community Service Fund at Congregation Emanu El to help with the synagogue's charitable projects.

Over the years, Aubrey and Sylvia have instilled their values and generosity in their children and grandchildren. The Farbs have four daughters, Helene, Roberta, Susan, and Loretta and three "sons by choice", Robert Scolnick, Douglas Colton, and David Morris, and six grandchildren—Leslie Scolnick and her husband Marc, Jonathan Scolnick, Evan and Julia Colton, and Hannah and Shara Morris.

Mr. Speaker, I am honored to recognize Aubrey and Sylvia Farb on the occasion of their 50th wedding anniversary and commend them on a lifetime of achievement. Their commitment not only to one another, but to others as well, is an example for all of us. May the coming years bring good health, happiness, and time to enjoy their children and grandchildren. On this joyous occasion, I am pleased to join their family, friends, and community in saying congratulations and thank you.

A TRIBUTE TO MICHAEL RICHMOND 1998 OAK CREEK CITIZEN OF THE YEAR

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. KLECZKA. Mr. Speaker, I rise today to honor a truly outstanding resident of my congressional district, Mr. Michael Richmond, whose years of dedicated service to his community and his country have been recognized as he has been named 1998 Oak Creek Citizen of the Year.

Mr. Richmond has made a positive impact on the lives of hundreds of Oak Creek, Wisconsin youth, first as a classroom teacher from 1974 to 1985, then as Athletic Director for the Oak Creek-Franklin School District from 1985 to the present. He has worked countless hours coaching boys and girls in track and cross country, as well as acting as the boys swimming and basketball coach. In 1984, he was named District 7 Cross Country Coach of the Year. Mike has also served as a volunteer coach for a number of basketball camps and tournament teams for the school district.

In addition to the many significant contributions Mike Richmond has made during his tenure as Oak Creek Athletic Director, he also served his country for 21 years as a member of the 84th Division of the U.S. Army Reserves, and was named Non-Commissioned Officer of the Year from 1983–1986. Mike's dedication also extends into the community of Oak Creek, where he has been involved in a number of activities, including community run/walks to raise funds for the community center, and city cleanup activities.

Mr. Richmond is an active member of the Oak Creek Education Association, having served for 24 years as chairperson of Public Relations, and is also a member of the Wisconsin Basketball Association, the Wisconsin Cross Country Coaches Association, the WADA National Interscholastic Athletic Administrators Association, and St. James Catholic Church.

Mike is a caring and devoted educator and an excellent role model for Oak Creek youth. He is also a devoted family man who has been married nearly 28 years to his wife, Judy, and has been blessed with three children, Chad, Mark and Beth. Please join me in honoring Mike for all he has done to help make the City of Oak Creek such a special place to live and work.

A heartfelt congratulations to Michael Richmond, 1998 Oak Creek Citizen of the Year!

SPEAKER GINGRICH AND DEMOCRATIC LEADER GEPHARDT SHOW BIPARTISAN CONGRESSIONAL SUPPORT FOR ISRAEL ON THE 50TH ANNIVERSARY OF THE FOUNDING OF THE MODERN STATE OF ISRAEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. LANTOS. Mr. Speaker, last week a bipartisan congressional delegation led by our colleagues, Speaker of the House NEWT GINGRICH and Democratic Leader RICHARD A. GEPHARDT, visited Israel to celebrate 50 years of friendly relations between the Congress of the United States and the State of Israel.

This was an extraordinary occasion, Mr. Speaker. The visiting Members of Congress spent many hours in serious and substantive meetings with the President, the Prime Minister, leading members of the Israeli Cabinet, and our counterparts who serve in the Israeli Knesset across the whole political spectrum.

During this visit, Mr. Speaker, significant remarks were made on a number of occasions by the leaders of the U.S. Congressional delegation. Two speeches on two separate occasions, however, stand out in my mind as being particularly important. The first was the address to the Knesset by our Speaker of the House NEWT GINGRICH on May 26. The second was the speech by Democratic Leader RICHARD A. GEPHARDT at the Gala Dinner at the Israeli Knesset Honoring Fifty Years of Congressional-Israeli Friendship on the evening of May 25.

Mr. Speaker, I include these two addresses to be included in the RECORD, and I urge my colleagues to consider thoughtfully these two statements on the importance of the United States relationship with Israel as we celebrate the 50th anniversary of the founding of the modern state of Israel.

ADDRESS OF SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES NEWT GINGRICH TO THE ISRAELI KNESSET—MAY 26, 1998

Speaker Dan Tichon and Mrs. Tichon, ministers and deputy ministers of the government of Israel, members of the Knesset, former Knesset, speaker Shlomo Hillel, former members of the Knesset my congressional colleagues, distinguished guests and friends—and as I look out, I see friends, many of whom go back for many years.

It is a great honor to stand before you today in the Knesset, the one truly democratic parliament in the entire Middle East. For 50 years, the Knesset has led a nation that has gathered in people from over a 100 lands, survived the perils of many wars and built a thriving nation out of the desert.

As we celebrate the remarkable achievements of the last 50 years, let me simply say "Kol ha kavod"—to you.

Democratic Leader Dick Gephardt and I have joined with the largest bipartisan gathering of congressmen and senators ever to visit Jerusalem. We are here to celebrate the 50th anniversary of Israel's rebirth as a modern state. We commemorate 50 years of a close and cooperative relationship between our two countries and our two peoples.

In a sense, however, we are not only celebrating the last 50 years. The American and Israeli people are bound together by 3,000 years of a shared and ancient tradition. We are bound together by a common spiritual experience. It is a bond that is felt most powerfully here in this city. As we overlook Jerusalem, and look at the sights that touched the lives of Abraham, David and Christ, we understand the depth of a relationship that is far more than shared geo-political interest.

We are bound together morally. Our two countries are committed to freedom, democracy, the rule of law and individual rights.

We are bound together by pure friendship. It has been a privilege for me to return to Israel and spend time with our leaders, some of whom I've known for almost 20 years for Marianne, it has been a chance to see friends she worked with on the Israeli free trade zone issues.

A member of our delegation, Congressman Tom Lantos, a survivor of the Holocaust, first visited Israel in 1956. And this is his 57th trip to visit Israel. Two key chairmen in our delegation, Bob Livingston and Ben Gilman, have coupled their leadership in Congress with a deep understanding and love for the land and people of Israel. Another member, Congressman Henry Waxman, returns to Israel often to visit his daughter, son-in-law and grandchildren who live here.

The ties that bind America to Israel are greater than the economic and security interest that our nations share. We are two nations grown from a common source—both forged by the courage and imagination of pioneers, and both expressing in our founding documents our ultimate reliance on divine providence.

As we celebrate with you, we remember together the courage of David who established Jerusalem 3,000 years ago as the political and spiritual capital of the Jewish people. We commemorated that event the last time Marianne and I saw Prime Minister Rabin alive at an event in our Capitol, in the rotunda, to celebrate the 3,000th anniversary of Jerusalem. Prime Minister Rabin spoke with deep emotion of his own ties of Jerusalem, the city where he was born and the city he fought to defend throughout this life. We in Congress stood with him then and stand with you today in recognizing Jerusalem as the united and eternal capital of Israel

We remember the commitment of the early Zionists who convened the first Zionist congress a century ago, lived through the horror of the Holocaust, and finally witnessed the birth of a Jewish homeland in Eretz Israel.

We remember the story of the last 50 years, of a state that has survived wars and countless acts of terrorism to maintain its place among the nations.

We remember with you because we believe that the anniversary of Israel's rebirth is not just a celebration for Israel alone. It is a celebration for all who are inspired by the faith that was born in this land. It is a celebration for all who see in Israel an outpost in the struggle for freedom across the globe. And it is a celebration for all who see in the fundamental relationship between our two countries a remarkable history and a great hope.

For we are here to celebrate more than the first 50 years. In a sense, we're here to celebrate the first 3,000 years.

And we're not just here to look ahead with you for the next 50 years. We dream of how we—and our children—can build a future that holds more than the hope for mere survival—a future that can lead to a lasting prosperity, an enduring peace and a truly free land.

Such a future—one marked by peace, prosperity and freedom—must be built upon an unending commitment to security for those who seek peace.

One of our greatest presidents, Ronald Reagan, had a simple strategy to expand freedom across the globe. It came down to three words: peace through strength. He knew that strength was the key to security and that security was essential to peace. He knew that a lasting peace required a durable security.

This truth was reinforced for me in a personal and powerful way during this trip to Israel. On Sunday, we visited the Weizmann Institute where we met with some of your most talented scientists to learn about the technological breakthroughs that will shape our mutual future. As we were leaving, I spoke to Manuela Dviri, whose son Yoni was killed in Lebanon on February 26 of this year. A 20-year-old staff sergeant from Kfar Saba, he served in an intelligence unit and died when a mortar round struck his position. Manuela had, in Abraham Lincoln's words, "laid the most costly sacrifice on the altar of freedom." She had lost her son. She still has another son and a daughter and a granddaughter. Yet she said to me—unequivocally—that she did not believe peace could come without security and this was her formula: "You should not need two words," she said, "Peace has within it the word security. When you say peace, it must include security or it has no meaning." While this tragedy has deprived Manuela of Yoni, I know the deepest hope that she has for her granddaughter, Gali, is a future of peace, freedom and security.

We join Manuela Dviri and the rest of the Israeli people in their aspirations for peace. No one can understand the depth of that aspiration unless they have lived so long without peace. And no one can hope to achieve true peace unless it is always coupled with true security. The peace process must ensure that Israel will retain the ability to protect its own citizens from terrorism. It must ensure that Israel maintains secure borders with its neighbors. Without establishing those realities, it cannot succeed.

For this reason, we support the Clinton administration when it says that Israel alone must determine its security needs. We cannot allow non-Israelis to substitute their judgment for the generals that Israel has trusted with its security. If Israel is to take risks for peace, as she has often done in the past, it must be risks she accepts, not risks that are imposed upon her.

While the peace process is designed to provide security within Israel and on her borders, perhaps the greatest threat is beyond the peace process. Israel and the United States now face a growing threat beyond the horizon—weapons of mass destruction in the hands of outlaw dictatorships.

Through our victory in the Cold War, the United States and its allies defeated Soviet Communism. In the subsequent years, however, rogue regimes in countries like Iraq, Iran, North Korea and Libya emerged from the shadows of the vanishing Soviet empire. In the hands of these dictatorships, weapons of mass destruction and the means to deliver them have become a dangerous threat to Israel, to the United States and to our allies.

Like few others on the planet, Israelis know the real palpable threat from dictatorships that are methodically developing these weapons and delivery technologies. In 1991, 28 Iraqi Scud missiles rained down on Israel, inflicting casualties and portending Israel's vulnerability. We, too, know the consequences of these weapons. Thirty-eight young Americans were killed when an Iraqi Scud struck their barracks in Dhahran.

Despite the partial effectiveness of Patriot missiles, at times our only defense was the inaccuracy of the Scuds themselves. In our review of the Gulf War, we discovered that not one Scud or Scud launcher was confirmed as destroyed on the ground in Iraq despite a great effort to do so.

Since 1991, rogue dictatorships have relentlessly worked to improve both their weapons of mass destruction and their delivery systems. Nevertheless, in some quarters, there is a breathtaking avoidance of what these facts imply. If dictatorships work while democracies talk, a catastrophe will become inevitable. For democracies to survive and dictatorships to fail, we must establish a vision of a secure democracy and we must implement three parallel strategies to achieve that vision. Our success must be built on the strategies of containment, defense and replacement.

First, we must put unrelenting pressure on anyone assisting these outlaw dictatorships with their weapons programs. We cannot have normal relations with governments, either tolerating or encouraging assistance to these dictatorships, whether the governments are active participants or acquiescent partners.

Due to Russian assistance, Iran will reportedly be able to manufacture its own medium-range ballistic missiles by the end of this year, capable of striking Israel and parts of Europe.

Russia has also assisted Iraq with its own weapons program. It is time for our patience with the Russian Government to come to an end.

It should be clearly communicated that Russia's relationship with the United States and Israel—and other nations of the West—will suffer if its actions do not match its commitments. The same message should be expressed to others, including China, who assist these countries in their nuclear, chemical, biological and missile programs. We have a range of policy instruments at our disposal, including diplomatic and economic levers, and we should be prepared to use them.

The United States must make clear that stopping Iraq and Iran from acquiring weapons of mass destruction is its most intense goal. And we should organize our allies to jointly prevent these dictatorships from acquiring weapons of terror.

Second, we cannot rely solely on containment to protect us from rogue dictatorships developing these capabilities. As these countries develop more and more accurate guidance systems for their missiles, with increasingly virulent biological and chemical warheads, it will become even more urgent to develop effective defenses against these systems.

In the United States today, we do not have the military capability to stop even one theater or intercontinental ballistic missile from reaching its target. Our senior military officers would be reduced to scanning the horizon like the rest of us, watching for the missile that could destroy our city, our family, our home. We are totally vulnerable. But we are told that a 25-year-old treaty with a nonexistent entity—the Soviet Union—prevents us from responding to this danger.

Israel, not bounded by an outmoded dogma, is taking steps to develop missile defense, and we're assisting in those efforts. We have joined the Israeli Government in the Arrow Ballistic Missile Defense Initiative to protect your citizens from this very real threat. The Arrow program is a tribute to the ingenuity and determination of the people of Israel to forge an effective defense for your homeland. The United States must aggressively develop both theater and global missile defenses to complement and reinforce the protection Arrow will provide here in Israel.

Containment and defense provide interim security, but they cannot by themselves guarantee success. As long as individual dictators or regimes based on hatred work to develop terror weapons, all Democratic societies will be threatened with catastrophe. A single nuclear, chemical or biological device in one of our great cities would create a tragedy of unthinkable proportions.

Our third strategy must be to pre-empt catastrophe by insisting that dictatorships be replaced with democracies. Clearly, the free world has the capacity to liberate the people of Iraq. Clearly, the free world has the resources to encourage the people of Iran to complete the process of change which hopefully began with the election of President Khatemi.

We need the will, the courage and the determination to work together to replace dictatorships seeking weapons of terror with democracies seeking friendship and economic prosperity.

This vision of democratic success and the failure of dictatorships will require the same level of courage and commitment that in World War II defeated Nazi Germany, Fascist Italy and imperial Japan. It will require the unrelenting persistence that for 45 years methodically contained; defended against; and in concert with the Russian and other captive peoples, ultimately replaced a Communist dictatorship with fledgling democracies. Those democracies, while still struggling, have advanced freedom dramatically from the police state they replaced.

Free peoples who've faced down and defeated these dangers should see today's dangerous but fragile dictatorships for what they are: Our opportunities to expand freedom.

Sustaining security and establishing freedom will lead not only to peace, but also to economic prosperity. If we achieve peace through security in this region, the economies will flourish. They will flourish, first, because open borders and free trade produce wealth. No one should know this better than the Palestinians. When acts of terror force Israel to seal its border, it is the Palestinians who suffer most. They lose access to the strong Israeli economy, and 100,000 Palestinians are cut off from their jobs. When regional tensions chokes off commerce, it is Israel's neighbors who suffer most. Open borders and free trade allow others to share in Israel's economic growth.

In addition, the region's economies will flourish as broad cooperation solves the most pressing problems in the next 50 years. Nowhere is that cooperation more vital than in dealing with the shortage in the region's most precious resource, water. Water has always been a central security concern in this land. Hezekiah enhanced Jerusalem's security dramatically when he protected the Gihon spring, his water source, by extending the walls of the city. Today, water is an equally critical security concern with the future of aquifers like the Yarkon as a principal issue in the peace process.

Right now, the United States gives incremental assistance to manage the problem. It has provided hundreds of millions of dollars to the Palestinians, primarily to tap new sources of water and manage the existing ones. In addition, it has assisted other countries in the region by providing them with Israeli expertise on things like drop irrigation and water recycling. Each of these efforts does assist countries that have a large and growing water deficit. They ultimately have a marginal impact, however. Our challenge for the next 50 years is to find the strategic solution to the shortage of water in the region. We must do more than manage an ever-scarcer resource. We must support the scientific and engineering advances that will erase the shortage of water forever.

Israel, the country that caused the desert to bloom, must lead this effort. From the cisterns of Massada to the drip irrigation of today, Israel has learned how to preserve a scarce resource. Today, it is the world's leader on those questions. In the future, Israel should become the world leader on expanding the supply of water. It has both the regional need and the human capital to lower the cost of desalinization and end the shortage of water for the region. The United States has already invested in sharing Israeli expertise with the region, learning to manage a scarce resource. For the future, leadership demands that we do more than simply manage the current options. We, the United States, must invest with Israel to overwhelm the shortage of water with research that will provide fresh water from an abundant source—the oceans that cover most of our planet.

Our joint efforts for the future are built on the close relationship between our two countries. This relationship has been fostered in a sustained way by the United States Congress. The strong personal bond that members of Congress feel toward Israel has led to consistent support for the state, reaching back to congressional resolutions as early as 1922 that supported a Jewish homeland in Palestine. Congress approved its first package of aid to Israel—$65 million—in 1951. Congress pressed to maintain Israel's qualitative military edge. It provided emergency military assistance during the Gulf War. Congress approved $10 billion in housing loan guarantees in order to absorb the flood of Jewish refugees from the former Soviet Union and Ethiopia. It is Congress that enacted legislation in 1955 that requires our Government to move its Embassy to Jerusalem, finally recognizing the fact that Jerusalem has been Israel's capital for the last 50 years.

As speaker of the United States House, I want to initiate a far more direct relationship between the Knesset and the Congress. Today, Speaker Tichon and I are inaugurating a new U.S.-Israel interparliamentary initiative on strategic cooperation to be pursued by Members from the U.S. Congress and Knesset. This effort was conceived by Chairman Uzi Landau of the Knesset's Foreign and Defense Affairs Committee, and Senator Jon Kyl of the U.S. Congress. The initiative will focus on security issues, particularly the crucial question of missile defense. It offers an excellent starting point for broadening and deepening the interaction between the Congress and the Knesset.

The relationship we are establishing between Congress and the Knesset will not be unique. As democracy spreads across the region, as it inevitably will, we should work together to broaden the interaction with other democratic parliaments.

As we celebrate Israel's 50th anniversary, we honor those, both American and Israeli, whose commitment to security and freedom ensured Israel's survival. Today we must draw inspiration for their example.

And let me just close by sharing with you—we've had a wonderful several days. We just had a meeting with your Foreign and Defense Committee that was very direct and very candid on both sides—not quite up to the Knesset standard of bluntness, but we're trying to learn.

I just want to share with you for one brief moment the magic that you represent. One hundred years ago, this was Ottoman, Turkish land; Russia was czarist; Germany was imperial; China had not yet had the revolution that ended the Confucian domination and the Manchu was still there; Japan was Imperial in every sense; and democracy was a strange idea in only a few countries. One hundred years later, we're gaining. It's painful. It costs lives. We make big mistakes. If you go to the Yad Vashem, you're reminded with heart-rending clarity of the cost of being wrong.

And yet, in America, in Israel, in Europe, in more and more of Asia, in Russia, day by day, this thing that we jointly represent—elect people to speak for you, put them in one room and make them fight it out—this thing is slowly spreading across the planet.

I am convinced from our trip here that Israeli democracy has never been more vibrant. It's never had a greater range of potential leaders pushing, shoving, arguing. It's never wrestled more passionately with the future of Israel and its relation with its neighbors.

And as an American, I can tell you how much we gained from these days; how stronger we will going home; how much more grateful that you here in the city of David continue to stand for freedom; and how much we want to reach out to work with each and every one of you to make sure that 50 years and 3,000 years from now freedom exists in this land.

Thank you for allowing us to visit.

STATEMENT OF HOUSE DEMOCRATIC LEADER RICHARD A. GEPHARDT AT THE GALA DINNER AT THE ISRAELI KNESSET HONORING 50 YEARS OF CONGRESSIONAL—ISRAEL RELATIONSHIP, MAY 25, 1998

I am honored to join you this evening in celebrating the 50th anniversary of the founding of the modern state of Israel.

The twentieth century has been marked by the worst cruelty and barbarity the Jewish people have suffered in this long history. Born after the Holocaust, this nation was envisioned by Claim Weizmann as "a resting-place in this terrible world." But it has become far more than that—serving as a beacon of justice, freedom, and hope for Jews of all nationalities.

Your country's democracy and its vibrant economic, cultural, and intellectual life have survived and prospered through nearly half a century of life under a state of war. Served as a source of pride for world Jewry, especially in America, and as a model for many nations.

Despite facing great adversity and hostility, you have been steadfast in your commitment to democracy. In fact, I am proud to stand here in the citadel of democracy in the Middle East.

In some ways, this is the greatest deliberative body in the world—few other assemblies have had the courage to carry on free and open democratic debate while facing so many external threats.

You have had the courage to disagree amongst yourselves. And you have always been united in trying to achieve peace and security in the region. Your dedication to the pursuit of peace in the face of constant threats of war and terrorism—across ideology and across the decades—from David Ben Curion and Chaim Weizmann to Menachem Begin, through Yitzhak Rabin to Binyamin Netanyahu—has garnered admiration and respect from millions around the world.

The American people's affinity and respect for the people of Israel is based on the pioneering spirit which both our people share. This has formed the core of the special bond between our two countries. And this is why the U.S.-Israel relationship is one of the strongest bilateral relationships in the world.

The U.S.-Israel relationship is also a tribute to the American Jewish community, many of whom have worked tirelessly over the years to keep our nation's leaders focused on the importance of this relationship, and some of whom are here tonight.

In fact, the American-Israeli relationship began in part as a result of the efforts of one American Jew who had a very influential friend in the White House.

In his memoirs, Harry Truman described an important moment in the development of his conviction about the creation of the state of Israel. His long-time friend Eddie Jacobsen urged Truman to meet with Dr. Weizmann.

Truman had been putting off the meeting, but at Jacobsen's urging, he relented. According to Truman:

"Dr. Weizmann came on March 18, and we talked for almost three quarters of an hour. He talked about the possibilities of development in Palestine, about the scientific work that he and his assistants had done that would someday be translated into industrial activity in the Jewish state that he envisaged.

"He spoke of the need for land if the future immigrants were to be cared for, and he impressed on me the importance of the Negev area in the south to any future Jewish state.

"Dr. Weizmann was a man of remarkable achievements and personality. His life had been dedicated to two ideals, that of science and that of the Zionist movement . . . He had known many disappointments and had grown patient and wise in them."

At this same time, the U.S. State Department attempted to have President Truman keep the territory under United Nations trusteeship rather than recognize a new Jewish state. George Marshall threatened to quit the Cabinet if Truman were to do this. George Kennan, one of America's most respected foreign policy experts, wrote to Truman:

"Ultimately the U.S. might have to support the Jewish authorities by the use of naval units and military forces . . . It is improbable that the Jewish state could survive over any considerable period of time in the face of the combined assistance which would be forthcoming for the Arabs in Palestine from the Arab States, and in lesser measure from their Moslem neighbors."

I would also note that Truman's approval rating at the time was 36 percent, and an election was looming that November. But despite all this, eleven minutes after Israeli leaders declared the existence of their new state, President Truman took a momentous step in recognizing Israel's security.

So from the beginning, it was in part through the efforts of Jewish-Americans that the relationship was formed and continually strengthened. Every person here tonight should be proud of their work to build on this partnership which has benefitted both the United States and Israel. And your efforts must continue so our children can stand here fifty years from tonight and celebrate once again.

President Truman wrote a letter to Dr. Weizmann six months after the founding of the Israeli state, and its words ring as true today as in 1948. The letter read:

"I want to tell you how happy and impressed I have been at the remarkable progress made by the new State of Israel. What you have received at the hands of the world has been far less than was your due. But you have more than made the most of what you have received, and I admire you for it."

As a fellow Missourian, I can do no better on this occasion than to simply restate to you and the people of Israel Harry Truman's words: "You have more than made the most of what you have received, and I admire you for it." But with a half-century of hindsight that President Truman did not have, I am confident that the best is yet to come for the State of Israel.

RECOGNIZING BETHLEHEM TOWNSHIP ON ITS 200TH ANNIVERSARY

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PAPPAS. Mr. Speaker, it is my distinct pleasure to send congratulations and best wishes to the citizens of the Bethlehem Township as they commemorate the 200th anniversary of the founding of their community. It is important that we recognize the magnitude of this anniversary and the events that have marked the history of this great township.

This is truly a day in which the citizens of Bethlehem can both rejoice and reflect upon. The township has endured many difficult times in its 200 years and has persevered through them all. This is a time to celebrate the growth and achievements of the township and the efforts of all those who have paved its path to success. It is a time to remember the sacrifices of the good men and women, past and present, who helped to make Bethlehem what it is today.

Mr. Speaker, on June 6, the township will celebrate its Founder's Day, a day that will feature parades, a picnic, and a ceremony to honor its former mayors and other important residents who have made significant contributions. This is a time to remember all those who have made Bethlehem the prospering community that it is today. The parade is being hailed as a tribute to all citizens of the community. All attendees are encouraged to participate in the festivities as to truly symbolize the spirit of community in this great township.

Through both the remembrance of its history and the celebration of its present, this day promises to be a very special one. In the years to come, I am confident that Bethlehem Township will continue to build on its established foundations and will continue to enjoy the success that it has come to know.

I congratulate Mayor Walter Baumgarten and all of the township's citizens on this great honor. I am proud to have the township in my district.

IN HONOR OF ROBERT L. NOREM

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. CONDIT. Mr. Speaker, I rise today to pay honor to the retirement of Robert L. Norem after 30 years of service in probation and corrections with Stanislaus County in California's great Central Valley. Bob has served as the Chief Probation Officer with Stanislaus County Probation since March 30, 1985.

As a friend of mine, I can attest to Bob's commitment and dedication to those he has served. That service cannot go unnoticed. He has worked tirelessly to provide leadership to Stanislaus County and its residents. Bob has the vision to see the importance of the role of probation in our communities and in the future.

While many talk about what could be done, or perhaps what should be done, Bob is the sort of man who rolls up his sleeves and gets the job done. I consider it an honor to call him my friend.

Mr. Speaker, it is indeed a privilege to honor Bob and commend him. I ask that my colleagues in the House of Representatives rise and join me in congratulating Bob Norem on a job well done and in honoring him on his retirement.

MOURNING LOSS OF AIDS ACTIVIST STEVE MICHAEL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Ms. NORTON. Mr. Speaker, tomorrow, we in the District and many others around the country will mourn the passing of valiant AIDS activist Steve Michael, who died May 25th at the age of 42. As the founder of ACT UP-Washington and a ceaseless campaigner on behalf of men and women suffering from HIV and AIDS, Steve made an indelible mark on our nation's fight against this disease. We in the District are fortunate that Steve took as his own our fight for full democracy as well.

Steve arrived in Washington from Seattle in 1993, pressuring the Clinton administration on

AIDS funding and on the rights of homosexuals. Steve's political career, however, was not limited to activism; he proved to be a staunch advocate of Home Rule, a frequent participant in the local and national political process, and finally a candidate for the District of Columbia City Council. His service on the DC HIV Planning Council as chair of the Fiscal Oversight Committee will not be forgotten by the citizens of Washington.

Steve's untimely death highlights the need for continuing research and funding as we work to find a cure for the scourge of AIDS. As the Washington Times noted, Steve pushed into the AIDS debate with "incredible energy," and his confrontational style broadened the health dialogue beyond the traditional corridors of power.

Steve Michael came to Washington as an angry young man. Until the end, he was angry enough to fight hard for the lives of others and then for his own life. In his activism over the years, Steve mellowed enough to develop a relationship with some public officials that became friendship. I count myself among those friends. I will think first and foremost of Steve this coming Sunday when I march in the annual Capital Pride parade for freedom from all forms of discrimination, including the homophobia that is still reflected in our laws. I will honor Steve's friendship, not with memories alone but with a continuing resolve to continue the fight against AIDS and HIV, against homophobia and for life.

BLUE RIBBON SCHOOLS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. STOKES. Mr. Speaker, I have great pride in standing before you today to announce that Whitney M. Young Middle School in my Eleventh Congressional District has been awarded the Blue Ribbon School Award. This prestigious award was given to 166 secondary schools this year, 14 of which are in Ohio. The Blue Ribbon School award recognizes schools that have strong leadership, up-to-date curriculum and instruction, provide challenges to the students, high quality teaching and produces a safe environment that is conducive to learning. Other criteria include parent and community involvement, clear vision and mission shared by the entire school, and evidence that it helps all its students achieve the highest standard possible and share these standards and practices with other schools. These schools must also integrate these practices while meeting local, state, and national goals.

The schools are judged on these major requirements by a distinguished panel of some 100 public and private school educators, college and university staff, state and local government officials, school board members, parents, the education press, medical professionals, and business representatives. Whitney M. Young Middle School passed this selection criteria and the necessary on site visits in order to be recognized for the innovative work it is accomplishing through the education process.

Whitney M. Young Middle School is located in an urban environment with a 75% minority student body. A major portion of the school's success is having a faculty that is willing to go that extra mile for their students by ensuring a proper and challenging curriculum is available. Teachers are not only available for extra time with students but with parents as well for conferences and team meetings. Many of the strategic approaches that are initiated at Whitney Young are teacher implemented and originated.

Whitney Young also recognizes the efforts of it's student body by awarding achievement on a regular basis. Students are given the opportunity for a wide range of cultural activities based upon their academic performance. The Cleveland metropolitan area provides the middle school with a diverse variety of events for the students to attend. Corporate sponsors are involved in Whitney Young's phenomenal learning process as well, by each year sponsoring a special location for the National Junior Honor Society inductions.

Mr. Speaker, schools are the institutions that equip our young people with the necessary tools for dealing with the challenges of the next century. This prestigious award recognizes those schools that not only provide students with an education but do so with a degree of pride and excellence. I would like to recognize a few of the people involved in Whitney Young's educational success; Mrs. Elaine Davis, the principal, the faculty and staff of Whitney Young, and lastly the students for their incredible achievement. I am extremely proud that Whitney M. Young Middle School has been added to the roster of distinguished schools who have received this award.

TRIBUTE TO THE 1998 GRADUATES RECOGNIZED BY THE CHALDEAN FEDERATION OF AMERICA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BONIOR. Mr. Speaker, I rise today to congratulate all the students being recognized by the Chaldean Federation of America at their Annual Commencement and Scholarship Program. The program is being held this afternoon at the Mother of God Chaldean Church in Southfield, Michigan.

An umbrella organization of Chaldean churches and civic organizations, the Chaldean Federation of America devotes the majority of its efforts to education. The Federation encourages Chaldean youth not only to remain in school, but to strive for academic excellence and achievement. Almost 400 Chaldean students graduating from southeast Michigan high schools or colleges and universities will be recognized.

Individual success and the prosperity of America depend on education. It is truly encouraging to know that so many of these students, who in many cases are first generation Americans, are learning this lesson early. Because of their success, the Chaldean community, Michigan and the United States will all benefit.

I commend the graduating class of 1998 and encourage all the individuals involved to remain students for life. I wish all the graduates—our future leaders—continued success.

TRIBUTE TO FATHER O'HARE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PASCRELL. Mr. Speaker, let me take this opportunity to introduce you to a remarkable man who has been very important to me, not only as a great friend but also as a mentor, Father Joseph A. O'Hare. Tonight, Father O'Hare will be honored with the 1998 Brien McMahon Award by the Fordham Club of Washington, DC.

Born in New York City on February 12, 1931, Father O'Hare attended Regis High School in Manhattan. Following graduation, he entered the Jesuit Order in 1948. Much of his early spiritual training took place in the Philippines, where he attended Berchmann College in Cebu City. After completing this intensive program, Joseph O'Hare was ordained a priest in 1961 in the Fordham University Church.

In addition to the Bachelor's and Master's degrees that Father O'Hare earned from Berchmann College, he also holds licentiate degrees in philosophy and theology from Woodstock College, and a doctorate in Philosophy from Fordham. His excellent educational background prepared him for a career as the longest serving President in the 157 year history of Fordham University. He served on the faculty of the College of Arts and Science at Ateneo de Manila Universidad in the Philippine capital from 1955 to 1958 and again from 1967 to 1972. Since joining Fordham University, he has served as Chairman of the Association of Jesuit Colleges and Universities and Chair of the Associations of Catholic Colleges and Universities. He was named President of Fordham University, my alma mater, on July 1, 1984.

Father O'Hare's enviable efforts in his chosen career have been matched by a sincere civic commitment. Beginning in March 1986, he served on the Mayor Koch's Committee on Appointments. He was also a member of the Charter Revision Commission of the City of New York from 1986 to 1988. Soon after, Father O'Hare was appointed Chairman of the Campaign Finance Board. This Board, one of the first of its kind in the nation, was created to oversee a landmark voluntary city-wide campaign finance law. During Father O'Hare's tenure, the Campaign Finance Board has been hailed in a New York Times Editorial as a model for other cities. In recognition of his unique talents, he was reappointed by Mayor Rudolph Guiliani in 1994.

In light of these accomplishments, it is little wonder that Father O'Hare is this year's recipient of the Brien McMahon Award. This award, presented annually by the Fordham Club of Washington, D.C., has a distinguished history. Prior recipients include Eunice Kennedy and Sargent Shriver. Adding Father O'Hare's name to this impressive list can only increase the prestige of this honor.

Mr. Speaker, I ask that you join me, our colleagues, thousands of Fordham alumni, and the Fordham Club of Washington, D.C. as Father O'Hare is honored with the Brien McMahon award this evening.

RECOGNIZING THE 75TH ANNIVERSARY OF THE AMWELL VALLEY FIRE COMPANY

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PAPPAS. Mr. Speaker, I rise today to congratulate the Amwell Valley Fire Company on the commemoration of their 75th anniversary. It is my privilege and honor to recognize this organization that has protected the citizens of East Amwell for 75 years.

Every single day, these dedicated men and women get up ready to put their lives on the line in order to protect the citizens of East Amwell. Each and every one of us relies on the services of these brave men and women. They provide us with a sense of security that would be impossible in their absence. We tend to take their services for granted and do not often recognize them for their hard work. For one hundred years, they have been a consistent presence in East Amwell and a reliable source of protection for every citizen.

I applaud the efforts of the department, as they have been an invaluable service for East Amwell for so many years. It is my great pleasure to be able to recognize them for all that they have done. On this special occasion, I wish to thank Fire Chief Jeff Luster and the entire force for continuing their dedicated service. Congratulations to all who have served in the department over the last 75 years. It is an honor to have this great fire company within the borders of my district.

IN HONOR OF ROGER LEE

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. CONDIT. Mr. Speaker, I rise today to honor the retirement of Roger Lee after 29 years of dedicated service with the Modesto Police Department in my district in California's great Central Valley.

Roger Lee's career is noteworthy for many reasons. When he joined the Modesto Police Department in September, 1969, he became the first African-American police officer in the history of the police department.

Since then, I am proud to report, he has served in the entire spectrum of police work—from undercover drug enforcement and police sting operations to community policing. As a police detective, Roger Lee has maintained an 80–85 percent closure ratio on his cases, far higher than the national average.

In 1981, while assigned to an executive protection detail for a foreign dignitary, Detective Lee drew great credit and distinction upon himself and the Modesto Police Department when he arrested a would-be assassin. Not only was Detective Lee credited with saving the life of the dignitary, very likely he averted an international incident by his actions.

Mr. Speaker, it is indeed an honor and privilege to honor Detective Roger Lee and commend him for his service and dedication to the citizens of Modesto, California. His selfless acts and professionalism reflect great credit upon himself.

I ask my colleagues in the House of Representatives to rise and join me in honoring Detective Roger Lee.

REGARDING THE INTRODUCTION OF THE MEDICAL INNOVATION TAX CREDIT BILL

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, I include the "Remarks of Dr. Leonard Zwelling from May 14, 1998" for the CONGRESSIONAL RECORD.

REMARKS OF DR. LEONARD ZWELLING, ASSOCIATE VICE PRESIDENT FOR RESEARCH ADMINISTRATION, THE UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER FROM MAY 14, 1998

Congressman Johnson, Congressman Doggett and staff, I thank you for the opportunity to speak today about the importance of the Medical Innovation Tax Credit legislation (H.R. 3815 and S. 1885). I am Dr. Leonard Zwelling, Associate Vice President for Research Administration at the University of Texas M.D. Anderson Cancer Center in Houston.

If you will excuse this transplanted New Yorker, I would like to tell you a Texas story about medical innovation. This is a story of persistence that illustrates the importance of medical innovation and the potential impact of this tax credit on the critical partnership between industry and academic medical centers like M.D. Anderson. This is a story about a woman who wanted to be a physician-investigator since she was three. She would accompany her father, who was a physician-investigator, to his laboratory and look into his microscope. She succeeded in her goal. She went to medical school and at graduation won all of the awards for research. She followed her husband to the National Institutes of Health where she began to investigate how white cells functioned, eventually becoming interested in how they killed cancer cells.

She was attending the American Association for Cancer Research meeting here in Washington in 1981 when she heard Dr. Josh Fidler describe a mouse model of cancer and how he was able to eradicate the cancer in the mice with a novel agent he had developed. She looked at the model and immediately saw that it resembled a form of bone cancer that occurs in children called osteosarcoma. As she was a Pediatrician, she saw the possibility that this new therapy could benefit these children if it could be demonstrated to be effective in people.

She began to work with Dr. Fidler, moving from the NIH in Bethesda to the new government facility in Frederick. Despite having had a new baby and despite the longer commute, the work was gratifying. She was able to reproduce Dr. Fidler's mouse findings using human cells. Then, a problem arose. When it was time to do the human testing, the leadership of the National Cancer Institute in Bethesda would not let this experienced physician, a board-certified Pediatrician, do the trials because she was not a trained cancer doctor.

Then fate smiled on the woman. Dr. Fidler was asked to lead a new department of Cell Biology at M.D. Anderson in Houston. He asked her to join his department and start the trials in Texas with help from a pharmaceutical sponsor. This time her husband followed her.

With a tremendous amount of effort, but strong encouragement from the faculty and staff at M.D. Anderson, this research physician began to test the new drug in Texas in patients with osteosarcoma who had not responded to chemotherapy. It worked! The drug activated normal white cells to kill tumor cells. Today, the final stages of testing have been completed in a nation-wide trial. The effectiveness of the drug will be known shortly. However, the drug was always in short supply. The company who made it barely gave the doctor enough to treat these patients. This was because osteosarcoma is a relatively rare form of cancer. Only 2000 new diagnoses were made each year in the United States. This is small when compared with the tens of thousands of patients with breast or lung cancer. A tax credit, such as that proposed by Congressman Johnson, might have provided the incentive to continue the work in this rarer malignancy and stimulated new investigations in patients with other forms of cancer.

Pediatric cancers are, thank goodness, rare. But that makes them an unattractive target for large-scale drug development. A tax credit such as this one, might be the very incentive needed to produce more investment in the treatment and eventual cure of patients with uncommon diseases. This would undoubtedly lead to treatments for the more common cancers as well.

This is a story I know well, for the woman I describe is Dr. Eugenie Kleinerman of M.D. Anderson who happens to be my wife. We are both very grateful for the wonderful opportunity of working these fourteen years at M.D. Anderson in the great state of Texas. But it shouldn't take 14 years to develop a new treatment for cancer. Perhaps, if this bill is passed, more people can be helped and helped faster by doctors like Dr. Kleinerman with the help of corporate sponsors.

Thank you Congressmen, and I will be happy to answer any of your questions.

TRIBUTE TO COL. MARY TRIPP

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. HASTERT. Mr. Speaker, today I have the pleasure to recognize a great citizen of Illinois and one of the Air Force's finest officers on the date of her retirement from active duty. For over 23 years, Colonel Mary Tripp has served the Air Force with pride and with tremendous dedication. On April 15, Colonel Tripp returned to her family home in West Chicago, Illinois. We wish her God's speed and the gratitude of the Nation for her loyal service.

Colonel Tripp's final assignment was the director of the very successful program to honor the 50th anniversary of the U.S. Air Force. This 16 month project blended a brilliant campaign of motivational and historic information, energizing both her fellow airmen and the American public. From the national recognition at the Tournament of Roses Parade to the Pentagon Cake Cutting Ceremony with the President, the hard work and dedication of Colonel Tripp shined in every event. She led a program which truly captured the hearts of each Air Force veteran and every American. The magnificent record of the United States Air Force over the past 50 years is a story worth telling. Through the handiwork of Colonel Tripp, this legacy will continue to grow.

Mr. Speaker, it has been my distinct honor to offer this tribute. As Colonel Tripp retires to private life, I ask my colleagues to join me in commending the outstanding service she has given to our great country. On behalf of the people of the 14th Congressional District and especially her neighbors in the city of West Chicago, I wish her the very best.

REGARDING U.S. POLICY TOWARD IRANIAN REGIME

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, last week marked the first anniversary of the election of Mohammad Khatami as president of Iran so this marks a fitting time to assess the realities versus the rhetoric of Khatami's regime.

Congressmen GARY ACKERMAN, BOB MENENDEZ, EDOLPHUS TOWNS, and JAMES TRAFICANT and I co-sponsored a briefing here in the House of Representatives on U.S. policy options and prospects for change in Iran.

We presented the following on Iran policy:

Nothing has changed under the administration of Khatami, and in many respects the evidence indicates that Tehran's outlaw behavior has worsened.

Factional infighting and domestic unrest are aggravating the instability of the ruling regime, raising new prospects for its replacement by a democratic government.

Our policy should focus on how to contain the threat from Iran, and on support for democratic alternatives within that country.

I urge my colleagues and the Administration to continue tough U.S. policies such as the Iran and Libya Sanctions Act as well as efforts to mobilize the international community towards a united-multi-lateral campaign to bring freedom and democracy to the people of Iran.

U.S. POLICY TOWARDS IRAN: A ONE-YEAR REVIEW

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. ACKERMAN. Mr. Speaker, I rise to bring to the attention of my colleagues a very important matter. The last week of May marked the first anniversary of the election of the so-called "moderate" president of Iran. I think it is very important after one year of President Mohammed Khatami's rule to look closely at the facts in evaluating his administration's true colors. Some of you may have seen the press reports from the "Briefing on U.S. Policy Options and Prospects for Change in Iran" that I co-hosted on May 21 along with my colleagues Mrs. ROS-LEHTINEN, Mr. TRAFICANT, Mr. MENENDEZ and Mr. TOWNS. Our effort was aimed at advocating an Iran policy of firmness and resolve, which allies the United States with the Iranian people and their resistance movement, the National Council of Resistance of Iran.

The impressive turnout for the event, especially among members of the diplomatic corps, indicated to me that the call to scrutinize our Iran policy was timely. Just this past week, Khatami underscored the role of the Revolutionary Guards Corps in maintaining the regime in its totality and said it represented the regime's most pious and dedicated forces. "With our body and soul, we are all proud of the Guards Corps," Khatami said in praising the regimes' main organ of suppression, rendering hollow his claims of "freedom and civil society." This further proves the assessment of the speakers during our briefing that Khatami has neither the interest nor the influence to initiate any change in this theocratic regime.

Mr. Speaker, in light of the importance of this discussion, I submit my remarks entitled "One Year of Khatami," as well as the remarks of Ms. Soona Samsami, a representative of the National Council of Resistance in Washington, to be printed herewith in the CONGRESSIONAL RECORD.

ONE YEAR OF KHATAMI—REMARKS OF REPRESENTATIVE GARY L. ACKERMAN

I would like to first welcome all the members of the diplomatic corps and the press for joining us here today to mark the one year anniversary of President Mohammad Khatami's election. We have a very interesting forum scheduled, and once everyone completes their statements, we will open up for questions and answers. First, I'd like to introduce my colleague Representative Ileana Ros-Lehtinen from Florida, with whom I've worked on this issue long and hard. Unfortunately, she must leave early so she will get this briefing started with her remarks.

After her we will hear from Congressmen Bob Menendez, Jim Traficant and Ed Towns, as well as former Ambassador James Akins, and lastly from Soona Samsami who will be representing the National Council of Resistance of Iran.

Representative Ros-Lehtinen.

When Mohammad Khatami was elected president a year ago, many in the West insisted that he was a genuine reformer who would, while upholding the clerics' reign, would begin halting state terrorism, would begin an end to enmity to the Middle East peace process, a lessening of flagrant abuses of human rights and the stoppage of the stockpiling of weapons of mass destruction.

I'm sorry to say that some in our administration bought into that view. Travel restrictions to Iran by American citizens have been relaxed a bit, and most recently, the administration has just waived punitive action, as required by law, against 3 foreign oil corporations who plan to invest more than $2 billion dollars in the Iranian oil industry.

Unfortunately, it is clear that some policymakers have learned little about the brutal thug mentality of those who rule in Iran. When this year's State Department report on terrorism named Tehran the number-one state sponsor of terrorism, Iran's ruling mullahs openly and celebriously acknowledged responsibility for the terrorist attacks listed in the report, declaring that they not only pursued and attacked the Iranian Resistance, on foreign soil, but that they expected to be rewarded for what they called "combating terrorism."

Let me make it very clear we are hard pressed to find any moderates with whom we can reach out to in the Iranian government, and contrary to the hopes of many in the West, Mr. Khatami's election a year ago has not resulted in any positive changes in Iran's domestic or foreign policies. It has, however, gravely aggravated the infighting among rivals. In fact, we all read recently about the arrest of Tehran's mayor, a close affiliate of Khatami, just this past month. It is no secret that the conflicts among the rival camps are intensifying with each passing day.

You may have also noticed news reports just this past weekend that the Government of Argentina arrested 8 Iranian residents and ordered the expulsion of 7 of the Iranian embassy's staff of 8 and required them to leave by yesterday. The 1992 bombing of the Israeli embassy in Buenos Aires, as well as the 1994 bombing of the AMIA, the city's main Jewish community center, has been investigated by the Argentineans, aided by the F.B.I., and has found the trail leads to Tehran. 114 people lost their lives in these horrific terrorist attacks.

Many of you however do not know that one of the key sources for the evidence that linked Tehran's government to the community center bombing was the National Council of Resistance, which learned from its sources in Iran that the bombing had reportedly been ordered by Iran's Supreme National Security Council. The NCR reported its findings to a congressional subcommittee, which then forwarded the information to the State Department. Last month, I personally brought this information to Argentina.

Ironically enough, the Iranian Resistance is the very same movement that the Department has added to its list of terrorists, virtually turning the intent of the law upon it on its head. This same list contains unquestionably terrorist groups such as Hizbollah and Hamas. This ill-advised "goodwill gesture," as it was thus quoted by a senior administration official in the L.A. Times last October, has profound implications. By mislabeling the main resistance force against the ayatollahs, we are not helping the Iranian people in their legitimate cause. Goodwill gestures will achieve little, and will only serve to embolden the Iranian mullahs to continue their non-stop campaign of terror and repression—both inside and outside of Iran. Under the current circumstances, Tango-ing with Tehran's tyrants will lead nowhere. I think it's interesting to note however that the idea behind the State Department's publishing a list of terrorists was to isolate the exact brand of terrorism that the Tehran regime actually supports and provokes! Even more importantly, and contrary to some expectations, the regime's opposition to the Middle East peace process has not slackened one bit. In fact, just a few weeks ago, the founder of Hamas, Sheikh Yassin, was in Iran on an official visit. President Khatami met with him, and expressed his support for the terrorist group. Prior to that, senior Hizbollah officials also traveled to Iran, for meetings with the top leaders. Officials, including Khatami, have emphasized that they will continue their active opposition to the peace process, and will not rest until the complete destruction of the State of Israel. Nor will the mullahs ever be satisfied with our gestures. The old adage of "give em and inch, they'll take a mile" certainly applies here.

I think what we have seen in the past year since Khatami's election has been the absolute inability of the mullocracy to reform. Khatami has been part of this system, and understands full well that any move towards liberalization contradicts the regime in its entirety. Fortunately, there are signs that this is the end of an era.

Infighting has engulfed both the military structure, meaning the Revolutionary Guards, as well as the clerical hierarchy. These are all promising signs that the mullahs' repression and dictatorship may be nearing an end. Nonetheless, we need to continue a sound policy of isolating Iran. We certainly can not begin to ease up now, just as the sanctions are beginning to bite and Iran's rulers are desperate for economic relief. That would be a travesty and undermine all of the good we have striven to accomplish. We need to realize that this new president is no more moderate than his predecessors. We must retreat from this illusion before it is too late.

And for that very reason, we in Congress shall continue to advocate an Iran policy of firmness and resolve. The realities of Iran dictate that the United States must recognize the right of the Iranian people to resist, and its own moral obligation to keep a distance from this medieval and utterly oppressive regime. A proper policy must take stock of the continuing realities in Iran, with the realization that the Iranian Resistance presents some new prospects for a change in government. Instead of trying to shore up a sinking ship, we must quickly ally ourselves with the Iranian people and Resistance, whose democratic, pluralistic and secular platform makes for a far better lasting solution with the retrogressive and brutal ruling regime.

Ladies and Gentlemen, I would now like to introduce our next speaker, Ambassador James Akins. Ambassador Akins served our Nation's Foreign Service with great distinction for over 20 years, until his retirement in 1976. He spent much of his career in the Middle Ease—in postings such as Damascus, Beirut, Kuwait, Baghdad and Saudia Arabia—and has written numerous articles about the subject. He is now an international and economic consultant and still maintains very close ties to the region he knows so very well. Ambassador Akins.

SPEECH BY SOONA SAMSAMI, MEMBER, FOREIGN AFFAIRS COMMITTEE, NATIONAL COUNCIL OF RESISTANCE OF IRAN, MAY 21, 1998

Ladies and gentlemen, I am very pleased to have this opportunity today to address this gathering. The situation in Iran is changing rapidly, as the dark era of suppression, execution, stoning, fundamentalism and terrorism comes to an end. But these changes are not originating from within the regime or the administration of Mohammad Khatami, in whom some in the West have great hopes. The source of these changes is the Iranian people and their Resistance.

Two weeks ago, one of the southern neighborhoods of the capital city of Tehran erupted, as 10,000 people protested against the killing of 16 year-old street vendor at the hands of the Revolutionary Guards. The unrest continued for four hours. Chanting "death to Khamenei, death to Khatami," the crowds clashed with state security forces. A number of government buildings were damaged.

Protests and unrest are spreading throughout the country. Late last week thousands of people in western Iran, in Kermanshah, staged a similar demonstration. Fighting broke out among the public and Revolutionary Guards.

The turmoil in Tehran had not yet subsided when unrest, strikes and student protests broke out in Gilan Province in the north, the cities of Yassouj and Dezful in the southwest, Tabass in eastern Iran, and Isfahan in the central part of the country. A major labor strike has been going on for the past several weeks in the provincial capital of Rasht. Dozens of workers have been arrested, but the strikes are continuing. The regime's leaders are very uneasy about the implications of this unrest for the future. Let me give you a couple of examples:

On May 14, Khamenei was speaking about the recent demonstrations in Isfahan Province, when he directly pointed to the Mojahedin as the source of the unrest.

In remarks he delivered in Sistan-Baluchistan Province in the south, Khatami explained, "We are threatened by the Mojahedin and Zionists."

The Parliament Speaker, Nateq Nourri, reiterated Khamenei's warnings on May 17, telling the assembly: "In Isfahan, what's left of the Mojahedin are active. . . We must all stay alert, and stay away from matters that have to do with groups and factions, which would allow a third party to come in and grab the Revolution itself and run off with it."

The Parliament Speaker continued: "These conspiracies are not just taking place in Isfahan; these are unpatriotic actions, threatening national security. The security apparatus needs to get in there and deal with this in a serious manner. We should stop worrying about what the foreigners are going to say to us. . . America, the Monafequin [Mojahedin] . . . they have essentially invested in the universities, where they can use the pro-western intellectuals, and take advantage of the open atmosphere to hatch some plots."

In a meeting on May 16 with the Bassij forces, Rafsanjani urged them to "neutralize the plots of the agents of the Arrogance and the Monafequin [Mojahedin]."

Khamenei said on April 16: "The enemies sending out propaganda from abroad. . . are pursing a policy of divisiveness. . . We must beware, we must beware."

Tehran's Friday prayer leader said on April 10: "These disorders are like a tank full of gasoline. . . All the enemy has to do is to strike a match."

Mokaram Shirazi, another of the regime's mullahs, said on April 12: "In the not too distant future, we shall witness a major crisis. . . or a painful scandal."

The executive director of the regime's Supreme National Security Council said on April 13: "There will be no winner in this crisis, but there will be a big loser—the Islamic system."

On May 23, 1997, when Khatami was elected president, there were many in the West claiming that from now on, the regime would follow the path of moderation. But from the very first, the Iranian Resistance was convinced that the new developments would weaken and further divide the regime internally. Moderation and reform would never happen. A year later, this has become an indisputable fact.

Crisis after crisis, without any prospect of a solution, pretty much sums up the past year. The arrest and then release of Tehran's mayor created an unprecedented emergency, which was only brought under temporary control through the intervention of Khamenei. The underlying crisis has not been resolved, however.

Agence France Presse wrote in its analysis that "there is still a long way to go before the war ends between the two sides. . . The conflict between the two warring factions subsided only after shaking the foundations of the regime as a whole." The news report adds that everyone was afraid that "the whole regime would be harmed."

A diplomat in Tehran had this to say: "Throughout this nation's history, it has been shown that spontaneous street demonstrations in Iran can overthrow a government or regime."

The commander of Iran's Revolutionary Guards threatened recently to crack down on a wave of internal dissent and criticism, saying it jeopardized the country's security. "The universities are in the hands of the opposition, and young people are chanting 'death to despots.' We have to behead some and cut off the tongues of others," he said.

Within the clerical hierarchy, there is increasing opposition to the ruling clique, which has failed to eliminate Montazeri, the former successor to Khomeini, from the picture. In terms of religious credentials, Montazeri outranks all of the ruling regime's officials. He was shelved in 1988 by Khomeini after he protested the massacres of Mojahedin. In his correspondence with Khomeini at the time, he had written: "You cannot annihilate the Mojahedin with executions. They are an idea. Killing them will only spread their ideas."

Despair and apathy have taken their toll on the Revolutionary Guards, the regime's principal military force. Three of the corps top 6 commanders, and at least 150 other officers have resigned. If we consider the Revolutionary Guards' unique role in safeguarding and prolonging the regime, the gravity of this crisis becomes clear. Tehran's rulers are in dire need of a foreign crisis they can use to shore up their eroding forces.

At the same time, the regime is facing a profusion of economic problems. Projections for oil revenues in the mullahs' budget exceed 16 billion dollars, but the actual figure is hardly 10 billion dollars. Inflation is increasing with each passing day, and with it the pressure on the public. 80% of the populace is living below the poverty line. Meanwhile, corruption and embezzlement scandals involving billions of toumans are rampant throughout the regime.

Policy Options: Here in Washington, there have been a number of discussions over the past year about various approaches to Iran. Some people in this city are saying that Khatami is different than other mullahs, and America should officially recognize these differences. Of course, this is a coy way of promoting the sort of appeasement policy that ended in the Irangate scandal a decade ago. Appeasement was at the heart of the administration's Iran policy over the past year.

But if you will permit me, let's be realistic. Contrary to America's expectations, Tehran did not make any changes in its policies of terrorism and fundamentalism. In fact, after the State Department published its annual report on terrorism, naming Tehran the world's most active state sponsor, the mullahs took responsibility for the entire list of their terrorist acts, especially their attacks on the Mojahedin.

The distinguishing characteristic of this theocratic regime, which sets it apart from all other dictatorships of the twentieth century, is its export of terrorism and fundamentalism. If the mullahs take a step back in this direction, they will lose their ability to enforce the domestic suppression as well. Before they can transform themselves into a modern, twentieth-century dictatorship, they will be swept aside by the Iranian people.

The inability of certain circles in America to comprehend this stubborn reality is behind the notion that you can turn the anti-human rulers of Iran into moderates. The events taking place in Iran today signal the weakness and disarray of the regime and the prospects of its overthrow, not some sort of trend toward liberalism. Goodwill gestures by the U.S. government, such as the inclusion of the Mojahedin on its list of terrorist organizations, will only serve to goad the regime on, and to give the Iranian people the negative impression that once again, the U.S. government is on the wrong side.

This is the same mistake made almost twenty years ago, during the last year of the Shah's reign. President Carter referred to the Shah's Iran as an "island of stability," and the British Foreign Secretary at the time stressed Britain's full support for the monarchy up until the final months. At that same time, western intelligence agencies said that Iran was not in the revolutionary stage, or even the pre-revolutionary stage. I don't think I need to remind you of what happened next. Today, the circumstances are similar. Events are happening very quickly in Iran, and it seems that the U.S. is not keeping up with them. As the leader of the Iranian Resistance has stated, the Iranian people will not recognize any contracts signed to find and drill Iranian oil.

The conflicts and clashes between various bands in the regime are a reality that will not go away. The most fundamental and essential conflict in Iran, however, is between the people—who desire freedom and democracy—and the religious, terrorist dictatorship ruling over them, whose survival depends on denying the people's demands. Despite an absolute repression, these demands have been embodied in a nationwide resistance movement. It is no accident that the regime's most viscous forms of repression are practiced on the resistance at home. Even abroad, beyond its terrorist attacks, the regime's primary demand from its international trading partners is that they adopt an anti-resistance, and specifically anti-Mojahedin policy.

If I may draw some conclusions: The religious despotism ruling Iran is an absolutely illegitimate regime, which has no place among the people of Iran. This regime and all of the factions affiliated with it, are partners in the murder and plunder of the people of Iran. The infighting within the regime is simply a power struggle.

The Iranian people demand the overthrow of the entire regime, and all of its factions. As the leader of the Iranian Resistance has stated, "The stage of this regime's overthrow and the need to prepare for it has arrived."

The National Council of Resistance of Iran, a coalition of 570 personalities and organizations representing the democratic forces of Iran, is the sole legitimate, popular, and the democratic alternative to the mullahs' regime. The NCR has committed itself to free and fair elections within six months after the overthrow of the mullahs. The vast majority of Iranians, in Iran and around the world, support the NCR's President-elect, Maryam Rajavi, and look to this alternative for hope in their struggle to rid themselves of the repression of the mullahs and establish a free, prosperous Iran.

PROSPECTS FOR CHANGE IN IRAN

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. MENENDEZ. Mr. Speaker, on May 21 I joined a Congressional panel on U.S. policy options and prospects for change in Iran. The panel discussed President Khatami's election and Iran's efforts to acquire weapons of mass destruction. I am certain that my colleagues will join me in recognizing the threat that Iran would pose to the U.S. and the region if it is successful in acquiring nuclear weapons.

I have introduced legislation (H.R. 3743) to thwart Iran's development of nuclear weapons. The Iran Nuclear Proliferation Prevention Act of 1998 will require the withholding of U.S. proportional voluntary assistance to the International Atomic Energy Agency for programs and projects of the Agency in Iran. The bill seeks to limit assistance from the Agency for the completion of the Bushehr Nuclear Power Plant in Iran. It is believed that the completion of the Bushehr plant will result in the transfer of civilian nuclear technology and training that could help to advance Iran's nuclear weapons program.

Firmness is the only means of deterring Khatami and the clerical regime from their quest for an arsenal of weapons of mass destruction. We must make it clear, especially now when the mullahs may well be on their last legs, that we support the kind of progress towards democracy and genuine reform promised by the democratic opposition.

Mr. Speaker, I am submitting my remarks to the panel on this matter to be printed in the CONGRESSIONAL RECORD:

I want to thank the National Council of Resistance of Iran for organizing this event and for their ongoing efforts to focus attention on the rogue regime that continues to reside in Tehran under President Khatami.

Each of us here today, looks forward to the day when Iran rejoins the community of democratic nations. However, today is not that day. President Khatami, while slightly more moderate than his predecessor will not or cannot overcome the political forces in Iran which avidly pursue the development of weapons of mass destruction and continue support for terrorism.

We have heard many disturbing facts and figures, about Iranian human rights violations, about chaos and conflict within the country, and about Iran's support of international terrorist organizations, such as Hizballah, Hamas and the Palestine Islamic Jihad, all of which are responsible for terrorist attacks on Israel. Each of these facts reflects the ruling regime's status as a rogue state, which considers itself above international law, with little respect for human life, let alone human rights. The prospect of that regime armed with nuclear weapons is not a pleasant one.

Just this week, Russia and Iran announced that over the strong objections of the U.S. and Israel, that they would be stepping up their cooperation in the field of nuclear technology. In fact, Iran's Atomic Energy Minister made it clear that the two countries are considering further cooperation beyond their current project to build a nuclear power plant in Iran.

To give you a little background, Iran has been seeking nuclear power since the early 1970's, when the Shah attempted to build two reactors in Bushehr. The project, begun by a German company in 1974, was suspended following the 1979 Revolution. The clerical regime's efforts to obtain nuclear capability began in earnest in the midst of the Iran-Iraq War, in 1985, and in February of this year, Tehran announced its intention to construct two Russian reactors in Bushehr.

The question remains, why has Iran devoted such colossal resources, money and effort to build the Bushehr power plant. Iran claims to need the Bushehr nuclear reactors to supply energy to the country. Yet, Iran's immense oil and natural gas reserves call into question its motives for constructing expensive nuclear reactors. Iran has 9.3 percent of the world's oil reserves and natural gas reserves, second only to Russia. Clearly, Iran does not need additional energy sources, nor is nuclear energy an economic choice for Iran. So what is the motive?

It should not be a revelation to anyone that Iran is seeking to acquire nuclear weapons.

In 1991, Ayatollah Mohajerani, one of Rafsanjani's deputies, clarified the need to obtain nuclear weapons. "Since the enemy has nuclear facilities," he said, "Islamic countries must be armed with the same capacity."

In 1989, Rafsanjani underscored the need to obtain an atomic arsenal, stressing that "Iran cannot overlook the reality of nuclear strength in the modern world." Nuclear arms, in the Tehran mullahs' view, are "the most important strategic guarantee" of their survival.

For this reason, I introduced the Iran Nuclear Proliferation Prevention Act. The bill will eliminate the use of U.S. taxpayer dollars to the International Atomic Energy Agency to provide assistance to Iran for the completion of the Bushehr plant. The U.S. believes that the completion of the Bushehr plant could provide Iran with substantial expertise to advance its nuclear weapons program. It is ludicrous for the U.S. to support a plant—even indirectly—which could pose a threat to the United States and to stability in the Middle East.

Beyond, Iran's nuclear weapons development program, there is substantial evidence of its efforts to develop other weapons of mass destruction.

Late last year, Satellite reconnaissance of the Shahid Hemat Industrial Group research facility, not far south of Tehran, had picked up the heat signature of an engine test for a new generation of Iranian ballistic missiles, "each capable of carrying a 2,200-lb. warhead more than 800 miles," within strategic range of Israel.

In January, a senior Clinton administration official told the Associated Press that "Iran's purchase of Russian missile technology is giving Iran an opportunity to 'leap ahead' in developing new weapons" and according to a CIA report, Iran remains the largest illicit buyer of conventional weapons among 'pariah' states, buying an estimated $20 million to $30 million worth of U.S. military parts in 1997.

After the cease-fire in the Iran-Iraq War in 1988, Tehran stepped up its efforts to produce an indigenous chemical and biological arsenal. Thanks to equipment and technology legally or illegally imported from abroad, the Tehran regime is presently able to produce a series of biological and chemical weapons. Defense Secretary Cohen has expressed concern that Iran may have produced up to 200 tons of VX nerve agent and 6,000 gallons of anthrax.

Tehran's unrelenting quest for nuclear weapons and ballistic missiles clearly attests that the clerical regime has no intention of moderating its behavior. Appeasement by the West will only provide the mullahs with more room to maneuver. We need a comprehensive policy, that both protects us from the current threat and safeguards our future interests in that part of the world.

Firmness is the only means of deterring Khatami and the clerical regime from their quest for an arsenal of weapons of mass destruction. We must make it clear, especially now when the mullahs may well be on their last legs, that we support the kind of progress towards democracy and genuine reform promised by the democratic opposition.

IRAN: HUMAN RIGHTS PROBLEMS PERSIST

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. TOWNS. Mr. Speaker, over the past year, I have listened with interest to promises of moderation and reform from Iran, but after a year of Mohammad Khatami's tenure as president, I cannot but help to conclude that the current regime continues to be one of the major violators of human rights and proponents of terrorist activities around the world. The only policy that can be successful vis-a-vis Iran is a policy of firmness. Firmness, however, will only prove effective when it is coupled with support for the establishment of democracy in Iran.

On May 21st, I had the honor of hosting a gathering at which a number of my esteemed colleagues as well as experts on Iran and the region addressed various aspects of the question. In urging the administration to pursue a policy in favor of the Iranian people and their resistance, the speakers emphasized that the U.S. should not make the same mistake made during the Shah's time.

Mr. Speaker, I would like to submit the remarks I prepared for this briefing for publication in the CONGRESSIONAL RECORD.

I would like to thank every one of you for participating in this event today. I believe it is very important that we keep our focus on the issue of human rights. Not long ago, I watched a video tape smuggled out of Iran by the Mojahedin Opposition Movement. It showed for the first time actual scenes of people being stoned to death in Iran. Four individuals were brought out, buried up to their waists, and stoned to death in the most cruel, gruesome and painful scene I have ever witnessed in my life. And this still goes on in Iran, officially. Since the election of Iran's new president, the government has announced the stoning of 7 people, four of them women.

Tens of thousands of Iranians have been executed for their political beliefs since 1981. My question is, what is our administration doing about these ongoing rights violations? What have we done to relieve the suffering of the Iranian people?

I believe our policy must be very firm about condemning human rights violations in Iran, and about supporting advocates of democracy, such as Maryam Rajavi. Change will come to Iran, but not from the current regime. We will not get anywhere by cuddling repressive dictators.

THE SITUATION IN IRAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. TRAFICANT. Mr. Speaker, the Iranian government under President Mohammad Khatami remains a brutal and oppressive regime. Despite words of moderation and conciliation, the Iranian government continues to actively and aggressively sponsor international terrorism. It continues to brutally oppress the Iranian people. In today's Iran there is still no freedom of the press. Under the Khatami government, there is still no freedom of religion or freedom of speech. Human rights abuses continue unabated.

On May 21st, a number of my colleagues in Congress held a press briefing in the Rayburn Building to discuss the prospects for change in Iran, and how U.S. policy should be shaped to encourage democracy and freedom in Iran. While I was unable to attend the briefing, I did release a written statement. In addition to Members of Congress, other distinguished experts participated in the briefing, including former U.S. Ambassador James Akins, who served in our nation's Foreign Service with great distinction from 1956 to 1976. Ambassador Akins spent much of his career in the Middle East in such places as Syria, Lebanon, Kuwait, Iraq and Saudi Arabia. He is the author of numerous articles about the Middle East. He is now an international and economic consultant. I would like to insert into the RECORD the written remarks I prepared for the briefing, as well as the remarks made by Ambassador Akins.

STATEMENT OF THE HONORABLE JAMES A. TRAFICANT, JR., BRIEFING ON "U.S. POLICY OPTIONS & PROSPECTS FOR CHANGE IN IRAN", MAY 21, 1998

As we approach the one-year anniversary of Mohammad Katami's election as President of Iran, it is appropriate to assess how much Iran has changed over the past year, and how U.S. policy should be shaped to encourage democracy and freedom in Iran. While President Khatami has spoken quite differently than his predecessor, Iran's actions both domestically and internationally, have not materially changed.

Iran still supports international terrorism. Iran continues to deny its people basic freedoms and human rights. Iran continues to treat its women like cattle.

There is chaos and conflict throughout the government. One thing is clear—President Khatami may have—may have—good intentions, but his good intentions have not yet resulted in a change in Iran's behavior internationally or internally.

Yet, our State Department continues to grope, hope and search for moderates in the Iranian regime. Our State Department continues to pursue a flawed policy of appeasement. When will the State Department learn that the moderates in the regime they are so desperately searching for, don't exist!

It's time for the State Department to recognize and support those Iranians inside and outside Iran who are struggling on behalf of a democratic and free Iran—including the Iranian Resistance.

The State Department's refusal to recognize the Resistance, and their labeling the Resistance as a terrorist organization is a travesty! Such a policy of appeasement and weakness plays right into the hands of the terrorist strongmen ruling Iran.

Let me repeat: there are no moderates in the Iranian government. Goodwill gestures from the U.S. will be perceived by the Iranian regime as a sign of weakness. Such gestures will achieve little, and will only embolden the Iranian mullahs to continue their non-stop campaign of terror and repression.

Contrary to the hopes of the Clinton Administration, Khatami's election last May has not resulted in any changes in Iran's domestic or foreign policies. Iran still poses a grave threat to U.S. security and world peace. Iran's ongoing support for terrorist groups such as Hamas and Hizbollah continues to threaten the Oslo Accords and other initiatives to establish a lasting peace in the Middle East.

Khatami's election has not halted or diminished Iran's efforts to expand its arsenal of weapons of mass destruction, including the development of ballistic missiles that could threaten Israel, Western Europe and U.S. troops stationed overseas. Iran also continues its covert efforts to develop nuclear weapons.

Instead of trying to appease the Iran regime, the Clinton Administration should adopt tough policies that make it clear that the U.S. will not, in any shape or form, condone the outlaw behavior of the mullahs. Such a policy should include a real trade embargo, an all-out diplomatic offensive to get our allies to abandon their appeasement policies and join the U.S. in a total embargo of the Iranian regime, and open and full support for those Iranians dedicated to the principles of democracy, religious freedom and equality—including the National Council of Resistance.

The NCR has made remarkable and dramatic strides forward in recent years. It has brought together Iranians from all walks of life in a unified effort to bring democracy, freedom and human rights to Iran. Like many groups struggling against a repressive and cold-blooded regime, the NCR has evolved over the years. It has undergone a number of dramatic changes.

Let there be no illusions about how seriously the Iranian regime takes the threat to their rule posed by the NCR. All over the world, members of the Resistance have been assassinated by the regime. If, as the regime claims, the NCR does not have any support inside Iran, why does the regime continue to go to such great lengths to assassinate Resistance leaders? Why does the regime go to such great lengths to discredit and undermine the Resistance? It is because the Iranian Resistance has real and deep support—both inside Iran and among those Iranians living in exile.

Instead of employing a gross and outrageous double standard, the U.S. government should officially recognize and support the Iranian Resistance and other groups struggling for freedom in Iran. History shows that the worst way to deal with a dictatorship is through appeasement. Just ask Neville Chamberlain.

THE "NEW" IRAN—

For a quarter of a century from the early 1950's when the CIA restored him to his throne until the late 1970's our policy was one of unconditional support for Shah Mohammad Reza Pahlevi. Along with Turkey and Israel, Iran became one of the "pillars of our defense" in the Middle East. Our diplomats, our secret service and indeed our presidents were so beguiled by the Shah that they were blind to unmistakable signs that his people has turned against him. President Carter's New Year's eve 1978 toast to his country as "an island of stability" in a sea of chaos has made the history books. Much worse, the first cable from the Embassy suggesting that his regime just might be in serious trouble was sent to Washington in October, 1978. About the same time the CIA reported that Iran was "not in a revolutionary or even a pre-revolutionary stage."

The Shah fled the country three months later and after a brutal internal struggle, secular opponents of the monarchy were killed or driven out of the country and a theocracy was established. It opposed the West, it opposed all liberal though and it characterized the United States which had been so closely associated with the Shah as the font of all evil, as the embodiment of the Great Satan himself.

One year ago Iran had its first relatively free presidential election. Only four candidates out of 238 aspirants were approved by the Council of Guardians, which itself had been chosen by Ayatollah Ali Kamenei, the supreme religious leader. But there was a real choice. The government's favorite, Ali Akbar Nateq Nouri, was a dour conservative of the Khomeini model: there were two nonentities and the fourth was Mohammad Khatami, an obscure cleric who had served as Minister of Islamic Guidance in the 1980's.

To the world's surprise and the consternation of the ruling mullahs, Khatami won 70 percent of the votes—not so much for any reputation for moderation but simply because he was most certainly not the government's favorite. He was installed as President and he survives. Some American policymakers and American businessmen have read much into his implied promises of reform and change. They even argue, in face of strong evidence to the contrary, that internal reforms have already been adopted or that the are about to be so. While some of these Americans are, no doubt, sincere, others who argue for a softening of American sanctions on Iran may have allowed their judgment to be colored by the prospects of lucrative contracts for new oil and gas pipelines from the former Soviet Union through Iran to Turkey or to the Persian Gulf.

The State Department is clearly divided and confused. In an admitted effort to curry favor with the mullahs at no apparent cost to the United States, one branch of the State Department branded as a "terrorist organization" the Majahedin Khalq, the largest and best organized of the Iranian opposition movements and the prime target of official Iranian terrorism at home and abroad. History repeated itself; during the Iran-Contra affaire the mullahs insisted on the same condemnation of the Mujahedin and the State Department complied. The mullahs welcomed the announcement as a triumph of their regime as they did 15 years earlier but, again exactly as in the mid-1980's made no changes in internal or external policies. Not much later another branch of the State Department ranked Iran as the "most active state sponsor of terrorism."

But hasn't there been some evidence of change? Well, in the last several years a few restrictions on social life have gradually been relaxed: the Revolutionary Guard is less fervently revolutionary and can now usually be bribed not to break into private homes where "immoral activities" might be suspected. Visitors to Tehran—but no place else—notice that the all-encompassing chedors prescribed for women are not quite as concealing as they had been: some have even reported seeing wisps of feminine hair slipping out from the head covering. The state-run press is free to criticize certain actions of government officials, mostly those of rival factions. An American team of wrestlers was allowed into the country where it was received with wild popular enthusiasm. And Khatami spoke of "opening up informal contacts" with the United States.

But nothing more. The basic reforms and changes in theocratic rule which most Iranians want have not been made. Any one suspected of questioning the religious basis of the ruling theocracy is arrested, tortured and murdered. In the year of Khatami's presidency tens of thousands of "enemies of the people" usually accused of "drug use", "adultery" or general "corruption" have been arrested and often tortured. According to official figures, 199 have been executed; Iranians believe the true figure is much higher. Moderate religious leaders, including the highly respected Ayatollah Hossein Ali Montazeri, who have questioned the actions of the ruling mullahs, are imprisoned or kept under house arrest.

Opposition to the Arab-Israeli peace talks is as strong as ever but the tone has changed to triumphalism now that "the peace talks have clearly failed". Iran continues to give financial and military support to the Hizbullah and Hamas and to welcome their leaders to Tehran.

The death threat against Salman Rushdie has not been lifted; indeed, the reward for his murder has been increased. Critics of the regime continue to be assassinated abroad. In the year of the Khatami presidency 24 have been killed, a sharp increase compared to the previous year.

Iran, whose natural gas reserves are the second largest in the world, could enjoy exceedingly cheap electricity. Yet electricity remains in short supply and the regime continues the fiction that the nuclear reactions under construction are exclusively for production of domestic electricity. It imports missile technology from China, North Korea and Pakistan, and has recently tested missiles with a range of 1400 kilometers.

The "opening to America" which Khatami seemed to favor was dismissed contemptuously by Ayatollah Kamenei. Khatami then quickly explained that he had been misinterpreted. The United States remains the "great Satan" and the anniversary of the capture of the "Nest of Spies", the American Embassy, is still celebrated.

The failure to proceed with a rapprochement with the United States can not be ascribed to Khatami who, for all we know, may well be a closet moderate, a modernizer who would really like to make life easier for his countrymen. He simply does not have the ability—even assuming the will—to make significant changes. His title of "President" implies authority when he has little; he is outranked and frequently overruled by Ali Akbar Hashemi Rafsanjani, the head of the Council of Expediency and by the Supreme Guide himself, the Ayatollah Khamenei.

The Iranian people revolted against the Shah not to turn the clock back to the Middle Ages but because they were sickened by the corruption of his court and his government, by the lack freedom of expression and by the excesses of SAVAK, the Shah's secret police. Ayatollah Khomeini promised them a "government of God on earth" but he and his successor have given them a government whose corruption exceeds that of the Shah and whose human rights abuses are an order of magnitude worse. In the 20 years of the rule of mullahs, 120,000 Iranians have been sentenced to death after quasi-legal proceedings—some 40 times the number executed during the entire reign of the late Shah.

The election a year ago was important. Although it was not so much the victory of Khatami as it was the humiliating defeat of Neteq Nouri, the Ayatollah's favorite, the Iranian people convincingly demonstrated its desire for real change, real liberalization and an end to corruption and oppression. Some, perhaps many Iranians hoped that Khatami would be the instrument to achieve these goals but he has done nothing. And now, after a year, all illusions about the new President have evaporated; the mass of Iranians who want radical reform must look elsewhere. And they do. In almost daily demonstrations in Tehran and in all provincial capitals the mullahs' favorite old chant "Death to the Israel and America" has given way to youthful shouts of "Death to Despotism".

The leader of the Iranian Resistance, Massoud Rajavi, may well be right when he said recently "The government of the mullahs is entering its final stage; the time to prepare for its overthrow has arrived."

My enduring nightmare is that one of our major foreign policy blunders in the Middle East is about to be repeated. The United States supported the Shah long after it was clear to every objective observer that almost all Iranians had turned against him. It would be ironic, it would be tragic if we were to open relations with the Iranian theocracy just as the Iranian people have concluded it must go.

A SPECIAL SALUTE TO THE "ARTISTIC DISCOVERY" WINNERS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. STOKES. Mr. Speaker, I rise today to congratulate the young students from the Eleventh Congressional District of Ohio who participated in the annual "An Artistic Discovery" competition. Later this month students from all around the nation will have their artwork displayed in the Rotunda Tunnel in the Capitol Building. I take special pride in sponsoring the "An Artistic Discovery" competition for the students in my Congressional district. This art contest provides an innovative way to recognize the talents of many of our nation's youngest creative minds. This contest also provides a forum in which we can encourage our young people to develop their talents in a positive way.

I am proud to report that in the Eleventh Congressional District, "An Artistic Discovery" is as successful as it has been in the past years. This year there were more than 300 entries from 10 different schools within the district. The judge, who had the arduous task of choosing the best entry out of an outstanding array of talented work, decided upon Becky Miklos, a 16-year-old tenth grader from Bedford High School. The sophomore's artistic endeavor entitled "Pensive" is a very poignant pastel drawing that truly deserves the honor of Best-in-Show. I look forward to welcoming Becky to Washington, D.C. for the grand opening of the "Artistic Discovery" national exhibition. Last year's winner was also from Bedford High School, senior Monica Grevious, so I am very pleased to recognize Bedford High School for its encouragement of the artistic talents of these young people.

As we conclude this year's "Artistic Discovery" competition in the Eleventh Congressional District, I want to express my sincere appreciation and gratitude toward not only this year's participants but also their art teachers. Many of these young people have grown from this experience and it was essential to have the encouragement of friends, family, and educators behind them 100 percent. The role of art teachers in the tutoring and development of many of these young students is also very important. If it were not for the art teachers in the Eleventh District, I am sure this competition would not be as successful as it has been these past years.

Mr. Speaker, I feel the achievement of "Artistic Discovery" is one that should be continued. After my retirement at the end of this year, I hope that my successor will continue this program that rewards the artistic endeavors of young people. As a firm supporter of the arts, I realize we should start investing time and encouragement into artists at a young age. The success of this competition only proves that many young people, given the proper encouragement, can be winners. Every single one of the students who participated throughout the Eleventh District is a winner in their own right and I want to offer them my personal congratulations. Given an opportunity to showcase their talents, these young people have responded to the call for art with a very positive and talented display of ability. They should all be saluted.

Beaumont School: Amanda Amigo, Cara Bastulli, Missy Blakeley, Cristin Brown, Michelle Burkacki, Monique Christian, Clare Christie, Asia Clark, Kim Cunningham, Catherine Davenport, Kara Dunne, Katie Fejes, Carol Ferkovic, Maggie Garvey, Laura Golombek, Roberta Hannibal, Melissa Harasty, Dana Hardy, Meredith Harger, Christine Havach, Lindsey Hubler, Jennifer Jansa, Sara Jenne, Raina Kratky, Jessica Kress, Quinn Kucia, Daniella La China, Megan Lewicki, Carmen Licate, Halle Malcomb, Kate Marotta, Lisa Mawby, Sarena McKee, Christine Miller, Meghann Mooney, Liz Nielsen, Christina Pamies, Susie Quilligan, Jennifer Reali, Leda Remmert, Jamie Reynolds, Nicole Rimedio, Julie Shina, Sarah Stanitz, Daniela Tartakoff, Jenni Traverse, Sarah Venables, Julia Wadsworth, Margaret Wadsworth, Meg Winchester, Maggie Wojton, and Lisa Yafonaro. Art teachers: Ellen Carreras and Sr. M. Lucia, O.S.U.

Bedford High School: Ian Adams, Joe Allie, Zayle Anderson, Daniel Apanasewicz, Kelly Apanasewicz, Bryan Braund, James Bruce, Jessica Bruening, Karen Certo, Danielle Coleman, Jessica Coleman, Robert Cooper, Robin Davis, Eric Delphia, Megan Duffy, Judah Early, Becky Frank, Sean Goins, Jessica Janaco, Michelle Janacek, Sandeep Kaur, Papawee Koontaweelapphon, Erin Long, Sarah Long, Alyssa Lyons, Carlos Mann, Angela Mecone, Becky Miklos, Anthony Mooreland, Michelle Moran, Alyssa Ottaviano, Melissa Petro, Michael Pietrzak, Erin Posanti, Kara Pusniak, Kristen Roberts, Ariel Robinson Nikolas Rongers, Stephen Stubbs, Talia Thomas, Brandon Vecchio, Amy Virotsko, Josh Wells, and Kevin Williams. Art teachers: Bob Bush, Dagmar Clements, Lou Panutsos, and Jennifer Pozz.

Cleveland Heights High School: Jo Anna Adorjan, Rebecca Chizeck, Larry Chy, Lauren Kalman, Bram Lambrecht, Kelsey Martin-Keating, Elise McDonough, Brian Ross, and Theresa Vitale. Art teacher: Susan Hood-Cogan.

East High School: George Moss, Chris Quackenbush, and Derrick Walker. Art Teacher: Jaunace Watkins.

Cleveland School of the Arts: Monique Boyd, Brandon Huon, Richard E. Jackson, Joshua Jones, Michael Lemieux, Kevin Melicant, Nicole Murray, Isaiah Perkins, Nakia Pollard, Bayete Shropshire, and Rodney Taylor. Art teachers: Danny Carver and Andrew Hamlett.

Garfield Heights High School: Kate Bednarski, Jennifer Bucell, Amanda Bujak, Joelle Burchfield, Frank Buttitta, Amber Chapek, Karen Cherney, Dan Dregely, Anthony Evers, Alisha Fogle, Kevin Glinski, Keith A. Groose, Jr., Lauren Harper, Jeremy Jakupca, Christy Jeffries, Suzanne Jones, Ben Klein, Jennifer Langman, Becky Merbler, Justin Meyers, Katherine Parker, Terry Phillips, Alena Quinones, Ralph Rasiak, Ryder Reynolds, Stephen Romain, Alyssa Sedlecky, Lorinda Svihik, Amanda Thomas, Lana Witkowski, and Adam Zimmerman. Art teacher: Christine French.

John Hay High School: Lillian Bryant, Armid burton, Rosolyn Carter, Pamela Davis, Michelle Denson, Quan Duong, Otis Hope, Shamica Jackson, Luddie Long, David Malone, Jason Moorman, Kenneth Roberts, Lavar Thompson, Kenneth Wallace, Jr., and Andre Whittingham. Art teachers: Richard Chappini, Harriet Goldner, and Kathleen Yates.

Maple Heights High School: Rahan Boxley, Emily Bryant, Andre Burton, Soo Choi, Shaunte Conwell, Danielle Czaplenski, Bonnie Glover, Maria Kopec, Calvin Little, Shayna Papesh, Brent Peters, Henry Sharpley, Anthony Simmons, Sarah Titus, Sara Trinidad, and Richard Trojanski. Art teacher: Karen Mehling-DeMauro.

Lutheran East High School: George M. Bruhn, Lori Ann Kusterbeck, Jennifer Moore, and LaToya Nicole Vaughn. Art teacher: Rhonda Wadsworth.

Shaker Heights High School: Kamilah Butler, Sayaka Fujioka, Sarah Rebecca Glauser, Scott Green, Rochana M. Jones, Jennifer Kaufman, Carrie LeWine, Christine Powers, Melanie L. Pulley, Matthew B. Schorgl, R. Matthew Shenk, John Stephens, Kimberlee Venable, and Lindsey Wolkin. Art teachers: Malcolm Brown, James Hoffman, and Susan Weiner.

IN HONOR OF LARRY DICK

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. CONDIT. Mr. Speaker, I rise today to honor Larry Dick and to offer my congratulations on the opening of the Veteran's Affairs Modesto Outreach Clinic in California's great Central Valley.

The Modesto Outreach Clinic has been a tremendous success. Much of this success is directly because of Larry's efforts. Not only has he been working with the VA Screening Program for 11 years—which translates to 379 Fridays—during which time he has screened more than 8,500 veterans, Larry has tirelessly "beat the bushes" for veterans.

He and the American Legion Post have served as sponsor, administrative coordinator, publicist and very strong advocate for the VA Modesto Outreach Clinic.

A past Commander for American Legion Post No. 74, last year Larry was named "Man of the Year For Community Services" in Stanislaus County, California.

Mr. Speaker, it is indeed a privilege to honor Larry and commend him for his efforts on behalf of veterans. His willingness to be such an exemplary model of volunteerism reflects great credit on himself. He is truly an example of one man standing up to make a difference in the lives of those around him.

I ask that my colleagues in the House of Representatives rise and join me in honoring Larry Dick.

RECOGNIZING THE BOROUGH OF HIGH BRIDGE AND THE HIGH BRIDGE FIRE DEPARTMENT ON THEIR 100TH ANNIVERSARY

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PAPPAS. Mr. Speaker, it is my pleasure to congratulate the Borough of High Bridge on their 100th anniversary. A Borough rich in history and deep in tradition, High Bridge is deserving of many well wishes as they celebrate this special event.

While the Borough will celebrate its 100th anniversary this year, the community surrounding the original forge has existed for nearly 300 years. High Bridge was named for a 1,300 foot long bridge originally constructed in the early 1800's. While the bridge was deemed too costly to maintain and was subsequently filled in with an embankment, the citizens have continued to prosper throughout its history. Originally only a farming community, High Bridge has developed into a community of many facets.

Also on this day, we celebrate the centennial of the High Bridge Fire Department and its Fire Chief, Jeffrey Smith. The department has served the High Bridge Community for 100 years, providing it with dedicated service and excellent protection. Every morning, these individuals wake up and put their lives on the line in order to protect the community. I applaud each and every one of them for their efforts.

High Bridge's excellent school system was founded in 1925 and has continued to function as one of the finest in the state. Dating back to the revolutionary times, the beautiful landscape and homes of High Bridge have survived difficult times much like its citizens. It is for this determination and success that I commend the borough and offer my warmest congratulations on this momentous occasion. Congratulations to Mayor Alfred Schweikert III and the Borough Council on this special day.

TRIBUTE TO GLENN TANNER AND JACK PORTER

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BUYER. Mr. Speaker, I rise today to give tribute to two outstanding Hoosiers, Mr. Glenn Tanner and Mr. Jack Porter, whose exemplary foresight and perseverance have proven invaluable to Indiana.

During the early 1980s, Glenn Tanner and Jack Porter realized the value of a divided, four-lane highway running east-west through North Central Indiana. They created a committee for the Wabash Area Chamber of Commerce to study the economic impact of improved transportation in the area. As a result of this effort, communities along the proposed corridor joined together to promote the importance of an improved highway system. Today, the Hoosier Heartland Industrial Corridor Inc. is comprised of concerned citizens, businesses, and governmental officials promoting a four-lane highway from Fort Wayne to Lafayette along the routes of US 24 and Indiana State Road 25.

Many towns, including several industrial communities, will greatly benefit from an easily accessible connection to our nation's interstate system. In fact, it has been determined that for every $1 spent on the construction of the corridor $3.50 will be created in the communities along the corridor.

It is reassuring to know how two individuals can have the foresight to see a need greater than themselves, act upon it, and lead it to a reality. Their efforts on behalf of the corridor are an example of what America is at heart. As President Lincoln said during his Gettysburg Address, "government of the people, by the people, and for the people."

The Hoosier Heartland Industrial Corridor has been designated as a part of the National Highway System and a High Priority Corridor by Congress. The naming of the two bridges in Lewisburg along the Hoosier Heartland Industrial Corridor is most appropriate for these two gentlemen.

Mr. Tanner and Mr. Porter have brought honor and distinction to their efforts for their continued interest and dedication to ensure that the Hoosier Heartland Industrial Corridor becomes a reality. They truly are an inspiration to the American dream.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. KIND. Mr. Speaker, tomorrow should be the day. This is the day that supporters of campaign finance reform have been promised for over a year. Tomorrow the House of Representatives will begin debate and a vote on campaign finance reform. I applaud the leadership for finally allowing a discussion of this important issue.

As we begin debate tomorrow we will have eleven substitute amendments made in order. Each of those amendments offers a wide variety of ideas on how we shape our campaign finance system. I am encouraged by the diversity of proposals we will consider. The process will allow the public to see who supports campaign finance reform and who does not.

Ultimately this debate comes down to the question; Do you believe that there is too much money in the political process? Those members of Congress who support big money will oppose campaign finance reform, and support those bills that claim to be reform but are not. My constituents have told me repeatedly that they are tired of the amount of money being spent on campaigns and they want Congress to do something to fix the system. Tomorrow I will take a stand in support of campaign finance reform, I hope my colleagues on both sides of the aisle will join me.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

SPEECH OF

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes:

Mr. DAVIS of Illinois. Madam Chairman, literally, money talks and when it speaks it practically drowns out all other political discourse. Money has distorted, corrupted and perverted our political system.

It's time to get back to the basics of democracy. We are past the time for half way and half hearted patches on the system. Belief that disclosure alone will remedy the problem is like believing in the tooth fairy. Solving the problem by just regulating "soft money" is about as likely to happen as expecting pigs to fly.

I believe that the basic principles of campaign reform are these:

1. Seriously take some of the money out of the equation.

2. Provide some public financing for all federal campaigns.

3. Set a limit on federal candidates use of personal funds.

4. Provide voters with enough unfiltered information to make informed choices. Open up T.V., radio and other media for discussion of the issues by the candidates.

5. Shorten the election cycle.

6. Create a truly independent regulatory agency to monitor and make public the spending of campaign monies.

7. Require paid lobbyists to publicly report who and when they lobby.

8. Create universal voter registration. Encourage experimentation with mail and electronic ballots and multiple day elections.

9. Require full disclosure of all independent expenditures.

The fact that many Americans indicate that they have lost confidence in the functioning of our democratic elections and that many do not vote should be both a warning and a summons for us to act.

Mr. Speaker, I urge that we take heed.

IN HONOR OF THE MEDAL OF HONOR RECIPIENTS WILLIAM E. BARBER, WALTER D. EHLERS, KENNETH A. WALSH, CLARENCE B. CRAFT, JOHN P. BACA, NELSON M. HOLDERMAN, CHRIS CARR, DONALD A. GARY—ORANGE COUNTY, CALIFORNIA

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Ms. SANCHEZ. Mr. Speaker, today, I rise to pay tribute to the following men who are being commemorated with memorial plaques on May 30 at the Civic Center "Walk of Honor" in Santa Ana, California. These Medal of Honor recipients are again being honored for their bravery while serving in the military for our country. These exceptionally brave heroes live or have lived in Orange County for some time in their lives.

William E. Barber, 78 of Irvine, California, was a captain of 220 men in Korea in 1950. During a fierce battle with the Chinese, he ignored orders to withdraw and fought with his men for five days in sub-zero temperatures. This extraordinary feat of bravery and fortitude saved thousands of American lives.

Walter D. Ehlers, 76, of Buena Park, California, fought during the D-Day invasion in 1944. He singlehandedly eliminated an entire machine-gun crew. During this battle, he was shot by a sniper and yet he was not deterred. He carried a wounded rifleman to safety and returned to the fight.

Kenneth A. Walsh, 81, of Santa Ana was a Marine pilot fighting against the Japanese formations over the Solomon Islands in 1943. He fearlessly dived into the Japanese squadrons and shot down two Japanese dive bombers and a fighter even though his own plane had been hit several times.

Clarence B. Craft, 76, of Fayetteville, Arkansas, was born and raised in Santa Ana California. As an Army private he led a grenade charge from the top of Hen Hill on Okinawa. Under the blaze of heavy artillery fire, he charged the enemy troops, driving them into a cave. He threw a satchel of grenades into the cave which caused an explosion killing the enemy troops.

John P. Baca, 49, San Diego and Huntington Beach, California, fought in Viet Nam in the 1970's. When a hand grenade was thrown into the midst of his platoon, the Army specialist fourth class covered the grenade with his steel helmet and fell on the helmet, thus saving the lives of eight men.

Three of the men honored today are deceased.

Nelson M. Holderman, was a World War I Army captain who lived in Santa Ana. Though wounded three times in 1918 in the Argonne Forest in France, he carried two wounded men to safety through enemy fire.

Chris Carr, was a World War II Army sergeant who lived in Huntington Beach, California. His troop was pinned down near Guignola, Italy, in 1944. Carr climbed around a flank of German soldiers and captured five positions, killing eight and capturing 22.

Donald A. Gary lived many years in Garden Grove, California. He was a World War II Navy lieutenant. When the USS Franklin was attacked by aircraft near Kobe, Japan, the munitions and stockpiles exploded. Gary assisted several hundred men to safety who were trapped in the smoke-filed compartment.

Each of these men has served the country and their fellow Americans by disregarding their own safety and their own lives. Extraordinary men, extraordinary feats. Their acts of heroism saved many American lives. I ask you to join me today in recognizing these remarkable men who played a most vital part in the preservation of America's freedom.

TRIBUTE TO DR. WALTER PORTER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. FILNER. Mr. Speaker, I rise today to recognize Dr. Walter James Porter a founding member of the Rotary Club of Southeast San Diego, a retired educator, community activist and "all-around good guy!"

Dr. Porter and his wife Betty, also a retired educator of distinction, have served the community of San Diego with dedication and compassion for many years. While Dr. Porter's career was in the field of education, he is also widely known for his many civic and social contributions.

Dr. Porter was an early founder of the San Diego County Human Relations Commission, and the San Diego Chapter of the National Association for the Advancement of Colored People. His early political involvement began as a staff member to then California State Assemblymember Peter R. Chacon and later as an associate of such important California political figures as former Congressmen Mervyn Dymally, Gus Hawkins, and State Senator Bill Green.

Dr. Porter has always been in the forefront of grassroots political organizations in the community. Most recently, he joined the Dr. Martin Luther King, Jr. Democratic Club, of which he is a charter member.

With his very busy schedule, he still finds the time to contribute to such worthy community organizations as "100 Black Men" and the very prestigious Alpha Pi Boulé of the Sigma Pi Phi Fraternity, which consists of a sterling body of professionals that represent some of the best and brightest minds in my Congressional District.

However, Dr. Walter Porter's most glowing accomplishments in the educational field continue to be the brightest star in his galaxy of achievements. His pioneering efforts during the era of the Model Cities Program, most significantly marked by the opening of the Educational Cultural Complex, today stand as a testament to his ingenuity.

On Friday, June 5, 1998 during an evening of light-hearted fun, friends, associates and community leaders in conjunction with the Rotary Club of Southeast San Diego, will sponsor a roast in his honor, Dr. Walter Porter is more than a versatile jazz aficionado, and more than the visionary of Adult and College Education. Dr. Walter Porter is this community's icon of professionalism and leadership!

RECOGNITION OF FINDLAY HIGH SCHOOL'S OUTSTANDING ACHIEVEMENT IN THE "WE THE PEOPLE" NATIONAL FINALS

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. OXLEY. Mr. Speaker, today I rise to highlight the outstanding performance of my hometown high school in Findlay, Ohio, in the "We The People * * * the Citizen and the Constitution" national finals held in Washington, D.C. this May. I would like to congratulate Findlay High School students Amber Ayres, Richard Bornhorst, Rebekah Browning, Andy Cole, Jill Crusa, Annie Davis, Brian Fiske, Julie Francis, Levi Gephart, Phillip Hodgman, John Kennedy, Scott Kidwell, Mark Laux, Kurt Lindamood, Nick Lotz, James Ring, Kate Scoles, Hannah Shadle, Michael Taylor, Evalyn Vanderlaak, Taryn Wilgus, and their teacher, Alvin R. Bell, for their in depth knowledge of congressional issues and legislative procedures. The national finals competition simulates a congressional hearing whereby students testify as constitutional experts before a panel of judges. These outstanding young people competed against 49 other classes from across the Nation and demonstrated a remarkable understanding of the fundamental ideals and values of American government. They are prime examples of all that is right in our local education system. They are to be commended for a job well done.

A TRIBUTE TO WILLIAM E. REICH

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. SOLOMON. Mr. Speaker, I rise today to acknowledge the career of a lifelong public servant, Mr. William E. Reich. Mr. Reich is a native of New York State, born and raised in the Village of Tannersville, Greene County, New York. Bill is the devoted and loving husband to his wife, the former Elizabeth Ann Parslow. Despite significant hardship and adversity in his life, Bill has always maintained a commitment to himself and his family to persevere. Bill and Betty Reich are the loving parents of two children, Glenn and Wendy, as well as grandparents of 6, 3 boys and 3 girls. Bill is also active in his community and is a Member, Mt. Tabor Lodge, F&AM #807; Member, Catskill Council #78 Royal and Select Masons; and Member of the Royal Arch Mountain Chapter 250 Masons.

Mr. Speaker, Bill has served on the County Highway Department for thirty-nine years. In his professional capacity, Bill was appointed Greene County Superintendent of Highways in 1979. Since this appointment, Bill has volunteered his time in many Statewide Associations including the New York State Association of Counties and the New York State Association for Solid Waste Management.

Prior to Bill's appointment as Greene County Superintendent of Highways, Mr. Reich served in the Greene County Highway Department as general foreman from 1970–1979; working foreman from 1966–1970; engineering aid from 1964–1966; motor equipment operator from 1963–1964; and road maintainer/laborer from 1959–1963.

In addition to Bill's efforts to provide a safe and efficient infrastructure for the safety of the motoring public in Greene County, Bill served with distinction as the Mayor of the Village of Tannersville, New York. A lifelong member of the Republican Party, Bill proudly serves as a Member of the New York State and Greene County Republican Committees.

Mr. Speaker, the membership of the New York State County Highway Association, affected industry, as well as New York's motoring public, are grateful to Bill for his dedication in securing adequate State and Federal transportation funding for county governments across New York State. Bill has exemplified the term public servant and has devoted himself to community service in both his professional and personal lives. Mr. Speaker, I have always said you can judge a person by how much he returns to his community. By that measure, Bill Reich is a great American.

STATE CHAMPIONS FROM THE SIXTH DISTRICT OF NORTH CAROLINA

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. COBLE. Mr. Speaker, as we conclude the school year, I would like to take a moment to recognize some outstanding young people in the Sixth District of North Carolina who can rightfully wear the title of "champions." We are proud to say that seven schools in our district have produced state champions in baseball, soccer, wrestling, tennis, and cheerleading. We are proud of these individual and team achievements and wish to recognize our North Carolina scholar-athletes.

We begin with a soccer team that is not only the best in our state, but is rated number one in the Nation. The Greensboro Day School girls soccer team completed an undefeated season with its fourth consecutive independent school state championship on May 16. The team ended its season with a perfect 21–0 record. In fact, the Bengals have won 42 straight games and their perfect season vaulted them to the top spot in the National Soccer Coaches Association of America-Umbro Top 20 soccer poll.

Congratulations are in order to Head Coach Kim Burroughs, her assistants Paul Lieb and Dana Tilley, and every member of the Greensboro Day School squad. Contributing to the number one ranking were Christian Anton, Lindsey Marshall, Sara Pickens, Katie Carson, Mary Katherine Davis, Gabi Lieb, Brooke Marshall, Kelli Robinson, Annie Shulman, Landy Douglas, Lauren Groat, Kathleen Martin, Christie McGroarty, Emily Norman, Suzanne Cole, Jenee Kwaitkowski, Jenny Gilrain, Kirsten Paul, and Kendra Kasik.

Everyone contributed to the perfect season and the national recognition. After winning another state title, Athletic Director Freddy Johnson told the Greensboro News & Record that he had t-shirts printed with their number two national ranking. When the Greensboro Day School girls soccer team made it all the way to number one in the Nation, the athletic director told the newspaper "I've got to get them new shirts." That way everyone will know that the Bengals are number one in North Carolina and the U.S.A.

In fact, our district is the home of two state soccer champions this year. On May 30, the High Point Central High School girls soccer squad captured the North Carolina 1–A/2–A championship with a 4–0 win over Eastern Alamance High School. The Bison were led by MVP Lee Culp who had two goals and an assist. The opposing team's coach, Kevin Farrell, told the High Point Enterprise, "She's (Culp) a great player. She's able to run and runin this heat, and I think that was a big difference."

Culp told the newspaper that the win was a team effort. "I was surprised, but I don't think I deserve it (the MVP award) because we have 18 great players on this team." Everyone would agree with that statement. Joining Culp on the championship squad were Sarah Luther, Caithlin Williams, Price Keever, Mandi Tinsley, Leslie Olsen, Katie Copeland, Jenny Thomas, Jenni Tinsley, Lindsay Walker, Erica Bell, Lindsay Holbrook, Mary Orr, Jessica Harrison, Tina Tinsley, Graham Magill, Andrea Brown, and Lindsey Husted.

Congratulations also are in order for Head Coach David Upchurch, his assistant Pete Chumbley, and managers Scott Salter, Robert White and Kim Liptrap. MVP Culp told the newspaper, "Right after the game, we just turned around and said, 'We're going to be back here next year.'" That may or may not happen, but one thing is for sure, we need to congratulate the High Point Central girls soccer team for winning this year's 1–A/2–A championship.

Now that we are in the middle of the baseball season, we are pleased to announce that two high schools in the Sixth District have captured state championships. Eastern Randolph High School won North Carolina's 2–A baseball title while Northwest Guilford High School captured the 4–A crown.

Eastern Randolph defeated Whiteville 8–2 on may 31 to win the 2–A championship. Wildcat Head Coach Tommy Maness told the Greensboro News & Record that the state title was the goal which was set on the first day of practice. "It seems like it's been an eternity since February 9," Coach Maness said. "These guys, back then, they set a goal and said 'hey, we want to win a state championship.'" It was a goal that may have been set last year when Eastern Randolph made it to the state semifinals.

This year, the Wildcats made it all the way to the top thanks to the contributions of Coach Maness, his assistants Neill Kivett, Harold Kivett, Danny Martin, and Cecil Mack, statisticians Brandie Craven and Mary Beth Butt,, and every member of the talented Wildcat squad. Congratulations go to Darren Beasley, Anthony Birchette, E.J. Brower, Matt Brown, Mickey Burgess, Andrew Conner, Morgan Frazier, Rod Goldston, Michael Johnston, Jonathan Kirkman, James Lowe, Zack Moffitt, David oats, Greg Rich, Thomas Seawell, Nathan Sheppard, Darrin Stewart, and Brian Wright.

The other Sixth District high school to win a state baseball title was Northwest Guilford. Not only did the Vikings capture the state 4–A baseball championship on May 31, but the win culminated the 32-year career of an outstanding baseball man, Northwest Guilford Head Coach Sandy Gann. Coach Gann's final victory gave him a career record of 422–248 and the first state championship of his remarkable baseball tenure.

Northwest Guilford defeated Raleigh Athens Drive 7–5 in the championship game to capture the 4–A crown. The win was remarkable for several reasons. First, Raleigh Athens Drive was ranked 23rd in the Nation going into the tournament. Second, the Vikings' starting pitcher had thrown only two innings all year while the Jaguars' starter was ranked by Baseball America as one of the Nation's top 10 juniors. Finally, not many thought Northwest Guilford would even make it to the postseason when the team began the season with a 6–9 mark. The Vikings regrouped, however, to finish 18–9 and win the state title.

Again, congratulations to Head Coach Sandy Gann, his assistants Donnie Redmon, Sonny Gann and John Hughes, scorekeeper Alan Brown, and every member of the Northwest Guilford squad. Contributing to the state title run were Andrew Angel, Brad Comer, Matt Crayton, Jeff Fisher, Eric Freeman, John Gann, Justin Hall, Jamie Hemingway, Eric League, Josh McCall, Phillip Nicolette, Justin Smith, Jason Walker, Jeremy Walker, and Henry Williams.

Our district is also home to a tennis champion this year. Western Alamance High School defeated Statesville 7–2 in May to win the North Carolina boys 2–A tennis title. The championship win culminated a 20–1 record for the season with the only loss coming to 4–A champion Raleigh Broughton High School. Head Coach Barry Sumner has compiled an impressive 68–4 record in only three seasons at Western. Coach Sumner told the Alamance News that the win reflected a season of hard work and dedication. "The team played real well," Coach Sumner told the newspaper, "and the guys composure was good. We're very happy for both the school and community."

Congratulations to Coach Sumner, his assistant John Dutton, manager Bonnie Richardson, and every member of the tennis squad, including Brandon Smith, Kevin Kriner, Robert Siletzky, Blair Smith, Richard Dutton, Justin Kilpatrick, Bradley Blanks, T.J. Stecker, Matthew Walton, Jonathan Walker, and Brian Smith.

Every sports team needs cheerleaders and the Sixth District of North Carolina is home to one of the state's best. The Southwestern Randolph High School cheerleaders won the North Carolina 2–A cheerleading title in February. This was the seventh time the Cougar cheerleaders have won the state championship but it was the first for new Head Coach Jamie Hogan. Hogan followed in the footsteps of longtime Southwestern Randolph cheerleader Head Coach LuEllen Morgan who was Hogan's assistant this year.

Congratulations to Coaches Hogan and Morgan, and every member of the squad, including Darian Walker, Alicia Miller, Sara Knapp, Katie Copple, Melissa Foster, Jamie Parrish, Kelly Bryant, Ashley Davis, Marie Nance, Danielle Tedder, Jessica Mullis, Casey Swart, and Jenny McGaha.

Finally, the Sixth District was the home this year to an individual athlete who won a state championship. Andrew Slack, a junior at Ragsdale High School won the state 3–A wrestling title in February. Competing among 16 wrestlers in the 130-pound class, Slack captured the 3–A title in Charlotte.

Andrew told the Jamestown News, "I prepare myself to win by working hard every day and trying to improve myself every day." Slack accomplished that goal by winning the state 3–A wrestling championship.

In fact, that is what epitomizes these talented students from all seven schools. All of them worked hard to prepare themselves to win. On behalf of the citizens of the Sixth District of North Carolina, we offer our congratulations to outstanding student athletes at Greensboro Day, High Point Central, Eastern Randolph, Northwest Guilford, Western Alamance, Southwestern Randolph and Ragsdale.

TRIBUTE TO DEACON ELMO COOPER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. RANGEL. Mr. Speaker, it is my distinct honor and pleasure to congratulate Deacon Elmo Cooper for 60 years of service to Canaan Baptist Church of Christ which is located in my Congressional District.

Born in Lake City, Florida, Deacon Cooper joined Canaan Baptist Church in 1936 and since that time, has served the church and the community in numerous ways.

Upon first joining the church, he was appointed as the Assistant Superintendent of the

Sunday School, a position he held for 16 consecutive years. He was ordained a Deacon in 1938 and appointed Chairman of the Official Board in 1957. Though he retired this year from his position on the Board after forty consecutive years of service, he continues to serve as a Deacon at Canaan, with the honor, dignity, and grace he is known to possess.

Other affiliations at Canaan include Chairman of the Board of Directors of the Canaan Housing Development Corporation, member of the Canaan Baptist Development Corporation, and Second Vice President of Canaan's Federal Credit Union.

Deacon Cooper is an active member of the Louis H. Pink Senior Service Center in Brooklyn where he instructs a Spiritual Enlightenment class. He is a frequently sought after Keynote Speaker for various worship services and religious functions, and is a member of the New York State Deacons' Convention.

Deacon Cooper is married to the former Rose Newton and in October of this year, they will celebrate 65 years of marriage. His lovely wife also gives of her time and spiritual talents as she is a Deaconess at Canaan Baptist Church. The Coopers have five children: Joyce Goodridge, Alvin Cooper, Carl Cooper, Carol Cooper, and Myra Kiffin.

Deacon Elmo Cooper is one of our community's most beloved and respected leaders. His years of service and dedication have earned him the esteemed honor of Chair Emeritus.

Mr. Speaker, I would ask that my colleagues on both sides of the aisle join me in honoring Deacon Elmo Cooper for his many years of unselfish devotion to Canaan Baptist Church of Christ, and to the community.

STATEMENT CONCERNING ENFORCEMENT OF THE U.S.-JAPAN INSURANCE AGREEMENT

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. McDERMOTT. Mr. Speaker, I wish to bring to the attention of this body and the American people a matter of serious concern regarding current violations of the U.S.-Japan Insurance Agreement. Against a backdrop of a rapidly expanding trade deficit, continuing Asian financial crisis, and growing skepticism regarding international trade agreements and institutions such as the IMF, it is crucial for the Administration to ensure that major U.S. trading partners live up to their obligations under existing trade agreements with the United States. Nevertheless, clear violations of the U.S.-Japan Insurance Agreement are now taking place virtually unchallenged.

The U.S.-Japan Insurance Agreement is designed to promote liberalization of the Japanese insurance market by preserving the third sector, where U.S. companies have traditionally had success, until the primary first and second sectors have been liberalized by the Japanese Government. This basic bargain, struck by the governments of Japan and the United States in 1994 and strengthened in 1996, has been put at serious risk by the activities of Yasuda Fire and Marine Co., Ltd. who has used its relationship with its affiliate and de facto subsidiary INA Himawari Life Insurance Co., Ltd. to prematurely ramp up its presence in the third sector.

The seriousness of this breach cannot be overstated. If Yasuda is allowed to continue expanding its presence in the third sector prior to the substantial deregulation of the life and non-life sectors, the Agreement will be left without its primary incentive for compliance by Japanese firms (i.e., the promise of access to the third sector).

Yasuda's current activities also pose a serious challenge to U.S. trade policy. The Japanese insurance industry knows that obtaining this agreement required intense efforts by senior U.S. Government officials, including the President of the United States. If the United States is unable to take vigorous actions against Japan's clear violation of the U.S.-Japan Insurance Agreement, it will send a lasting and damaging message to Japan and Japanese industry, as well as to those countries that would negotiate with us in the future.

Despite its failure to comply with the Agreement's critical third sector provisions, Japan appears ready to start the two and one-half year countdown to opening the third sector to large Japanese companies on July 1 of this year. Absent measures to correct the violations, this action would breach both the letter and the spirit of the U.S.-Japan Insurance Agreement. This situation requires swift action by the Administration. The U.S. insurance industry's continued viability in the Japanese market depends on the full and effective enforcement of this agreement.

TRIBUTE TO GARY L. BARR

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Gary L. Barr, for his leadership and efforts to improve the quality of life in our community. Gary is a determined, hard working individual who has dedicated his time to the law and judicial communities, and other organizations in the San Fernando Valley.

After graduating from Southwestern University School of Law in May 1997, Gary worked as a Deputy City Attorney in the Office of the City Attorney in Los Angeles. After two years of work, including an intensive training program, trials, motions and daily court appearances, he moved on to act as the Supervisor, Central Trials Section, Criminal Branch, and then onto the General Counsel Section, Civil Branch at the Office of the City Attorney. In 1982, Gary decided to move into the private law sector, joining Alpert, Barr & Gross, where he is still a practicing member of the firm.

With his vast law and judicial experience, Gary was appointed as a Family Law Mediator and judicial referee at the Los Angeles Superior Court. Currently, he spends time as a temporary judge in the Los Angeles Municipal Court's Small Claims Division and at the Los Angeles Superior Court.

In addition to his career as a respected law practitioner, he has been elected president of the San Fernando Valley Bar Association in 1991 and 1992, and currently acts as the Vice Chair of Executive Committee of the Fee Attribution Panel of the Los Angeles County Bar Association. He was also a trustee and director of the San Fernando Valley Community Legal Foundation and the San Fernando Valley Bar Association Settlement Services, Inc., respectively.

Along with Gary's dedication to his judicial responsibilities, he has found the time to play a community leadership role in the San Fernando Valley. Since 1992, Gary has been a member of the California Manufactured Housing Institute, and acted as a Vice-Chair from 1995–1997. Gary has also held important positions at the Neighborhood Planning Advisory Council for Woodland Hills/West Hills, TreePeople of Los Angeles, United Chambers of Commerce of San Fernando Valley and the Woodland Hills Chamber of Commerce. He has been a member of Temple Eliyah since 1983 and was recently acknowledged for his work as a judge with the Los Angeles Times Community Partnership Award.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Gary L. Barr. He has shown an unwavering commitment to the community and deserves our recognition and praise.

HONORING FATHER MARTIN CARTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor Father Martin Carter who has dedicated his life to the ministry.

Father Martin Carter is a native of High Point, North Carolina and a priest of the Society of the Atonement. He holds a doctorate of ministry from McCormick Seminary, Chicago, Illinois. His seminary studies were completed at Pope John XXIII National Seminary, Weston, Massachusetts, where he earned a master of divinity with a bachelor of arts degree from Chicago State University, with a concentration in psychology and counseling.

Father Martin has ministered in several countries in Africa, Europe, and the Caribbean. He presently serves as Director of the Office of Black Ministry in the Brooklyn Diocese. His work has been published in the New Catholic Encyclopedia, The Jurist, Journal of the Society of the Atonement Ecumenical Trends and various magazines and newspapers. He has also coauthored a book that describes the African custom of Kujenga, a growth and leadership rite. The book, entitled Kujenga: Black Catholic Youth Leadership Conference, now serves as an educational tool for many black children and their parents.

Father Martin uses his education to reach out to communities everywhere. Through his faithful service, he has worked with the Faith and Order Commission of the World Council of Churches. At this meeting, he represented African American Catholics and submitted a report entitled "The Unity of the Church and the Renewal of Human Community."

Father Martin's extraordinary contributions to the community have merited him numerous awards and honors. North Carolina State University bestowed him with a community service award and Shaw University awarded him with a Salute to Greatness Award for his ministry as director of the Office for Black Ministry, Evangelization, and Episcopal Vicar for African American Catholics.

Mr. Speaker, please join me in honoring Father Martin Carter for his valuable contributions to the community.

PERSONAL EXPLANATION

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. DIXON. Mr. Speaker, on May 22, I was unavoidably detained during rollcall vote number 192. Had I been present, I would have voted "aye."

TECHNICAL CORRECTION TO THE DANIEL BOONE HERITAGE TRAIL PROJECT DESCRIPTION

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BOUCHER. Mr. Speaker, I rise today to clarify, for the record, a technical correction within H.R. 3978. I am the primary sponsor of the Daniel Boone Heritage Trail project that was included in the recently passed transportation reauthorization measure H.R. 2400, and is listed as project number 746 in the Conference Report on H.R. 2400, the Transportation Equity Act for the 21st Century Act.

The Daniel Boone Heritage Trail is of tremendous historical importance to our Nation. Early in our Nation's history, the trail served as the major artery of passage for settlers crossing the Appalachian Mountains on their way westward. Over the last two hundred years, the covered wagon has been replaced by more modern forms of transportation and portions of the original trail eventually fell into disuse and were reclaimed by nature. However, a determined group of local citizens in Southwest Virginia, Eastern Kentucky, and Eastern Tennessee have joined together recently to locate and restore the trail. I have been supportive of these efforts and included within the transportation reauthorization measure funding to help purchase a parcel of land containing a segment of the trail.

In the original BESTEA measure, and in the subsequent conference report passed by the House on May 22, 1998, the project description for the Daniel Boone Heritage Trail describes the land to be acquired as being within the Jefferson National Forest. However, the acquiring group may desire to purchase privately owned land instead.

It was my intent that the technical corrections measure, H.R. 3978, strike the reference to the Jefferson National Forest within the Daniel Boone Heritage Trail project description, creating the flexibility for the purchase of either publicly owned or privately owned land. Unfortunately, although non-controversial, language to strike the reference to the Jefferson National Forest from the project description was not included in H.R. 3978. I rise today to state for the record the project's original intent.

LIBERTY ENTAILS HARD WORK

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, most westerners, of course, know the difference between freedom and liberty. Excessive freedom is license. There is no such thing as too much liberty.

Our founders understood these terms and used them frequently, but not interchangeably. Freedom is a statement of sovereignty about individuals or political jurisdictions, and it relates to independence. Liberty, however, is of a social quality, saying more about how we live among others.

Recently, on the floor of the U.S. House of Representatives, I delivered a speech on the topic of school choice. I quoted British poet John Milton who wrote of liberty in his 1671 poem, *Samson Agonistes*:

But what more oft in nations grown corrupt
And by their vices brought to servitude
Than to love bondage more than liberty,
Bondage with ease than strenuous liberty.

Real liberty never comes at anyone else's expense, is retained only through great effort and fortitude, and once given away is not easily retrieved. That is what revolutions are all about.

As a Member of Congress, I reflect daily on these great themes. The intricacies of government, absent discipline, can distract from the big philosophical precepts that separate Americans from the rest of the world.

I view my role in Congress as a peaceful revolutionary fighting incrementally to return the power that our Constitution, under the Tenth Amendment, observes belongs to the states or to the people. I tend toward classical liberalism, which is an attitude placing a premium on the liberty of individuals and communities to control their own lives.

Since this philosophy harks back to the Federalist Papers, in America I am considered a modern conservative. The Republican Party best represents me, and I'm drawn to the words of the first Republican president Abraham Lincoln:

"You cannot strengthen the weak by weakening the strong. You cannot help the wage-earner by pulling down the wage-payer. You cannot help the poor by destroying the rich. You cannot help men permanently by doing for them what they could and should do for themselves."

The right to liberty, life, and property are considered "natural rights," given by God, not granted by government. These rights we enjoyed prior to government which was only created to secure and protect them. The Constitution accordingly, is a code of limited government.

I once heard Lady Margaret Thatcher speak in Colorado about property rights as a "moral quality," providing the individual substantial leverage against the tyranny of excessive government. She expressed her belief that American liberty has passed the test of time precisely because of our traditions of private property ownership. It's what makes America great.

The protection of private property in the Takings Clause of the Fifth Amendment, has become a battleground in the War on the West. Protecting private property rights is not an issue for just farmers and ranchers.

Most of us were taught as children simple lessons like, "don't take things that are not yours." However, Washington, D.C. is replete with bureaucrats who believe many public objectives should be achieved even at the exclusive expense of private individuals. For example, the expense associated with saving an endangered species falls squarely on the shoulders of the poor individual who owns the land upon which the species is found, or might one day take up residence. Rather than purchase desirable parcels at fair market prices, the government effectively "takes" them through prescriptive rule.

President Thomas Jefferson concluded that there are only two prevailing forces at work in any political system each advocating its way to organize societal affairs. One acts coercively, through government mandates. The other responds voluntarily, through the private interaction of individuals, clubs, churches, associations, businesses. The latter is the basis for a civil and just society.

It is obvious that we need a certain amount of government to protect life, liberty, and property from various threats, foreign and domestic. At the same time, it is equally obvious that the chief goal of Congress should be to minimize, thereby honoring our liberties, the role of government in our lives.

To this end, I have long admired the work of the Colorado Cattlemen's Association in its efforts to preserve our western heritage of self-sufficiency, rugged individualism, and abundant liberty.

Throughout my nine years in the Colorado State Senate, and during my first term in Congress, our partnership has allowed us to achieve meaningful progress. And through my service on the House Agriculture Committee, and the House Resources Committee, I'm proud to say we have done much to preserve our western way of life.

IN RECOGNITION OF JIMMY WAYNE EASTERLING

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. RILEY. Mr. Speaker, I rise today to recognize Jimmy Wayne Easterling, who has been named the Alabama Small Business Person of the Year for 1998 by the U.S. Small Business Administration. He is among 53 top small business persons—one from each state, the District of Columbia, Puerto Rico/Virgin Islands and Guam—who are being honored by the U.S. Small Business Administration in Washington, D.C., from May 31 to June 6.

Born in Chilton County in 1941, Jimmy Easterling started Wayne Industries, Inc. in his garage with $500. Since then, he has turned his company into one of the largest employers in the county.

Wayne Industries manufactures portable, modular and corporate signs for such companies as Whirlpool, DuPont, General Motors, Suzuki and Chester's Chicken. The company also manufacturers custom signs for mom-pop businesses across the nation. Wayne Industries' customer base has spread from the Southeast to include the entire United States, Canada, England, Germany and Mexico.

Mr. Speaker, Jimmy Easterling's success story is a classic example of the American dream. Here is an individual, who had an idea and turned it into a reality.

While Jimmy has been a major contributor to the economic prosperity of Chilton County, his service to his friends and community did not stop there. After graduating from Chilton County High School, Jimmy enlisted in the Alabama National Guard. Though he began his military career as a private, Jimmy retired thirty-five years later as a full colonel. During his tenure in the military, he was part of the elite Special Forces Green Berets, and received numerous awards and decorations for outstanding service and duty.

Throughout it all, Mr. Speaker, Jimmy has remained a devoted husband and father. His commitment to his family, Wayne Industries and his surrounding community is an example to all of us. I would ask that my fellow colleagues join me today in recognizing this man, and congratulating him on this award, which he so justly deserves.

SALUTE TO COL. JERRY E. KNOTTS, USAF (RET.)

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. GALLEGLY. Mr. Speaker, each year the Conejo Valley, California, Chapter of the Military Order of the World Wars presents its Red, White and Blue Ball to perpetuate the spirit of patriotism. At the Ball, each year an individual is honored who has demonstrated exceptional patriotism and who has made significant contributions to the community. This year, on June 6, 1998, an outstanding individual, Colonel Jerry E. Knotts, USAF (Retired) will be presented with a special Patrick Henry Medallion as the "Patriotic Citizen of the Year."

I am pleased to call Colonel Knotts a friend. Jerry retired from the Air Force with 24 years of service. His last assignment was as commander of the Washington Area Contracting Center at Andrews Air Force Base. He was responsible for Air Force procurement throughout the Nation's Capital, and a region from the Azores to Saint Louis. His responsibilities included the White House and the Presidential VIP aircraft fleet.

As part of the Defense Logistics Agency, Jerry previously oversaw production of aircraft gas turbine engines, diesel engines, and armored vehicle transmissions at Detroit Diesel Allison of Indianapolis, Indiana. His career also included fourteen years in the Big Safari special reconnaissance program at General Dynamics in Forth Worth, Texas; E-Systems in Greenville, Texas; and Lockheed Aircraft Services in Ontario, California. Jerry was responsible for creating and flight testing a number of specially configured aircraft, including the Combat Sent, Combat Talon, Cobra Ball, Rivet Joint and many others. During 1968, he completed 112 missions over North Vietnam in an F–105 Wild Weasel.

For his outstanding service to our nation, Jerry received the Legion of Merit, the Distinguished Flying Cross, the Meritorious Service Medal with two oak leaf clusters, the Air Medal with 13 oak leaf clusters, and the Air Force Commendation Medal.

Today, Jerry is manager of financial programs for the California Manufacturing Technology Center and serves as a Ventura County Airport Commissioner. He and his wife, Mary, and daughter, Stephanie, have been residents of Thousand Oaks since 1984. Since his retirement from the Air Force, Jerry has devoted thousands of hours to a multitude of charitable organizations. He currently is chairman and president of the Thousand Oaks Youth Leadership Conference, the Westlake Village Cultural Foundation, and the Stagecoach Inn Museum Foundation, which he created.

He also has been active in the leadership of the Community Leaders Club, the Conejo Symphony, the Conejo Valley Historical Society, the Conejo Valley Genealogical Society, the Conejo Futures Foundation and several fraternal organizations. For the past 15 years, Jerry has been responsible for the majority of the patriotic ceremonies held in the Conejo Valley. He is the past commander of Conejo Valley Chapter of the Military Order of the World Wars and has served as master of ceremonies for the organization's Red, White and Blue Ball for 11 years.

For his remarkable public service, Jerry has received numerous awards. In 1996 he was honored by the Conjeo Valley Historical Society. That same year, Jerry and his wife, Mary, both received the William E. Hamm Award from the California Lutheran University Community Leaders Club. Jerry also has been honored for his community service by having a seat designated in his name in the Thousand Oaks Civic Center Forum Theater. He previously received the Outstanding Service Award and the Silver Patrick Henry Medal from the Military Order of the World Wars.

Mr. Speaker, my friend Colonel Jerry Knotts exemplifies the best spirit of patriotism and service to our Nation and his community. I ask my colleagues to join me in congratulating him on being named the Patriotic Citizen of the Year and for being selected to receive the Patrick Henry Medallion.

TRIBUTE TO H. LEE HALTERMAN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Ms. LEE. Mr. Speaker, I would like to bring to the attention of my colleagues the exceptional work of an exceptional person, my former colleague and close friend Lee Halterman, on the occasion of the celebration of his retirement from Capitol Hill.

H. Lee Halterman worked for my predecessor, the Honorable Ronald V. Dellums, for 27 years. During that time, Lee served Ron and the constituents of the then 7th, then 8th, now 9th Congressional District of California in a wide variety of capacities. Lee began as a teenage volunteer, too young to vote, but not so young that he couldn't run a successful campaign in the Berkeley area of the District. While attending the University of California at Berkeley, Lee was the Berkeley District Office Director and after graduation was able to work full time during the day while attending Bolt Hall School of Law in the evenings.

In 1978, Lee took a leave of absence to accept the prestigious position of legal officer at the International Commission of Jurists in Geneva, Switzerland. Lee returned to the United States to work in the Dellums Berkeley office, and then the Oakland office as District Counsel and co-District Director.

In 1993, when Mr. Dellums became chairman of the House Armed Services Committee, Lee commuted regularly between the Congressional District and Washington to serve both as the Counsel to the House Armed Services Committee and as General Counsel to Representative Dellums. At the same time, Lee directed the policy staff which developed the Committee's agenda and advised the Chairman on military and foreign diplomatic issues of the day.

The list of positions held by Lee tells only part of the story. His work is well known among local and national progressive political activists, academics, and policymakers. The 1983 book, Defense Sense: The Search for a Rational Military Policy, which was written by Ron Dellums with Lee Halterman and the late Max Miller, serves even today as a primer for those who seek a constructive alternative approach to the formation of the nation's foreign and military policies. Lee has demonstrated the ability to use his keen native intelligence, considerable political acumen, insight, wit and humor, to bring together the most disparate parties and work out solutions to the most intractable problems.

As a result, Lee is accepted and respected by progressives and conservatives, civilians and General-grade officers, public and private officials alike. His counsel and assistance on complex problems is not only welcomed but sought. During his tenure on Capitol Hill, he was generous with his talents, not only with the House Armed Services Committee and Representative Dellums' office, but with the House Leadership and other Committees as well.

Lee Halterman has been a trusted advisor, skillful manager, and extraordinary writer, a political observer, a legislative strategist, and many other things, but perhaps most of all Lee has been a true and gentle friend to so many of those he has worked with, and who have come to know him over all of these years. I know I speak for all of them when I wish him well in all of his future endeavors.

CONGRATULATING BOB WALLACH AND MICHELLE MINI ON THEIR MARRIAGE

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mrs. McCARTHY of New York. Mr. Speaker, I rise today to congratulate my friend Bob Wallach on his marriage to Michelle Mini on June 7, 1998. I am honored to call Bob my good friend, as he is a remarkable individual. Not only is Bob the Chairman and Chief Executive Officer of the Robert Plan Corporation, one of the most successful insurance companies on Long Island, he is also a leader in our community—a true fighter for all people.

Bob's achievements throughout the history of the Robert Plan Corporation are incredible. The Corporation is a leading servicer and underwriter of private passenger and commercial auto insurance, specializing in urban markets. At a time when traditional insurers stayed away from the urban areas because they were deemed unprofitable, the Robert Plan Corp. went into these areas to provide people the opportunity to buy insurance. And in doing so, their aggressive street smart philosophy actually stabilized insurance rates for its customers. And today, the company is the acknowledged leader in fighting automobile insurance fraud.

The Robert Plan Corp. regularly receives accolades from the media, the insurance industry, law enforcement officials and its clients. In 1993 Bob was honored with the Entrepreneur of the Year award in a competition sponsored by Inc. Magazine and Ernst and Young, and in 1996 the company was named Employer of the Year by Adults and Children with Learning and Developmental Disabilities.

During his "free" time, Bob commits a great deal of his energies to numerous service organizations to improve the lives of our youth. As Chairman of the Children's Health Fund/Insurance and Banking Industry National Child Health Partnership, Bob's goal is to vastly improve access to comprehensive primary health care for medically underserved children. He is a major contributor and Chairman of the Big Apple Circus Clown Care Unit, as well as a member of the President's Council of the Gay Men's Health Crisis. Bob is a founding supporter of The Harlem Little League, serves on the Board of the Diabetes Institutes Foundation and actively supports the Boys Club of New York, the Newark YMWCA and numerous sports teams throughout the metropolitan area.

Bob Wallach embodies the highest ideals of citizenship. For over thirty years, Bob has been both an advocate and speaker for ALL Americans. His innovativeness in the urban insurance business, as well as his commitment to serving others, is greatly valued by all those who know him, work with him and love him. With great admiration for them both, I congratulate Bob and Michelle on their marriage and I wish them many years of happiness.

JOHN HANLEY HONORED FOR DISTINGUISHED PUBLIC SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. STARK. Mr. Speaker, I rise today to recognize the dedication and accomplishments of Mr. John Hanley who represents the very best in public service and to thank him for his years of service to our joint constituency in the 13th Congressional District as he leaves to continue his career across the Bay.

A graduate from Fordham University in New York, Mr. Hanley began his career with the Social Security Administration as a Claims Representative in New York in 1971. Since then, he has held increasingly responsible positions, including Operations Supervisor, Staff Specialist in the Regional Office, Area Administrative Assistant, Assistant District Manager, and District Manager in two Bay Area districts—meanwhile finding time in the evenings to complete his MPA at California State University Hayward.

Mr. Hanley has been SSA District Manager for the Hayward, CA District for seven years where he displays an exceptional ability to balance operational and administrative responsibilities. He consistently demonstrates a personal involvement in all aspects of operations, and can be depended upon to be well informed on technical changes as well as on new policies and procedure that impact operations and service delivery. Due to his strong analytical skills, his suggestions for changes and improvements benefit not only his District but the entire region.

Under Mr. Hanley's exceptionally effective leadership, his District is a model for timeliness, accuracy and courteous service. John's blend of consistently efficient service without sacrificing compassion has earned him the respect of peers and community alike and has made my job easier! My office has observed his office as a hallmark of public service and has enjoyed many years of close cooperation and responsiveness.

I join many in our community in thanking John for his strong leadership within the Administration and for having a caring heart for the claimants.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 4, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 5

9:30 a.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

Joint Economic
To hold hearings to examine the employment-unemployment situation for May.
1334 Longworth Building

JUNE 8

1:00 p.m.
Special on Aging
To hold hearings to examine the international trend of increased life expectancy.
SD–628

JUNE 9

10:30 a.m.
Foreign Relations
To hold hearings on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Treaty Doc. 105-43).
SD–419

2:00 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine congressional views of the U.S.-China relationship.
SD–419

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Agency for International Development.
SD–192

JUNE 10

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine livestock issues, including demand, overseas development, pricing, and industry structuring.
SR–332

9:30 a.m.
Indian Affairs
To hold oversight hearings on Bureau of Indian Affairs school construction.
SD–106

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Government of the District of Columbia and to examine their financial plan.
SD–192

Banking, Housing, and Urban Affairs
Financial Services and Technology Subcommittee
To hold hearings to examine whether financial institutions are properly preparing for the Year 2000 conversion.
SD–538

Joint Economic

To hold hearings to examine the Federal Reserve's monetary policy and economic outlook.

SH–216

JUNE 11

9:30 a.m.

Labor and Human Resources

Employment and Training Subcommittee

To hold hearings to examine child labor issues.

SD–430

10:00 a.m.

Energy and Natural Resources

Energy Research and Development, Production and Regulation Subcommittee

To hold oversight hearings on the federal oil valuation regulations of the Minerals Management Service.

SD–366

2:00 p.m.

Energy and Natural Resources

To hold oversight hearings to examine the Recreational Fee Demonstration program.

SD–366

JUNE 12

9:30 a.m.

Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

To hold hearings to examine how the Year 2000 computer conversion will affect utilities and the national power grid.

SD–192

JUNE 16

10:00 a.m.

Judiciary

To hold hearings to examine mergers and corporate consolidation.

SD–226

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of State.

SD–192

JUNE 17

2:00 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

JUNE 18

10:00 a.m.

Labor and Human Resources

To hold joint hearings with the House Commerce Committee to examine organ donation allocation.

2123 Rayburn Building

2:00 p.m.

United States Senate Caucus on International Narcotics Control

To hold hearings to examine United States efforts to combat drugs, focusing on international demand reduction programs.

SD–628

JUNE 24

9:30 a.m.

Indian Affairs

To hold hearings on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, "Chippewa Cree Tribe of the Rocky boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".

SR–485

JUNE 25

9:30 a.m.

Labor and Human Resources

To hold hearings to examine health insurance coverage for older workers.

SD–430

JULY 21

10:00 a.m.

Judiciary

To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.

SD–226

OCTOBER 6

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.

345 Cannon Building

CANCELLATIONS

JUNE 11

2:00 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

SENATE—*Thursday, June 4, 1998*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by guest Chaplain, Reverend Shirley Caesar, Pastor of Mount Calvary Word of Faith Church, Raleigh, NC.

We are pleased to have you with us.

PRAYER

Let us pray:

Father, You have declared in Your word that, "Blessed is the nation whose God is the Lord."—Psalms 33:12. So, Lord, we realize that You are the only Supreme and Sovereign God, and we thank You for the blessing of living in a nation that is predicated upon a strong, Godly heritage. May we ever be cognizant of the fact that it is Your grace and Your mercy that have blessed our Nation to become a symbol of freedom, prosperity, and justice.

We are admonished in the Book of Romans that, "the authorities that be are ordained of God."—Romans 13:1. Therefore, Lord, we thank You for this governing body of the United States of America, we thank You, Lord, the men and women You have chosen to help lead our Nation. Father, we pray and intercede for the Senators who have convened here today, seeking Your guidance and will for our country. We pray in the name of the Lord that You will release a spirit of harmony throughout this session. Grant them Godly wisdom, knowledge, understanding, discretion, and courage. Cause their wills to concede to Your will. Let Your vision become their vision and Your desires their desires. By doing so, Lord, we are assured that our Nation will continue to live out and fulfill the true meaning of its calling.

We ask these blessings in the Name of our Lord. Amen, and Amen.

Mr. HELMS addressed the Chair.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able senior Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

THE GUEST CHAPLAIN'S PRAYER

Mr. HELMS. Mr. President, it was about four months ago that I called the Senate's distinguished chaplain and suggested that he might consider inviting Rev. Shirley Caesar of Raleigh, North Carolina, to serve as the U.S. Senate's guest chaplain on some mutually convenient occasion.

I recall Dr. Ogilvie's response—a friendly suggestion that I tell him about Pastor Caesar. I replied that I would do better than that—and I did, by sending Dr. Ogilvie a copy of a lengthy article published by the Washington Post on February 22.

In a moment, Mr. President, I shall ask unanimous consent that portions of that article be printed in the RECORD at the conclusion of my remarks.

But before I do that, let me summarize the fascinating Christian witness of Rev. Shirley Caesar, pastor of Mount Calvary Word of Faith Church in my hometown of Raleigh, N.C.

The Washington Post described Pastor Caesar this way:

> On weekdays, (Pastor) Caesar, with a record number of nine gospel Grammys—hits the road to share her voice with those who come to hear her music and witness her presence as a legendary performer on stages across America. But on Sundays she returns to a plain maple pulpit in a simple whitewashed church—comes home, not far from where she was born, to her husband of 15 years, Bishop Harold Ivory Williams, and preaches, ministers to everyday problems, and hears the refrains.

Mr. President, I have selected several paragraphs from the Washington Post story of February 22, 1998, and shortly ask unanimous consent that this information be published in the RECORD at the conclusion of my remarks.

But before I make that formal request, let me extend my personal welcome to the Senate's remarkable guest chaplain for this day. I am proud of her and at the first opportunity, Dot Helms and I intend to worship one Sunday morning with Reverend Caesar.

Now, Mr. President, I make the formal unanimous consent request that I mentioned a minute or so ago.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS OF WASHINGTON POST ARTICLE ABOUT REV. CAESAR

> Small in stature and verging on 60, she is almost dwarfed by the pulpit. So she moves out, microphone in hand, her stylish pumps gleaming signals that the spirit is lifting this room of 400 people who pray, jump to their feet and sweat with their pastor.
>
> She embraces a niece who has survived a bout with drugs.
>
> "The things she used to do, she don't do no more," Caesar says. Sounds like the beginnings of a song to lift up. A black handkerchief wipes her brow.
>
> "I want to be ready," she says. "I don't want Him to come here and find me getting ready," she says. She is ready to rise.
>
> She says of her calling, "I don't want it to be said, I wonder where Shirley Caesar is, I wonder if she is still singing. I am. I believe that singing and preaching go together like ham and eggs. So I just praise God that I am still here."
>
> Meanwhile, for 40 years, first with the famous Caravans, then as a solo performer, Caesar has been one of the most energetic and popular performers in the music business. In the gospel world, she is the bridge between pioneers like Mahalia Jackson and Clara Ward; she rode the tidal wave of Edwin Hawkins and James Cleveland and now shares a national spotlight with the Young Turks of gospel, Vickie Winans and Kirk Franklin.
>
> Like Ella Fitzgerald, she puts her stamp on songs, and they never sound the same again—from works by such gospel masters as Thomas A. Dorsey to religious verses by Bob Dylan. She performs songs, many of which she writes, that are highly personal—they reveal complicated lives lived by people who may not have money, love or opportunity but who do have faith.
>
> In many of her songs, Caesar starts with a vignette of crisis, sometimes with just the piano or organ in back of her.
>
> "Have you ever walked the floor/all night long/wondering how you were going to pay your bills?" she sings at the beginning of the wonderful "You're Next in Line for a Miracle."
>
> She repeats the lyrics, her raw voice demanding emotional response.
>
> "Get ready for your miracle/Move to the front of the line/Today is your day . . . get ready, get ready, you are next in line for a miracle—a miracle!"
>
> The orchestration expands and the choir sings the refrain above Caesar's "Hallelujahs." On Wednesday, "A Miracle in Harlem," nominated for best traditional soul gospel album, might win her a 10th Grammy. (She has also been nominated more times than any other gospel artist.) From the religious music community, she has won 15 Dove Awards and 10 Stellar Awards.
>
> Not confined to music arenas and churches, Caesar has done four Broadway shows and contributed to the movie soundtracks of "The Preacher's Wife" and "Rosewood." In the spring, she's scheduled to make a guest appearance on UPN's "Good News," and her autobiography is scheduled for publication in May. When Dylan was chosen as a Kennedy Center honoree last year, he asked that Caesar sing his "Gotta Serve Somebody." Caesar likes the fact that the salute portion of the night ended as she shouted "Jesus!"

SCHEDULE

Mr. HELMS. Mr. President, today the Senate will resume consideration of S. 1415, the tobacco legislation. There are several amendments still pending to the bill, and it is hoped those issues can be disposed of at an early hour so that the Senate can consider additional amendments to the tobacco bill.

Rollcall votes, therefore, are expected throughout today's session of the Senate. As a reminder to all Members, there are a number of items that the Senate may also resume, or begin, or both, including the Department of Defense authorization bill, the conference reports as they may become available, and any appropriations bills that are ready for action. As always, other executive or legislative matters may be considered as they are cleared.

On behalf of the majority leader, I thank my colleagues for their attention.

Mr. President, I ask unanimous consent that with respect to the tobacco legislation the debate be in order only until 10:30 this morning.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business for approximately 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

RACE FOR THE CURE

Ms. COLLINS. Mr. President, in the short time that I will take to deliver these remarks, a woman will be diagnosed with breast cancer. And every 12 minutes, a woman will die from it.

Just this past year, breast cancer has touched my life twice: one member of staff, aged 37, and the spouse of another member of my staff both developed breast cancer. Watching these women in their daily struggles has been a heart-wrenching experience as well as a call to action.

I know that several of my colleagues' lives have also been personally touched by breast cancer. The senior Senator from Maine, OLYMPIA SNOWE, lost her mother to breast cancer at a tragically young age. Throughout her career in Congress, Senator SNOWE has been a tireless advocate for breast cancer awareness and increased funding for research. Her leadership on this issue has been invaluable—even lifesaving—for countless women across the country.

Breast cancer is the most frequently diagnosed cancer in women in the United States. However, when breast cancer is detected early and treated promptly, suffering and the loss of life can be significantly reduced.

Approximately one out of every eight women will develop breast cancer during her lifetime. In 1998 alone, an estimated 180,200 women will be diagnosed with breast cancer. Even more disturbing, breast cancer is the leading cause of death among women aged 35 to 54.

Washingtonians will have the opportunity to call attention to breast cancer and raise much-needed research dollars when the Susan G. Komen Breast Cancer Foundation hosts its 9th annual National Race for the Cure on Saturday, June 6.

Those of us who work on Capitol Hill have an added opportunity to contribute to the cure for breast cancer thanks to a challenge grant from Eli Lilly and Company. The third annual Lilly Capitol Hill Challenge will match the registration fees for all Members of Congress, their spouses, and staff who participate in the National Race for the Cure. Since 1996, Lilly and Capitol Hill have raised $200,000 for breast cancer prevention, research, and treatment—75% of which stays in the DC metropolitan area.

Two weeks ago, all the women in the Senate joined me in circulating a "Dear Colleague" letter encouraging Members of Congress and staff to take advantage of Lilly's generous offer and register for this year's race. And I would like to let my colleagues know that it is not too late to participate. Late registrations are being accepted up until Friday evening at 6:30 in the lobby of the Department of Commerce.

Today, I rise to the floor to once again encourage my colleagues to alert members of their staff, their families and friends to this valuable opportunity to support the Komen Foundation and Race for the Cure on June 6th.

Thank you, Mr. President. I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1415, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance and with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underaged tobacco usage.

Daschle (for Durbin) amendment No. 2438 (to amendment No. 2437), of a perfecting nature.

Mr. FRIST. Mr. President, over the course of today we will continue our discussions and debate on the pending tobacco legislation, a topic that has been the focus of much of our activity over the past several weeks, a focus which I hope will become increasingly addressed over this week. I ask that amendments that are talked about being introduced are actually brought to the floor so that they can be debated. We have legislation in the Chamber that has a fascinating history, legislation that continues to evolve, legislation that I believe is very important as we stay focused on that goal of decreasing, and maybe even someday eliminating, youth smoking.

I am concerned that we have gotten off track in our consideration of what I believe has to be comprehensive tobacco legislation. There are some people who would just like to establish a tax and have funds to go possibly to public health, but also to many other issues totally unrelated to what our focus should be, and that is youth smoking. There are others who say we need to address just the advertising aspects of this particular bill. There are others who say that we look at just vending machines; and there are others who say we can solve this whole problem by looking at just the public health initiatives of behavioral change, of figuring out what causes addiction.

I for one believe we need to address all of these issues, and we run the danger, maybe for political reasons, maybe for selfish reasons, of taking a bill that did start as a comprehensive bill and stripping away certain things so that we will end up with just a tax or just a public health initiative or just an issue of access itself, and I think we need to do all of that.

As to youth smoking, we have talked again and again over the last 2 weeks about the alarming statistics of youth smoking. The one statistic that seems to stick with people is one that is real, and that is that over the course of today, between now and tomorrow morning, 3,000 kids, underaged children, will start smoking for all sorts of reasons.

We know it is peer pressure, we know it is advertising, we know it is access, we know that it is looking cool; but regardless, the bottom line is that 3,000 kids who were not smoking yesterday by the end of today will be smoking.

What has become increasingly clear and possibly covered up by the industry, in part—confused by politics—is that 1,000 of those 3,000 will become addicted to smoking, and by being addicted, it means your body becomes dependent on that, it is out of your control, to a large extent because of physiological responses. But, regardless, the bottom line is that one out of every three of those children, the age of my children, 15, 12, 11, 10 years of age, who start smoking today, one out of three will die prematurely; that is, die earlier than they would—of lung disease, of cancer, of emphysema—earlier than they would have if they hadn't started smoking.

So, the problem is very, very clear today, much clearer than it was even 5 years ago or 10 years ago. Therefore, I think it is useful to stick with that statistic. You can argue the statistic, but the bottom line is that 1,000 children who start smoking today will die prematurely.

The other two out of three children may or may not continue smoking. They may not be affected, because it is not crystal clear that smoking 100 percent of the time causes cancer. But we know that it has a very, very strong influence on whatever our genetic predisposition is to cancer, all sorts of cancer, and to heart disease which—as a heart surgeon and heart specialist, I have operated on thousands and thousands and thousands of people whose heart disease I would attribute—to genetics? yes, but also in large part to smoking.

Focus on the health of our children and their children. Many of us in this Chamber do have children who are in those teenage years. A fascinating statistic is that about half of the people who start smoking, half of all people who start smoking today, are 8 years old, 9, 10, 11, 12, 13, and 14 years of age. Half of all people who start smoking today in this country are 14 years of age and younger. That is very different from in the past. I think in large part that does come from the fact that that group of people have been targeted in recent years, over the last 5 or 10 years—unlike 20 years ago—because if you can addict people at that age, they will not only purchase more cigarettes as youths but, because of their addiction, over their entire lifetimes.

This whole passage through adolescence is something which really confuses the issue. It would be much easier if we said let's stop everybody from smoking, because then you could really engage in huge, huge policy. But if you really stay focused on the youth, it introduces all sorts of factors that may not apply later: Advertising, how we advertise to youth—is it just Joe Camel, or is it other seductive types of advertising? And then, how you separate that advertising from broader-scale advertising, something that we cannot do in the U.S. Senate or the U.S. Congress. I believe it does almost demand participation by the industry, to agree that somebody 8 years of age or 10 years of age or 12 years of age should not be targeted by such advertising, which clearly results in a crippling addiction which will ultimately kill that child later in life.

For many years, individuals, if we look at the history, have not been successful in suing the tobacco industry because of a doctrine called assumption of risk doctrine. No jury would side with a plaintiff, because the smoker had assumed the risk associated with smoking.

However, if we review very briefly this recent history, over the last several months a group of State attorneys general got together and starting suing the industry to recover Medicaid costs, Medicaid costs being principally incurred by a State, because two-thirds of Medicaid funds are paid for by the State and about a third from the Federal Government. And therefore it was the State attorneys general. The Medicaid Program is our joint State-Federal partnership program that is directed at health care for our indigent population, a population that falls below the poverty level. That is why this grassroots effort, now elevated to this body, started at the State level. The State attorneys general got together to recover the Medicaid—predominantly State—costs for smoking-related illnesses, thus avoiding this whole doctrine called the assumption of risk doctrine.

It has been fascinating, because in the course of these lawsuits, and in large part because of the lawsuits—and we have seen it unfold before committees here in the U.S. Congress as well—internal industry documents have been made public. They have been made public for the first time and are now on the Internet, accessible to the media, to committees here in the U.S. Senate, as well as to people who are, on their own, on the Internet; they have access to these documents today.

It is very clear the industry knew a lot more about the science—that is, the addictive nature of nicotine—than they had let on, that they knew a lot more about the destructive effects of smoking tobacco than was ever previously thought.

The focus of the discussion today, which really demands that we address the issue, is that the debate no longer is that smoking may be harmful to your health, as it was 20 years ago—we know that it is harmful to your health—the debate that we need to address in the U.S. Senate, however, is the youth smoking, where one really doesn't engage in free choice to start smoking at 10 or 11 or 12 years of age. That free choice can be targeted, can be shifted by very aggressive marketing. And that is what has been done today.

If we look back again a few months, some of these States began to settle for huge sums from the tobacco industry. Mississippi, as we know, just 2 years ago settled for $3 billion; Florida and Texas were the next to settle, for $11.5 billion and $15.3 billion, respectively. And then just last month, Minnesota, the most recent to settle, settled for about $6.6 billion. Look a few months later and how all of this evolved. In the Spring of 1997, interested parties came to the bargaining table. I say "interested parties," because you really did have the public health advocates at the table: You had the State attorneys general representing the Medicaid population, representing the expense of the States at the table; you had the industry—something which we don't have today in the U.S. Congress and the U.S. Senate—we had the industry actually at the table, coming to certain agreements.

Let me add very quickly, it was fascinating, because I am from a tobacco State; we have 23,000 hard-working women and men and farming families who work very hard, get up every morning to produce a legal product in this country. It is interesting, in this great agreement—I guess I should qualify "great"—in this historic agreement, the tobacco farmers and the agricultural community were not represented at that table.

Regardless, the other three groups—the public health group, the industry itself, the attorneys general—sat down, and the basic elements of that, and I would say historic, June 20 settlement included a number of things: No. 1, industry payments of $368.5 billion, agreed to by industry, members of the plaintiffs' bar, the attorneys general, and the public health groups. That $368.5 billion was to be paid over about 25 years. It would be funded by what calculated out to be raising the price of cigarettes by 70 cents per pack over a 10-year period.

Second, an important component, I believe, is the advertising restrictions. The industry came forward and said that, we will voluntarily limit our first amendment rights by refocusing advertising, if the remaining aspects of that agreement would go into effect.

Third, there were youth access provisions and really some pretty tough licensing requirements for retailers who sell tobacco. All of us know the problem we have with access today. If you go into any community and ask a young 16-year-old or 15-year-old, "Could you get a pack of cigarettes?" they would say, "Yes, without a problem."

Fourth, that June 20, 1997, settlement had $2.5 billion per year for smoking cessation programs, public education campaigns, and State enforcement. It gave FDA authority to regulate tobacco and smoking. It had no class action suits or suits by any government entity. It had immunity for the industry from all punitive damages for past actions. Individuals were allowed to bring suits to cover compensatory damages for past conduct and compensatory and punitive damages for future conduct.

Because that settlement required the enactment of Federal law, it came before the U.S. Congress. We are here today in large part because that June

20 settlement requires us to be here or it just doesn't occur. Implementing the provisions of that settlement or implementing provisions similar to it does require Federal legislation.

We had committees that had jurisdiction over several provisions in this June 20 agreement. Judiciary had a role, the Labor Committee had its expertise in the FDA, the Finance Committee had jurisdiction over international trade aspects, the Commerce Committee had jurisdiction over the liability and interstate commerce expertise, the Agriculture Committee had a keen interest in the effect of this type of really unprecedented legislation on farmers, all of which ultimately were pulled together—at least that expertise was pulled together—through the Commerce Committee and bringing it to the floor to be amended accordingly.

We are right now in the middle of that amendment process. A number of people are talking about amendments to make the bill better, and the bill was brought to the floor recognizing it was not a perfect bill, that it was important for that amendment process to take place to modify it, to improve it, to make sure that it does achieve the objectives of decreasing youth smoking over time. I encourage my colleagues to come forward to participate with their amendments so we can achieve that objective and, sometime within the next several days or next several weeks, bring this to some resolution.

I do believe, as I said, it takes a comprehensive approach. I think we do have to address, first, the advertising targeted at children. An article in the Journal of the American Medical Association of February 17 stated very clearly that advertising is more influential than peer pressure in enticing our children to try smoking, and it estimated—and I recognize these estimates are really all over the board—but it estimated that about 700,000 kids a year are affected by advertising. Big debate. We have talked about it a lot over the last several weeks. Is it advertising? Is it peer pressure? How do you control peer pressure at that very tricky age of walking through adolescence? They are inextricably tied together. If you have very effective advertising that makes smoking look cool and makes you part of a group and makes you feel good at 12 years of age, then peer pressure builds. If somebody asks is it peer pressure or advertising, it is very confusing.

In our business, in the political business, in public service, we know the effects of marketing. We know that kids are targeted, and we know that builds and establishes peer pressure which does affect somebody at that age, in adolescence, when they are reaching out for identity and for security and for acceptance. Therefore, either dealing directly with the industry or indirectly, we have to have the industry agree not to target kids. Our society simply must stop glamorizing smoking in the way that it does today, which increases the peer pressure. This applies to television; it applies to movies; it applies to 30-second spots; it applies to billboards. We have to stop that marketing directly to children, and I believe the industry has to take the lead in that regard.

Secondly, to have a truly comprehensive program, we do have to have a strong public health initiative, including tobacco-related research, including tobacco-related treatment, and including tobacco-related surveillance. It is fascinating in terms of how we would use certain moneys, because a number of people want to use certain moneys for programs totally unrelated to public health initiatives, totally unrelated to research.

If we just step back and imagine what could be done if moneys were spent effectively and if there were appropriate moneys available for research, we might—we just might—in 5 years, in 10 years, maybe 3 years, eliminate the problem. For example, if we knew where in the brain addiction to nicotine actually occurs—and let me say that there are ways to detect that through PET scanning, positron-emission tomography, today—we know roughly in the brain where the addictive center to nicotine actually occurs.

With the rapid advances made in science, with the appropriate focus and the appropriate resources, it is not farfetched that we will identify not only the location, where we have taken the first steps, but the actual receptors, and design a drug, a chemical, a hormone to go to that particular site and turn off the addictive potential, the addictive connections that cause that 8-year-old or that 10-year-old who starts to smoke forever out of their control.

That one little bit of research could solve this whole problem. We can't give any statistic probability that that research will result in that sort of effect, but the potential is there. It takes that emphasis on that particular dimension, moving there and saying we do need to put the appropriate funds there, that some effort in this comprehensive approach must be directed to research. A strong commitment to basic science and behavioral research is critical.

Such focused research made possible by this bill might even uncover a pill. I can almost see a day where people will smoke for 6 months or smoke for a year. If we can kill that addictive potential, that 6 months to a year might not have the same impact on one's coronary arteries in the development of atherosclerotic plaques—hardening of the arteries—which cause heart attacks and ultimately death.

Will we get there? We don't know unless we focus research in that area, and right now we do not have sufficient research there. We do need to look at certain behavioral research: How can we stop people from smoking who are addicted to smoking? We just don't know very much about that.

Later today, I think we will be talking a lot about drugs, other drugs—not just nicotine, not just cigarettes—and the importance of developing a more comprehensive policy. I welcome that opportunity, again, because I have youngsters. I have three boys, who are going through this period of adolescence, who are going to be tempted and exposed to all of the seductive advertising, peer pressure, wanting to be accepted, that we have all gone through and most of our children go through.

A comprehensive approach: The research, the scientific research, smoking cessation programs, behavioral research, the addictive potential, the advertising that I spoke to.

The third component is that of access. It is too easy today. We held hearings in our Subcommittee on Public Health and Safety, which I chair, in the Labor Committee and had some really powerful, powerful testimony come forward by the users, by those young adolescents who have started to smoke. We heard chilling testimony about how easy it was to purchase tobacco products.

We can do a great job in a small community. If there are 12 places where one can buy tobacco, we can have 5 of those really enforce the access laws. Just imagine 12 convenience stores in a community. You can have five that really stick to the law. You can have another five that do pretty well. But if there is just one in that community that continues to sell cigarettes, for whatever reason, the access programs don't work at all. We need to have more effective access.

Nickita from Baltimore, who is now 18 years old, started smoking when she was 14 years of age. She testified that she would normally get her cigarettes from the store. She testified that she never had a problem buying cigarettes in the store. In fact, "People in my community, as young as 9 years old, go to the store and get cigarettes. They simply do not ask for IDs," she said.

The lesson I learned from this testimony is that we must enforce youth access laws. We must make it impossible for children to buy cigarettes in any neighborhood in this country. It is really shameful that in America in 1998 a teenager can purchase tobacco in any neighborhood in the United States of America.

There are three elements—access, advertising, public health and basic science initiatives. In this whole arena of access, price is an issue. I voted against the tax of $1.50 that was proposed on this floor 2 weeks ago very simply because price addresses one aspect of the three aspects that I think are important to decrease youth smoking. Price does affect purchasing. While it is one of the levels, one of the factors, it is not the only factor.

Consumption, though, had been decreasing in the 1970s. However, between 1980 and 1993, the downward trend really accelerated, with consumption falling by 3 percent a year at the same time that the inflation-adjusted price of cigarettes increased by 80 percent.

In addition, in the early 1990s, we saw price cuts, and consumption leveled off with only modest decreases in the price until 1996. Then in 1997, prices rose by 2.3 percent, and consumption fell again by 3 percent.

Expert testimony provided in hearings before us, based on data from both this country and others, clearly demonstrates that the price of cigarettes does affect consumption. But price alone simply will not solve the problem; that a comprehensive approach is necessary.

Mr. President, I think the bill on the floor is a good start in addressing, in a comprehensive way, this issue of decreasing youth smoking. It also addresses an issue that was ignored by the June 20 settlement, an issue that I mentioned—that of the agricultural community and that of tobacco farmers.

We have two competing amendments or proposals right now that are being considered. I am very hopeful that an agreement can be reached between those two. They have very different concepts. On the other hand, both have as their goal to do what is in the best interest of those hard-working men and women who are in the farming community, who, through no fault of their own, we have this targeting of the youth by the industry, who, through no fault of their own, affect this idea of easy access. They are literally getting up every morning, going out, working hard in the fields to produce a legal product. I am very pleased that this group is being addressed. I look forward to having some resolution of the two competing groups.

Mr. President, I will wrap up my comments shortly because other people are on the floor. I think this bill is not perfect yet. I think we need to look very closely at how we have designated whatever funds are generated by this particular bill and to look at what programs they create.

The version of the bill on the floor now, unlike the original Commerce version of the bill, is much, much better in that most of the huge bureaucracies that came out of the Commerce Committee bill have been eliminated, have been reduced. I think there are still a number of those programs that we need to go back and address.

Some people have come to the floor and have basically said that the bill on the floor is merely an attempt to destroy an industry that is producing a legal product by raising the price too much. I think this is a legitimate concern. We have had a countless number of financial experts present data; some have had a vested interest, some have not. A number of them have come before the several committees who have held hearings on this jurisdiction, and it really seems nobody can answer the question of the appropriate price and what a price increase of 50 cents or 70 cents or $1 or $1.50 will do on the industry itself.

We do know one thing; and that is that the industry at one time agreed, back in June, to a $368.5 billion exchange for some assurances that they would have some predictability in future lawsuits. Now that has been radically changed at the end of 2 weeks ago. We need to all get together to see what that next step should be, what further amendments need to be applied. Again, personally, I believe that the industry has to be at the table, has to agree not to target the youth today.

Black market—something that is very, very real. If the price is raised too high, at least based on the testimony that has come before our committees, a black market would most certainly occur, and then we would ultimately end up destroying exactly what we are trying to achieve—that is a reduction in youth smoking.

Mr. President, I guess in closing my remarks I just want to emphasize how effective and responsible we can be if we have a comprehensive settlement. And that is what it is going to take—public health initiatives, appropriate research, addressing the issue of access, and addressing the issue of advertising. We must have an industry that does not market to kids. We have to have the cooperation of the industry.

Mr. President, let me just make one final comment that is on the Food and Drug Administration. I have been very active in working to see that the Food and Drug Administration is the agency that would oversee whatever regulation we pass on the floor of the U.S. Senate and through the U.S. Congress. The approach was to set up a separate chapter within the Food and Drug Administration rather than try to regulate tobacco or cigarettes through a three or four sentence clause that is existing in the device aspects of the Food and Drug Administration legislation today.

We did this for a number of reasons. I have outlined those reasons on the floor today. I am very pleased where we stand with that today, in terms of setting up a new chapter that recognizes that tobacco really is a unique product. It is not a device to be regulated like a pacemaker or like an artificial heart device or like a laser. And that is where an attempt was made by the administration to regulate tobacco.

Are there parts of that that might be improved? I think we can consider that as we go through the amendment process. I still have some concerns with some parts of the Commerce bill. I look forward to seeing them modified.

I think as a heart surgeon, as a lung surgeon, I have a real obligation to point out that smoking does kill people— there is no question—No. 2, that tobacco is a legal product in this country—and I think it should stay a legal product in this country where adults who have the maturity, have the education to make choices for themselves should have that opportunity—but, thirdly, I feel very strongly that we need to address youth smoking and do our very best as a nation for our children and for that next generation through a comprehensive strategy to work to reduce youth smoking.

Mr. President, we have two colleagues on the floor, and I would simply ask unanimous consent if they could limit their comments or let me inquire in terms of, from each of them, how long they would require? I would like to have some limitation because we want to get to other amendments early this morning.

Mr. DURBIN. I thank the Senator. I would be happy to limit my remarks to no more than 30 minutes.

Mr. ASHCROFT. The same.

Mr. FRIST. I will yield 30 minutes to both of my colleagues on the floor. At that time, I reserve coming back and regaining the floor at that time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I rise today to discuss the tobacco bill. And I wish to address the massive tax increase that is in this bill—tax increases that are targeted against the lowest income individuals in America: hard-working citizens who earn primarily less than $30,000 a year. It is a massive tax increase that is going to be used to expand the Federal Government, just when the American people continue to make it clear that they are tired of Government imposing its decisions on our daily lives.

Just last week there was an announcement of a $39 billion surplus in 1998 and a $54 billion surplus in 1999. Congress should be debating how to return this money to the taxpayers. We should not be debating how to siphon more out of the pockets of working Americans.

It is also possible to discuss the inevitable black market that would result from the policies in this bill, even though my colleagues and the administration continue to ignore this threat to American neighborhoods of creating a black market with the high taxes in this bill. I will also discuss the effect of a price increase on teenage smoking rates.

Mr. President, along with my colleagues, I am truly concerned about teen smoking. However, I do not believe that teen smoking is the focus of this legislation. Under the guise of reducing teen smoking, proponents of this bill are willing to increase taxes on hard-working Americans by well over $800 billion. That is well over three-quarters of a trillion dollars.

Under the guise of reducing teen smoking, proponents of this bill support a massive increase in the size of the Federal Government—17 new boards and commissions, which is a modest estimate. And then in response to the identification of those boards and commissions, some in support of this bill have decided to say they would take out those boards and commissions and just leave authority for agencies to create within themselves the capacity to do what the boards and commissions were designed to do. Instead of having boards and commissions that are accountable and identifiable, you have stealth boards and commissions that are hidden in the agencies. I don't think making them indistinguishable is a way to say that government isn't growing.

Proponents of this bill claim it is necessary to curb teen smoking. What this bill is necessary for is to feed the tax-and-spend habit of individuals in Washington.

Although Congress has the authority, we do not even make it illegal for minors to possess or use tobacco in the District of Columbia in this bill. We only have rules regarding the point of sale. Even then, we only make retailers responsible for the transaction. There is no disincentive for teenagers to try and purchase cigarettes in this bill. Two percent of retail cigarette sales are made to minors. Adults purchase 98 percent of all cigarettes sold in retail stores. Under this bill, we are creating a massive tax increase on 98 percent of smokers in order to try and discourage 2 percent of all the retail sales. There is sound evidence that the 2 percent will not be discouraged. In Washington, taxes and spending are the only things more addictive than nicotine.

Preliminary reports estimated this legislation would increase taxes $868 billion. We now know that this legislation would raise taxes $885 billion and create new government programs with funding locked in for 25 years. It creates a huge government regulatory scheme the likes of which we have not seen since the Clinton proposal to perpetrate a national health care system from the Federal Government.

This bill is a tax bill, pure and simple. It is a tax bill on Americans who are already overburdened with taxes. Americans today are working longer and harder than ever before to pay their taxes. Tax Freedom Day this year was less than a month ago, on May the 10th. It was a record year. Americans worked longer into the year this year to pay their taxes than ever before. The hard work of the American people, let me say again, the hard work of the American people allowed the President just last week to announce a $39 billion projected surplus in 1998 and a $54 billion surplus projected for 1999. Yet here we are a week later continuing to talk not about how to return the surplus to the people, but how to siphon more out of their pockets. As currently drafted, the proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money.

In the 15 years prior to 1995, Congress passed 13 major tax increases. In fact, last year's Taxpayer Relief Act was the first meaningful tax cut since 1981. As currently drafted, the tobacco bill erases that relief. We must stop that from happening. We must not undo the modest gains we gave to the American people just last year. We certainly cannot relieve them by imposing another $885 billion in taxes on them. To paraphrase President Reagan, the whole controversy comes down to this: Are you entitled to the fruits of your own labor or does government have some presumptive right to tax and tax and tax? Who will pay the $800-plus billion in taxes contained in this proposed legislation?

The tobacco legislation is a massive tax increase that would be levied against those least capable of paying. About 60 percent of the tax increase would fall on families earning $30,000 a year or less. That is a shocking figure. What it basically says is these families with less than $30,000, struggling to put clothing on the backs of their children, food on the table, to pay the rent, to have the money for transportation, to keep the car repaired, occasionally scraping together enough for a modest day off or a vacation, would suddenly be subject to a massive new tax, 60 percent of which would fall on them. Some households would see their taxes increase by more than $1,000. Moreover, this new tax would be levied on money that has already been subject to the income tax. If you are buying cigarettes and you have an additional $1.10 to pay, it is a tax on money you have already paid tax on. Households earning less than $50,000 would pay seven times as much in new tobacco taxes than households earning $75,000 or more.

According to the Congressional Research Service, tobacco taxes are perhaps the most regressive taxes currently levied. In the United States of America where, we already have the highest taxes in history, we are now projecting a massive tax increase on individuals least capable of paying. While those earning less than $10,000 make up only 10 percent of the population, 32 percent of those people smoke. The current tobacco tax represents 5 percent of the smokers' income in this category. Those making between $10,000 and $20,000 a year make up 18 percent of the population. However, 30 percent smoke. The current tobacco tax makes up 2 percent of a smokers income in this category. Therefore, this bill amounts to a tax increase on 31 percent of Americans who earn under $20,000 a year. Households earning less than $10,000 a year would feel the bite of this tax increase most of all. These households, it is estimated, would see their Federal taxes rise 35.1 percent.

In most areas of the country, someone earning $10,000 a year is well below the poverty line. We spend much of our time in this body trying to find solutions for those in this income bracket—we have tax credits, welfare programs, educational grants, job-training programs. They cost billions of dollars a year. We try to lift people out of their poverty, out of that income bracket. However, today, Members of this body are enthusiastically saddling them with a huge tax burden of over $800 billion focused on those least capable of paying. Washington politicians and bureaucrats are saying they know better how to spend the resources of the American people.

Let me share the impact this tax increase will have on the constituents of the people in Missouri. Using data provided by the Centers for Disease Control, it is clear the tobacco legislation would be an annual $382 million tax on people in Missouri. Of that amount, $227 million would be paid by households earning $30,000 or less. This is a conservative estimate. This assumes that each smoker in Missouri smokes only one pack a day. For someone who smokes two packs daily, the $1.10 per pack tax increase contained in the tobacco legislation would amount to a tax increase of $803 annually.

Let's look at how this will impact other States. Arizona, 22.9 percent of the adults smoke; $227.3 million tax increase on Arizona, $164.7 million on those with incomes of $30,000 or less. In Texas, 23.7 percent of adults smoke; $1.2 billion tax increase on Texas, $1.2 billion tax increase on the people of Texas, with three quarters of a billion being levied against those who earn $30,000 or less.

This bill contains massive tax increases that are going to be used to expand the Federal Government just when the American people continue to make it clear that they need relief. Some people ask, where is all this money coming from when we talk about our surpluses? I can tell you where the money comes from—it comes from the hard work, the sacrifice, the ingenuity, the efforts of Americans. It is not our money. It is their money. It is not Washington's. We should be discussing how to leave the money where it belongs. Instead, we are discussing how to take more money.

I have an amendment that I plan on introducing later in this debate that will accomplish the goal of leaving money in the pockets of the taxpayers. It will give much-needed tax relief to Americans in a way which will provide the greatest relief to those who will be hardest hit under the bill. I believe, as many do in this body, that if this bill is allowed to increase taxes, that revenue should be used to relieve married couples of what might possibly be the most indefensible and immoral tax of our Tax Code. This is a perfect example of Washington's values being imposed on America instead of America's values being imposed on Washington. Americans value marriage; Washington taxes marriage.

The marriage penalty tax creates a situation in which 21 million couples pay $29 billion more than they would have paid had they been single. The marriage penalty, on the average, is about $1,400 per family. This is grossly unfair and is an assault on the values of the American people. Consider a typical couple in which each person earns an annual income of $35,000. Under current law, if the couple were to wed in 1998, they would pay $10,595 in Federal income taxes, assuming they were childless and they take the standard deduction. If, instead, they chose to remain single, their combined tax bill would amount to $9,117. In other words, they would pay $1,478, a 16-percent penalty for being married.

As you might expect, people often modify their behavior to avoid paying taxes. In fact, it is one of the assumptions of the tobacco legislation that people would modify their behavior—quit smoking—if we raise taxes on cigarettes. Does the Tax Code really influence moral decisions and prevent couples from getting married? Tragically, yes. Some couples simply cannot afford to bear the extra burden of the marriage penalty. Just ask Sharon Mallory and Darryl Pierce of Connersville, IN. They were planning to get married when they learned that their annual tax liability would balloon $3,700 as a result. The marriage penalty led them to rethink their decision to get married.

A marriage penalty exists today because Congress legislated ill-advised changes to the Tax Code in the 1960s. This is an example of Washington's values being imposed on America instead of America's values being imposed on Washington.

Over the next 5 years, the Federal Government is expected to collect $9.3 trillion in taxes from hard-working Americans. Completely eliminating the marriage penalty would reduce that total by only $150 billion, or only 1.6 percent.

Now that taxpayers have provided the Federal Government with a surplus that may be as much as $60 billion this year alone, Congress has no excuse for withholding tax relief from American families.

The power to tax is the power to destroy. The average dual-income household spends a far larger share of its income on taxes than it does on food, shelter, clothing, and transportation combined.

With taxes at these levels, no wonder families are finding it necessary to send both spouses into the workplace. One of the ways in which the marriage penalty manifests itself is that the standard deduction for a married couple is less than that for two singles. That means if you are married and you file a joint return, the standard deduction is not double what it was when you were single. Again, let me repeat this staggering fact. Last year, 21 million married couples collectively paid a $29 billion tax. They paid $29 billion more than they would have paid had they been single.

I will offer an amendment that will substantially reduce the marriage penalty. It will do so by making the standard deduction for married couples twice what the standard deduction is for single people.

Members of this body have been arguing that there is no tax in this bill, only an increase in tobacco prices to deter smoking. In fact, the Finance Committee, in its mark, at least tried to level with the American people by reporting out a bill that called it a tax. Webster's Dictionary defines a tax as a "compulsory payment, usually a percentage, levied on income, property values, sales prices, etc., for the support of government."

In this bill we have a compulsory payment. The bill then requires that the cost of these payments be passed on in the form of price increases to consumers. It even penalizes companies if they fail to do so. These payments are then used to fund massive programs for Federal and State governments.

Well, if it walks like a duck, talks like a duck, and sounds like a duck, it is a duck. So if it "walks" like a tax and acts like a tax, it is probably a tax. This is a tax and in law provides that those payments—taxes—are to be passed through to consumers—under a penalty if it is not done.

It has been said that industry is the group that is convincing people that this is a tax bill. But we all know that industry can't make it a tax bill, and Senators can't say it is not a tax bill if it is a tax bill. It is a tax bill. It requires consumers to spend additional sums of money and to send them to Washington so that government programs can be extended.

Those who support this bill would like for the American people to believe that this is tough on tobacco. The American people are beginning to find out that tobacco companies won't bear the costs of these payments. Consumers will. This bill requires that consumers will be those who are required to put up the money—the $800 billion-plus that comes in the mandatory payments, the taxes that are occasioned by this bill.

What will be the impact on tobacco companies? In September of 1997, the Federal Trade Commission issued a report entitled "Competition and the Financial Impact of the Proposed Tobacco Industry Settlement." The report was done at the request of the Congressional Task Force on Tobacco and Health. This report analyzed the economic impact of the proposed settlement on cigarette prices, industry profits, and Government revenues.

This tobacco legislation was built upon the proposed settlement, but it is not exactly the same. But this report was based upon the annual payment, look-back provisions, and tax deductibility of the payments made by the tobacco companies.

There are several important conclusions in this report:

First: "The major cigarette manufacturers may profit from the proposed settlement by increasing the price of cigarettes substantially above the amount of the . . . payments that are to be paid to the public sector."

It could be profitable for the tobacco companies. This bill that is so hard on the tobacco companies may result in increased profits for the very tobacco companies we are supposed to be hurting.

Second, the report concludes: "Even assuming that prices increase by no more than the annual payments, the major cigarette firms may profit substantially . . . through limitations on liability and reductions in advertising and litigation costs."

Well, that is a very serious suggestion. And that comes from the Federal Trade Commission of the United States.

Again, the actual elements of this bill that are supposed to show that Congress is "tough on tobacco" may, according to the Federal Trade Commission, actually enable tobacco companies to profit substantially by reducing litigation costs and by reducing the costs of advertising.

The report then mentions the affect of price increases on smokers. It says:

> The overall demand by adults for cigarettes is inelastic, or relatively insensitive to changes in price. Most adult consumers will continue to smoke notwithstanding a significant increase in price.
>
> As a result, an industry-wide price increase would be profitable for the companies, even though some smokers would react to the higher prices by smoking less or quitting altogether.

Now, the evidence is not clear that raising prices reduces teen smoking rates. Mr. President, this bill is being considered on the Senate floor. It is being considered and being sold to the American people as the only way to reduce youth smoking. They are being told that we can justify an $800 billion tax increase that is necessary to get rid of the disease of addiction. However, after looking at the evidence, there is no reason to believe that such a tax increase is the answer to eliminating teen smoking.

Mr. President, I inquire as to the time remaining in my opportunity to speak?

The PRESIDING OFFICER. Nine minutes.

Mr. ASHCROFT. I thank the Chair.

Food and Drug Administration regulations, which were designed to curtail teen smoking and which were suggested by a Cabinet Secretary who helped promote these regulations, did not contain price increases. The most striking evidence that significant price increases are not necessary to reduce smoking is a very recent attempt by this administration to address the youth smoking issue. In 1996, regulations promulgated by the FDA were touted as being historic. It was estimated to reduce youth smoking by 50 percent over 7 years, and they didn't include price increases.

The important aspect of these regulations is that they contain no price increase on smokers in the general population. As you know, this legislation is raising the prices on 100 percent of the smokers to try to discourage the utilization of cigarettes by 2 percent of those who purchase. There was no discussion in the regulations of a huge price increase—a massive tax increase. And about this regulation, the Secretary of Health and Human Services, Donna Shalala, stated:

> This is the most important public health initiative in a generation. It ranks with everything from polio to penicillin. I mean, this is huge in terms of its impact. Our goal is very straightforward: to reduce the amount of teenage smoking in the United States by half over the next 7 years.

It is a laudable objective, and apparently it is believed to be attainable by the Secretary of Health and Human Services without a massive tax increase or price increase.

David Kessler, one of the strongest proponents of this bill, was the Director of the Food and Drug Administration when these regulations were promulgated. He stated:

> Don't let the simplicity of these proposals fool you. If all elements of the anti-smoking package come into play together, change could be felt within a single generation, and we could see nicotine addiction go the way of smallpox and polio. without a price increase.

These statements were made about regulations that contained absolutely no price increase—no massive tax on the working people of America; no massive taking by the government of over three-quarters of a trillion dollars; no extension of 17 new boards, commissions, and agencies for the government.

Also, remember that these regulations were supposed to reduce youth smoking by 50 percent over 7 years, while it has been claimed, that this bill—containing massive tax increases—will reduce teen smoking by 60 percent over 10 years.

Dr. Kessler was widely cited as a supporter of the amendment offered on this floor last week that would have increased the tax on cigarettes by $1.50 rather than the $1.10 already contained in the bill as necessary to reduce teen smoking, which is substantial.

Yet, when those regulations were enacted he never complained that this regulation would not have been effective in reducing teen smoking because it did not contain such a massive tax increase.

About these regulations, President Clinton stated:

> That's why a year ago I worked with the FDA, and . . . a nationwide effort to protect our children from the dangers of tobacco by reducing access to tobacco products, by preventing companies from advertising to our children. The purpose of the FDA rule was to reduce youth smoking by 50 percent within 7 years.

There was no complaint by the President that these regulations were insufficient because they did not contain a price increase.

What has changed in just 2 short years?

Policymakers in Washington have found a cash cow to pay for their pet programs that the President said he wanted, but which he would find incapable of moving through the ordinary budget process.

The evidence as to whether price increases reduce youth smoking is tentative—at best.

The second issue I want to address concerning the need to increase taxes on the American people by $868 billion is whether price increases actually reduce teen smoking.

My colleagues have been arguing that the studies show conclusively that price increases reduce youth smoking.

However, that simply is not the case.

At best, the studies are inconclusive. At worst, they show little correlation between price increase and a reduction in youth smoking.

The debate on this floor has assumed that for every 10 percent increase in price reduces youth smoking by 7 percent.

Frankly, I think the average citizen knows that young people who are willing to pay $150 a pair for sneakers are probably not very price sensitive when it comes to other factors that relate to status and the like and making a statement, which smoking frequently is for young people.

The debate on this floor has assumed—a dangerous assumption, reckless, and irresponsible intellectually—that for every 10-percent increase in price you get a 7-percent reduction in youth smoking.

Studies conducted by economists at Cornell University and the University of Maryland, and funded by the National Cancer Institute, question the connection between youth smoking, prices, and tax rates.

THE CORNELL STUDY

After following 13,000 kids for 4 years, Dr. Philip DeCicca of Cornell University, in a National Cancer Institute funded study—a public health study—found "Little evidence that taxes reduce smoking onset between 8th and 12th grade."

The economists that conducted this study presented their results between the relationship between higher tobacco taxes and youth smoking to the American Economics Association annual meeting in January 1998. This is not a dated study.

The study concluded that higher taxes have little effect on whether young people start to smoke.

They concluded that "[T]axes are not as salient to youth smoking decisions as are individual characteristics and family background."

"[W]e find little evidence that taxes reduce smoking onset between 8th and 12th grades," and estimated that a $1.50 tax increase would decrease the rate of smoking onset by only about 2 percentage points—from 21.6% of 12th graders who start smoking currently to 19.6% of 12th graders.

"Our data allow us to directly examine the impact of changes in tax rates on youth smoking behavior, and our preliminary results indicate this impact is small or nonexistent."

Here is the best data we have. The most recent studies indicate that a massive increase of three-quarters of a trillion dollars plus on the taxes of the American people will have little impact or a nonexistent impact in reducing youth smoking.

In conclusion, the economists stated that the study "raises doubt about the claim that tax or price increases can substantially reduce youth smoking."

MARYLAND STUDY

Economists at the University of Maryland and the University of Chicago conducted a similar study that analyzed data concerning more than 250,000 high school seniors for the period 1977-1992—the largest such sample ever used for a study on this subject.

They found that the relationship between price and youth consumption is "substantially smaller" than suggested by previous studies.

In addition, real world experience confirms the uncertain relationship between higher tobacco taxes, prices and youth smoking.

CALIFORNIA

In 1989, California increased its cigarette excise tax by 25 cents per pack, but there is no evidence that youth smoking declined. This was an 11 percent increase. Therefore, under the analysis that elasticity of teenage smokers is .07, there should have been a decrease of at least 7 percent.

We are operating under the assumption that 25 cents a pack would have resulted in a 16-percent or more decrease in the number of youth smokers.

The truth of the matter is there was an 11-percent increase. Therefore, under the analysis that the elasticity of smokers is .07, there should have been a decrease of substantial proportions.

However, as of 1994, researchers were "unable to identify a decline in prevalence [among 16 to 18 year olds] associated with the imposition of the excise tax."

CANADA

The most commonly cited real world situation is our neighbor to the North—Canada.

In Canada, the federal government increased cigarette taxes in several stages in the late 1980s and early 1990s—from $10.75 per 1,000 cigarettes to $24.34 in 1986, then to $38.77 in 1989, and to $62.90 in 1991.

Although it has been stated on this floor, by proponents of this legislation, that smoking decreased during that period, they fail to talk about the years 1991 to 1994 when the tax rates were the highest in that nation's history.

During that period, smoking rates among 15-19-year-olds rose from 21 to 27 percent. That is a 25-percent increase.

If the argument that rising prices will reduce teen smoking, it stands to reason that youth smoking should increase as prices fall. However, a year and a half after reducing—significantly—tobacco taxes in Canada, according to the "Survey on Smoking in Canada," teen smoking "remained stable."

The fact that is ignored by those who argue teen smoking declined in Canada due to the significant tax increases is that youth smoking declined in the United States by 30 percent during the same period—1977 to 1990—without a price increase.

U.K.

Between 1988 and 1996 the per pack price of cigarettes increased by 26 percent. Although cigarette volumes fell by 17 percent, the percentage of weekly smokers aged 11-16 went from 8 percent in 1988 to 13 percent in 1996.

COMMON SENSE

Common sense also suggests that youth are less responsive to tax and price increases. In an era of $15 compact discs, $100 video games, and $150 sneakers, is it realistic to believe that a few extra dollars on cigarettes a month will cause youth to stop experimenting with smoking or not to start in the first place? Young people may have less "disposable income" than adults, but their spending is almost entirely discretionary.

The CDC has compiled data on brand-preference that supports the conclusion that young people are not particularly price sensitive.

The "price value" or discount, segment of the cigarette market comprised 39 percent of the overall cigarette market in 1993. Yet, according to the CDC, less than 14 percent of adolescent smokers purchased generic or other "value-priced" brands—just one-third the percentage.

The point was echoed by the government's lawyer defending the FDA tobacco rule, who told the U.S. District Court, "[P]rice, apparently has very little meaning to children and smoking, and therefore, they don't smoke generic cigarettes, they go for those three big advertised brands."

In Canada, in Great Britain, the Cornell study, Maryland University, the Chicago study, the situation in California, we don't have a clear understanding that a rise or an increase in taxes would in fact result in a decrease in youth smoking.

It is with that in mind that I feel we should reject this bill as a massive tax increase, and if there is a massive tax increase in this bill, that tax increase should be sent back to those who are most hurt by it—low-income individuals—by eliminating a marriage penalty by raising the standard deduction for married couples to exactly double that enjoyed by single taxpayers.

I thank the Chair for the time. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 minutes.

AMENDMENT NO. 2438

Mr. DURBIN. I thank the President. I am happy to stand this morning in support of the pending amendment before the U.S. Senate to this tobacco legislation. It is an amendment offered by Senator DEWINE, Republican of Ohio, and myself, a bipartisan effort to make this important bill more effective.

I would like to pause for a moment before addressing the amendment and speak to the historical significance of this debate.

About 11 years ago I was involved in a struggle as a Member of the House of Representatives to pass one of the first tobacco-controlled bills ever considered by the House of Representatives. In comparison to this bill, ours was a very modest measure. We were setting out to achieve something which on its face appeared very simple, but turned out to be politically very difficult. What we wanted to achieve 11 years ago was to ban smoking on airplanes. You would have thought that we were proposing a second American revolution. The tobacco lobby organized its efforts, found all of its friends, both Democrat and Republican, and marshaled forces to beat our effort.

They predicted that what we were setting out to do would create chaos in public transportation; it was totally unnecessary; it discriminated against the rights of smokers, and on and on and on.

Well, Mr. President, it was our good fortune in the House of Representatives to have a number of Members of Congress, both Democrats and Republicans, who, for the first time in modern memory, rejected these pleas from the tobacco lobby and enacted legislation a little over 10 years ago that banned smoking on airplane flights of 2 hours or less. It was a breakthrough. It was the first time the tobacco lobby lost. Those who joined me in that effort stuck their necks out politically. It wasn't considered to be very smart politics to oppose tobacco. This, in fact, was the largest, most powerful, most well funded lobby in Washington. Fortunately for us, Senator FRANK LAUTENBERG of New Jersey and his friends in the Senate joined us in the battle and together we successfully achieved our goal. Today, virtually all domestic airline flights—in fact, I think all of them—are smoke free. It is now becoming a trend worldwide.

That battle and that victory, I think, set the stage for where we are today, albeit a small victory in comparison to our goal in this debate. But it would have been unimaginable 10 or 11 years ago to think that today in the Senate we are debating a bill involving tobacco and health of the magnitude of the McCain bill which comes before us. JOHN MCCAIN is our Republican colleague from the State of Arizona. I admire his grit and determination in bringing this bill to the floor despite a lot of opposition, primarily but not exclusively, from his own side of the aisle.

When you think in terms of what we are setting out to achieve, it is substantial. It is revolutionary. It is long overdue. Our goals are simple: reduce teen smoking, invest in public health research and programs to help smokers quit, and protect tobacco farmers and their communities.

The focus on children is a good one and an important one because tobacco companies have needed these children desperately. Each year, they have to recruit millions of children to replace those who are breaking the habit and those who have passed away. They set out their net and stretch it out for millions and bring in thousands, but they keep replenishing the ranks; 89 percent of all people who ever tried a cigarette tried by the age of 18. Of people who have ever smoked daily, 71 percent were smoking daily by age 18. Virtually no one starts smoking during adulthood. It is a childish decision. It becomes a childish habit, and it condemns those who fall into the lure of this nicotine addiction to the likelihood of a shortened life and more exposure to disease.

This McCain bill not only sets out to reduce the number of teen smokers, but it also sets out to invest more in medical research. When I heard my colleague from Missouri decrying this bill and talking about this waste of tax dollars being brought into our Treasury, I paused and thought that we could argue—and I will during the course of my remarks—that raising the price of the product is going to discourage children from using it as well as others, but also the money that is coming in as a part of this bill is going to be invested back in America.

I would stand by the results of a national referendum on the following question: Should we increase the Federal tax on a package of cigarettes, and then take a substantial portion of the money raised and put it in medical research—send it to the National Institutes of Health for research to find cures for cancer, heart disease, AIDS, juvenile diabetes, Alzheimer's, and the myriad of medical problems that we face in this country? I will bet the results would be overwhelmingly positive because Americans believe in this investment. Americans believe that this bill, in providing money for medical research investment, is money well spent.

Smoking cessation programs are part of it, too. I think that is sensible. My father, who was a lifelong smoker, was a victim of lung cancer and died in his early 50s. I saw, even after his diagnosis, the situation that he faced, the craving that he had for this deadly cigarette that had caused him so many health problems. I have always had a sensitivity and a sympathy for smokers who are trying to quit. For some, they can just literally walk away from it, decide in a minute that tomorrow they will never smoke another cigarette. But for others it is virtually a lifelong struggle.

The McCain bill puts money into smoking cessation programs so that smokers nationwide will have the means to turn to, to reduce their addiction to nicotine. My colleague from Tennessee, Senator FRIST, spoke earlier about the need for medical research in this area, for breakthroughs to stop this addiction. I fully support him, and I think it should be part of this effort. We are hopeful these breakthroughs will make it easier for people to stop this addiction to nicotine. That is part of this bill.

Another provision of the bill protects tobacco farmers and their families. I have never had any crusade against the tobacco farmers. I understand the devastation in health that their crop can cause, but I have always felt they deserve a chance to find another livelihood. This bill gives them that chance. That is why I support it.

Let me speak to the amendment before us, the Durbin and DeWine amendment. It is a look-back provision.

Now, we could give all the speeches we want to give on the floor of the Senate and in the Chamber of the House decrying teen addiction to tobacco products, addiction to nicotine. We can pass all the bills we want saying that as a Nation we are going to come to grips with this, and I am afraid we will not achieve our goal unless we are very serious and very specific. In fact, in every State in the Nation it is against the law for minors under the age of 18 to purchase tobacco products, and yet clearly they do on a daily and overwhelming basis. So the mere enactment of a law has not achieved our goal.

Why is the McCain bill any different? It is different because one important facet of this bill is included. It is the so-called look-back provision. The look-back provision is accountability; it is honesty. It says that as the years go by we will measure the number of teen smokers in America, and if that percentage does not come down, the tobacco companies and tobacco industry will be held accountable in terms of fees that need to be paid as they miss these targets.

That accountability brings reality to this debate. We can have the highest flying speeches, the most voluminous rhetoric, and yet we will not achieve our goal unless we are specific. Is this a matter that should concern us? Consider this chart for a minute. It is a troubling commentary on what is happening in America.

This chart shows the percentage of high school students who currently smoke cigarettes. Look at from 1991 to 1997. In every grade, 9th, 10th, 11th and 12th, across America, there has been an increase in the percentage of students who are smoking. In fact, the increase over the six years has been 30 percent. While we have given all these speeches, while we have talked about this problem, while the President, the Vice President, the Secretary of Health and Human Services, and so many others have addressed it, we have, in fact, seen the children of America ignoring it. They have taken up this habit, and as they take it up more and more kids are vulnerable.

For those who do not think this is a real American family issue, I pose one question which I always pose in this debate: Have you ever met a mother or father who came to you at work one morning and with great pride and a smile on their face said, "We have great news at home. Our daughter came home last night and she started smoking." I have never heard that. In fact, just the opposite is true. Parents who suspect their kids have started smoking are worried. They understand the danger. They understand the addiction. And they understand better than most why this debate is so critically important.

Some argument is made as to whether or not the increase in the price of tobacco products will reduce usage by children. The Senator from Missouri, who spoke before me, talked about all sorts of surveys that came to an opposite conclusion. I would point to two that confirm the belief in this bill that if you raise the price of the product, children are less likely to use it.

In Canada, just to the north, when they imposed a substantial increase in the Federal tax on tobacco products, they had a 60-percent reduction in children who were smoking. Kids are price sensitive; they don't have all the money in the world, and when the price of the product goes up too high, they stop using it or reduce their usage. Canada is a perfect example.

On the academic front, at the University of Illinois, Dr. Frank Chaloupka has performed a study in which he has surveyed cigarette prices and whether or not they have any impact on the percentage of youth smoking. He says:

> Based on this research, I estimate that a $1.50 increase in the federal cigarette tax, implemented over three years and maintained in real, inflation adjusted terms, will cut the prevalence of youth smoking in half.

The bill sticks to $1.10, and the percentage decrease may not be as high or as dramatic, but clearly it will be a decrease. Increasing the cost of the product reduces its usage.

I find it interesting that my colleague from Missouri talked about the so-called cash cow that this $1.10 creates, the billions of dollars brought into the Federal Treasury because of this increase in the Federal tobacco tax. I think this is money that is going to be raised for good purposes, to reduce teen smoking, to invest in medical research, to invest in smoking cessation, and to help tobacco farmers in transition.

It is interesting that so many of the critics of this bill, who argue we need no tax whatsoever, are anxious to spend the proceeds from that tax. Reference is made to the marriage penalty, an interesting tax challenge which we should take up at some point. But the people who are opposed to this bill want to take the proceeds from the bill and spend them on correcting this tax anomaly, the so-called marriage tax penalty. They cannot have it both ways. You cannot decry this bill as a so-called cash cow, raising taxes that are unnecessary, and then make all sorts of proposals on how to spend it, and certainly proposals which have little or no relevance to the question of whether or not we are addressing the scourge of smoking addiction in this country.

Let me also speak for a moment to the Food and Drug Administration. It is true that Dr. David Kessler, who is a friend and someone I worked with for many years, showed extraordinary courage, with President Clinton and Vice President GORE, in an initiative to reduce smoking in America. They took a lot of heat for it, because they took on the tobacco industry and they suggested they were going to get serious about it. They were going to try to view nicotine as the drug that it is. They were going to try to hold accountable retailers who were selling to children. And they were going to establish standards across America—for example, asking for identification for the purchase of tobacco products. When they proposed this, their critics went wild: "Oh, it is overreaching by the Federal Government. It is just entirely too much." Yet they were on the right track, a track which we follow today.

Let me try to zero in specifically on the Durbin-DeWine amendment. The fact that this amendment is being debated today has a lot to do with 40 State attorneys general who filed lawsuits against the tobacco companies, seeking to recover, for their States and taxpayers, money that was spent because of tobacco products. Last year, as a result of the aggregate effort of these attorneys general, a general agreement, or settlement, was reached. Part of that agreement included these so-called look-back provisions. The agreement said that the tobacco industry was willing to be held accountable to reduce the percentage of young people smoking. If they did not reach the goals, they would be penalized. So the idea of a look-back provision is not something being foisted on the industry or something brand new on Capitol Hill; this is an idea that was endorsed by the tobacco companies as part of their agreement with the State attorneys general.

The difference, of course, in the DeWine-Durbin approach, is that we take this from an industry assessment, from an industry fee, and say let's look, instead, to the specific tobacco companies. Senator MCCAIN of Arizona, in his bill, says we should do that for roughly a third of the penalties involved. Senator DEWINE and I think it should be a larger percentage. Let me explain to you why we think it should be larger.

Consider this for a moment. Some of my critics come to the floor and say it is impossible for us to measure how many children smoke how many brands of cigarettes. In fact, my friend, the Senator from Texas, says it doesn't pass the laugh test, to think that we would be able to measure how many underage kids are smoking Camels or Marlboros or Kools or Virginia Slims.

Let me suggest to him and others who criticize this amendment, the tobacco companies have extraordinary resources and ability to measure the use of their product. If you challenged Philip Morris to tell you how many left-handed Latvians smoke Marlboros, I bet they could come up with the number. If you challenged R.J. Reynolds to come up with how many tongue-tied Texans use Camels, I'll bet they could come up with the number. Because they market these products and these brands on a very specific basis. They want to know not only how many they are selling, but to whom they are selling them because they have billions of dollars of advertising that they are going to focus in, to try to win over new groups.

So the suggestion that we cannot measure the number of young people using certain brands of cigarettes just defies common sense. The industry has this ability. It has this knowledge. It is a sampling technique that is used by businesses across America, and it can be applied here. Senator DEWINE and I seek to apply this standard in this situation. We believe—and I hope my colleagues will join us in the belief—that it is eminently fair for us to hold each tobacco company accountable.

Let us assume, for example, that R.J. Reynolds takes this bill very seriously and says they are going to stop marketing their product to children, that they are no longer going to be selling Camel cigarettes to kids. They tell their retailers: "Don't let that pack go over the counter. Don't sell it to a child. We are very serious about it. Or we may cut off your access to our product." They say to the people who are doing the advertising and marketing: "Get honest about this. Make sure that we don't advertise around schools. Make sure that we don't have all these promotions with Camel hats and shirts and all the rest of it."

And let's say they are successful. Should that conduct on their part, that positive conduct, be rewarded? Of course it should. In contrast, if Marlboro and Philip Morris, for example, decide they don't care, they just go on selling as usual, and in fact you see kids, more and more kids, turning to their brand, should they be held accountable for that decision? Why, of course they should. Company-by-company accountability makes sense. It says to the tobacco industry: This is not just an industry problem, this is a company challenge. Get serious about it.

I was somewhat amused that the Richmond, VA, Times-Dispatch yesterday came out with a story from the Philip Morris company. For someone who has been battling this issue for a long time, it is hard to imagine, but Geoffrey Bible, chairman of the Nation's largest tobacco company, told employees in New York that he has recently appointed a senior executive to "design more actions" to back up the company's long-held claim that it does not try to appeal to youngsters.

What a great epiphany it must have been in Richmond, VA, for Philip Morris to finally realize we are talking about them, we are talking about their marketing and advertising techniques, and we are talking about the possibility, if they do not get serious and start reducing sales to youth, that in fact they are going to have to pay for it.

The Durbin-DeWine amendment says that payment should be directed at the companies based on their conduct. If they are positive and reduce sales to children, they will be rewarded. If they ignore this bill and they ignore these goals and end up selling more to children, they should pay a price for it. I don't think that is unreasonable.

I want to salute, incidentally, the State attorneys general who started this ball rolling. Some have been critical of them. I have not. We would not be here today without their initiative and without the progress that they made. Particularly, I would like to salute Attorney General Skip Humphrey of Minnesota. He hung in there for a long time, and, literally before the jury retired to consider a verdict, he settled the case for over $6 billion for the taxpayers of Minnesota. That is great news for those taxpayers and Attorney General Humphrey. But equally important, during the course of his lawsuit he managed to draw out even more documents from the tobacco industry. It seems that the more and more documentation we bring out, the more obvious it is that these tobacco executives have been lying to us for decades. They have, in fact, been targeting kids.

We have so many examples. I can't read them all to you here, but from a 1981 memo, a Philip Morris researcher said:

> Today's teenager is tomorrow's potential regular customer.

A 1973 Brown & Williamson memo said:

> Kool has shown little or no growth in share of users in the 26-plus age group. Growth is from 16 to 25 year olds. . . .

Remember, at the time, it was illegal to sell their product to 16-year-olds in some States, and, yet, they were making it very clear it was part of their marketing strategy. The list just goes on and on of these companies that made conscious marketing decisions to sell to children. They knew they had to recruit these kids. If the kids turned 18, it was unlikely they would become smokers. All of these documents and evidence have really made the case.

Our look-back amendment says we are going to take this very seriously on a company-by-company basis. Let me address for a moment some of the criticisms that have been leveled against this amendment.

First, if you support the McCain bill, which has a company-specific payment in it, then you must necessarily reject the argument that you cannot assess on a company-specific basis. McCain assumes that, I assume it, common sense dictates that, in fact, the companies market their brands to specific groups and can measure the success of their marketing and sales. The Durbin-DeWine amendment takes the McCain premise of the fee assessed on a company-wide basis and expands it. So for supporters of the McCain bill, the Durbin-DeWine amendment is consistent with the methodology that is used.

Second, this will not lead to price increases. The Durbin-DeWine amendment is just the opposite. Some are arguing the look-back provision means the cost of the tobacco product is going to go up. Well, not necessarily. If, for example, in the case that I used, R.J. Reynolds is doing a good job and they are not assessed a surcharge, but Philip Morris is doing a bad job and they are assessed, then Philip Morris is going to have to find a way to absorb that payment in their cost on the bottom line, because to raise the price of their products puts them at a competitive disadvantage with the people at R.J. Reynolds.

The Durbin-DeWine amendment is specific in saying any payment that is assessed is going to be absorbed by the company in their bottom line. Let me give you an example of the breadth of this payment.

If a company misses the target by 20 percent—in other words, we are saying we are going to reduce teen smoking by so much percent—15 percent, 20 percent, 30 percent—and it turns out they miss it by 20 percent, by a large margin, under our amendment their payment would add up to about 29 cents a pack. It sounds like a lot of money. It is, but don't forget for a moment that the tobacco companies' profit on each package of cigarettes is 40 cents. So our amendment is not going to drive them out of business. It simply is going to tell them their profits are on the line unless they stop selling to children.

Some have argued that our surcharge is too high and will increase costs to $7 billion instead of the underlying bill's $4 billion. That is not accurate, either. The underlying bill is kept at $4 billion in industry-wide payments, but it also has company-specific payments as well. The Durbin-DeWine amendment draws a line and puts an absolute cap at $7 billion in total.

The two approaches—the bill and our amendment—have similar aggregates if the companies miss by large amounts.

Third, it has been said that this amendment is punitive—punitive. Our approach is not punitive. It reduces the industry-wide payment that applies to companies that, in fact, reduce their youth smoking while other companies fail to do so. It increases the surcharges on companies that continue to market or sell to kids. That is not punishment, that is accountability.

And fourth, as a sign we are not punitive, we have capped the amount that can be charged. It has been pointed out that we require payments of as much as $240 million per percentage point, but keep in mind, too, that the underlying bill also has provisions in there for payments by percentage point. The lifetime social cost of hooking each youth smoker is $400 million. We are still charging companies less than the social cost of their continued sales to youth.

I will conclude my time that has been allotted under the unanimous consent agreement by showing on this chart what happens under the Durbin-DeWine amendment as opposed to the McCain bill.

If companies miss by 5 percent, the amount they are charged is $240 million under our amendment, and it is $190 million in the underlying bill. At 10 percent, you can see the numbers, and 20 percent as well.

The Durbin-DeWine amendment sets out to achieve several goals on which I hope all Senators, regardless of party, will agree. We reduce the number of youth smokers by 450,000 over the McCain bill. We reduce the number of premature deaths by 150,000 with this amendment. We reduce by $2.8 billion the lifetime social costs that are attached to smoking addiction, diseases, and death. And we have the same target in reduction as the original proposed settlement with the States attorneys general.

I hope those who have listened to this debate will understand what we are about here. This look-back amendment is more than just a technical approach. It is, in fact, an approach which requires honesty and accountability. The tobacco companies hate this amendment like the devil hates holy water, because this amendment holds them accountable and says, "We don't want to hear anymore verbiage from you about reducing teen smoking. We want to put it in writing. We want to put it on the line. We want you to be held accountable, and you will be held accountable. And if the Durbin-DeWine amendment is adopted and you continue to push your product on children and this addiction rate among our kids continues to grow, you will pay through the nose."

That is hard talk, I know. This is a hard subject. We are talking about the No. 1 preventable cause of death in America today. That is why this historic debate is so important, and that is why no other political diversion that has been raised on the floor should be taken seriously. Let us get about the people's business. Let us do something to give our kids a chance to be spared the scourge of addiction to nicotine and tobacco products.

Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, and colleagues, the single most important step this Congress can take to protect our youngsters from the tobacco companies that prey on them is to hold each of those companies individually accountable. And that is what the look-back legislation does that is now before the Senate.

I would like to spend just a few minutes talking about why this is such a critically important amendment in terms of protecting our children.

History shows, and shows very clearly, that each time the Congress tried to rein in the tobacco companies in the past, the tobacco companies would use their enormous marketing, entrepreneurial and public relations skills to get around those efforts. So this amendment offered by our colleagues, Senators DURBIN, DEWINE, myself, and others, provides an opportunity to literally reverse the course of history.

Previous efforts were always evaded by the tobacco companies. They were able to get around efforts to restrict electronic advertising; they were able to get around the early warning labels that were passed by the Congress. When our colleague on the other side of the Congress, the late Mike Synar, passed legislation to ensure that the States would take strong action to enforce the antisales laws to minors, the tobacco companies got around that. And the reason is that past policies never provided a way to hold each individual company accountable.

So that is why this legislation is so very important. I would submit to my colleagues—I argued this in the Senate Commerce Committee when, as the Presiding Officer knows because I offered a similar proposal there as well—that this is really the key, if you want to see tobacco companies clean up their act and do what they have long said they would do, and that is, stop targeting the youngsters of our country.

If you really do not want to change business as usual, vote against this amendment. If you think that tobacco companies will do it on their own, then you ought to oppose this amendment. But if you want to change the course of history and make sure that we have the tools to hold the companies accountable when they again, as they have done throughout history, look for ways to get around this legislation, if you really want to get the job done right, then vote for this amendment offered by our colleague from Illinois.

The tobacco companies have spent vast sums in recent months arguing that this sort of legislation really isn't needed, that they would take strong action on their own and that they have cleaned up their act from years past. In the Senate Commerce Committee, we heard that argument. As the Presiding Officer knows, we heard from all the CEOs at that time. Given the fact that many of the documents and the accounts of past industry misdeeds were pretty old, a number of us were inclined to say it is a new day. Let us see if the tobacco companies are going to be better corporate citizens. Let's see if they have cleaned up their act.

As we prepared for those Commerce Committee hearings, Mr. President, I learned that the Brown & Williamson Company was again engaging in conduct that did not really reflect what they and other companies were saying in the ads that they were running at that time about how it is a new day and they have cleaned up their act.

A brief bit of history for the Senate I think would be revealing.

I participated, as a Member of the other body, in the hearings in 1994 where the tobacco executives then under oath, told me that nicotine isn't addictive. Of course, they contradicted every Surgeon General for decades. But there was actually a revelation at that hearing that perhaps was equally remarkable. At that hearing, it was brought to light that the Brown & Williamson Company was genetically altering tobacco plants to give it an added punch as a way to attract smokers—shocking evidence. And when brought to light, the Brown & Williamson Company pledged to the committee, to the country, that they wouldn't engage in that kind of conduct again.

As we prepared for our hearings in the Senate Commerce Committee, we began to hear about news reports that the Brown & Williamson Company was using genetically altered tobacco, known as Y-1, in cigarettes and selling them both here and abroad. So when the executives came before the Senate Commerce Committee I asked them about this. In their words, the CEO of the Brown & Williamson Company said, "We are working off a small stockpile of genetically-altered tobacco, and in fact that is being included in cigarettes in our country and around the world."

As many in the Senate know, there is now a criminal inquiry underway. There have already been those who have pleaded guilty in connection with this matter. The Justice Department continues its investigation.

The reason I bring this up is this is a concrete, tangible reason why we need the amendment offered by the Senator from Illinois. The Senator from Illinois, our colleague, Senator DURBIN, gives us a chance to reign in a company that engages in that kind of rogue action, action that is detrimental to the health of the American people, and action that, in fact, as recently as 4 years ago said they would never engage in again.

It is one thing to talk about conduct that is 20 or 30 years old; it is another thing to talk about conduct that stems from the 1950s. But it is quite another to see a company that makes a pledge to the American people that they will stop engaging in a health practice which is obviously detrimental to children and to our citizens, and then start it again, even while the hot light of the Congress is examining their conduct in considering legislation.

These companies are not going to change on their own, Mr. President. We are going to have to hold them accountable through legislation. That is why this amendment is so very important. I will tell my colleagues that I believe this amendment, in connection with the accountability requirements that the President knows we set up in the course of our Commerce Committee deliberations, is the single most important tool for reversing history and making sure that after this bill is passed and the tobacco companies try to get around it, that we will have some strong tools to rein them in.

I know we want to move to a vote on this, but I simply wanted to take a few minutes of the Senate's time to say that I think this is a critically important amendment. It is critically important for each Senator who really is serious about changing business as usual with respect to tobacco policy. The single most important concept the tobacco companies fear is accountability. They have not been faced with company specific accountability when we have passed previous legislation—warning labels, advertising restrictions, or the Synar amendment. They never had to face an amendment like this that would say, look, we are actually going to require you to produce results.

I hope our colleagues will, as reflected by the bipartisan authorship of this amendment—our colleagues, Senator DURBIN and Senator DEWINE—will pass this legislation. It is critically important for the youngsters of this country. It is the one part of this bill that will make sure that the job actually gets done in protecting youngsters, and not allow another piece of legislation, once again, to be evaded by the tobacco companies' genius, their marketing skills, and the vast sums that they will continue to spend with respect to marketing their products.

I yield the floor.

Mr. KERRY. Mr. President, I thank my colleague from Oregon for his continued, persistent, passionate commitment to trying to pass this legislation.

The Senator was referring to the extraordinary sums of money that the tobacco industry spends. Let me remind our fellow Americans that amount of money is $6.5 billion per year, $16.5 million per day, $700,000 every hour to get people to smoke. What is most astonishing about this effort to get people to smoke is the degree to which it has been targeted at young people, targeted at children.

It is an extraordinary story. Nine out of 10 kids who smoke use one of the three most advertised brands, and yet less than 30 percent of adults use those most advertised brands. A study of 6-year-olds showed that just as many 6-year-olds—91 percent of all the 6-year-olds in this country—could identify Joe Camel just as they could identify Mickey Mouse. That is an absolutely extraordinary statement.

Now, there is a reverse side of how extraordinary these statistics really are, because for every American who smokes there is an American or two who are trying not to smoke. All of them will tell you—or almost all, 86 percent to 90 percent of them—they started smoking when they were teenagers. Most of them—again, many, many, analyses and polls have been done of this—most of those people who started smoking as teenagers will tell us if they could quit today, they would quit today and never start again. If they had the choice to make again, they wouldn't choose to smoke. But they smoke because they are addicted. They are hooked.

The truth is, in the United States of America we have more people spending more money to try to get unhooked on an annual basis than we spend on day care. That is most extraordinary. I found it hard to believe when I heard that. In Massachusetts alone, our citizens are spending $1.3 billion a year on nicotine patches, on different kinds of gums, on therapy, on hypnosis, on all of the things that people go through to try to stop. We are spending $1.3 billion a year in Massachusetts alone. Extrapolate that out across the country—it is millions of dollars more than the Federal Government commits to day care for our children. The reason this happens is because people get hooked at the early stages.

Now, I want to share with my colleagues something about getting hooked in the early stages. We continue to hear colleagues come to the floor and say, gosh, this is going to raise money in the expense of cigarettes, and that is not a good thing. But they never address the amount of money that Americans are spending because of people who smoke. They never address the tax that cigarettes "whack" every American, even those who don't smoke. Every single household in America is spending an unwanted, unrequested, undesired 1,300 plus dollars —1,370 or so dollars. Every household in America spends that, whether they want to or not, on the cost of the other Americans who smoke and then get sick.

Let me share a story about some Americans who smoke and get sick, a commentary in USA Today by Victor Crawford. The title is "Tobacco was Dad's Life; It Also Took his Life." I read from the article:

> My father never had a chance. When he was growing up in the 1940s, almost everyone smoked cigarettes. He said it was the thing to do. It was not until 1964 that the U.S. Surgeon General declared smoking was harmful. But by then, my father had been addicted for almost 20 years. His addiction finally killed

> him last March, one month before his 64th birthday.
>
> When my father was diagnosed with throat cancer in 1991, some thought he had it coming to him. You see, my father was a Maryland State senator turned tobacco lobbyist. He was the first to dismiss the antismoking people as "health Nazis" but spent the last years of his life trying to undo the damage he had done. He admitted he had lied, and he apologized for claiming, "There is no evidence that smoking causes cancer." Unfortunately, tobacco lobbyists understand this simple logic all too well. Like my father, most smokers today start when they are about 13 years old. And since about 90 percent of all new smokers are 18 and under, the industry needs to keep hooking kids to stay in business.

I will skip through a little bit, turning to the end:

> My father said, "Some of the smartest people in America work at just one thing: trying to figure out how to get young people to smoke. As tobacco kills off people like me, they need replacements." My father didn't live to see his daughter graduate from college; he won't meet my future wife, nor will he walk my sister down the aisle at her upcoming wedding; he will never know his grandchildren, and they will never meet their grandfather—all because when he was 13, smoking was the thing to do. Let's give today's kids a fighting chance.

Mr. President, that is why we are here in the U.S. Senate. We have been tied up for more than a week now trying to give kids a fighting chance. There is only one reason this bill is on the floor of the Senate: because every expert in America, including the tobacco companies, tells us that if you raise the price of cigarettes, you will reduce the number of young people who smoke. And if we reduce the number of young people who smoke now, we will reduce the 420,000 Americans who die every year as a result of a smoking-related disease, such as cancer of the pancreas, cancer of the larynx, cancer of the throat—one cancer or another—and heart disease and liver disease.

The Presiding Officer understands better than anybody, as a practicing physician and one who has been a key architect in helping to get this bill in a position to pass it, that this bill is about stopping kids from smoking and reducing the costs to America, the costs to families, the unwanted, unrequested costs of smoking. Families who result with a disease that comes from smoking wind up paying tens of thousands of dollars more in health insurance. But the impact for those people who don't have insurance, or adequate insurance, is to raise the insurance costs for everybody in America, raise the costs of all of our hospitals, raise the costs for families who can ill afford it.

Mr. President, this is the first opportunity the U.S. Senate has had to address an extraordinary history. I want to share that history with my colleagues. It is now known that the tobacco industry helped to create this mess by targeting young people, by creating replacement smokers. Many of my colleagues may not have had an opportunity to focus precisely on the degree to which that has been true and the degree to which, therefore, this effort to try to raise the price of cigarettes and create a series of efforts to prevent young people from smoking through cessation programs, counter-advertising, and other efforts, is so important.

In 1975, the R.J. Reynolds company, in a memorandum, wrote the following:

> To ensure increased and longer-term growth for Camel filter, the brand must increase its share penetration among the 14–24 age group, which have a new set of more liberal values and which represent tomorrow's cigarette business.

That is the R.J. Reynolds company talking about targeting the 14- to 24-year-old age group because they are "tomorrow's cigarette business."

> They represent tomorrow's cigarette business. As this 14–24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years.

That is an R.J. Reynolds tobacco company executive, a vice president for marketing, C.A. Tucker, on September 30, 1974.

Let me read what Mr. C.A. Tucker also said:

> This suggests slow market share erosion for us in the years to come unless the situation is corrected. . . . Our strategy becomes clear for our established brands: 1. Direct advertising appeal to the younger smokers.

Let me read what Dianne Burrows, a researcher, wrote in a memo for R.J. Reynolds in 1984:

> If younger adults turn away from smoking, the industry must decline, just as the population which does not give birth will eventually dwindle.

In the same memo, it says:

> Younger adult smokers have been the critical factor in the growth and decline of every major brand and company over the last 50 years. They will continue to be just as important to brands/companies in the future for two simple reasons: the renewal of the market stems almost entirely from 18-year-old smokers. No more than 5 percent of smokers start after the age of 24.

That is an R.J. Reynolds research memorandum, telling us that people don't start smoking after age 24. They targeted young people and got them hooked with a narcotic killer substance.

> Brands/companies which fail to attract their fair share of younger adult smokers face an uphill battle.
>
> Younger adult smokers are the only source of replacement smokers.

So kill them off and replace them. Kill them off and replace them. That is the way it has been.

This is a Brown & Williamson memo from consultants recommending that the company consider Coca-Cola or other sweet-flavored cigarettes. The 1972 memo says:

> It's a well-known fact that teenagers like sweet products. Honey might be considered.

They were talking about a way to try to sweeten cigarettes and get more young people hooked.

Another Brown & Williamson memo said:

> Kool has shown little or no growth in share of users in the 26 [plus] age group. . . . Growth is from 16–25 year olds. At the present rate, a smoker in the 16–24 year age group will soon be three times as important to Kool as a prospect in any other broad age category.

Let me share a Philip Morris document with you. We are going to spread this around. We have had some from R.J. Reynolds and Brown & Williamson. This is from a report sent from researcher Myron E. Johnson to Robert B. Seligman, then vice president of research and development, in 1981:

> We will no longer be able to rely on a rapidly increasing pool of teenagers from which to replace smokers through lost normal attrition. . . . Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than the other companies from the decline in the number of teenage smokers.

So here you have Philip Morris, particularly, concerned about the loss between different companies, targeting teenagers.

This from the same report of Philip Morris:

> Today's teenager is tomorrow's potential regular customer. . . . The smoking patterns of teenagers are particularly important to Philip Morris . . . the share index is highest in the youngest group for all Marlboro and Virginia Slims packings.
>
> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15–17 year olds.

This is from a different document, Mr. President. This is a Philip Morris internal document in 1987. This came from the Minnesota case. This was an exhibit in the Minnesota trial. This may explain one of the reasons that Minnesota finally reached a settlement.

> You may recall from the article I sent you that Jeffrey Harris of MIT calculated . . . the 1982–1983 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. Those teenagers are now 18–21 years old, and since about 70 percent of 18–20 year-olds and 35 percent of older smokers smoke a PM brand, this means that 700,000 of those adult quitters had been PM smokers and 420,000 of the non-starters would have been PM smokers. Thus, if Harris is right, we were hit disproportionately hard.

Here is the kicker: "We don't need this to happen again."

In other words, we don't need to lose these smokers again. We have to find a way to penetrate—that, and the young people. But the most important thing is they found that their price increase caused 2 million adults to quit, and it prevented 600,000 teenagers from starting to smoke.

That is a cigarette industry document. For those Senators who keep coming to the floor saying, "Why are we raising this price?" all they have to do is read the cigarette companies that they are inadvertently, or otherwise, protecting on the floor by not voting for this legislation, because the cigarette companies themselves will tell you, raise the price and they lose business. That is precisely why people agreed on a volume adjustment in the process of arriving at how much money is going to be gained over the course of the life of this legislation.

Let me read from a different Philip Morris memo.

> The teenage years are also important because those are the years during which most smokers begin to smoke, the years in which initial brand selections are made, and the period in the life cycle in which conformity to peer group norms is greatest.

Mr. President, here we have an admission by Philip Morris of what everybody has known—that they are actually targeting the peer group which they know to be the most susceptible to exactly the kind of advertising that they geared up.

> The teenage years are also important because those are the years during which most smokers begin to smoke . . . the period in the life cycle in which conformity to peer group norms is the greatest.

That is extraordinary.

So the cigarette companies willfully played on the time period of greatest peer group pressure and played to the peer group pressure. So it is today that we can hear from people who are in wheelchairs who have lung transplants like Pam Lafland, who I quoted a few days ago, who tells a story today of her starting, as just that kind of peer group pressure person who responded to the notion, "Oh, boy. If I smoke a cigarette, I am going to look older." Today she looks a lot older. Today she is trying to take care of her kids out of a wheelchair.

Mr. President, that is what this is all about. Let me read from a different R.J. Reynolds Tobacco Co. marketing report on the future of Winston. This is 1990—15 years ago already of reports that we are looking at.

> Winston, of course, faces one unique challenge. . . . It's what we have been calling the 'doomsday scenario'.

Get this, the "doomsday scenario."

> . . . an acute deficiency of young adult smokers, apparently implying Marlboro's final domination and our utter demise within a generation.

The "doomsday scenario"—that they are not going to get enough young people hooked on Marlboros, and down they go.

Here is a 1969 draft report from the Philip Morris board of directors:

> Smoking a cigarette for the beginner is a symbolic act. . . . 'I am no longer my mother's child, I am tough, I am an adventurer, I'm not square'. . . . As the force. . . .

This is really.

> * * * As the force from the psychological symbolism subsides, the pharmacological effect takes over to sustain the habit * * *

Mr. President, that is one of the most remarkable admissions from a company that we have had in this entire debate. I want to rephrase it.

What they are saying is that after they have abused a young person's susceptibility to peer pressure, after they have exploited this young person's availability to get them into smoking, they acknowledged in 1969 that once the psychological symbolism is gone, it is the pharmacological effect that sustains the habit. In other words, they are hooked. They are addicted. They got to have it.

Here is a Lorillard executive in 1978: "The base of our business is the high-school student."

Mr. President, there are pages and pages of the thoughts of the cigarette companies regarding their availability to cigarettes, all of which are the most profound fundamental documentation and for which the U.S. Senate must pass this legislation in the next days. There is no room for excuses in the face of the cigarette companies' own acknowledgments of what they have done to target generation after generation of Americans in order to get them hooked on a substance that is a drug, that is addictive and a killer substance which winds up costing Americans increasing amounts of money.

Mr. President, we have that opportunity here. We have the opportunity to do precisely what the cigarette companies themselves have now agreed to do. They settled of their own accord with a number of different States. And in their settlements with those States, they agreed to pay amounts of money, they agreed to curb advertising, they agreed to engage in cessation programs, and they agreed to raise the price of cigarettes—all of the things that we are seeking to do here in this legislation. There is no excuse for a U.S. Senator coming to the floor and suggesting that we shouldn't do at a national level in the U.S. Senate what the cigarette companies themselves have agreed to do in settlements with the States—no excuse. The States themselves have arrived at settlements. If you extrapolate the amount of money that they are paying in those settlements, it is more than the U.S. Senate has agreed in its denial of a $1.50 increase and more than it has agreed to raise in total in this legislation.

So this is not a matter of economic survival for those companies. This is a question of whether or not we are going to engage in an effort to reduce the access of our young people to cigarettes. That is what this is about.

I have heard some people complain, "Well, you know, it is one thing to raise the money but we ought to do the right thing with the money." Then they start coming and diverting the money to a whole lot of things that have nothing to do with stopping kids from smoking.

It is going to take more than just a price increase to be successful in our goals. We need to guarantee that kids who are particularly vulnerable—kids who have difficult situations at home or kids who may leave school at 2 o'clock in the afternoon for whom there is no adult supervision between the hours of 2 o'clock and 6 or 7 in the evening—are not going to be left to their own devices in order to go out in the streets and meet a drug dealer, or subject themselves to the various peer pressures and wind up with smoking as a new habit.

Mr. President, we have the opportunity here to be able to make a difference in the availability of kids to that kind of free time. We have the opportunity to be able to provide cessation programs, which have been proven to work. California, Arizona, my own State of Massachusetts, have exemplary programs which are reducing the level of teenagers who are smoking, and they do it through various kinds of education—outreach, peer groups—different kinds of educational efforts within the classrooms and within the schools. But we need to train people in that. We need to train teenagers. You need the adequate development of teachers to be able to conduct that kind of pedagogy with which they may not be familiar. And you need to have an adequate supply of materials. You need to be able to help organize it administratively.

I think this bill is structured in a way that tries to afford the maximum opportunity to States and local communities to be able to decide how to do that. This is not some big Federal mandate. This is left largely for the States to be able to decide what works for them best and how they will organize their efforts. We have simply tried to outline those areas that by most expert judgments there is the greatest chance of really having an impact on children and making a difference in their lives.

So those outlines have been laid out as a menu, if you will, from which one could choose at the State level. It is not insignificant that the Governors, both Republican and Democrat alike, have signed off on that concept. If they are content that they can exercise their judgment adequately and that this gives them an opportunity to be able to continue the things that they have started, I think that ought to satisfy the judgment of those who often make a career out of fending for the right of States to make those decisions and a career out of opposing the Federal Government's heavy hand into something. This bill specifically, I think, appeals to both of those best options. I hope my colleagues will recognize that upon close analysis.

Mr. President, I simply wanted to refocus the Senate on the critical component of what brings us here. I think we have, hopefully, finally arrived at an assessment that there is only one reason for raising the price of cigarettes. That reason did not initiate itself in the Senate. It came from the tobacco companies themselves, from economists, from experts. It came from health experts, and it came from many focus groups and analyses, all of which have arrived at the conclusion that price is important.

Now, I thought, frankly, that Adam Smith and others had arrived at that conclusion a long, long time ago. I think most people in the marketplace have always known that most commodities are price sensitive, and the marketplace is price sensitive. Indeed, the tobacco companies have underscored that in their own memoranda which say they lost smokers as a result of their earlier price increases. What happened before will happen again. The question is whether we are going to maximize our effort in order to guarantee that kids get a lot more than just the price increase, that they get the kinds of guidance and the kinds of personal counseling and the kinds of personal education that will make a difference in the peer pressure, symbolic side of the choice that so many have made. And this ultimately will benefit every single American. If we are going to talk about the cost, let us talk about the cost to all of America of smoking—the cost through all of our hospitals, our pulmonary wards, through emphysema, the length of extraordinary care and its cost for those who have terminal illnesses as a consequence of smoking and the consequences to all other Americans who choose not to smoke but because of secondary smoke.

Mr. President, I suggest the absence of a quorum.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KERRY. No.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I ask unanimous consent that we proceed under the current status quo, that Members be recognized for the purpose of debate only, until 2:15.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I am not going to give a long speech this afternoon. We are working to develop a compromise to provide some cushion to basically blue-collar Americans who are going to bear the brunt of this massive tax increase that is before the Senate. I am hoping that we can reach an agreement, and that we will move forward in an orderly way. Let me say to my colleagues that I am determined to see that we do not allow the Senate to engage in one of the greatest bait-and-switch legislative activities in history.

Our dear colleague from Massachusetts has in passionate terms indicted the tobacco industry. If this is a trial of the tobacco industry, I vote guilty. If this is a lynching, I say hang them. But I want to remind my colleagues of one unhappy fact. And facts are stubborn things. The cold reality of the bill we have before us, all 753 pages of it, is that we can damn the tobacco companies all we want, and I join in that chorus. As to where conspiracies have been committed, we have a Justice Department which is largely unemployed in any other activity, let them investigate and prosecute. But I want to be sure everybody understands that nobody is talking about penalizing the tobacco companies.

What we hear day after day after day is a steady drumbeat of denouncing the tobacco companies while we have 753 pages in this bill that raise taxes on blue-collar America. In fact, we have a bill before us that not only does not tax tobacco companies but has the extraordinary provision that makes it illegal for them not to pass the tax through to the consumer. So tobacco companies are held harmless.

What we have here is a giant bait and switch. The bait is tobacco companies. Try them. Convict them. Hang them. But the switch is to impose $700 billion of taxes primarily on blue-collar Americans; 59.1 percent of this tax will be paid for by Americans who make less than $30,000 a year. In my State, 3.1 million people smoke. As you listen to all of this ringing debate, we are talking about these victims. The 3.1 million Texans that the tobacco companies have conspired to addict to nicotine are going to have taxes imposed on them under this bill. A blue-collar family, a husband who is a truck driver and a wife who is a waitress, will end up paying $2,030 of new Federal taxes if they smoke one pack of cigarettes each a day. So we are damning the tobacco companies but we are impoverishing the victims of the tobacco companies.

As my 85-year-old mother, who speaks with the wisdom that comes from being 85 years old, has said to me, "I'm a little bit confused; you tell me that this guy Joe Camel makes me smoke and that I am a victim, but you turn around and tax me."

Mr. KERRY. Will the Senator yield for a question?

Mr. GRAMM. I listened to the Senator speak for over an hour. All I want to do is make my point, and when I get to the end of it, I will yield.

So with the wisdom that comes from being 85 years of age, my mother, who has no formal education, has listened to this debate. She has listened to this vilification of the tobacco industry—and justifiable vilification I might add. Yet she has figured out that nobody is taxing tobacco companies, they are taxing her. She is the victim. The Government is here to help my mother. And how are we going to help her? Having been addicted to smoking for 65 years, and despite her baby son's efforts for 55 of those 65 to get her to stop smoking she is addicted, and she is not going to quit smoking. She has concluded that we are talking about how bad tobacco companies are for having gotten her addicted to smoking, but we are taxing her. The cold, persistent, unhappy fact is that 59.1 percent of these taxes will be paid by working blue-collar Americans who make less than $30,000 a year; 75 percent of the taxes will be paid by people and families that make less than $50,000 a year.

If this is not a classic case of bait and switch, I never heard one. All of the rhetoric is about keeping teenagers from smoking. I would love to do that. I would like to get people who are not teenagers to also stop smoking. I would love to do that. But why we have to give $700 billion to the Government to do that, I don't understand. I am struggling, opposing this organized effort and all of these people who are outside with their buttons on saying "Give me your money."

Secretary Shalala has said that the price increases will reduce smoking by 50 percent among teenagers. This bill sets a target of reducing smoking by 60 percent, so they are going to take $700 billion and all they claim they are going to be able to do with it is reduce smoking another 10 percent. Though it is interesting, when USA Today asked the American people in a poll if they believed this bill would stop people from smoking, 70 percent said no.

Here is my point: If we want to raise taxes to discourage smoking, that is one thing. But why do we have to keep the $700 billion? Why do we have to raise the level of Federal taxes on Americans making less than $10,000 a year by 41.2 percent? If the objective is to make cigarettes more expensive and discourage smoking, why do we have to impoverish blue-collar America in the process?

What I am saying is, if we believe that raising prices will discourage smoking, let's raise prices. But let's take at least part of the money that comes to the Government, and instead of paying tobacco farmers $21,000 an acre and letting them go on growing tobacco; instead of paying plaintiffs' attorneys $100,000 an hour for filing these suits; instead of setting up programs where every major Democratic contributor will have his charity or his interest funded by this program, why don't we raise the price of cigarettes, discourage smoking, and take the money and give tax cuts to blue-collar America so we are discouraging them from smoking, but we are not pounding them into poverty?

Maybe you can be self-righteous enough that you are not worried about a blue-collar couple in Texas paying $2,030 of additional Federal taxes if they smoke one pack of cigarettes a day. Maybe you are not worried about what that is going to do to their ability to pay their rent, to pay their groceries, to have any chance of saving money to send their child to college. But I am worried about it. I am not in any way made to feel better by damning the tobacco companies while writing a bill that protects them from paying this tax; a bill that mandates they pass the tax through to the consumer, which basically is blue-collar America.

I have an amendment that is very simple. It says: Raise the price of cigarettes, discourage smoking, but instead of letting the Government have this money, what one office seeker in my State has called "winning the lottery", instead of setting up a program that gives not thousands, not millions, but untold billions to everything from community action to international smoking cessation—it is obvious that people long since ran out of ideas as to how to spend the money—instead of engaging in this feeding frenzy, which will bloat Government forever, why don't we take some of the money and give it back to moderate-income people. So we raise the price of cigarettes, we discourage them from smoking, but we don't impoverish them?

I have picked probably the worst feature of the current Tax Code to try to fix as a part of this process. What I have done is targeted a part of the Tax Code where it is the policy of the Federal Government to discourage people who fall in love from getting married. I happen to believe the family is the strongest institution for human happiness and progress that has ever been developed. I don't understand a tax policy that says if you have a waitress and a truck driver who meet and fall in love and get married, we are going to make them pay more taxes for being married than if they were single or lived in sin. Or if a CPA and a lawyer, working all the way up and down the income structure, fall in love, get married and have a whole bunch of children who can pay Social Security taxes in the future and solve America's problems in the future, we tax them an average of $1,400 a couple because they got married. As my colleagues have heard me say on many occasions, my wife is worth $1,400, and I would be willing to pay it, but I think she ought to get the money and not the Government.

So what my amendment does is take roughly a third of this money in the first 5 years, and then half of it in the second 5 years, letting them spend two-thirds of this money, more money than you would possibly spend efficiently if your life depended on it. People who would have been happy with thousands now will be given billions. Tobacco farmers will, in 6 months, take a quota for growing tobacco they could buy today for $3,500, and we are going to pay them over $21,000 for it in this bill. I personally don't know why these quota prices have not exploded, given this bill is out there. Maybe they figured out this bill is not necessarily going to become law. Rather than do all of those things, I am saying, let's raise the price of cigarettes so we try to discourage people from smoking—which is God's work; I am for that—but take a third of the money and instead of letting Government spend it, let's eliminate this marriage penalty for couples who make less than $50,000 a year so that while the price of cigarettes goes up, we don't impoverish people.

That is basically what my amendment does. I hope my colleagues are going to support it. Our Democrat colleagues do not really want to give this money back. They don't like giving money back. They like spending it. And they think anybody who works is rich and they ought to be giving more than they are giving.

But their idea is: Take my amendment and water it down to almost nothing, and then get all their people to vote against my amendment. Then get them to come back and vote for their figleaf, amendment. Then they can all go home and say, "Repeal the marriage penalty? I was for repealing the marriage penalty; it is just I didn't want to do it the way that Republicans wanted to do it. But I am with the family. I'm with the blue-collar worker. I represent the blue-collar worker."

I am hopeful we can reach an agreement that will guarantee that I will get 51 votes for my amendment. If anybody wants to watch the debate, once it goes over 51 votes, I predict that at least 20 or 25 percent of our colleagues who have not voted for it will immediately rush and vote for it once it is adopted. We might watch that at the conclusion of this vote.

In any case, the point that I want to reiterate, because it gets lost in this whole process, is a simple point: Everything that is being said about the tobacco companies I agree with. If we are here to indict them, they are indicted. If we are here to convict them, they are convicted. If we are here to hang them, let the hanging begin. But despite all that rhetoric, which is interesting and appealing and it makes us feel good, in the end, 59.1 percent of this tax is being paid by American blue-collar workers who make less than $30,000 a year.

The tobacco companies, on the other hand, have a provision that even if one tobacco company should say, "Well, I could get a market advantage by not passing this through," they have legal protection that makes them pass it through to be sure the blue-collar worker gets all of the tax burden and that none of it is absorbed by the tobacco companies.

All I am trying to do is say this: Don't get blue-collar Americans, who are the victims of the effort by tobacco companies to get people to start smoking, confused with tobacco companies. If you want to impose taxes on tobacco companies, have at it. If you want to drive them out of business, have at it. But you are not going to do that, because basically there is a rule that every parasite learns. If the organism is to survive, you don't kill the creature on which you engage in the parasite activity. You bleed the host creature, but not to the last drop of blood.

My view is, I care nothing about the tobacco companies and, if you want to destroy them, have at it. But I do care about 3.1 million Texans who smoke. Many of them would like to stop. My mother would like to quit smoking, but she is not going to quit smoking.

All I am saying is, don't get tobacco companies and workers confused. And I am talking about taxpayers. If the price increase, according to Secretary Shalala, is going to cut consumption by 50 percent and the target of this bill is to cut consumption by 60 percent, then this $700 billion is getting you 10 percent more, supposedly. I just don't see how you can spend that much money.

If you look at what is being done, it is clear that much of what is being funded in this bill has nothing to do with smoking. For example, we mandate that the States spend the money we give back to them on maternal and child care block grants, on funding child care, on federally-funded child welfare, on the Department of Education Dwight D. Eisenhower Professional Development Program under title II of the Elementary and Secondary Act, and it goes on and on and on and on, because nobody has ever had this much money before to spend.

Actually, this is a modest proposal. What I am saying is, give a third of what we take in cigarette taxes back to blue-collar workers so we get the benefits of the higher price of cigarettes but we don't impoverish blue-collar America by making it fund the largest growth in Government that we have seen since the mid-1960s.

I hope my colleagues will support this amendment. One way or the other, I hope to see it adopted. I want to get a vote on it. I want America to know who is for it and who is against it. That is the essence of democracy—accountability. I think this is an issue on which we need some accountability.

Quite frankly, I think my amendment improves this bill. We ought to be giving about 75 or 80 percent of the money back in tax cuts. We need to have an effective but reasonable program for antismoking, and we need to throw out about 745 pages of this 753-page bill so that it is really about smoking and not about the largest money grab that has occurred in Congress in my period of service.

This amendment is a first step in the right direction. I hope it is not the last step. I understand there are others who are going to be offering provisions related to tax breaks for health care and other items, but this is a logical place to start, and it is where I want to start.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I was entertained listening to my friend from Texas, who makes some pretty broad statements about who is for what and who supports what. I think I heard him just say Democrats don't really want to give the money back but the Republicans do. Maybe he wishes that were the fact, and sometimes the wish is the father to the fact, but not in this case.

As far as I know, Democrats are wholeheartedly in favor of a fairness that has escaped every single proposal that the Senator from Texas has ever brought to the floor with respect to taxes. There isn't one tax proposal that has passed the U.S. Senate in the 14 years I have been here that wasn't proposed on the Republican side of the aisle that wasn't made fairer by the efforts of Democrats on this side of the aisle. There isn't one tax proposal that the Senator from Texas and others have brought to the floor—not one—that wasn't geared to the upper-income level of people in this country, and usually at the expense of the low-income level of people.

My friend from Texas may wish it were otherwise, but the fact is that the distinction is not whether or not we want to give money back, the distinction is whom we want to give it back to and whom they want to give it to in the first place.

Every single tax bill I have ever seen worked on here, whether it was the capital gains distribution, or how it came in, or the depreciation allowances, or just on the income tax, or on efforts to roll back some of the impact of the payroll tax—in every single instance, we, I think, have been able to improve the distribution. Let me give a classic example.

In the agreement we reached last year, with much ballyhoo, on the budget, which brought us to the point of a balanced budget and on the available money for individuals earning $40,000 or less, under the proposal that the Senator from Texas supported and our friends on the other side of the aisle supported, a single-parent mother would have gotten zero income back, zero tax rebate, at $40,000 or less of income. And it was only when we refused to pass that legislation without changing it that she got something. In the end, we passed legislation which provided that single parent with an income of $40,000 with $1,000 of tax benefit rebate.

The distinction here is who gets what, and that will be the distinction in an alternative we will offer, if we have to, with respect to the marriage penalty, because we understand, just as well as the Senator from Texas, that the marriage penalty is unfair, the marriage penalty is an aberration in the context of the Tax Code, and has a negative impact on an institution that we respect equally with the Republican Party.

So we will offer, I think, in fact a fairer and better structuring of an elimination of the marriage penalty, and we will give the Senate another opportunity to vote on fairness. You can vote for Senator GRAMM's proposal, which will benefit not as many people at a lower income level as ours; and we will let others be the judge as to whether ours is, in fact, a fig leaf or yet another Democrat effort to make the Tax Code fairer and to protect people in the institution of marriage. I know where my vote will go. I know what I will be comfortable with based on that judgment.

So, Mr. President, the real issue here is, What is the distribution? The Senator from Texas stood there and said, "All I want is one-third, just one-third. And then they'll have plenty of money to spend on all the other programs that they want." Well, analyze that and you find that is not true either. Because the Senator from Texas cannot control what other amendment may come that may try to grab additional revenue.

So the first grab may be the marriage penalty, but then you may have—you will have an additional amount of money for drugs; you will have an additional amount of money here or there; and unless the Senator from Texas is prepared to say he and his colleagues will stop trying to raid the effort to stop children from smoking, we would be hard pressed to say that it is only one-third of the money.

But there is another reason that one is hard pressed to say that it is only one-third of the money. Because, once again, the Senator from Texas has only told you part of the story. Here is the part of the story the Senator from Texas did not want to tell you. It is right here. The one-third of the distribution of the Senator's money on his approach to dealing with the marriage penalty, yes, it is about one-third in the first year—in the first 5 years. But in the second 5 years, it jumps up to $82 billion, which is 53 percent; in the next 5 years, because we are talking about a bill that works over 25 years—they are always coming to the floor and telling you it is a $700 billion bill or a $600 billion bill or a $500 billion bill, so when it is convenient for them, they talk about the numbers in the context of 25 years; but when it is inconvenient for them and it tells another side of the story, they try to limit it to just 5 years. Let us put it in the same context as the 25 years they are talking about.

In that 25-year context, Mr. President, here is the effect: The first 5 years, it is the one-third the Senator talked about. In the next 5 years, it is 53 percent. Wow. In the third 5 years, it is 80 percent of the amount of money available under this legislation. And in the last two sets of 5 years, it is 77 percent and 73 percent.

So the Senator is really talking about gutting—gutting—the effort to stop kids from smoking. And every time he comes to the floor he talks about all the things this bill does that is Government. Well, by gosh, a cessation program involves somebody organizing people to help people not to smoke. And since schools are where most of our children reside for the better part of a day or a good part of a day, and the better part of a year, it makes sense to involve our schools in cessation programs. To do that, you have to spend a little money and organize it.

State block grants—that has been something that I always thought the Republicans were for; they want block grants. They want to give the money to the Governors. "Let the States have a decision as to what they want to do." As to education and prevention, smoking prevention, counteradvertising, those are important aspects. Enforcement, there is $500 to $600 million a year for enforcement.

We hear people coming to the floor and saying in one breath, they do not want to have this bill passed because it will increase smuggling; in the next breath they do not want to acknowledge the very Government they are criticizing that is spending money for antismuggling enforcement efforts.

So, Mr. President, it seems to me that on close analysis we will be able to make a strong judgment as to whether or not there is a fairness in the marriage penalty approach of the Senator from Texas, or whether it is just an effort to try to kill this bill.

I am for getting rid of the marriage penalty, and I will vote to find a way to do that. But it makes sense, it seems to me, to recognize that even if we pass getting rid of the marriage penalty on this bill, that is not going to stop one kid from smoking; that is not going to do one thing for additional research into why people get addicted; it is not going to do one thing for counteradvertising to stop kids from smoking.

So we can go home and feel good because we took the tobacco bill, which is geared to try to stop kids from smoking, for which the Senator has agreed the price increase is targeted, and you turn out passing the marriage penalty. If you take too much of it, you begin to strip away at the ability to accomplish the purpose of the bill.

I am prepared, as I know other Democrats are, to vote for a legitimate amount of money so that we can parcel the appropriate proportion of these revenues to the job of reducing the number of kids who smoke. But I think there is a place where common sense says you have to stop if it goes too far in stripping us from the fundamental purpose of this bill itself.

I also point out that there are other areas that will want to compete for some of this funding. I think it is important for Senators to think about the overall amount of money that would be available for those purposes.

The final comment I make is the Senator from Texas spent a lot of time saying how this bill is misdirected. He is crying for the poor people who are going to pay for an additional cost of a pack of cigarettes. He says how misdirected this bill is because it comes down on the victims, and not on the tobacco companies. But then he says he is willing to raise the price.

You cannot have it both ways, Mr. President. You just cannot have it both ways. There is no way to focus a tax on the tobacco companies, whatever you call it. I heard him the other day call it a "windfall profits tax." No matter what you call it, if you tax them, you tell me a company in the United States of America which winds up with additional costs of manufacturing a product that does not, unless they just eat them—and nobody expects the tobacco companies to do that—that does not pass it off in the cost of doing business. The cost of the product will rise.

But by doing this in the way that this bill seeks to do it, by setting a fee that is levied at the level of manufacturing, you actually have a far more effective way of constraining the smuggling of, of creating accountability in the system; and ultimately you wind up doing the very same thing that would happen under any other circumstances, which is the tobacco companies are going to pass it on to the consumer.

In the end, there is a benefit from raising the price. The benefit outweighs whatever crocodile tears we are hearing shed for those who are going to pay the additional cost of the cigarette. First of all, it is voluntary. Nobody forces them. They buy it. Secondly, it is a smaller amount in total than the amount that people are paying anyway. Then the costs to our society as a whole, which will be reduced by accomplishing what the cigarette companies themselves have said will occur, which is if you raise the price, you will reduce the number of kids who are smoking, you will ultimately reduce the numbers of people who are addicted and you will significantly reduce the costs overall.

So America has a choice. You can reduce the costs, reduce the number of kids who are addicted, reduce the number of our fellow Americans who die, reduce the overall costs to our hospitals and ultimately wind up with a better and healthier society as a consequence of that, or you can take the alternative route, which is the only alternative to what the Senator is saying, and vote to leave it the way it is and let the tobacco companies continue to addict the next generation without making a legitimate effort. I think the case ought to be very, very clear.

COSPONSORSHIP OF AMENDMENT NO. 2446

Mr. CONRAD. Mr. President, on Tuesday, June 2, during Senate consideration of the McCain-Kerry and others amendment No. 2446, I was added as a cosponsor of that amendment, however, the Record of June 2 does not reflect my cosponsorship.

I, therefore, ask unanimous consent that the permanent Record be corrected to reflect my cosponsorship of Senate amendment No. 2446.

In addition, I now ask unanimous consent my cosponsorship of Senate amendment No. 2446 appear in the Record at the appropriate place.

The PRESIDING OFFICER. without objection, it is so ordered.

Mr. CONRAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hagel). Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NINTH ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

Mr. HUTCHINSON. Mr. President, today represents the ninth anniversary of the Tiananmen Square massacre. This is the day that commemorates the culmination of the crackdown—very bloody crackdown—that occurred 9 years ago in Beijing, China.

I think it would be wrong for us not to take note of that on the floor of the U.S. Senate. I think it is incumbent upon all of us, as freedom-loving Americans, to not forget the lessons that we continue to learn from China.

I would like to, in the next few minutes, read an excerpt from a book entitled "Mandate of Heaven: The Legacy of Tiananmen Square," by Orville Schell. This book recounts, among other things, what occurred during the 2 months leading up to the Tiananmen Square massacre and the events that night. I have taken only a few excerpts from that, but I think it will help us to put into perspective the sacrifices that were made, the tragedy that occurred, and I think the tragedy of American foreign policy which today ignores that it was, in fact, Jiang Zemin, mayor of Shanghai at the time, who said that there should not be one ounce of forgiveness shown to those student protesters who dared raise the voice of dissent, who dared to speak for freedom and democracy in China. So I will read from "Mandate of Heaven: The Legacy of Tiananmen Square":

> Although a palpable sense of foreboding hung over the Square, few could bring themselves to believe that the People's Liberation Army might actually harm "the people." Not even under the vindictive Gang of Four had troops opened fire with tens of thousands of demonstrators had spontaneously occupied the Square to mourn the death of Zhou Enlai in 1976. So many ominous-sounding government threats had come to naught since April 15 that most ordinary Chinese were now inclined to view this latest salvo of warnings as more overinflated rhetoric. The triumphs, symbolic and otherwise, of the preceding weeks had given many, especially protesters, an exaggerated sense of their own invincibility.
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> But there were some Chinese who understood that when threatened, the Party would ultimately stop at nothing to preserve its grip on power. They understood the old adage "When scholars confront soldiers, it is impossible to speak with reason." Most of these pessimists were from the older generation of educated Chinese who had learned through bitter experience that the Party rarely allowed such challenges to go unconfronted. "The Day the Soldiers Enter the City, Then the Blood of the People will Flow," declared one banner . . .
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> Around dusk the Flying Tigers began bringing back reports that soldiers equipped with automatic weapons and backed up by armored vehicles were moving toward the city center from several directions at once. In response, the strengthening of barricades reached fever pitch. By the time the first troops neared key intersections on the city's outskirts, an estimated 2 million people were again in the streets. At first, these citizens' brigades continued to rely on the same defensive techniques that they had used two weeks earlier, and by dark, many unarmed units were again bottled up around the city . . .
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> By 10 p.m. the assault from the west was in full swing. As several infantry and armored divisions pushed toward the Military Museum, they soon found their way blocked by a wall of angry citizens and Dare-to-Die squads of workers pledged to defend the students and the Square until death. The juggernaut of military vehicles ground to a halt, allowing government propaganda to cite these instances of hesitation as evidence that the army had exercised a "high degree of restraint" while entering the city. Such "restraint" did not last long.
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> The next volley of gunfire was aimed over the heads of the resisters. The crowd refused to disperse. Finally, an officer in a jeep was reported to have yelled out through a megaphone, "Charge, you bunch of cowards!

> Sweep away this trash!" A volley of concussion grenades was lobbed into the crowd. Only when steel-helmeted soldiers carrying truncheons and riot shields were ordered to charge did those resisting give way.
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> It was around 11 p.m. before advancing troops approached Muxidi Bridge near the state guesthouse. By then the order to "go ahead at any cost" and to shoot at anyone obstructing the soldiers' path had been given. Before soldiers had even arrived at the giant barricade constructed out of articulated city buses, large earthmoving trucks, commandeered minivans, and tons of urban detritus, the first wounded were being rushed on bicycle carts to hospitals. As troops approached the bridge, someone torched the fuel tank of a bus, turning the barricade into a raging wall of fire. The column had no choice but to halt. With Gallic flair, Pierre Hurel, a French journalist writing for Paris Match, described the scene:
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> "In front of the flaming barricade, facing the soldiers alone, four students with their feet planted wide apart make the heavy air snap with the sound of the waving scarlet banners. In an unbelievable gesture of defiance, they are naked martyrs before a sea of soldiers in brown combat helmets and tense with anger. The silk of their university banners gleams in the fire's light, and behind them a crowd, waiting for the worst, applauds. it is 11:30 p.m. and for the first time tonight, the soldiers have had to pull back."
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> As the convey began pushing forward again a short while later, a noise resembling the sound of popcorn popping was suddenly heard over the dim of the crowd. Out of the smoky darkness, troops armed with AK-47s charged the barricades, shooting as they advanced.
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> "Soldiers were shooting indiscriminately; there were bullets flying everywhere; dead bodies and injured people were lying in the streets," reported one anonymous foreign journalist cited in a subsequent Amnesty International report. "Crowds of residents from the neighboring lanes had left their houses and stood unprotected in the streets. They did not try to hide because they did not seem to realize what was going on. They were in a state of shock and disbelief."
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> All along the Avenue of Eternal Peace, equally ferocious battles broke out as citizens stood their ground with an almost religious fanaticism before advancing troops. Bystanders who ran into surrounding alleyways for safety were chased down and sprayed with automatic-weapons fire. Those who tried to rescue the wounded were shot in cold blood. The slaughter was so merciless that rumors began circulating that the soldiers had been administered some kind of drug as a stimulant.
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> By 1 a.m. soldiers had neared the intersection where Xidan crosses the Avenue of Eternal Peace and began lobbing tear-gas canisters into the crowds. Moments later several buses serving as barricades burst into flames. Then another order to fire was given. "Several lines of students and residents instantly fell," claimed one BASF eyewitness. "Dozens were killed, and several hundred were wounded."
>
> Yang Jianli, a Ph.D. candidate in mathematics from the University of California at Berkeley who was back in China on a visit, watched in horror as these shock troops advanced, firing their automatic weapons as if they were assaulting a heavily armed enemy position. "Tanks and truckloads of soldiers armed with machine guns were rolling in, one after another, toward the Square," he remembered. "At the intersection we heard perhaps a thousand people shouting, 'Down with Fascism!' . . . [Then] flashes spouted from the muzzles of soldiers' rifles. We ran back a bit and threw ourselves on the pavement. 'Did they really fire?' I asked H. 'I still can't believe it!' Some people continued to stand up, saying nonchalantly, 'Don't be frightened, they're only using rubber bullets.' But before they had finished speaking I heard someone scream, 'Look out! There's a cart coming through!' Two men with gunshot wounds were being carried away. . . . Suddenly, there was more gunfire, and we dropped to the ground again, my heart jumping from sheer fright."
>
> "His blue T-shirt was soaked with blood, and his eyes were blood-red," recalled Yang of one outraged citizen. . . .
>
> "Troops have been firing indiscriminately and still people would not move back," BBC News Chief Correspondent Kate Adie reported in a television broadcast after visiting both the western and eastern reaches of the Avenue of Eternal Peace. "Indeed, it was hard at the time to grasp that this army was launching into an unarmed civilian population as if charging into battle. . . . There was not one voice on the streets that did not express despair and rage. 'Tell the world!' they said to us."

Since that 1989 tragedy and this famous photo of a lone student who stood defiantly in front of the line of tanks, there has been every June 4th efforts within China, efforts there at Tiananmen, to remind the world of the tragedy that occurred, of those brutal, visible oppressions, and forcibly removing a voice of freedom that the world has known in generations.

I continue from Schell's book as he recounts some of the symbolic gestures that have been made since that original June 4th, 1989.

He writes:

"Like an uninterred body, June 4th continued to cry out for an appropriate and respectable barrier."

There are those, if I might just add, who would like to say we are in a post-Tiananmen era but somehow that chapter has been closed. The fact is the Communist Chinese government in China does not allow that chapter to be closed. So Schell refers to it as an uninterred body which continued to cry out for appropriate and respectable barrier.

> The yearning that many continued to feel for some sort of commemoration could never be fulfilled by parades or crimson stars fashioned out of potted flowers. But since the government stubbornly refused to acknowledge the tragic significance of what had happened, much less allow for a ceremony at which those who had died could be properly remembered, the Square remained charged with unresolved energy and, like a lodestone, kept drawing defiant demonstrators back into its embrace to engage in solitary acts of guerrilla mourning.
>
> Such observances were, or course, politically suicidal. As soon as anyone began such a ritual protest, plainclothes policemen materialized as if out of nowhere. Within moments the offenders were surrounded, seized, and dragged away. Only on those rare occasions when foreign journalists had been alerted in advance or happened to be at the Square for other reasons were such fleeting moments of defiance recorded. But then, like shooting stars in the night sky, these usually nameless protesters would disappear.

He writes:

> On the first anniversary of June 4, a lone figure had walked up to the Monument and nervously fumbled to display a handmade banner; moments later he was seized and taken away. That night [at the university], a young economics student named Li Minqui, who had been active in the outlawed BASF, tried to mark the anniversary by addressing a spontaneous midnight rally on campus where he indignantly referred to China's current leaders as "wild and savage autocrats" and called for an elective Government that could supervise the Communist party. Li was not only promptly expelled but arrested, labeled a "chief instigator of an anti-party conspiracy," accused of counterrevolutionary propaganda and incitement," and sentenced to 2 years in prison.

I just think of how many Members of the Senate and how many Members of the Congress would be incarcerated if that were the standard. This one who dared to lift a voice to say we ought to have free elections and called the autocrats "wild and savage" served 2 years.

Schell continues to write:

> On the second anniversary of the massacre, a young woman dressed in funeral white appeared in front of the Monument to observe a moment of silence. "I came to remember," she told a South China Morning Post correspondent before drifting away just as suspicious undercover agents began to close in.

Incidentally, white being the symbolic color of mourning in China, we have chosen the white color, white ribbons to commemorate in mourning those who lost their lives at Tiananmen Square. So that is what happened on the second anniversary.

And then Schell writes:

> In 1992, on the third anniversary of the massacre, a young worker named Wang Wanxing appeared not far from where a new sign warned visitors that it was illegal to lay memorial wreaths in front of the Monument without prior approval. After unfurling a banner calling on Deng to apologize for the crackdown following the protest, he was seized, dragged away and committed to a mental hospital. In a letter to U.N. Secretary General Boutros Boutros-Ghali smuggled out of China a month later Wang asserted that not only was he being held against his will in Shanghai's Ankang Psychiatric Hospital for the criminally insane, but he was being forced to take psychotropic drugs.
>
> Computer hackers were also busy that spring waging electronic warfare by introducing rogue viruses into software programs used on government computers. One such virus caused the words "Remember June 4" to appear on display terminals while another flashed the slogan "Bloody June 4" as soon as computers at certain state enterprises were booted up.
>
> Despite increased campus surveillance, on May 28, 1991, [university] students managed to hang cloth streamers out of two dorm windows declaring "We Will Never Forget June 4." Leaflets recalling the events of 1989 also appeared in the student canteen.

An excerpt from the leaflets said this:

> Those were days that woke the heart and moved the spirit. Then the hue and cry became the sound of suffocation in a pool of blood.

There are those who would say that to call the world's attention to the tragedy of Tiananmen Square in 1989 is empty moralizing on the part of self-righteous Americans who want to impose our views of freedom and liberty upon the rest of the world and other cultures. May I say to those who would argue such that liberty and freedom are not American values, that it is not empty moralizing to point to a young Chinese student who defied the symbols of oppression and onrushing tanks. And I would say to those who would say don't talk about Tiananmen Square and don't talk about the massacre, we must not forget that these are not American values: these are universal human values and human rights. For us to sacrifice what this Nation has always stood for on the altar of free trade, on the altar of commercial and corporate profits is unconscionable.

Jiang Zemin was quoted on the front page of the People's Daily 3 weeks after the massacre. This is what he said. He was mayor of Shanghai at the time, not President of China. But this is what he said:

> Toward these cruel enemies—

That is that young man standing in front of the tanks—

> there must not be even one percent of forgiveness. If we go easy on them, we shall commit an error of historic proportions.

That is the man whom the President is going to meet and greet in Beijing in a few short weeks, the one who said that toward these cruel enemies we dare not show even one percent of forgiveness. And they didn't, true to his word.

Nine years later, Jiang is President of China and the students whom he called the cruel enemies, many remain imprisoned, those who survived. And Jiang, true to his word, showed not 1 percent of forgiveness. He has never apologized. He has never acknowledged the cruel, inhumane, and barbaric response of the Government at Tiananmen Square. The Chinese Government has never investigated, they have never even investigated this tragic incident; they have only defended the crackdown and the killing of hundreds of students as an appropriate response to peaceful dissent.

So this man, Jiang Zemin will be the leader greeting our President, this man who declared not 1 percent of forgiveness. And more recently, lest you think he may have changed his mind and changed his attitude and lest we are under the misimpression that suddenly the Government of China has grown compassionate and that, in the words of President Clinton, they now are becoming a thriving democracy—lest we think that, President Jiang, when asked by Barbara Walters how he looked back on the events of 1989, replied, "It's much ado about nothing."

So on this anniversary of the Tiananmen massacre, we all need to remind the world we will not forget and we will not allow the courageous sacrifice of those hundreds of students at Tiananmen Square to be demeaned, to be disrespected and to be devalued.

The Washington Post, in an editorial today entitled "China: Two Views," speaks of a view that I would share:

> A strikingly different view from inside China, from someone with pretty fair credentials to judge China's practices, Bao Tong, 65, was Chief of Staff of China's premier and Communist Party chief until he was jailed in 1989.

Why was he jailed, by the way? He was jailed:

> Because he opposed the crackdown against protesting students in Tiananmen Square. Mr. Bao spent 7 years in prison, three of them incommunicado, showing that China has a ways to go when it comes to rule of law. He now lives under house arrest but recently gave an interview to the Post's Steven Mufson and John Pomfret.
>
> Mr. Bao challenged the notion that economic strength, in the absence of real democratization, inevitably will make China more benign.

By the way, let me repeat what he challenged, because it is the very thesis espoused by those who say constructive engagement is going to bring about change in China. This is the very theory espoused by those who say, "We will just trade sufficiently, we will increase trade and do enough increased commerce with China, and everything will be better." So he challenged the notion that economic strength in the absence of real democratization inevitably will lead China to be more benign.

> China "has already gone mad twice in the last 40 years," he said, referring to the cultural revolution and the Tiananmen massacre. "You have to ask yourself a question. What will it do on the international scene? Is it a source of stability or a potential source of instability? When it doesn't have enough power, its attitude will be restrained. But once it develops and becomes strong, what kind of role is it going to play without a complete structural change?"

That is the question I would pose. For all of the advocates of the current administration's policy, I would pose this question raised by this very knowledgeable individual, Mr. Bao, who himself has spent 7 years incarcerated. The question he poses: Once China develops, opens, and becomes strong, what kind of role is it going to play without a complete structural change?

What he means by "complete structural change" is democratization. It is his argument that economic development in China, the embrace of free markets, and the embrace of market capitalism will not be sufficient to make them benign, to make them a partner in world peace, and that that will not happen without a structural change—free elections, freedom of press, freedom of speech, freedom of religion—that until those things become realities in China, then we cannot expect that there are going to be responsible citizens in the international stage of affairs.

The Post editorial concludes:

> Mr. Clinton should meet with dissidents when he visits Beijing later this month. A sit-down with Bao Tong, if the government would release him from house arrest long enough, might be a useful addition to the president's official schedule.

And I suggest it certainly would.

So I want to conclude on this anniversary of an event that should never, never, never be forgotten, by making this plea: Mr. President, delay your trip to China. There are ongoing investigations; there are ongoing hearings. So, please, we are not talking about isolating China. It could not happen if we wanted it to. We are not talking about breaking off contacts, dialog and communications with China. But we are saying, under the current cloud and with all of the questions about the web of interrelationships between the Chinese Government, the American administration, and corporate America and multinational corporations—delay this trip.

Then second, Mr. President, if you must go, if you must go ahead with this planned trip, then I plead with you to express the desire of millions of Americans by not going and not being received at Tiananmen. As this young man took his stand as a symbol of freedom against the symbols of oppression, I ask our President, take one small stand by not going to Tiananmen Square; not being received, simply saying: Mr. Jiang Zemin, I will not be received where these students were slain. I will not show disrespect and disdain for the sacrifice that they made by being received at a State visit on that location. To be received there is to demean and devalue the stand those students took.

Third, I plead with you, Mr. President, that if you insist on going to China, that you should insist on meeting with the families of those champions of democracy who were either slain or remain in prison. I ask that as our President goes, and if he goes, that he should forcefully denounce the repression and the human rights abuses ongoing in China; if he goes to Tiananmen Square that his message should be this: Never again. And in the spirit of Ronald Reagan at the Berlin Wall, let him say, "This is wrong. Never should it happen again." I ask that in China he visit with house church leaders, those who, because of their conscience and because of their religious convictions, have not registered with the Communist Chinese Government and, because they have not registered, because they have not signed up and received official sanction by the Government, stand in harm's way, stand in jeopardy of losing their freedom.

I ask that our President visit with banned journalists, for there are no free newspapers. There are no independent journalists. There are no expressions of dissent against the Communist Chinese Government. So, Mr. President, meet with those journalists who would like to have a newspaper, who would like to be able to write a column, who would like to be able to freely express their views of freedom and democracy, but are not allowed to because of the current regime. Meet with them. Hear their story. Take your stand for freedom.

And then I ask that before you leave for Beijing, if you must go, that you sign the China sanctions package that has already passed the House of Representatives by a huge, overwhelming bipartisan majority. Some of those provisions have already been added to our State Department authorization bill which we will be debating, hopefully, next week. Some of those have already been set. But I ask that the President sign those and, in so doing, express sincerity in wanting to decry the human rights abuses that are going on.

Let me just conclude. In a Washington Post article, not an editorial but a news article today on the Tiananmen anniversary, the article, a Michael Laris report, concludes:

> 1. . . China has not yet turned irrevocably toward a liberal political approach. [That's an understatement.] It maintains a massive state security apparatus, which monitors the private affairs of anybody it deems a threat to the Communist Party's monopoly on political power. The jails hold more than 2,000 political prisoners, including 150 or so arrested after the Tiananmen Square protests. Among the 200,000 other people in labor camps, at least some are political offenders.
>
> [I assume yesterday] Early this evening at the Beijing University bulletin board, which was a center of protest information in 1989, a woman read announcements of lectures on the environment and the Asian financial crisis. "Many of my friends think those students were foolish," she [this student] said. "I think they were very brave. I wish more people now had that much passion. Some people now have the same passion, but they know not to express it in the same way."

For those who believe it is all better now in China, listen to the words of this student who says the students in China today have learned, passion for freedom they may have, but if they cherish being free, if they cherish the right to be a student, if they don't want to be incarcerated, they better not express it as these students did 9 years ago today.

So to all freedom-loving Americans—not as Republicans and not as Democrats—but to all freedom-loving Americans, we say to those Chinese who love freedom as well: We will not forget what happened June 4, 1989.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Minnesota.

Mr. GRAMS. Mr. President, I inquire what is the pending business before the Senate?

The PRESIDING OFFICER. The Senate is now considering the tobacco bill. The Senator may speak on any subject he wishes.

Mr. GRAMS. I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. GRAMS. I thank the Chair.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 2130 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS. Thank you, Mr. President. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. DASCHLE. Mr. President, I don't know how many days it is that we have been on the tobacco bill now, but it is clear that we are not making any progress. I am increasingly frustrated by the degree to which many of our Republican colleagues, in the name of amending the bill, have stalled, obfuscated and, in many ways, attempted to defeat the legislation without any real sign of progress, without any real sign of coming to closure, without any real effort to find some resolution.

I have expressed my continued patience, my continued desire to find ways in which to move this legislation along. I give great credit to the manager of the bill, the chairman of the Commerce Committee, Senator MCCAIN, for his tireless efforts to move both sides along.

This has not worked. We have continued to be thwarted in the name of compromise, and in the name of negotiation, and in the name of consultation. Frankly, I don't know what other options there are but to file cloture on the bill. We may not win. I am prepared to acknowledge that unless we get many of our Republican colleagues to join us, we will not win. But I also understand that if we don't move this legislation forward, we will continue to be in a position of having to say no to other bills the majority leader may wish to bring up until we resolve this matter. We have said, as late as Tuesday, that we are not in a position to move to any other legislation until we finish this bill. I don't know how we can say it more clearly than that.

We want to finish this legislation so we can move on to other bills. There are a number of other pieces of legislation that ought to be addressed, and we recognize that. We are prepared to enter into time agreements on amendments. We are prepared to come to some time limit on the bill itself. But we have now virtually wasted the better part of a week waiting for colleagues to offer amendments, waiting for some resolution to the Gramm amendment, waiting, procedurally, to find some solution to the impasse that we now are experiencing.

So, Mr. President, I really have no choice but to offer a cloture motion, with some frustration, and with the realization that it may take more than one. We may have to file several cloture motions. But, beginning today, I will take whatever action is necessary to expedite the consideration and ultimately the solution and the conclusion to this legislation.

We have a lot of people who have invested a good deal of effort into this legislation; three of them are on the floor right now. I thank them for all they have done to bring us to this point. But unless we take it to its final conclusion, all of the thousands of hours spent by the Senators who are on the floor already, invested in time and good-faith efforts to move us to this point, will be for naught. I don't want to see that happen. I don't want to see this necessarily as a Republican versus Democratic debate. But, frankly, it becomes more and more apparent that we are not getting the help—with the one stellar exception of my friend and colleague from Arizona—in getting this legislation passed. So we are very hopeful that we can move this legislation and find some way to resolve the matter.

I understand that I can't file until 2:15 under a previous agreement. I will certainly wait until then.

Let me just make sure that our colleagues understand where things stand. Right now, we are discussing the motion to recommit offered by the Senator from Texas, Senator GRAMM, with amendments pending to that motion. The Gramm amendment would cost $52 billion. It would rob the bill of any real opportunity to address research in health care, to address the targeted approach that we are attempting to make on advertising and reducing teenage smoking. It would reduce every option that we have available to us to reverse the trend and reduce teenage smoking in this country. Why? Because the Senator from Texas believes that we ought to address the marriage penalty.

Unfortunately, Senator GRAMM's amendment doesn't address the marriage penalty alone. In fact, one could argue that it has little to do with the marriage penalty. It has everything to do with spending the tobacco revenue raised in the health fee. We are presented with an option that is a Hobson's choice for many: reduce taxes for those who are under $50,000, or reduce teenage smoking, reduce the number of children who are dying from smoking. That is the choice. While we debate this choice, 3,000 kids a day choose to smoke for the first time. A large percentage of those—some say 40 percent—are people who ultimately will die from the habit at some point in their life. They get cancer and ultimately succumb to cancer because they started smoking too early, without knowing the facts, without being able to quit once they had started. That is the issue here.

Can we prevent young people from acquiring this terrible habit and from dying because of it? Can we target advertising and research, and can we find ways in which to ensure that we can turn the trend around for the first time? Or are we going to spend that money for something else? Mr. President, Democrats have come up with an alternative.

Mr. McCAIN. Will the distinguished minority leader yield for one question?

Mr. DASCHLE. Without losing my right to the floor, I yield to the Senator from Arizona for a question.

Mr. McCAIN. I appreciate the Senator's frustration, and to a large degree I share it. I wonder if, with the knowledge that the Senator from Texas and I are continuing negotiations in the next few minutes, the distinguished Democratic leader would agree to withhold that until, say, an extra additional 15 minutes just so I can make one final attempt to get an agreement with the Senator from Texas on his amendment. Then I think we may be able to move forward.

Mr. DASCHLE. I will agree to withholding filing of the motion so long as I don't lose my right to file the motion. If that takes retaining the floor, I intend to do so. But I will certainly allow the Senator from Arizona whatever time he may require to talk to the Senator from Texas.

Mr. President, let me just say that is really the essence of this argument. Can we stop kids from smoking? Can we turn this around, or not? And can we find a way with which to address the concerns expressed to us by many of our colleagues?

We believe we can address the marriage penalty for a whole lot less than $52 billion. But our objective is not to gut the bill. Our objective isn't to say we are going to use up all that money because we don't want to spend it on stopping kids from smoking; we don't want to spend it on research; we don't want to spend it on tobacco farmers; we don't want to recognize what has already been achieved in the State-by-State negotiations on this issue and the tremendous effort put forth by attorneys general all over the country in an effort to resolve this at the State level. The Federal Government didn't do that. For whatever reason, we didn't go to court. The States did. Now that the States have racked up their victories, and now that they are expecting some way to resolve this matter, we are saying: We are going to use that money, too; we are going to take the money that you have already won in court fairly and squarely against the tobacco companies, and we are going to spend it; we are going to spend it on a tax cut.

So this gets interesting as we go on. We are saying we ought to respect the decisions made by the attorneys general, we ought to respect the decisions made by the committees of the Congress, and the Senate in particular, in recognition of the fact that we have to find new ways to target those who are most vulnerable to campaigns by tobacco companies today to get them to smoke. We think that is worth an American investment. We think it is worth an American investment to put some real effort into research on how we cure diseases that have been connected to smoking. We think it is important that we find ways with which to rid this country of the production of tobacco products and to encourage tobacco farmers to find other ways to make a living. That is what this is about.

Mr. President, there is no choice. We can continue to talk. We can continue to find ways with which to obfuscate. But it really comes down to this: Do you want to pass a tobacco bill or not? We are getting a resounding "no" on the other side of the aisle. We are getting an absolute, emphatic "no," exclamation point, "we don't want a tobacco bill."

We have come to a point that we do not have any choice. We must move this legislation forward and use the parliamentary and procedural methods available to any Senator to begin to curtail debate, recognizing that every Senator who still has a germane amendment would have the right to offer an amendment.

But having been on this bill now for 2 weeks, and now recognizing the majority leader's frustration and impatience with our slow progress, his desire to move on to other bills, I, frankly, wish that we could do this together. I wish he and I could file this cloture motion. He has filed cloture a lot faster on virtually every other bill that has come to the floor than on this one. But I understand the difference in the initial position with regard to where we are on this legislation. So I wouldn't expect him necessarily to be enthusiastic about doing it. But we have to move on. We have to find a way with which to address this bill in a more consequential and productive way. That, in essence, is what it is we are attempting to do.

We have a series of amendments. The Durbin amendment, which, in my view, is one of the final and very important pieces of legislation that we want to address on this side, a piece of legislation that would be designed to strengthen the so-called look-back, or the targets that we set out, to reduce teenage smoking—I don't think that is necessarily anything anybody ought to have trouble considering, or ultimately debating. We haven't even been able to debate that. We have had to wait.

Mr. President, I say with all sincerity—I don't see the Senator from Arizona on the floor. He had asked that I postpone the filing of the cloture motion, and I have agreed to do so. But I am prepared to file it assuming that there is no other reason for him to ask for additional delay.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, at this time I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate hereby move to bring to a close debate on the modified committee substitute for S. 1415, the tobacco legislation.

Senators John Kerry of Massachusetts, Robert Kerrey of Nebraska, Kent Conrad, Harry Reid of Nevada, Paul Wellstone, Richard Durbin, Patty Murray, Richard Bryan, Tom Harkin, Carl Levin, Joe Biden, Joseph Lieberman, John Glenn, Jeff Bingaman, Ron Wyden, and Max Baucus.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I must say that I think it is unfortunate that this process has been adopted by the Democratic leader. I had indicated all along that at some point, if it was necessary, I would be prepared to consider cloture but not until we had an opportunity to debate and vote on some amendments that clearly are important to Senators and until we had time to have debate on this bill in general.

There are still some very important amendments pending: The Durbin amendment, the Gramm amendment, and we have the drug amendments. We have at least two substitutes that would be cut off from being offered: The Hatch substitute, which I know a number of Senators would support, and it is something much closer to the original settlement agreement that was entered into than anything else that is pending around here now; plus the Domenici-Gramm substitute.

I think most Senators would acknowledge very readily that those two Senators are very thoughtful Senators and have given a lot of thought to an alternative approach. Yet there is a choice here. The choice is: Do you want a bill or not? If you want a bill, this is a good step toward having nothing happen, because this further sours the well. Yes; I would like to see things move along on this bill and on to other bills and other issues that I know Senators on both sides want to address, but you have to also allow Senators to be able to work through the problems and come to an agreement.

If we stay on this bill, we are going to have a vote on the Gramm marriage penalty tax elimination. We will have it this year in some other form or another. It seems to me like this is one way to help address some of the concerns about the excessive amount of money that is in this bill. It is clearly way beyond what is necessary to fight teenage smoking, or even teenage smoking and drug abuse, address some of the health care problems, and address the needs of the farmers. It goes way beyond all of that. That is the problem.

As I have said in other forums, this has become a problem of greed. Everybody who touches this bill adds to it. It grows like Topsy. What is our goal here? To have a whole, big, new Federal program outside the regular budget process, or to address the problem of smoking, and teenage smoking, in this country?

I had been working on and had kind of sent word to the Democratic leader informally—and I did try to call him, and we were both going back and forth to our luncheons—I had a unanimous consent agreement here that I was working on, and was prepared to work with him on, that would set up a process for us to have a vote on Durbin, although I think Durbin is a very bad amendment. It is another jump, more cost, another hit on actually getting something done. That is one of the problems here. I am still trying to figure out, do Senators, and do the health care community people, and the attorneys general want a bill?

Do you want an issue? Do you want to do something about this problem or do you want to play games? It is not clear to me because everybody keeps adding to it, adding to it, and it is just going to collapse out here in a great, humongous pile of nothingness.

But I was going to suggest we have a vote on Durbin at 5:30 today, and that we have a time agreement on the Gramm amendment and a vote on it, and a vote on the drug amendment, and that—I assumed at some point the Democratic leadership might have a tax amendment of their own, and we would start going on down the trail. I don't like it when we basically—people say we have to make progress; we have to get this bill done. Where is the progress? This week, we can't blame each other for yesterday; we had a funeral for a former Senator. We had to go to that. We have problems with Senators being here on Monday. We have problems with Senators—I won't get into all that.

But you cannot make progress until you make progress, until you are here and you have Senators prepared to vote. And that is one of the unique features of this creature, the Senate. Things move very slowly, they look like they are not moving at all, and it looks hopeless, and then all of a sudden you get ready to vote. I thought we were close to getting ready to vote.

So I think this is not a positive thing to happen, and I will urge every Republican Senator to vote against cloture. If we don't get cloture, then what? Then what? I thought at some point next week after we voted on Durbin and Gramm and the drug amendment and Hatch and the Domenici-Gramm substitute, maybe a couple other Democrat amendments, at that point we could have sort of a bipartisan effort to see if the Senate was ready to go to cloture and get to a vote.

This undermines that. I understand why it is being done, but I think it is counterproductive, and I hope the Senate would defeat this overwhelmingly. I view it as another blow to our chances of actually addressing this issue in a responsible way and getting on to other important issues.

I must say I thought that Senator GRAMM and Senator MCCAIN and others who were interested in how you deal with the marriage penalty tax were very close to an agreement—maybe not exactly the way Democrats would like it or the White House would like it, but something that would have been fair for both of us to have and we could make progress on other things. But c'est la vie, this is it. You filed a cloture motion. And also, by the way, that cloture would ripen on Monday, and I think that is going to be a problem for the leadership and a number of Senators, and we will have to discuss when and how that vote would occur.

I hope all concerned would reconsider their thinking on how we bring this to a point where we could get some votes and make progress. I really believe, I said publicly, that if we had a tax cut provision added and we had a drug provision added, then the prospects for the bill would be helped substantially; we might actually get a bill through the Senate. Without that, we are going to be sitting around here. If you want to sit around and shout to your feet for the rest of this month and all summer long and try to make out this is a totally partisan thing, that is OK, too. That is OK. I am relaxed. We can just waffle along here and look pathetic if everybody wants to do that. Or we can decide how we are going to get together and make something responsible happen.

I yield the floor, Mr. President.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me just respond to a couple points made by the distinguished majority leader. First of all, I only wish I had had his text in front of me when we took up the Coverdell bill, when we took up a number of other pieces of legislation earlier this year, because I can recall his passionate determination to get time agreements, to stack votes, to find a way to come to closure in a matter of a couple of days, a couple of days, and were it not for the fact that we had the votes to hold off on cloture, I don't know where that would have gone. We finally came to a resolution on the Coverdell legislation because we were able to come to some agreement on how we would proceed on amendments.

Now, I am perfectly willing to ask unanimous consent to withdraw the cloture motion if we can get an agreement on the process and some time agreements by which we can have these amendments considered.

Now, I don't know why, but I have been told—and I will admit I haven't talked directly to the majority leader—that the Republicans are refusing to allow the Democratic tax amendment to either precede or immediately succeed the consideration of the Gramm amendment. They don't want them back to back. I don't know why. And if that is not accurate, I hope somebody will tell me.

We have offered to have a limited amount of debate on the Gramm amendment, a limited amount of time on the Democratic amendment, and then let's have two votes back to back. We can do that this afternoon. I am prepared to have a vote, I would suggest, at 5 o'clock today. Let's have the debate on the Gramm amendment, the debate on the Democratic amendment, and then two votes, and we are out of here on taxes for a while. Then let's go to the drug amendment, let's go to the Durbin amendment. We can stack those votes. We can have all four of those votes tonight. But I bet you I won't hear that offer made by the other side. For some reason that isn't good enough. It was good enough for the Coverdell bill, but it is not good enough for the tobacco bill.

Mr. LOTT. Will the Senator yield?

Mr. DASCHLE. I would be happy to yield.

Mr. LOTT. I heard through the news media that the Senator was proposing a process to have those votes back to back, and, oh, by the way, they are going to be king of the hill; that the last one who wins, you know, wins. That's it.

I did not have that proposal come to me in any form, and I would not agree to that. I am prepared to say we are going to get a vote on Gramm, and in some logical order, I assume, we have a deal here where we are alternating back and forth—we offer an amendment; you offer an amendment. And the Democrats could offer an amendment at some point on taxes in the regular order. We could not prevent you from doing that.

But that was not the way it came to me. And it did come to me through the media in a way that certainly would not be acceptable.

Mr. DASCHLE. Mr. President, since I retain the floor, let me just respond to my colleague. First of all, we are not going back to back. The last amendment prior to the Gramm amendment was a Gregg amendment. So instead of going Republican-Democratic, we went Republican-Republican. So that pattern was lost already.

Mr. LOTT. Will the Senator yield on that point?

Mr. DASCHLE. I would be happy to yield.

Mr. LOTT. Because he is right, and I think that was a mistake. And I objected to that at the time. I think everybody who was on the floor knows that. I did not appreciate the fact that the going back and forth was interrupted. The Senator from Texas knows that, and he has indicated, to his credit, that he was not really intending to break up that sequence. We did break up the sequence, but I do not think we should let that block us from proceeding in that way in the future, a fair way where we offer our amendment, you offer your amendment, and we go back and forth.

But you are right about that. The order was broken, and I certainly did not like it.

Mr. DASCHLE. While the majority leader is still standing, let me retain the floor and ask him the question. Would he agree with me to a 2- or 3-hour time agreement to be divided equally on the two amendments relating to tax, the Gramm amendment and the Democratic amendment, and that two votes be cast at the end of that time in sequence of his choosing? Would the majority leader agree to that proposal?

Mr. LOTT. Mr. President, I would not agree with that at this point. I am not saying that at some point we might come to some sort of understanding of how this would be handled. The first thing is, I think, the Senator from Texas and Senator MCCAIN have got to come to an agreement on the content. That is one of the reasons why we can't go on procedure—until you get something that is worked out, hopefully that everybody can support, because when we get a vote on the Gramm amendment, on the marriage penalty tax, it is going to pass overwhelmingly. A great majority of the Democrats are not going to be able to vote against that. They are going to vote for it. So it is going to pass.

But what I would say is I have a unanimous consent agreement right here that would allow us to set up a process to move forward with consent to get a vote on the Durbin amendment at 5:30, and that following disposition of the Gramm amendment Senator COVERDELL be recognized to offer a first-degree amendment relative to drugs, there be 2 hours of debate on that—and that there then would be debate on the Coverdell amendment and a vote on that after 2 hours.

We have a unanimous consent request here that we would be willing to offer, and then we could go back to your amendment, we go to a tax amendment, if you want to do that.

But here is the other side of it. You have to get unanimous consent. And our people are not going to agree to an arrangement at this time where you get some vote on a subsequent tax proposal that would be the king of the tree. I think when the thing is done, when we get an agreement, you are going to vote for the Gramm amendment and that is what will prevail, and we will move on. But we have to try to come to an agreement on that or we are not going to go anywhere. If that is the way it is going to be, that is the way it is going to be. I have been trying to help make this thing move from a procedural standpoint, but if we want to let it collapse on this line, OK with me.

Mr. DASCHLE. Mr. President, the majority leader has just made my point probably better than I can. What he has said is that this offer to have two amendments, one Republican and one Democrat, both dealing with tax, under a time agreement, is objectionable to them.

My point originally was the reason it is objectionable is because they don't want to get this legislation passed. They do not want to see closure to it. That is really what is behind all of this. This is not some concern about a tax amendment. This is concern about ultimately moving this legislation to a point where we can get completion. The reason the majority leader cannot get unanimous consent is not because it is not fair. It is because there are colleagues on his side who want to drag this out past the Fourth of July. They want to start using the clock. That is what this is about. You want a blow-by-blow account of the play-by-play action here? It is that. We are simply playing the clock. Because if you play it long enough, we run out of time and then, guess what, we do not pass a tobacco bill.

We can play that. We can stay on this bill through June, if we want to. But I am telling you, this legislation ought to pass. It is about saving kids' lives. It is about making them healthy. It is about coming up with new tobacco policy, and we are prepared to stick to whatever it takes to see that we get that done.

I don't understand why that would not be a fair proposal. I am disappointed that our Republican colleagues object to what is a reasonable proposal. When I used the reference "king of the hill," I was simply saying you have two proposals, both pending, both being debated, and Republicans and Democrats both roll the dice. Let's see what the majority of Democrats and Republicans support with regard to the options presented to them.

We have an amendment. They have an amendment. Maybe the leader is right. Maybe both amendments will pass or both amendments could fail. He thinks there is a majority support for the marriage penalty amendment. I think he is probably right. The question is, What is the amendment? The Gramm amendment goes way beyond marriage penalty. It goes way beyond it. Don't anyone be confused about that. This is not a marriage penalty amendment. You can find marriage penalty in it, but it goes beyond that, and he is prepared to spend $52 billion going beyond that.

Now I understand he wants to pull it back some, but there is no question the majority of what the Gramm amendment would eat up would go to research, would go to kids, and would go to farmers. We know that. So we will have to wait until another day to have our debate and have a good opportunity to consider competing proposals. But we are prepared to do that. We will do it Monday next week, Tuesday, whenever. But we will be here. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I want to point out we could have had a vote on the Gramm amendment last week. I was perfectly willing to do that, I believe it was last Thursday. We were ready, I thought, to go to a vote on Durbin and Gramm last week. As I recall, there was objection to that from the Democrats. So if you talk about delay or time being consumed, it was because we could not get an agreement worked out on Thursday how we could go ahead and vote on the two of them.

What I am proposing here, or have been prepared to propose, is we have a vote on the Gramm penalty tax amendment, the Durbin look-back provision, the Coverdell drugs provision, and a Daschle or others marriage penalty provision. That is Republican-Democrat, Republican-Democrat; it is a way to deal with this thing.

But let's set that aside. You know, there is concern that has been expressed about the cost of the marriage penalty. How about the American people who are paying that tax? A penalty for getting married? They cannot help it, if it is so unfair a tax, that young couples all over America are getting hit with this tax just because they got married? So what we are saying is, "Oh, well, to eliminate this unbelievable tax that is in the Tax Code it costs too much money, so we want to squeeze down what Senator GRAMM is proposing to less and less and less." What we ought to do is eliminate the marriage penalty tax altogether. Right away. Flat out. Whatever the cost is.

Mr. KERRY. Let's do it.

Mr. LOTT. This is one way to help deal with the problem that this tobacco bill costs somebody money. It doesn't come from heaven. Somebody is going to pay for this. This is one way, and it is targeted, by the way, to couples earning under $50,000, as I understand it, to help the people at the lower end of the tax structure by getting rid of this tax penalty.

You are talking about these other people. Yes, we ought to have a campaign to fight teenage smoking and drug abuse, but we don't need all these hundreds of billions of dollars to do that. This is a way—and everybody involved understands it, really—this is a way to help make it possible for this legislation to get through the Senate and maybe, eventually, get to a conclusion.

Does the Senator from Massachusetts want me to yield?

Mr. KERRY. I do not want to interrupt the leader.

Mr. President, I wanted to ask the Senator, the majority leader: It seems to me I recall a conversation that the minority leader, the majority leader, Senator GRAMM and Senator MCCAIN and I had together at the desk right behind Senator GRAMM just about 2 days ago, in which we had originally broached to the majority leader the notion that there would be two votes, almost simultaneously. So the majority leader was, in fact, aware that was what we sought.

Mr. LOTT. If I can reclaim my time, I remember that meeting, and I was there for part of it and went to take a phone call. When I was listening to that discussion, it was a discussion about how and when we were going to vote on Durbin and Gramm. Maybe at some subsequent point the discussion turned to, really, some alternative to Gramm. But, you know, this is something that has evolved, as far as I can tell, since we met. We were having that discussion, whenever that was—Tuesday, I guess it was.

Mr. KERRY. Again, if the leader will yield for a question, isn't it a fact, though, the unanimous consent request that the leader is proposing, while it ostensibly sets up a Democrat-Republican alternative, it is not, in fact, allowing for the Democrat alternative on the marriage penalty to be voted on at the time that the minority leader has requested?

Mr. LOTT. There would be one intervening amendment. What is the problem?

Mr. KERRY. Would they be the same day? Same time? Could they be this afternoon?

Mr. LOTT. They could be. I don't see any problem. I would like for us to have it in the same day, because it means we would be making progress. I would like us to have the opportunity, on the tax issue and tobacco bill, to have more than one vote in a day. Maybe we could get two or three votes. That would be healthy. I would like to see us make progress on that. I think we could work that out. We don't want a separation of days.

I just object to the "king of the hill" type approach which goes—that is a throwback to the House. But having it the same day, that would be fine with me. We are not interested in getting a day's or a week's separation. If we are ever going to find a logical way to conclude this thing, you have to make progress and have more than one or two votes in a day.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me just say, my offer stands. We are prepared to negotiate some time agreement, some way with which to deal with these amendments. And if we can do so satisfactorily to both sides, I am prepared to ask unanimous consent to revoke the cloture motion for now. I will talk with the majority leader and we will see if we cannot resolve it. Perhaps this discussion, if nothing else, has moved us closer to that point.

He did make a point, though, that I think has to be responded to, and that has to do with money which is being allocated here. He said, What is wrong with dealing with the marriage penalty? Shouldn't we address the inequity there? Let there be no mistake. We are prepared to address the inequity in the marriage penalty. Our amendment would do that. We are simply saying we don't want to do it at the expense of revoking the commitment made to the attorneys general, made to the States, made to tobacco farmers, made to children, made to the researchers—made in all of those ways that has set up this comprehensive tobacco policy which we hope to address over the course of the next 10 years. We don't have to do that. We don't have to destroy that.

So there is nothing wrong with dealing with the marriage penalty. But to say we are going to do it at the expense of everything else is the problem Democrats find with the Gramm amendment. It also begs the question, what about the cost to Medicare and Medicaid from smoking-related illnesses? Should that not be addressed? Isn't that an inequity? The American taxpayers are paying huge—billions and billions of dollars, huge amounts of money to pay for the programs that we have set up to deal with health care; Medicare and Medicaid, the two most consequential. More and more billions of dollars are spent every year dealing with smoking-related illnesses. Isn't it important for us as a Nation and this Senate to recognize that and deal with it?

What the Gramm amendment says is, "No, it isn't. No, we are going to spend it on a tax cut. We think that is more important than anything else, over and above the commitment to the attorneys general, over and above the commitment to the farmers, over and above the commitment to the children, over and above the commitment to the Medicare and Medicaid." That is the problem we have. That is why there hasn't been an ability to find some common ground. So long as that becomes the only way with which to spend resources, we think there is a better way, a more prudent way, a more balanced way, and that is what this debate is about today. I yield the floor.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield to the Senator from North Dakota for a question.

Mr. CONRAD. I ask the Senator from South Dakota, isn't it the case that the amendment of the Senator from Texas, Senator GRAMM, doesn't just deal with the marriage penalty and give benefits to people who are hurt by the marriage penalty, his amendment goes way beyond that? It actually gives benefits to people who benefit by being married; isn't that the case?

Mr. DASCHLE. That is the case. Those who benefit by being married are benefited even more by the Gramm amendment. The Senator from Mississippi, the majority leader, was saying how important it was that we not overextend the reach here. His admonition to the Senate was, "Let's take a look, let's step back and make sure we are not just overreaching." Well, if there was a definition of overreaching, I don't know that I could find a better example than the Gramm amendment because of exactly what the Senator from North Dakota has noted.

Mr. CONRAD. Will the Senator further yield?

Mr. DASCHLE. I will be happy to yield to the Senator from North Dakota.

Mr. CONRAD. Isn't it the case that the amendment that we would like to offer on our side would actually target those affected by the marriage penalty? So if the rhetoric from the other side is, if you want to deal with those hurt by the marriage penalty, we are prepared to do that. The amendment on the other side goes way beyond those hurt by the marriage penalty and actually gives benefits to people who are benefited by marriage in the Tax Code.

So wouldn't it be the case that what we are prepared to offer will address directly the marriage penalty, and why then is the majority leader resistant to the very fair notion that if he says he endorses again going back and forth between Republicans and Democrats, that he would allow the Democrats to decide which amendment is offered on their side? Isn't that a fair result?

Mr. DASCHLE. That seems to me to be a fair result. I don't know if they would stand for us telling them what their Republican amendment is going to be. But that is, in essence, what they are asking us to accept. We will tell you what Democratic amendment we will allow you to offer, and if you don't agree, you are the ones holding up progress. We can't accept that. Obviously, we can't accept that.

Mr. CONRAD. I have been in the Senate 12 years. I must say I don't recall a time when the majority leader said to the minority, "We will not only decide what amendments are offered on our side, but we'll decide what amendments are offered on your side." Is this something the Senator from South Dakota has seen before?

Mr. DASCHLE. Like the Senator from North Dakota, I have been around here a while, too, and this has been a first for me as well. It doesn't come often. To have the quarterbacks all on that side deciding the amendments to be offered is an interesting set of circumstances.

The point the Senator from North Dakota makes is right on the mark. We are giving benefits to, in the name of the marriage penalty, married people who have no tax penalty, who actually benefit from being married. But the real irony, the real sad aspect of this, Mr. President, is we are doing it at the expense of those smoking-related illnesses in Medicare and Medicaid. We are doing it at the expense of tobacco farmers; we are doing it at the expense of children; we are doing it at the expense of research; we are doing it at the expense of a comprehensive attack on teenage smoking.

That is the real irony here, and that is why a lot of us feel very mystified by this proposal and by the approach the Republicans are insisting on and troubled by the inequity, not only procedurally but in substance, with the amendments they are demanding that we consider.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, just one brief response to the Senator from North Dakota. If he has been here 12 years, then surely he remembers Senator BYRD and Senator Mitchell doing just that. I remember many occasions in my time here that they dictated and filled up the tree. I learned the way of doing business around here from them.

I might also note, to make every taxpayer punished by the marriage penalty even with unmarried people costs $38 billion. If we are serious about really eliminating this penalty, that is the cost. I believe the Senator from Texas has a proposal that unfortunately is below that. It is less than that. He would like to completely eliminate it.

In the interest of trying to come to some accommodation so we can get a vote and still leave money for legitimate programs, like the teenage smoking cessation program and the Medicaid programs in the States, he has been prepared to negotiate below that level. I am not sure he should have gone down as far as he has.

Does the Senator from Texas wish to get into this debate?

Mr. MCCAIN. Can I just make one comment?

Mr. LOTT. He has been waiting.

Mr. GRAMM. I would like to respond to the minority leader, if I may.

Mr. LOTT. Let me go ahead and yield to the Senator from Arizona.

Mr. MCCAIN. What is happening now is what I feared would happen to this bill. It is starting to get very partisan. A lot of things are being said which are not necessarily helpful to the process. I hope that we can end this dialog, now that we have all made our points, and try and sit down and move forward or agree to just move on to other things. I don't think it helps anybody for us to start accusing each other of bad faith or parliamentary maneuvering. I hope that we can move at least——

Mr. LOTT. I say to the Senator from Arizona, I think that is exactly what is happening. And I do think the well is being poisoned tremendously by what has been going on here in the last few minutes. I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. I don't want to get into a long argument with the minority leader, but I have to explain what this is about, in case somebody tuned in the middle of all this.

For several weeks our Democratic colleagues have stood on the floor of the Senate and denounced the tobacco companies, with great justification. But they have proposed a bill that imposes taxes principally on blue-collar Americans, and they have in their bill an incredible provision that mandates tobacco companies to pass the tax through to the consumer.

Despite the fact that it sounds like we have come to a lynching of tobacco companies, the reality is we have a confiscatory tax on their victims, the people who smoke. As my 85-year-old mother has observed, "You are saying to me I have been victimized, and then instead of taxing the tobacco companies, you are taxing me."

The tax in this bill is imposed on very moderate income people: 34 percent of it is imposed on those who make less than $15,000 a year; 47 percent is imposed on those who make less than $22,000 a year; 59.1 percent is imposed on those who make less than $30,000 a year.

Our colleagues say this is not about money. It is not money they want. It is just coincidental that they get $700 billion from blue-collar workers in higher taxes. What they want is to raise the price of cigarettes. My amendment simply says raise the price of cigarettes, but rather than impoverishing the victims, the people who have been induced to smoke, let's take a portion of the money, in this case roughly a third of it, and let's give it back to moderate-income families by eliminating the marriage penalty for families that make $50,000 a year or less.

I basically view this as a rebate of part of this tax. I am trying to take our colleagues at face value as to what they say they want to do. They say their objective is to raise the price of cigarettes not to pass one of the largest tax increases in American history.

When I offered the amendment that would give a third of the money back to blue-collar workers, suddenly our colleagues were all up in arms, and we find ourselves in this situation.

Mr. KERRY. Will the Senator yield?

Mr. GRAMM. I do not yield. I listened to everybody else talk. I simply want my turn.

Mr. KERRY. Will the Senator yield for a question of fact?

Mr. GRAMM. I do not intend to yield until I am through. We hear the minority leader say that we can't afford to give a third of the money back to blue-collar workers who, if they smoke one pack of cigarettes a day, will pay $1,015 of new Federal taxes. People making less than $10,000 a year will see their Federal tax burden go up by 41.2 percent because of this bill. They say we don't have a nickel in this bill that we could give back to blue-collar workers who have been victimized by the very tobacco companies that they denounce. But it is interesting that while they do not have a penny to give back to working people, they have $28 billion to give to tobacco farmers.

Let me try to set this in perspective. Under a provision in this bill, tobacco farmers would be paid $21,351.35 an acre. We would make a payment to tobacco farmers of over $21,000 an acre, and then they could continue to grow tobacco under the same program they grow tobacco under now.

I can go out today and buy a quota to grow tobacco for $3,500 an acre, but yet we are proposing in this bill to pay $21,351.35 for what can be bought for $3,500 today? Why? Basically because this bill is not about teenage smoking, except for about 10 pages of it. And 743 pages of this bill are about the most egregious kind of spending that has ever been observed anywhere in the history of this Government.

Mr. FORD. Mr. President, would the Senator from Texas yield?

Mr. GRAMM. I will not yield.

Mr. FORD. You keep talking about the farmers and misrepresenting it. I just want to correct you.

Mr. GRAMM. I always stand ready to be corrected.

Mr. FORD. You will be.

Mr. GRAMM. I am simply reading numbers out of the bill. Basically, we have 743 pages of mandated spending on everything from maternal and child care health services, funding child care, mandating funding under child welfare, title IV, section (B), and mandating that the funds in this bill be spent by the States be spent on the Department of Education, Dwight D. Eisenhower Professional Development Program, under title II of the Elementary and Secondary Act.

We have in this bill what some estimate is the ratification of a settlement that will pay attorneys $100,000 an hour. Yet we do not have enough money to prevent the impoverishment of blue-collar workers who have been victimized by the very tobacco companies that we assail.

This bill gives all this money—endless billions—to all these groups in the grossest giveaway that I have ever observed in my political career. Groups that would have been happy with hundreds of dollars, in this bill we give them billions of dollars, because the mentality is, as one office seeker called it: "We won the lottery." Well, unfortunately, this is a lottery that is paid for with taxes imposed on blue-collar workers.

What I have proposed to do is to simply take a third of the money so that we still get the full impact of raising the price of cigarettes. However since our colleagues claim this is not about money, I would like to give part of the money back to blue-collar workers by repealing the marriage penalty on moderate-income families who make below $50,000 a year so that we do not end up impoverishing the victims of the whole effort to induce people not to smoke.

Also, let me say that it is not possible to effectively spend the amount of money that is allocated in this bill. It is not possible to spend the billions and billions and billions of dollars in this bill, nor is it wise public policy. So I think if you really wanted to have a bill and you wanted to raise the price of cigarettes, that you would raise the price of cigarettes and you would take the bulk of the money and cut taxes on moderate-income people who are going to pay the costs. So you discourage people from smoking but you do not pound them into the ground economically. That is what I am proposing to do.

What is this deal about suddenly the Democrats want to cut taxes? What is all that about? Well, what it is about is, they think that if they can guarantee their Members that they will immediately get the vote on a figleaf amendment right after we have the real vote, that they can get every Democrat Member to vote against repealing the marriage penalty.

Basically, let me tell you what will happen. I just want to ask people who might watch this vote to watch it happen. When my amendment is voted on, because if anything is voted on, this amendment is going to be voted on, when we reach 51 votes on my amendment, you are going to see about 20 or 30 Members rush down and vote for it right at the last minute. It will pass with 65, 70, 75 votes. But if it only gets 49 votes, none of them will rush down, because what the minority leader is trying to guarantee them is that if they vote against the amendment to repeal the marriage penalty, that they are going to get a vote later on. Their amendment will be a much smaller tax cut, but when they get asked back home, "Well, weren't you willing to repeal the marriage penalty on working families?" They are going to say, "Oh, yeah, I was for it. I just wasn't for that provision. I was for another provision, but I wasn't for that provision."

So I do not know if anybody is going to be fooled.

Mr. KERRY. Will the Senator yield?

Mr. GRAMM. But the issue really boils down to this: You can denounce the tobacco companies all you want to and rejoice in it. I would join you if I thought it would do any good. But I think we are doing it so much, I am not sure it is achieving its stated objective. In the end, you are not taxing tobacco companies. In the end, you are taxing blue-collar workers in this country, who are going to be brutally punished by this tax if they are addicted to cigarettes and they cannot quit smoking.

In my State, we have 3.1 million people who smoke cigarettes. If they smoke one pack a day, they are going to pay $1,015 in new Federal taxes as a result of this bill. For somebody who is making $10,000 or $20,000 or $30,000 a year, that is a brutal, punishing tax.

All I am saying is, quite frankly, Americans believe this bill is about the $700 billion. They believe that this has long ago stopped being about teenage smoking, that this is really more of the old tax and spend, getting $700 billion of easy tax money and then spending it. It is easy because people believe that we are taxing tobacco companies. When they understand that we are taxing the people who smoke, and who in many cases are addicted and who can't quit, or at least are going to take time to quit, I do not think they are going to be sympathetic to what we have done.

No one can argue that in the endless billions of dollars of money spent in this bill, that we could not give a third of this money back to blue-collar workers by repealing the marriage penalty.

So my goal is to offer the amendment. I hope it will be adopted. I think it is the right thing to do. I think it would marginally help this bill. But my objective is to see that if, in fact, we raise taxes on working people, that we raise the tax to change the price of cigarettes and therefore encourage people to quit smoking. I do not want to simply raise the tax to spend money on endless Government programs, many of which have nothing to do with smoking. And the ones that have anything to do with smoking, we have endless redundancy in setting up community action programs and international smoking cessation programs and the worst kind of duplicative bureaucracy. The net result will be to hire tens or hundreds of thousands of people, spend hundreds of billions of dollars, every penny of which will come out of the wallets and purses of blue-collar working Americans.

Finally, let me say that someone suggested that if we repeal the marriage penalty, it might help couples where the wife stays at home and works in the home. If that is a criticism, please note me down as having been criticized. I do not have any apologies to make.

I think the people who do the work and pay the taxes and pull the wagon in this country pay too much in taxes. I am not happy that we are getting ready to sock them with another $700 billion of taxes. If I can, through my modest involvement, see that they get a third of the money back, so that we get the impact on smoking without impoverishing blue-collar workers, I want to do it. And that is what I am trying to achieve.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, all that the Senator from Texas has said sure sounds good when it gets a one-sided airing. But, fortunately, the Senate has an ability to look for the truth here. And the truth is that this is not a Democrat bill, this came out of the Commerce Committee 19–1—19–1—in a bipartisan vote.

And the fact is that the Senator from Texas talks about wanting to take only one-third of the money. But he doesn't just take one-third. No, he just doesn't tell the full story. The Senator from Texas is not prepared to let the Senate and the American people know what his amendment really does.

So we will show you what it really does. It cleverly, in the first 4 or 5 years, takes one-third, but then it builds up, and over the course of the next 20 years it takes 53 percent over 5 years, 80 percent over 5 years, 79 percent over another 5 years, and 73 percent over the next 5 years. So consistently for a period of 20 years it takes more than 50 percent, and for 15 of those years more than 75 percent. That is extraordinary.

He stands here and says to the Members of the Senate, "All I want is"—what? 33 percent, one-third. That is just not the truth. The truth is that this amendment of the Senator from Texas not only goes to the people he talks about, those working Americans who will get so brutally attacked, but he is going to give money back to people who, under the aberrations of the marriage penalty, actually get a bonus. Fifty-two percent of the people who get married actually get a bonus because of the way the Tax Code works on the earnings of individuals versus joint filings. He gives the bonus recipients back money, too.

If we are really concerned about restoring and repairing the notion of fairness for people who are hurt by their wage level and the fact that they buy cigarettes, and you will try and fix the marriage penalty at the same time, then we believe the Democrat alternative is a better alternative. The reason the Republicans don't want to let us have the right to vote on it right away is because it is a better alternative and they are afraid what they really need is some time in between them so that the vote which is hanging out there—the only vote that people will see—the public might get mad and telephone Members and say, why didn't you vote for this, because they won't know there is an alternative. That is the game that is going on here.

Under the other alternative, the Democrat alternative, because we make an effort not to wind up taking money from kids that we are trying to stop smoking, not to take money from a cessation program, not to take money from the counteradvertising, and we regard people who, when they got married got rewarded by getting more money under the Tax Code—how can you justify that under these circumstances if this is the tradeoff?

The fact is that under the amendment the Democrats are prepared to offer we give almost double the amount of money that you get under the amendment from the Senator from Texas. For a couple with a split income, say they are earning $35,000. One is earning $20,000 and the other is earning $15,000. Under the Democrat alternative they would get $3,000 back; under the Republican alternative they would get back $1,650. Similarly, for a couple earning $50,000, if it was split $25,000 and $25,000 of income for each partner, in our alternative they would get $5,000 back; under the Gramm alternative they would get the same $1,650 as they would have gotten for the lesser amount.

So we ask Americans to look carefully. Here is a legitimate proposal to change the penalty of the marriage tax, to fix it for the people who are most penalized and to benefit people who are, in fact, most injured. That is the difference between the two. That is what people will have an option of voting on if we are permitted to vote on it in some simultaneous form. Obviously, our hope is we will still be permitted to do that.

Under the amendment from the Senator from Texas, he would, in fact, according to the Centers for Disease Control, he would take money out of the cessation and counteradvertising and school-based prevention.

Now, he complains this bill is somehow going to throw money at "government programs." Well, in his State of Texas, there would be 360,000 less kids who would be eligible to have cessation services made available to them. There would be 3,869,000 kids between the ages of 5 and 17 who would not get school-based prevention programs as a result of his own proposal to strip that money out of the revenues from the tobacco bill. That is what would happen. That is what we are talking about here. We are talking about whether or not there will be cessation programs, whether or not there are going to be counteradvertising efforts, all of which have been proven to work.

So what you really have out here is a fundamental effort to try to kill the bill or stop the bill or just let it go on and on forever. The Senator from South Dakota, the minority leader, was absolutely correct. There is a whole world of difference between the way this bill is being shepherded versus the way every other piece of legislation that has come to the floor this year, where there have been time agreements, cloture motions filed immediately, immediately limited debate, limited number of amendments—move the legislation. We can tell the difference between those who would like to pass legislation or work on it, I think, in a way that will move this legislation to some kind of a final disposition.

The fact is that there is a world of difference between adequately taking care of those efforts that will have the most impact on a proven basis in helping to prevent kids from smoking versus the kind of approach that the Senator from Texas is offering. I would like to vote to cut the marriage penalty. I would like to vote to do away with the whole thing. The question is, Are you going to do it here, when the choice is between reducing kids from smoking or not? That is really what it comes down to when you look at the large amounts of money the Senator from Texas is seeking to take.

We have offered a compromise. We have offered to sit down with the Senator from Texas to try and arrive at a lesser amount of money and see if we can't come to some agreement as to what would be reasonable. I think most people on our side of the aisle would welcome the opportunity to change some part of the formula of how these moneys are spent and certainly envision the capacity to embrace a tax cut in an appropriate form and shape and size—in that context. But if there is a genuine effort to do this, then we ought to be able to make that happen. If there is simply an effort to grab so much money that this bill goes under of its own weight, it will be very clear whose intention was what, and ultimately what the impact was as a result of that.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I am pleased to have an opportunity to participate in this debate regarding the so-called tobacco settlement. My understanding of this bill does not comport with the understanding that has been recently voiced on this floor by the Senator from Massachusetts. It appears to me this bill, which is a very comprehensive bill, the dimensions of which are so substantial that they deserve clear inspection—we are talking about a major piece of legislation, a tobacco bill which includes this kind of specificity. We are talking about a bill that has 17 new boards and commissions. We are talking about a bill that would add taxes of about $885 billion at the maximum over the course and life of the bill to the budgets of Americans. These aren't costs that go to the tobacco company. These will be additional costs to the people.

I question whether or not this kind of bill deserves the full examination and the full discussion of this Senate; that is a serious question. I have a suspicion that some individuals want to curtail debate on this bill because the bill is finally being seen. There is a dawning. The light of day is beginning to shine on this bill. The American people are seeing that 98 percent of the people are being taxed, while only 2 percent of the teens smoke. The 98 percent of the people that are being taxed are having their costs go up astronomically. Not only are they having their costs go up astronomically, they are having their costs go up on an assumption that if you raise the cost of cigarettes by 10 percent, you get a 7-percent decrease in the amount of utilization by young people. That is an assumption that the studies do not bear out. As a matter of fact, the most recent studies indicate that an increased cost of cigarettes will not curtail young people from smoking. It is simply not the case. At best, the studies are inconclusive. At worse, they show that there is little correlation between a price increase and reduction in youth smoking.

Let me give you some statistics about this. The Cornell study was a study that followed 13,000 children for 4 years. This was not something that was cooked up and done in response to the tobacco industry, or someone like that. It was done at Cornell University, and it was a National Cancer Institute-funded study, so that the funding for this study is credible funding. Here is what the study found:

> . . . little evidence that taxes reduce smoking onset between 8th and 12th grade.

So in that critical exposure period between 8th and 12th grade in school, there is very little evidence that increased taxes would reduce the kind of growth in the numbers of individuals smoking. The economists that conducted this study presented their results on the relationship between higher tobacco taxes and youth smoking to the American Economics Association at their annual meeting in January of 1998. This is a current study. This studied young people and the way they respond in the modern culture. It concluded that higher taxes have little effect on whether young people start to smoke. Little effect.

Here is what the study concluded:

> Taxes are not as salient to youth smoking decisions as are individual characteristics and family background.

In other words, whether children begin smoking doesn't relate to taxes near as much as it does to family background and characteristics of the children.

This study, which followed 13,000 young people for 4 years, says:

> We find little evidence that taxes reduce smoking onset between 8th and 12th grades.

They estimated that a $1.50 tax increase would decrease the smoking onset by only about 2 percentage points, from 21.6 percent of the 12th graders to 19.6 percent of the 12th graders.

When you suggest that the change in the smoking habits would be that small—they had to conclude as follows, and I will quote from the report of Cornell University, a report funded by the National Cancer Institute, which put it this way:

> Our data allow us to directly examine the impact of changes in tax rates on youth smoking behavior . . .

In other words, they said they had enough data to draw conclusions.

> . . . and our preliminary results indicate this impact is small or nonexistent.

So this massive tax increase—$868 billion to a new estimate of $885 billion—on the American people, over the course of the life of this settlement, is supposed to produce some kind of a reduced incidence of youth smoking. Yet, the very best data from the latest studies, sponsored not by the tobacco people, but by the National Cancer Institute—a 4-year study—indicates that the taxes would have a small or nonexistent affect.

That reveals what this bill is all about. It is about big Government. It is about big taxes. It is about new agencies. It is about an invasion of the taxpayers' pockets. It is striking to note that there is $350 million a year in this bill. And with the 50 States, that is $7 million per State. That is $7 million per State, on an average, that goes overseas to fund studies in foreign countries about how costly cigarette smoking is in those cultures.

For the life of me, I can't figure out why we want to have Government bureaucracy, funded by a tax on the lower income people of the United States of America, to make it possible for Third World countries and others overseas to have studies on how costly smoking is in their culture. A number of individuals would prefer that they have it not be so costly here. The truth of the matter is that 59.4 percent of all the individuals who will be paying this tax, according to the best estimates we have, will be individuals whose income is less than $30,000 a year.

So we have a massive tax bill, three-quarters of a trillion dollars, focused on the lowest income people in America, on the presumption that it will curtail smoking among young people. But the best academic research we have indicates that young people are not sensitive to price. As a matter of fact, the study conducted by Cornell University, funded by the National Cancer Institute, indicated that there is little or nonexistent impact by that kind of tax in terms of curtailing smoking by young people. This is a study done by the folks at Cornell University, which is a well-respected institution. We would expect that the National Cancer Institute would fund a study that is fairly done. It studied a lot of children, and 4 years is a long period of time. We would not expect this study to have been done in a slipshod manner. It does come to the conclusion that indicates this isn't a very productive way to try to curtail youth smoking. The economists stated the study raises doubt about the claim that tax or price increases can substantially reduce youth smoking.

Well, obviously, there are very serious doubts. But there is no doubt about what this bill is about. It is about an $885 billion increase in the taxes to be focused on low-income individuals in the United States.

Let me just cite another study. Economists at the University of Maryland and the University of Chicago conducted a similar study that analyzed data concerning more than 250,000 high school seniors for the period from 1977 to 1992. Now, this is a longitudinal study; you get from 1977 to 1992, so it is a 15-year-long study. This is the largest sample ever used for a study on the subject. So you have a quarter of a million students studied over a 15-year period.

Here is what they found. They found the relationship between price and youth consumption is "substantially smaller" than suggested by previous studies.

In addition, not only do we have the Cornell study on this idea that you can reduce smoking by 7 percent with a 10-percent price increase, which says that it is nonexistent or would have little impact at all, but this other study was done by the University of Maryland and the University of Chicago over a 15-year period on a quarter of a million students. It says there is a substantially smaller than previously suggested link between taxes and smoking.

Many of us could just look at the circumstances that we see around us and have an idea that price isn't the primary objective or consciousness on the part of young people. When we look at young people wearing $140 tennis shoes because they have a certain logo on them, I think we can get the idea that there is something in addition to price here; there is status and statement, which are very important to young people. Price becomes irrelevant in the context of status and statement.

Let's get out of the area of studies and look at what happened when price increases have been put into effect. In 1989, California raised its cigarette excise tax by 25 cents per pack, but there is no evidence that cigarette smoking declined. Now, this was an 11 percent increase of the tax. That is a major increase. If we were to see that kind of increase, we would expect there to be a decline. No evidence of a decline. As of 1994, researchers were "unable to identify a decline in prevalence [among 16-to-18-year-olds] associated with the imposition of the excise tax."

In Canada—and this is the most commonly cited arena cited by those who want to have this massive settlement imposed on the American people at the cost of more than three-quarters of a trillion dollars to the people. In Canada, our neighbor to the north, the federal government increased cigarette taxes in several stages in the late 1980s and early 1990s—from $10.75 per thousand cigarettes to $24.34 in 1986 per thousand cigarettes, then to $38.77 in 1989 per thousand cigarettes, and then to $62.90 in 1991 per thousand cigarettes.

So you go from $10 per thousand, or about a penny a cigarette, to 6 or 7 cents per cigarette, over the period of time. So you had an increase, at first, of a penny per cigarette, and then an increase of 6 cents per cigarette. Although it has been stated on the floor by proponents of this legislation that smoking decreased during that period, they failed to talk about the years 1991 to 1994.

Here is what happened. When the tax rates were the highest in that nation's history, and when the tax rates were the highest in that nation's history during that period, smoking rates among 15- to 19-year-olds rose from 21 to 27 percent. That is a 25-percent increase—more than a 25-percent increase in the number of teens smoking at the time when the cost of cigarettes was at the highest in history. Frankly, when the cost of cigarettes in Canada was at the highest in history, I think it is pretty clear from the testimony of others on this floor that the black market was operating the most aggressively at that time. So we are probably seriously underestimating the fact that the growth was about 25 percent in the number of teens who were smoking.

If the argument that rising prices will reduce teen smoking, it stands to reason that youth smoking should increase as prices fall. If you are going to say that higher prices cause teens to stop smoking, then lower prices would probably cause teens to start smoking. However, a year and a half after significantly reducing tobacco taxes in Canada, according to the "Survey on Smoking in Canada," teen smoking "remained stable."

What we really have from our experience of observing Canada is that teens aren't very much affected by price. That confirms what the study indicated at the University of Maryland and Chicago. It confirms what the Cornell study indicated. It confirms what happened in California. What happens, as a matter of fact, is that teens are not affected very much by price. The fact that is ignored by those who argue teen smoking declined in Canada due to the significant tax increases is that youth smoking declined in the United States by 30 percent during the same period—from 1977 to 1990—without a price increase.

There are times when teen rates of smoking haven't gone up in either culture. If they were parallel in both cultures as a result of other factors, and taxes went up in one and not in another, it makes it pretty clear that the tax increase in one was irrelevant to whether or not teens smoked. Here we have a situation where we are imposing a tax on 98 percent of the cigarette consumers who are adults on the presumption that it will change the smoking habits of the 2 percent who are teenagers when the studies and the real world information simply do not bear out this as a justification for this kind of massive tax increase.

In the United Kingdom, between 1988 and 1996, the per pack price of cigarettes was increased by 26 percent. Although cigarette volumes fell by 17 percent, the percentage of weekly smokers aged 11 to 16 went from 8 percent in 1988 to 13 percent in 1996. So it turns out in the United Kingdom the number of youngsters who were smoking went up, even when the number of people smoking overall went down. It went up from 8 percent to 13 percent in spite of the fact there was a 26-percent increase in the price of tobacco.

The University of Chicago, and Maryland, Cornell University, a study funded by the National Cancer Institute, the experience in California, the experience in Canada, the experience in Great Britain—these are experiences which indicate to us that this is more a bill about taxes than about increasing the size of government. It is about sending the hard-earned dollars of individuals in the United States overseas to fund these studies in other countries, to provide a basis for a variety of interests in the United States being well funded; but this is not a bill which addresses the issue of teen smoking in a responsible way.

The Centers for Disease Control has compiled data on brand preferences which support the conclusion that young people are not particularly price sensitive. The "price value" or discount segment of the cigarette market comprised 39 percent of the overall cigarette market in 1993. Yet, according to the CDC, less than 14 percent of adolescent smokers purchase generic or other "value-priced" brands. On the average, the people were price sensitive, but when you got to teenagers they weren't.

This point was echoed by the government's lawyer defending the FDA tobacco rule, who told the U.S. district court, "[P]rice, apparently has very little meaning to children and smoking, and, therefore, they don't smoke generic cigarettes. They go for those three big advertised brands."

All of a sudden, we come to this place where we are going to pile on the taxes, pile them on low-income individuals. Those making less than $30,000 a year will pay nearly 60 percent of this $885 billion tax burden. And we are doing it in the face of the information of these university studies that are current, that are recent; in the face of the data from California, and data in Great Britain; and in the face of the Federal Government's lawyer arguing in the U.S. district court in the FDA tobacco case where he said, "price apparently has very little meaning to children and smoking." They aren't affected by price.

We have a situation where we have had cloture filed on this bill. There are those who do not want the kind of debate about price and about taxes, about the fact that the price isn't really as significant as they would like to portray on teen smoking. And if we slow this bill down enough for people to look at it carefully, they might figure out that this bill isn't what is needed at all. Certainly, most people do not think we need another three-quarters of a trillion dollars in taxes focused on the hard-working, lower-income individuals in America.

This is a bill about taxes. It is a bill about money. If you look carefully at this bill, it has everything from foreign aid in it to more of the child care proposals of President Clinton. It is time, if we are going to have taxes increased, that we do something constructive with the tax increase, and we give it back to the people in terms of respecting an institution which America has long understood to be at the core of the potential for a bright future for this country. We are talking about the institution of marriage.

I commend Senator GRAMM who brought to the floor a proposal which would eliminate the marriage penalty on individuals who are low-income individuals, to say to them that we don't think you should have to pay higher taxes merely because you are going to be married; you are going to make the durable, lasting commitments of marriage that are likely to be the basis for strong families that are the foundation and the future of America, we don't think you should pay for that in terms of higher taxes.

Both Senator GRAMM and Senator DOMENICI have indicated they would eliminate the marriage penalty for individuals making less than $50,000 a year with some of the resources generated by this measure. Obviously, there are those who are expecting to spend those resources on more government programs and are terrified by the fact that we might think about giving the money back to the people. You have to understand this is at a time when the U.S. Government is in surplus. It is expected—even conservative estimates—that there will be a $39 billion surplus this year, nearly $60 billion in surplus next year, and we shouldn't be here debating how to spend more of the taxpayers' money. We should be here debating how to give money back. And Senators GRAMM and DOMENICI, the Senator from Texas and the Senator from New Mexico, have come forward with a plan to reduce taxes to the extent that you end the marriage penalty and to say to people, we are not going to penalize you for having the durable, lasting commitments of marriage that become the foundation.

Frankly, I am very enchanted by the idea of eliminating the marriage penalty, and this will not end the debate on the marriage penalty. I will continue to offer amendments until it is eliminated, whether this passes or not. The marriage penalty is a pernicious attack on the values and principles of America. It is time that we aligned the policy of America with the principles of the people of America.

I commend the Senator from New Mexico and the Senator from Texas for their outstanding work, but I think this cloture motion was filed because people are beginning to understand. The idea is that, well, we filed cloture on some other matters; maybe we should file cloture on this. I think that has been suggested. I don't think that is the case. I think the people are beginning to understand this is a massive tax increase. And because it is, I think that cloture is inappropriate at this time. We have a responsibility to debate what we will do with $885 billion in revenue. I think it should be given back to the people who have paid it.

With that in mind, I urge Senators to oppose in every respect the motion for cloture, to vote against it. This is a measure which deserves the light of day. It deserves the dawning of day. The American people really ought to have a chance to look carefully at it, understand it, and to see it clearly. They ought to see it in the context of what it seeks to do—tax individuals, primarily low-income individuals, at very substantial rates—and the result will be substantially more Government. The studies indicate that the impact on teen smoking as a result of that tax is very likely to be minimal, if existent at all.

It is with that in mind that I think we ought to take very seriously the proposals to abolish, to take the tax out of this bill. And if we don't do that, we ought to do what we can to give back the money which is collected from the hard-working people of America. The idea that we should somehow proliferate Government in response to this situation is an idea which, when exposed to the full light of understanding, will be rejected by the American people. Certainly Washington appears to be the only city in the world where a bad decision, the decision to smoke, made by free people, becomes the basis for taxing those free people, taxing them in ways that will make it very difficult for them to provide for their families.

My own view is that that is inappropriate. We should reconsider the position that is being offered here, and I believe the kind of tax relief that has been offered by the Senator from Texas and the Senator from New Mexico is the kind of relief that ought to be considered in the event there are any taxes in this measure.

With that in mind, I will do what I can to make sure that we have the opportunity to consider a variety of proposals which would extinguish and end the marriage penalty in our law, if there are resources being collected from the American people under the guise of a tobacco settlement.

Mr. President, I yield the floor.

Mr. McCAIN. Mr. President, I respect the views expressed by the Senator from Missouri. He has spoken long and eloquently on this issue in the Chamber. I did hear him just say that bad decisions by free people to smoke—bad decisions by free people to smoke—shouldn't be taxed.

I am intrigued by that comment, especially since what we are talking about here is free children. I thought that the obligation of my party and Government was to care for children, was to keep them out of harm's way, and do what we can to lead them into better lives.

When the Senator from Missouri said "bad decisions by free people," I was really sort of shocked, because the Senator from Missouri should understand the intent of this legislation. The intent of the legislation is to try to stop companies that have been enticing the children—my children, all America's children—to take up a habit that is going to kill them. So it can be interpreted as a massive tax increase; that is what the latest media reports I see are—$60 million worth of attack ads calling it a tax increase. That seems to have been sort of accepted by the American people as fact. I guess if you spend enough money on an advertising campaign, it may have some significant effects.

It seems to me that for Americans to believe that this is simply a reason to tax them, then there has been a very significant effect.

But I think we are all aware that what we are trying to do here is cut taxes on the American people. You do that by stopping people from smoking, because right now $50 billion a year in Americans' tax dollars go to treatment of tobacco-related illnesses. And that $50 billion a year, Mr. President, is not a static number, because according to the Centers for Disease Control, and other sources, children smoking is going up in America; therefore, you are going to have more people who need treatment because approximately a third of those children who begin to smoke will die early or need treatment for tobacco-related illnesses. So the present $50 billion tax per year that the American people are paying will increase. So I don't know why it is so hard for some people to understand that if we do nothing and the present trend continues, the tax burden on all Americans—high income, low-income Americans—will go up, not down.

I think it is also important to address the issue that seems to be talked about so much by opponents of the legislation, about the burden that this tax—I am beginning to do it myself—that this increase in the cost of a pack of cigarettes will have on low-income Americans.

First of all, to state the obvious, as the Senator from Missouri said, it was a bad decision, and these people do smoke, which is their choice. And I certainly sympathize with those who find it nearly impossible or impossible to stop. It is extremely difficult, because it is an extremely addictive substance, but it still is a voluntary act. But also, we find out, and it is very disheartening, that it is the children of lower-income Americans whose smoking is increasing in America. And to somehow feel that low-income or middle-income or high-income Americans would not do whatever is necessary not just for themselves but for their children I think is contradictory to what I know and believe about the American people.

Mr. President, we had not the most pleasant exchange that I have observed in this Chamber recently, not the most unpleasant either, by the way, but it wasn't pleasant. Obviously, we have been on the bill now nearly 2 weeks. We know we have the press of other business. We know we have legislation that needs to be addressed—the Department of Defense bill, 13 appropriations bills, and others are necessary. There is a certain level of frustration that was manifested here. I believe we must come to a point where we should decide to end the debate—which, as I say, now has been going on for nearly 2 weeks—or move forward with the bill. In the event of cloture, as we all know, germane amendments to the bill would still be in order.

I should also like to remind my colleagues of the consequences of going off the bill. If we do not pass this legislation through the Senate and through the House and then in conference and signed by the President, I think some think the issue will therefore disappear from the American scene. Quite the contrary, Mr. President. The reality is that if the Congress does nothing, then there are 37, and perhaps more, attorneys general who are lined up to sue the tobacco companies for the injuries that have been inflicted on the people of their States.

I think there are several drawbacks to this course of action. One of them, to state the obvious, is that the amount of legal fees that will go, the amount of money that will go in the form of legal fees, to the plaintiffs' lawyers will be dramatically higher than that envisioned by this bill and, frankly, will be much higher than what I would envision in an amendment that will be passed in the Senate which will place further restrictions on attorneys' fees.

Second, of course, is that it will be a long, drawn out process. I do not think there is any doubt as to who would prevail. There have been trials in four States, all of which have not gone to a jury because the tobacco companies, for obvious reasons, have chosen to settle, the last being the State of Minnesota—$6.5 billion was the agreement by the industry. And along with that agreement, with that settlement, was an agreement by the tobacco companies to do many of the things that have been attacked on this floor.

A massive tax hike? Guess what, the price of cigarettes all over America went up 5 cents because of the requirement to settle the Minnesota case. I think it is also of some interest that the $6.5 billion that the tobacco industry agreed to is roughly double the amount that would have been received under the settlement that was an agreement entered into between the attorneys general and the tobacco industry. So the cost, if you go on a State-by-State basis, assuming that they all either settle or juries award large settlements, then the cost goes up. And the so-called tax, massive tax that is so concerning to many of my colleagues, is higher. When you extrapolate it out over all 40 States that are in court—and I imagine the other 10 would join sooner or later—then that is more money added to the cost of a pack of cigarettes than envisioned by this legislation.

But let me tell you what bothers me the most about having these cases go to the States—which they will. I would like the Senator from Missouri to find me one legal expert in America who does not believe that the day that this legislation leaves the floor of the Senate there will be, in the words of a well-known plaintiff's lawyer, a "rush to the courthouse," not only by the attorneys general but by many of the plaintiffs' lawyers in America.

But what bothers me the most about this, and the reason I am saddened a bit to contemplate it, is the fundamental purpose of this legislation is to act as soon as possible to stop the children from beginning to smoke. The day the President signed this bill, massive amounts of money would be spent to begin youth smoking cessation programs. Large amounts of money would be spent on research, not only to find out what causes kids to smoke, but also to find cures for these terrible diseases, the largest causes of death in America—the heart disease, the lung cancer, the emphysema—the terrible ways that people die as a result of the use of tobacco. So, all that will be delayed. And the most terrible delay, of course, will be the effect that we could have, in a beneficial fashion, on children in America.

There are some on this floor who have said raising the price of a pack of cigarettes will not do it, these cessation programs don't do it, et cetera. I think they are entitled to their opinions on that issue, but I depend upon the opinion of experts. I depend upon the opinion of every living Surgeon General since 1973—every living Surgeon General in America. Their letter has long ago been made part of the RECORD. They say that you have to have a comprehensive approach to this problem. I agree with every—literally every—public health group in America, whoever they are, you name them—I read the list of them into the RECORD the other day—who say you have to have a comprehensive settlement if you want to stop kids from smoking. I agree with Dr. Koop. I agree with Dr. Kessler. I agree with the eminent people in America who have spent their lives, literally, on this issue, who say don't think you can solve it by just a simple tax increase.

I would also like to say I think the States deserve reimbursement. We, on this side of the aisle, at least, have always advocated a situation where we try to reduce the financial burden on the States. We are always pleased and proud when we pass things like no unfunded mandates and return money to the States to use however they want, since, after all, it is theirs that they send to Washington, DC. If we do not do this settlement, of course, there will be no money that goes back to the States; it will all just come to the Federal coffers, and bureaucrats will then decide, or one can make the case that the appropriators will decide.

So the Senator from Missouri made an eloquent argument that we should continue debate on this issue and that we should not cut off debate because the American people need to be better informed. I would say to the Senator from Missouri, who I note is here on the floor, they have been pretty well informed by somewhere between a $60 million and a $100 million tobacco advertising campaign by the tobacco companies. They have been pretty well saturated in that area. Most major pieces of legislation—the expansion of NATO, for example—in the 12 years that I have been here, almost every major piece of legislation takes about 2 to 3 weeks. And, of course, that is only the largest legislation that we consider.

I also think there are many, many organizations out there who are informing the American people. But, again, far more important than that, there are people who are suffering from very terrible diseases as a result of their use of tobacco, and the sooner we get money into research and find cures for these terrible diseases, the better off they will be and we will be as a nation. Every single day that we debate this issue and not bring it to some conclusion or the other, 3,000 children will begin to smoke. We can debate whether this is a good bill or a bad bill and how it should be changed, but there is one fact that cannot be changed, and that is what it is doing to the young people of America.

So I would argue if, at the end of today, 3,000 more children have started to smoke and 1,000 of them will die early, maybe we ought to spend more time here and get this issue resolved and maybe not go home this weekend. Maybe we should spend this weekend debating this issue, trying to reach some conclusion. Instead, either late tonight or early tomorrow morning we will all be gone. The majority leader just talked a little while ago about how hard it is to get people here on Monday.

Perhaps—perhaps—we will go to work maybe on Tuesday. Friday, Saturday, Sunday, Monday—4 days; 12,000 young people will begin to smoke while we enjoy our extended weekend.

I believe that we should try and keep that in mind. My argument, Mr. President, in a rather drawn-out fashion, is that there are compelling reasons why we should act on this issue either one way or another. Maybe in the wisdom of the Senate this is not a good piece of legislation, and we should drop it. But let's go ahead and drop it sooner rather than later so that the process will begin in the other 36 States that have sued the Federal Government; the additional 10 that, I am sure, will be in line; so that the plaintiffs who have suffered injury and the relatives of those who have suffered deaths because of tobacco can begin their trip to the courthouse so that they can receive the compensation they feel they deserve because of what happened to them as a result of years of tobacco—whether they deserve that or not is up to a judge and jury—but especially the attorneys general awaiting to see what the U.S. Congress does. I hope that we can act in as rapid and efficient fashion as possible.

I remind my colleagues that I was asked, as chairman of the Commerce Committee, to bring this bill to the floor of the Senate and to get it through my committee. We had a full day of markup, and I am in disagreement with the remarks the Senator from Missouri made the other day about discouraging amendments. I, in fact, encouraged amendments, and the Senator from Missouri had several which were voted on. They had to do with product liability. They didn't have anything to do with reduction of taxes. But that was the right of the Senator from Missouri.

I don't believe he could find any of my colleagues who would argue that there wasn't a full addressing of that legislation during that day. At no time did I try to cut off anyone's right to propose an amendment on a piece of legislation that serious. In fact, if I remember, I was somewhat entertained the Senator from Missouri even proposed as an amendment a piece of legislation which I and Senator LIEBERMAN have cosponsored, which was his right. But I don't believe that anyone was shorted during that very interesting markup. In fact, literally every Senator on the committee was heard from and, again, in my 12 years on the committee, I have never seen nor been part of such an extensive markup as took place on this bill in the Commerce Committee.

I was asked to bring this bill to the floor, and it was reported out of the committee by a 19-to-1 vote. Then the majority leader scheduled it for floor debate, which is the responsibility of the majority leader.

I, along with the Senator from Massachusetts, have tried to manage this bill. But I say to my colleagues, there is no point in us staying on this bill forever. It is obvious that we won't.

For example, today we have not had a single amendment voted on, and we seem to be hung up in some kind of parliamentary maneuvering which some observers might say is a reason to impede the progress of the bill, because we all know we don't stay on any piece of legislation forever.

I hope we can work out our differences. There are pending amendments. There is a very important drug amendment we would have liked to have brought up today. I don't know if we will. It is nearly 4 o'clock now. But I believe it is important that we either move forward and resolve the issue, or we go on to other issues that are compelling issues as well. The Department of Defense authorization bill—and I am a member of the Armed Services Committee—is waiting to be debated and resolved. It is very important that we address the needs of the men and women in the military and our Nation's security. There are many other pieces of legislation that are awaiting action on the part of the Senate, which argues that we proceed with this legislation or move off it.

I would feel rather badly if we do, but I also point out that, in my own very subjective view, I would have done whatever I could to see that this issue was brought to completion.

Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I appreciate the fact that people want to make this a bill about cessation of teen smoking. I want teens not to smoke. It puzzles me, though, that they look past the studies: Cornell University, with 13,000 students showing that price doesn't make much difference at all to them. They look past the University of Chicago and University of Maryland saying that price is way overrated. They look past the experience of Canada when price was going up dramatically, smoking was going up among young people. They look past the United Kingdom where smoking went up among teens when price was going up, and they talk about teen smoking, and yet they don't make the possession of cigarettes by teenagers illegal or inappropriate in the bill.

This Congress has authority over the District of Columbia. If we really were serious about saying it is wrong for youngsters to have cigarettes or to have tobacco or thought it inappropriate, we could make it illegal for them, but this bill doesn't do that.

What does this bill do? This bill raises taxes. It creates new government programs. It funds the priorities of the Clinton administration. It is an $885 billion tax increase, and who pays the tax? The tax gets paid by low-income individuals. Mr. President, 59.4 percent of the individuals who will be paying this tax will be individuals who earn less than $30,000 a year.

Some have said, "Well, we should be voting on amendments." I agree we should. There was a unanimous consent order proposed today which provided for votes. I agreed to it. I didn't stop it. The majority leader proposed it. He proposed to have votes to lay these issues in a context where they could be dealt with, where they could be voted on, where they could be disposed of, and those on the other side of the aisle rejected it.

We can't have it both ways. We can't say that this is a bill which is going to stop people from smoking and we are going to collect $885 billion when they do smoke. If they stop smoking, the money won't be there. What we all know is they are going to keep smoking; that is why the money will be there.

We can't say this will help the children of poor families when we are going to make the poor families pay $1,200, $1,600 a year in taxes and take that off the table of those families and out of their budgets. We can't say we are going to stop teens from smoking when we don't even care enough to make it illegal for teens, where we have jurisdiction, to possess cigarettes.

This is a tax bill. It is a massive tax bill. It is a massive government bill. It promotes government agencies not only in the United States but overseas. There is $350 million each year in this bill to send overseas, so that countries overseas can conduct studies about what it costs to smoke in other countries, not the United States of America.

I think this is the kind of priority that no wonder people don't want this bill slowed down enough for the American public to see: Taxing people who make less than $30,000 a year in the United States to fund studies overseas so that they can conduct studies about what it costs to have cigarette smoking in other countries. I don't believe that is what Americans are interested in. That is not going to help young people in the United States.

The Senator from Arizona says the States deserve reimbursement. He said this is hard on the States, and then he sort of bragged about how hard this is on tobacco companies. I am not worried about the States or the tobacco companies as much as I am about the people of the United States. They are the ones who deserve reimbursement, if anybody deserves reimbursement.

And here we have an elevated taking by the Federal Government, another three-quarters of a trillion dollars over the life of this bill—taking from these people instead of giving to them. We come to do this at a time when the Federal Government is looking at a revenue surplus.

It just seems to me that we ought to be debating how to give back the money to the people rather than taking these resources from the people. I do not object to amendments. I do not object to a UC which would allow further amendments. Very seldom do we have bills here where we get it right the first time. I think it is good to have debate on these issues. I think it is good that the studies be brought forward. It is good that the people have an opportunity to see exactly what the community has been able to decide when it has observed the facts, the reality of situations not only here but in other settings.

It is with that in mind, I believe it is important to move forward with the amendments, like that of the Senator from Texas and the Senator from New Mexico which would abolish the marriage penalty, to say to those families, "We want you to be able to have the kind of right to deploy your own resources rather than have Government spend the money. And we don't think we should penalize you because you have involved yourself in the durable, lasting commitments that form the basis of the family," the most important institution in our culture.

So it is with that in mind that I have risen to criticize this bill and to unmask it. This bill is substantial. It has more pages than the average person probably reads, more pages than the average Senator reads. And reading this bill is important. It is in here that you find out about the Federal programs that are tucked away, the mandated spending for the States. It is in here that you find out about the kind of special limitations that were to be provided to the cigarette companies in terms of their liability. If you care so much about the children, why limit the amount of money in damages that tobacco companies would have to pay in? Why provide them with a special sanctuary?

It is this bill that deserves our consideration. It is in here that you find the massive tax increases and the spending on new and other programs. I believe we ought to add to this that if we are going to have taxes, we will give the taxes back by way of saying, as the Senator from Texas and the Senator from New Mexico have said in their proposal, the marriage penalty ought to be abolished for individuals making $50,000 or less. I would abolish it for all individuals. And, frankly, I am going to continue offering amendments about the way to spend the money, not to spend it through Government but to send this money back to the American people. They earned it. They should have the opportunity to spend it. The idea, "You send it; we spend it," being the slogan of this place is a bad idea. It should be, "You earned it; we returned it."

It is not wasted on me that the cloture motion was filed when the debate on the marriage penalty got going. A lot of people don't want to unmask the policy of this country that we penalize people for being married. A lot of people don't want to debate the issue of whether we should have all these new programs or whether we should give people the money back that they earned and we took from them merely because they were married.

I do not blame people for not wanting to reveal if they are against wanting to give the American people their money back, that if the American people learn we are taking their money simply because they are married, that we have the opportunity to give it back but we would rather give it back to programs here in Washington or even overseas. That is an embarrassment. It is no wonder individuals want cloture filed and feel we should shut down debate.

I do not want to shut down debate, but we should move forward with tax relief for the American people, and we should be very reluctant about imposing $885 billion of new taxes in the name of programs for which it is accordingly suggested that somehow young people will not begin smoking.

The idea young people start smoking at 3,000 a day—it may be true. If we can believe the studies at the University of Chicago, the University of Maryland, Cornell University, if we can believe the experience of California, Canada, the United Kingdom, the kinds of things they have talked about in these taxes here that are involved in this bill will not make a difference.

The truth of the matter is, the academic studies of thousands, tens of thousands, hundreds of thousands, indicate that to talk about taxes making a big difference in youth smoking is overstated. And these are not studies by interest groups; these are studies by the National Cancer Institute; these are studies by the University of Maryland, the University of Chicago, Cornell University.

So it is time for us to understand this debate is about taxes. It is a debate about Government—big taxes, big Government; massive taxes, massive Government.

We are not even making illegal the possession of cigarettes for children in the District of Columbia. If we thought that was really important, we could add that to this bill. No; that has not been done. We just simply make it possible for Government to grow. No wonder people are uncomfortable, especially when there is a proposal that says we could allow families to grow by returning the money to families and stop penalizing them just for having the durable commitment, the lasting bond that comes when people are married and are now penalized for that in our Tax Code. This would be an opportunity, according to the plan of the Senators from New Mexico and Texas, to alleviate that.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, very briefly, the Senator from Missouri states that there are many studies and documents that indicate that increasing the price of a pack of cigarettes will not have an effect on kids smoking.

Let me refer him to the people who know it best, the absolute ultimate experts on the cost of a pack of cigarettes in America—the tobacco companies. I say to the Senator from Missouri, in the documents revealed by the tobacco companies themselves, a Philip Morris document:

> In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers. . . .

I hope that the Senator from Missouri would read from the documents that the tobacco companies themselves had to disclose because of court order.

Philip Morris: The following quotes are from a Philip Morris 1981 document based on the company's review of research by the National Bureau of Economic Research on the impact of price on tobacco use. Because of the quality of the work, the prestige and objectivity of the National Bureau of Economic Research has not changed in 30 years. I think we need to take seriously their statement that, "If future reductions in youth smoking are desired, an increase in Federal excise tax is a potent policy to accomplish this goal."

> In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the federal excise tax on cigarettes.

Philip Morris, in a quote from a 1987 document: Philip Morris laments the teen smokers that it lost due to price increases.

> You may recall from the article I sent you that Jeffrey Harris of MIT calculated . . . the 1982 and 1983 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. Those teenagers are now 18 to 21 years old, and 35 percent of older smokers smoke a PM brand. This means that 700,000 of those adult quitters have been PM smokers and 420,000 of the nonsmokers would have been PM smokers.

A 1982 RJR document, on the tobacco industry's analysis that price increases have a significant impact on youth smoking: This analysis actually calculates the number of new smokers lost among kids as young as 13 years old, and every other age between 13 and 18, if prices are increased. Philip Morris—the chief financial officer for Philip Morris, less than a year ago, told everyone involved in the tobacco industry negotiations that, "Children are three times more price responsive than adults."

That is the chief financial officer for Philip Morris.

The National Academy of Sciences, in its 1998 report, "Taking Action to Reduce Tobacco Use"—the Institute of Medicine and the National Academy of Sciences concluded that "the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level. . . ."

This list goes on and on. I know the Senator from West Virginia was here a second ago and wants to talk.

The 1994 Surgeon General's report preventing tobacco use among young people—now, the Surgeon General is fairly well respected—reached the conclusion that increases in the real price of cigarettes significantly reduce cigarette smoking, and that the young people are at least as price sensitive as adults.

The 1998 Surgeon General's report issued within the last month agrees with this conclusion.

What is important, though, really, are the tobacco companies themselves. I say if you can believe anybody, maybe you might believe the people who are in the business of enticing kids to smoke.

Brown & Williamson:

> The studies reported on youngsters' motivation for starting, their brand preferences as well as the starting behavior of children as young at five years old. The studies examined younger smokers' attitudes toward addiction, containing multiple references as to how very young smokers first believe they cannot become addicted only to later discover to their regret, that they are.

Brown & Williamson:

> . . . nicotine is addictive. We are then in the business of selling nicotine, an addictive drug, effective in the release of stress mechanism.

RJR consultant:

> Happily for the tobacco industry, nicotine is both habituating and unique in its variety of physiological actions.

I won't go on except to summarize again from the Philip Morris document:

> In any event, for whatever reason, it is clear that price has a pronounced effect on the smoking preference of teenagers.

I imagine there are studies that the Senator from Missouri could produce to which he referred.

The people who are the final experts on this are the people who sold it to the kids. And they know, and we all know, that it is price sensitive as far as kids smoking is concerned. To think otherwise flies in the face of the overwhelming body of evidence, not only in the words of the tobacco companies, but the Surgeon General of the United States of America.

We want to call it a tax, call it a tax. Don't say it isn't going to affect kids smoking, because the overwhelming body of evidence says that it does. Everybody is entitled to their opinion but not everybody is entitled to the facts.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak for 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

HUMAN RIGHTS CONDITIONS IN CHINA AND TIBET

Mr. WELLSTONE. Mr. President, earlier this week, I spoke of a resolution on China that I introduced and that we will offer as an amendment as soon as there is a vehicle to work with, I think probably next week—certainly before the President's visit to China. I wanted to briefly summarize it. Let me just say that I am really pleased to have the support of Senator LUGAR, Senator DURBIN, Senator LEAHY and Senator FEINGOLD, and I think there will be very strong bipartisan support for this, what will be an amendment.

The focus is on human rights conditions in China and Tibet. Let me just say I don't come to the floor in a spirit of bashing our President. Since our President will be the first head of state of our country to visit China since the 1989 crackdown where really students—I see pages here—young people your age were murdered, gave their lives, and for the "crime" of just simply calling for the country to be a democracy, I wish the President would not go to Tiananmen Square. I think that is a mistake. My worry is that regardless of what statements the President makes about human rights in China—and I hope he will make some powerful statements—the symbolism of visiting that very sacred place where students were murdered will overwhelm everything else and will be taken, will be used by the Government or will be interpreted by people in China as reflecting a kind of carte blanche support of the Government. I think that would be a mistake.

Now, I want to refer to the State Department's China country report this past year on human rights and practices. This is not my report. This is our own State Department report.

> The Government continues to commit widespread and well documented human rights abuses in violation of internationally accepted norms stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms.

I think the Assistant Secretary of State, John Shattuck, who has focused on human rights, has really done some magnificent work, and I think this State Department report is extremely important.

What we are going to call on the President to do in our amendment—and we will have a vote on it next week. I think it is terribly important the Senate go on record before the President's visit, because the President is going to visit China. Whether Senators think he should or not, the President is going to visit. I personally think it is not unimportant to be having a discussion with the Government there. I am not opposed to a discussion. But the question is what kind of discussion, what kind of visit, and what does the President say.

At the very minimum, we are going to call upon the President to secure from China's leaders a pledge to remove by a certain date the names on the official reentry black list, which now contains the names of more than 50 Chinese living in the United States who cannot return to China because of their advocacy of democracy and freedom. In other words, there are some people in our country who think the fact that Wei Jingsheng, who was released from prison, is now in our country, exiled in our country is a sign he has his freedom. I doubt any American would feel he or she was free if they were exiled from our country and told, if you come back to the United States, you will be immediately arrested. That hardly represents freedom. So we want to make sure that by a certain date the Chinese Government removes these names on this official reentry blacklist.

Second of all, that the President—and let me emphasize this. I emphasized it this morning—visit family members of the victims of the 1989 massacre, many of whom still suffer from political harassment, discrimination, or persecution.

I will say in this Chamber: Mr. President, if you are going to visit China, I hope you don't go to Tiananmen Square. I hope you will give some forceful speeches on human rights, but at the very minimum you could convey a very powerful message to the world, to people in China, to the Chinese Government, and to these families if you would visit the family members, or some of the family members of victims of the 1989 massacre, many of whom today suffer from political harassment and discrimination and persecution. I think that would be a powerful message. I believe the President should do this.

Third of all, I think the President absolutely has to urge Chinese leaders to engage in a meaningful dialog with the Dalai Lama, with the aim of establishing genuine cultural and religious autonomy in Tibet. In the past year, matters have only gotten worse in Tibet. No one is arguing to the contrary. No one is arguing to the contrary.

The President must call upon China to revise its vague, draconian security laws, including the provisions on "endangering state security," which were added to the criminal code in March of 1997; and release unconditionally all political, religious, and labor activists detained for their peaceful, nonviolent involvement. In other words, it is important to understand, when someone like Wei is released, that releasing some individuals doesn't deal with 2,000 political prisoners that you have in prison. That doesn't deal with all sorts of prisoners in forced labor camps. The President has to call upon the Chinese Government to live up to basic human rights standards—that is where our country should be; that is what we should stand for—and review the sentences of more than 2,000 who have been convicted of so-called counterrevolutionary crimes with a view toward granting full amnesty.

Mr. President, I come to the floor today because it is the anniversary of the massacre at Tiananmen Square, and I think it is really important that we speak up. I think the Chinese Government would like nothing more than for Americans not to speak up. I think the Chinese Government would like for the world to forget what happened. We cannot. But above and beyond that, I do not want this just to be dramatic in the worst way or symbolic. I think what the President can do if he is going to visit China is not go to Tiananmen Square, certainly visit the families of the victims of Tiananmen Square, and certainly give some powerful speeches and statements while in China which call upon the Chinese Government to release people who are in prison for having committed no other crime than to speak out for democracy and freedom; for the President to say to the Government of China—frankly, we should be saying it to governments all over the world that do this—you cannot persecute people because of their religious practice or because of their political viewpoint. We have to be on the side of human rights throughout the world. I really hope that next week, if not tomorrow—the first opportunity I get I will bring this amendment to the floor—we would get very strong support for this amendment.

Mr. President, I see my colleague from Nevada is here, and I will yield the floor.

Mr. BRYAN. Mr. President, first, I would like to thank my colleague from Minnesota for his unfailing courtesy.

Mr. President, I ask unanimous consent that I might speak as if in morning business for a period of time not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair.

(The remarks of Mr. BRYAN pertaining to the submission of S. Res. 243 are located in today's RECORD under

"Submission of Concurrent and Senate Resolutions.")

Mr. BRYAN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, the Senate debate on this landmark youth smoking reduction bill began more than two weeks ago. The time for debate on this legislation is rapidly drawing to a close. Each of us has had ample opportunity to state our views. The Senate should commit to a vote on final passage within a week. We owe it to our children who are being entrapped into a life of addiction and premature death by the tobacco industry every day.

The opponents of this legislation have used every parliamentary tool at their disposal to extend the debate and to divert attention to unrelated issues. They want to talk about every subject but the impact of smoking on the nation's health. However, the real issue cannot be obscured by their verbal smokescreen. It is time for us to move from talking to voting.

Each day that the opponents delay final Senate passage of this bill, 3,000 more children begin to smoke. A third of these children will die prematurely from lung cancer, emphysema, heart disease, or other smoking-caused illnesses.

Each day that we delay, the price of a pack of cigarettes will continue to be affordable to the nation's children, and more and more of them will take up this deadly habit.

Each day that we delay, Big Tobacco will continue to target children with billions of dollars in advertising and promotional giveaways that promise popularity, excitement, and success for young men and women who start smoking.

Each day that we delay, millions of nonsmokers will be exposed to secondhand smoke. According to the Environmental Protection Agency, secondhand smoke causes 3,000 to 5,000 lung cancer deaths each year in the United States—more than all other regulated hazardous air pollutants combined. Secondhand smoke is also responsible for as many as 60 percent of cases of asthma, bronchitis, and wheezing among young children.

Each day that we delay, tobacco will remain virtually the only product manufactured for human consumption that is not subject to Federal health and safety regulations, despite the fact that it causes over 400,000 deaths a year. In fact, Kraft Cheese is more heavily regulated than Marlboro cigarettes, although both are manufactured by Philip Morris.

With so much at stake for so many of our children, it is truly irresponsible for the opponents of this legislation to practice the politics of obstruction. Let the Senate vote.

There are two pending amendments before us today—the Gramm amendment on the marriage penalty and the Durbin-DeWine amendment on the youth smoking reduction lookback. I would like to address each of them in turn.

The pending amendment by the Senator from Texas seeks to divert $52 billion over the next 5 years away from smoking prevention, away from smoking cessation, away from medical research, and away from reimbursing states. He proposes to take 80 percent of all the money raised by the cigarette price increase and use it for unrelated tax cuts. No funds would be left for programs which are essential to reducing youth smoking and to helping current smokers quit.

By offering such an amendment, the Senator from Texas shows his true intent. It is he who wants to convert this legislation from a youth smoking prevention bill into a piggybank for unrelated projects. Although he has complained that the tobacco bill is a piggybank that Democrats are using to fund new programs, in fact it is the Gramm amendment which would hog 80 percent of the money taking resources which are needed to prevent young Americans from beginning to smoke and to help current smokers overcome their addiction. These numbers speak for themselves. This tax cut was not designed to help working families—it was intended to destroy the underlying smoking prevention legislation.

The criticism of the Gramm amendment has been so strong and so widespread that even the sponsor has agreed to reduce the size of the proposed moneygrab. Under his new proposal, he only wants to take one-third of the revenue generated in the first 5 years and one-half of the money in succeeding years. That would amount to approximately $60 billion over a 10-year period. It would still cripple the smoking prevention and cessation efforts which are essential to effectively reducing youth smoking.

All of the money raised by the cigarette price increase contained in the legislation is currently earmarked for smoking related purposes: 22 percent is directed to smoking prevention and cessation, 22 percent is to be used for medical research, 16 percent is for transitional assistance for tobacco farmers, and 40 percent is to compensate states for the cost of medical treatment of smoking related illnesses. There it is, Mr. President.

Which of these smoking related initiatives would the Senator from Texas eliminate? Does he propose to eliminate all compensation to the States for their tobacco related health costs? After all, it was the State lawsuits which provided the genesis for this legislation and which exposed the most dramatic evidence of industry wrongdoing. That would not be fair. Even if every dollar intended for the States was taken to fund the Gramm amendment, it would not be enough to cover the cost.

Does he propose to eliminate all transition assistance for tobacco farmers and communities? It would not even cover one-third of the cost of the Gramm amendment.

All of the remaining dollars are directed to smoking prevention, to smoking cessation, and to medical research. These initiatives are the heart of the legislation. If we are serious about stopping children from smoking and saving lives from tobacco-induced diseases, we have to make these investments. Would the Senator from Texas propose that we take money from these programs and use it to fund an unrelated tax cut instead? How can we in good conscience raise the price of cigarettes and then refuse to fund programs which will address the evils of smoking? These programs work. Let me give you a few examples:

Every dollar invested in a smoking cessation program for a pregnant woman saves $6 in costs for neonatal intensive care and long-term care for low-birthweight babies. The effect of the Gramm amendment would be to reduce funds for these programs, and that makes no sense.

The Gramm amendment would take funds intended to assist states and communities to conduct educational programs on the health dangers of smoking. The tobacco industry spends $5 billion a year—$5 billion—on advertising to encourage young people to smoke. Shouldn't we spend at least one tenth of that amount to counteract the industry's lethal message?

Counteradvertising is a key element of an effective tobacco control strategy. We know that if children are easily swayed by the tobacco industry's marketing campaigns, which promise popularity, excitement, and success for those who take up smoking, we can reverse the damage by deglamorizing the use of tobacco among children with counteradvertising.

Both Massachusetts and California have demonstrated that paid counteradvertising can cut smoking rates. It helped reduce cigarette use in Massachusetts by 17 percent between 1992 and 1996, or three times the national average. Smoking by junior high students dropped 8 percent, while the rest of the nation has seen an increase. In California, a counteradvertising campaign also reduced smoking rates by 15 percent over the last 3 years.

The Gramm amendment also would take money from law enforcement efforts to prevent the sale of tobacco products to minors, even though young people currently spend $1 billion a year to buy tobacco products illegally.

The Gramm amendment will diminish funding for medical research on tobacco-related diseases, which kill 400,000 Americans each year and incapacitates millions more. Given the damage that smoking inflicts on the nation's public health, it make little sense to divert tobacco revenues to tax cuts when they could be directed to finding a cure for cancer and other tobacco-induced illnesses. Since tobacco induced disease costs America $130 billion per year, it certainly is not cost effective to reduce research spending.

In essence, the Gramm amendment would destroy much of the public health benefit this legislation is designed to achieve. It would be a tragic mistake.

The goal of eliminating the marriage penalty for low and moderate income families is a worthy one. It is shared on both sides of the aisle. However, it must be accomplished in a way that does not imperil our primary goal—preventing youth smoking and helping smokers overcome their addiction.

I anticipate that an alternative amendment will be offered which will provide relief from the marriage penalty without imperiling our smoking prevention efforts. It will cost far less than the Gramm amendment, and it will do a much better job of targeting tax relief to those most in need.

That is the difference between preserving a viable youth smoking reduction effort and destroying it. That is the difference between helping millions of smokers quit and leaving them at the mercy of their addiction. That is the difference between advancing medical research that can cure tobacco induced diseases and indefinitely delaying it.

The second issue I want to address is the Durbin-DeWine look-back amendment. It will assess increased sums for noncompliance with the youth smoking reduction targets. In addition, the emphasis will be shifted from industrywide assessments to company-by-company assessments, in order to more effectively deter individual tobacco companies from marketing their products to children.

Big Tobacco knows how to hook children into a lifetime of nicotine addiction and smoking-related illnesses—whether appealing through characters like Joe Camel and the Marlboro Man, through the prominent placement of tobacco advertising, or through a strategic cut in cigarette prices. And Big Tobacco also knows how to stop appealing to children.

The purpose of the look-back is to give tobacco companies an overwhelming financial incentive to turn their focus away from the youth market. Our goal is to influence every business decision by taking the profit away from addicting teenagers.

The Durbin-DeWine amendment will accomplish that goal much more effectively than the current look-back provisions in the manager's amendment. It will substantially increase the total amount of the surcharges which companies must pay if youth smoking levels do not decline in accordance with the reduction targets. It also shifts the payment obligations from a predominately industrywide system to a predominately company-specific system. This will dramatically increase the deterrent influence of the look-back on company policy.

The current McCain provision provides for a maximum industrywide penalty of $4 billion, or about 20 cents a pack. The company-specific portion is extremely small, amounting to only a few pennies per pack. The Durbin-DeWine amendment provides for substantial company-specific penalties, which in the aggregate could reach $5 billion per year if companies continue to flaunt the law and blatantly target children. The amendment also provides for an industrywide surcharge of up to $2 billion a year.

Through this important amendment we are speaking to the tobacco companies in the only language they understand—money. If they continue to target children, these companies will pay a financial price far in excess of the profits raised from addicting children.

But if they are willing to cooperate in efforts to prevent teenage smoking, the companies may never have to pay a dollar of look-back surcharges. A strong, company-specific look-back, such as the one we are proposing, will give the tobacco companies a powerful financial incentive to use their skill in market manipulation to further, rather than undermine, the public interest in reducing youth smoking.

Each tobacco company must be held accountable for its actions on teenage smoking. The stakes involved are nothing less than the health of the Nation's children. For each percentage point that the tobacco industry misses the target, 55,000 children will begin to smoke. One-third of these children will die prematurely from smoking-induced diseases.

This bipartisan amendment deserves the support of the full Senate, and I urge my colleagues to adopt it.

These two issues—the marriage penalty and the look-back—should be resolved quickly. Once they are decided, there is little excuse for further delay. The remaining amendments can be considered in a few days if we move conscientiously forward. There is no valid reason why the Senate cannot vote on final passage by the middle of next week. If we do not, the American people will know why. A small group of willful defenders of the tobacco industry will have succeeded in obstructing the work of the Senate on this vital issue of public health. On an issue of this importance, which is literally a matter of life and death, our constituents will not tolerate such obstruction. Now is the time for the Senate to act.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business for up to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to proceed as in morning business.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2133 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. DOMENICI. Mr. President, I want to just take a couple minutes to express my respects for Senator Barry Goldwater. I was unable to attend the services yesterday with Senators. I was just getting over a very bad chest cold, and I decided that I would try to recoup a little here. I wish I could have been there.

Senator Goldwater was obviously an unflinching patriot whose life, in many ways, mirrored the American experience. He was rugged, independent, and unarguably his own man.

I am deeply saddened by his passing. When I first arrived as a freshman Senator, Senator Goldwater offered me encouragement, and when I became budget chairman, provided inspiration when I first tackled the tough budget issues we faced in the early 1980s.

He was a dedicated American and Senator, always willing to fight the tough battles. I was better for his fine support and his wise counsel.

"Barry Goldwater cared deeply about America. He believed that our Nation must always remain strong and that Government should stay off the backs of our people and not stifle their innovative spirit. As an American, he never shied away from honestly stating his beliefs; and as a politician, he led by example, not by polls.

He will be greatly missed. And Nancy and I send our sympathies and prayers to his family.

U.S. Senator Barry Morris Goldwater, born in Phoenix, AZ., Jan. 1, 1909, was elected to the Senate from Arizona in 1952, and later was defeated in his bid for the Presidency in 1964 by Lyndon Johnson. Senator Goldwater served in the Senate until retirement in 1987.

I served with Senator Goldwater. He took me under his wing when I first arrived in the Senate, and he was a good counsel.

The first year I was the chairman of the Budget Committee was 1981.

After the Senate finished the budget bill Senator Goldwater sent me a letter that I would like to have printed in the RECORD.

He would dictate these notes himself and they sound just like him.

He was an inspiration to us all and a very, very fine man. He will be missed.

Mr. President, I ask unanimous consent that a letter that I cherish from Senator Goldwater after my first appearance on the floor managing the budget bill be printed in the RECORD.

In his own manner, he would go back to the office frequently and dictate a brief letter. This is one of those, which he gave to me in 1981, as I started down this long process trying to balance the U.S. budget. He gave me a little encouragement and enthusiasm. I thought it might be good to just show what kind of person he was to younger Senators like myself back in 1981, along with all the things I wanted to say.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 3, 1981.

Hon. PETE DOMENICI,
U.S. Senate,
Washington, DC.

DEAR PETE: When your class came into the Senate something inside of me said, this could be the best that every came along since you've been here. As I watched all of you develop through the years, nothing has happened to change that original opinion.

Your handling of the budget bill was done in a superb manner, probably as well done as any I have ever listened to and that includes some real old pros. You did a wonderful job with it Pete. I am proud of you and I am going to watch your future with a great deal of interest. You are going to go a long way.

With pride and best wishes,
BARRY GOLDWATER.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with consideration of the bill.

Mr. DOMENICI. Mr. President, I don't know where the bill before the Senate goes next, but obviously I have joined with Senator GRAMM in trying to make a statement about this bill. In the process of trying to do that, there are many ways to make statements and there are many ways to talk about what is in a bill, what is out of it, what is not in the bill, to argue about what its value is, what its ultimate goal is, and what it might achieve.

There is another way, and that is to offer an amendment or amendments. There are a lot of amendments pending. As I indicated, I don't know how many of them are serious. I have five or six myself that I think are serious that in due course I will offer. I would like to discuss, from the standpoint of those who are wondering about the Gramm-Domenici amendment to cut taxes on a very deserving group of Americans, what it is all about.

When you raise taxes on anybody in the United States, you have to ask yourself a very fundamental question of what you ought to do with the taxes you raise. Now, if America were undertaxed and we were taxing Americans—be it a cigarette tax that at $1.10 a pack would yield over time $750 to $800 billion, or whether it is an income tax or sales tax—you have to ask yourself, if America is being taxed too much already, shouldn't something very high on the list of considerations for what to do with the increased revenue be a consideration of lowering the taxes on Americans?

Obviously, there have been some arguments already, and there will be more about the amendment which we offered which, hopefully, will be modified, that says let's give back some of the taxes we pick up here to Americans who are suffering the penalty of a Tax Code that punishes people for being married and earning a living by both spouses working. For they, in most cases, pay more in taxes than if they both had the identical jobs, at the same annual earnings, and were not married and filing separate returns—one of the most onerous, ill-conceived uses of the Tax Code.

How in the world can we run around, as policymakers, and say we favor the family and then add a burden of taxation to spouses, who are part of a family, by taxing them more because they are married and working than if they were single and working? That has to be an absolutely absurd policy in light of the problems we have in this country that are family oriented, and many of them have to do with income of families.

Secondly, it is obvious that every cent of a cigarette tax that we all of a sudden came up with and has been debated on the floor as a tax that should be $1.10, maybe $1.50, maybe 75 cents, and then for somebody to come to the floor and assume that whatever the level is, every penny of it ought to be spent for new programs—now, that isn't the way it is said; it is said, new programs to do some great things.

Well, I think everything the Government tries to do and spends money on ought to be things we really believe are important things, important aspects, important events, important projects. Now we are reinventing a bunch of new ones, and then we are saying to the States: You spend your money in very specific ways.

I don't care who agreed to the ways that we are going to send this money back to the States to be spent, it seems to me the question has to be asked first, How much is needed to direct a program that has a probability of success in terms of making our young people alter their smoking habits and quit smoking? And nobody can say that you need a huge portion of this tax bill to run advertisements on that, to have programs in our schools or wherever to try to inhibit that. That can't come close to spending the amount of money that is in this bill.

Mr. KERRY. Will the Senator yield?

Mr. DOMENICI. Mr. President, this is my first speech in a couple of days. I am sorry. I will yield soon. In fact, I will yield the floor.

Mr. President, the point is that nobody can stand up on this floor and say we knew when we started talking about cigarette taxes and how much it would yield precisely how much ought to be spent for some American programs that would help alleviate the smoking problem, or even research more into the cause of cancer and try to cure it. Nobody knows what is the right number, but everybody knows that as much money as this bill will raise is not needed for that.

Anybody in their right mind would look at how much is coming in and how much you need to do precisely the kind of things that people say this bill ought to do, and it is not close to the amount of money that is coming in. So that leads you to a conclusion, in my humble opinion, that you ought to give some of this money back to the taxpayers of the country.

I cannot believe we are so unconcerned about the taxpayers of this country that we would sort of block off this $700 billion in new revenues—if that is what it is over 25 years—and say, look, the American people and their tax-paying requirements have nothing to do with this new tax imposed on them. Why not? Why do we say that? We are adding to the tax "take," and we give no benefit to the American people for these new taxes we are going to raise.

Back to my argument. One way to try to send a message and distinguish between various approaches, which I choose to call tax and spend it all, or another group who would say tax and give some of it back to the American people who already feel, in many instances—and they are right—that they are paying too much in taxes.

Now, that is why the Gramm-Domenici amendment is important. I have already stated its precise purpose is to try to ameliorate the negative tax treatment on married couples, both of whom work, from a Tax Code which penalizes that versus the same two people making the same amount of money, but not married, and are part of a family—they pay less.

So the purpose is good, but the message is completely different. The message is, when you have this much new revenue, shouldn't you give some of it back to the taxpayers of America? Nobody is going to be able to come to this floor, with our ability to proliferate in producing charts, and tell the American people with any credibility that every single dollar coming in on this tax has a nice precise niche that it should be spent for, all of which is aimed at helping to try to get kids to stop smoking cigarettes. Or I am willing to add one—doing research and trying to prevent the diseases that come from smoking. Take the two together and you could not produce a credible chart showing how every penny in this bill must be spent for that or you are not doing your job.

So I believe that, sooner or later, we deserve an opportunity to have an up-or-down vote on the proposition that I have just described here today. It is very simple. One, do you think you should change the Tax Code as it pertains to the marriage tax penalty and help families and married couples out who are being penalized because of this Tax Code? And, two, do you think that, with this large new tax being imposed, you ought to give about a third of it back to the taxpayers of this country? We want the public to just focus, very simply, on those two issues.

This bill will permit us to do both. I have no doubt, Mr. President, that what is left over is more than adequate. In fact, I am not sure I would vote to spend all of the money that is left over for the program described in this bill. Nonetheless, that is not at issue with reference to the Gramm-Domenici amendment.

The issue is a simple proposition: Do you think the marriage tax penalty ought to be fixed? Secondly, do you think when you have this huge new tax increase, you ought to give some of it back to the American people? We want to vote on that. That is a way of distinguishing between the feelings of various Senators about a new tax bill that is essentially, in its current form, tax and spend versus another approach that says tax—which may be helpful, we are not sure—and give some of it back to the American people. Under that is the very interesting proposition that there probably is no fairer thing to do with better, positive American policy than to fix the marriage tax penalty while you are at it.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am interested to hear these comments by Senator DOMENICI. Just a short time ago—a month ago—Senator COVERDELL proposed an amendment on the budget resolution that would have repealed the marriage penalty or marriage tax, and a budget point of order was lodged against it. The Senator from New Mexico, apparently, for reasons that are not clear, voted against waiving the Budget Act. Now the Senator from New Mexico will say that he didn't want to waive the Budget Act. The fact is that if the Budget Act had been waived, the marriage penalty would have been repealed.

Mr. DOMENICI. Will the Senator yield?

Mr. McCAIN. No. That is a fact. That is what the vote was on the budget resolution. It was not carried by a vote. It was rejected 38–62; 38 Republicans felt strongly that the marriage tax should be repealed. Those who voted against it were Senators BOND, CHAFEE, COATS, COCHRAN, COLLINS, D'AMATO, DEWINE, DOMENICI, GORTON, GRASSLEY, HAGEL, JEFFORDS, LUGAR, MACK, SNOWE, SPECTER, and STEVENS.

Mr. President, I have a letter sent to Senator LOTT and Senator DASCHLE. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> DEAR SENATORS LOTT AND DASCHLE: As the Senate continues to consider tobacco legislation, the nation's Governors want to make clear that we will oppose any amendments that would effectively reduce the $196.5 billion in tobacco settlement funds dedicated to states and territories to settle state lawsuits. Naturally, the federal government is free to prioritize how it will use those tobacco revenues generated by S. 1415 not reserved for the states and territories—a total that will exceed $300 billion over twenty-five years. These federally prioritized uses of tobacco revenues, however, must not cut into the state settlement pool.
>
> If national tobacco legislation is intended to settle the state and territories' lawsuits against the tobacco industry, they must receive a portion of the new tobacco revenues sufficient to resolve their claims. S. 1415 dedicates $196.5 billion to the states and territories over twenty-five years, a total consistent with the level negotiated by the state attorneys general with the tobacco industry in the original June 20, 1997, agreement. Preserving this state settlement pool, free from federal recoupment efforts, is one of the Governors' highest priorities related to S. 1415.
>
> Reducing the size of the state tobacco settlement pool will significantly jeopardize all states and territories, including those that have individually settled their own lawsuits. Such a decision would force the Governors to reconsider our position on the state financing section of the overall bill.
>
> Sincerely,
>
> Governor George V. Voinovich, State of Ohio; Governor Roy Romer, State of Colorado; Governor Thomas R. Carper, State of Delaware; Governor Lawton Chiles, State of Florida; Governor Bob Miller, State of Nevada; Governor Michael O. Leavitt, State of Utah; Governor Howard Dean, M.D., State of Vermont; Governor Jim Edgar, State of Illinois; Governor Frank O'Bannon, State of Indiana; Governor Terry E. Branstad, State of Iowa; Governor John Egler, State of Michigan; Governor Mel Carnahan, State of Missouri; Governor Jeanne Shaheen, State of New Hampshire; Governor David M. Beasley, State of South Carolina; Governor Tommy G. Thompson, State of Wisconsin; Governor Benjamin J. Cayetano, State of Hawaii; Governor James B. Hunt, Jr., State of North Carolina; Governor Edward T. Schafer, State of North Dakota; Governor John A. Kitzhsber, State of Oregon; Governor Pedro Rossello, Puerto Rico; Governor Don Sundquist, State of Tennessee; Governor Gary Locke, State of Washington; Governor Christine T. Whitman, State of New Jersey; Governor Cecil H. Underwood, State of West Virginia; Governor John G. Rowland, State of Connecticut; Governor E. Benjamin Nelson, State of Nebraska; Governor Mike Huckabee, State of Arkansas; Governor Gary E. Johnson, State of New Mexico; Governor Zell Miller, State of Georgia; Governor Tom Ridge, State of Pennsylvania; Governor Pete Wilson, State of California; Governor Parris N. Glendening, State of Maryland; Governor Marc Racicot, State of Montana; Governor Jim Geringer, State of Wyoming; Governor Lincoln Almond, State of Rhode Island; and Governor Angus S. King, Jr., State of Maine.

Mr. McCAIN. Mr. President, the Senator from New Mexico clearly feels that the money needs to go to the Federal Government. I feel, and I think conservative Republicans feel, it should go back to the States who incurred the expenses. If the Senator from New Mexico doesn't want the money to go to the States, then he will continue to see two things happen—the money never coming to the Federal Government because the States will continue their lawsuits and the settlements—at least in the last four States—of as much as $6.5 billion, as in the case of Minnesota; and none of that money will go to the Federal Government. Not a penny. The fact is that the money will go back to the States to repay the huge tax bill they are paying now; $50 billion in citizens' tax dollars are going to pay, in the case of Medicare and Medicaid expenses, for tobacco-related illnesses.

Now, there are some who want this to come to the Federal Government so that the appropriators and the Budget Committee can assign the funds to wherever they want. I want a significant amount of that money to go to the States. They are the ones who have been paying a big part of the bill. If the Senator from New Mexico and the Senator from Texas want to kill this bill, then there will be 37 States that go to court, beginning the day after this legislation dies, and they will fight this out in court. They seem to win every time. They don't even go to a jury trial, Mr. President.

The tobacco companies settle, and guess what they do? They agree to smoking cessation programs and they agree to all the huge bureaucracies that have been pointed out. They go to reimburse Medicaid expenses. They pay for antitobacco advertising because the States that get the money believe that in order to stop kids from smoking, you don't just raise a tax—although that is important. You don't just raise revenue, but you have to do other things as well.

So I hope my colleagues will pay attention to the letter from the 36 Governors—I am sure the other 14 will be joining—as to how they feel about legislation that doesn't repay them for the expenses that they incurred as a result of tobacco-related illnesses.

I see that my colleague from Massachusetts wants to speak as well. Let's dispense with this myth about this being a "big tax bill." What it is is a much smaller tax bill than the tax bill that the American people are already paying in the form of Medicare and Medicaid expenses in order to pay for tobacco-related illnesses. And with children smoking going up, guess what, Mr. President? That tax bill goes up. It will get bigger and bigger. So if you want to worry about big tax bills, there is a huge tax bill we are paying right now. We will be paying a much larger tax bill if this trend of kids smoking continues to grow.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I will be very brief. I know the Senator from Oklahoma wants to speak momentarily. How long does he think he will go?

Mr. NICKLES. I was going to speak for a few minutes. I feel that I would like to respond to a couple of comments made by the Senator from Arizona.

Mr. KERRY. Mr. President, I will be brief. I wanted to say for the record, so that the record is absolutely clear here, the Senator from New Mexico said that we are going to get a vote and we ought to be able to get a vote in order to properly allow the American people to receive back some of the money that is in this bill that he has charged is somehow being very badly spent.

I think it is important to understand that, No. 1, the division of the money, the revenues, that come in from this bill, was not arrived at in some sort of hasty or unthought-out way. It is not representative of a casual wish list. This is a reflection of what the Governors and the settlements originally arrived at as a notion of those concerns that ought to be addressed through any tobacco legislation.

Second, they are a reflection of the Commerce Committee that voted 19 to 1 to send this legislation to the floor with a framework that articulated the broad outlines of how money would be spent and, finally, through a fairly arduous negotiation process which measured very carefully the needs.

The Senator said he would challenge anybody to come to the floor and suggest they could defend that every penny in here is being spent as wisely as possible. That is not a hard challenge to fail on. I am not going to try to do that, nor would anybody.

Can we find some money here appropriately to try to address the question of the tax cut? We said yes. That is not the debate here. This is not the choice that he presented to the Senate, a choice either between those who want to give something back to people who want to pay a marriage penalty and those who do not. That is not the choice; it is a choice between two different approaches to doing that. We believe that we have the right to have an opportunity to have ours also voted on, that they ought to be voted on at the same time. That is what the division is over here.

I think it is important to reflect on the fact that 40 percent of these funds go back to the States in the most direct way, a reflection, I think, of the need of the Governors to be given the opportunity to make decisions about how they can best deliver back their portion of the Medicaid expenses, which is what we are refunding.

In addition to that, money is not just spent in a supercilious way, the way the Senator suggested on a whole lot of Government programs that do not already have a track record of accomplishment. Public health, NIH—I might say it was the Senator from Florida, Senator MACK, a Republican, together with Senator FRIST, who fought very hard for the notion that there ought to be adequate research funds here. NIH and research are 22 percent of these funds.

In addition to that, farmers—I think both sides are competing over how to better take care of the farmers. That reflects some 16 percent of the expenditures, leaving you with only 22 percent that goes to public health—22 percent—that is then divided among counteradvertising, cessation programs, and other kinds of efforts to try to reduce teenage smoking.

The Senator from Missouri was on the floor a little earlier, and he was trying to suggest that there are alternative studies and the Canadian experience that somehow suggests an outcome different from what we get by raising the price here.

I simply say for the record—very quickly, because I don't want to tie the Senate up now—that I know we want to have a vote, that the methodology of the Cornell study that he referred to was very specifically found flawed, and it was found flawed both in the number of people that they examined and the manner that they examined them. When that flaw was corrected for the appropriate acknowledgment of that flaw, in fact, the Cornell study came out consistent with almost all other studies with respect to the impact of price on smoking.

It is interesting to me that those who want to come to the floor and criticize the relationship of price to discouraging kids from smoking completely choose to ignore all of the memoranda of the tobacco companies themselves, that for 20 years have said they know they lose smokers when the price goes up. Their own memoranda say it. You can't have it both ways, it seems to me. The fact is, there is a correlation.

On the Canadian experience, the Canadians specifically, as they saw an increase in their price, there was a decrease in the amount of smoking, and there was an equilibration ultimately between their prices and ours.

The Canadian experience, in fact, documents that the pattern of youth smoking in Canada confirmed the sensitivity of youth to price changes. In 1981, Canada had a youth smoking rate that was about 50 percent higher than that in the United States. Over the next decade, they raised their prices by over 100 percent and teen smoking fell by almost one-half.

Mr. President, we need to deal with the facts here. I hope that the Senate will do so as we vote over the course of the next days.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 2438

Mr. LOTT. Mr. President, in an effort to move things forward, I move to table the Durbin amendment No. 2438, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Utah (Mr. HATCH) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The result was announced—yeas 29, nays 66, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—29

Allard
Breaux
Bumpers
Burns
Campbell
Coats
Cochran
Enzi
Faircloth
Ford
Frist
Gorton
Hagel
Helms
Hollings
Kyl
Lugar
Mack
McCain
McConnell
Nickles
Robb
Roth
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—66

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Brownback
Bryan
Byrd
Chafee
Cleland
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith (OR)
Snowe
Torricelli
Wellstone
Wyden

ANSWERED "PRESENT"—1

Lott

NOT VOTING—4

Biden
Hatch
Inouye
Specter

The motion to lay on the table the amendment (No. 2438) was rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, since the last amendment was not tabled, I ask unanimous consent that the yeas and nays be vitiated; that the amendment be agreed to; and that the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2438) was agreed to.

AMENDMENT NO. 2451 TO AMENDMENT NO. 2437

(Purpose: To stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs)

Mr. LOTT. Mr. President, I now send an amendment to the desk in the second degree, which is the so-called Coverdell-Craig drug amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. COVERDELL, for himself, Mr. CRAIG, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. INHOFE, Mr. SESSIONS, and Mr. GRASSLEY, proposes an amendment numbered 2451 to amendment No. 2437.

Mr. LOTT. I ask unanimous consent that reading of the amendment be dispensed with.

Mr. DASCHLE. Reserving the right to object, I only do so to note to my colleagues that this is the third Republican amendment now in a row. And I am hopeful we can continue to alternate back and forth, but I will not object.

Mr. LOTT. I thought we just voted on the Durbin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LOTT. Was there objection?

The PRESIDING OFFICER. There was no objection.

Mr. LOTT. For the information of all Senators, pending now is the drug amendment. I hope Senators will begin to debate this very important amendment. I know that there are very strong feelings on this amendment also. However, no further votes will occur tonight. I expect the debate on the amendment to continue through tomorrow's session.

The minority leader filed a cloture motion on the committee amendment earlier today. That cloture vote will occur on Tuesday, at a time to be determined after discussion between the two of us and after consultation with others in terms of schedule. So there will be no votes in Friday's session of the Senate.

However, Senator DASCHLE and I are looking at bills that are relatively noncontroversial or noncontroversial that we may be able to take up tomorrow during the day. And the vote would be scheduled in the group on Tuesday morning when we vote, at a time we will notify the Members later on on Tuesday.

Now, again, I hope we can reach agreement tomorrow to provide for a vote on this amendment, hopefully prior to the cloture vote; but all Senators will be notified about the voting schedule. I urge the Senators who have been working on the marriage penalty tax to continue to work to get an agreement on that amendment so that we can have a vote on it. We will try to see if we can reach agreement perhaps to consider another bill on Monday. But we will continue on amendments to the tobacco bill beginning after the cloture vote is defeated on Tuesday morning.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senate is not in order.

Mr. DASCHLE. Does the majority leader yield?

Mr. LOTT. I will be glad to yield, Mr. President.

Mr. DASCHLE. The majority leader noted that tentatively the vote, the cloture vote, is scheduled for Tuesday. There are only two ways that could occur. One would be for us to seek unanimous consent for the vote to be postponed until Tuesday; or, secondly, that we are not in session on Monday, which would then make Tuesday the next business day when the cloture vote would ripen.

I am hopeful that the majority leader and I can find a way with which to resolve the schedule that will accommodate both sides. So I hope that perhaps we might tentatively announce that the vote will be held on Tuesday, but certainly if we are in session, I am not prepared at this point to agree to a unanimous consent request that would move it to Tuesday until we have been able to talk through the balance of the schedule.

Mr. LOTT. Mr. President, if I could respond. I thought that Senator DASCHLE and I had talked about it and had an agreement that we would do it on Tuesday morning. I realize we have to get consent to do that. The alternative is, as he said, that we not be in session on Monday, which is, I guess, a possibility, but it is pretty hard to complain about not making progress when we are not in session working on something.

The other alternative is to come in at an early hour; and approximately an hour after that time, the vote occurs then, which means that the vote could be at 1 o'clock, 2 o'clock, Monday afternoon, which, for Senators coming from California and Utah and Washington State, that presents a real problem because their planes do not get here until about 4:30.

So I was hoping we could take that time Monday to make some progress on some other issue or have debate on this issue and have the vote that everybody will be here for at 9:30. But it would be fine with me that we have it earlier in the afternoon. But I just assume that both sides will have problems with that. We will talk about it further, and we will hotline the Members on exactly what time they can expect that cloture vote to occur.

Mr. ROCKEFELLER. Would the majority leader yield?

Mr. LOTT. I would be glad to.

Mr. ROCKEFELLER. I would ask the majority leader if he intends to bring up the highway corrections bill, because if he does, I have an amendment I would like to offer. It is a very simple amendment, very direct amendment. And I cannot do that unless it is brought up.

Mr. LOTT. We would not bring it up without Members being on notice who have an interest in it. That technical corrections bill does need to be done. I believe it is supported on both sides of the aisle and by the administration. We need to get that done, and we would need to do it by unanimous consent. But if the Senator has reservations, he will be notified about it. But we will get it done, and we would want to do it without a modification.

Mr. ROCKEFELLER. May I say to the majority leader, I also am very anxious to get it done, but in the spirit of being able to offer amendments. And unless I am able to offer an amendment, I would have to object to——

Mr. LOTT. I say to the Senator, it is important we get these technical corrections done, because some legitimate, honest mistakes were made and several important projects could be affected. And we need to do it as soon as we can. But unless we can get unanimous consent, it will not be done. It has already passed the House. So we will have to find a way—I am working with Senators on our side, too, as I know Senators are working over there, to clear up concerns.

There are other ways to address those concerns. And we are trying to get that worked out. We need to get it done. We need to do it by unanimous consent. And I, in fact, have met with one Senator this afternoon and discussed how to address a legitimate concern he has. So we will work with the chairman.

Did the chairman want to respond to this at all?

Mr. CHAFEE. No. What I have been trying to do is narrow down the problems that have come up. And I had down on the list to see the distinguished Senator from West Virginia. As you said, we want to get this thing done. I think we can get it done and take care of problems by explaining them or getting to them in some fashion. So I look forward to meeting with the Senator from West Virginia.

Mr. LOTT. Mr. President, I now yield the floor so the manager of the bill can speak.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, just briefly, I would like to congratulate the Senator from Illinois on the significant vote. In fact, a number of Senators experienced an epiphany late in the vote because of his persuasive powers. So I congratulate the Senator on his vote.

I just want to make it clear, Mr. President, we intend to move forward. We will have a vote on the Gramm amendment. We may have a Daschle amendment. I happen to think it is fair that we go back to what we originally started doing—one amendment on either side. I think that is the fair way that most legislation has been conducted on the floor since I have been here.

We intend to move forward. We intend to reach a conclusion. I hope that both the majority leader and Democratic leader will consider trying to bring this to closure next week. We have had now 2 weeks of extensive debate and amending on the issues.

It seems to me outstanding are the tax issues that Senator GRAMM and Senator DASCHLE may have; the issue of attorneys' fees is going to come back up, I believe; and, of course, then there is the agricultural issue outstanding. But aside from that, Mr. President, I do not think there is a lot of new ground to be plowed. I think we need to move forward. I believe we will move forward. And I am still confident—I am still confident—that we will bring this issue to conclusion sooner rather than later, to coin a phrase.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise to speak on the amendment before us, the amendment that has been offered by myself, Senator CRAIG from Idaho, and Senator ABRAHAM from Michigan.

I will take just a few minutes to frame in general terms the purpose of this amendment. And then my colleague from Idaho will address the amendment and outline its details.

My good friend from Idaho will not be here tomorrow so he will be making a major presentation this evening, and then tomorrow I will return to elaborate further on the amendment.

Let me first try to put it in focus. We are talking about teenage addiction, and have been for the last several months, specifically on the floor, over 2 weeks. I have been struck by the fact that a major piece of legislation would be brought to the floor of the Senate, proposed by the administration, to deal with teenage problems, and addiction specifically, and be totally silent on the issue of drug addiction.

The majority of drug abuse among teenagers—the majority—is by smoking, smoking marijuana, which is a more lethal and damaging drug than tobacco. Yet, this legislation was silent on the issue.

The amendment is designed to end the silence. Teenage drug abuse is the No. 1 teenage problem—No. 1 by any measurement, teenagers, their parents, or empirical evidence. For us to have dealt with this issue and to have remained silent would have been unconscionable.

If I can for a second outline the scope of the problem. In 1979, 14.1 percent, or 3.3 million teenagers age 12 to 17 were involved with consistent drug abuse.

Mr. DURBIN. Will the Senator yield?

Mr. COVERDELL. I yield.

Mr. DURBIN. I ask the Senator for a clarification on his amendment, which I had a chance to read.

The Senator was kind enough to support my amendment to vote against the motion to table and yet there is language in his amendment which suggests that my amendment is made null and void by your new amendment.

Is that the Senator's intention?

Mr. COVERDELL. No, it is not.

Mr. DURBIN. I am happy to clarify that. So the Senator still supports my amendment.

Mr. COVERDELL. That is not my intention, to obviate.

Mr. DURBIN. It is not your intention.

I thank the Senator for yielding.

Mr. COVERDELL. Let me continue, for the Nation to step forward with the powerful will to drive down teenage drug abuse by two-thirds—two-thirds—for those people who think this is a problem for which nothing can be done, I remind everyone listening that when the Nation decides to commit itself to resolving this drug epidemic, it can make headway. For example, in 1979, 14.1 percent were using it. By 1992, it had been driven down to 5.3 percent—2 million less youngsters were using drugs. But then something went wrong, something has gone badly wrong.

Since 1992, drug abuse by this same class of teenagers has increased 135 percent. I repeat, 135 percent. What does that mean? That means that drug abuse has more than doubled since 1992. Drug abuse is now affecting 2 million teenagers. It has increased by over a million. This is a devastating indictment on contemporary drug policy in the United States.

The Nation's will must be rejuvenated. This amendment will do that. When this administration took office, we quit talking and hearing about drugs. The drug czar's office was collapsed. Gratefully, it has now been reopened. It was collapsed. The Coast Guard was diminished. Interdiction was cut in half. The country was flooded by drugs. The price of these illicit drugs dropped by 50 to 80 percent, so they became accessible at every corner and to any school in the Nation. If you don't believe that, just go to the school and ask the students. They can tell you the designer names of the drugs. They can tell you exactly how long it takes, and it is usually no longer than 30 minutes.

So we should not be shocked that drug abuse is skyrocketing and is a new epidemic among teenagers. It is even made more sad by the fact that in the 1960's and the 1970's, the last drug epidemic we suffered, higher-aged teenagers, 15 to 20, were involved in the drug crisis. Now the target is age 8 to 14.

We have been asking the President repeatedly to set forth the goals of his administration during his administration to arrest this epidemic. The response is that they will lower drug use among teenagers back to the level at which they took office, 10 years from now, in the year 2007, 2½ Presidencies away. Our goal is to get it back to where it was when they took office. This is unacceptable. We cannot wait 10 years.

So this amendment is a bold interdiction. It focuses on interdiction. It improves the antinarcotic struggle by Customs, by DOD, Department of Defense, by DEA, by the FBI, by the Coast Guard. It dramatically increases the funding of the interdiction budget.

It stiffens penalties and it creates a communication program to communicate to parents and students about the dangers of the drug epidemic in which they live today.

It is our intention, myself and my coauthors, that whatever passes the Senate, will have an antidrug component. It will not be silent on the Nation's No. 1 problem for teenagers. That is unacceptable. It will be an expression to reignite the Nation around the will to confront this epidemic and these narcotic mafia who are the most serious and dangerous the Nation has ever—I repeat, ever—confronted.

I applaud the efforts of my colleagues who have joined me in this effort. We are going to have a vigorous debate about it.

I yield the floor at this time in deference to others who wish to speak.

Mr. ABRAHAM. Mr. President, I will be brief tonight. I will speak at greater length about this amendment tomorrow. I want to thank my colleagues. I am pleased to join Senators COVERDELL and CRAIG on this amendment.

Tomorrow I will be citing some statistics, Mr. President, that reveal the extent to which the young people of this country confront an ever increasing and alarming rate of drug usage.

We obviously are attempting, in the context of this tobacco bill, to address one of the problems and challenges facing young people, but I think as I talk to at least the families in my State, as high as any challenge or problem that they see confronting their kids, particularly children starting as early as seventh and eighth grade, is the illicit use of drugs, and, unfortunately, the growing number of individuals who are making those drugs available to our young people.

Our amendment is designed to begin the process of addressing that in a far more aggressive fashion than has been the case during the recent 4, 5, 6 years. We have seen, as I think most of the Members of this Chamber know, that during the last 5 years, the use of drugs among young people has gone up after a lengthy period of decline. And it is important, I think, as we confront the issue of tobacco, that we likewise confront the issue of drugs.

I join both of my colleagues in saying that I fervently believe no legislation should leave this Chamber absent provisions that are strong and tough antidrug provisions. So I thank my colleagues and I will speak more about it tomorrow. I am glad it is now before the Senate so that we can proceed on this amendment.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I am pleased that the time has come for the Senate to begin debate on a portion of the legislation before us that I think, if accepted by this body, will be the most significant thing that we can possibly do.

Mr. President, even before the bill before us was brought to the floor of the Senate, the question of tobacco has been, for many months, one of the major issues of public debate, if not the major issue in some quarters.

The Clinton administration, in particular, has crusaded for legislation supposedly aimed at preventing America's teens from taking up a deadly habit, arguing that the need for this legislation is so strong that questions of cost and constitutionality, or the ordering of social priorities, are left by the wayside. Even raising such questions is to invite the accusation of being a tool of the big tobacco companies. How dare you stand in the way of this legislation.

Not long ago, Mr. President, I was in Idaho speaking to a group of high school students. This was just as the tobacco issue was starting to break out at the top of most news stories. I asked these kids what the biggest problem facing them and their peers was and what that problem was doing to their lives. When I mentioned tobacco, I'll be honest with you, I was a bit surprised. I was surprised that a lot of hands didn't go up because that is what the media had been talking about, what the front pages were telling us. In fact, Mr. President, only a few hands went up. But when I asked about illegal drugs, almost every hand went up. There was hardly a young person in any one of those high school groups that I spoke to that didn't see drugs as a major problem.

Mr. President, you come from a relatively rural State, as do I, and, remember, teenage drug abuse is supposed to be a problem of the big inner-city schools. But the school I was talking to was a school of 250 in rural Idaho. Yet, nearly every hand went up because every one of those students knew someone in their age group who was misusing or was involved in illegal drugs, and they were concerned about that young person's future. They were concerned about the effect it would have on their friends' lives. Well, someone might say that these are kids, what do they know? We are the adults; we are the United States Senators, and we are supposed to have a more mature view of the problems that face the citizens of our country. Yes, I would hope that we as adults would be able to make mature and considered judgments on these questions. But in sensing that drugs present a bigger threat to them now than does tobacco, I think these kids are right. Yes, we should do everything reasonable that we can possibly do to discourage young people from taking up smoking.

I was once a smoker myself, and I know that it is not easy to quit. I fought it hard and I fought it for a long time. And I haven't smoked in 8 years. I am proud of that and so is my family. But if these kids do start smoking, the real danger they will face will be 10 and 20 and 25 years out, before which let us hope they mature, that they have a reason to think about their life and their health, and they quit like I did, and they become parents who discourage their children from smoking.

Smoking may kill teens later in life, but illegal drugs are killing them today. Whether we are talking about overdoses, car accidents, or the violence associated with the drug trade, illegal drugs present a clear and immediate danger to every young person who tries them, to their families, and to their communities. Talk to the parents of a child they have just lost to an overdose of drugs, and they didn't realize until it was too late that their child was on drugs. No family, no socioeconomic family in every strata, or at any level, is immune. Not one kid will likely die this year because he or she lit their first cigarette. But thousands of Americans will die because they started using drugs this year. Kids who started using drugs today may not get a chance to mature out of that habit, as I did and as thousands do.

I expect there are very few parents who would not care whether their kids decided to start smoking. Most of them care a great deal. However, if they were asked whether they would be more concerned about their teens starting to smoke or becoming a user of marijuana, crack, or heroin, how many parents would say they would take the dope over tobacco? Well, we know what they say. We have seen it in the polling. Let me tell you, Mr. President, the polling is dramatic. The polling is very clear. The parents of today in the highest of percentages say, Get the drugs away from our kids. It is the No. 2 issue. And way down at the bottom of all of those issues that parents are concerned about, as it relates to their kids, is smoking. Yet for the last 2 weeks, this Senate has been focused on that issue. Why? Because it is politically popular. We are going to bash those big tobacco companies because they lied to the American people, and we are going to save teenagers from smoking, and we are going to raise taxes to an all-time high to do it. We are going to spend hundreds of billions of dollars. Yet, No. 1, No. 2, and No. 3, in any poll you take, on the average parent's mind today is the kids associated with drugs, the kids associated with gangs, the kids being killed in car accidents; and way down at the bottom, but on the list of 10 or 12 items, is smoking.

That is one reason I question the administration's priorities tonight. In the abstract, I suppose that if drug use continued at the steady decline of the "just say no" Reagan and Bush era, if we could honestly say we had the drug dealers on the run, we might start to ask, Well, what is the next thing on the list of national priorities that this Congress ought to become involved in? But that is not what we see. The drug policy of the Clinton administration has been by every measure except theirs a miserable failure. From an early slashing of the funding for the White House antidrug office, to the administration's effort to have it both ways on clean needles for addicts, to their effort to lower penalties for crack cocaine to equal those of powder, to the President's grossly irresponsible "I wish I had inhaled" comment on MTV, this administration has sent all the wrong signals. And guess what? Those signals have been picked up by the young people of this country, and the predictable results have occurred.

Two national annual surveys show that drug abuse by our Nation's youth has increased steadily since the Clinton administration came into office.

The University of Michigan December 1997 Monitoring the Future Study, and the 1997 Parents Resource Institute for Drug Education, and the so-called PRIDE Survey each offer cause for alarm.

The Monitoring the Future Study reveals that illicit drug use among America's schoolchildren has constantly increased throughout the Clinton administration.

Mr. President, here comes the figures of alarming proportion.

For eighth graders the portion using any illegal drug in the prior 12 months has increased 71 percent since the year President Clinton was first elected. And since 1992, it has increased 89 percent amongst 10th graders, and 57 percent amongst 12th graders. That is any illicit drug. The numbers go straight through the roof since President Clinton came to office. Reagan, Bush—numbers declining. Everybody laughed at Nancy Reagan when she said "Just say no." But she stood on a moral pedestal along with George Bush and Ronald Reagan, and they stood as powerful leaders and examples. We have a President who chuckled, and said, "Well, I wish I had inhaled." Sorry, Mr. President. You sent all the wrong signals.

Marijuana use accounted for much of the overall increase in illicit drug use continuing its strong resurgence amongst eighth graders. Use in the prior 12 months has increased 146 percent since 1992.

The year President Clinton was first elected to office, amongst 10th graders, the annual prevalence has increased 129 percent amongst 12th graders it has increased 76 percent since 1992.

Those ought to be figures that are spread in banner headlines in every major newspaper in this country. And they go unnoticed except in our schools, except with school administrators and counselors, and most importantly with parents, who say it is the No. 1 issue facing their children and them as parents.

Of particular concern, according to the survey, is the continuing rise in daily marijuana use amongst 10th and 12th graders. More than 1 in every 25 of today's high school seniors is a current daily marijuana user, with an 18.4-percent increase since only last year, while only 1.1 percent of eighth graders used marijuana daily in 1997. That still represents a 50-percent increase since 1992.

Since President Clinton was first elected, annual LSD use has increased over 52 percent, 68 percent, and 50 percent amongst 8th graders and 10th graders and 12th graders, respectively. More than one in 20 seniors in the class of 1997 used cocaine this year, a 12.2-percent increase over just last year. That is cocaine. That is the drug that kills. Crack cocaine also continued a gradual upward climb amongst 10th and 12th graders. In short, since 1992, annual cocaine use is up 87 percent, 147 percent, and 77 percent amongst 8th, 10th and 12th graders, respectively.

The longer term gradual rise in the use of amphetamine stimulants also continued within the class of 1997, increasing over 7 percent since last year. Since 1992, annual heroin usage—heroin is on the resurgence—has increased by 83 percent, 141 percent, and 92 percent for 8th, 10th, and 12th graders.

America, these are our kids, and they are using heroin. This administration doesn't talk about it.

The most recent PRIDE Survey shows a continuing and alarming increase in drug abuse amongst young kids. Illegal drug use amongst 11- and 14-year-olds has continued on a dangerous upward spiral.

According to the president of PRIDE, senior high drug use may have stalled, but it is stalled at the highest levels that PRIDE has measured in 10 years.

Mr. COVERDELL. Mr. President, I wonder if the Senator will yield for 30 seconds to a minute so that I might clarify the issue that arose about obviating.

Mr. CRAIG. I would be happy to yield, but I would not lose any floor right.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, I ask unanimous consent to modify my amendment numbered 2451.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

At the end of the Durbin amendment, insert the following:

TITLE —DRUG-FREE NEIGHBORHOODS

SEC. 01. SHORT TITLE.

This title may be cited as the "Drug-Free Neighborhoods Act".

Mr. COVERDELL. Mr. President, I yield the floor back to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague for that modification. It does clarify an important point.

Mr. President, according to PRIDE—those are the folks out there on the front line trying to stop kids from using drugs—senior high school use may have stalled, but it has stalled at the highest level PRIDE has measured in 10 years.

Until we see sharp declines in the use at all grade levels there will be no reason to rejoice.

With respect to young students, the survey found a full 11 percent of junior high students—that is grades 6 through 8—are monthly users of illegal drugs. Junior high students reported significant increases in monthly use of marijuana, cocaine, uppers, downers, hallucinogens, and heroin especially.

Can you imagine that, Mr. President? We are talking about junior high kids. Heroin, drug of choice?

Annual marijuana use has increased 153 percent since Mr. Clinton first took office. Cocaine use is up 88 percent.

Why aren't we spending weeks on the floor of the Senate debating this, because it is the No. 1 issue amongst parents. The kids know it. They know their friends are being killed by it. They are laughing at the fact that they think we are going to legislate them away from tobacco.

Hallucinogen use has increased 67 percent since Mr. Clinton took office.

Now, in the face of this clear and present danger to our Nation's youth, how can this administration justify their obsession with tobacco? That is because there are 100 groups lined up to help them. It is a popular political issue. I agree with them on the premise. But I think they missed the point. They missed the point that the young people of America are talking about. They might answer. "Well, teen rates of smoking are also going up." That is true. But if we look at the facts on teen tobacco use, also found in the Monitoring of the Future Report that I have been quoting, we see the same pattern as on drug use—a steady decline in the Reagan-Bush years with a steady climb since 1992. In other words, what our President says to America and America's youth counts. When he makes light of his flirtation with marijuana, they make light of it, too. That is a great tragedy.

Let us ask the question: Instead of hiking increases in teen smoking to justify massive, intrusive, expensive legislation that will mostly target adult smokers, shouldn't the administration admit that teen smoking increase is yet another symptom of their failed drug policy? Shouldn't they admit that having given kids a wink and a nod on drugs, other bad habits would also appear more acceptable? Anybody who has raised teenagers knows that.

Let's take a concrete example. Recently, an article appeared in the New York Times. "Young Blacks Link Tobacco Use to Marijuana." Strange relationship. I am quoting the New York Times relating to a dramatic increase in tobacco use amongst minority teenagers. According to this article, experts believe that part of the explanation for increased tobacco use amongst these teens is because they are already using marijuana. And that tobacco prolongs the effect of marijuana smoking. If so—and I recognize that there are certain complex factors here—this is a case where tobacco use may be directly linked to our failing drug policy.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 22, 1998]

YOUNG BLACKS LINK TOBACCO USE TO MARIJUANA

(By Jane Gross)

YONKERS, April 21.—In the search to explain the spike in smoking among black teen-agers, a range of theories has evolved, from the proliferation of tobacco advertising in minority communities to the stress of adolescence to the identification with entertainment idols who appear with cigarettes dangling from their lips.

Teen-agers themselves, and some experts who have studied adolescent smoking, add another, less predictable explanation to the mix of factors: the decision to take up smoking because of a belief that cigarettes prolong the heady rush of marijuana.

"It makes the high go higher," said Marquette, a 16-year-old student at Saunders Trades and Technical High School here who, like other students, spoke about her marijuana use on the condition that only her first name be used.

At Washington Preparatory High School in South-Central Los Angeles, Tifanni, also 16, said she took up cigarettes two months ago because, "If the marijuana goes down and you get a cigarette, it will go up again."

Black teen-agers like Marquette and Tifanni are not unusual, according to interviews with dozens of adolescents around the country and various national surveys. These surveys show that blacks begin smoking cigarettes later than white teen-agers, but start using marijuana earlier, a difference experts say they cannot explain.

The surveys also show a sharp rise in both cigarette and marijuana use among teen-agers in recent years, evident among all races but most pronounced among blacks. White teen-agers still smoke cigarettes at twice the rate of blacks, but the gap is narrowing, signaling the end of low smoking rates among black youths that had been considered a public health success story.

It is not clear how much of the increase in smoking among black teen-agers is due to the use of cigarettes with marijuana, and experts say advertising has been the main factor. But the marijuana-tobacco combination is notable because it is the reverse of the more common progression from cigarette and alcohol use to illegal drugs.

Many black teen-agers said in interviews that they were drawn to cigarettes by friends who told them that nicotine would enhance their high from marijuana, which has been lore and practice among drug users of all races for decades. And this is apparently no mere myth. Many scientists who study brain chemistry say the link between cigarettes and marijuana is unproven but likely true.

"African-American youth talk very explicitly about using smoking to maintain a high," said Robin Mermelstein, a professor at the University of Illinois at Chicago and the principal investigator in an ongoing study of why teen-agers smoke for the Federal Centers for Disease Control and Prevention. "It's a commonly stated motivator."

Dr. Mermelstein said that in focus groups with 1,200 teen-agers around the country, about half the blacks mentioned taking up cigarettes to enhance a marijuana high, but no white teen-agers volunteered that as an explanation for smoking. "Cigarettes have a totally different functional value for black and white kids," she said.

Even so, Dr. Mermelstein and others say that does not diminish the greater impact of advertising and other media messages in minority neighborhoods. "Kids are extraordinarily aware of the entertainment media," Dr. Mermelstein said. "They are very reluctant to see the link between any of these and their behavior. But the influence is undoubtedly there."

Tiffany Faulkner, a 15-year-old at Ida B. Wells High School in Jamaica, Queens, said, "Tupac smoked and he's my man," referring to the slain rap star Tupac Shakur. "But I didn't smoke because of him," she said. "I have my own head."

Brand loyalty, however, suggests youths are more moved by the advertising than they realize, or are willing to admit. In general, Marlboro and Camel have white characters on billboards and are the brands of choice among white teen-agers, while Kool and Newport use minority images and are favored by African-American teen-agers, as they are by their parents. Outside Brighton High School in Boston, for instance, every black student in a group of smokers chose Newports. "They're the cool cigarette," said Joey Simone, 18, a smoker since she was 11.

A 16-year-old Chicago girl who tried cigarettes briefly said she is certain advertising is the key. "When I was little I would see pictures of people standing around with a cigarette and it looked like fun," said Coleco Davis at DuSable High School. "They were all having a good time and it didn't look like it could hurt you."

This wave of new black smokers, drawn to a habit that kills more people each year than all illegal drugs combined, has researchers worried, because once teen-agers have experienced the booster rocket effect of cigarettes prolonging a marijuana high they often find themselves addicted to tobacco.

"Because I was getting high, I needed it," said Mary, 16, a student at Norman Thomas High School in Manhattan. "The cigarettes made me more high. Now it's become a habit. I feel bad because there's nothing I can do to stop."

The crescendo of concern about teen-age smoking is behind pending Federal legislation that would raise the price of cigarettes, control advertising to young people and penalize manufacturers if there is not a gradual reduction in adolescent smoking. That legislation took center stage in Washington just as a new study earlier this month showed a steep rise in the smoking rate among black youths.

The nationwide Federal study showed overall smoking rates had increased by one third among high school students between 1991 and 1997. Most alarming to experts was the sharp rise among black youths: 22.7 percent in 1997, up from 12.6 percent six years earlier.

Charyn Sutton, whose Philadelphia marketing company conducts focus groups for Federal research agencies, said she first heard about the current progression from marijuana to cigarettes—what she calls the "reverse gateway effect"—during focus groups in 1995 involving black middle school students. Ms. Sutton already knew about blunts, cigars hollowed of tobacco and filled with marijuana. But now the teen-agers told her that a practice familiar to the drug cognoscenti as early as the 1960's and 1970's was popular in the schoolyard of the late 1990's—enhancing the high of a joint with a cigarette.

She tested what the teen-agers told her by talking to addicts in recovery, who concurred. And to be sure that the pattern she was seeing in Philadelphia was not a local anomaly, she interviewed young African-Americans across the nation. And, she said, she discovered that they were doing the same thing.

The enhancing effect that teen-agers describe is consistent with what is already known about the working of nicotine and THC, the active ingredient in marijuana. Both spur production of dopamine, a brain chemical that produces pleasurable sensations, said George Koob, a professor of neuropharmacology at the Scripps Research Institute in La Jolla, Calif. "It makes a lot of sense," Dr. Koob said.

At the National Institute on Drug Abuse, which funds most of the world's research on addiction, Alan I. Lesher, the director, went a step further, saying the anecdotal findings cried out for rigorous investigation. "This is a reasonable scientific question," he said. "And if enough people report experiencing it, it merits consideration."

Researchers elsewhere have also taken note of strange glitches in substance abuse data comparing blacks and whites. For instance, Denise Kandel, a professor of public health and psychology at Columbia University's College of Physicians and Surgeons, found that while most substance abusers progressed logically from legal to illegal substances, "the pattern of progression is less regular among blacks and nobody really knows why."

In 1991, according to the Centers for Disease Control and Prevention, 14.7 percent of students said they had used marijuana in the last 30 days; by 1995, the latest year for which data is available, that rate had jumped to 25.3 percent. Among white youths, the rate increased to 24.6 percent from 15.2. Among Hispanics, it shot up to 27.8 from 14.4 and among blacks to 28.8 from 13.5, vaulting them from last place to first in marijuana use by racial group.

The C.D.C. cigarette study, which tracks use through 1997, shows a parallel pattern. Among white students, 39.7 percent said they smoked cigarettes, up from 30.9 percent six years ago. Among Hispanic students, more than one third now say they smoke, up from roughly a quarter. Among black youths, 22.7 percent list themselves as smokers, compared with the 12.6 who said they smoked in 1991. Worst of all were the smoking rates for black males, which doubled in the course of the study, to 28.2 from 14.1.

> The progression from marijuana to cigarettes among black youths was the most provocative finding in interviews in recent days with high school students in New York City, its suburbs, Los Angeles, Chicago and Boston, who consistently raised the issue without being asked. But their comments raised several other troubling issues, as well.
>
> The students were perfectly aware of the health hazards of cigarette smoking. A 17-year-old at Norman Thomas High School in Manhattan said she was quitting because she might be pregnant. A 15-year-old at Saunders said she did not smoke during basketball and softball season but resumed in between.
>
> But most paid no mind to the danger.
>
> And despite laws prohibiting sales to anyone under 18, virtually all the teen-agers said they purchased cigarettes with no trouble at delis and bodegas.
>
> The Federal legislation to curb teen-age smoking depends in large measure on steep price increases as a deterrent. Sponsors of the bill say that raising the price by $1.10 per pack would reduce youth smoking by as much as 40 percent. But talking to high school students suggests this prediction is optimistic.
>
> The adolescents said overwhelmingly that they would pay $3.60 a pack—the current $2.50 charged in New York plus the additional $1.10 envisioned in the legislation. A few said that $5 a pack might inspire them to quit, or at least to try.
>
> But faced with that high a tariff, 17-year-old Robert Reid, a student in Yonkers, had another idea. "At that price," he said, "you might as well buy weed."

Mr. CRAIG. I thank the Chair.

Let me read two paragraphs from the article:

> It is not clear how much of the increase in smoking amongst black teen-agers is due to the use of cigarettes with marijuana, and experts say advertising has been the major factor. But the marijuana-tobacco combination is notable because it is the reverse of the more common progression from cigarette and alcohol use to illegal drugs.
>
> Many black teen-agers said in interviews that they were drawn to cigarettes by friends who told them that nicotine would enhance their high from marijuana, which has been lore and practice among drug users of all races for decades. And this is apparently no mere myth. Many scientists who study brain chemistry say the link between cigarettes and marijuana is unproven but likely true.

One other paragraph:

> The students were perfectly aware of the health hazards of cigarette smoking. A 17-year-old at Norman Thomas High School in Manhattan said she was quitting because she might be pregnant.

But that is the only reason she was quitting.

> A 15-year-old at Saunders [High School] said she did not smoke during basketball and softball season but resumed in between.

The article also talks about the effects of the kind of antitobacco measures that are being discussed on the floor including pushing the price of cigarettes to $3.50 to $4 to $5 a pack. Adolescents overwhelmingly said they would pay $3.60 a pack. The current charge in New York is $2.50. An additional $1.10 would move that to $3.60, and the teenagers did not see that as a problem. Now we are talking about the legislation that is being debated on the floor right now. According to the article:

> A few said that $5 a pack might inspire them to quit, or at least to try.
>
> But faced with that high a tariff, 17-year-old . . . a student in Yonkers, had another idea. "At that price," he said, "you might as well buy weed."

In other words, he was saying you might as well smoke marijuana because they are going to end up being about the same price. I don't think anybody on the floor of this Senate has thought about that. But the kids are thinking about it. Let us think about those words, Mr. President: "At that price, you might as well smoke weed."

It is always easy for the partisans of big government to come up with big spending, big bureaucracy plans, that whether or not it actually impacts the intended target, in this case teenage smoking, it is sure to have all sorts of unintended but predictable side effects. For example, how big of a tax increase are we looking at? Well, we don't know for sure. Why shouldn't we be looking at this as a big regressive tax, and I think I can say, in all fairness, the biggest regressive tax in American history? How effective will it be in actually curbing teenage smoking or, for that matter, adult smoking? How much more attractive will it make others? By that, I am talking about illegal drugs such as marijuana, especially to young people.

Well, that teenager from Yonkers said it: If you are going to raise tobacco to that price, you just might as well smoke weed. Have we learned anything at all from the black market of other nations? That has been discussed by some of my colleagues on the floor in the last several weeks, and they have used it as an example and it bears repeating because it shows a reaction to the marketplace.

In Canada, by 1992, a pack of cigarettes cost about $4.50 in U.S. dollars, probably about $6.75 in Canadian dollars, while the price in the United States was $2. The result: the loss of billions of dollars in tax revenue and up to 40 percent of the Canadian market supplied by smuggling, black market, illegal, under the table, vended in the alley, out of the backs of cars, vended by the black market of drug dealing. Canada rolled back its tobacco taxes in 1994, and Sweden recently dropped its tobacco tax over 25 percent. Do we really want to repeat their mistakes? We are about to start. When cigarettes in Mexico cost about $1 a pack, where do you think the border will be? Or, more importantly, how can we protect the border? The movement will be significant.

Does anyone think this would not be a tremendous windfall for organized crime or for cross-border drug trade in Mexico, which is already at epidemic proportions? How many funding streams is that? Well, taxes, we know that. And if those funding streams that we are asking for to fund all of this dry up, then how do we pay for the programs? Because they will surely dry up. Other nations have found that to be the case. And they have had to back off, to up their moneys, to up their cash flow again to fund the programs that they were going to feed off of the taxes they raised from tobacco.

As a Republican, I think this big government approach is just the wrong way to go, especially when we have no real assurance that these programs will do any good.

We need to take a hard look at drug use. And, yes, the teen tobacco use situation in this country that we find is critical. We need to look at it in a practical and a principled way. The bottom line should be this: If the Clinton administration won't lead on drugs—and at this point I would say their credibility on drugs has been fatally compromised—then it is the Congress that should lead. We should lead. That is our job—to create public policy that makes sense for the American people. That is why my colleague, PAUL COVERDELL of Georgia, and I are offering this amendment which would ensure that the drug crisis is not ignored as we attempt to address the tobacco problem.

This amendment collects a number of initiatives that would make a serious impact on illegal drugs. It takes a three-pronged approach: attacking the supply of drugs by strengthening our ability to stop them at the border, providing additional resources to fight drugs that reach our neighborhoods, and by creating disincentives for teens to use illegal drugs.

Let me talk about some of those provisions that are embodied in our amendment. Let me first talk about the one on supply, the supply side of the drug problem, because we all know it is a supply-demand equation. We cannot rely just on treatment programs for those who have already started to abuse drugs. And you know there is a bit of that attitude—well, yeah, if they get hooked on them, we will treat them. The problem is sometimes they get hooked on them, and they get killed or they die before they can get to treatment. We must stop drugs from getting to our kids in the first place, or make every effort to try to stop it.

One key step in fighting the drug supply is increased resources for the interdiction of those drugs; in other words, law enforcement. Fund them, put them on alert, make it a No. 1 priority. This is the area where the administration has been most irresponsible. Slashing the Coast Guard's antidrug budget, with the result—and you know what the result was—a major disruption in the rate of decline. The number of seizures for drug shipments turned back before they reached the United States—listen to these figures; it happened on the President's watch after he slashed the interdiction money—declined by 53 percent. We are talking interdiction, at the border or out in the water; a 53-percent decline in interdiction from 1992 to 1995.

So, what does our amendment do? We give the Coast Guard, the Defense Department, the U.S. Customs Service, the resources they need to target that interdiction before drugs reach the American streets. Our amendment does exactly that, and that is our intent. Our amendment also includes the Drug-Free Borders Act, which attacks the 70 percent of illegal drugs that enter our country across the Mexican border. Mr. President, 70 percent of the problem is right there on that very identifiable border. These provisions would increase the penalties for crimes of violence and other crimes committed at our borders and enable the INS to hire thousands—yes, thousands—of new Border Patrol agents.

But our amendment does not just stop at the border; it also strengthens the hand of law enforcement in fighting drug dealers at home and abroad. For example, our amendment increases the resources available to DEA and the FBI. We also think parents deserve to know if convicted drug dealers have moved into their neighborhoods. Our amendment requires released Federal convicts, convicted of major drug crimes, to register with local law enforcement personnel, who can then put their communities on notice. Why not? Those are the folks who have been killing our kids by selling drugs. Why not let the communities know if they are back in those communities? These are only some of the provisions in our amendment that attack the supply of drugs.

We also focus on the demand side of the problem by supporting local efforts to protect our neighborhoods, businesses, and schools from drugs and provide incentives for young people to stay straight. Our amendment includes a provision addressing needle exchange programs. At a time when drug use, particularly heroin use, is increasing, this program clearly undermines our effort to fight illegal drugs. What program? The current program. The Clinton program. The green light to subsidizing needle exchange programs. That is the green light for drug use. The House has already passed legislation to stop this, H.R. 3717, by a strong 287 to 140 vote. The Senate should do the same. Our amendment includes just exactly this. I hope the Senate can support it.

Another section of our amendment is the Drug-Free Student Loan Act. It restricts loan eligibility for students who use drugs. This would target substance abuse without creating Federal mandates or authorizing new spending. It puts the kids on notice: "We ain't going to tolerate it anymore. Be straight, you will get your education. You can have a loan for it. But, use drugs and you are falling out of favor with the public."

The Drug-Free Teen Driving Act in our amendment would encourage States to be at least as tough on driving privileges for those who use drugs and drive as those who are drunk drivers. Stop and think about the inconsistency today. You get caught a drunk driver, you get your license pulled. Drug abuse? No. No. We are not addressing that. This amendment does. Same treatment.

Our amendment includes the Drug-Free Workplace Act. This section provides incentives for employers to implement antidrug programs in the workplace, such as clear antidrug policies, drug testing, and employees' assistance programs. We also assist schools in the fight against drugs by allowing them to use Federal funds for drug testing programs and victims' assistance. Our amendment also provides incentives for States to create an annual report card to parents and teachers, listing incidents of school violence and drug activities.

Another critically important part of our amendment would back up communities in their fight against drugs. We would authorize matching grants funds to support communities' efforts to establish comprehensive, sustainable, and accountable antidrug coalitions.

Senator COVERDELL and I recognize you cannot do all of this from the top down, that you have to work with the grassroots and help it grow from the bottom up. These and other provisions in our amendment are commonsense measures to protect our young people from the growing menace of drugs. They would counter the wrongheaded policies of this administration and start sending the right signals to America's youth.

This amendment does not set up new bureaucracies nor impose new mandates. It supports law enforcement's attack on the suppliers of drugs. It also supports local efforts to control drugs in neighborhoods, schools, and businesses. Nothing can be more important than supporting these local efforts, because they are the front line in the war on drugs. And right now, with the efforts in communities to be drug free, they are the only line, the only real line that is working. We do not need the hammer of the Federal Government to force communities to take action. As I have mentioned, they are already at it. All they need is a few resources and our help.

Let me give an example of something that is happening in my State that I am so proud of. It is called the Enough Is Enough campaign. It is a community-based drug prevention campaign driven by the private sector. No government dollars or controls are involved. Why? The problem became so bad in the Clinton years, the communities had to take it on. They said, "If we cannot get help from the Federal Government, we will do it ourselves," because they saw the numbers going up and they saw the deaths occurring.

Most people in Idaho agree that this program is the most effective antidrug, drug awareness campaign they have ever seen. It builds on the systems within every community that influence and involve specific groups of individuals. It recognizes that each system has a special, specific role to play in the prevention that is necessary and that it involves all of the community. It unites these systems. It includes the media and the public and private sectors behind a common goal—to equip our children to walk drug free through a drug-filled world. It focuses on community teamwork to fight the drug culture and regain the quality of life for our children. Enough Is Enough is the largest community-wide drug prevention effort in Idaho's history. Antidrug advocate Milton Creagh has delivered his challenge to communities all over the State. More than 100,000 people have already participated in the program, and additional community coalitions are being formed every day.

This program is proof that the Federal Government does not have all the answers. In fact, the Federal Government can do a lot of harm by forcing wrong programs and wrong incentives on local communities and citizens. Instead, we should provide encouragement, support local antidrug initiatives, and that is the philosophy behind our amendment: Get our law enforcement involved, stop the stuff at the border.

In offering the amendment to the antitobacco bill, I have been arguing that the danger posed by illegal drugs is greater and more immediate and more deadly than any immediate problem that tobacco poses on teenage America.

It is my strong belief that the bill before us tonight must not ignore the drug crisis that threatens our youth, America's future.

Having said all that, however, I do not mean to suggest that we should ignore teenage smoking. Let me repeat that for the record, because I am quite sure there are some who will say, "Well, COVERDELL and CRAIG are trying to switch the focus." No; we are trying to refocus. We are trying to do fine focus. We are trying to get this Government pointed in the right direction. In fact, as I have already pointed out, there is a connection between youth smoking and drug use.

There are a number of commonsense antismoking measures we should seriously consider, but I would like to draw my colleagues' attention to the one thing in particular we know to be effective in combating not just teenage smoking, but drug use, violence, suicide, sexual behavior, and emotional disturbances.

In an area that is fairly underrated and where the Clinton administration definitely has been a part of the problem, the one thing is parental involvement in their children's lives. A recent Washington Post article entitled "Love Conquers What Ails Teens, Studies Find" summarized the results of a Federal study known as the National Longitudinal Study of Adolescent Health based on a survey of 90,000 students grade 7 through 12 and published in the Journal of the American Medical Association:

> Teenagers who have a strong emotional attachment to their parents and teachers are much less likely to use drugs and alcohol, attempt suicide, engage in violence, become sexually active at an early age.

That is what the Post reported.

Though less important than the emotional connection, the presence of parents at home at key times in the morning, after school, at dinner, at bedtime make teenagers less likely to use alcohol, tobacco and marijuana.

Mr. President, the Federal Government cannot mandate family cohesion, but I cannot think of a better argument for passing S. 4, the Family Friendly Workplace Act. That would encourage a host of comptime-flextime options for America's parents. Why am I talking about this when we are trying to stop teenagers from smoking, when we have an amendment on the floor about teenage drug abuse that we are trying to curb? Because it ought to be a part of the package. We ought to understand and not be so naive as to say that it is the total environment in which the child lives.

I mention it only tonight for our Senate to understand that we cannot do it; we are blocked on the floor; it is not the right thing politically; somehow the unions oppose it. Why don't we wake up? Why don't we understand that Government can, in fact, by its inaction, be an impediment?

Those are the conclusions I have drawn, and that is why I am a cosponsor with Senator COVERDELL of this, what I believe to be the most important part of this total legislation.

Mr. President, in the coming days, the Senate will be faced with a stark choice: We can be panicked down the road of least resistance to passing a big Government antitobacco bill that won't do the job but will become a permanent tax and regulatory nightmare, or we can pass some commonsense legislation that will help States, localities, communities, and, most of all, parents take charge of their children's future. We can mount a strong antismoking campaign, and we can assist States to do so.

Really, when it comes to controlling our borders, when it comes to stopping the massive new flow of drugs into this country, stimulated by an administration that just doesn't want to face the issue, then it is time the Congress speak, and we can speak clearly and decisively if we vote, pass, and add as a major component to this tobacco legislation the Coverdell-Craig teenage antidrug amendment.

It sets us in the right direction. It is a quantum step toward dealing with teenage drug use that, by everyone's measurement, is moving at an astronomical rate, taking lives in unbelievable numbers. We hear the statistic, 3,000 kids start smoking every day, and that is true, but thousands try drugs and get hooked and thousands die within a very short time.

Thank goodness that in your adult years, if you are a smoker, sometimes common sense hits you like it hit me, that it was the wrong thing to do, that it wasn't healthy, that it was socially unacceptable, and that it was not going to cause me to be a good influence over my children, and I quit. But I doubt seriously that in my youth, if I had been hooked on drugs, I might not have had the opportunity to quit.

I hope this Congress awakens to the real issue, and I think my colleague from Georgia and I are bringing the real issue to the floor of the U.S. Senate. We will debate it tomorrow, and we will debate it Monday. I hope that we have a resounding vote in favor of the Coverdell-Craig amendment, that it become a part of this total package, and that we deal with it in a fair and responsible way, then find and bring about the funding necessary to ensure that we can put our Coast Guard back to interdiction, that we can stop the flow at the borders, that we can go after the pusher on the street, and that we can show our young people that starting or experimenting with drugs is not only unacceptable as a part of the American culture, but that we will insist they quit for their safety and for their future.

Mr. President, I yield the floor.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF BARRY GOLDWATER

Mr. KYL. Mr. President, I ask unanimous consent that the eulogy I delivered at the funeral for the former U.S. Senator from Arizona, Barry Goldwater, in Tempe, Arizona on June 3, 1998, be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

IN MEMORY OF BARRY GOLDWATER

(Remarks of Jon Kyl, Tempe, Arizona, as Delivered June 3, 1998)

We honor Barry Goldwater today by reflecting on why he has made such a mark on our state, our nation, and the world.

All of us probably remember the first time we met Barry. In my case, it was in May 1961 when I was a student at the University of Arizona. After working with him in the political arena for most of the ensuing years, and after visiting with him often during his retirement, I think I know why he has had the influence he has had. I have come to believe it is because of his very unique perspective—about nature, including human nature.

It is why he could do without all of the political folderol that preoccupies so many in public life. It is why he could shrug off his defeat in the presidential election of 1964—not because he didn't care, but because he knew, in the end, the most important thing was to tell the truth as he saw it, and to build a foundation for the future.

It is why he cared about and understood people so well, and could shape a political philosophy which works precisely because it is predicated upon the true nature of man.

That sense of perspective, of what truly mattered, was rooted in his early experiences traveling this state, rafting down the Grand Canyon, photographing Arizona's landscapes and getting to know a lot of common people. He was very much a part of the land, the desert, the mountains, and the people and places of Arizona.

One reason I think he liked common people is because, like Abraham Lincoln, he saw himself as a common man. My dad is the same way. They understood early on, that every person has a unique and individual worth, and that that is why freedom is indispensable to assure man's proper place in nature.

As a young man, Barry Goldwater helped run his family's trading post on the Navajo reservation. He knew the Hopi and the Navajo people and appreciated their way of life. He captured on film the character and dignity of Native Americans and other people. He saw their qualities as individuals, and learned from them and respected them.

Others wanted to remake human nature. Barry Goldwater appreciated it, as it is. In that respect, he grasped the truth of the Founding Fathers, that freedom is indispensable for the fulfillment of God's purposes for those He created in His image.

This homegrown insight is what led him to be so alarmed by the growth and power of government since the New Deal. "A government that is big enough to give you all you want is big enough to take it all away," he said, reaffirming the belief in limited government upon which America was established, and upon which he and Ronald Reagan and others constructed a conservatism for our time.

It was necessary to have someone of his courage and plain speaking to persuade others of this nature-driven view of liberty and smaller government, at a time when it was not considered a very respectable view.

But, as Matthew Arnold said, "The freethinking of one age is the common sense of the next." There is no doubt that Barry Goldwater—as the pathbreaker for today's common-sense conservatism—is the most influential Arizonan in our lifetime, indeed, in the lifetime of Arizona as a state.

Summarizing his own life, in 1988 he wrote: "Freedom has been the watchword of my political life. I rose from a dusty little frontier town and preached freedom across the land all my days. It is democracy's ultimate power and assures its eventual triumph over communism. I believe in faith, hope, and charity. But none of these is possible without freedom."

It was a privilege to know someone who was as obvious in his virtues as he was in his opinions. When I visited with him in the last few years, he seemed reluctant to offer the specific political advice that I occasionally sought from him. He wanted instead to talk about the people he had known, about his early formative experiences in Arizona, and about history.

There are too few people who give you the feeling that they have the long view in mind. Barry Goldwater did. There are too few who show us what it is like for a man to guide his life by true principles. Barry Goldwater showed us. The Senator from Arizona was not only a great patriot, he was, as he wished to be remembered, an honest man who tried.

NICK MURNION OF GARFIELD COUNTY, MONTANA—PROFILE IN COURAGE

Mr. KENNEDY. Mr. President, on May 29, during the Memorial Day recess last week, the Kennedy Library Foundation held its annual "Profile in Courage" Award Ceremony at the Kennedy Library in Boston. The 1998 Profile in Courage Award was presented to Nickolas C. Murnion, the County Attorney of Garfield County, Montana, for his courageous leadership in the confrontation earlier in this decade with the militia group called the Freemen.

The Profile in Courage award takes its name from President Kennedy's Pulitzer Prize-winning book, "Profiles in Courage," which my brother wrote in the 1950's, while he was still a Senator. The book told the stories of elected officials in American history who showed extraordinary political courage by doing what they thought was right, in spite of powerful resistance and opposition.

Nick Murnion clearly demonstrated that quality of political courage, and he did so at great physical risk to himself as well. His small rural community in Montana came under siege, beginning in 1993, from the Freemen, a belligerent anti-government militia that took root in the area. The members of the Freemen refused to abide by local laws or pay taxes. They harassed and threatened public officials, and threatened the life of Nick Murnion and anyone else who challenged them.

But Nick Murnion stood his ground, and armed with the rule of law and the strong support of other citizens in the community, he prevailed. Finally, in 1996, the FBI came to provide assistance, and after a dramatic 81-day siege, the militia members surrendered peacefully.

Today, as the nation struggles to deal with extremist groups, hate crimes, church bombings, schoolyard shootings, and other distressing acts of violence in our society, Nick Murnion's inspiring story reminds us of leadership at its best in our democracy.

In accepting the Profile in Courage Award, Nick Murnion delivered a truly eloquent address at the Kennedy Library in Boston, and I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ADDRESS OF GARFIELD COUNTY ATTORNEY NICKOLAS S. MURNION, 1998 PROFILE IN COURAGE AWARD CEREMONY, MAY 29, 1998

Members of the President's family, Trustees of the John F. Kennedy Library Foundation, family and friends.

I was both shocked and delighted four weeks ago when Caroline Kennedy called me in a little town in Montana to give me the great news that I had been selected as this year's John F. Kennedy Profile in Courage recipient. I had a vague awareness of the award, but my first reaction was disbelief. I couldn't figure out how I could be selected for such a prestigious honor, when I had no idea I was even being considered. I will also admit that at the time, I was almost more in awe in talking with Caroline Kennedy than in getting the great news about the award.

My first recollection of any political race was in 1960, when at the age of 7 I asked to see pictures in the newspaper of who was running for President of the United States. My first impression was that there was no question I would have voted for John F. Kennedy. Later I remember a schoolteacher telling us to remember President Kennedy as having made some of the most eloquent speeches in our time. Looking back at those speeches now, I believe she was right. The Kennedy presidency was one that I remember very fondly for the ideals expressed and the vision of a future where everyone could share in the American Dream. Politics was a noble profession to which a young person could aspire.

One of my biggest honors in being chosen to receive this award is to represent the Big Sky State of Montana. Apparently, John F. Kennedy also was fond of our state. When he addressed the Montana Democratic Convention in 1960, he quoted Thoreau: "Eastward I only go by force. Westward I go free." Then he added, "That is why I have come to Montana."

President's Kennedy's last stop was in Great Falls on September 26, 1963, where he closed his final speech by saying: "This sun in this sky which shines over Montana can be, I believe, the kind of inspiration to us all to recognize what a great single country we have—50 separate states, but one people living here in the United States, building this country and maintaining the watch around the globe. This is the opportunity before us as well as the responsibility."

As I appear before you today in the great state of Massachusetts and in this historical city of Boston, I am proud to be part of these 50 great states. My experience the last five years in dealing with the Montana Freemen has instilled in me a great appreciation for our democratic form of government. Until you have to fight for your government you tend to take it for granted. In 1994 in a small county in Montana with only 1,500 residents and one sheriff and one deputy, our people had to make a decision to take a stand against 30 armed insurrectionists, even though it put their own lives and property at risk. Even with the knowledge of the risks, 80 people signed up to assist law enforcement in whatever was needed to be done to deal with a situation which was rapidly escalating into an armed confrontation. In accepting this award I wish to acknowledge the courage of those 80 people and of the rest of the community which overwhelmingly condemned this movement.

In "Profiles in Courage" I was struck by the stands taken by different people in history which left them alone to fight the battle. Everyone seemed to desert them at one time or another. I never felt completely alone in this struggle. I had the people of Garfield County for support. I had Attorney General Joe Mazurek assisting on behalf of the State of Montana. When times got real bad, I knew I could always call on Senator Max Baucus for help.

The story of Edmund G. Ross who cast the deciding vote in stopping the impeachment of President Andrew Johnson particularly touched me. Ross voted against the impeachment to save the Union against those who wanted to continue the struggles brought on by the Civil War. Years later the Kansas newspapers finally praised the actions of Ross. "By the firmness and courage of Senator Ross, it was said, the country was saved from calamity greater than war, while it consigned him into a political martyrdom, the most cruel in our history. Ross was the victim of a wild flame of intolerance which swept everything before it. He did his duty knowing it meant his political death. It was a brave thing for Ross to do, but Ross did it. He acted for his conscience and with a lofty patriotism, regardless of what he knew must be the ruinous consequences to himself. He was right."

There is a growing wave of intolerance in this country by those groups, which call themselves patriots, militias, constitutionalists, common law courts, posse commitatus, and freemen. Their numbers are estimated at between 5 and 20 million. They appear to be the disenfranchised Americans who believe the government has gotten so corrupt that the only solution is revolution. They were not taken very seriously until the Oklahoma City bombing. They have not gone away, although their movement has gone more underground. They will be back with the same hate-filled message filled with scapegoats and conspiracy theories for all their problems.

As a prosecutor, I am not sure I did anything in this situation that any other prosecutor in America would not have done. Everyday, all across this country, men and women in law enforcement put their lives on the line to enforce the law, so that the rest of us can live in peace. They are the true unsung heroes.

For many months before the FBI finally came to Garfield County, we tried to devise ways to serve our arrest warrants on fugitives residing in an armed camp. In those meetings, I learned the immense pressure felt by our leaders when they have to send men into harms way. The decision to make any attempt to serve our arrest warrants could result in the death of law enforcement personnel and of those people you previously considered to be your friend and neighbors. Most importantly, you learn that contrary to the television and the movie portrayals, sending armed men into an armed camp almost always results in something going wrong.

I also learned that those in law enforcement who are trained to take these actions are much like you and me. They are married with families, and their biggest desire is to go back to their families. I salute all of the fine men and women in the F.B.I. who came to our aid in Garfield County. I also want us to remember F.B.I. agent Kevin Kramer, who lost his life in an automobile accident on his way to the standoff area. He left behind a wife and two small children and we should not forget that we did have a fatality caused by the standoff.

I want to share this honor with the people of the great state of Montana who have over the past few years had to deal with different types of hate groups in different communities. In almost every case, the communities have come together to condemn the hate-motivated activities. In Billings, we had the wonderful example of a community showing support by placing menorahs in the windows of hundreds of homes after a Jewish family had a brick thrown through their window.

In other parts of Montana, we have had other Freemen-type activity which law enforcement has vigorously prosecuted. Lately, we had a fire set on one of our Hutterite colonies, which has led to condemnation by our Congressman and an intensive criminal investigation.

In Billings, Montana a campaign to deal with hate groups used the message "Not in our Town." In Garfield County, the message our people sent was clear. "Not in our County." In the State of Montana, I am proud to say we have sent a message "Not in our State." I stand before you today in the great state of Massachusetts and say "Not in this Country."

Those groups who look with envious eyes at the vast open spaces of Montana with the idea of making it some type of refuge for white supremacists need to understand: We know about you and your hate-filled ideas. We will expose the truth about you and the truth will defeat you. To the rest of America, let Montana be an example of how hate can be conquered.

Finally I share this award with my wife and children who have had to endure the threats for the past 5 years. They have quietly stood by me and I thank them for that. I am deeply honored to accept this award and hope that I can live up to the ideals behind it each day of the rest of my life.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 3, 1998, the federal debt stood at $5,496,176,063,717.35 (Five trillion, four hundred ninety-six billion, one hundred seventy-six million, sixty-three thousand, seven hundred seventeen dollars and thirty-five cents).

One year ago, June 3, 1997, the federal debt stood at $5,357,051,000,000 (Five trillion, three hundred fifty-seven billion, fifty-one million).

Five years ago, June 3, 1993, the federal debt stood at $4,294,168,000,000 (Four trillion, two hundred ninety-four billion, one hundred sixty-eight million).

Ten years ago, June 3, 1988, the federal debt stood at $2,573,962,000,000 (Two trillion, five hundred seventy-three billion, nine hundred sixty-two million).

Fifteen years ago, June 3, 1983, the federal debt stood at $1,313,457,000,000 (One trillion, three hundred thirteen billion, four hundred fifty-seven million) which reflects a debt increase of more than $4 trillion—$4,182,719,063,717.35 (Four trillion, one hundred eighty-two billion, seven hundred nineteen million, sixty-three thousand, seven hundred seventeen dollars and thirty-five cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 29TH

Mr. HELMS. Mr. President, the American Petroleum Institute reported for the week ending May 29, that the U.S. imported 8,549,000 barrels of oil each day, an increase of 175,000 barrels a day over the 8,374,000 imported during the same week a year ago.

Americans relied on foreign oil for 57.2 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,549,000 barrels a day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR BELARUS—MESSAGE FROM THE PRESIDENT—PM 134

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended (the "Act"), with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for the Republic of Belarus will substantially promote the objectives of section 402 of the Act, and my reasons for such determination. I will submit separate reports with respect to Vietnam and the People's Republic of China.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1998.*

REPORT CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR VIETNAM—MESSAGE FROM THE PRESIDENT—PM 135

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to Vietnam. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1998.*

REPORT CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 136

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended (the "Act"), with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the

Act to the People's Republic of China. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for the People's Republic of China will substantially promote the objectives of section 402 of the Act, and my reasons for such determinations.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1998.*

MESSAGES FROM THE HOUSE

At 10:49 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2798. An act to redesignate the building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, as the "Nancy B. Jefferson Post Office Building."

H.R. 2799. An act to redesignate the building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, as the "Reverend Milton R. Brunston Post Office Building."

H.R. 3504. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance.

H.R. 3630. An act to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road NE., in Albuquerque, New Mexico, as the "Steven Schiff Post Office."

H.R. 3808. An act to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the "Carl D. Pursell Post Office."

H.R. 3978. An act to restore the provision agreed to the conferees to H.R. 2400, entitled the "Transportation Equity Act for the 21st Century," but not included in the conference report to H.R. 2400, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

ENROLLED BILL SIGNED

At 7:11 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill;

H.R. 824. An act to redesignate the Federal building located at 717 Madison Place, N.W., in the District of Columbia, as the "Howard T. Markey National Courts Building."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2798. An act to redesignate the building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, as the "Nancy B. Jefferson Post Office Building"; to the Committee on Government Affairs.

H.R. 2799. An act to redesignate the building of the United States Postal Service located at 324 South Laramie Street in Chicago, Illinois, as the "Reverend Milton R. Brunson Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3504. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

H.R. 3630. An act to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road NE., in Albuquerque, New Mexico, as the "Seven Schiff Post Office"; to the Committee on Governmental Affairs.

H.R. 3808. An act to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the "Carl D. Pursell Post Office"; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 4, 1998 he has presented to the President of the United States, the following enrolled bill:

S. 1605. An act to established a matching grant program to help State and local jurisdictions purchase armor vests for use by law enforcement departments.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5196. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "1998 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports" (Docket CN–98–002) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5197. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1997–98 Marketing Year" (Docket FV98–982–1 FIR) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5198. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Melons Grown in South Texas; Decreased Assessment Rate" (Docket FV98–979–1 FIR) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5199. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Revision in Minimum Grade, Container, and Pack Requirements" (Docket FV98–925–3 FIR) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5200. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Increased Assessment Rate" (Docket FV98–956–2 FR) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5201. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports" (Docket 98–051–1) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5202. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "General Regulations and Standards for Certain Agricultural Commodities" (RIN0580–AA54) received on May 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5203. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "Department of Agriculture Fee Act"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5204. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a certification regarding a multiyear contract for the Family of Medium Tactical Wheeled Vehicles program; to the Committee on Armed Services.

EC–5205. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the weapons storage security project and a certification regarding strategic offensive arms; to the Committee on Armed Services.

EC–5206. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Response to Recommendations Concerning Improvements to Department of Defense Joint Manpower Process"; to the Committee on Armed Services.

EC–5207. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Waiver of Domestic Source Restrictions" (Case 97–D321) received on May 26, 1998; to the Committee on Armed Services.

EC–5208. A communication from the Director of the Washington Headquarters Services, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Waiver of Collection of Payments Due From Certain Persons Unaware of Loss of CHAMPUS Eligibility" (RIN0720–AA43) received on May 26, 1998; to the Committee on Armed Services.

EC–5209. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, the report of the Department of Defense Panel to Study Military Justice in the National Guard Not in Federal Service; to the Committee on Armed Services.

EC-5210. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report entitled "Assessment of Reports from the Military Departments on Sexual Harassment Complaints"; to the Committee on Armed Services.

EC-5211. A communication from the Assistant Secretary for Strategy and Threat Reduction, Department of Defense, transmitting, pursuant to law, a report entitled "Russian Plutonium Production Reactor Core Conversion Project"; to the Committee on Armed Services.

EC-5212. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, a report on the best commercial inventory practices; to the Committee on Armed Services.

EC-5213. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Prior Disclosure" (RIN1515-AB98) received on May 26, 1998; to the Committee on Finance.

EC-5214. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Emissions Standards for Imported Nonroad Engines" (RIN1515-AC28) received on May 26, 1998; to the Committee on Finance.

EC-5215. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Automated Clearinghouse Credit" (RIN1515-AC26) received on May 26, 1998; to the Committee on Finance.

EC-5216. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Procedural Change Regarding American Shooks and Staves" (RIN1515-AC18) received on May 28, 1998; to the Committee on Finance.

EC-5217. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Temporary Assistance for Needy Families (TANF) Contingency Fund; to the Committee on Finance.

EC-5218. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Surety Bond Requirements for Home Health Agencies" (RIN0938-AI86) received on May 29, 1998; to the Committee on Finance.

EC-5219. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "1996 National Water Quality Inventory Report"; to the Committee on Environment and Public Works.

EC-5220. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding Air Quality Implementation Plans in the District of Columbia (FRL6103-3) received on May 26, 1998; to the Committee on Environment and Public Works.

EC-5221. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding lead hazard education and Wyoming landfill gas emissions (FRL5751-7, FRL6104-7) received on May 28, 1998; to the Committee on Environment and Public Works.

EC-5222. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Identification of Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable" (FRL6105-6) received on May 29, 1998; to the Committee on Environment and Public Works.

EC-5223. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation to grant the District of Columbia control over local revenues; to the Committee on Governmental Affairs.

EC-5224. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of The Financial And Administrative Activities of The Boxing and Wrestling Commission For Fiscal Years 1996 and 1997"; to the Committee on Governmental Affairs.

EC-5225. A communication from the Director of Corporate Audits and Standards, Accounting and Information Management Division, General Accounting Office, transmitting, a report entitled "Congressional Award Foundation's 1997 and 1996 Financial Statements"; to the Committee on Governmental Affairs.

EC-5226. A communication from the Administrator of the Panama Canal Commission, transmitting, a report entitled "Financial Statements For the Years Ended September 30, 1997 and 1996 Together With Auditors' Report"; to the Committee on Governmental Affairs.

EC-5227. A communication from the Office of the Public Printer, U.S. Government Printing Office, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1997, through March 31, 1998; to the Committee on Governmental Affairs.

EC-5228. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report under the Inspector General Act for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5229. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees Health Benefits Program: Removal of Minimum Salary Requirement" (RIN3206-AI05) received on May 28, 1998; to the Committee on Governmental Affairs.

EC-5230. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5231. A communication from the Chairman and the General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 1997, through September 30, 1997; to the Committee on Governmental Affairs.

EC-5232. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of the Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5233. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the Financial Plan and Budget for the District of Columbia for fiscal year 1999; to the Committee on Governmental Affairs.

EC-5234. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 2132. An original bill making appropriations for the Department of Defense for fiscal year ending September 30, 1999, and for other purposes (Rept. No. 200).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Joseph W. Westphal, of Virginia, to be an Assistant Secretary of the Army.

Mahlon Apgar, IV, of Maryland, to be an Assistant Secretary of the Army.

Hans Mark, of Texas, to be Director of Defense Research and Engineering.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS:

S. 2130. A bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. WARNER, and Mr. BAUCUS) (by request):

S. 2131. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. STEVENS:

S. 2132. An original bill making appropriations for the Department of Defense for fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2133. A bill to designate former United States Route 66 as "America's Main Street" and authorize the Secretary of the Interior to provide assistance; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:

S. 2134. A bill to provide for air transportation between Denver, Colorado, and London, England; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH of New Hampshire (for himself and Mr. HELMS):

S.J. Res. 47. A joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. FAIRCLOTH):

S.J. Res. 48. A bill proposing an amendment to the Constitution of the United States restoring religious freedom; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ASHCROFT (for himself and Mr. HUTCHINSON):

S. Res. 242. A resolution expressing the sense of the Senate that the President should not go to China until certain aspects of United States policy toward China in the areas of national security, trade, and human rights have been clarified and outstanding questions surrounding the export of United States satellite and missile technology have been answered; to the Committee on Foreign Relations.

By Mr. BRYAN (for himself and Mr. REID):

S. Res. 243. A resolution to commend and congratulate the University of Nevada Las Vegas men's golf team on winning the team's first National Collegiate Athletic Association Championship; considered and agreed to.

By Mr. ABRAHAM (for himself, Mr. DEWINE, and Mr. ASHCROFT):

S. Con. Res. 101. A concurrent resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mr. SPECTER, Mr. LOTT, and Mr. DASCHLE):

S. Con. Res. 102. A concurrent resolution recognizing disabled American veterans; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS:

S. 2130. A bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals; to the Committee on Finance.

SMALL EMPLOYER NEST EGG ACT OF 1998

Mr. GRAMS. Mr. President, I rise today to acknowledge the National Summit on Retirement Savings which is taking place here in Washington today and tomorrow. I also want to use this occasion to introduce legislation that will empower a greater number of working Americans to save for their retirement through employer-sponsored retirement plans.

In the course of the next 2 days, the 239 delegates to the National Summit on Retirement Savings will address an issue of great importance as the baby boom generation draws closer to retirement age and the future of Social Security remains uncertain.

With savings rates at a 59-year low, and the revelation in the 1998 Social Security Trustees Report that Social Security is actuarially bankrupt, it is evident that we face what amounts to a retirement crisis.

The less individuals save for their retirement, the greater the strain on an ailing Social Security system that is incapable of sustaining the fast-growing retired population.

Yet studies show that an increasing number of Americans are depending on Social Security for their retirement income. According to the Employee Benefit Research Institute, Social Security is the primary source of income for 80% of retired Americans, and practically the only source for 40% of retirees.

Those who depend on Social Security for their retirement can expect a standard of living far lower than the one they enjoyed while in the work force.

For instance, an individual who has an annual income of $15,000 per year who retires in 1998 at age 65 can expect Social Security to provide only one-half their previous income, and the replacement rate drops steadily when moving up the income bracket.

Indeed, Social Security was never intended to be the major source of retirement savings that it seems to have become—its purpose was to serve as a single leg in a three-legged stool that would sustain Americans in their retirement years.

Social Security's original purpose was to provide Americans with the minimal level of income in retirement that when combined with personal savings and employment-based pensions would give retirees the living standard they enjoyed before retirement.

Mr. President, given these facts about Social Security and the decline in savings among Americans, it is crucial that steps be taken to ensure that the three-legged stool does not collapse under the weight of the growing retired population.

It is true that recent steps taken by Congress, particularly the 1996 enactment of the SIMPLE retirement plan, have succeed in increasing employee participation in employer-sponsored retirement plans.

However, the complexity of qualification requirements under current law and the administrative expenses associated with setting up retirement plans, including the SIMPLE plan, remain significant impediments to widespread implementation of these types of employer-based retirement systems.

This is particularly true for small employers with less than 100 employees, for whom the resulting benefits do not outweigh the administrative costs. Consequently, only 42% of all individuals employed by small businesses now participate in an employer-sponsored plan, as opposed to 78% of those who work for larger businesses.

To address this problem, I am introducing the Small Employer Nest Egg Act of 1998.

This legislation will create a new retirement option for small business owners with 100 or fewer employees and it would be similar to the SIMPLE plan and the SMART plan President Clinton proposed in his fiscal year 1999 budget.

However, my proposal differs somewhat from these two plans in that it would allow the same level of benefits—both to employers and employees—as larger employers who maintain traditional qualified plans.

Furthermore, upon retirement or separation of service, employees would receive 100% account value.

To offset the high costs associated with starting a pension plan, at the centerpiece of this proposal is a tax cut equal to 50% of the administrative and retirement education expenses incurred for the first five years of a plan's operation.

In addition, participating businesses would be exempt from some of the more burdensome administrative requirements associated with qualified plans.

That exemption would be in exchange for the employers' agreement to provide a minimum benefit of 3% to all employees who satisfy a minimum age requirement of 21 years old and the minimum service requirement of 1,000 hours during the preceding calendar year.

Mr. President, small businesses are the lifeblood of our communities, providing millions of jobs nationwide.

This bill I am introducing has been endorsed by the U.S. Chamber of Commerce. It has also been endorsed by the National Association of Women Small Business Owners and also of 220 small businesses in Minnesota alone. So it has very strong endorsement from the small business community.

Small business owners want to help their employees to save for their retirement, yet many are unable to do so as a result of rigid Government policies that seemingly have little regard for the plight of the small employer.

I urge my colleagues to support this legislation and to give small employers the ability they have long sought to help their employees save for their retirement.

By Mr. CHAFEE (for himself, Mr. WARNER, and Mr. BAUCUS) (by request):

S. 2131. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

WATER RESOURCES DEVELOPMENT ACT OF 1998

• Mr. CHAFEE. Mr. President, in my capacity as chairman of the Committee on Environment and Public Works, I join with Senators WARNER and BAUCUS today to introduce the Administration's 1998 Water Resources Development Act by request.

After 16 years of stalemate over the appropriate cost sharing of navigation, flood control, environmental restoration, and other types of water projects, the Reagan administration and Congress were able to reach agreement on the landmark Water Resource Development Act ("WRDA") of 1986. As a part of that important compromise there was a general understanding that a two-year cycle of water project authorization bills would be established. With the exception of 1994, the administration and Congress have successfully worked together toward that end.

It is time once again to continue the biennial water resources authorization cycle with a 1998 WRDA. The bill we introduce today on behalf of the administration represents an effort to identify worthwhile projects and policies in support of the Army Corps of Engineers Civil Works program.

I and other members of the Committee on Environment and Public Works will conduct a thorough review of the administration's WRDA request, and the project and policy requests of individual Senators, to make sure that any bill reported to the full Senate later this year is economically and environmentally justified.

Mr. President, this legislation is important to communities throughout the nation. I look forward to working closely with colleagues in the coming weeks to ensure enactment of WRDA '98.•

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2133. A bill to designate former United States Route 66 as "America's Main Street" and authorize the Secretary of the Interior to provide assistance; to the Committee on Energy and Natural Resources.

ROUTE 66 LEGISLATION

Mr. DOMENICI. Mr. President, on behalf of myself and Senator BINGAMAN from New Mexico, I am pleased to introduce today what we will call the Route 66 Preservation Act of 1998. Some here in the Senate may recall that I introduced the Route 66 Study Act of 1990, which directed the National Park Service to determine the best way to preserve, commemorate and interpret "America's Main Street"—Route 66.

Public Law 102-400 directed the National Park Service to conduct a study on the impact of that route, that highway on America's culture. The study was completed in 1995, and addressed the feasibility of preserving what remains of the highway and the facilities associated with it through private and public efforts.

Most nonprofit Route 66 organizations and other interested parties preferred preservation Alternative 5, asking for national recognition of Route 66 and partnerships between private and public groups for preservation. This bill is based on that alternative, and authorizes the National Park Service to join with Federal, State and private efforts to preserve aspects of historic Route 66, the Nation's most important thoroughfare for east-west migration in the 20th century.

Designated in 1926, the 2,200-mile Route 66 stretched from Chicago to Santa Monica, CA. The thoroughfare became the first completely paved highway across the United States in 1938. It rolled through Illinois, Missouri, Kansas, Oklahoma, Texas, New Mexico, Arizona and California. In my home State of New Mexico, it went through the communities of Tucumcari, Santa Rosa, Albuquerque, Grants, and Gallup.

The Legislation I am introducing today would have the National Park Service designate an "Office for Preservation of America's Main Street" with officials from the 8 affected States. The Preservation Office would be authorized to:

Support State, local and private efforts to preserve Route 66 by providing technical assistance, participating in cost-sharing programs, and making grants and loans;

Act as a clearing house for communication among Federal, State, local and private entities interested in the preservation of Route 66;

Assist States in determining the appropriation form of a non-Federal entity or entities to perform functions of the Preservation Office once it is terminated 10 years after enactment of this legislation; and,

Sponsor a road sign program on Route 66 to be implemented on a cost-sharing basis with State and local organizations.

Route 66 is really a modern-day equivalent to the Santa Fe Trail. I believe this bill will provide States and local communities a more tangible means of gaining Federal assistance to preserve aspects of Route 66.

At one time, Route 66 was the most famous highway in the United States. Now it is fading from the American landscape. If we want to preserve Route 66, it is now time to act.

Up to 500,000 Americans—one quarter of all entrants to California during that era—migrated to California from the Dust Bowl on Route 66 from 1935 to 1940. John Steinbeck captured this journey and christened Route 66 the "Mother Road" in his classic novel of the Depression: "The Grapes of Wrath."

After World War II, another generation of Americans trekked across America on Route 66, not to escape despair, but to embrace economic opportunities in the West. Songwriter Bobby Troup expressed the enthusiasm and sense of adventure of this generation in his song, "Get Your Kicks on Route 66!"

Route 66 also allowed generations of vacationers to travel to previously remote areas and experience the natural beauty and cultures of the Southwest and Far West.

Route 66 began to decline with the enactment of the Interstate Highway Act in 1956. In 1984, the last federally designated portion of Route 66 was decommissioned when interstate 40 was completed in Arizona.

Hopefully, the Senate will join me in once again allowing another generation to "get its kicks" on Route 66.

The study has been completed, and now it is time to give the Park Service some direction—let them set up a small office for the preservation of Route 66. The bill authorizes partnerships between the private sector, State entities and the Federal Government through existing programs in an effort to preserve various aspects of this rather magnificent American roadway—Route 66.

Many songs have been written about it. Many dreams are described by people who lived part of their lives there. Part of the Grapes of Wrath took place on Route 66. I think before all of what remains of America's Main Street disappears, it is a good time to pass this kind of bill and see if we can't preserve parts of it. Much is made of preserving historic things in the United States. It would be a shame, since there are so many people out there who care about this piece of American history and want to try to preserve the remnants of Route 66, if we did not do something now to help them in that effort.

• Mr. BINGAMAN. Mr. President, I am pleased to speak in support of this important legislation being introduced today by my friend Senator DOMENICI. The bill designates the old Highway 66 as "America's Main Street" and authorizes the National Park Service to help state, tribal and local governments in their efforts to preserve this unique piece of our national heritage.

Mr. President, Route 66 is more than a 2400-mile highway from Chicago to Los Angeles. In many ways it represents the American dream, the open road, and our unending search for opportunity and adventure. This is the

"Mother Road" of John Steinbeck's classic 1939 novel "The Grapes of Wrath." This is the road immortalized by Cole Porter and Jack Kerouac. In the 1950s, this is the road that gave us the popular television series "Route 66."

In my state of New Mexico, Route 66 ran nearly 400 miles from Glenrio in Quay County on the east to Manuelito in McKinley County on the West. Before 1937, the road looped north through Santa Fe and Bernalillo and south through Isleta and Los Lunas. Many of us believe the state of New Mexico has some of the most compelling scenery along the highway.

Mr. President, from the beginning Route 66 was intended to link America's rural and urban areas. Much of the original roadway remains along with those old classic filling stations, cafes, motels, and, of course, those unforgettable neon signs. Indeed, the old highway remains the "main street" in many New Mexico cities, including Albuquerque, Tucumcari, Santa Rosa, Bernalillo, Gallup, and Grants.

I think it is unfortunate that many drivers on our modern Interstate 40 cross New Mexico without pausing to enjoy the nostalgia of the old highway. That's why I am pleased that New Mexico is already working aggressively to preserve and memorialize the old highway. The route in New Mexico is now designated a scenic byway. Our state has worked hard to provide appropriate signage, and the familiar brown and white shield signs are now prominent along the old route. A number of New Mexico towns and pueblos have permanent exhibits on the history of Route 66 in their areas. The city of Tucumcari has a whimsical monument to Route 66 modeled after a Cadillac tail fin. Soon there will be a Route 66 interpretative center at the Pueblo of Acoma that will showcase the historic and cultural attractions of the region. A similar center is planned for the Indian Pueblo Cultural Center in Albuquerque.

Mr. President, Route 66 received its original designation in 1926 as a result of the first national highway plan. Now, over seventy years later, Congress has just passed a new highway bill that clearly recognizes through the Enhancements and Scenic Byways Programs the importance of preserving and protecting our national heritage. With the automobile firmly entrenched in our culture today, highways such as Route 66 are a genuine part of our heritage. This bill will help assure that heritage is preserved. I am pleased to co-sponsor this bill with Senator DOMENICI, and I thank him for his efforts.•

By Mr. ALLARD:

S. 2134. A bill to provide for air transportation between Denver, Colorado, and London, England; to the Committee on Commerce, Science, and Transportation.

DENVER INTERNATIONAL AIRPORT LEGISLATION

• Mr. ALLARD. Mr. President, I am introducing legislation today to encourage the Secretary of the Department of Transportation to act expeditiously in the interest of fairness and in support of the economy of my home state of Colorado.

I would like to explain the situation that causes me to make this proposal. There exists an agreement between the United States and the United Kingdom to allow US Airways to operate a direct flight from Charlotte, North Carolina, to Gatwick Airport in London, England. In accordance with fair and recognized practices, the airlines with established routes and time slots that have served Gatwick Airport for years were not disturbed, and US Airways was given landing rights for a time slot that is not currently occupied. Although it may not be US Airways' top choice, the time slot that has been allocated appears to be commercially viable. US Airways, however, refuses to begin service unless they are given a better time slot at Gatwick. This request is beyond the provisions of the approved agreement.

An unrelated agreement to allow British Airways to provide non-stop service from Denver, Colorado, to London, England, is currently pending approval by the United States Department of Transportation. The Department has chosen to deliberately delay approval of the British Airways' agreement in order to pressure British Airways and the authorities at Gatwick Airport to give US Airways the most desirable time slots. The Department is simply holding the Denver-London flights hostage until the demands of US Airways are met. This is not proper use of the Department of Transportation's authority; it sets a negative precedent for airline competition and cooperation between the United States and Europe, and it is impacting the growth of Colorado's economy.

The Secretary has been kind enough to meet with me personally, along with my colleague from Colorado, Senator BEN NIGHTHORSE CAMPBELL, to discuss this issue. In spite of our concerns about Colorado, the Department still resists any effort to progress on the approval of the British Airways Denver-London flights. The date for beginning service was postponed from June 1st to August 1st, and unfortunately British Airways will announce tomorrow that the delay in approval will preclude them from starting service by August 1st. The start date for Denver-London direct service has been indefinitely postponed.

This postponement denies Colorado its first overseas international flight at Denver International Airport. It prohibits our tourism industry from growing, especially during the upcoming ski season. It prevents increased competition that would result from connecting flights at DIA. It creates a problem for the employees in Denver who have already been hired by British Airways, but who have no jobs.

I hope that the Department of Transportation takes immediate action on the pending British Airways agreement, and I encourage my colleagues to support me and my efforts to ensure that the British Airways agreement is justly considered, and that Colorado is not harmed as the Department of Transportation deals with the separate concerns of US airways.•

By Mr. SMITH of New Hampshire (for himself and Mr. HELMS):

S.J. Res. 47. A joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; to the Committee of Finance.

JOINT RESOLUTION DISAPPROVING WAIVER AUTHORITY FOR VIETNAM

• Mr. SMITH of New Hampshire. Mr. President, today I am introducing legislation to require Vietnam to provide freedom of emigration for the Vietnamese people before tax dollars from our constituents across America are used to further expand our government's trade relations with this communist regime. As provided for in the Trade Act of 1974, my resolution prohibits implementation of the President's decision yesterday to waive the freedom of emigration requirements with Vietnam.

I am pleased that Senator HELMS, the distinguished Chairman of the Senate Foreign Relations Committee, has joined me as a sponsor of this joint resolution, and I commend my colleague, Congressman ROHRABACHER, for introducing a companion measure in the House. I also note that our efforts are strongly supported by the Chairman of the House International Relations Committee, Congressman GILMAN, the Chairman of that Committee's panel on International Operations and Human Rights, Congressman CHRISTOPHER SMITH, and several other Members on both sides of the aisle in that chamber. Frankly, Mr. President, given the support for this resolution by the relevant Committee chairmen, one has to question why the Administration moved forward on this in March of this year and again yesterday. This is particularly troublesome given the fact that the President's own National Security Advisor stated this past December that the President would not move forward unless consultations with Congress went well. Clearly, the consultations did not go well.

When Congress considered and passed the amendment by Senator Jackson and Representative Vanik in the Trade Act of 1974, everyone at the time understood Congressional intent—free emigration was to be a condition for expanding U.S. trade relations with non-market communist nations.

Today, nearly two and a half decades later, we do not have free emigration provided to the people of Vietnam by the communist regime that took over that entire country by force in 1975. Moreover, the Administration has failed to make a convincing case to the Congress to justify President Clinton's decision to waive freedom of emigration requirements. Hanoi's record does not support this decision. Yes, Hanoi has taken some steps to permit more orderly departures in recent years, but there are still unwarranted delays, and I am very concerned that recent promises and pledges of cooperation have yet to be satisfactorily fulfilled.

Congressional intent was clear in 1974, and it has not changed since that time. U.S. policy is supposed to put freedom of emigration ahead of the trade interests some might have with this one-party communist state. We are supposed to be putting principle over profit, not the other way around.

I believe America should not abandon the Vietnamese people who long for respect for human rights and democratic freedoms. They were abandoned over two decades ago, and we simply cannot let it happen again. Jackson-Vanik requirements should not be waived for Vietnam if it is not absolutely clear that such a waiver would "substantially promote" freedom of emigration requirements as the law requires. This past March, State Department witnesses testified there had been "measurable" progress. The term measurable does not imply to me that we are seeing dramatic positive changes by Vietnam. I do not believe we have seen "significantly more rapid progress" which was the standard set by Secretary of State Albright herself last year during her visit to Vietnam. And I fail to see how the President's first waiver for Vietnam on March 9, 1998 has substantially promoted progress these past three months. If more people had been permitted to leave Vietnam in the last three months than we had seen over the last three years, then maybe the waiver would have, indeed, substantially promoted progress, but that has not happened, Mr. President, from what I have been told.

Today, as we introduce this joint resolution, there are still people in Vietnam who supported us and fought for us during the war who have not been allowed to freely emigrate. Some of them have not even been allowed to meet with U.S. officials for interviews. I understand that others have been forced to pay exorbitant bribes in order to be considered for exit visas.

Under the Trade Act of 1974, Congress has an opportunity to ensure that freedom of emigration requirements are met by Vietnam before further trade benefits are extended. The joint resolution introduced today by myself and Senator HELMS provides my colleagues the opportunity to go on record in support of the people of Vietnam. If you want to send a message to the Government of Vietnam that they must fully comply with the promises and commitments they have made in recent years, this is the way to do it.

Additionally, for those of my colleagues who continue to be concerned, as I am, that Hanoi has not been fully forthcoming in their accounting for American POWs and MIAs, and their progress on human rights, then you should support this resolution. Some of my colleagues may recall that both the POW/MIA issue and human rights concerns were, indeed, central to the provisions first adopted in the Trade Act of 1974, and so it is appropriate that these concerns are made part of the current debate as well.

How far must we go, Mr. President, to embrace this communist regime before they fully address our long-standing concerns on all these important issues? I am certain that the time has come once again for Congress to go on record in support of the objectives behind this resolution.

Finally, Mr. President, I would note that the resolution we are introducing today is strongly supported by numerous organizations of Vietnamese-Americans, many of our national veterans and POW/MIA family organizations, several international refugee organizations, and a host of other concerned groups of Americans.

I look forward to the forthcoming debate on this timely and important issue.●

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. THURMOND, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Oklahoma (Mr. NICKLES) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1334

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1345

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine (Ms. SNOWE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1345, a bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes.

S. 1391

At the request of Mr. DODD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1423

At the request of Mr. HAGEL, the names of the Senator from Montana (Mr. BURNS) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1427

At the request of Mr. FORD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1427, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission

to preserve lowpower television stations that provide community broadcasting, and for other purposes.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1529, A bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1808

At the request of Mr. REED, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1808, a bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans.

S. 1879

At the request of Mr. BURNS, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from California (Mrs. BOXER), the Senator from Alabama (Mr. SHELBY), the Senator from Alabama (Mr. SESSIONS), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 1879, a bill to provide for the permanent extension of income averaging for farmers.

S. 1897

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 1897, a bill to require accurate billing by telecommunications carriers with respect to the costs and fees resulting from the enactment of the Telecommunications Act of 1996, and for other purposes.

S. 1917

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1917, a bill to prevent children from injuring themselves and others with firearms.

S. 1924

At the request of Mr. MACK, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1959

At the request of Mr. COVERDELL, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1991

At the request of Mr. JOHNSON, the names of the Senator from California (Mrs. BOXER) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1991, a bill to require the Secretary of Transportation to issue regulations to provide for improvements in the conspicuity of rail cars of rail carriers.

S. 2014

At the request of Mr. BIDEN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2014, a bill to authorize the Attorney General to reschedule certain drugs that pose an imminent danger to public safety, and to provide for the rescheduling of the date-rape drug and the classification of certain "club" drug.

S. 2030

At the request of Mr. BUMPERS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2030, a bill to amend the Federal Rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes.

S. 2049

At the request of Mr. KERREY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2073

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2073, a bill to authorize appropriations for the National Center for Missing and Exploited Children.

S. 2100

At the request of Mr. SPECTER, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2100, a bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses.

S. 2107

At the request of Mr. ABRAHAM, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2107, a bill to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. LIEBERMAN, the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Virginia (Mr. ROBB), the Senator from Hawaii (Mr. AKAKA), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 240

At the request of Mr. THOMAS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of Senate Resolution 240, a resolution expressing the sense of the Senate with respect to democracy and human rights in the Lao People's Democratic Republic.

AMENDMENT NO. 2446

At the request of Mr. FEINGOLD his name was added as a cosponsor of Amendment No. 2446 proposed to S. 1415, a bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

SENATE CONCURRENT RESOLUTION 101—EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT OF THE UNITED STATES SHOULD RECONSIDER HIS DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY THE PEOPLE'S REPUBLIC OF CHINA

Mr. ABRAHAM (for himself, Mr. DEWINE, and Mr. ASHCROFT) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 101

Whereas nine years ago on June 4, 1989, thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and democracy;

Whereas it was with horror that the world witnessed the response of the Government of the People's Republic of China as tanks and military units marched into Tiananmen Square;

Whereas Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on young, unarmed civilians;

Whereas "children were killed holding hands with their mothers," according to a reliable eyewitness account:

Whereas according to the same eyewitness account, "students were crushed by armored personnel carriers";

Whereas more than 2,000 Chinese pro-democracy demonstrators died that day, according to the Chinese Red cross;

Whereas hundreds continue to languish in prisons because of their belief in freedom and democracy;

Whereas nine years after the massacre on June 4, 1989, the Government of the People's Republic of China has yet to acknowledge the Tiananmen Square massacre; and

Whereas, being formally received in Tiananmen Square, the President would bestow legitimacy on the Chinese government's horrendous actions of 9 years ago: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square until the Government of the People's Republic of China acknowledges the Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students still imprisoned for supporting freedom and democracy that day.

Mr. ABRAHAM. Mr. President, today I submit a resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

I submit this resolution, Mr. President, because I am convinced that the President of the United States, the leader of the world's first free nation and indeed of the free world, should not give the slightest reason for anyone to believe that he or the United States has forgotten the crimes against liberty and humanity committed by the communist regime in Beijing.

As we mark the ninth anniversary of the massacre of pro-democracy demonstrators in Tiananmen square, I think it is important that we consider our own role in bringing those students, mothers, fathers and children into the streets to demand their freedom. We must never forget, in my view, that it was to the United States, the birthplace of freedom, that these brave people looked in seeking a new path for China.

"The Goddess of Democracy"—our own Lady Liberty—and our Declaration of Independence were, despite long-standing government bans, constantly on the minds and in the hearts of those who demanded freedom and democracy.

The shot fired at Lexington and Concord continues to be heard round the world. The natural human desire for freedom, for the liberty to worship, to enjoy the fruits of one's labor, to tend one's family and community, will not die, despite the tanks and armored personnel carriers of a despotic regime.

We have a responsibility in my view, Mr. President, to stand up for the principles on which our nation was founded, the principles that brought virtually all of our ancestors to these shores, the principles that won the cold war and that continue to fire the hearts of all peoples the world over.

Now is the time for President Clinton to stand up for these principles. More than 2,000 freedom loving people, including children holding their mother's hands, were killed by the communist Chinese government in Tiananmen Square. Hundreds of innocent men and women continue to be held under inhuman conditions simply for standing up for freedom, democracy, and the truth of individual human dignity. And the Communist regime in Beijing continues to claim that it was right to act so brutally in putting down what it calls a "counter revolutionary riot."

Now is not the time, Mr. President, to greet Chinese officials in Tiananmen Square. Now is the time to speak out for the oppressed, those who have died and those who are imprisoned for their beliefs.

I have submitted this resolution because I believe it would be inappropriate, and a show of disrespect for those who have died for freedom, for our President to be formally received in Tiananmen Square by the Chinese Communist Government.

It is my hope that the President will heed this call to stand with the people of China, to uphold the principles of our nation, and to say not to tyranny.

Mr. President, I ask unanimous consent that a letter signed by several human rights, religious, and pro-family leaders urging the President to reconsider his decision to go to Tiananmen Square be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FAMILY RESEARCH COUNCIL,
Washington, May 20, 1998.

President WILLIAM J. CLINTON,
Washington, DC.

DEAR MR. PRESIDENT: Nine years ago, thousands of Chinese students peacefully gathered in Tiananmen Square to show their admiration of democracy. It was with horror that the world witnessed the response of China's government as tanks and military units marched into the square. Hundreds of students died that day. Hundreds more continue to languish in prisons for their belief in democracy. That day remains vivid in the minds of Americans across the political spectrum.

Therefore, we were deeply disturbed when we received the news that you will be officially recognized in Tiananmen Square during your upcoming visit to China. Although the signatories of this letter are often in disagreement over U.S. public policy, we are united in our passion for the founding words of this country: "All men are created equal [and] . . . are endowed by their Creator with certain inalienable rights . . . [and] among these are life, liberty, and the pursuit of happiness. . . ." These words, we believe, apply not just to Americans but to all men and women. No lasting gain can be achieved by tarnishing the very principles that we, as Americans, hold dear.

By being formally received in Tiananmen Square, Mr. President, you are bestowing legitimacy to the ground where innocent blood was needlessly shed. Nine years after the massacre on June 4, 1989, Beijing has yet to acknowledge that dreadful moment or the lives that were cruelly and arbitrarily taken. We ask that you reconsider your decision to go to Tiananmen Square until China's regime expresses regret and releases those still imprisoned for their brave stand.

Sincerely,

Gary L. Bauer, President, Family Research Council; Xiao Qiang, Executive Director, Human Rights in China; Kerry Kennedy Cuomo, Founder, Robert F. Kennedy Memorial Center for Human Rights; Dr. James Dobson, President, Focus on the Family; Harry Wu, Executive Director, The Laogai Research Foundation; Dr. William Bennett, Co-Director, Empower America; Joseph Kung, President, Cardinal Kung Foundation; Carmen Pate, President, Concerned Women for America; Deacon Keith A. Fournier, President, Catholic Alliance; Rev. Louis P. Sheldon, Chairman, Traditional Values Coalition; Phyllis Schlafly, President, Eagle Forum; Jeff Fiedler, President, Food and Allied Service Trade Department, AFL–CIO; Steve Snyder, President, International Christian Concern; Nina Shea, President, Center for Religious Freedom, Freedom House; Steven McFarland, Director, Center for Law and Religious Freedom, Christian Legal Society; Don Wildmon, President, American Family Association; Robert George, Professor, Princeton University; Michael Howden, Executive Director, Oregon Center for Family Policy; Michael Heath, Executive Director, Christian Civic League of Maine; William T. Devlin, Executive Director, Urban Family Council; Kent Ostrander, Executive Director, The Family Foundation; Matt Daniels, President, Massachusetts Family Institute; John H. Paulton, Executive Director, South Dakota Family Policy Council; Gary Schmitt, Executive Director, Project for the New American Century; Jeff Kemp, President, Washington Family Council; Randy Hicks, Executive Director, Georgia Family Council; Gary J. Palmer, Executive Director, Alabama Family Alliance; Len Deo, President, New Jersey Family Policy Council; William A. Smith, Executive Director, Indiana Family Institute; Paul Scianna, Executive Director, Family Policy Center, Missouri; Thomas McMillen, President, Rocky Mountain Family Council; Michael Geer, Executive Director, Pennsylvania Family Institute; Don Hodel, President, Christian Coalition; Deal Hudson, Publisher and Editor, Crisis Magazine; Chuck Colson, President, Prison Fellowship; Randy Tate, Executive Director, Christian Coalition.

SENATE CONCURRENT RESOLUTION 102—REGARDING DISABLED AMERICAN VETERANS

Mr. ROCKEFELLER (for himself, Mr. SPECTER, Mr. LOTT, and Mr. DASCHEL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR DISABLED AMERICAN VETERANS EVENT.

Disabled American Veterans shall be permitted to sponsor a public event on the West Front Lawn of the Capitol on June 16 and 17, 1998, or on such other dates as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, in order announce the donation of 147 vans to the Department of Veterans Affairs by Disabled American Veterans.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized by section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—Disabled American Veterans shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, Disabled American Veterans may erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment as may be required for the event authorized by section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event, including arrangements to limit access to First Street Northwest and First Street Southwest as required for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event authorized by section 1.

SEC. 5. PHOTOGRAPHS.

The event authorized by section 1 may be conducted only after the Architect of the Capitol and the Capitol Police Board enter into an agreement with Disabled American Veterans and the manufacturer of the vans referred to in section 1 that prohibits Disabled American Veterans and such manufacturer from using any photograph taken at the event for a commercial purpose. The agreement shall provide for financial penalties to be imposed if any photograph is used in violation of this section.

SENATE RESOLUTION 242—EXPRESSING THE SENSE OF THE SENATE ON THE PRESIDENT'S UPCOMING VISIT TO AND NATIONAL POLICY TOWARDS CHINA

Mr. ASHCROFT (for himself and Mr. HUTCHINSON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 242

Whereas the President has pledged that the United States "must remain a champion" of the liberties of the Chinese people;

Whereas two of the most notable Chinese dissidents, Wang Dan and Wei Jingsheng, effectively have been exiled from their country;

Whereas thousands of other individuals remain imprisoned in China and Tibet for peacefully expressing their beliefs and exercising their inalienable rights, including freedom of association, freedom of speech, and freedom of conscience;

Whereas the Government of the People's Republic of China routinely, systematically, and massively continues to commit widespread human rights abuses in Tibet, including instances of death in detention, torture, arbitrary arrest, imprisonment for the peaceful expression of religious and political views, and intensified controls on the freedom of speech and the press, particularly for ethnic Tibetans;

Whereas China has taken extraordinary steps to avoid the condemnation of the United Nations Commission on Human Rights;

Whereas the President has failed to press China aggressively to protect the civil liberties of the Chinese people and failed even to sponsor a resolution at the meeting of the United Nations Commission on Human Rights condemning China's human rights violations, which include forced abortion, summary execution, arbitrary imprisonment, and persecution of religious minorities;

Whereas since November 1994, the President has declared annually a national emergency regarding the proliferation of weapons of mass destruction and stated that such proliferation poses "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States";

Whereas, in a June 1997 report on proliferation activity, the Central Intelligence Agency identified China as "the most significant supplier of weapons of mass destruction-related goods and technology", including missile, nuclear, and chemical weapons technology to rogue states such as Iran;

Whereas United States satellite cooperation with China has benefited China's intercontinental ballistic missile program—missiles with nuclear warheads pointed at the United States, and the Department of Justice is investigating possible missile technology transfers to China resulting from United States-Chinese satellite cooperation;

Whereas the President's decision to waive restrictions on the export to China of missile technology similar to that under investigation by the Department of Justice, and the President's efforts to lift the requirements for launch waivers altogether, undermine the present Justice Department investigation and threatens United States national security;

Whereas the Department of Justice is investigating possible campaign contributions from the People's Liberation Army to the Democratic National Committee through contributions from an executive at China Aerospace International Holdings, an affiliate of China Aerospace Corporation, the firm which oversees China's missile development and space programs;

Whereas China made written commitments to the United States during the October 1997 summit to terminate nuclear cooperation with Iran and was later reported to be violating that pledge by attempting to provide Iran with hundreds of tons of anhydrous hydrogen fluoride, a material for use in Iran's nuclear weapons complex to enrich uranium to weapons grade;

Whereas the President, in allowing nuclear cooperation to proceed with China, certified that "the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the material and components for such devices";

Whereas the credibility of this certification is undermined by China's continuing proliferation activity, including efforts to assist Iran's nuclear weapons program;

Whereas since the United States normalized trade relations with China in 1979, China has risen from the 57th to 4th largest supplier of United States imports;

Whereas China's trade and investment practices have resulted in a 1997 trade deficit of $49,700,000,000, an imbalance more than 2.5 times larger than the United States trade deficit with all European countries, and accounting for one-fourth of the United States trade deficit with the entire world;

Whereas in the Executive branch's 1997 National Trade Estimate on Foreign Trade Barriers, China's trade regime was identified as "political", "severely restricted", "prohibitive", "unpredictable", "preferential", "de facto", "unpublished", "vague", "inaccessible", "inconsistent", and "noncompetitive";

Whereas facing Congress's near withdrawal of most-favored nation (MFN) status in 1991 and President Bush's threat of sanctions, China, in order to keep MFN status and have the United States support its accession to the World Trade Organization (WTO), agreed that it would allow the United States automobile sector to compete freely in the Chinese market and that, by December 31, 1997, it would eliminate significant trade barriers to United States agricultural exports;

Whereas China's trade liberalization commitments in 1991 have not been honored, yet the Executive branch is moving forward in negotiations for China to accede to the WTO;

Whereas concessions made by China in negotiations to accede to the WTO have been piecemeal, inconsistent, and deficient, and thus limit the economic opportunity of United States businesses and workers;

Whereas Taiwan serves as an example of democratic governance to China and the authoritarian Chinese communist party;

Whereas the People's Republic of China carried out missile exercises in 1995 and 1996 intended to intimidate the people of Taiwan, continues a military buildup directed at the island, refuses to renounce the use of force against Taiwan, and consistently seeks to isolate Taipei from membership in international organizations and general relations with other countries;

Whereas the Chinese communist party has undermined the institutions of democratic government in Hong Kong by abolishing Hong Kong's elected legislature, designing a framework for legislative elections that severely limits representative democracy, and passing retroactive legislation exempting Chinese entities from a host of Hong Kong's laws; and

Whereas the Democratic Party of Hong Kong won every seat elected by direct ballot in Hong Kong, garnering over 60 percent of the popular vote, yet President Clinton has declined to meet individually with the leadership of the Democratic Party of Hong Kong: Now, therefore, be it

Resolved, That, in the interest of improving United States-China relations, it is the sense of the Senate that—

(1) a healthy and stable relationship with China is in the national interests of the United States;

(2) the Chinese people should be allowed to freely exercise their unalienable rights, including the rights to freedom of speech, of religion, and of association;

(3) efforts by the Chinese government to restrict those liberties pose a threat to a stable China and a positive long-term relationship with the United States;

(4) the President should submit a report to Congress as soon as possible after the proposed summit in China concerning his progress in securing the release of persons remaining imprisoned in China and Tibet and other significant steps to improve human rights;

(5) China's proliferation of weapons of mass destruction technology poses an unusual threat to the national security of the United States;

(6) the President has failed to confront China's proliferation of weapons of mass destruction technology, proliferation that is directly responsible for contributing to an escalating nuclear arms race between India and Pakistan;

(7) the trustworthiness of the Chinese government is undermined when nonproliferation and trade commitments of Chinese officials are repeatedly broken;

(8) the President, in addition to applauding narrow trade concessions from China, should ensure that the highest levels of diplomacy are used to open the entire Chinese market to United States trade and investment;

(9) China's accession to the World Trade Organization (WTO) should be conditioned on China's compliance with past market access commitments and further steps to open China's market to United States investment and trade in goods and services;

(10) the United States should not jeopardize cooperation with and assistance to the democratic government of Taiwan to appease the Chinese government but instead should maintain unambiguously its legal commitments to help maintain Taiwan's capacity for self-defense while calling upon the Chinese government to renounce the use of force against the people of Taiwan;

(11) the preservation of democratic government and rule of law in Hong Kong is an obligation of the Chinese government and failure to honor that obligation will have a negative effect on United States policy toward China;

(12) China is resisting the spread of democracy in Asia, which is occurring from South Korea to Indonesia, and the failure of President Clinton to meet with the leaders of the Democratic Party of Hong Kong undermines his statement to President Jiang that China's repressive government is "on the wrong side of history"; and

(13) the President should not go to China to attend a summit with President Jiang until—

(A) the President has provided a full disclosure to Congress concerning the transfer of United States satellite and missile technology to China; and

(B) United States policy toward China in general has been formulated more effectively to protect United States national security, economic, and human rights interests.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. ASHCROFT. Mr. President, it is fitting on this day, the ninth anniversary of the Tiananmen Square massacre, to submit this resolution calling for the President to delay his trip to China. With allegations swirling about China's efforts to influence U.S. elections, and with the hard evidence we do have of China's continuing proliferation of weapons of mass destruction technologies, rewarding China with a summit visit is sending the wrong signal at the wrong time.

There is perhaps nothing more indicting than a vote in the United States Congress that the actions of a Commander-in-Chief were not in the national interest. And yet, that is precisely what the House of Representatives did on May 20, 1998. By a vote of 417 to 4, the House voted that the President's decision in February 1998 to allow the export of satellite technology to China was "not in the national interest." The Justice Department reportedly protested the waiver, expressing concern that it would undermine an ongoing criminal investigation of a possible satellite technology transfer that occurred in 1996.

What is just as troubling is the possible link between the export of U.S. satellite technology and political donations from China's People's Liberation Army (PLA). Liu Chao-ying, an officer in the PLA, gave Johnny Chung—one of the central figures in the Administration's fundraising scandal—$300,000 to funnel into democratic coffers in the 1995–96 election cycle. Ms. Liu just happens to be a senior manager and vice president in the China Aerospace conglomerate, Beijing's state-owned company that oversees China's missile development and space launch programs.

The White House says it did not know the source of Mr. Chung's funding. I question how diligently Administration officials and democratic fundraisers wanted to know. Warnings from the National Security Council as to the intentions of Mr. Chung, described by one official as a "hustler," went unheeded. Senator THOMPSON's fundraising investigation describe in careful detail how the Democratic National Committee dismantled its vetting process for contributions. Mr. Chung himself visited the White House 49 times. This was not a superficial relationship. This man was a regular guest of the Administration.

The recent scandals surrounding satellite technology transfers and Chinese efforts to influence U.S. elections are only the latest, troubling signs that this Administration's China policy is an abysmal failure. As Harry Wu said at this morning's press conference to commemorate the Tiananmen Square massacre, appeasement does not bring peace.

Appeasement is precisely what this Administration's China policy has become. China announces it will not conduct an inquiry into the Tiananmen Square massacre, yet President Clinton begins his summit at this site, where possibly thousands of Chinese were killed. In Hong Kong, President Clinton will not meet individually with Martin Lee, the leader of pro-democracy forces in the former colony whose Democratic Party won over 60% of the popular vote in the May 24 elections. China is identified by the CIA as the world's worst proliferator of weapons of mass destruction technology, proliferation activity that has contributed directly to the spiraling arms race between India and Pakistan. Yet the Administration rewards China with a nuclear cooperation agreement that will send America's best reactor technology to China. China repeatedly breaks commitments to open its market to U.S. businesses, yet the President renews MFN year after year.

This Administration apparently will overlook any offense to our nation's principles and security to continue the bankrupt policy of engaging communist China. China points nuclear missiles at the U.S., and PLA officers describe the United States as China's "international archenemy." Yet the Administration allows advanced satellite and missile technology to be sent to China which a Pentagon memo says harmed U.S. national security.

China's actions, and this Administration's response to those actions, has set the U.S.-China relationship on a gravely dangerous course. It is time for a fundamental reevaluation of U.S. China policy. This resolution will provide a good start. This resolution outlines the areas of concern in our policy toward China, from human rights to national security to trade matters. In contrast to how U.S.-China relations have been administered for the last six years, a sound relationship between our two countries must be based on integrity, responsibility, and mutual respect.

China's behavior across the board has not given any basis for this Administration to pursue a "strategic partnership" with Beijing. Appeasement will not bring peace. This Administration obviously did not learn the lessons of the Cold War. China is an aggressive power that seeks regional hegemony. Extending MFN trade status in exchange for a $50 billion trade deficit, sending China our best nuclear reactor technology in exchange for Chinese weapons proliferation, and beginning the summit at Tiananmen Square when China continues to imprison its people is not the kind of policy that will bring mutual respect and peace in East Asia.

I call on the President to delay his trip to China until questions surrounding satellite technology transfer have been answered and U.S. China policy has been formulated more effectively to protect American interests. Senator HUTCHINSON is joining me as a cosponsor of this resolution, and I appreciate his tremendous work in this area. This resolution is designed to send a signal to the Chinese government and the victims of its repression that there are limits to the tolerance of China's appalling human rights record, continuing trade obstructionism, and destabilizing proliferation.●

SENATE RESOLUTION 243—CONGRATULATING THE UNVIERSITY OF NEVADA-LAS VEGAS MEN'S GOLF TEAM ON WINNING THE TEAM'S FIRST NATIONAL COLLEGIATE ATHLETIC ASSOCIATION CHAMPIONSHIP

Mr. BRYAN (for himself and Mr. Reid) submitted the following resolution; which was considered and agreed to:

S. Res. 243

Whereas the University of Nevada Las Vegas Rebels men's golf team shot four rounds of golf at a total of 1118 strokes for a total of 34 under par, to beat the second place Clemson Tigers by three strokes;

Whereas this score of 34 under par set a tournament record by 11 strokes;

Whereas Chris Berry shot a total of 272 strokes for 16 under par to finish second in individual competition, to help ensure the championship for the Rebels;

Whereas the University of Nevada Las Vegas men's collegiate golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the course of the season in achieving collegiate golf's highest honor; and

Whereas the Rebels have brought pride and honor to the State of Nevada: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Nevada Las Vegas for winning the 1998 National Collegiate Athletic Association Division I men's collegiate national golf championship;

(2) commends Chris Berry, for his second place individual finish at the National Collegiate Athletic Association golf championship;

(3) recognizes the achievements of all the players, coaches, and staff who were instrumental in helping the University of Nevada Las Vegas win the 1998 National Collegiate Athletic Association Division I men's collegiate national golf championship and invites them to the Capitol to be honored in an appropriate manner to be determined;

(4) requests that the President recognize the accomplishments and achievements of the 1998 University of Nevada Las Vegas Rebels golf team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and

(5) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Nevada Las Vegas for appropriate display and to transmit an enrolled copy to each member of the 1998 University of Nevada Las Vegas National Collegiate Athletic Association Division I men's collegiate national championship golf team.

Mr. BRYAN. Mr. President, I am proud to take the floor today to commend and congratulate the University of Nevada-Las Vegas men's golf team on winning the team's first National Collegiate Athletic Association championship. This remarkable team of student-athletes acquitted themselves with great distinction this past week as they achieved this singular honor for themselves, for the community, and for the State of Nevada.

This accomplishment is further embellished by the fact the team shot 4 rounds of golf 34 under par, which set a tournament record by 11 strokes.

Chris Berry, one of the team members, shot a total of 272 for 16 under par, to finish second in the individual competition. What makes Chris' success even all the more noteworthy is that Chris had been involved in tournament play previous years where he had the misfortune of finishing at the other end and he, through determination and hard work, achieved this remarkable athletic achievement.

Congratulations should also go to the rest of his teammates, Bill Lunde, Charley Hoffman, Jeremy Anderson and Scott Lander. Bill Lunde and Jeremy Anderson made the All American college golf team. This golf team has had the goof fortune of being under the direction of an extraordinarily gifted coach as well. Dwaine Knight has placed the university's golf program on the national map. They have, in recent years, been top competitors, but not until this year did they achieve the ultimate, and that is the collegiate championship. Coach Knight is ably assisted by Assistant Coach Casey Whalen.

This year, under their coaching staff, the Rebels have won seven tournaments. The only other sports team in UNLV's history to attain national collegiate championship was in 1990, when the men's basketball program was so honored in the Final Four, in Denver, CO.

UNLV completed its season No. 1 in the polls, and I have encouraged the President to invite this extraordinarily able student athletic team to come to the White House and be appropriately recognized. The President himself is a golfer of note and distinction, and I am sure these fine young men are going to be able to offer a few tips the President might take advantage of to improve his own golf game.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

THURMOND AMENDMENTS NOS. 2447-2449

(Ordered to lie on the table.)

Mr. THURMOND submitted three amendments intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Amendment No. 2447

On page 64, strike out lines 7 through 23, and insert in lieu thereof the following:

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(*l*)(3) of title 10, United States Code (as added by subsection (e)).

(d) Fiscal Year 1999 Limitation on Advance Billings.—(1) The total amount of the advance billings rendered or imposed for the working-capital funds of the Department of Defense and the Defense Business Operations Fund in fiscal year 1999—

(A) for the Department of the Navy, may not exceed $500,000,000; and

(B) for the Department of the Air Force, may not exceed $500,000,000.

(2) In paragraph (1), the term "advance billing" has the meaning given such term in section 2208(*l*) of title 10, United States Code.

(e) Permanent Limitation on Advance Billings.—(1) Section 2208(*l*) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed $1,000,000,000.".

(2) Section 2208(*l*)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

Amendment No. 2448

Beginning on page 400, strike out line 11 and all that follows through page 401, line 12, and insert in lieu thereof the following:

year 1999, $150,000,000 by the end of fiscal year 2000, $200,000,000 by the end of fiscal year 2001, and $250,000,000 by the end of fiscal year 2002.

(b) Limitation on Disposal Quantity.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Chromium Metal—EL	8,511 short tons
Columbium Carbide Powder	21,372 pounds contained
Columbium Ferro High Carbon	249,395 pounds contained
Columbium Concentrates	1,733,454 pounds contained
Chromium Ferroalloy	92,000 short tons
Diamond, Stones	3,000,000 carats
Germanium Metal	28,198 kilograms
Indium	14,248 troy ounces
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces
Tantalum Carbide Powder	22,681 pounds contained
Tantalum Metal Powder	50,000 pounds contained
Tantalum Minerals	1,751,364 pounds contained
Tantalum Oxide	122,730 pounds contained
Tungsten Ferro	2,024,143 pounds
Tungsten Carbide Powder	2,024,143 pounds
Tungsten Metal Powder	1,898,009 pounds
Tungsten Ores & Concentrates	76,358,230 pounds.

(c) Minimization of Disruption and Loss.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) AUTHORIZATION OF SALE.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts specified in subsection (a) by the end of fiscal year 1999 shall be effective only to the extent provided in advance in appropriation Acts.

AMENDMENT NO. 2449

Strike section 1013 of the bill and insert the following:

SEC. 1013. TRANSFERS OF CERTAIN NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY.—

(1) ARGENTINA.—The Secretary of the Navy is authorized to transfer to the Government of Argentina on a grant basis the tank landing ship Newport (LST 1179).

(2) BRAZIL.—The Secretary of the Navy is authorized to transfer vessels to the Government of Brazil as follows:

(A) On a sale basis, the Newport class tank landing ships Cayuga (LST 1186) and Peoria (LST 1183).

(B) On a combined lease-sale basis, the Cimarron class oiler Merrimack (AO 179).

(3) CHILE.—The Secretary of the Navy is authorized to transfer vessels to the Government of Chile on a sale basis as follows:

(A) The Newport class tank landing ship San Bernardino (LST 1189).

(B) The auxiliary repair dry dock Waterford (ARD 5).

(4) GREECE.—The Secretary of the Navy is authorized to transfer vessels to the Government of Greece as follows:

(A) On a sale basis, the following vessels:

(i) The Oak Ridge class medium dry dock Alamogordo (ARDM 2).

(ii) The Knox class frigates Vreeland (FF 1068) and Trippe (FF 1075).

(B) On a combined lease-sale basis, the Kidd class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995) and Chandler (DDG 996).

(C) On a grant basis, the following vessels:

(i) The Knox class frigate Hepburn (FF 1055).

(ii) The Adams class guided missile destroyers Strauss (DDG 16), Semmes (DDG 18), and Waddell (DDG 24).

(5) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico on a sale basis the auxiliary repair dry dock San Onofre (ARD 30) and the Knox class frigate Pharris (FF 1094).

(6) PHILIPPINES.—The Secretary of the Navy is authorized to transfer to the Government of the Philippines on a sale basis the Stalwart class ocean surveillance ship Triumph (T-AGOS 4).

(7) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal on a grant basis the Stalwart class ocean surveillance ship Assurance (T-AGOS 5).

(8) SPAIN.—The Secretary of the Navy is authorized to transfer to the Government of Spain on a sale basis the Newport class tank landing ships Harlan County (LST 1196) and Barnstable County (LST 1197).

(9) TAIWAN.—The Secretary of the Navy is authorized to transfer vessels to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) on a sale basis as follows:

(A) The Knox class frigates Peary (FF 1073), Joseph Hewes (FF 1078), Cook (FF 1083), Brewton (FF 1086), Kirk (FF 1087) and Barbey (FF 1088).

(B) The Newport class tank landing ships Manitowoc (LST 1180) and Sumter (LST 1181).

(C) The floating dry dock Competent (AFDM 6).

(D) The Anchorage class dock landing ship Pensacola (LSD 38).

(10) TURKEY.—The Secretary of the Navy is authorized to transfer vessels to the Government of Turkey as follows:

(A) On a sale basis, the following vessels:

(i) The Oliver Hazard Perry class guided missile frigates Mahlon S. Tisdale (FFG 27), Reid (FFG 30) and Duncan (FFG 10).

(ii) The Knox class frigates Reasoner (FF 1063), Fanning (FF 1076), Bowen (FF 1079), McCandless (FF 1084), Donald Beary (FF 1085), Ainsworth (FF 1090), Thomas C. Hart (FF 1092), and Capodanno (FF 1093).

(B) On a grant basis, the Knox class frigates Paul (FF 1080), Miller (FF 1091), W.S. Simms (FF 1059).

(11) VENEZUELA.—The Secretary of the Navy is authorized to transfer to the Government of Venezuela on a sale basis the unnamed medium auxiliary floating dry dock AFDM 2.

(b) BASES OF TRANSFER.—

(1) GRANT.—A transfer of a naval vessel authorized to be made on a grant basis under subsection (a) shall be made under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(2) SALE.—A transfer of a naval vessel authorized to be made on a sale basis under subsection (a) shall be made under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(3) COMBINED LEASE-SALE.—(A) A transfer of a naval vessel authorized to be made on a combined lease-sale basis under subsection (a) shall be made under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796 and 2761, respectively) in accordance with this paragraph.

(B) For each naval vessel authorized by subsection (a) for transfer on a lease-sale basis, the Secretary of the Navy is authorized to transfer the vessel under the terms of a lease, with lease payments suspended for the term of the lease, if the country entering into the lease of the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the leased vessel. Delivery of title to the purchasing country shall not be made until the purchase price of the vessel has been paid in full. Upon delivery of title to the purchasing country, the lease shall terminate.

(C) If the purchasing country fails to make full payment of the purchase price by the date required under the sales agreement, the sales agreement shall be immediately terminated, the suspension of lease payments under the lease shall be vacated, and the United States shall retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date. No interest shall be payable to the recipient by the United States on any amounts that are paid to the United States by the recipient under the sales agreement and are not retained by the United States under the lease.

(c) REQUIREMENT FOR PROVISION IN ADVANCE IN AN APPROPRIATIONS ACT.—Authority to transfer vessels on a sale or combined lease-sale basis under subsection (a) shall be effective only to the extent that authority to effectuate such transfers, together with appropriations to cover the associated cost (as defined in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a)), are provided in advance in an appropriations Act.

(d) NOTIFICATION OF CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2413).

(e) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of the naval vessels authorized by subsection (a) to be transferred on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) shall not be counted for the purposes of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(f) COSTS OF TRANSFERS.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(g) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(h) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

HUTCHINSON AMENDMENT NO. 2450

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. CLARIFICATION OF CIRCUMSTANCES FOR WAIVER OF SUSPENSION OF PROGRAMS AND ACTIVITIES REGARDING THE PEOPLE'S REPUBLIC OF CHINA.

Section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note) is amended—

(1) in subsection (b)(2), by striking out "in the national interest" and inserting in lieu thereof "in the vital national security interest"; and

(2) by adding at the end the following:

"(d) JUSTIFICATION OF CERTAIN WAIVERS.—The President shall submit to Congress a detailed justification of each exercise of the authority under subsection (b)(2). Each justification shall be sumitted in unclassified form, but may include a classified annex.".

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

COVERDELL (AND OTHERS) AMENDMENT NO. 2451

Mr. COVERDELL (for himself, Mr. CRAIG, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. INHOFE, Mr. SESSIONS, and Mr. GRASSLEY) proposed an amendment to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

Strike all after the word "subtitle" and insert the following:

TITLE —DRUG-FREE NEIGHBORHOODS

SEC. 01. SHORT TITLE.

This title may be cited as the "Drug-Free Neighborhoods Act".

Subtitle A—Stopping the Flow of Drugs at Our Borders

CHAPTER 1—INCREASED RESOURCES FOR INTERDICTION

SEC. 11. INCREASED RESOURCES FOR INTERDICTION.

(a) CUSTOMS.—In addition to other amounts appropriated for the United States Customs Service for a fiscal year, there is authorized to be appropriated from the Trust Fund under section 401, $500,000,000 for each of the fiscal years 1999 through 2003 to be used to monitor border ports of entry to stop the flow of illegal drugs into the United States.

(b) COAST GUARD.—In addition to other amounts appropriated for the United States Coast Guard for a fiscal year, there is authorized to be appropriated from the Trust Fund under section 401, $400,000,000 for each of the fiscal years 1999 through 2003 to be used to expand activities to stop the flow of illegal drugs into the United States.

(c) DEPARTMENT OF DEFENSE.—In addition to other amounts appropriated for the Department of Defense for a fiscal year, there is authorized to be appropriated from the Trust Fund under section 401, $470,000,000 for each of the fiscal years 1999 through 2003 to be used to expand activities to stop the flow of illegal drugs into the United States.

CHAPTER 2—DRUG-FREE BORDERS

SEC. 15. SHORT TITLE.

This chapter may be cited as the "Drug-Free Borders Act of 1998".

SEC. 16. FELONY PUNISHMENT FOR VIOLENCE COMMITTED ALONG THE UNITED STATES BORDER.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements

"(a) IN GENERAL.—Whoever attempts to commit or commits a crime of violence during and in relation to—

"(1) attempting to elude or eluding customs, immigration, or agriculture inspection or failing to stop at the command of an officer of customs, immigration, or animal and plant and health inspection services; or

"(2) an intentional violation of arrival, reporting, entry, or clearance requirements, as set forth in a provision of law listed in subsection (c);

shall be fined under this title or imprisoned for not more than 5 years, or both, except that if bodily injury (as defined in section 1365(g) of this title) results, the maximum term of imprisonment is 10 years, and if death results, the offender may imprisoned for any term of years or for life, and may be sentenced to death.

"(b) CONSPIRACY.—If 2 or more persons conspire to commit an offense under subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

"(c) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are—

"(1) section 107 of the Federal Plant Pest Act (7 U.S.C. 150ff));

"(2) section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2806);

"(3) section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, 1459);

"(4) section 6 of the Act of August 30, 1890 (21 U.S.C. 105; Chapter 839, 26 Stat. 416);

"(5) section 2 of the Act of February 2, 1903 (21 U.S.C. 111; Chapter 349, 32 Stat. 791)

"(6) section 231, 232, 234, 235, 236, 237, or 238 of the Immigration and Nationality Act (8 U.S.C. 1221, 1222, 1224, 1225, 1226, 1227, 1228);

"(7) section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91); or

"(8) section 111 of title 21, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 27 of title 18, United States Code, is amended by inserting at the end the following:

"554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements.".

SEC. 17. INCREASED PENALTY FOR FALSE STATEMENT OFFENSE.

Section 542 of title 18, United States Code, is amended by striking "two years" and inserting "5 years".

SEC. 18. SANCTIONS FOR FAILURE TO LAND OR HEAVE TO, OBSTRUCTING A LAWFUL BOARDING, AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Sanctions for failure to heave to; sanctions for obstruction of boarding and providing false information

"(a) FAILURE TO HEAVE TO.—

"(1) IN GENERAL.—It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) OBSTRUCTION.—It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States knowingly or willfully to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or

"(C) provide false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(3) AIRCRAFT.—

"(A) IN GENERAL.—It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(B) REGULATIONS.—The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by, and circumstances under which a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft. Such regulations shall ensure that any such order is clearly communicated in accordance with applicable international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining when an officer may use the authority granted under subparagraph (A).

"(b) NO LIMITATION OF EXISTING AUTHORITY.—This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to heave to.

"(c) FOREIGN NATIONS.—A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by international agreement or, on a case-by-case basis, by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(d) DEFINITIONS.—In this section:

"(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(2) HEAVE TO.—The term 'heave to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state.

"(3) SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—An aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States.

"(4) VESSEL.—The terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings set forth for these terms, respectively, in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903).

"(5) WITHOUT NATIONALITY.—An aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft.

"(e) FINES OR IMPRISONMENT.—Whoever intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

"(f) SEIZURE AND FORFEITURE.—A aircraft or vessel that is used in violation of this section may be seized and forfeited to the United States. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. An aircraft or vessel that is used in violation of this section is also liable in rem for any fine imposed under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.".

SEC. 19. CIVIL PENALTIES TO SUPPORT MARITIME LAW ENFORCEMENT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 676. Civil penalty for failure to comply with vessel boarding

"(a) IN GENERAL.—Any person that engages in conduct that violates section 2237(a)(1) or (2) of title 18, United States Code, shall be liable to the United States Government—

"(1) for a civil penalty of not more than $25,000, in the case of an intentional violation; or

"(2) for a civil penalty of not more than $15,000, in the case of any other violation.

"(b) SEIZURE OR FORFEITURE.—A vessel used to engage in conduct for which a penalty is imposed under subsection (a) is liable in rem for that penalty and may be seized, forfeited, and sold in accordance with customs laws.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"676. Civil penalty for failure to comply with vessel boarding.".

SEC. 20. INCREASED NUMBER OF BORDER PATROL AGENTS.

Section 101(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–553) is amended to read as follows:

"(a) INCREASED NUMBER OF BORDER PATROL AGENTS.—The Attorney General in each of fiscal years 1999, 2000, 2001, 2002, and 2003 shall increase by not less than 1,500 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year, to achieve a level of 15,000 positions by fiscal year 2003.".

SEC. 21. BORDER PATROL PURSUIT POLICY.

A border patrol agent of the United States Border Patrol may not cease pursuit of an alien who the agent suspects has unlawfully entered the United States, or an individual who the agent suspects has unlawfully imported a narcotic into the United States, until State or local law enforcement authorities are in pursuit of the alien or individual and have the alien or individual in their visual range.

SEC. 22. AUTHORIZATION FOR BORDER PATROL TO INTERDICT THE IMPORTATION OF NARCOTICS.

The United States Border Patrol within the Department of Justice shall have as one of its functions the prevention of unlawful importation of narcotics into the United States and confiscation of such narcotics. The Attorney General shall ensure that this function is assigned a priority at least as high as is assigned to the Border Patrol's function of preventing the unlawful entry into the United States of aliens.

SEC. 23. ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF OFFICERS OF THE UNITED STATES CUSTOMS SERVICE.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF CUSTOMS OFFICERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, bargaining agreement, or Executive order, beginning October 1, 1998, in order to ensure the integrity of the United States Customs Service, the Secretary of the Treasury—

"(A) may transfer up to 5 percent of the customs officers employed as of the beginning of each fiscal year to new duty stations in that fiscal year on a permanent basis; and

"(B) may transfer customs officers to temporary duty assignments for not more than 90 days.

"(2) VOLUNTARY AND OTHER TRANSFERS.—A transfer of a customs officer to a new duty station or a temporary duty assignment under paragraph (1) is in addition to any voluntary transfer or transfer for other reasons.

"(3) RULE OF CONSTRUCTION.—The requirements of this subsection, including any regulations established by the Secretary to carry out this subsection, are not subject to collective bargaining.

"(4) AVAILABILITY OF AMOUNTS.—Of the amounts made available for fiscal years 1999 and 2000 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), $25,000,000 for each such fiscal year shall be available to carry out this subsection.".

SEC. 24. EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF UNITED STATES CUSTOMS SERVICE TO INTERDICT CONTRABAND.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), as amended by this Act, is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF CUSTOMS SERVICE TO INTERDICT CONTRABAND.—

"(1) SENSE OF THE CONGRESS.—It is the sense of the Congress that collective bargaining agreements should not have any adverse impact on the ability of the United States Customs Service to interdict contraband, including controlled substances.

"(2) PROVISIONS CAUSING ADVERSE IMPACT TO INTERDICT CONTRABAND.—

"(A) REQUIREMENT TO MEET.—If the Commissioner of the Customs Service determines that any collective bargaining agreement with the recognized bargaining representative of its employees has an adverse impact upon the interdiction of contraband, including controlled substances, the parties shall meet to eliminate the provision causing the adverse impact from the agreement.

"(B) FAILURE TO REACH AGREEMENT.—If the parties do not reach agreement within 90 days of the date of the Customs Service determination of adverse impact, the negotiations shall be considered at impasse and the Customs Service may immediately implement its last offer. Such implementation shall not result in an unfair labor practice or, except as may be provided under the following sentence, the imposition of any status quo ante remedy against the Customs Service. Either party may then pursue the impasse to the Federal Service Impasses Panel pursuant to section 7119(c) of title 5, United States Code, for ultimate resolution.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the authority of the Customs Service to implement immediately any proposed changes without waiting 90 days, if exigent circumstances warrant such immediate implementation, or if an impasse is reached in less than 90 days.".

Subtitle B—Protecting Our Neighborhoods and Schools from Drugs

CHAPTER 1—DRUG-FREE TEEN DRIVERS

SEC. 25. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Teenage Drivers Act".

SEC. 26. DEMONSTRATION PROGRAM.

The National Highway Traffic Safety Administration shall establish a demonstration program in several States to provide voluntary drug testing for all teenager applicants (or other first time applicants for a driver's license regardless of age) for a driver's license. Information respecting an applicant's choice not to take the drug test or the result of the drug test on the applicant shall be made available to the applicant's automobile insurance company. If an applicant tests positive in the drug test, the State in which the program is established will not issue a license to the applicant and will require the applicant to complete a State drug treatment program and to not test positive in a drug test before reapplying for a license.

SEC. 27. INCENTIVE GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall establish an incentive grant program for States to assist the States in improving their laws relating to controlled substances and driving.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a) a State shall carry out the following:

(1) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State with any measurable amount of an illegal controlled substance in the driver's body. An illegal controlled substance is a controlled substance for which an individual does not have a legal written prescription.

An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(2) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State when driving is impaired by the presence of any drug. The State shall provide that in the enforcement of such law, a driver shall be tested for the presence of a drug when there is evidence of impaired driving and a driver will have the driver's license suspended. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(3) Enact, actively enforce, and publicize a law which authorizes the suspension of a driver's license if the driver is convicted of any criminal offense relating to drugs.

(4) Enact a law which provides that beginning driver applicants and other individuals applying for or renewing a driver's license will be provided information about the laws referred to in paragraphs (1), (2), and (3) and will be required to answer drug-related questions on their applications.

(c) USE.—A State may only use a grant under subsection (a) to implement and enforce the programs described in subsection (b).

SEC. 28. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated from amounts made available from the Trust Fund under section 401, $10,000,000 for each of the fiscal years 1999 through 2003 to carry out this chapter.

CHAPTER 2—DRUG-FREE SCHOOLS

SEC. 31. FINDINGS.

Congress finds that—

(1) the continued presence in schools of violent students who are a threat to both teachers and other students is incompatible with a safe learning environment;

(2) unsafe school environments place students who are already at risk of school failure for other reasons in further jeopardy;

(3) recently, over one-fourth of high school students surveyed reported being threatened at school;

(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;

(5) nearly 1 out of every 20 students in 6th through 12th grade uses drugs on school grounds;

(6) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and

(7) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

Subchapter A—Student Safety and Family Choice

SEC. 31A. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.

(a) IN GENERAL.—Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:

"SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.

"(a) IN GENERAL.—Notwithstanding any other provision of law, if a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense, including drug-related violence, while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part or under any other Federal education program to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a religious school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.

"(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—

"(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;

"(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—

"(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and

"(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and

"(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a religious school, the costs of tuition, required fees, and the reasonable costs of such transportation.

"(c) CONSTRUCTION.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private, including religious, elementary school or secondary school that a child of the parent will attend within the State.

"(d) CONSIDERATION OF ASSISTANCE.—Subject to subsection (h), assistance made available under this section that is used to pay the costs for a student to attend a private or religious school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private or religious school as a result of assistance received under this section.

"(e) CONTINUING ELIGIBILITY.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).

"(f) TUITION CHARGES.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.

"(g) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

"(h) ASSISTANCE; TAXES AND OTHER FEDERAL PROGRAMS.—

"(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.

"(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

"(i) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(j) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.".

SEC. 31B. TRANSFER OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a religious school.

(b) DEFINITIONS.—For the purpose of subsection (a), the terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

Subchapter B—Victim and Witness Assistance Programs for Teachers and Students

SEC. 32. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(f) VICTIMS OF SCHOOL VIOLENCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible crime victim compensation program may expend funds appropriated under paragraph (2) to offer compensation to elementary and secondary school students or teachers who are victims of elementary and secondary school violence (as school violence is defined under applicable State law).

"(2) FUNDING.—There is authorized to be appropriated from the Trust Fund under section 401, such sums as may be necessary to carry out paragraph (1).".

(b) VICTIM AND WITNESS ASSISTANCE.—Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)) is amended by adding at the end the following:

"(5) Assistance for Victims of and Witnesses to School Violence.—Notwithstanding any other provision of law, the Director may make a grant under this section for a demonstration project or for training and technical assistance services to a program that—

"(A) assists State educational agencies and local educational agencies (as the terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in developing, establishing, and operating programs that are designed to protect victims of and witnesses to incidents of elementary and secondary school violence (as school violence is defined under applicable State law), including programs designed to protect witnesses testifying in school disciplinary proceedings; or

"(B) supports a student safety toll-free hotline that provides students and teachers in elementary and secondary schools with confidential assistance relating to the issues of school crime, violence, drug dealing, and threats to personal safety.".

Subchapter C—Innovative Programs to Protect Teachers and Students

SEC. 35. DEFINITIONS.

In this subchapter:

(1) Elementary school, local educational agency, secondary school, and State educational agency.—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) Secretary.—The term "Secretary" means the Secretary of Education.

SEC. 36. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated from the Trust Fund under section 401 such sums as may be necessary to carry out this subchapter.

SEC. 37. AUTHORIZATION FOR REPORT CARDS ON SCHOOLS.

(a) In General.—The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.

(b) Priority.—The Secretary shall give priority to awarding grants under subsection (a) to—

(1) programs that provide parent and teacher notification about incidents of physical violence, weapon possession, or drug activity on school grounds as soon after the incident as practicable;

(2) programs that provide to parents and teachers an annual report regarding—

(A) the total number of incidents of physical violence, weapon possession, and drug activity on school grounds;

(B) the percentage of students missing 10 or fewer days of school; and

(C) a comparison, if available, to previous annual reports under this paragraph, which comparison shall not involve a comparison of more than 5 such previous annual reports; and

(3) programs to enhance school security measures that may include—

(A) equipping schools with fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around elementary schools and secondary schools, including canine patrols; and

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon, or the sale of drugs in school, will not be tolerated by school authorities.

SEC. 38. APPLICATION.

(a) In General.—Each State, State educational agency, or local educational agency desiring a grant under this subchapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Contents.—Each application submitted under subsection (a) shall contain an assurance that the State or agency has implemented or will implement policies that—

(1) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;

(2) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another student or teacher; and

(3) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds—

(A) commits a violent offense resulting in serious bodily injury; or

(B) sells drugs.

(c) Special Rule.—For purposes of paragraphs (2) and (3) of subsection (b), State law shall determine what constitutes a violent offense or serious bodily injury.

SEC. 39. INNOVATIVE VOLUNTARY RANDOM DRUG TESTING PROGRAMS.

Section 4116(b) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (9), by striking "and" after the semicolon;

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following:

"(10) innovative voluntary random drug testing programs; and".

Subchapter D—Parental Consent Drug Testing

SEC. 40. GRANTS FOR PARENTAL CONSENT DRUG TESTING DEMONSTRATION PROJECTS.

(a) In General.—The Administrator is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct programs for testing students for illegal drug use with prior parental consent.

(b) Guidelines.—The Administrator may award grants under subsection (a) only to programs that substantially comply with the following guidelines:

(1) Students will only be tested with their parent's consent. If the program also requires the consent of the student, the parent will be informed of any refusal by the student to give consent.

(2) The program may involve random testing or testing of all students within certain grade or age parameters at a participating school. No students under seventh grade or over 12th grade may be tested using funds from grants awarded under this section.

(3) Students who test positive for illegal drugs or whose parents do not consent to the drug testing will not be penalized, except that the privilege of participating in optional courses or extra-curricula activities in which drug impairment might pose a safety risk (such as athletic teams, drivers education, or industrial arts) may be restricted.

(4) The parent of a student who tests positive for illegal drugs shall be notified of the results in a discrete manner by a health care professional, a counselor, or other appropriate person. Parents shall be advised of resources that may be available in the local area to treat drug dependency.

(5) The procedures used in the demonstration project shall be designed to ensure fairness and accuracy. The procedures shall also require personnel administering the drug testing program to treat individual test results confidentially, and not to provide individual test results to law enforcement officials. Statistical information which does not reveal individual identifying information should be provided to law enforcement officials.

(c) Subpoenas and Discovery.—Test results for tests conducted under a demonstration project receiving funds under this section shall not be subject to subpoena or discovery in any court or administrative forum, without the consent of the individual's parent, unless the individual is no longer a minor, in which case the individual's consent is required.

(d) Matching Funds.—The Administrator may give a preference in the award of grants under this section to applicants who provide an assurance that such applicant will commit some level of matching funds or resources for the program.

(e) Construction of This Section.—Nothing in this section shall be construed to restrict other permissible drug testing activities in schools. Additional drug testing not conducted in accordance with the guidelines in subsection (b) may be conducted in schools which receive funding under this section, except that grants awarded under this section shall not be used to fund such additional testing.

(f) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(2) Parent.—The term "parent" means a custodial parent or legal guardian.

(3) State, State educational agency, and local educational agency.—The terms "State", "State educational agency", and "local educational agency" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(g) Authorization of Appropriations.—There is authorized to be appropriated from the National Tobacco Settlement Trust Fund, $10,000,000 for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

CHAPTER 3—DRUG-FREE STUDENT LOANS

SEC. 41. DRUG-FREE STUDENT LOANS

(a) In General.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

"(q) Suspension of Eligibility for Drug-Related Offenses.—

"(1) In genepal.—An individual student who has been convicted of any felony offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of an offense involving:	
The possession of a controlled substance:	Ineligibility period is:
First offense	1 year
Second offense	2 years
Third offense	indefinite

"If convicted of an offense involving:	
The sale of a controlled substance:	
First offense	2 years
Second offense	indefinite

"(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the period determined under such paragraph if the student satisfactorily completes a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this paragraph and that includes two unannounced drug tests.

"(3) DEFINITIONS.—As used in this subsection, the term 'controlled substance' has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

CHAPTER 4—DRUG-FREE WORKPLACES

SEC. 51. SHORT TITLE.

This chapter may be cited as the "Drug-Free Workplace Act of 1998".

SEC. 52. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) 74 percent of adults who use illegal drugs are employed;

(2) small business concerns employ over 50 percent of the Nation's workforce;

(3) in over 88 percent of families with children under the age of 18, at least 1 parent is employed; and

(4) employees who use drugs increase costs for businesses and risk the health and safety of all employees because—

(A) absenteeism is 66 percent higher among drug users than nondrug users;

(B) health benefit utilization is 300 percent higher among drug users than nondrug users;

(C) 47 percent of workplace accidents are drug-related;

(D) disciplinary actions are 90 percent higher among drug users than nondrug users; and

(E) employee turnover is significantly higher among drug users than nondrug users.

(b) PURPOSES.—The purposes of this chapter are to—

(1) educate small business concerns about the advantages of a drug-free workplace;

(2) provide financial incentives and technical assistance to enable small business concerns to create a drug-free workplace; and

(3) assist working parents in keeping their children drug-free.

SEC. 53. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) businesses should adopt drug-free workplace programs; and

(2) States should consider financial incentives, such as reductions in workers' compensation premiums, to encourage businesses to adopt drug-free workplace programs.

SEC. 54. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

The Small Business Act (15 U.S.C. 636 et seq.) is amended—

(1) by redesignating section (32) as section (33); and

(2) by inserting after section 31 the following:

"SEC. 30. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—There is established a drug-free workplace demonstration program, under which the Administration may make grants to eligible intermediaries described in subsection (b) for the purpose of providing financial and technical assistance to small business concerns seeking to start a drug-free workplace program.

"(b) ELIGIBILITY FOR PARTICIPATION.—An intermediary shall be eligible to receive a grant under subsection (a) if it meets the following criteria:

"(1) It is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from tax under section 5(a) of such Act, a program of such organization, or provides services to such organization.

"(2) Its primary purpose is to develop comprehensive drug-free workplace programs or to supply drug-free workplace services.'

"(3) It has at least 2 years of experience in drug-free workplace programs.

"(4) It has a drug-free workplace policy in effect.

"(c) REQUIREMENTS FOR PROGRAM.—Any drug-free workplace program established as a result of this section shall include—

"(1) a written policy, including a clear statement of expectations for workplace behavior, prohibitions against substances in the workplace, and the consequences of violating such expectations and prohibitions;

"(2) training for at least 60 minutes for employees and supervisors;

"(3) additional training for supervisors and employees who are parents;

"(4) employee drug testing; and

"(5) employee access to an employee assistance program, including assessment, referral, and short-term problem resolution.

"(d) AUTHORIZATION.—There is authorized to be appropriated from the Trust Fund under section 401 of the National Tobacco Policy and Youth Smoking Reduction Act to carry out this section, $10,000,000 for fiscal year 1999. Such sums shall remain available until expended.".

SEC. 55. SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (R), by striking "and" at the end;

(2) in subparagraph (S), by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (S) the following:

"(T) providing information and assistance to small business concerns with respect to developing drug-free workplace programs.".

SEC. 56. CONTRACT AUTHORITY.

The Administrator of the Small Business Administration may contract with and compensate government and private agencies or persons for services related to carrying out the provisions of this chapter.

CHAPTER 5—DRUG-FREE COMMUNITIES

SEC. 61. DRUG-FREE COMMUNITIES.

Section 1024(a) of the National Leadership Act of 1988 (21 U.S.C. 1524(a)) is amended—

(1) in paragraph (1), by adding "and" after the semicolon; and

(2) by striking paragraphs (2) through (5), and inserting the following:

"(2) $50,000,000 for each of the fiscal years 1999 through 2003, of which $10,000,000 in each such fiscal year shall be used for volunteer grassroots drug prevention programs that mobilize parent action teams nationwide to conduct community teen drug awareness education and prevention activities that guarantee increased parental involvement.".

CHAPTER 6—BANNING FREE NEEDLES FOR DRUG ADDICTS

SEC. 65. PROHIBITION ON USE OF FUNDS FOR HYPODERMIC NEEDLES.

Notwithstanding any other provision of law, no Federal funds shall be made available or used to carry out or support, directly or indirectly, any program of distributing sterile hypodermic needles or syringes to individuals for the hypodermic injection of any illegal drug.

Subtitle C—Defeating the Drug Mafia

CHAPTER 1—INCREASED RESOURCES FOR LAW ENFORCEMENT

SEC. 71. INCREASED RESOURCES FOR LAW ENFORCEMENT.

(a) DRUG ENFORCEMENT ADMINISTRATION.—In addition to other amounts appropriated for the Drug Enforcement Administration for a fiscal year, there is authorized to be appropriated from the Trust Fund under section 401, $300,000,000 for each of the fiscal years 1999 through 2003 to be used for additional activities to disrupt and dismantle drug trafficking organizations.

(b) FEDERAL BUREAU OF INVESTIGATION.—In addition to other amounts appropriated for the Federal Bureau of Investigation for a fiscal year, there is authorized to be appropriated from the Trust Fund under section 401, $200,000,000 for each of the fiscal years 1999 through 2003 to be used to enhance investigative and intelligence gathering capabilities relating to illegal drugs.

CHAPTER 2—REGISTRATION OF CONVICTED DRUG DEALERS

SEC. 99B. REGISTRATION OF CONVICTED DRUG DEALERS.

(a) IN GENERAL.—The Attorney General shall establish an incentive grant program for States to assist the States in enacting laws that establish State registration programs for individuals convicted of criminal offenses involving drug trafficking.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a) a State shall enact, actively enforce, and publicize a law that requires that a person who is convicted of a criminal offense involving drug trafficking register a current address with a designated State law enforcement agency for up to 10-years following the date on which such individual is convicted or released from prison.

(c) REQUIREMENTS OF STATE LAW.—A State law enacted under subsection (b) shall contain the following elements:

(1) DUTIES OF RESPONSIBLE OFFICIALS.—If a person who is required to register under a State law under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, the court, or another responsible officer or official, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall report the change of address as provided by State law;

(C) inform the person that if the person changes residence to another State, the person shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE.—State procedures under the State law shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system.

(3) VERIFICATION.—For a person required to register, State procedures under the State law shall provide for verification of address at least annually.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—A change of address by a person required to register under a State law under this section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system.

(5) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which requires registration under a State law under this section and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

(6) LENGTH OF REGISTRATION.—A person required to register under a State law under this section shall continue to comply with this section, except during ensuing periods of incarceration, until 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation.

(7) REGISTRATION OF OUT-OF-STATE OFFENDERS, FEDERAL OFFENDERS, PERSONS SENTENCED BY COURTS MARTIAL, AND OFFENDERS CROSSING STATE BORDERS.—A State shall include in its registration program residents who were convicted in another State and shall ensure that procedures are in place to accept registration information from—

(A) residents who were convicted in another State, convicted of a Federal offense, or sentenced by a court martial; and

(B) nonresident offenders who have crossed into another State in order to work or attend school.

(8) REGISTRATION OF OFFENDER CROSSING STATE BORDER.—Any person who is required under a State law under this section to register in the State in which such person resides shall also register in any State in which the person is employed, carries on a vocation, or is a student.

(9) PENALTY.—A person required to register under a State law under this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(10) RELEASE OF INFORMATION.—

(A) IN GENERAL.—The information collected under a State registration program under this section may be disclosed for any purpose permitted under the laws of the State.

(B) PROTECTION OF THE PUBLIC.—The State or any agency authorized by the State shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section.

(11) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies and independent contractors acting at the direction of such agencies, and State officials shall be immune from liability for good faith conduct under a State law under this section.

(12) FINGERPRINTS.—Each requirement to register under a State law under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).

(d) USE.—A State may only use a grant under subsection (a) to implement and enforce the law described in subsection (b).

(e) DEFINITION.—In this section, the term "offenses involving drug trafficking" means a criminal offense under Federal or applicable State law relating to—

(1) the distribution of illegal drugs to individuals under the age of 21 years;

(2) the distribution of manufacturing of illegal drugs in or near schools, colleges, universities, or youth-centered recreational facilities; or

(3) any other activity relating to illegal drugs determined appropriate by the chief executive officer of the State involved.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriate form amounts made available from the Trust Fund under section 401, $5,000,000 for each of the fiscal years 1999 through 2003.

Subtitle D—National Drug Control Strategy

SEC. 99C. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

Section 1005 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended to read as follows:

"SEC. 1005. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

"(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

"(1) TIMING.—

"(A) IN GENERAL.—Not later than October 1, 1998, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive 2-year plan for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

"(B) 4-YEAR PLAN.—Not later than October 1, 2001, and on October 1 of every fourth year thereafter, the President shall submit to Congress a revised National Drug Control Strategy, which shall set forth a comprehensive 4-year plan for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs, and shall include quantifiable 4-year performance objectives, targets, and measures for each National Drug Control Strategy goal and objective.

"(2) CONTENTS.—

"(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include—

"(i) comprehensive, research-based, long-range, quantifiable, goals for reducing drug abuse and the consequences of drug abuse in the United States;

"(ii) short-term measurable objectives to accomplish long-term quantifiable goals that the Director determines may be realistically achieved during the 2-year period beginning on the date on which the strategy is submitted;

"(iii) 5-year projections for program and budget priorities; and

"(iv) a review of State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

"(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the Strategy.

"(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

"(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

"(i) shall consult with—

"(I) the heads of the National Drug Control Program agencies;

"(II) Congress;

"(III) State and local officials;

"(IV) private citizens and organizations with experience and expertise in demand reduction; and

"(V) private citizens and organizations with experience and expertise in supply reduction; and

"(ii) may require the National Drug Intelligence Center and the El Paso Intelligence Center to undertake specific tasks or projects to implement the Strategy.

"(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

"(4) MODIFICATION AND RESUBMITTAL.—Notwithstanding any other provision of law, the Director may modify a National Drug Control Strategy submitted under paragraph (1) at any time.

"(b) ANNUAL STRATEGY REPORT.—

"(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

"(A) an assessment of the Federal effectiveness in achieving the Strategy goals and objectives using the performance measurement system described in subsection (c), including—

"(i) an assessment of drug use and availability in the United States; and

"(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

"(B) any modifications of the Strategy or the performance measurement system described in subsection (c);

"(C) an assessment of how the budget proposal submitted under section 1003(c) is intended to implement the Strategy and whether the funding levels contained in such proposal are sufficient to implement such Strategy;

"(D) beginning on February 1, 1999, and every 2 years thereafter, measurable data evaluating the success or failure in achieving the short-term measurable objectives described in subsection (a)(2)(A)(ii);

"(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

"(i) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(I) casual and chronic drug use;

"(II) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, probationers, and juvenile delinquents; and

"(III) drug use in the workplace and the productivity lost by such use;

"(ii) an assessment of the reduction of drug availability against an ascertained baseline, as measured by—

"(I) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

"(II) the amount of marijuana, cocaine, and heroin entering the United States;

"(III) the number of hectares of marijuana, poppy, and coca cultivated and destroyed;

"(IV) the number of metric tons of marijuana, heroin, and cocaine seized;

"(V) the number of cocaine and methamphetamine processing laboratories destroyed;

"(VI) changes in the price and purity of heroin and cocaine;

"(VII) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(VIII) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

"(iii) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(I) the burden drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

"(II) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

"(III) the extent of drug-related crime and criminal activity; and

"(IV) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

"(iv) a determination of the status of drug treatment in the United States, by assessing—

"(I) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

"(II) the extent, within each State, to which treatment is available;

"(III) the number of drug users the Director estimates could benefit from treatment; and

"(IV) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals; and

"(v) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs; and

"(F) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

"(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

"(A) at any time, upon a determination by the President and the Director that the National Drug Control Strategy in effect is not sufficiently effective; and

"(B) if a new President or Director takes office.

"(c) PERFORMANCE MEASUREMENT SYSTEM.—

"(1) IN GENERAL.—Not later than October 1, 1998, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

"(A) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

"(B) revises performance objectives, measures, and targets, to conform with National Drug Control Program Agency budgets;

"(C) identifies major programs and activities of the National Drug Control Program agencies that support the goals and objectives of the National Drug Control Strategy;

"(D) evaluates implementation of major program activities supporting the National Drug Control Strategy developed under section 1005;

"(E) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy; and

"(F) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

"(i) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(ii) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

"(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

"(2) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (1) shall be included in each report submitted under subsection (b).".

SEC. 99D. REPORT BY PRESIDENT.

Not later than October 1, 1998, and every April 1 and October 1 thereafter, the President shall prepare and submit to the appropriate committees of Congress a report on the prevalence of the use of any illegal drugs by youth between the ages of 12 and 17.

Subtitle E—Miscellaneous Provisions

SEC. 99E. LIMITATIONS ON FUNDING.

(b) IN GENERAL.—Notwithstanding section 451(b), amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of—

(1) carrying out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act;

(2) carrying out activities under section 453;

(3) carrying out—

(A) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(B) smoking prevention activities under section 223;

(C) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(D) international activities under section 1132;

(4) carrying out—

(A) Food and Drug Administration activities;

(B) State retail licensing activities under section 251;

(C) anti-Smuggling activities under section 1141; and

(5) carrying out education and prevention relating to drugs under this title.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

ABRAHAM AMENDMENTS NOS. 2452–2456

(Ordered to lie on the table.)

Mr. ABRAHAM submitted five amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2452

At the appropriate place, insert the following section:

SEC. . US FORCE LEVELS IN ASIA.

(a) SENSE OF CONGRESS.—It is the Sense of Congress that the current force levels in the Pacific Command Theater of Operations are necessary to the fulfillment of that command's military mission, and are vital to continued peace and stability in the region. Any reductions in those force levels should only be done in close consultation with Congress and with a clear understanding of their impact upon the United States' ability to fulfill its current treaty obligations with other states in the region, as well as to the continued ability of the United States to deter potential aggression in the region.

(b) ANNUAL NATIONAL SECURITY STRATEGY REPORT REQUIREMENT.—The Annual National Security Strategy Report as required by Section 603 of Public Law 99–433 should provide specific information as to the adequacy of the capabilities of the United States armed forces to support the implementation of the national security strategy as it relates to the People's Republic of China.

AMENDMENT NO. 2453

At the appropriate place, insert the following section:

SEC. . ENFORCEMENT OF IRAN-IRAQ ARMS NONPROLIFERATION ACT WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States that—

(1) the delivery of 60 C–802 cruise missiles by the China National Precision Machinery Import Export Corporation to Iran poses a new, direct threat to deployed United States forces in the Middle East and materially contributed to the efforts of Iran to acquire destabilizing numbers and types of advanced conventional weapons; and

(2) the delivery is a violation of the Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note).

(b) IMPLEMENTATION OF SANCTIONS.—

(1) Requirement.—The President shall impose on the People's Republic of China the mandatory sanctions set forth in paragraphs (3), (4), and (5) of section 1605(b) of the Iran-Iraq Arms Non-Proliferation Act of 1992.

(2) Nonavailability of waiver.—For purposes of this section, the President shall not have the authority contained in section 1606 of the Iran-Iraq Arms Non-Proliferation Act of 1992 to waive the sanctions required under paragraph (1).

Amendment No. 2454

At the appropriate place, insert the following section:

SEC. . ANNUAL REPORTS ON INTELLIGENCE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) Reports.—

(1) In general.—Not later than March 31 each year, the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, jointly and in consultation with the heads of other appropriate Federal agencies (including the Departments of Defense, Justice, Treasury, and State), shall submit to the Members of Congress referred to in paragraph (2) a report on the intelligence activities of the People's Republic of China directed against or affecting the interests of the United States.

(2) Submittal.—Each report under paragraph (1) shall be submitted to the following:

(A) The Majority leader and Minority leader of the Senate.

(B) The chairman and ranking member of the Select Committee on Intelligence of the Senate.

(C) The Speaker and Minority leader of the House of Representatives.

(D) The chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives.

(3) Form.—Each report shall be submitted in unclassified form, but may include a classified annex.

(b) Contents of Reports.—Each report under subsection (a) shall include information concerning the following:

(1) Political and military espionage.

(2) Intelligence activities designed to gain political influence, including activities undertaken or coordinated by the United Front Work Department of the Chinese Communist Party.

(3) Efforts to gain direct or indirect influence through commercial or noncommercial intermediaries subject to control by the People's Republic of China, including enterprises controlled by the People's Liberation Army.

(4) Disinformation and press manipulation by the People's Republic of China with respect to the United States, including activities undertaken or coordinated by the United Front Department of the Chinese Communist Party.

Amendment No. 2455

At the appropriate place, insert the following section:

SEC. . SANCTIONS REGARDING CHINA NORTH INDUSTRIES GROUP, CHINA POLY GROUP, AND CERTAIN OTHER ENTITIES AFFILIATED WITH THE PEOPLE'S LIBERATION ARMY.

(a) Finding; Purpose.—

(1) Funding.—Congress finds that, in May 1996, United States authorities caught representatives of the People's Liberation Army enterprise, China Poly Group, and the civilian defense industrial company, China North Industries Group, attempting to smuggle 2,000 AK–47s into Oakland, California, and offering to sell to Federal undercover agents 300,000 machine guns with silencers, 66-millimeter mortars, hand grenades, and 'Red Parakeet' surface-to-air missiles, which, as stated in the criminal complaint against one of those representatives, "* * * could take out a 747" aircraft.

(2) Purpose.—The purpose of this section is to impose targeted sanctions against entities affiliated with the People's Liberation Army that engage in the proliferation of weapons of mass destruction, the importation of illegal weapons or firearms into the United States, or espionage in the United States.

(b) Sanctions Against Certain PLA Affiliates.—

(1) Sanctions.—Except as provided in paragraph (2) and subject to paragraph (3), the President shall—

(A) prohibit the importation into the United States of all products that are produced, grown, or manufactured by a covered entity, the parent company of a covered entity, or any affiliate, subsidiary, or successor entity of a covered entity;

(B) direct the Secretary of State and the Attorney General to deny or impose restrictions on the entry into the United States of any foreign national serving as an officer, director, or employee of a covered entity or other entity described in subparagraph (A);

(C) prohibit the issuance to a covered entity or other entity described in subparagraph (A) of licenses in connection with the export of any item on the United States Munitions List;

(D) prohibit the export to a covered entity or other entity described in subparagraph (A) of any goods or technology on which export controls are in effect under section 5 or 6 of the Export Administration Act of 1979;

(E) direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit with respect to a covered entity or other entity described in subparagraph (A);

(F) prohibit United States nationals from directly or indirectly issuing any guarantee for any loan or other investment to, issuing any extension of credit to, or making any investment in a covered entity or other entity described in subparagraph (A); and

(G) prohibit the departments and agencies of the United States and United States nationals from entering into any contract with a covered entity or other entity described in subparagraph (A) for the procurement or other provision of goods or services from such entity.

(2) Exceptions.—

(A) In general.—The President shall not impose sanctions under this subsection—

(i) in the case of the procurement of defense articles or defense services—

(I) under contracts or subcontracts that are in effect on October 1, 1998 (including the exercise of options for production quantities to satisfy United States operational military requirements);

(II) if the President determines that the person or entity to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(III) if the President determines that such articles or services are essential to the national security; or

(ii) in the case of—

(I) products or services provided under contracts or binding agreements (as such terms are defined by the President in regulations) or joint ventures entered into before October 1, 1998;

(II) spare parts;

(III) component parts that are not finished products but are essential to United States products or production;

(IV) routine servicing and maintenance of products; or

(V) information and technology products and services.

(B) Immigration restrictions.—The President shall not apply the restrictions described in paragraph (1)(B) to a person described in that paragraph if the President, after consultation with the Attorney General, determines that the presence of the person in the United States is necessary for a Federal or State judicial proceeding against a covered entity or other entity described in paragraph (1)(A).

(3) Termination.—The sanctions under this subsection shall terminate as follows:

(A) In the case of an entity referred to in paragraph (1) or (2) of subsection (c), on the date that is one year after the date of enactment of this Act.

(B) In the case of an entity that becomes a covered entity under paragraph (3) or (4) of subsection (c) by reason of its identification in a report under subsection (d), on the date that is one year after the date on which the entity is identified in such report.

(c) Covered Entities.—For purposes of subsection (b), a covered entity is any of the following:

(1) China North Industries Group.

(2) China Poly Group, also known as Polytechnologies Incorporated or BAOLI.

(3) Any affiliate of the People's Liberation Army identified in a report of the Director of Central Intelligence under subsection (d)(1).

(4) Any affiliate of the People's Liberation Army identified in a report of the Director of the Federal Bureau of Investigation under subsection (d)(2).

(d) Reports on Activities of PLA Affiliates.—

(1) Transfers of sensitive items and technologies.—Not later than 30 days after the date of enactment of this Act and annually thereafter through 2002, the Director of Central Intelligence shall submit to the appropriate members of Congress a report that identifies each entity owned wholly or in part by the People's Liberation Army which, during the 2-year period ending on the date of the report, transferred to any other entity a controlled item for use in the following:

(A) Any item listed in category I or category II of the MTCR Annex.

(B) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(C) Nuclear activities in countries that do not maintain full-scope International Atomic Energy Agency safeguards or equivalent full-scope safeguards.

(2) Illegal activities in the United States.—Not later than 30 days after the date of enactment of this Act and annually thereafter through 2002, the Director of the Federal Bureau of Investigation shall submit to the appropriate members of Congress a report that identifies each entity owned wholly or in part by the People's Liberation Army which, during the 2-year period ending on the date of the report, attempted to—

(A) illegally import weapons or firearms into the United States; or

(B) engage in military intelligence collection or espionage in the United States under the cover of commercial business activity.

(3) Form.—Each report under this subsection shall be submitted in classified form.

(e) DEFINITIONS.—In this section:

(1) AFFILIATE.—The term "affiliate" does not include any United States national engaged in a business arrangement with a covered entity or other entity described in subsection (b)(1)(A).

(2) APPROPRIATE MEMBERS OF CONGRESS.—The term "appropriate members of congress" means the following:

(A) The Majority leader and Minority leader of the Senate.

(B) The chairmen and ranking members of the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

(C) The Speaker and Minority leader of the House of Representatives.

(D) The chairmen and ranking members of the Committee on International Relations and the Committee on National Security of the House of Representatives.

(3) COMPONENT PART.—The term "component part" means any article that is not usable for its intended function without being embedded or integrated into any other product and, if used in the production of a finished product, would be substantially transformed in that process.

(4) CONTROLLED ITEM.—The team "controlled item" means the following:

(A) Any item listed in the MTCR Annex.

(B) Any item listed for control by the Australia Group.

(C) Any item relevant to the nuclear fuel cycle of nuclear explosive applications that are listed for control by the Nuclear Suppliers Group.

(5) FINISHED PRODUCT.—The term "finished product" means any article that is usable for its intended function without being embedded in or integrated into any other product, but does not include an article produced by a person or entity other than a covered entity or other entity described in subsection (b)(1)(A) that contains parts or components of such an entity if the parts or components have been substantially transformed during production of the finished product.

(6) INVESTMENT.—The term "investment" includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

(A) a loan or loans;

(B) the purchase of a share of ownership;

(C) participation in royalties, earnings, or profits; and

(D) the furnishing of commodities or services pursuant to a lease or other contract, but does not include routine maintenance of property.

(7) MTCR ANNEX.—The term "MTCR Annex" has the meaning given that term in section 74(4) of the Arms Export Control Act (22 U.S.C. 2797c(4)).

(8) UNITED STATES NATIONAL.—

(A) IN GENERAL.—The term "United States national" means—

(i) any United States citizen; and

(ii) any corporation, partnership, or other organization created under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States.

(B) EXCEPTION.—The term "United States national" does not include a subsidiary or affiliate of corporation, partnership, or organization that is a United States national if the subsidiary or affiliate is located outside the United States.

AMENDMENT NO. 2456

Add at the end the following new titles:

TITLE —MONITORING OF HUMAN RIGHTS ABUSES IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Political Freedom in China Act of 1998".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the United States State Department on human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is "an authoritarian state" in which "citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government".

(B) The Government of the People's Republic of China has "continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms".

(C) "[a]buses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention".

(D) "[p]rison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights".

(E) "[a]lthough the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state', or for peaceful political or religious activities are believed to number in the thousands".

(F) "[n]onapproved religious groups, including Protestant and Catholic groups * * * experienced intensified repression".

(G) "[s]erious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia[, and] [c]ontrols on religion and on other fundamental freedoms in these areas have also intensified".

(H) "[o]verall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.".

(2) In addition to the State Department, credible independent human rights organizations have documented an increase in repression in China during 1995, and effective destruction of the dissident movement through the arrest and sentencing of the few remaining pro-democracy and human rights activists not already in prison or exile.

(3) Among those were Li Hai, sentenced to 9 years in prison on December 18, 1996, for gathering information on the victims of the 1989 crackdown, which according to the court's verdict constituted "state secrets"; Liu Nianchun, an independent labor organizer, sentenced to 3 years of "re-education through labor" on July 4, 1996, due to his activities in connection with a petition campaign calling for human rights reforms; and Ngodrup Phuntsog, a Tibetan national, who was arrested in Tibet in 1987 immediately after he returned from a 2-year trip to India, where the Tibetan government in exile is located, and following a secret trial was convicted by the Government of the People's Republic of China of espionage on behalf of the "Ministry of Security of the Dalai clique".

(4) Many political prisoners are suffering from poor conditions and ill-treatment leading to serious medical and health problems, including—

(A) Gao Yu, a journalist sentenced to 6 years in prison in November 1994 and honored by UNESCO in May 1997, has a heart condition; and

(B) Chen Longde, a leading human rights advocate now serving a 3-year reeducation through labor sentence imposed without trial in August 1995, has reportedly been subject to repeated beatings and electric shocks at a labor camp for refusing to confess his guilt.

(5) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(6) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. . CONDUCT OF FOREIGN RELATIONS.

(a) RELEASE OF PRISONERS.—The Secretary of State, in all official meetings with the Government of the People's Republic of China, should request the immediate and unconditional release of Ngodrup Phuntsog and other prisoners of conscience in Tibet, as well as in the People's Republic of China.

(b) ACCESS TO PRISONS.—The Secretary of State should seek access for international humanitarian organizations to Drapchi prison and other prisons in Tibet, as well as in the People's Republic of China, to ensure that prisoners are not being mistreated and are receiving necessary medical treatment.

(c) DIALOGUE ON FUTURE OF TIBET.—The Secretary of State, in all official meetings with the Government of the People's Republic of China, should call on that country to begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO MONITOR HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

There are authorized to be appropriated to support personnel to monitor political repression in the People's Republic of China in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, $2,200,000 for fiscal year 1999 and $2,200,000 for fiscal year 2000.

SEC. . DEMOCRACY BUILDING IN CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR NED.—In addition to such sums as are otherwise authorized to be appropriated for the "National Endowment for Democracy" for fiscal years 1999 and 2000, there are authorized to be appropriated for the "National Endowment for Democracy" $4,000,000 for fiscal year 1999 and $4,000,000 for fiscal year 2000, which shall be available to promote democracy, civil society, and the development of the rule of law in China.

(b) EAST ASIA-PACIFIC REGIONAL DEMOCRACY FUND.—The Secretary of State shall use funds available in the East Asia-Pacific Regional Democracy Fund to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

SEC. . HUMAN RIGHTS IN CHINA.

(a) REPORTS.—Not later than March 30, 1999, and each subsequent year thereafter, the Secretary of State shall submit to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate an annual report on human rights in China, including religious persecution, the development of democratic institutions, and the rule of law. Reports shall provide information on each region of China.

(b) PRISONER INFORMATION REGISTRY.—The Secretary of State shall establish a Prisoner

Information Registry for China which shall provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China. Such information shall include the charges, judicial processes, administrative actions, use of forced labor, incidences of torture, length of imprisonment, physical and health conditions, and other matters related to the incarceration of such prisoners in China. The Secretary of State is authorized to make funds available to nongovernmental organizations presently engaged in monitoring activities regarding Chinese political prisoners to assist in the creation and maintenance of the registry.

SEC. . SENSE OF CONGRESS CONCERNING ESTABLISHMENT OF A COMMISSION ON SECURITY AND COOPERATION IN ASIA.

It is the sense of Congress that Congress, the President, and the Secretary of State should work with the governments of other countries to establish a Commission on Security and Cooperation in Asia which would be modeled after the Commission on Security and Cooperation in Europe.

SEC. . SENSE OF CONGRESS REGARDING DEMOCRACY IN HONG KONG.

It is the sense of Congress that the people of Hong Kong should continue to have the right and ability to freely elect their legislative representatives, and that the procedure for the conduct of the elections of the legislature of the Hong Kong Special Administrative Region should be determined by the people of Hong Kong through an election law convention, a referendum, or both.

SEC. . SENSE OF CONGRESS RELATING TO ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals determined to be participating in or otherwise facilitating the sale of such organs in the United States should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

CHAFEE AMENDMENT NO. 2457

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. . EDUCATION AND OUTREACH.

(a) NATIONAL EDUCATION AND OUTREACH CAMPAIGN.—The Administrator shall use amounts made available under subsection (c)(1) in each fiscal year to establish a national education and outreach campaign relating to the effect on individuals of exposure to tobacco smoke and ways to minimize such exposure. In establishing such campaign, the Administrator shall—

(1) focus on children's exposure to environmental tobacco smoke in the home; and

(2) coordinate activities with the Secretary of Health and Human Services and other Federal agencies as determined appropriate by the Administrator.

(b) PEER REVIEW.—The Administrator shall use amounts made available under subsection (c)(2) in each fiscal year to carry out research, and provide for peer review studies of research, related to the exposure of individuals to environmental tobacco smoke.

(c) FUNDING.—There shall be made available from the Public Health Allocation Account established under section 451(b) to the Administrator—

(1) $50,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (a); and

(2) $5,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (b).

NOTICE OF HEARING

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation.

The hearing will take place on June 18, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 469, a bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild And Scenic Rivers System; S. 1016, a bill to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes; S. 1665, a bill to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes; S. 2039, a bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; and, H.R. 2186, a bill to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Darlene Koontz of the Subcommittee staff at (202) 224–7555 or Shawn Taylor at (202) 224–6969.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, June 4, 1998, in open/closed session, to receive testimony on the future threats to the Department of Defense information systems, including the year 2000 problems and the sale of the frequency spectrum.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, June 4, 1998, in open session, to receive testimony on U.S. forces participating in NATO operations in Bosnia and progress in achieving benchmarks in the civil implementation of the Dayton Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 4, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive GAO's preliminary comments on its review of the Administration's Climate Change Proposal and to hear the Administration's response to GAO's comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled "Oversight of the Small Business Innovation Research (SBIR) Program." The hearing will begin at 10 a.m. on Thursday, June 4, 1998, in room 428A Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 4, 1998 at 10 a.m. to hold a closed hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. GRAMM. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Senate Committee on Commerce, Science, and

Transportation be authorized to meet on Thursday, June 4, 1998, at 2:15 p.m. on Airline Alliances.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, June 4, 1998, at 9:30 a.m. on Oversight of the Cable Services Bureau.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GRAMM. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 4, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S.1253, the Public Land Management Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. GRAMM. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 4, 1998, to conduct an oversight hearing on the Programs and Operations of the Federal Housing Administration (FHA).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING, AND THE DISTRICT OF COLUMBIA

Mr. GRAMM. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia to meet on Thursday, June 4, 1998, at 10 a.m. for a hearing on "Competition for Commercial Activities in the Federal Government".

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IMPORTANCE OF SENATE ACTION ON THE COMPREHENSIVE TEST BAN TREATY

• Mr. JOHNSON. Mr. President, like many of my colleagues I am deeply concerned about the recent nuclear tests conducted by India and Pakistan. The leaders of these two nations acted with disregard and both countries must be shown that such actions are unacceptable. No nation should think that it can conduct secret nuclear tests and not be held accountable. The United States and the international community will continue to impose sanctions on both countries, causing further economic hardship for these impoverished populations. However, I believe we can do much more to prevent further testing.

India and Pakistan are two of the three nations who were suspected of having nuclear capability which had not joined the Comprehensive Test Ban Treaty (CTBT). Now, both countries should be pressured to sign the treaty immediately. In Tuesday's New York Times, Stanford Professor Sidney Drell stated a compelling argument for United States ratification of the CTBT, and I ask that the attached article be printed in the RECORD at the conclusion of my remarks. I agree with Drell's sentiment that, rather than pointing to India's and Pakistan's tests as reason for inaction, the Senate should immediately take up and approve the treaty. I feel strongly that Senate ratification would make our efforts to dissuade India and Pakistan from an arms race much more credible, and would send a message to any other nations considering tests of their own. Of course, the US and the international community should concentrate on facilitating the dialog necessary between Indian and Pakistan to diffuse the points of contention currently driving this arms race, and ratification of the CTBT will help to shift that focus.

Additionally, the best way for India and Pakistan to address the sanctions resulting from their irresponsible nuclear tests is to sign the CTBT, without conditions. Instead of spending scarce resources on a nuclear arms race, we must convince the leadership of both countries to rebuild their economies and improve the standard of living for the people, something that obviously has not been the case for either India or Pakistan. Urging them to sign the treaty would be one step in the right direction. Treaty ratification is also a necessary step for restricting the flow of nuclear technology, from these emerging nuclear powers and nations worldwide.

I urge Senator LOTT to take up consideration of the Comprehensive Test Ban Treaty, and I urge all of my Senate colleagues to vote for a ban on nuclear testing by the United States. The United States must lead by example. We did not do enough to prevent the nuclear tests by India or Pakistan, and now we must do more to ensure that further testing is halted in South Asia and throughout the world. President Clinton is scheduled to travel to China and South Asia later this year. I believe such a diplomatic mission is extremely timely and must include visits to China, India and Pakistan for the distinct purpose of discussing global security in light of the round of nuclear capacity testing in the region. I encourage my Senate colleagues to support the President in this endeavor.

The article follows:

[From the New York Times, June 2, 1998]

REASONS TO RATIFY, NOT TO STALL

(By Sidney D. Drell)

STANFORD, Calif.—The nuclear tests by India and Pakistan have led some in the United States Senate to seek further delay on the Comprehensive Test Ban Treaty, which has already been awaiting ratification for more than a year and a half. Senator Trent Lott of Mississippi, the majority leader, said on Friday that "the nuclear spiral in Asia demonstrates that irrelevance of U.S. action" on the treaty, calling the pact "unverifiable and ineffectual."

To the contrary, the treaty's international monitoring system, when used in combination with our own intelligence resources, provides the means to verify the test ban effectively. Moreover, a quick vote in the Senate approving the treaty is an essential response to the South Asian nuclear gambit.

While it is true that American intelligence failed to provide imminent warning of India's first three nuclear tests on May 11, we were well aware that the technical preparations had been made for testing. Furthermore, the global network of seismic sensors that will form the core of the treaty's verification system did detect, locate and identify the main nuclear blast that day.

It is evident that the system also proved effective in detecting Pakistan's tests, both on Thursday and on Saturday. And the treaty calls for the monitoring system to be beefed up. Also, the treaty would allow us to request a short-notice, on-site suggesting that a nuclear weapons test might have occurred.

India has claimed that its last two announced tests, on May 13, had very low yields, in the subkiloton range. Whether or not we succeed in corroborating possible tests of such relatively small magnitude, we need to remember that very low yield tests are of questionable value in designing new nuclear weapons or confirming that a new design will work as intended. Any failure by the monitors to detect such tests is not the proper benchmark for determining the system's—or the treaty's—effectiveness.

I know from my own work for the Director of Central Intelligence, George Tenet, that the existing monitoring system did the job last summer, detecting a "seismic event" off Novaya Zemlya in Russia and eventually helping to determine that it was not from a nuclear test. Our intelligence services are rightly assigned the task of monitoring for nuclear explosions, with or without the treaty. But with the treaty, additional sensors would be deployed in a global network that would complement our own intelligence. Some of these additional sensors would be "aimed" at the subcontinent. And with the treaty, we could request onsite inspection of suspicious activities.

The test ban treaty—which has already been signed by 149 nations and ratified by our nuclear allies, Britain and France—provides the legal framework for a long-term solution to the problem of nuclear testing in India and Pakistan. The best way for these two nations to begin addressing the international condemnation and sanctions that have resulted from their tests is for them to sign the treaty, without condition. Senate ratification would strengthen our hand in pushing India and Pakistan toward a responsible course, and it would help dissuade other states from going down the dangerous road of developing nuclear weapons.

Senator Lott also expressed concern that the treaty "will not enter into force unless 44 countries, including India and Pakistan, ratify it." Precisely for this reason, Article 14 of the treaty calls for a review conference in September 1999 to look for ways to put the treaty into effect if it has not been approved by all 44 nuclear-capable nations (i.e., those with nuclear weapons or with nuclear reactors for research or power).

Only those nations that have ratified will have a seat at that conference. Thus the United States must ratify the treaty this year if we are to be a leader, as we must be, in an effort to put the treaty into force.

Previous Senates have shown that they can act quickly and courageously on such matters. When President John F. Kennedy submitted the Limited Test Ban Treaty to the Senate in 1963, the Foreign Relations Committee held its first hearing four days later, and the treaty was approved by the full Senate in less than two months.

Yet in the wake of the Indian and Pakistani tests, it would appear that the Senate will not act even to bring the treaty to a vote. Inaction will not help to deter further nuclear tests or reduce nuclear dangers. Rather than pointing to India's and Pakistan's tests as an excuse for inaction, the Senate should be approving the treaty without delay.

Four decades ago President Dwight D. Eisenhower said that not achieving a nuclear test ban "would have to be classed as the greatest disappointment of any administration—of any decade—of any time and of any party." It would be tragic if once more we fail to seize this opportunity.●

CONFLICT IN THE REPUBLIC OF GEORGIA

● Mr. BROWNBACK. Mr. President, the newspapers are full of Kosovo and Serbia, of India and Pakistan and of course, Indonesia. These threatening events have captured most of the headlines and have attracted the attention of the Administration in greater or lesser degrees. These are not trivial issues, and we cannot afford to ignore their importance for challenging US interests.

But another conflict rages that, while small, challenges US interests in ways that few other conflicts can: I am speaking of the conflict in the Republic of Georgia in the distant but strategically critical region of Abkazia.

And yet the stability in independent Georgia is one of the principal US interests in the former USSR and should be one of our overriding strategic goals. This is not just sentiment for one of the earliest Christian civilizations in a part of the world where Christian civilizations do not thrive: rather it is a clear statement of our own strategic interest and objectives.

Georgia is a NATO borderland and an entry point to the emerging new Silk Road. It is a key ally of our partner Turkey and is important in many ways: strategically, militarily, commercially. If Georgia were to become unstable, the entire region would be put in jeopardy.

Against overwhelming odds, Georgia has achieved strong positive economic growth in the last few years. It is one of the most stable of the post-Soviet states, with world-class leadership in President Eduard Shevardnadze. It is America's natural ally in a neighborhood that features Iran and Iraq.

Georgia is central to the successful development of what the new Silk Road from Central Europe to China. This ambitious project will eventually encompass pipelines, roads and railroads, airports and communications networks that stretch from Central Europe to China. This corridor will completely alter the economics and the politics of Eurasia in ways that we cannot now foresee, but which are certain to intersect US strategic interests in Eurasia in many places. The states of the Caucasus—Georgia, Azerbaijan and Armenia—lie at the very center of this new Silk Road. For the corridor to function, stability in these states is essential.

Not surprisingly, some people wish ardently to jeopardize America's interests in this region by threatening Georgia's stability, and they have fastened on a perverse way of doing so. The small, break-away region of Abkazia has been Russia's best available instrument to diminish Georgia's accomplishments and to imperil its remarkable gains. Russia is the only power to benefit from such activity. Let us not be timid in naming the problem: Russia is the problem, the aggressor and the single-most threat to stability in Georgia and the entire Caucasus.

Since the early 1990s, Russia, acting through Abkazia, has attempted to bring down Georgia. This is no secret. Virtually every expert to travel to the region reports the same thing: Russia is responsible for arming, training and sustaining Abkazia's so-called freedom fighters. Russia's support for the pro-Russian Abkazian leadership is barely disguised: Russia has funneled arms and support for more than six years into the Abkaz region of Georgia for one specific task: to destabilize the government of Eduard Shevardnadze so that Georgia will be unable to realize its goals of being independent, of joining the community of free democratic nations, and of providing better lives—free lives—for the people of Georgia.

It is high time the Administration took a strong position on the subject of the Caucasus and of Georgia in particular. So far, it has not only failed to reign in Russian efforts against Georgia, but by this very failure, it has insured that the Russian-promoted destabilization efforts will continue.

Administration apathy on this subject is best illustrated by the astonishing lack of urgency that the State Department ascribes to placing qualified and dynamic ambassadors in these countries. Georgia has been without a U.S. ambassador for well over six months. No candidate has yet been identified, let alone brought to the Senate for confirmation, despite persistent and forceful requests by President Shevardnadze and other key leaders in Georgia for such an appointment.

The Administration has also been supporting the Russian "mediation" of the Abkaz conflict: this policy must be reversed. Russian "mediation" consists of injecting Russian peacekeepers into the region to separate the Georgian and Abkaz combatants. Their behavior in the recent fighting in Abkazia shows their true intentions: the best case scenario shows that the Russian peacekeeping forces did nothing to interdict the flow of separatist personnel and heavy weaponry into the region where the fighting was taking place. The worst case scenario has them actually providing weapons to the Abkaz combatants. This is unacceptable.

Allowing continued Russian control over this situation is tantamount to inserting the fox's first cousin as a mediator between the foxes and the hens. The current situation insures that Georgia can only lose. It is time for the Administration to demand the removal of the bogus Russian peacekeepers, and to insist on their replacement by an independent force of peacekeepers. To do less is to acknowledge implicitly that Georgia remains within Russia's sphere of control.

This matter also raises the issue of the continued presence of Russian military bases in Georgia. They are there despite the overwhelming opposition of Georgian citizens. These bases were established at a time when Georgia was in no position to repulse Russian advances. Russia has no legitimate national security claim on Georgia. Russia is no less safe—indeed it is safer—with a Georgia that is free, independent, democratic and with free markets close to its southern border. These bases—from which the perpetrators of the assassination attempts on President Shevardnadze are reported to have fled—must be closed. The United States must not accept the notion that Georgian independence can only be secured by Russian power. Nothing could be more alien to the truth and to our national values.

Mr. President, it is time for the Administration to state unequivocally that the stability and survival of an independent Georgia is a fundamental U.S. interest. That Russia's collusion with the Abkaz is nothing less than Moscow's effort to maintain control over sovereign Georgia and will not be tolerated; and that it is time to put an end to Russian Trojan horses in Georgia—the phony Russian "peacekeepers" and the military bases that provide Russia with the means to threaten Georgia's future and to put U.S. interests at risk.●

TRIBUTE TO LAHAINALUNA HIGH SCHOOL OF MAUI, HAWAII

• Mr. AKAKA. Mr. President, I rise today to congratulate the students from Lahainaluna High School from Lahaina, Maui, who recently came to Washington, D.C., to participate in the national competition of We the People . . . The Citizens and the Constitution.

As you may know, We the People . . . The Citizens and the Constitution is a civic education program which seeks to develop young students into enlightened and capable citizens who understand and promote responsible participation in our democratic process. Students learn the history and principles behind our constitutional democracy through the use of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights.

These young students competed against 49 other classes from across the Nation, demonstrating a youthful and enthusiastic interest in the fundamental ideas that are imperative for gaining a better understanding of our government. We the People is not only a competitive event, but it is also the most extensive civics program to reach more than 26 million students from elementary, middle, and high schools across the country.

I would like to recognize these fine students for their accomplishments: Iao Eisenberg, Tiffany Fujiwara, Jasmine Hentz, Erin Lockhard, William Myers, Leah Nakamura, Ryan Ott, Michael Prieto, Julie Reed, Sal Saribay, Justin Serrano, Jeffrey Shelton, Yee Ning Tay, and Kerri Tsubaki. I would also like to acknowledge the contributions of their teacher, Mrs. Ruth E. Hill, and the District and State Coordinators, Ms. Jane Kinoshita and Ms. Sharon Kaohi, respectively. Without their dedication and leadership, our students would be unable to participate in this important program.

Mr. President, I commend all the students and teachers who participated in this program, and particularly the students of Lahainaluna High School who represented Hawaii in the national competition. It is always heartwarming to see students actively engaged in the learning process. I wish the students and teacher of Lahainaluna High School the best as they continue to pursue their future endeavors.•

TRIBUTE TO THE MARSH BILLINGS NATIONAL HISTORIC PARK

• Mr. JEFFORDS. Mr. President, June 5, 1998, is a great day for Vermont and for the Nation as we open Vermont's first, and the Nation's newest, National Historic Park. On behalf of all Vermonters I want to welcome the National Park Service and express my deepest gratitude to Laurence and Mary Rockefeller for making this possible.

Vermonters have always drawn a special strength from the land. And as Vermonters, we have a responsibility to the land. I was proud to introduce for myself, Senator LEAHY and all Vermonters, the legislation that created this National Historic Park in 1991. A perfect "Vermont scale" National Park, its size fits our State's landscape, incorporating many of the most significant attributes about Vermont: our stewardship of the working agricultural and forest landscapes, our dedication to conservation, and our commitment and respect for our towns and communities.

Mr. President, the beauty and significance of this site will now forever receive the same recognition as our other great National Parks, such as Yellowstone, Grand Teton, and Gettysburg.

George Perkins Marsh, Frederick Billings, and Laurence Rockefeller's devotion and commitment to the issues of conservation, forest management, and agriculture have helped develop this nation's attitudes for how we treat and respect our lands. Private land owners throughout the country have followed the example of these distinguished leaders. Today, those who work and own the land, and hold true to the ideals of Marsh and Billings, are this Nation's most important stewards. The preservation and conservation of the Nation's working landscape, and historic and natural resources are increasingly important and yet are becoming more difficult to maintain. The Marsh Billings National Park will forever serve Vermont and the Nation as a model for conservation.

I salute Mary and Laurence Rockefeller for their vision in providing this park to the people of Vermont and the United States. The Rockefeller family has given future generations of Vermonters, indeed all Americans, access to a truly historic and beautiful site. This is only the most recent accomplishment in Mr. Rockefeller's more than 50 years of conservation leadership. Laurence Rockefeller was the first person ever awarded a Congressional Gold Medal for conservation work, and that award was richly deserved. I am proud to have been an original cosponsor of the legislation that granted him the award.

Mr. President, the people of Woodstock and the entire State of Vermont have lived a long time in harmony with the landscape. Our first national park not only recognizes the two founders of the American conservation movement, it is a tribute to all Vermonters and to the Vermont way of life.•

IN MEMORY OF MABEL VIRGINIA JEWS

• Ms. MIKULSKI. Mr. President, I rise today to celebrate the life of Mabel Virginia Jews, a dedicated mother and a great educator who passed away on May 23, 1998. As we work to strengthen our Nation's families, I hope we can all find inspiration in the life of this remarkable woman.

In 1934, Mrs. Jews graduated from then Morgan State College and followed her undergraduate studies with a Masters degree from the former Salisbury State College in the 1960's. She lived most of her life on Maryland's Eastern Shore where she dedicated herself to education, both in her classrooms and in the life of her son, William Jews, Jr. As a teacher, Mrs. Jews taught English and home economics in junior high and high school where her patience and kindness taught students to feel comfortable about learning. In addition to her service as a schoolteacher, Mrs. Jews also worked as hospital administrator, Pentagon employee and property manager.

Mabel Jews believed in getting behind our kids, making her son and his education her top priority. Mrs. Jews focused her life's work on helping young Bill build an educational record that would give him the opportunity to attend any school in the country. I'm pleased to say he chose Maryland's Johns Hopkins University. As many of my colleagues know, Bill Jews is now the president of CareFirst Inc. and chief executive officer of Blue Cross and Blue Shield of Maryland. We can imagine how proud Mrs. Jews was of her son's success. She was a model mother who espoused the values we work to promote in our country's families.

Mr. President, I am honored today to pay special tribute to such an inspirational and important Marylander. Throughout her lifetime, Mabel Jews made vital contributions to the successful life of her son Bill, as well as to the lives and lessons of those who surrounded her. The great state of Maryland is fortunate to have been home to such a great woman.•

NATIONAL SMALL BUSINESS WEEK

• Mr. ABRAHAM. Mr. President, I rise today to mark National Small Business Week. This is the week when we honor, as we have for the past 35 years, the American entrepreneurs who have done so much to make ours a prosperous, thriving nation. America's 23 million small businesses employ more than half our country's private work force, create two of every three new jobs, and generate a majority of American innovations.

Mr. President, it would be impossible to exaggerate the contribution of small business to America's economy. Small business is our engine of economic growth. Small business-dominated industries produced an estimated 64 percent of the 2.5 million new jobs created during 1996. Small businesses also account for 28 percent of jobs in high technology sectors—the sectors of our economy pushing us into the future and keeping us competitive in world markets.

Small businesses also serve as the training ground for America's workforce, providing 67 percent of workers with their first jobs and initial on the job training in basic skills.

Small business is especially important in my own state of Michigan, where almost half a million small businesses and sole proprietors created every net new job in our economy from 1992 to 1996.

How did Michigan's small businesses accomplish this? Ask Pamela Aguirre of Mexican Industries in Michigan and Cheryl Hughes of C&D Hughes. Both these women are being honored by the Small Business Administration for their efforts in expanding their small businesses against great odds through hard work, perseverance and devotion to quality.

Ms. Aguirre has taken the eight employee leather and soft trim automotive products manufacturer she inherited from her father and turned it into a 1,500 employee eight plant corporation with 1996 sales of $158 million. Her company had plants in Detroit empowerment zones before they were empowerment zones. Hundreds of local residents have found training, skills and careers thanks to her.

Cheryl Hughes started running her highway construction company in 1980 out of her home. Now, after weathering reductions in federal highway funding, C&D Hughes employs 60 people, has achieved annual sales of over $7 million, and is recognized as one of the fastest growing privately held companies in Michigan.

Entrepreneurs like Pamela Aguirre and Cheryl Hughes deserve our respect, Mr. President. Their efforts make their communities and our nation better and more prosperous. By providing jobs they help people learn skills and build lives for themselves and for their families.

But they also need our help. If small business owners like Pamela Aguirre and Cheryl Hughes are to continue to grow and to provide good jobs to millions of Americans, they must be freed from excessive federal regulations and mandates, and from frivolous lawsuits that drive up the cost of insurance and can drive a small business owner into bankruptcy.

For example, Mr. President, current regulatory costs are staggering—$647 billion in 1994 according to the General Accounting Office. Our small businesses cannot afford to bear this kind of burden. What is more, many small companies refuse to grow because doing so would subject them to a number of costly, unnecessary regulations.

The answer, in my view, is real-world cost benefit analysis. No one wants to put our families and children at risk from unsafe products or procedures. But the federal government must implement strict policies seeing to it that scientific data is used to determine whether any proposed regulation will cause more harm than good—to people, to the economy and to small business.

In addition, Mr. President, Washington too often imposes unfunded mandates on America's job creators. The benefits of government programs are there for all to see. But the costs imposed by these programs on workers, consumers, and small businesses are not so clear. Reduced wages, increased prices and stagnant growth all can result from unfunded federal mandates. That is why I believe it is crucial that we institute mandate reform legislation that would direct the Congressional Budget Office to study the effects of proposed private sector mandates on workers, consumers and economic growth, and provide a point of order allowing members to call Congress' attention to these costs.

Finally, Mr. President, entrepreneurs increasingly are being forced out of business, or deciding not to go into business for themselves, out of fear of lawsuits. One recent Gallup poll reported that fear of litigation has caused 20 percent of small businesses not to hire more employees, expand their business, or introduce new products. And that figure does not include those who have decided not to go into business at all.

The culprit is the frivolous lawsuit. The stories are well-known: A Northridge, California woman claims damages from a store after she pulled out the bottom box in a blender display stack and brought it down on her. A former smoker in Seattle sues a supermarket and Washington dairy farmers for failing to warn him that a lifetime of drinking whole milk might clog his arteries and cause him to have a heart attack. A teenager in Nashau, New Hampshire sues the manufacturer of a basketball net after he attempts a slam dunk and looses two teeth when they get caught in the net.

We must put a stop to this lawsuit abuse before it stifles our economic growth, innovation and entrepreneurial spirit. Ideally, we would pass legislation discouraging all frivolous lawsuits. Unfortunately, while we have tried several times to enact broad-based legal reform, the President has successfully opposed it. That is why I have sponsored the "small business lawsuit abuse protection act." For small businesses, this legislation will limit the punitive damages that can be awarded against the company. Punitive damages would be available only if the injured party proves convincingly that the harm was caused by the small business through at least a conscious, flagrant indifference to the rights and safety of others. And punitive damages would be limited to the lesser of $250,000 or two times the compensatory damages awarded for the harm.

The bill also would limit joint and several liability for small businesses. This doctrine, according to which a company that caused, say, two percent of the harm could be held liable for the full amount of damages, has forced many companies related to an accident tangentially if at all (including, for example, Mr. Van de Putte) to pay the entire amount of the settlement because others are bankrupt or otherwise not subject to being sued. Under this legislation a small business would be liable for pain and suffering and any other noneconomic damages only in proportion to its responsibility for causing the harm. They would still be fully, jointly and severally liable for economic damages.

For the sake of our small businesses, and for the sake of the millions of Americans who rely on those small businesses for goods, services, training and jobs, we must address the costs Washington and our broken civil justice system impose on entrepreneurial activity and business growth. It is my hope that National Small Business Week will provide all of us with the opportunity to reflect on the tremendous debt we owe the entrepreneurs of our country and that we will do our best to encourage them to continue making life better for all Americans.●

CELEBRATION OF JUNE DAIRY MONTH

● Mr. FEINGOLD. Mr. President, I rise today to celebrate National Dairy Month and the great history of the dairy industry in our Nation. As many of you know, even before the inception of National Dairy Month, in 1937, Wisconsin was historically the national leader in milk and cheese production. Even today, Wisconsin leads the Nation in cheese volume and variety, offering more than 300 varieties, types and styles of cheese.

Mr. President, during June Dairy Month, we celebrate America's dairy industry and Wisconsin dairy's proud tradition and heritage of quality. It provides Wisconsin's dairy farmers a special time to reflect on their accomplishments and those of their ancestors, and to look forward to continued success in the future.

As I mentioned, Mr. President, Wisconsin was nicknamed America's Dairyland in the 1930s, but it became a leader in the industry soon after the first dairy cow came to Wisconsin in the 1800's. This year's celebration of National Dairy Month, is especially important for the people of my home state of Wisconsin because this is also the year we are celebrating our sesquicentennial—150 years of Wisconsin statehood. Dairy history and the state's history have been intertwined from the beginning. Why, before Wisconsin was even declared a state, Ms.

Anne Pickett established Wisconsin's first cheese "factory" when she combined milk from her cows with milk from her neighbor's cows and made it into cheese.

Other Wisconsin dairy firsts include: the development of Colby cheese in 1874, the creation of brick cheese in 1875, the first dairy school in America—established in 1891 at the University of Wisconsin at Madison, the first statewide dairy show in the U.S. in 1928, and the creation of the world-record holding 40,060 pound, Grade-A Cheddar cheese in 1988. And Wisconsin also can claim one of the best-tasting inventions in the history of dairy industry: the creation of the first ice cream sundae in 1881.

Wisconsin cows produce more than 22.4 billion pounds of milk a year, nearly 90 percent is processed into cheese and other products. Wisconsin leads the Nation in the production of cheese and are the top producer of many varieties including Cheddar, American, Muenster, Brick, Blue and Italian—not to mention the ONLY U.S. producer of the famous Limburger cheese variety. Also, Wisconsin buttermakers produce nearly 25 percent of America's butter supply.

National Dairy Month is the American consumer's oldest and largest celebration of dairy products and the people who have made the industry the success it is today. During June, Wisconsinites will hold nearly 100 dairy celebrations across our state, including dairy breakfasts, ice cream socials, cooking demonstrations, festivals and other events. These events are all designed to make consumers aware of the quality, variety and great taste of Wisconsin dairy products and to honor the producers who make it all possible.

I am proud to honor this great American tradition—proud to honor the dairy producers not only in Wisconsin, but also those across this great nation.•

TRIBUTE TO KAIMUKI INTERMEDIATE SCHOOL

• Mr. AKAKA. Mr. President, it is with great pride that I rise today to honor the students, teachers, staff, administrators, parents, and supporters of Kaimuki Intermediate School from Kaimuki, Oahu for their achievement in receiving the prestigious Blue Ribbon Schools award. This year, Kaimuki Intermediate School was one of the schools selected from hundreds of secondary schools across the Nation to receive this award. It is a reflection of the administration's, teachers', and staff's determination to provide an excellent educational environment for their students.

The U.S. Department of Education presents the Blue Ribbon Schools award to schools that have excelled in leadership, community involvement, environmental awareness, and a continuous desire to overcome the barriers that impede a quality education. This award is one of the most prestigious educational awards in the Nation. Schools that receive this recognition provide a challenging education for their students, strive to maintain a clean and healthy environment, develop and maintain family relations, and recruit and maintain high caliber teachers.

Mr. President, it is no surprise that Kaimuki Intermediate School, which challenges students academically, has been chosen for such an honor. Students are given numerous opportunities to expand their interests and talents by participating in committees, including School Community Based Management (SCBM) and the Student Activities Council (SAC). These committees enable students to participate in the administrative process of their education and allow them to contribute ideas to improve school activities and develop ideas that could further benefit their education.

The students at Kaimuki Intermediate School have had many accomplishments. One student traveled to Washington, D.C., to compete in the national math competition. The eighth grade girls basketball team won first place in their league, and other students participate in a wide range of activities like intermural and extramural sports, band, and math competitions. Indeed, Kaimuki Intermediate School has excelled in their effort to provide students with a well rounded education.

Mr. President, I am proud to rise today to recognize everyone who has contributed to making this award a reality, and congratulate the faculty and staff and, most importantly, the students of Kaimuki Intermediate School for a job well done.•

PATRICIA RUSSO

• Mr. DODD. Mr. President, later this month the State of Connecticut will say good-bye to one of its strongest and most respected voices on women's issues: Patricia Russo. Known by her friends as Pat, Ms. Russo has worked for the past 18 years to promote civil rights for women, assure equality in education for girls, and help women achieve economic parity in the workplace. This July, Pat will be moving with her family to Tokyo, and she will be dearly missed.

Pat Russo has served on the Permanent Commission on the Status of Women (PCSW) for the past 15 years. She currently serves as the Chairperson of this agency, which provides research and analysis to legislators and state leaders on issues such as sex discrimination, child care, sexual harassment, child support enforcement and the economic status of women.

On behalf of the PCSW, Ms. Russo is the founder of the Connecticut Women's Agenda, a state-wide coalition of key women's organizations in Connecticut. She also chairs the PCSW's Congressional District Advisory Council (CDAC) in the fourth congressional district.

Ms. Russo's work on behalf of ending violence against women earned her a seat on the 1997 Task Force to Study Domestic Violence, along with the Attorney General and other state leaders.

In addition to her work at the PCSW, Ms. Russo also serves on the Advisory Board of Woman magazine and the Advisory Council of the Rape and Sexual Abuse Crisis Center. She was recently appointed to the Board of Directors of the National Association of Commissions for Women (NACW). She is also President of the Women's Business Development Center of Connecticut, a new agency that moves women from welfare to work.

Pat Russo's leadership has earned her numerous awards, including the prestigious Hannah G. Solomon award, given by the National Council of Jewish Women, and the distinction of "Woman of the Year" by the Business and Professional Women of Connecticut.

In 1997, Ms. Russo was named to the Racial Justice Committee of the YWCA of Greenwich, and is an honorary member of the American Association of University Women, in celebration of her 20 years of activism on behalf of Connecticut women.

I have known Pat personally for many years and worked with her on many important issues. I have always found her to be extremely capable and completely dedicated to improving the quality of justice for women in this country. She is truly a remarkable individual, and I am sad to see her go. I wish her only the best as she leaves for Japan and in all of her future endeavors.•

U.S.-PHILIPPINE RELATIONS

• Mr. ABRAHAM. Mr. President, I rise today to cosponsor a resolution offered by my colleague the Senator from Hawaii, Mr. AKAKA. This resolution commemorates 100 years of relations between the people of the United States and the people of the Philippines.

100 years ago, Mr. President, the Philippines gained their independence from Spain. This was the beginning of a long and fruitful relationship between our two countries and our two peoples.

The people of the Philippines have shown a strong commitment to free government, individual liberty and a market economy. Over the last 100 years they have worked hard to establish democratic institutions and to develop a thriving free market economy.

The Philippines has served as an important ally to the United States, protecting the peace and security of South

Asia as it provided an example of the human desire for freedom.

What is more, Mr. President, Filipino soldiers have fought side by side with American troops in World War II, Korea and Vietnam. The people of the Philippines have shown themselves to be strong and loyal friends of America.

The significant number of Filipinos who have come to the United States also have made great contributions of our nation through their culture and their individual initiative.

The Philippines has become a major trading partner for the United States and remains a strong ally in our efforts to maintain regional stability.

It is my hope that our two nations will enjoy another 100 years of mutual respect and support, and that my colleagues will join me in congratulating the Philippines on the anniversary of its independence from Spain.•

U.S. SPECIAL FORCES TRAINING

• Mr. LEAHY. Mr. President, several months ago, as the conflict in Indonesia escalated, United States Special Forces training of Indonesian troops came under intense scrutiny. As journalists and human rights groups compiled and publicized allegations of torture, disappearances and killings by "Kopassus," an Indonesian special forces commando group, and other Indonesian military units, the Defense Department was conducting joint exercises with some of these same forces. It was only several weeks ago that Defense Secretary Cohen suspended the program because of instability in the country.

The training of U.S. Special Forces on foreign soil provides a valuable opportunity for our soldiers to learn how other militaries operate and to familiarize themselves with different cultures, climates and terrain. They need to be able to operate in the most difficult conditions. However, while the program benefits our soldiers, it also provides training to foreign security forces. And sometimes those forces have a history of involvement in human rights violations. Unlike the International Military Education and Training (IMET) program which screens foreign participants for any involvement in human rights violations, the Special Forces program, which conducted training exercises in 102 countries in fiscal year 1997, apparently does not. No credible effort is made to screen prospective foreign participants. If there were, there is no way this training would be conducted with Kopassus, which has been implicated in a pattern of torture and extrajudicial killings dating back many years.

A May 25, 1998 article in the Washington Post describes how the Special Forces program in Colombia has continued to operate and maintain close relationships with foreign security forces there despite the Colombian army's abysmal human rights record, pervasive allegations of drug-related corruption and accusations linking the armed forces with paramilitary killings of civilians. Just as in Indonesia, where Special Forces training continued despite a congressional cutoff of IMET assistance due to human rights concerns, the Special Forces training program in Colombia, funded by the Department of Defense, continued in 1997 even though our aid to the Colombian army was withheld on account of a human rights provision in our Foreign Operations law.

I do not oppose Special Forces training. Our soldiers need the experience. But we also need a consistent human rights policy. The human rights procedures that have been applied to the IMET program are far from foolproof, but they do help reduce the chance that the foreign forces we train have been involved in human rights abuses. These same screening procedures should apply to training conducted by U.S. Special Forces.

Mr. President, a country is judged, in part, by the company it keeps. By failing to establish a clear, transparent and comprehensive policy that governs all our military training programs and adequately takes into account human rights considerations, the United States, and our soldiers, will continue to be implicated in the atrocities of those we train.•

RELEASE OF "UNDER THE RUG: SUBSTANCE ABUSE AND THE MATURE WOMAN"

• Ms. MIKULSKI. Mr. President, today I joined former First Lady Betty Ford, former HEW Secretary Joe Califano, and Congresswoman NANCY JOHNSON to release the first national, comprehensive study of the abuse of alcohol, cigarettes, and psychoactive prescription drugs by women over age 59. The study found that in 1998, substance abuse by mature women will trigger more than $30 billion in health costs—$10.1 billion in inpatient hospital bills, $12.2 billion in nursing home bills, and $7.7 billion for physician services and home health care.

I would like to pay a special tribute to Mrs. Ford. Her courage and her gallantry has given hope to others who have faced similar if not identical problems. By speaking out and by facing her own problems with the love and support of her family, she gave those who have less power, or maybe less love, the strength to do what she did. Mrs. Ford, Liz Taylor, Ann Richards, I think we really owe a debt of gratitude to them, and we owe a debt to every well-known woman in our society who has been willing to step forward, speak up and speak out about the dangers of older women and substance abuse.

I'd also like to pay tribute to President Ford for the courage to organize a family intervention. Thank you for showing us that when a man really loves a woman, sometimes you need tough love. If Mrs. Ford had had a heart attack, Mr. Ford would have been the first one there with CPR. His intervention was the CPR of substance abuse.

Today's findings address a problem hidden in the shadow for too long. Mature women who struggle with depression and loneliness and fight them with drugs and alcohol today know they are not alone. This study shines the bright light of research and knowledge to take this problem out of the shadows.

It is the first step to help mature women get help from doctors, from family, and from friends. It is the first step to help grown men and women identify the warning signs of addiction, not just with their own kids, but with their parents. It is startling and troubling that mature women are more likely to be hospitalized for substance abuse than for heart attacks.

In Maryland in 1996, 285 mature women sought help for substance abuse in certified treatment centers, 230 in 1997. Thousands more are too scared, too sick, or too alone to seek out care they need. This study can help them. And it can help America.

I have been a life-long fighter for mature Americans. I believe "honor your mother and father" is not just a good commandment, it's good public policy. That's why I am such a big supporter of research like today's study. This study not only highlights a big problem, it highlights opportunities to make good public policy.

If we can end substance abuse among the elderly, we can lower financial costs for Medicaid and Medicare. More importantly, we can lower the emotional cost to women and families. We can't let a blanket of shame and denial blind us to problems that we can and should solve.

I support more research to help protect seniors from scams, from poverty, and from threats to their health. I send thanks to Bristol-Myers Squibb and to the National Center on Addiction and Substance Abuse for revealing this troubling problem and helping to create solutions.

Today's research, which focuses on women and seniors, is one big reason I am a big supporter of NIH. Women's health has made great headway with NIH. In 1990, Congresswomen CONNIE MORELLA, Pat Schroeder and I showed up on the steps at NIH to launch what we hoped would be a women's health initiative. Through our efforts, the Office of Women's Health Research was established so that women would no longer be left out of clinical trials and research protocols. I am pleased that we are now seeing more and better research on women's health.

I am sending this report to Dr. Varmus, Director of NIH with my endorsement and with my request that

NIH expand its research on alcohol and drug abuse by mature women. Today's study is a shining example of what can get done with attention and money and more women in the House and Senate.

I would ask all my colleagues, men and women, Democrat and Republican, House and Senate, to read the executive summary of "Under the Rug: Substance Abuse and the Mature Woman", which I will send to them. We shouldn't play politics with women's lives, and we shouldn't play politics with the lives of the mature women and their families who are trying to cope with the terrible problems of substance abuse.

BEVERLY GIBSON

• Mr. BAUCUS. Mr. President, I rise today to honor an outstanding Montanan, Beverly Gibson. She will retire June 30 after twenty years as assistant director of the Montana Association of Counties and nearly 30 years of outstanding public service to her State. Through her work I believe Bev knows almost everyone involved in county government in the State, and those of us who have had the great fortune to know her stand in awe of this great lady's achievements.

Montana-born and journalist by training, Bev has been the heart and soul and living history of MACO since its very early expertise have touched many lives. In a State like mine, with its vast area and sparse population spread over 56 counties, local government is the lifeblood of politics. Bev is the real champion in this arena.

At MACO Bev is known as the person who gets things done. Twice a year, MACO holds statewide meetings and she was always the first to get there and welcome everyone. She would research all the issues, staff committees, act as official photographer, coordinate speakers and agency representatives and was the last to say goodbye. Can you imagine doing that for 168 commissioners of different parties? I honestly don't know how the organization will get along without her, except that she is leaving an incredible legacy that will brighten the way for others.

As she retires, I want to wish her much joy, health and happiness. And I also want to say thanks, Bev, for a job well done and for a real service to Montana.•

COMMEMORATION OF PRO-DEMOCRACY ACTIVISTS OF 1989

• Mr. FEINGOLD. Mr. President, I rise today to join in marking the ninth anniversary of the Tiananmen Square Massacre, a tragic day when a still unknown number of Chinese—some say hundreds, others, thousands—died at the hands of the People's Liberation Army, and perhaps thousands more were placed in detention.

Despite this monumental tragedy, China's leaders remain unwilling to reexamine the events of June 4, 1989. Indeed, they would like nothing more than to have Tiananmen fade from the world's memory.

But today, the spirit of Tiananmen lives in our memory in the strongest way. We have recently welcomed to the United States two key pro-democracy leaders who were released from Chinese prisons. But as lucky as we are to have Wei Jingsheng, Wang Dan, and others in our midst, we are all well aware that they are not yet free; they remain in the United States because they cannot return freely to their homeland.

Moreover, at least 158 people remain in prison for their role in the 1989 demonstrations. Certainly for these people and their families, Tiananmen remains a part of daily life.

For those of us who are concerned about human rights in China, the very date of June 4th remains a powerful reminder that the Chinese Government has not changed.

But despite the lack of progress, the executive branch of our government continues to pursue a policy of constructive engagement with China, a policy that will be capped off by the President's visit to Beijing at the end of the month. This upcoming summit is yet another in a long line of unwise steps that the Administration has taken with respect to China. I have generally opposed all of these steps because I do not see that progress has been achieved on human rights in China. This includes the October 1997 state visit of Chinese President Jiang Zemin. That was a mistake. We should challenge China's leaders rather than toast them.

The failure of the United States to sponsor a resolution condemning human rights abuses in China and Tibet at the most recent meeting of the United Nations Commission on Human Rights was also a mistake. The Administration made this decision despite the overwhelming support in the Senate of a resolution that urged the United States to "introduce and make all efforts necessary to pass a resolution" at the Commission on Human Rights. I was proud to co-sponsor that resolution.

As we all know, for the past few years, China's leaders have aggressively lobbied against resolutions at the UN Human Rights Commission earlier and more actively than the countries that support a resolution. In 1997, China threatened Denmark, which had made a difficult and courageous decision to sponsor a resolution on human rights in China. This year, Chinese officials played a diplomatic game with various European governments, and succeeded in getting European Union foreign ministers to drop any EU cosponsorship of a resolution.

The complete failure of the United States and the EU to push for a resolution at the Commission was, in my mind, gravely unfortunate. The multilateral nature of the Commission makes it an appropriate forum to debate and discuss the human rights situation in China. By signing international human rights treaties, China has obliged itself to respect international human rights law. One of the basic purposes of the Commission is specifically to evaluate China's performance with respect to those commitments. The Commission's review has led to proven, concrete progress on human rights elsewhere, and the expectation has been that such scrutiny would lead to concrete progress in human rights in China, but China's rulers cynically ignore their legal and moral duty to respect the human rights of their own citizens. And they do it with impunity.

Despite China's announcement last year that it would sign the United Nation's Covenant on Economic, Social and Cultural Rights and take a few other token steps, I see no evidence of real human rights improvement on the ground in China. The fact that human rights conditions in China are growing worse, not better, demands that human rights continue to be a top priority in our China policy—but it is not a priority, and the rulers in Beijing know that.

Nearly four years after the President's decision to de-link most-favored-nation status from human rights—a decision I have always said was a mistake—we cannot forget that the human rights situation in China and Tibet remains abysmal. Hundreds, if not thousands of Chinese and Tibetan citizens are detained or imprisoned for their political and religious beliefs. The press is subject to oppressive restrictions. And monks and nuns in Tibet are harassed for showing reverence to the Dalai Lama.

In a well-quoted sentence, the most recent State Department human rights report notes that "the Government of China continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, including extra-judicial killings, the use of torture, arbitrary arrest and detention, forced abortion and sterilization, the sale of organs from executed prisoners, and tight control over the exercise of the rights of freedom of speech, press and religions." If that shameful litany is not grounds for a tougher policy, please, somebody, tell me what is!

Today, on the ninth anniversary of one of the most traumatic events in the modern history of China, we remember the courageous people who stood before the tanks, who gave their lives for bravely choosing to express their notions of freedom and breathed their last on the bloody paving stones of Tiananmen, and we honor those heroes who continue to take risks to struggle for real change in China and Tibet.

It is unfortunate, then, that the President's proposed trip to Beijing, which will take place in just a few weeks, will send the wrong signal—not only to China's leaders, but also to those in China and Tibet who have worked so tirelessly to achieve the basic freedoms that we, as Americans, take for granted. In particular, in a move that almost adds insult to injury, the President has agreed to stage his arrival ceremony in Tiananmen Square itself.

If ever a moment cried out for a gesture, Mr. President, that will be the moment. That will be the chance for our President to restore some small moral weight to our China policy.

Mr. President, if the President of the United States feels he must go to Beijing, if he feels he must go there this month, a month when we remember and honor the heroes of Tiananmen, and if he feels he must visit the site of that horrible 1989 massacre, I hope he will take the time to visit with the families of the victims—a suggestion I made to Assistant Secretary of State Stanley Roth in a recent Senate Foreign Relations Committee hearing.

Finally, it is imperative that throughout his visit to China, the President send a clear unequivocal message about the importance of human rights, of the rule of law and of democracy. The students at Tiananmen erected a goddess of democracy. Our China policy worships trade and pays short shrift to the ideal of freedom. Our policy has got to change.

We owe as much to the victims, to the champions of democracy in China today, and to the American people.●

SENATOR PELL ON CUBAN POLICY

● Mr. REED. Mr. President, I rise today to submit an editorial on U.S. policy toward Cuba written by my esteemed predecessor, the Honorable Claiborne Pell. The editorial was printed in the May 5, 1998 edition of the Providence Journal Bulletin.

Senator Pell served in the United States Senate for thirty-six years. While in the Senate, he served as Chairman of the Committee on Foreign Relations for eight years. Senator Pell's remarkable career also included eight years of service as a State Department Official and Foreign Service Officer as well as the United States Representative to the 25th and 51st Sessions of the United Nations General Assembly. Senator Pell's positions have taken him to Cuba on three occasions, most recently in early May. Senator Pell's observations of American foreign policy toward Cuba have led him to the conclusion that continuing the 38 year embargo on Cuba will not destabilize the Castro regime and is hurting the Cuban people.

In his editorial, Senator Pell makes a number of insightful points. I hope all my colleagues will take the opportunity to read this piece by an expert in foreign relations and seriously consider his observations regarding relations with our neighbor.

Mr. President, I ask that the editorial from the Providence Journal Bulletin be printed in the RECORD.

The editorial follows:

[From the Providence Journal-Bulletin, May 5, 1998]

OUR CUBA POLICY HAS NOT WORKED

One can only hope that the small but significant changes in U.S. policy toward Cuba that President Clinton announced in late March portend more sweeping changes in the months ahead toward a more rational, more self-interested and more effective U.S. policy.

Having just returned from a five-day visit to Cuba with a distinguished group of Americans, I am more convinced than ever that our existing policy, built around the 38-year-old embargo of Cuba, simply doesn't work.

The embargo upsets the Cuban government and hurts the Cuban people, but, from our discussions with an array of Cuban government officials, religious and dissident leaders and foreign diplomat observers, one thing emerged clearly: The Cuban economy is strong enough to limp along for the foreseeable future. There is no evidence at all to suggest that U.S. economic sanctions are any more likely to destabilize the Castro regime in the near future than they have been over the past 38 years.

Cuba is now some six years into what the regime euphemistically calls the "special period," the time of economic distress that began with the collapse of the Soviet Union. Cuba lost its preferential trading arrangement with Moscow and the other former communist republics of Eastern Europe, and was left to fend for itself.

If U.S. economic pressure was ever to work, that was the time. But Cuba has muddled through. In moves that must have been bitter pills for Castro to swallow, Cuba "dollarized" its economy, allowed private farmers' markets and other small-scale private enterprises, and offered more favorable terms for foreign investment.

As a result, the Cuban economy, in free fall during 1993, has started to come around. The evidence abounds in Havana. Not only tourists, but all Cubans can purchase an array of consumer goods in "dollar stores" that are prevalent in Havana. When we asked one government official how Cubans with no access to dollars can survive, he shot back: "Who doesn't have dollars?"

One exquisite irony is that this dollar-focused Cuban economy is now in part propped up by an annual deluge of dollars, estimated at $600 million to $1 billion, that arrives in Cuba from the United States, primarily from Cuban-Americans anxious to make life easier for their relatives. Whatever pain the embargo causes is offset by this dollar flow, which they will likely increase with the restoration of legal remittances.

Tourism has expanded greatly since I last visited Cuba 10 years ago, and brings both much needed hard currency and less desirable consequences, including prostitution, which seems widespread in parts of Havana after dark. Our delegation visited only Havana and we were told that times are tougher in the smaller cities and the countryside. But the Cuban economy has clearly recovered and, while it could benefit from many more reforms, there is no sign it will collapse.

Cuba is still very much an authoritarian state with tight state control over all aspects of society, including public debate. One day, I visited a showplace medical campus where very interesting neurological research is being conducted. The center was equipped with what appeared to be sophisticated computers and has its own "web site."

Next, I sat with a group of dissidents and asked about their access to the Internet. "We can't use the Internet," one said. "We cannot even have computers; they just take them away."

Yet I felt a much greater openness in Havana this time than in my last visit, and certainly than in 1974, when Sen. Jacob Javits (the late U.S. Republican senator from New York) and I were among the first members of Congress to visit since the revolution. Back then, we were shadowed everywhere we went, were confident our hotel rooms were bugged, and sensed a real oppressiveness in the city. In those days, the infamous Committees for the Defense of the Revolution were an effective neighborhood spy network; today, they seem more a network of aging busybodies. Havana is certainly not a free city, but it has a liveliness and verve that startled me.

On this trip, everywhere we went people still were abuzz about the visit of the Pope. Church leaders do not know yet whether the visit, of which virtually all Cubans seemed immensely proud, will lead to much greater openness. But colleagues of mine went to Mass on Sunday at a Jesuit church in a rundown section of the city, and described a vibrant community with an abundance of young adults worshipping with pride and intensity. The dissidents we met reported that a substantial number of political offenders have been freed and the atmosphere seems to them "more relaxed."

Cuba's repressive communist regime has survived, if not thrived, for 38 years in economic isolation from the United States. When a policy has failed that long, isn't it time to try something else? In my view, a policy of contact, trade, cultural exchanges and dialogue, just as we had with the communist states of Europe, could well lead to a more open, free-market economy and more political diversity in Cuba. Even if it doesn't, it won't be any less effective than the policy we've been following these past 38 years.●

EXPRESSING THE SENSE OF THE SENATE ON THE NINTH ANNIVERSARY OF THE MASSACRE OF PRO-DEMOCRACY DEMONSTRATORS ON TIANANMEN SQUARE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate resolution at the desk which would express the sense of the Senate on the ninth anniversary of the massacre of prodemocracy demonstrators on Tiananmen Square in China. I ask further consent that the resolution be agreed to, the preamble be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I find myself in the awkward position of having to object to consideration of my own resolution. I want to make this clear that I am doing this solely as a courtesy to the Democratic leader.

The PRESIDING OFFICER. Objection is heard.

Ms. COLLINS. Mr. President, I am really surprised and shocked that apparently there is objection on the Democratic side of the aisle to consideration of this important resolution. I had hoped that we would consider this evening a resolution expressing the sense of the Senate upon the ninth anniversary of the tragic massacre of Chinese students in Tiananmen Square on June 4, 1989.

My resolution, had I been permitted to proceed with it this evening, was cosponsored by the distinguished majority leader, by the Senator from Arkansas, Senator HUTCHINSON, and by the Senator from Michigan, Senator ABRAHAM. Regrettably, my colleagues from the Democratic side of the aisle have blocked consideration of this resolution. I would, however, like to take a moment to explain why I consider it to be very important.

Mr. President, 9 years ago, thousands of students were peaceably assembled on Tiananmen Square in Beijing, peacefully protesting their government's refusal to permit them even the most basic freedoms of expression, association, and political activity.

As a symbol of their hopes and aspirations for a democratic China, these students constructed a scale model of our own Statue of Liberty. It was to them, as it is to us and to untold millions around the world, a symbol of freedom's promise for people everywhere. Quoting Thomas Jefferson, these brave Chinese students spoke eloquently of the need for China to develop democratic institutions, and finally to allow a degree of political progress to match its dramatic economic change and development in recent years.

Nine years ago today—today—the excitement and the promise of this Chinese democracy movement were extinguished as troops and armored vehicles were ordered into action against the peaceful students. Mr. President, it may never be known exactly how many died in the resulting bloodbath, but hundreds of Chinese demonstrators were certainly killed and many thousands more were arrested for so-called counterrevolutionary offenses that consisted only of attempting to assert rights that it is the duty of civilized governments everywhere to observe, protect and promote.

I am wearing, Mr. President, a ribbon to commemorate just one of those political prisoners from that very sad period.

I had hoped to introduce and have the Senate pass this resolution to make very clear to everyone in this country and, indeed, around the globe that the U.S. Senate has not forgotten what occurred in Tiananmen Square 9 years ago today.

Mr. President, my resolution sought to do no more than to make clear that what occurred on June 4, 1989, was profoundly wrong and that we should not permit ourselves or our Government ever to forget this. This resolution would have merely expressed the sense of the Senate that our Government should remain committed to honoring the memory and the spirit of the Chinese citizens who died on Tiananmen Square and that assisting China's peaceful transition to democracy should be a principal goal of our foreign policy.

Mr. President, it is important that we remember Tiananmen Square today precisely because we do enjoy increasingly close ties with the regime in Beijing. Relations with the People's Republic of China are—and must—be a continual balancing act. The memory of Tiananmen Square should help us find the appropriate bounds, preventing us from giving way to a wholly unchecked enthusiasm in U.S.-Chinese relations by disregarding the fundamental nature of the regime with which we are dealing. China is not a democracy, after all, and its government still has few qualms about using armed force to suppress the legitimate aspirations of its people for basic liberties.

I do not expect democracy to flower overnight in China. But it is today quite clear that China is capable of democracy. The very strength of the student movement that Communist authorities tried to crush on Tiananmen Square nine years ago attests to the powerful appeal that democracy and human rights have in China. The successes of pro-democracy candidates in Hong Kong's recent elections also attest to how strong democratic ideals can be in China when not suppressed by autocrats intent upon preserving their own power and privileges. Most of all, the new and thriving democracy on Taiwan stands as the clearest indication that the phrase "Chinese democracy" is not an oxymoron. In fact, the phrase "Chinese democracy is a ray of hope for a quarter of our planet's population.

This is why it is important always to keep Tiananmen Square in our minds as we pursue our "engagement" with China. While we cannot ignore China and its huge population, neither can we ignore the human rights abuses committed by its government. Sound public policymaking is about pragmatism, but it is about the pragmatic pursuit of principles. Without principle, pragmatism is no more than a fraud, a process that lacks a purpose; there is no substitute for an underlying moral compass. This is why I very much wanted to introduce my resolution today: in U.S.-China relations, the memory of Tiananmen Square is one of the cardinal points on our moral compass, without which we cannot navigate.

I ask unanimous consent that the text of the resolution I would have introduced be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES.—

Whereas in the spring of 1989, thousands of students demonstrated in Tiananmen Square in Beijing in favor of greater democracy, civil liberties, and freedom of expression in the People's Republic of China (PRC);

Whereas these students' protests against political repression in their homeland were conducted peacefully and posed no threat to their fellow Chinese citizens;

Whereas on the evening of June 4, 1989, these students were brutally attacked by infantry and armored vehicles of the People's Liberation Army (PLA) acting under orders from the highest political and military leadership of the PRC;

Whereas hundreds of these students were killed by the PLA in Tiananmen Square on June 4, 1989 for offenses no more serious than that of seeking peacefully to assert their most basic human, civil, and political rights;

Whereas many of the leaders of the student demonstrations thus attacked were subsequently imprisoned, sought out for arrest, or otherwise persecuted by the Government of the PRC;

Whereas during or shortly after the brutal assault of June 4, 1989, at least 2,500 persons were arrested for so-called "counter-revolutionary offenses" across China and dozens of persons were executed;

Whereas the Chinese government has never expressed regret for its actions on June 4, 1989, still imprisons at least 150 persons in connection with the Tiananmen Square demonstrations, and has continued to deny its citizens basic internationally-recognized human, civil, and political rights;

Whereas the Government of the PRC, as detailed in successive annual reports on human rights by the United States Department of State, still routinely and systematically violates the rights of its citizens, including their rights to freedom of speech, assembly, worship, and peaceful dissent; and

Whereas the Tiananmen Square Massacre has become indelibly etched into the political consciousness of our times as a symbol both of the impossibility of forever denying a determined people the right to control their own destiny and of the oppressiveness and brutality of governments that seek to do so: Now, therefore, be it

Resolved, That, in the interest of expressing support for the observance of human, civil, and political rights in China and around the world, it is the sense of the Senate that—

(1) the United States Government should remain committed to honoring the memory and spirit of the brave citizens of China who suffered and died in Tiananmen Square on June 4, 1989 for attempting to assert their internationally-recognized rights; and

(2) supporting the peaceful transition to democratic governance and the observance of internationally-recognized human, civil, and political rights and the rule of law in China should be a principal goal of United States foreign policy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

COMMENDING THE UNIVERSITY OF NEVADA LAS VEGAS COLLEGIATE GOLF TEAM ON THEIR NCAA CHAMPIONSHIP

Ms. COLLINS. I now ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 243 submitted earlier today by Senators BRYAN and REID.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 243) to commend and congratulate the University of Nevada Las Vegas men's golf team on winning the team's first National Collegiate Athletic Association Championship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. COLLINS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 243) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 243

Whereas the University of Nevada Las Vegas Rebels men's golf team shot four rounds of golf at a total of 1118 strokes for a total of 34 under par, to beat the second place Clemson Tigers by three strokes;

Whereas this score of 34 under par set a tournament record by 11 strokes;

Whereas Chris Berry shot a total of 272 strokes for 16 under par to finish second in individual competition, to help ensure the championship for the Rebels;

Whereas the University of Nevada Las Vegas men's collegiate golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the course of the season in achieving collegiate golf's highest honor; and

Whereas the Rebels have brought pride and honor to the State of Nevada: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Nevada Las Vegas for winning the 1998 National Collegiate Athletic Association Division I men's collegiate national golf championship;

(2) commends Chris Berry, for his second place individual finish at the National Collegiate Athletic Association golf championship;

(3) recognizes the achievements of all the players, coaches, and staff who were instrumental in helping the University of Nevada Las Vegas win the 1998 National Collegiate Athletic Association Division I men's collegiate national golf championship and invites them to the Capitol to be honored in an appropriate manner to be determined;

(4) requests that the President recognize the accomplishments and achievements of the 1998 University of Nevada Las Vegas Rebels golf team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and

(5) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Nevada Las Vegas for appropriate display and to transmit an enrolled copy to each member of the 1998 University of Nevada Las Vegas National Collegiate Athletic Association Division I men's collegiate national championship golf team.

RECOGNIZING DISABLED AMERICAN VETERANS

Ms. COLLINS. Mr. President, I now ask unanimous consent the Senate proceed to the immediate consideration of Senate Concurrent Resolution 102, introduced earlier today by Senator ROCKEFELLER and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 102) recognizing disabled American veterans.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROCKEFELLER. Mr. President, as the Ranking Member of the Senate Committee on Veterans' Affairs, I, along with Senators SPECTER, LOTT, and DASCHLE submit a Senate Concurrent Resolution that will allow the Disabled American Veterans to sponsor an event on the U.S. Capitol grounds on June 16 and 17, 1998, during which they will donate 147 transportation vans to the Department of Veterans Affairs.

Senator SPECTER, Chairman of the Committee on Veterans' Affairs, and I were asked to help coordinate this unique event, and we are grateful for the support of the Leadership on both sides of the aisle. As my colleagues are aware, Senator SPECTER is unable to be here today due to recent surgery.

Mr. President, the Disabled American Veterans (DAV) was chartered by the Congress of the United States in 1932 and serves as an incredibly strong advocate for our Nation's disabled veterans. In 1987, as part of their mission, DAV organized a nationwide transportation program to help sick and disabled veterans receive the essential medical care they so desperately need. From the time of its inception to the present, DAV will have donated 750 vans in support of this program.

In my state of West Virginia, thousands of veterans live in rural areas, miles from the nearest VA medical center, and often in areas with no public transportation. So I am acutely aware of how veterans not only in West Virginia, but from coast to coast, rely on the DAV transportation program to receive essential medical care. I am proud to have worked with DAV to help foster this program.

I ask all of my colleagues to join us in supporting legislation to authorize use of the Capitol Grounds for this remarkable event. And I, along with Senators SPECTER, LOTT, and DASCHLE, commend DAV for their donation and work on behalf of our Nation's veterans.

Ms. COLLINS. I ask unanimous consent the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements related to the concurrent resolution be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 102) reads as follows:

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR DISABLED AMERICAN VETERANS EVENT.

Disabled American Veterans shall be permitted to sponsor a public event on the West Front Lawn of the Capitol on June 16 and 17, 1998, or on such other dates as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, in order announce the donation of 147 vans to the Department of Veterans Affairs by Disabled American Veterans.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized by section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—Disabled American Veterans shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, Disabled American Veterans may erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment as may be required for the event authorized by section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event, including arrangements to limit access to First Street Northwest and First Street Southwest as required for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event authorized by section 1.

SEC. 5. PHOTOGRAPHS.

The event authorized by section 1 may be conducted only after the Architect of the Capitol and the Capitol Police Board enter into an agreement with Disabled American Veterans and the manufacturer of the vans referred to in section 1 that prohibits Disabled American Veterans and such manufacturer from using any photograph taken at the event for a commercial purpose. The agreement shall provide for financial penalties to be imposed if any photograph is used in violation of this section.

ORDERS FOR FRIDAY, JUNE 5, 1998

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Friday, June 5. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then begin a period of morning business until 10:30 a.m. with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator SMITH of New Hampshire for 30 minutes; Senator CLELAND for 10 minutes; Senator WELLSTONE for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I further ask that following morning business the Senate resume consideration of the Coverdell amendment No. 2451 pending to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. COLLINS. Mr. President, for the information of all Senators, when the Senate reconvenes tomorrow at 9:30 a.m., there will be a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation, with several amendments still pending. It is hoped that short time agreements can be reached on these amendments so that remaining amendments to this important bill may be offered and debated.

As a reminder to all Members, a cloture motion was filed by the minority leader to the tobacco committee substitute. Under rule XXII, Senators have until 1 p.m. on Friday to file first-degree amendments to the modified tobacco committee substitute. The leader has announced there will be no rollcall votes during Friday's session. Therefore, the cloture vote and any votes ordered with respect to the tobacco bill during tomorrow's session will be postponed to occur at a later date.

As always, Members will be notified of the voting schedule next week as soon as it becomes available.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Ms. COLLINS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Friday, June 5, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 4, 1998:

THE JUDICIARY

YVETTE KANE, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, VICE EDWIN M. KOSIK, RETIRED.

JAMES M. MUNLEY, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA VICE WILLIAM W. CALDWELL, RETIRED.

THOMAS J. WHELAN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE JOHN S. RHOADES, SR., RETIRED.

DEPARTMENT OF STATE

EDWARD L. ROMERO, OF NEW MEXICO, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

HOUSE OF REPRESENTATIVES—*Thursday, June 4, 1998*

The House met at 10 a.m.

Dr. James D. Strauss, Professor Emeritus, Lincoln Christian Seminary, Lincoln, Illinois, offered the following prayer:

Almighty God, as we finalize the 20th century, we are still searching for transcendence and meaning and community. We pray that integrity and moral commitment may dominate our decisionmaking as it affects American culture and our global village.

I pray that You, God, will be the foundation of our vision. Vision without strategy is impotent. Strategy without vision is powerless. The flies that light on the Sistine Chapel ceiling see but have no vision.

Oh God of Abraham, ruler of all that there is, DNA, black holes in space and periodic charts, give us vision and strategy as we search for transcendence and meaning and community wherein dwells our peace, hope, love and justice. Without Your presence, we are cosmic orphans in our daily lives and decisions. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 one-minutes on each side.

DR. JAMES D. STRAUSS

(Mr. REDMOND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REDMOND. Mr. Speaker, it is my privilege this morning to welcome to the U.S. House of Representatives Dr. James D. Strauss. Professor Strauss was born on July 3, 1929, at a transition time in our history. He has studied in the United States, France and Germany. Professor Emeritus of Lincoln Christian Seminary, Lincoln, Illinois, he has taught philosophy and theology for 30 years.

His special emphasis has been the influence of scientific development on the Christian world view. His major concern is to critique the impact of media and education on the Christian faith in our multicultural pluralistic era.

Dr. Strauss is no ordinary professor. For 40 years his sharp mind has ignited sleeping minds, his commitment has influenced great accomplishments in others, his servant's heart has moved others to service. His profound grasp of reality has inspired others in such a way that they understand their place in the universe. He has acknowledged that if he has made any contribution in his journey at all, it is because he has stood on the backs of giants.

With humility, we welcome to the House of Representatives Dr. James D. Strauss.

THE MARRIAGE PENALTY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I rise today to bring to my colleagues' attention the fact that the House budget resolution, which will be debated today and probably voted on tomorrow, calls for about $100 billion over five years in tax cuts. It specifically singles out the marriage penalty as a key tax burden that we should provide families relief from. Let me just say, I have a particular interest in this because my younger daughter got married earlier this year. She actually found out how much more she and her husband will pay.

But without drawing my own family directly into this, let me cite from Bobby and Susan from Marietta, Georgia, whom I represent. Bobby and Susan wrote in. They said, "When we figured our 1996 tax return, we figured what our tax would be if we were just living together instead of married. Imagine our disgust when we discovered that if we just lived together instead of being married we would have saved an additional $1,000. So much for the vaunted family values of our government. Our government is sending a very bad message to young adults by penalizing marriage this way."

I just think this is a chance to vote a very simple principle. We can save 1 percent of spending over the next five years and get rid of the marriage penalty that punishes people for being married. I think to have a pro-family tax code with a slightly leaner government is a pretty good "yes" vote. I hope my colleagues will join me. Let us save 1 percent of projected Federal spending, get rid of the marriage penalty and send the right signal to all Americans.

THE REPUBLICAN BUDGET SHOWS THE GOP'S TRUE COLORS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, if anyone out there was worried that the Republican leadership of the House was straying from their extremist agenda, fear not, because the budget resolution coming to the House floor today is as extreme as they come.

First and foremost, the Republican budget resolution fails to protect Social Security, but it does not stop there. The budget resolution also cuts funding to educate our children, protect our environment, and provide adequate health care for working American families.

What is really upsetting about this Republican budget resolution is that these extreme cuts are not done in the name of fiscal responsibility or debt reduction. No, instead what Speaker Gingrich and the Republican leadership want to do is provide more tax breaks for the wealthy at the expense of American seniors, kids and working families.

The Republican budget resolution clearly demonstrates that the Speaker's priorities lay somewhere beyond the American working family. The Republican leadership has not learned any lessons since 1995, and we will see today that the Speaker will not even get the support of many of his own House Republicans, much less the American people.

A COMMON SENSE BUDGET

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, only the Democrats would call this budget extremist. Only the Democrats would say taking 1 percent out of a $9 trillion spending spree by this government actually designed by them is extremist, one penny out of $1.

The Kasich budget is a common sense document that mandates a smarter, more efficient government. It says that we in Washington should spend a little less so that the American working family can spend a little more to help them achieve their dreams.

Some Democrats find this burden to be unbearable. They say that we will not be able to find the savings. They say that we are extremist. They say we should not give working families tax relief.

I urge the opponents of this budget to justify their opposition to the American people. Tell them that you cannot save a penny on the dollar. Tell them that they do not deserve tax relief today. I urge my colleagues to support the common sense budget.

AN EXTREME BUDGET

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, one of the proudest moments of this Congress is when Democrats and Republicans, the Congress and the White House put aside their partisan differences and worked out a balanced budget. It not only balanced the Federal budget and brought us into surplus but has led to a very hot, growing economy.

Now the Republican budget would reject that bipartisan agreement and take us back to the extremism that led to the shutdown of our government. It would mean cuts up to 25 percent, not 1 percent, of many programs that we have in government.

Do not take my word for it. Senator DOMENICI said the Republican budget is a mockery. Senator STEVENS, chairman of the Senate Committee on Appropriations said, "I do not think Congress could function."

This is an extreme budget. For the sake of our veterans, for the sake of our students, for the sake of our seniors, for the sake of our taxpayers, let us, in a bipartisan manner, reject this extreme budget.

THE ENERGY POLICY ACT OF 1997

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, Congress wrote a massive energy bill in 1994 called the Energy Policy Act which outlined ways for the United States to address our Nation's vulnerable reliance on foreign oil.

Unfortunately, this statute has already run into trouble. The Department of Energy admits this in its own report to Congress stating, quote, "Despite the many uncertainties, it preliminarily appears that the programs authorized by Congress in EPACT will fall substantially short of the year 2010 goal of 30 percent displacement."

Mr. Speaker, the program does not work. I and the gentlewoman from Missouri (Ms. McCARTHY) have introduced legislation to address this problem. Our legislation would allow fleet managers to use biodiesel blends to comply with the mandates of EPACT, without tax credits or incentives.

I urge my colleagues to cosponsor H.R. 2568, the Energy Policy Act of 1997.

CAMPAIGN FINANCE REFORM

(Mr. KIND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I rise today as a proud new parent of a baby boy born to Tawni and myself a week ago last Wednesday. Tawni and Matthew are doing very well at home right now. Matthew's older brother Johnny is also recovering from all the excitement.

I could not think of a better birthday present to give to Matthew and the other children around this country, as we resume debate this week on campaign finance reform, that this United States Congress enacts meaningful campaign finance reform, reform that starts to get the big money and the influence of money out of this political process so that children like Matthew across the country, who want to grow up and serve in public service, do not have to be either independently wealthy or have to go out and raise a million dollars for the campaign. That, I think, would be a tremendous gift that we can give to the children in this country.

Matthew, happy birthday. I look forward to a very long and happy life as your and Johnny's father.

SUPPORT FOR RESTORATION OF FOOD STAMPS FOR LEGAL U.S. RESIDENTS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today the House will likely vote on legislation which was passed overwhelmingly by the Senate to restore food stamps to thousands of disabled and elderly U.S. legal residents, as well as families with children, and they have entered this country legally, they pay their taxes and they abide by the law.

Since Congress unfairly ended food stamp benefits to U.S. legal residents, more than 900,000 taxpayers have lost their access to food stamps. Sixty-five percent of those affected are families with children. In my home State of Florida nearly 10 percent of the recipients lost eligibility, and most were families with kids. The funds for food stamps in this bill will only be directed to legal U.S. residents who were here before the benefits were terminated.

It is fitting that this great Nation, which gave these permanent residents a new opportunity, will now lend them a helping hand in their times of need after years of contributing to our country. I urge my colleagues to restore the benefits of food stamps to U.S. legal residents.

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VOTE AGAINST THE ISTOOK AMENDMENT

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS. Parents, beware, Mr. Speaker. If the gentleman from Oklahoma (Mr. ISTOOK) in the next 5 hours is successful in beginning the process to amend the Bill of Rights for the first time in our Nation's history, public schools across America will begin to look like public airports, where religious groups, cults and fanatics can go to our public school grounds and try to convert small children to their particular religious beliefs.

I do not think the parents of America want to send their children to school to be proselytized. They send their children to school to be educated.

I am grateful, Mr. Speaker, that just outside the halls of this historic Chamber, religious leaders of great faith from all over this country, Baptists, Methodists, Jews, Episcopalians and many other faiths will speak out against the Istook amendment, because they believe as Jefferson and Madison did that the best way to ruin religion is to politicize it. That is what the Istook amendment will do.

I urge parents, people and Members across this body and America to oppose the Istook amendment.

AGAINST MFN STATUS FOR CHINA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, most Americans know and understand that one's actions speak louder than words, but yesterday the President proposed giving permanent most favored nation trading status to Communist China saying that it was, and I quote, clearly in the best interest of this Nation.

We need to look past these words and check out their actions. It was just 18 months ago that our President said, and I quote, not a single, solitary missile was pointed at American children. We now know that China with the help of this administration has at least 13 nuclear missiles aimed at the United States and our children.

In 1990, China provided Iraq with the chemicals needed for a hydrogen bomb. China supplied Pakistan with a weapons grade plutonium reactor in 1991. Despite China's claim that they were not making any nuclear deals with Iran, China gave Iran a nuclear reactor in 1994. Now we are told that China is the single most important supplier of weapons of mass destruction in the world.

MFN status is supposed to be reserved for our best friends, our allies, the countries we are trying to help. Communist China is not our friend.

VOTE NO ON THE ISTOOK AMENDMENT

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, am I a church member? Yes, I am. Is my church important to me? Absolutely. Do I go to church as often as possible and get the good community that is there for me? Absolutely. Do I want the Federal Government to be involved in my church? No. Do I want the government to prescribe prayer in our schools? No. Today we allow already for Bible groups, individual prayer and campus meetings at our schools. That is absolute. We cannot pretend that is not already possible.

Today we will vote on a resolution that would undermine the first amendment, undermine religious freedom. Today support Madison and Jefferson and vote for religious freedom and against school sponsored prayer. Do not politicize religion. Vote no on the Istook amendment.

PENTAGON REPORTS NATIONAL SECURITY HARMED BY TRANSFER OF TECHNOLOGY TO CHINA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, it does not take a rocket scientist to know that helping Communist China with its rocket technology is not in our national interest.

According to published reports, the Pentagon concluded in a May 1997 report that "national security has been harmed" by the transfer of sensitive computer technology to Communist China's military industrial complex.

Where is that May 1997 Pentagon report, you may ask?

Well, here is another key document, a document with critical information that Congress does not possess and which Congress has been told we will never see.

What has the White House response been about this May 1997 Pentagon report? Denials, explanations? No. We get silence. Or we get spin. Silence and spin. That is about all the American people get anymore. However, this crisis is about national security. This issue puts every American at risk. This makes the world a more dangerous place to live. It is a very serious issue. We deserve a full report.

BUDGET RESOLUTION DOES NOT ADD UP

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, the Senate passed its budget resolution over 2 months ago. Under the rules of the House, we should have passed a budget resolution at least by the 15th of April. So we come to the floor very late today, and one would think at this late date, we would be prepared with a tight, consensus budget. In fact, that is not the case. We have a $24 billion black hole in this budget resolution the gentleman from Ohio (Mr. KASICH) will present today. We double count cuts in food stamp administration, we double count cuts in veterans spending. In fact, unless we can find alternatives to using these cuts twice, we will pass a fraudulent budget or end up cutting these programs for more than any of us intend.

The New York Times said of this resolution when it came to the Budget committee that "it fails the basic integrity test and that the House should vote it down, demanding instead a budget that is real, not rigged." I agree, Mr. Speaker. We are not ready, even at this late date, with the Committee on Appropriations waiting in the wings to deal with a budget resolution that just does not add up. Let us protect Social Security and not spend any of the surplus until we have found a solution to the baby boom bulge and bring the Social Security fund into balance.

SUPPORT THE BUDGET RESOLUTION

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, today I want to urge my colleagues to support the 1999 budget resolution. Building on our success in balancing the budget, this plan outlines the next steps to empower families so that they can keep more of their hard-earned money.

By reducing government spending by one penny over 5 years, that is just one-fifth of a penny each year for 5 years out of each dollar, we can improve the quality of life in America in three important ways. First, we can continue to pay down the national debt so that our constituents pay less in interest for loans, and our economy remains strong.

Secondly, we can lower taxes so that Americans keep more of their money to support their families or plan for the future. Today our citizens pay nearly 40 percent from their paycheck each month to support the government. I think that is a very unfair tax burden.

Third, we can protect and modernize the Social Security system that gives Americans from every generation the peace of mind about their retirement years. The Republican approach is a good approach. I urge my colleagues to support it.

THE DEMOCRATIC BUDGET

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, I rise today to talk about the budget. Well, actually two budgets. There is on the one hand the Republican extreme budget, a budget that is irresponsible, a budget that contains a $24 billion black hole of unspecified cuts, a budget that is weighted once again toward the wealthy. On the other hand, you have the Democratic budget. It is a balanced budget, but it focuses on people.

Why do I object to the Republican budget? First, it fails to protect Social Security. It talks about a better way of life, but the administration and the Democrats have said the first thing we ought to do is put every penny of the surplus toward protecting Social Security. That is the people's budget. That is the Democratic perspective.

Second, the Republican budget fails to invest in education. The thing that is most important for our Nation's future is to invest in education, smaller classes, schools that are in proper repair, schools that are ready to access the Internet. We need to invest there. The Republicans do not see it that way. They have a narrow view that makes draconian cuts in important programs. They do not protect our important investments. I believe we ought to reject the extreme Republican perspective.

UNLV'S NATIONAL CHAMPIONSHIP GOLF TEAM

(Mr. ENSIGN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENSIGN. Mr. Speaker, I rise this morning to congratulate the golf team from the University of Nevada Las Vegas who last week brought the national championship home to Nevada. The Rebel golf team won the tournament in style, shooting an NCAA record 34 under par as a team.

College golf might not capture the attention of sports fans across the country like basketball or football does, but I can assure my colleagues that these young athletes train just as hard and strive to win just as much as any other competitors. Senior Bill Lunde, juniors Charley Hoffman and Chris Berry, sophomore Jeremy Anderson and freshman Scott Lander not only excelled under the intense pressure of the national championship but conducted themselves with honor and sportsmanship. Head coach Dwayne Knight has realized a goal he stated 10 years ago when he told our community he would build a national championship team.

I want to congratulate the UNLV Rebel golf team. They have made the city of Las Vegas and the great State of Nevada proud and are carrying forward the strong tradition of athletic success at UNLV.

VOTE NO ON ISTOOK AMENDMENT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is no more sacred right that we have in this country than the right each and every American takes when they go into their house of worship. The first amendment has made this Nation unique. I stand here very proudly acknowledging and embracing the uniqueness of the American flag and what it provides for us. Freedom. Freedom to sing "Jesus loves me this I know." Freedom to cross one's heart, to pay attention to one's orthodox views, whatever one might believe in. We applaud it.

That is why I stand today humbly before this House asking for a resounding vote against the Istook amendment, for it is not religious freedom, it is religious oppression. For our children today pray every day in their schools. They have organized prayer groups around the Nation. I would venture to say that everyone who takes any kind of exam in school, I would say to them, you had better pray. Pray in the school. Pray at home. Prayer is available. Freedom of religion is available. The Istook amendment will take that away from you.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, I rise in support of this year's balanced budget. I think these questions best state why:

Do Americans feel that it is right that the average working married couple pays more in taxes just because they are married? Do Americans feel that it is fair, is it right, that 21 million married working couples pay on the average of $1,400 more in higher taxes than an identical couple that lives together outside of marriage? Of course not.

Americans recognize the marriage tax penalty is wrong and we need to correct the marriage tax penalty. Twenty-one million married working couples, $1,400 more in higher taxes. $1,400 is one year's tuition at Joliet Junior College in the district that I represent. It is 3 months of day care at a local day care center.

This budget, the budget crafted by the gentleman from Ohio (Mr. KASICH) makes elimination of the marriage tax penalty priority number one, helping 21 million married working families who just happen to be married and just because they are married, they pay higher taxes. Let us pass this budget. It deserves bipartisan support.

BUDGET RESOLUTION IS NOT BASED ON BIBLICAL PRINCIPLES

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, today we have real irony, because we are both going to vote on prayer in the schools and a budget that cuts Medicare and support and medical care for those less fortunate in our society.

This budget was put together with one hearing. They wanted to put $10 billion in cuts on Medicare. Last night, in the middle of the night, they took that out and they have now gone after the poor.

I think the majority really ought to have had some religious education, because the Bible says, in Matthew 25, verse 35, "When I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in." Then it goes on to say:

And the king replied, "I tell you the truth, whatever you did to one of the least of these brothers of mine, you did for me."

Mr. Speaker, it is nice to talk about prayer in the schools, but you ought to have public policy that reflects what you believe. This budget that goes after the poor, that goes after the sick, that goes after the disabled is not a budget based on biblical principles.

SUPPORT THE BUDGET RESOLUTION

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, we have heard a lot of talk about the extremist budget by the extremists in the House, the radical Republicans.

Let us take a little walk down history's lane. One hundred thirty years ago, the opponents of a better America were calling the Republicans radical. They were calling them extreme.

Mr. Speaker, it was the radical Republicans who fought for and succeeded in passing the 13th amendment to abolish slavery, the 14th amendment to guarantee the right to life, liberty and the ownership of property, and the 15th amendment to give all citizens the right to vote. They were called radical Republicans, with extremist ideas.

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So when you hear the opponents of a better America say the Republican budget is extreme, it attacks the poor, remember history, remember our heritage. It is not extreme to protect Social Security, it is not extreme to limit the growth of the Federal Government, it is not extreme to provide a little tax relief for Americans. It is just common sense.

So I urge my colleagues to support the budget resolution.

SHOW US YOUR CUTS

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, the Republican budget is a sham, rosy scenarios in cuts that will be named later, a plan that would unravel the bipartisan balanced budget agreement. But just do not take my word for it. Here is what other Republicans are saying about the GOP smoke and mirrors.

Quote: "I can tell you there is no way for this committee to carry out its business in the next 5 years under the Kasich plan." That is the chairman of the Senate Appropriations Committee.

Here is what the Washington Post says about the Republican budget, and I quote: "To promise an election year tax cut on the strength of unlikely spending cuts to be named later, all the while preaching fiscal responsibility, would be a triple fraud."

Let us end the triple fraud. We know where the Republican cuts will come, if they would only name those cuts. It will be education, it will be health care. They would jeopardize Social Security.

End the triple fraud. Let us be honest about the numbers. Show us the cuts.

BARRY GOLDWATER

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, I rise today to note with profound sadness the passing of my fellow Arizonan, Senator Barry Goldwater, a great American statesman.

I was just 10 years old when I met Barry Goldwater at an old-fashioned political rally in the little town of Elgin, Arizona. At the time he was running against an incumbent Democrat Senator, Majority leader Ernest McFarland. Nobody thought he could do it, but he won. The rest, as they say is history.

Six years later Barry nominated me to become his Senate page, and I served in that capacity for 3 years. That is when I got to know, really know, this extraordinary man. He always said what was on his mind. He never shaded the truth.

Mr. Speaker, Barry Goldwater did not spend a lot of time worrying about whether he would be elected or not. He worried instead about principles and about America. He did not change his principles, but America changed.

In an era of cynicism and distrust of public officials, Barry Goldwater's life stands as a reminder of values that are lasting and eternal—honesty, integrity, patriotism. We will miss him, but in our hearts we know he was right.

Farewell, my friend.

JOIN THE CONGRESSIONAL DIABETES CAUCUS

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute.)

Mr. NETHERCUTT. Mr. Speaker, I rise today to advise my colleagues that representatives of the Juvenile Diabetes Foundation will be meeting with each of you today to advocate more Federal funding for diabetes research to cure this very serious disease. Diabetes is one of the leading causes of death and disability in America.

Now these JDF representatives are not paid lobbyists. They are individuals from all walks of life, of Democrat and Republican Party affiliation. They are male and female, Democrats, Republicans, of all religions, and only caring about one thing. That is curing diabetes.

They will tell you their personal story about diabetes. They will ask you to become a member of the Congressional Diabetes Caucus, which now numbers 159 Members. They will ask my colleagues to show that they care about diabetes.

So I urge my colleagues to welcome these individuals to your offices, listen to their stories, fund the Federal research to cure diabetes, and welcome them to Capitol Hill.

IT IS TIME FOR CONGRESS TO EXAMINE THE THREAT TO OUR NATIONAL SECURITY

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, India and then Pakistan conducted nuclear tests. China transferred nuclear technology to Pakistan and Iran. Now we learn the United States Government may have given missile technology to communist China, the same country that transferred nuclear technology to Pakistan and Iran. But rest assured, we are told, the Chinese communist government has assured us they will not do that any more.

It is time for Congress to examine this threat to our national security. It is time for the White House to explain how it is that transferring authority for satellite waivers from the State Department to the Commerce Department was in our national interest. The White House should respond to a recent Pentagon report that concluded that "Our national security has been harmed" as a result of these transfers arising out of China's rocket failure in February 1996.

The President should respond to these questions, Mr. Speaker, before the next nuclear test takes the world by surprise again.

SUPPORT THE RELIGIOUS FREEDOM AMENDMENT

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Mr. Speaker, there are people out there who are afraid of the Religious Freedom Amendment. They are afraid that it goes too far.

But let me just ask my colleagues this: Is it not going too far to ban prayer at high school graduations when guns and violence have become all too common in our schools?

Is it not going too far to ban nativity scenes and menorahs in public places and replace them with a Santa Claus on every street corner? And then we wonder why Christmas has become so commercialized.

Is it not going too far to ban the Ten Commandments from our schools and replace them with the distribution of free condoms instead?

Things have already gone too far, way too far. It is time to bring the separation of church and state back from the fringe of extremist interpretation. It is time to bring back common sense.

Mr. Speaker, I urge my colleagues to support the Religious Freedom Amendment.

WHO IS MINDING THE STORE?

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, to look at American policy of helping China develop its missile and rocket programs, one can only ask who is minding the store. While most Americans would think that we should not be arming our adversaries, apparently there are some in this administration who think otherwise. This is liberalism at its most mindless and most dangerous.

How else to explain the administration's policy of helping Communist China develop its missile and rocket program? How else to explain the administration's decision to allow the Commerce Department to overrule the Justice Department and the Pentagon in matters of national security? How else do we explain the administration's decision to help China to perfect its Long March missile? How else do we explain the administration's policy of arming the same country that reportedly has 13 long-range strategic missiles pointed at the United States?

I cannot explain it, and I do not know how the administration is going to attack their accusers this time. It is the American people who are demanding answers.

PROVIDING FOR CONSIDERATION OF H.J. RES. 78, CONSTITUTIONAL AMENDMENT RESTORING RELIGIOUS FREEDOM

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 453 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 453

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 78) proposing an amendment to the Constitution of the United States restoring religious freedom. The joint resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the joint resolution shall be considered as adopted. The previous question shall be considered as ordered on the joint resolution, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the joint resolution, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, which may be offered only by the Member designated in the report, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, yesterday the Committee on Rules met and granted a modified closed rule to House Joint Resolution 78. The rule provides that H.J. Res. 78 shall be considered in the House, shall be considered as read, and that the amendment in the nature of a substitute recommended by the Committee on the Judiciary, now printed in the joint resolution, shall be considered as adopted.

The rule provides that the previous question shall be considered as ordered on the joint resolution, as amended, and on any further amendment thereto prior to final passage, without intervening motion except as specified.

The rule provides for 2 hours of debate on the joint resolution, as amended, equally divided between the chairman and the ranking minority member of the Committee on the Judiciary.

The rule provides for consideration of a further amendment printed in the report of the Committee on Rules, which may be offered only by the Member designated in the report, shall be considered as read, and shall be separately debatable for 1 hour equally divided between the proponent and an opponent.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, I do not take amending the Constitution lightly. In fact, I do not think we should even have to amend our Constitution to permit students and teachers to pray. Unfortunately, though, activist judges have prevented the acknowledgment of God in public. Our only remedy is to let the American people decide whether or not they want to allow prayer in schools.

Let me make one thing clear. If this resolution passes both the House and the Senate by a two-thirds majority, it is passed along to the State legislatures. To become part of our Constitution, the amendment then must be approved by three-fourths of the States.

A vote in favor of this amendment is a vote to let the American people decide whether there should be prayer in our schools. Each local community has the right to discuss the issue and decide for themselves what they would like to do. No one is forced to do anything.

Our schools should be places where children can grow in character. When judges keep God out of our schools, they prevent our children from maturing both emotionally and spiritually. Others may disagree, but I firmly believe that the Founding Fathers of this Nation did not intend to prevent our children from praying in school.

Opponents of this amendment will claim that we should not tinker with the Constitution, as if the drafters of the First Amendment meant to exclude God from our public life. God is a part of our public life. "In God We Trust" is on our money and here in our Chamber above the Speaker's chair.

To such critics I would respond that we honor the Constitution when we use its time-honored amending process to clarify the intent of its framers.

H.J. Res. 78 clearly protects the right of each and every American to recognize their God without government interference. The plain wording of the amendment forbids the establishment of any state religion and forbids any coercion on the basis of religion.

The intent here is not to force God on anyone. The amendment simply clarifies that we are all free to engage in voluntary prayer in public places. In doing so, the amendment enhances religious freedoms for all of us.

I urge my colleagues to support this rule and allow the debate on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

The rule we are considering today would permit a vote on an amendment to the United States Constitution dealing with the subject of school prayer. Let me begin this debate by reading these words:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

For 206 years these words in the Bill of Rights have protected religious freedom and religious liberty in our Nation. Now some in this body seek to amend the First Amendment to alter this basic and fundamental section of the Constitution.

The Founding Fathers, Thomas Jefferson and James Madison, wisely crafted a very straightforward protection for religious liberty in our land. Why then do some wish to amend our Bill of Rights for the first time in our history?

□ 1045

Thirty-six years ago, the United States Supreme Court, in the case of Engel v. Vitale, interpreted the first amendment to bar a New York school board's requirement that students join in prayer composed by the State regents. A year later, in the case of Abington School District v. Schemp, the Supreme Court specifically disallowed State sponsorship of daily devotions which involved oral readings from the Bible and the unison recital of the Lord's Prayer.

I attended public schools in Fort Worth, Texas, in the decade preceding the Engel and Abington decisions. While we did not have an official regents prayer in Fort Worth, we did have daily Bible readings over the public address system. Sometimes those Bible readings were from the Old Testament, and sometimes they were from the New Testament. It did not make any difference to the school that there were dozens of students there who did not follow the New Testament, or that there may have been some who adhered to the teachings of the Koran. The Bible readings blared out over the public address speaker system every single day.

Mr. Speaker, we have traveled some distance since those days in the 1950s, and the most blatant religious practices are no longer followed in our schools. There is a fine line today between permitting students to observe their own faith and interfering with the observation of the faith of someone else. We should not cross that line by enacting the amendment presented to us today.

The Clinton Administration has issued guidelines on religious practices in our schools that make abundantly clear where that line is. As these guidelines make clear, public school students are free to voluntarily pray privately and individually at school. Students have a right to say grace at lunchtime. They have the right to meet in religious groups on school grounds and use school facilities like any other school club. They have the right to read the Bible or any religious text during study hall or other free class time. Similarly, people who wish to engage in religious expression on public property have the same rights as people who wish to engage in comparable non-religious expression.

Not only is a new constitutional amendment unnecessary, Mr. Speaker, H.J. Res. 78 would, in a variety of ways, undermine the religious freedom we now cherish. It would embroil State and local governments in years of divisive and costly debate and litigation over its meaning, and we should all be aware it could well require American taxpayers to provide financial support to churches, parochial schools and other religious institutions.

For over 200 years, the first amendment has protected our right to be as religious as we choose. Congress should not tamper with this most precious liberty. The first amendment should not be rewritten.

Mr. Speaker, some advocates of this constitutional amendment will argue that the amendment is the answer to dealing with our growing problem of school violence. I recently met with a group of public school teachers and administrators in my congressional district to discuss this very important problem. It was clear from that meeting that the real solutions to dealing with our problem of escalating school violence are smaller class sizes, repairing our deteriorating older schools, more counselors and the stationing of law enforcement officers on our middle school and high school campuses. This constitutional amendment will not solve the very serious problem of school violence.

There are millions of people of faith in this Nation. Religion, however, is a uniquely private matter. We draw strength from our faith, but we should never attempt to impose our religious beliefs on any other person, no matter how well-meaning our actions may be.

Ours is a great Nation, in no small way because of the truly magnificent language of our Bill of Rights which creates a separation between church and State. We should not alter that historic guarantee of religious liberty by passing the constitutional amendment presented to the House today.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, as we begin this important debate on the steps of this historic Capitol, religious leaders from all across America have gathered to voice their strong opposition to the Istook amendment, which would, for the first time in our Nation's history, amend the Bill of Rights.

People of deep faith, because of their respect for the importance of religion in their individual lives, are standing with James Madison and Thomas Jefferson and all of the evidence of human history, which proves that the best way to ruin religion is to politicize it.

If one believes that the way to protect religious liberty is to get government, the Federal Government, involved in private matters such as children's prayers with their God, allow judges to push their personal political views through the use of their offices and positions, and to actually use taxpayer dollars to fund religious organizations, if people believe that is the way to protect religious liberty, I think they are sadly mistaken.

Mr. Speaker, whether one supports or opposes the Istook amendment, and I vehemently oppose it, the fact is that this process, this rule, does a great disservice to that cherished document we call the Bill of Rights.

Whereas Mr. Madison and Mr. Jefferson debated this very issue for over 10 years in the Virginia legislature, the Committee on Rules last night, with many of the Members not even present, decided to send the most important issue in this country, the issue of religious freedom, to this floor with such a limited unfair rule that each of the Members of this House, both for and against Istook, will have less than 13 seconds to express their deep convictions on the important issue of religion and religious liberty.

Again, whether you are for or against the Istook amendment, I would suggest that a vote against this rule would be a vote in respect of the importance of the Bill of Rights. Whether 5 years or 50 years from now, it will set a terrible precedent to have such an important issue, an issue that we have not voted on in 27 years in this House, come to the floor after only one day of hearings in the full Committee on the Judiciary this year, and come to the floor of this House with a rule that only allows 12 to 13 seconds of debate.

Mr. Speaker, I would say to my friends on both sides of the aisle, my friends on both sides of the issue, I would urge you to search your conscience and think about the precedent we are setting when we say that we have such a cavalier respect for the Bill of Rights, and even the first amendment, and even the first 16 words of that Bill of Rights, that we think it is wise and smart to bring this amendment to the floor, prohibiting Members the opportunity to speak out from the heart of their conscience. That is wrong.

We will debate in the hours ahead why I believe and why many religious leaders believe that the Istook amendment is wrong, but, for the moment, I would urge my colleagues to cast a vote of respect for our Constitution, cast a vote of respect for the Bill of Rights, and say that none of the Members should be gagged in their opportunity to express their conscience.

If there is any right we ought to respect in this historic body, it should be our right and our responsibility as the voice for the nearly 600,000 people we represent in our respective districts to speak out for those people of our district, to speak out for the beliefs we hold deep and dear. Vote no on this rule.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to clarify by reading the language in this amendment exactly what we are talking about here today. This simply says, "To secure the people's right to acknowledge God according to the dictates of conscience: Neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage, or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion."

Mr. Speaker, that is all there is to it.

Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, if the President were to say that there are grave problems within the Executive Branch, we would be wise to listen. If the Speaker were to say that there are grave problems within the Congress, we would be wise to listen. If the Chief Justice of the Supreme Court said there were problems with what that Court was doing, we would be wise to listen.

Mr. Speaker, the Chief Justice has said so. The rulings of the Supreme Court over the last 36 years have used the first amendment not to protect freedom of religion but to attack it; to say that rather than freedom of religion, it is freedom from religion.

I am proud to say that Chief Justice William Rehnquist, as well as many other justices, has been a steady voice in dissenting from what the other justices have done. He has been a steady voice in saying that the Court is going in the wrong direction; that it is undermining our religious liberty, rather than protecting it. Because in 1962 the court began an attack that says, well, if you are on public property, other people have a right to censor you if you want to pray or otherwise express your religion. That is not freedom of religion. That is not even free speech. As so many Supreme Court justices have said over the years in dissent, their brethren have gone the wrong way.

It is incumbent upon us, Mr. Speaker, because the Supreme Court has not corrected it, it is incumbent upon us to correct it, through the only way that works. No presidential guideline makes any difference when the Supreme Court claims something is unconstitutional. No regulation can make a difference. No statute can make a difference. The only remedy left to us is the one that was established within the Constitution itself, for a constitutional amendment.

Previously, for example, the 13th amendment was one of a number of amendments that have been adopted when the Supreme Court went in the wrong direction. When the Supreme Court ruled in the Dred Scott decision that neither the Congress nor the States could put an end to slavery, we passed the 13th amendment. After that terrible bloody Civil War, we put an end to slavery, but it took a constitutional amendment to do it, and we followed the process that has been established to correct things when the Supreme Court goes in the wrong direction.

That is what we are doing today, because the Supreme Court in 1962 ruled that even when it was voluntary, if it was during the school day, children could not come together and say a prayer together. They ruled in 1980 that the Ten Commandments could not be posted on the wall of a public school, because the Supreme Court said children might read them and obey them. Well, in an era when we have guns and knives and drugs in school, maybe the Ten Commandments and prayer would not be as bad.

In 1985, the Supreme Court took a law from the State of Alabama that made a moment of silence permissible and said, no, that is unconstitutional because it permits silent prayer.

In 1992, the Supreme Court ruled that a prayer offered in this case by a Jewish Rabbi at a graduation ceremony was unconstitutional because, they said, it is wrong to expect children to be respectful of something with which they might disagree. Since when, Mr.

Speaker, are we teaching our children disrespect, rather than respect?

As a number of Supreme Court justices have said in dissenting from these decisions, and many of them were the narrowest decisions, 5-4 margins, as a number of them have indicated, the way to unite people is to bring them together in prayer, not to isolate one another and claim that prayer in school is somehow a threat, rather than a unifying force.

It should never be mandatory, Mr. Speaker, but it should be permitted.

□ 1100

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise in opposition to the rule and consideration of this resolution. We are amending the Constitution. We have only had one hearing on this amendment. There have been several hearings during this Congress on religious issues, but only one on this amendment.

Last night we were still slapping the thing together. The final version of the amendment was being drafted after the hearing on the rule itself. This would be the first amendment to the Bill of Rights. Every word is important, and here we are at the last minute still putting together the final version that we will consider on the floor today.

The First Amendment to the Constitution, the Bill of Rights, has saved us from the religious strife that other countries have suffered through. We need to know exactly what this amendment would do. How is it different from our present First Amendment? What difference does it make? We should not be misled by inaccurate anecdotes and political pressure into changing the Bill of Rights.

We have heard the question about the moment of silence. Many States have moments of silence, moments for silent prayer. To direct people to pray during that moment of silence has been ruled unconstitutional, but a moment of silence has been sustained. So we ought not be misled by inaccurate anecdotes into amending the Bill of Rights for the first time in our history.

Mr. Speaker, let us protect our religious freedom that we have enjoyed for over 200 years, and let us defeat this amendment.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I never thought that an occasion would occur when I would have to rise and ask my colleagues to refrain from gutting the First Amendment to the Constitution. One would expect that after 200 years the Bill of Rights would have garnered a little respect in Congress, but gutting the First Amendment is exactly what this bill would do today.

This religious freedom amendment is dangerous in that it breaches the constitutionally guaranteed separation of church and State, thereby reducing religious liberty and equality. Moreover, it would allow official school prayer and government funding of religious institutions.

The most tragic results of this amendment, though, is that it sows the seeds of strife and divisiveness that the Bill of Rights was designed to protect us from. Listen to the level of debate that has occurred lately.

A few weeks ago one of my colleagues rose on the floor and said that those of us who oppose this amendment would be heading likely to hell. I quote from the RECORD:

> Mr. Speaker, there is no doubt in my mind that there is a special place in hell for a number of Federal court judges, as I am sure there will be for Members of Congress.

This level of debate denigrates both the Bill of Rights and this institution, and it also threatens the notion of religious tolerance that has made our country unique. That is why religious groups such as the American Baptist Churches USA, the Baptist Joint Committee, the Presbyterian Church USA, the Episcopal Church, the Evangelical Lutheran Church in America, the Muslim Public Affairs Council, the Reform Jewish Movement, and virtually the entire Jewish community are opposed to this measure.

Proponents of this measure would have us believe that we are attacking religious expression, and that is nonsense. Students currently enjoy the right to religious expression in our Nation's public schools. They have the right to pray individually or in groups, to say grace before meals, to discuss religion with other interested students, to read religious books in their spare time, and to pray before, during, and after tests.

When James Madison and the other early American leaders drafted the First Amendment, they knew full well the capacity of the majority to subjugate the minority when it came to matters of religion. We see it today.

I have just returned from 7 days in the former Yugoslavia, where tens of thousands of people are dead because three governments with different religions decided to impose their will on people who did not believe as they did. That is the path that our Founding Fathers sought very carefully to avoid.

Amending the Constitution is not a matter to be taken lightly. The separation of church and state, and the protections enshrined in the First Amendment so that we are free to practice our religion as we wish, having to answer to no man or no government, has helped to make the United States one of the most religiously diverse nations in this world.

Thomas Jefferson wrote: "Religion is a matter which lies solely between man and his God that he owes account to none other for his faith or worship, that the legislative powers of government reach actions only, and not opinions. I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion or," most importantly, "prohibiting the free exercise thereof,' thus building a wall of separation between church and State."

Mr. Speaker, I urge this body to reflect on its words and defeat this rule.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just for clarification, one of the previous speakers said that there had not been hearings on this particular issue. There were seven hearings on the issue that is addressed by this amendment. There were 74 witnesses that were heard from at that time.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, we are going to hear a lot of things today about what this amendment does, what it says. I would encourage our colleagues to read the amendment. There is nothing in the amendment that allows funding of religious institutions. There is nothing in the amendment that establishes a church that has particular access to government monies. There is nothing in the amendment that requires anybody to participate.

What this amendment does is restore the Constitution to its practices for the first 175 years. We certainly want to look at the intent of the Founders of the Constitution; and when we look at the intent of the Founders of the Constitution, we do see that they did not want to establish a church. What we also see is that they clearly did not want to remove religion, did not want to remove God from our public discourse, from our public ceremonies, from our public institutions.

In fact, right here in this House this morning, as has been the case every day since the Congress began, we started with prayer. We started with prayer, and now we have a debate as to why we could not have prayer at high school graduations. We started with prayer, and now we have a debate as to why we could not have a prayer before a football game. We started with prayer, and now we have a debate as to why we want to not allow city councils to do that same sort of thing in their public institutions.

"In God We Trust" is emblazoned above your head, Mr. Speaker, as we debate every day in this House. We cannot go back to the writings of the people who wrote the Constitution, we cannot go back to what George Washington did as our first President, in putting in our public discourse and our public ceremonies the clear understanding that religion and morality were cornerstones for the kind of government we wanted to have, and not see that that was their intent.

In fact, it was their intent until 1962 when the Supreme Court, on a series of decisions that were, as often as not, five-to-four. A five-to-four decision means that even the Supreme Court was not very certain as to what they were doing and wondered what the Constitution might have said. In 1962 the Supreme Court began to say these things that for 175 years we believed the Constitution to say and we believed the Constitution to allow, it no longer would allow, beginning at that time.

We had a high school class invite a Jewish Rabbi to pray at a graduation, and a student decided to sue, and suddenly prayer at high school graduation, one of the cornerstones of those ceremonies from the time we began to have high school graduation, is suddenly unconstitutional.

Many of our schools, many of our communities have chosen, as in some ways we might even say the Congress has chosen, to ignore that prohibition. I encourage we support the rule and support this amendment.

Mr. FROST. Mr. Speaker, I would inquire of the time remaining on both sides, please.

The SPEAKER pro tempore (Mr. LaHood). The gentleman from Texas (Mr. Frost) has 16½ minutes remaining. The gentlewoman from North Carolina (Mrs. Myrick) has 17½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas. Mr. Speaker, to the gentlewoman, I do want to acknowledge that, yes, there have been many hearings on prayer in school, but only one hearing on the Istook amendment.

Mr. Speaker, I rise with a completely different perspective, for I believe that it is important to tell the American people what we believe. We believe in the freedom of this Nation and the right to prayer and the right to express our religious beliefs.

I am glad my colleague acknowledged that we in this House do pray. For that reason, we support the fact that Americans pray in whatever manner they so desire.

But I want my colleagues to know that the Istook amendment has nothing to do with our right to pray. It really has a lot to do with the intrusive, oppressive conferring of some particular religion on many, and that religion may not be the religion of the many.

When the flag rose and remained flying after the war in the 1800s, and the Star Spangled Banner was written, the one question asked: Was the flag still there? The reason for that was the flag symbolized freedom, freedom of expression, freedom to believe as we so desire to believe.

The Istook amendment takes away from us our religious beliefs. It does not give them to us. For us to take away the obvious, what the First Amendment already provides, the freedom of religion, what Madison and Jefferson debated for some 10 years, we want to change in 2 or 3 hours.

I would simply ask my colleagues, Republicans and Democrats alike, this is not a partisan issue. This goes to the very underpinnings of what this country stands for. Our children can pray. Our different faiths can be expressed, whether it is Allah or God or anyone else. We have the right to pray in this Nation.

It is tragic that we take some very isolated incidences where court decisions may rule against what we would like and change the whole Constitution. Stand up for what is right. I pray that we do that.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Traficant).

Mr. TRAFICANT. Mr. Speaker, interesting debate. Constitution. The first Constitution allowed slavery. It treated women like property. It treated American native Indians like buffalos.

The Congress, in its wisdom, changed the wrongs of the Constitution and did so by amending it. Now the judges have determined that school prayer is prohibited under the language of the Constitution.

I submit that the Founders are rolling over in their graves, because they did want to separate church and State on a denominational basis, but they never intended to separate God and the American people.

This legal mumbo jumbo is absolutely ludicrous, because of the fact that school kids used to have the three R's of reading, writing, and arithmetic; today there are four R's: rape, rifle, and Ritalin. Ladies and gentlemen, there is a fourth R. It is called run. Run as in run for your life.

My position is very, very simple. I believe where God is omitted, then evil will be committed. Ladies and gentlemen, why is it unconstitutional for Congress to consider the opportunity to let a local school board make that decision?

The Constitution prohibits it; that is what the Supreme Court said. Fine. Change the Constitution. This is the mechanism to do it. If it is a moment of silence, fine. If it is a prayer, it should not be any denomination that is, in fact, promoted.

Ladies and gentlemen, there are several things I think must be understood here. On our bills, we say "In God We Trust". We open the session up with a prayer in the Congress. The Supreme Court opens up their session by asking God to preserve the court and preserve the Nation. But our school boards cannot make that decision. So what we have is rape, murder, mass murder, violence, killing, fear in our schools, but they are not allowed to have a prayer. Come on now.

I can remember a debate we had where it was called political posturing to open the session of Congress with a pledge of allegiance to the flag. The motives of those who brought it forward were questioned. On all of these constitutional mumbo jumbo reasons we had these big debates. Now we have a pledge of allegiance. Quite frankly, I think we should.

Quite frankly, the Congress opens the session with a prayer, and we are a bunch of hypocrites by not allowing a local school board to make that decision. Neither are all of the decisions in the Supreme Court. In America, the judges do not govern; the American people do. The American people want to allow prayer in our schools.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Speaker, I would like to address the gentleman from Ohio in his constitutional wisdom, and I am glad he is staying here for it.

First of all, to my good friend the gentleman from Ohio (Mr. Traficant), I would like to point out to him that no Supreme Court decision ever has prevented students from praying on their own.

□ 1115

Not a single decision of any court can be cited for the contrary proposition.

Number two, in the 1962 Supreme Court case of Engel v. Vitale, which I am sure the gentleman has reviewed, it struck down only the practice of having government compose school prayer. In the Wallace case, which the gentleman may or may not be familiar with, it held, "The government may give objective instruction about religion in public schools and provide for religiously neutral moments of silence, permit students to engage in private, non-disruptive prayer during the school day, and pose no barrier to organized student-initiated religious clubs under the Equal Access act." We are not hypocrites.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. Traficant).

Mr. TRAFICANT. Mr. Speaker, the legal decisions say that if a school board wants to have a school prayer, they are prohibited from doing so.

Mr. Speaker, I say to the Members, the judges in America do not govern, they interpret the Constitution. They interpret the law. They do that only. The people of the United States govern. When they see fit to change a constitutional mandate that has been interpreted counter to the wishes of the

American people, it is up to the people and the Congress only to make that decision.

I will say this, the gentleman is certainly more knowledgeable on all these decisions, but here is what I am saying. All those decisions the gentleman cited all add up to one thing: We do not allow for school prayer. I am saying that we should. That is what I do support.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding to me.

I just wanted my friend, the gentleman from Ohio (Mr. TRAFICANT), who has left the floor, to understand that nothing prohibits voluntary prayers, from school boards, courts, or anything else. I am doing this in a friendly way. I am not emotional about it. But it is about time that we learn what the law is that we want to change. I thank the gentleman for his generosity.

Mr. NADLER. Mr. Speaker, this amendment, which should really be referred to as the Religious Coercion Amendment, is an assault on the first freedom which has been protected for 200 years by the First Amendment.

I am amazed at some of my conservative colleagues who do not trust the government to protect the environment or to build new schools in our communities or to regulate the railroads, but are perfectly willing to turn over to government bureaucrats the power to do everything short of actually declaring a State religion, or to involve those bureaucrats in shaping the moral and religious lives of our children.

Many supporters of this constitutional amendment have been irate at the way some schools teach American history, but they are perfectly willing to delegate to those same schools the right to guide a child's religious education.

This amendment, Mr. Speaker, makes a radical departure from our current constitutional framework. The First Amendment now prohibits any "law respecting an establishment of religion." The rewrite we have before us today would narrow that to prevent government only from establishing any official religion. Anything short of establishing an official church which favors one religion, that of the majority, over all others, would be allowed under this amendment.

The amendment says, "The people's right to recognize their religious beliefs, heritage, or traditions on public property, including schools, shall not be infringed." "The people's right," that is a collective term, not an individual right; a radical departure from our constitutional tradition.

What does it mean? It means that the people, "the people," the majority, either by referendum or through council action or action of a local legislative body, a town council, a school board, a city council, could mandate that particular religious symbols, Presbyterian in one area, Catholic in an area, Muslim in a third, Centurian in a fourth, must be prominently placed in every schoolroom, in every courtroom, and that every litigant must do his case in front of that religious symbolism, even if it offends his conscience, and every child in every classroom, likewise.

We can see evidence in the world today of the terrible harm which comes in the government meddling in religious affairs, of allowing some in the community to use the government to further their religious goals.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. I thank the gentlewoman for yielding me the time, Mr. Speaker.

Mr. Speaker, I rise in support of this rule. Today we are having a debate on a very serious problem that does deserve our attention. We can do this by supporting this rule.

I am in entire agreement with the authors of this amendment in their concern for the systematic attack on religious expression throughout the country. There is no doubt hostility exists, especially against conservative religious expression. It is pervasive and routinely expressed in our courts.

Those who attack religious values are, unfortunately, not doing it in the defense of constitutional liberty. Secular humanism, although equivalent to a religion, is passed off as being neutral with respect to spiritual beliefs, and yet too often used to fill the void by forced exclusion of other beliefs.

This is indeed a problem deserving our close attention, but the approach through this constitutional amendment is not the solution. I was a cosponsor of the original version of the amendment, but after serious reconsideration, especially after the original version was changed, I now am unable to vote for it.

The basic problem is that our courts are filled with judges that have no understanding or concern for the constitutional principles of original intent, the doctrine of enumerated powers, or property rights. As long as that exists, any new amendment to the Constitution will be likewise abused.

This amendment opens the door for further abuse. Most of those who support this amendment concede that, quoting the authors of the amendment, "Because government is today found everywhere, this growth of government has dictated a shrinking of religion." This is true, so the solution should be to shrink the government, not to further involve the Federal Government on how States and school districts use their property.

This amendment further enables the Federal Government to do more mischief. The only solution is to shrink the government and raise a new generation of judges and Congressmen who understand the constitutional principles of original intent, the doctrine of enumerated powers, and property rights. If we do this, the First Amendment, freedom of religious expression, will be protected.

Another recourse, less complicated than amending the Constitution, is for Congress to use its constitutional authority to remove jurisdiction from the courts in the areas where the courts have been the most abusive of free expression. Unfortunately, this amendment encourages a government solution to the problems by allowing the Federal Government and Federal courts to instruct States and local school districts on the use of their property. This is in direct contrast to the original purpose of the Constitution, to protect against a strong central government and in support of State and local government.

Until our judges and even our Congress have a better understanding of the current Constitution and a willingness to follow it, new constitutional amendments will do little to help and will more likely make things worse.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, in our country the State is not to sponsor or sanction religious exercises. Neither is it to interfere with the free exercise of religion. That is a delicate balance that the Bill of Rights has protected for over 200 years. It is a delicate balance that the Istook amendment threatens to destroy.

I want to make one point this morning, a quite simple and straightforward point: the prohibition against State-sponsored religious exercises in our country protects not only civic life but also, and more importantly, religious life. Mr. Speaker, it is no accident that a long list of religious communities and religious organizations are lined up in opposition to the Istook amendment.

Amending the First Amendment to permit the State establishment of religion is a threat to our constitutional democracy, to be sure, of which freedom from religious coercion is a cornerstone. But even more, it is a threat to religious faith and practice.

Mr. Speaker, religious liberty is not just freedom from coercion.

Religious liberty is also freedom for the leading of the spirit, freedom to follow and obey God's will. Roger Williams, colonial America's foremost proponent of religious liberty, understood that the prohibition against the establishment of religion was more about protecting the church than it was about protecting the State. Religious freedom protects communities of believers, it protects the lonely conscience of the prophet, it protects the faithful individual.

Mr. Speaker, central to our Christian and Jewish and Muslim traditions is the notion that we stand under God's judgment, that we are not to identify our power and our program with God's will, that we are all sinners and in need of forgiveness. That is central to all of our religious traditions.

Religious faithfulness is a struggle. It is not something that we lay hold of easily or that someone in authority can achieve for us. The life of faith is a struggle for an individual and a community that cannot and must not be dictated or directed by the State. It is a struggle in which we must engage with freedom, as God gives us the light to find the right way.

That is what religious freedom is about, and it is mainly for religious reasons that we must defend the First Amendment and rebuke those who would put the State's power behind particular religious beliefs or practices. The Istook amendment threatens not only civil liberty but also religious faithfulness, and for that reason we should defeat it today.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the time.

Mr. Speaker, I want to get back to something the previous speaker said about the Supreme Court's making a statement that they never came out against school prayer. That was not the case at all. If we look at the Engel v. Vitale case in 1962, a pertinent portion of this debate was when Engel stated, and I quote, "Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the establishment clause, as it might be from the free exercise clause of the First Amendment, both of which are operative against the State by virtue of the 14th Amendment."

So clearly there is a case where the Supreme Court has said that even voluntary prayer is a problem in terms of their interpretation of the Constitution. Because of that, because of their extreme approach on this, I do support this rule and the Istook amendment.

I think one of the questions, as we get bogged down here, and clearly, Mr. Speaker, this is not a black and white issue, there are some grays in this issue, and I echo the words of the gentleman from Texas (Mr. PAUL), a lot of these items boil down to the size of government, an intrusive Washington command-and-control, one-size-fits-all government approach to everything and every solution.

I still think some of these things do have to be handled on a local level. I think it does not harm society to have some local decisions on things like this.

But we do have to ask ourselves a bigger question. We can all play lawyer here today. It is clear, listening to the debate, that everybody is trying to be lofty and historical and so forth. But let us just ask ourselves some basic questions: Is society better served by having a religious society? Is it more good or more harmful to have a prayer at graduation? Is it more good or harmful to have a prayer at a football game?

□ 1130

If a child comes into school and her mother is sick and a student suggests, as the students get concerned and show concern, can they bow their heads and pray for the young lady's mom, is that harmful? I think if we look at the measure of the results of this, that it would be more helpful to have a more religious society, one that is tolerant and one that respects each other, rather than have these religion-free zones in public buildings, public institutions, whereby if we say anything that is religious, we are the perpetrator of some horrible crime, rather than somebody who is trying to take everyday life to a higher level so that we can acknowledge a Creator and a Higher Being.

I believe if we ask ourselves those questions, we are going to realize that this amendment is not going to solve all the problems; the current situation we have does not solve all the problems, but we have to continue to support religion as a country and in public.

Mr. Speaker, I urge my friends and fellow Members to support the Istook amendment.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, this is a very perilous path we tread. No one knows where this will lead, this vaguely worded amendment, not even the most well-intentioned supporter. There are more unanswered questions than there are answered questions.

There is a presumption of whose religion it will be, and that presumption even goes further. It is a presumption that it will be a Christian religion, and it is a presumption on the part of many that it will be their form of Christian religion. That is not set by this. It can be any cult claiming to be a religion.

Mr. Speaker, that happened to my State. We have a 20-day voter cutoff in our State because a cult, the Rajneeshis, tried to take over a school board, and we were afraid they would bus people in from outside the State to take over that school board and impose their cult on the children of that rural town. That would be allowed under this amendment.

We will fight a pitched battle, community by community, county by county, State by State, over where the tax dollars will flow because this allows tax dollars to flow to private religious activities and institutions. And some support that. Despite the desperate straits of our public schools, some support that.

But, guess what? This amendment also in all probability allows for the first time in our history the taxing of religious institutions. Now, I think many who support the tax dollars for private religious schools will be aghast when they receive a tax bill for their previously-exempt institutions.

There are those who are proposing that somehow this is an answer to the violence in our schools. I live in Springfield, Oregon. No one is closer today to that question than I am. And those who bring forward the simplistic answer that if we only had had an established prayer in that school, a very conservative town that I live in, that we would not have had that violence, that is an insult.

Mr. Speaker, this is a complex problem which goes to many things. This is not a simple solution. It raises more problems than it answers, and it potentially threatens the stability of this Nation.

Do we want to be Bosnia? Do we want to be Northern Ireland? Do we want to be India and Pakistan and have a nuclear war over religious issues? Vote no on this amendment.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of the Istook amendment.

Let me say that I have been concerned in recent years that in our society there seems to be a great deal of legal pressure on our people not to express their religious convictions. And I know that some people honestly are afraid that some religion might be imposed on someone officially, and I think that is what is motivating this.

But what has really happened, the outcome of this is the nature of our society has changed in that, before, our Founding Fathers thought that the expression of religious faith was a very positive thing. This is something that worked to the benefit of our country throughout our history. It gave a solid foundation to the young people of our country because people, whether it was the President of the United States on down, we have "In God we trust" right over here in Congress. These expressions were seen as benevolent and positive things in our society.

But, in recent years, we have seen the phrase "separation of church and State," by the way, which is something that is not in our Constitution. That phrase is not in the Constitution. It is "the establishment of a religion" is the phrase that is within the Constitution. But that phrase of "separation of church and State" has been used to justify all kinds of legal pressures and restrictions on Christians and Jews and other people of religious faith from uttering their belief.

This is wrong. This is wrong, and the only people who are being imposed upon are not people who do not believe in religion or God, but the people who are being imposed upon are the people of religious faith, whatever that faith may be.

Mr. Speaker, worse than that, we have now evolved into a society where Jesus Christ can be taken and can be put into a bottle of urine and called art and it can be subsidized with tax dollars. With people who are sincerely Christian, this is a violation of their sacred beliefs when they complain they are being told this is separation of church and State and they cannot have anything to say about that.

But we actually subsidize a tax of these people's religion while, at the same time, if somebody wants to put a manger scene in front of city hall during Christmas season, they are told, oh, no, that is separation of church and State.

The Istook amendment I think goes back to what our country is based on. It is not separation of church and State. No one wants to impose religion on someone else. What we are talking about, the basis of our country is freedom of religion. Freedom of religion, especially freedom of religious expression. And that is what the Istook amendment is all about.

We have got all of our priorities haywire here. We are now justifying the separation of religious utterances when it is a benevolent thing and has been throughout the history of our country.

Mr. Speaker, I support the Istook amendment and the rule.

Mr. FROST. Mr. Speaker, may I inquire of the time remaining on each side?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. FROST) has 5½ minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 4½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST), my colleague on the Committee on Rules, for yielding me this time to stand today to oppose this rule.

Mr. Speaker, I asked for an amendment to be considered last night in the Committee on Rules because I share some of the concerns of the proponents of this amendment, although I oppose the Istook amendment. The amendment I asked for would actually go further toward what Thomas Jefferson, George Mason and James Madison had said and used in a lot of our State Constitutions, to make sure we do have freedom of expression. But the Committee on Rules said, no, we cannot improve on this except for one case offered by the gentleman from Georgia (Mr. BISHOP).

Mr. Speaker, I am opposing this rule and opposing the Istook amendment. It is hard to stand up here, Mr. Speaker, to do that because my religious beliefs are really important to me and my family. We do not need to wear them out here on the floor of the House to talk about how important religion is to our family and to us individually.

I seem to remember growing up in Sunday school and in church as always part of my life and learning that we do not need to yell from the street corners our religion, that we should go into a room and pray on our own and not necessarily have to do it like we are doing it today.

So people of faith can stand up here and oppose this amendment, even though I heard in a special order the other night one of my colleagues, the gentleman from Georgia, who said there is a special place in hell for Justices and Members of Congress who oppose this. Thank goodness he is not making that decision. He is putting his place in the place of God.

That is why this amendment is wrong. We need to have religious freedom. We have it right now. The Department of Education has said we have religious freedom. My wife teaches in public school. I have given prayers at football games. We have Bible studies. We have prayer every morning in our public school around the flagpole. We have prayer in our schools. It is not the prayer that the school board wants the students to say, because that is what the Constitution never said. It is prayer that our students want on their own, that their parents provide them the guidance.

Mr. Speaker, that is why we should oppose this amendment. We have prayer in the schools right now. Let us not make it worse by the Istook amendment.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, the gentleman from Texas (Mr. GREEN) just mentioned about yelling from the corner about one's religious convictions. The fact is that we respect the right of people to raise their voice and shout about political things and we respect people's rights to raise their voice and shout about religious things as well.

Certainly we do not want people to get in somebody else's way, nor do we want to force somebody to participate in a chant. But I think that again demonstrates the sort of haywire priority that we have here. That, yes, people have religious convictions and they have a right to express it, but all of a sudden there seems to be this pressure on religious people not to make these public utterances. There is nothing wrong with someone shouting out for the glory of God, if that is how they feel.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Texas.

Mr. GREEN. Mr. Speaker, I have no problem with that. They have that right. But they do not have the right to stand up in an algebra class and do it. But they have the right to pray on their own. And so we have to have some reasonableness applied to it. We have prayer in the public schools now.

Mr. ROHRABACHER. Mr. Speaker, reclaiming my time, but they do not have a right to have a little group meeting of that.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this constitutional amendment. Freedom of religion and freedom from religious coercion has been at the core of American democracy for over 200 years. I believe that the first amendment has served all of us of every religion extremely well.

The separation of church and State does not require the separation of spiritual values from secular affairs. In fact, I believe strongly that private morality and public conscience must guide the formation of our Nation's public policy. But no one individual or individual religion may be permitted to impose one set of religious beliefs on the rest of us.

The American people do not want this Congress telling them how and when to pray. In fact, this amendment is entirely unnecessary. Although the Supreme Court has upheld the separation of church and State, the Court has also clearly stated that all American citizens are free to exercise their religious beliefs in public schools.

In the words of President Clinton: Schools are not religion-free zones. Students can pray privately and individually whenever they wish. They can say grace before lunch. They can form religious clubs and those clubs can and should be treated like any other extracurricular activity. And students reading to themselves have every right to read the Bible or any other religious text they want.

So what would this amendment change? Well, it could allow public tax dollars to be spent on religious schools, shifting scarce resources from public schools and setting up competition among faiths. It would allow mandatory prayers in schools, and it could allow a local school board to endorse certain religious traditions and ignore others.

Mr. Speaker, there is a reason this amendment is opposed by most of the churches, synagogues, and religious organizations in the United States, including the National Council of the Churches of Christ, the Baptist Joint Committee, the American Jewish Committee and the Presbyterian Church of the USA.

I want to say, Mr. Speaker, as a woman of the Jewish faith, my personal religion and the right to pray is important to me and my family and that is why I oppose this amendment.

☐ 1145

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

My great grandfather came to this country fleeing religious persecution in the Old World. He was a peddler in East Texas. I would like to quote from the grandson of a peddler from Arizona that some Members on the other side will recognize, the late Senator Barry Goldwater.

In 1994, when Senator Goldwater was asked about his views on a school prayer amendment, he replied,

> It is a waste of time. There is nothing in the law that says people can't have a moment of silence in schools to do what they want, pray or cuss someone out.

Barry Goldwater was a very wise man. I did not agree with him on every issue. He spoke his mind and he spoke it very clearly on this fundamental issue of our Constitution and what should be done with our Constitution and what should not be done with our Constitution.

We do not need to alter the Bill of Rights. It has stood for 206 years and served this country well. It would be a mistake for us to pass the Istook amendment.

I urge my colleagues to vote no when this matter comes to the floor later today.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. I thank the gentlewoman for yielding me this time.

The amendment that we will be debating today provides for equal treatment of discussion about religion, equal to the treatment that we give for discussion on political matters.

The First Amendment protects political speech under our Constitution. Indeed, the Supreme Court has interpreted the First Amendment as permitting students to speak on political matters even contrary to the policy of the school board. I am thinking particularly of the case of Tinker v. Des Moines during the Vietnam War. But it does not afford that same protection to students who on their own wish to discuss or raise issues about religion.

It is important under the First Amendment that we respect religion while we are not respecting an establishment of religion. The First Amendment reads that Congress shall make no law respecting an establishment of religion, but it goes on to point out the importance of not prohibiting the free exercise of religion.

The way that the law is today, the Supreme Court has given greater protection for political speech than it has for religious speech. Those of us who support this amendment today are not asking for any preference for religion. We are merely asking that the right of the people to express their religion be given as much protection as the right the people presently have to express their political point of view.

Those who have expressed great concern about amending the First Amendment must also be responded to. I also share that concern. But what is wrong about using the constitutional process for amending the Constitution, which we attempt to do here today?

The Supreme Court has amended the Constitution regarding the First Amendment at least 14 different times. The First Amendment says Congress shall make no law respecting an establishment of religion or abridging the freedom of speech. The Supreme Court has added, "except for speech that advocates the imminent overthrow of the United States," and "except for slander and libel," and "except for obscenity." "Except for" added by the Supreme Court is every bit as much as an amendment to the Constitution as what we propose today.

With these points in mind, I urge support of the rule and support of the amendment.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. MYRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 169, not voting 16, as follows:

[Roll No. 196]

YEAS—248

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—169

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (OH)
Capps
Cardin
Carson
Clayton
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Harman
Hastings (FL)

Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McHale
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Strickland
Stupak
Tauscher
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—16

Brown (FL)
Clay
Ensign
Fawell
Furse
Gonzalez
Herger
McGovern
Meehan
Mollohan
Payne
Skaggs
Spratt
Stokes
Talent
Thurman

☐ 1210

Ms. VELÁZQUEZ and Messrs. BALDACCI, MEEKS of New York, and MANTON changed their vote from "yea" to "nay."

Mr. BAESLER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998

The SPEAKER pro tempore (Mr. LaHood). The unfinished business is the question of the passage of the bill, H.R. 3433, on which further proceedings were postponed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 1, answered "present" 2, not voting 20, as follows:

[Roll No. 197]

YEAS—410

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Frank (MA)

ANSWERED "PRESENT"—2

Mink
Owens

NOT VOTING—20

Clay
Coburn
Collins
DeGette
Fawell
Furse
Gekas
Gonzalez
Houghton
John
Largent
McDade
McGovern
Meehan
Meeks (NY)
Mollohan
Payne
Skaggs
Skelton
Smith (OR)

☐ 1229

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read:

A bill to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to social security.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SKAGGS. Mr. Speaker, due to my son's high school graduation I missed 2 votes earlier today. Had I been present for Roll Call 196, I would have voted "no," and on 197 I would have voted "yes."

☐ 1230

PERSONAL EXPLANATION

Mr. ROTHMAN. Madam Speaker, yesterday on rollcall vote numbers 193, 194 and 195, I was detained in New Jersey attending my son's band concert. Had I been present, I would have voted "yea" on all three of these rollcall votes.

CONSTITUTIONAL AMENDMENT RESTORING RELIGIOUS FREEDOM

Mr. CANADY of Florida. Madam Speaker, pursuant to House Resolution 453, I call up the joint resolution (H.J. Res. 78) proposing an amendment to the Constitution of the United States restoring religious freedom and ask for its consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mrs. EMERSON). The joint resolution is considered read for amendment.

The text of House Joint Resolution 78 is as follows:

H.J. RES. 78

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. To secure the people's right to acknowledge God according to the dictates of conscience: The people's right to pray and to recognize their religious beliefs, heritage, or traditions on public property, including schools, shall not be infringed. The Government shall not require any person to join in prayer or other religious activity, initiate or designate school prayers, discriminate against religion, or deny equal access to a benefit on account of religion.".

The SPEAKER pro tempore. Pursuant to House Resolution 453, the amendment recommended by the Committee on the Judiciary printed in the joint resolution is adopted.

The text of House Joint Resolution 78, as amended pursuant to House Resolution 453, is as follows:

H.J. RES. 78

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"To secure the people's right to acknowledge God according to the dictates of conscience: Neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage, or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion.".

The SPEAKER pro tempore. After 2 hours of debate on the joint resolution, as amended, it shall be in order to consider the further amendment printed in House Report 105-563 if offered by the gentleman from Georgia (Mr. BISHOP) or his designee, which shall be considered read and shall be separately debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Florida (Mr. CANADY) and the gentleman from Michigan (Mr. CONYERS) each will now control 1 hour for debate on the joint resolution.

The Chair recognizes the gentleman from Florida (Mr. CANADY).

GENERAL LEAVE

Mr. CANADY of Florida. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 78.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today the House considers House Joint Resolution 78, the Religious Freedom Constitutional Amendment, a measure which responds to the public's valid concern that certain court rulings have been hostile to religion, have erected barriers to religious expression and exercise, and have attempted to remove religious influences from the public arena.

In the past 3 years, the Subcommittee on the Constitution of the Committee on the Judiciary has held a total of seven hearings in Washington and across the country examining the issues that are addressed by this amendment.

We conducted hearings in Harrisonburg, Virginia; Tampa, Florida; New York City; and Oklahoma City, Oklahoma. The subcommittee heard testimony from 74 witnesses.

The record of our hearings is clear: There is a fundamental and widespread misunderstanding of what the Constitution requires with respect to the prohibition on the government's establishment of religion. This misunderstanding is so significant and pervasive that a constitutional amendment promises to be the most effective means of providing a meaningful remedy.

Americans are a religious people, and opponents of this amendment are fond of citing church attendance statistics to support their argument that there is no problem with the free exercise of religion in America. Although the first amendment was certainly designed to protect worship in a church, temple or synagogue from governmental interference, the protection afforded by the free exercise of religion in the first amendment was intended to reach much further than that. Yes, we are a profoundly religious country, and we do enjoy great freedom in America today, but we must not be complacent while that freedom is eroded.

Many State and Federal courts have misinterpreted the first amendment under the flawed notion that the Constitution requires a wall of separation between church and State. By the wall of separation, they do not mean that the government should not interfere with the freedom of churches and other religious organizations. We all agree with that principle. What they mean is any religious influences should be removed from the public sphere. That is what the proponents of the wall of separation contend.

Chief Justice William Rehnquist condemned the Court's reliance on the phrase "the wall of separation between church and State" and said in a dissenting opinion over a decade ago, "The greatest injury of the wall notion is its mischievous diversion of judges from the actual intentions of the drafters of the Bill of Rights. It is a metaphor based on bad history, a metaphor which has proved useless as a guide to judging. It should be frankly and explicitly abandoned."

In an effort to satisfy this extra-constitutional and extreme theory of separation of church and State, courts have confused governmental neutrality towards religion with the concept of required public secularism, thus moving toward a public arena with no mention or sign of religion at all.

The result of this distorted view of the first amendment is that, wherever government goes, religion must retreat, and in our time there are few places government does not go. Thus, religion is slowly being eliminated from more and more of our public life.

Religious liberty that can only exist in one's private home is not true religious liberty. It is far removed from the liberty the framers of the first amendment embraced.

House Joint Resolution 78 seeks to correct this fundamental problem. It reaffirms that government may not establish any official religion, and I would ask the Members to pay particular attention to that language in this amendment. This is an important part of the amendment and, unfortunately, a part that many of the critics of the amendment seem to ignore.

The amendment also prohibits the government from requiring "any person to join in prayer or other religious activity and from prescribing school prayers." These provisions, taken together, ensure that the coercive power of government will never be used to compel any Americans under any circumstances to participate in any religious activities against their will.

House Joint Resolution 78 protects the right of the people to pray and to recognize their religious beliefs, heritage or traditions on public property and prohibits government discrimination against religion. It also forbids the denial by government of equal access to a benefit on account of religion.

All of these provisions are designed to eliminate government hostility toward religion and to recognize the historic role that religion has played in our life as a Nation.

All too often, religious Americans of all faiths find that their speech is curtailed specifically because of its religious character. Under the prevailing understanding of the first amendment in many quarters, there are scrupulous concerns to ensure that no person be exposed to any unwanted religious influence but woefully inadequate concern for the religious person whose expression of faith is not publicly tolerated.

The first amendment was designed to foster a public sphere which gave religious citizens, as Madison described, the ability to participate equally with their fellow citizens in public life without being forced to disguise their religious character and conviction.

Another form of government-sanctioned discrimination, besides that affecting speech, is the denial of benefits to religious organizations and individuals.

The benefits provision of the religious freedom amendment, greatly misrepresented by some opponents of this proposal, merely states that the government cannot use religion as a basis for preventing a qualified organization or person from receiving governmental benefits. Public programs should be open to all who meet the objective purposes of the program. Equal access does not mean equal funding. Equal access simply means receiving a fair chance.

Contrary to the claims of its critics, the religious freedom amendment does not change the first amendment. The first amendment, as written, needs no improvement. Unfortunately, however, the first amendment, as interpreted by the courts and as widely understood by many governmental officials, has strayed both with respect to the meaning of the establishment clause and the free exercise clause and the relationship between those two clauses. That is what House Joint Resolution 78 is designed to correct.

As we debate this proposal, I would submit to the Members of this House that it is important that we all recognize that people of good faith can disagree on the merits of this particular proposal. I understand that there are some people who feel very passionately that this amendment is not the right public policy, and I can respect that, although I vehemently disagree with their position. But I think it is also important that we all recognize that there is a problem that urgently demands our attention.

Now, today as we stand here in this Chamber of the House of Representatives, the people's House, we stand under the words "In God We Trust." They are inscribed on the wall. I would submit to the Members of this House that, as we stand here under those words, there is a problem when students in this country are told they cannot carry their Bibles to school, and there is a problem when students in this country face the threat of being fined by a Federal judge if they mention God, so much as mention God, in a commencement speech.

Now, things like that are happening in America today. The opponents of this amendment will claim that many of the things that are happening that we find troubling can easily be corrected, but the fact of the matter is, there is a persisting pattern of these sorts of problems. We discovered that in the hearings that were conducted by this Subcommittee on the Constitution all across the country, where we heard from so many different people who told of the personal experiences where they had been subjected to discrimination simply because of their religious faith.

Now, things like this are happening in America today, and it is simply not right. It is an infringement of the free exercise of religion, and it is an injustice.

This amendment, which is before the House today, gives this House an opportunity to protect the free exercise of religion and to put an end to the injustices that are being done in the name of the first amendment. I urge my colleagues to support this proposal.

Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, this constitutional amendment would have dire consequences if ever ratified. As a former member of the Virginia General Assembly, I take great pride in Virginia's religious freedom tradition. This country's very first religious freedom statute was drafted by Thomas Jefferson and enacted by the Virginia General Assembly in response to a failed system of government-sanctioned religious practices very similar to that which would occur if this amendment is ratified.

The mistakes made and corrected in Virginia became the foundation for the religious freedoms included in the United States Constitution, and it is because of our Bill of Rights that we have enjoyed centuries of peace, free from the religious divisions that continue to mar the lives of millions of people across the globe.

H.J.Res. 78 is touted by its supporters as a restorer of religious freedom. Nothing could be further from the truth.

First of all, we already have religious freedom. This freedom has existed for over 200 years in the form of the first amendment to the United States Constitution. Unfortunately, the words that protect us from religious persecution, that is that Congress shall make no law respecting an establishment of religion nor prohibiting the free exercise thereof, those words are under attack by this proposed amendment.

The language in the proposed amendment ends the church-State separation by allowing religious groups to be directly funded by the government. So what happens when the Catholics must compete with the Baptists for limited school funding? How much safer will society be if only people willing to practice certain religions are able to get treatment for drug addiction? Which religious groups would and would not be funded? How safer will our schools be when children begin fighting over which prayers will be said or which religious expressions should or should not take place before each class day? How much better off will churches be once they become dependent on government funding?

☐ 1245

Although the answers to these questions are not at all clear, we know for sure that, if this amendment is ever ratified, the religious freedoms that protect all Americans would be transformed into a divisive manifestation of the very problems the first amendment was designed to protect us from. If the amendment is ratified, it would recklessly disrupt the religious tranquility that we have, that we have appreciated for hundreds of years.

This amendment strips the individual of his or her right to pick his or her own prayer or to practice his or her own religion without having to subject their beliefs to the manipulation or interference by arrogant majorities.

I am specifically referring to the language in the proposed amendment's first sentence. The effect of this language would be to overturn the Supreme Court cases on religious expression and schools. Nothing in this amendment would stop schools or classrooms from choosing by majority vote to actively recite certain prayers or express certain religious beliefs that are most popular in the school or classroom.

So what happens to the losers of these popularity contests? That is why the National Education Association and the American Federation of Teachers oppose this amendment, because of the potential disruption that will occur when 40 percent of the students are not able to express their beliefs while they are subjected to the beliefs other than their own. This amendment will not encourage religious freedom; and, in fact, it invites religious divisiveness.

Despite the assertions of this amendment's proponents, school prayer is alive and well. It is often said that, as long as there are math tests, there will be prayer in public schools. In fact, children praying in school is not now prohibited. What is prohibited is making those who want to pray pursuant to a different religion or not pray at all to be subjected to someone else's prayer.

In fact, a broad coalition of religious and civil liberties groups, including both proponents and opponents of the Istook amendment, prepared a document entitled "Religion in the Public Schools: A Joint Statement of Current Law" to make it clear that religious expression is permitted in schools.

Madam Speaker, we should not be misled by inaccurate anecdotes. The proponents of H.J. Res. 78 often mention incidents where children are told they cannot bring bibles to school or say grace before eating lunches. These are clearly permissible under current law.

In fact, it is this kind of anecdotal evidence, of a need for a constitutional amendment, that is misleading in large part because most, if not all, of the examples used by the proponents of this amendment result from misstatements of fact or misinterpretations of current law.

That is why we need to preserve our Bill of Rights. That is why we need to join many religious groups in opposing this amendment. Those groups include the American Baptist Churches, the United Church of Christ, the National Churches of Christ, the Presbyterian Church, the Episcopal Church, the Southern Leadership Conference, and many other groups. Let us join these religious organizations to preserve religious freedom by opposing this attack on our first amendment.

Mr. CANADY of Florida. Madam Speaker, I yield 8 minutes to the gentleman from Oklahoma (Mr. ISTOOK), the sponsor of the amendment under consideration.

Mr. ISTOOK. Madam Speaker, I rise not only on behalf of myself but over 150 Members of this body who are cosponsors of the Religious Freedom Amendment because we are tired of seeing what the Supreme Court has done to change the first amendment. We cherish the first amendment of the United States of America. It has been attacked and twisted and warped by the U.S. Supreme Court.

For some people who say, oh, all these problems can just be corrected with a phone call, before I even talk about some of the Supreme Court decisions, let me tell my colleagues the story of Zacharia Hood, a first grader in Medford, New Jersey.

He was told, because they had a reading contest in school, you get to read the story you want to, to class. He said great. He said, I want to read this story about two brothers that reunited after being apart. He wanted to read the story of the reunion of Jacob and Esau from his copy of the Beginners Bible. The story does not even mention the word God. But his teacher said, oh, horrors. We have been told there is separation of church and State. You cannot read it.

This disappointed six-year-old told his parents, and they tried making these phone calls. No good. They tried going to the school and the school board. No good. They said, this is an infringement on religious liberty; we are going to exercise our right in court.

The Federal judge, just a few months ago, said, oh, no, under all these cases from the U.S. Supreme Court, the schools can tell us we cannot read a story from the Beginners Bible no matter what it says or does not say; that, rather than the first amendment, all they pay attention to is what somebody said. Oh, it is separation of church and State.

What does that mean? As the gentleman from Florida (Mr. CANADY) said, it has been condemned, using that phrase as a substitute for what the Constitution really says and was meant to say. The Chief Justice of the U.S. Supreme Court, the one that is sitting right over there in the Supreme Court chambers right now, has said that is wayward. That is wrong. That diverts people from knowing what the Constitution really is and what it is supposed to be.

Yet, that Supreme Court, with him dissenting and with a number of other judges dissenting, has embarked upon a pattern of attacking people and saying, if we are trying to express a prayer, same way we started Congress, but if we are trying to express a prayer on public property, we are going to be limited. We are going to be restricted.

Other things, hey, do what we want. They protected Nazi Swastikas on public property. They have protected burning crosses. Supreme Court decisions.

But in 1962, they said, even when it is voluntary, for children during the school day to pray together is against the Constitution.

In 1980, they said, if the 10 Commandments is posted on the wall of a school, it is unconstitutional, because students might read them and might obey them. Imagine, in an era when guns, knives, and drugs are common in public schools, we are told the 10 Commandments is not welcome if not permitted.

In 1985, the law from the State of Alabama said we can have a moment of silence; and one of the many purposes to which you can apply this, if we choose, is silent prayer. The Supreme Court said, nope, that is unconstitutional to permit silent prayer.

In 1992, they said, to have a minister, in this case it was a Jewish Rabbi, to come and speak at a school graduation was unconstitutional because there might be some students there that would disagree with the prayer, and they would not want to be expected to be respectful with something with which they disagree. That is what the Supreme Court said; fortunately, not all of them.

What we are doing today in the Religious Freedom Amendment is taking what the justices who disagreed with the rest of them, taking what Supreme Court justices said ought to be the policy, what the intent was of the Founding Fathers, and we have put that into the Religious Freedom Amendment.

As in several of these cases I have cited, they were 5/4 decisions. One of them was the graduation prayer case. I want to read what four Supreme Court justices wrote about prayer in this case, which was Lee v. Weisman (1992).

Justices Rehnquist, Scalia, White, and Thomas wrote this about the proper interpretation of the first amendment, had the Supreme Court not gone awry. They said, "Nothing, absolutely nothing, is so inclined to foster among religious believers of various faiths a toleration, no, an affection for one another than voluntarily joining in prayer together to the God whom they all worship and seek. Needless to say, no one should be compelled to do that. But it is a shame to deprive our public culture of the opportunity and, indeed, the encouragement for people to do it voluntarily. The Baptist or Catholic who heard and joined in the simple and inspiring prayers of Rabbi Gutterman was inoculated from religious bigotry and prejudice in a manner that cannot be replicated. To deprive our society of that important unifying mechanism in order to spare the nonbeliever what seems to be the minimal inconvenience of standing or even sitting in respectful nonparticipation is senseless."

That is what we say in the Religious Freedom Amendment: It is senseless to say that everyone else must be censored and silenced because someone chooses to be intolerant. Prayer is not divisive. Prayer is unifying. What is divisive is for people to teach that we should not respect the prayer of another person or that we should not respect prayer in general. If you teach your children that, shame on you. But if we want people to be united, give them the chance to come together and express things positively.

The Religious Freedom Amendment does that. No compulsion. Government cannot dictate anything. Government cannot say we must pray. Government cannot tell us what our prayer must be. But government has to get out of the censorship business.

The Pledge of Allegiance is the proper standard. The Supreme Court has ruled, in the late 1940s, no one can be compelled to say the Pledge of Allegiance. I agree. But they did not permit someone who did not want to say it to censor and stop the rest of the students in that classroom who did want to join together.

That is the proper standard for prayer in public schools. If we want to do it, it is permitted. If we do not want to, we do not have to. But we do not have the right to shut people up and censor them just because we choose to be thin-skinned and intolerant when someone else is trying to express their faith.

I urge support of this amendment.

Mr. SCOTT. Madam Speaker, I yield as much time as she may consume to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I rise in opposition to the Istook resolution because I cherish the first amendment.

Under the First Amendment, students and citizens are not prohibited from the opportunity for religious expression. Students are free to pray privately or at school. Constitutional protections now are sensitive both to the needs of those who practice various religions, and to those who choose to remain silent. It should be quite telling that scores of religious organizations are strongly opposed to this legislation.

First amendment protections on expression of religious beliefs are available, have served our country well for many years and are appropriate to allow religious expression to thrive without improper government interference. We have not had to be worried about government favoritism of a particular religion or of conflict between religious organizations for government resources. This legislation would change all that.

This amendment is an extreme attempt to dismantle the protections so carefully drawn between church and state. I urge my colleagues to protect the religious freedom of all in our nation and oppose this unnecessary harmful legislation.

Mr. SCOTT. Madam Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Madam Speaker, I rise in opposition to this resolution.

Today, I speak as the product of two generations of Lutheran clergy and as an active member of my congregation. I speak also as a life partner of your former colleague, Walter Capps, a professor of religious studies for over 30 years at the University of California.

Last year, my husband, Walter, made a strong statement in opposition to this legislation; and I quote him in part from the statement. He said, "I believe I understand what the framers of this amendment have in mind, but I truly believe that the consequences of what this amendment does will place religion not in freedom but in bondage and under great threat. If we imperil religion in this country, we undermine indispensable articles of faith. Indeed, we commit grave injustices to the life of the human spirit."

As a school nurse for over 20 years, my concern is what this bill would do in our schools. For example, it would permit students to use the school intercom to lead captive classroom audiences in prayer, creating a host of troubling questions, such as whose prayer will be prayed?

I firmly support the current constitutionally protected role of religion in our schools. Students can now pray and read the Bible privately, say grace at lunch, distribute religious materials to their friends, and join voluntary religious clubs.

The Religious Freedom Amendment would go much further and turn public schools into arenas of religious coercion and conflict. In short, the Istook amendment is unneeded and would harm religious liberty in America. It is contrary to the heritage of religious freedom in this country.

I urge a "no" vote on this bill.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES. Madam Speaker, I rise today in support of the Religious Freedom Amendment, and I commend my good friend, the gentleman from Oklahoma (Mr. ISTOOK) for introducing this important legislation.

America was founded on Judeo-Christian principles, and the Founding Fathers, therefore, took steps to ensure that the individual's freedom of religion would always be protected. Unfortunately, recent trends have infringed on this important freedom, and children and adults nationwide are finding that their rights have been suppressed.

☐ 1300

I think that the Founding Fathers would be sorely disappointed. Today we have the opportunity to ensure that Americans are once again able to freely express their religious beliefs by passing the Religious Freedom Amendment. The amendment does not infringe on anyone's rights. It simply protects the individual's right to pray and to express his or her religious belief. In my opinion, it is the key to restoring true religious freedom in America.

In closing, please allow me to share an excerpt from a 1995 article by Jeff Jacoby about the Founding Fathers' sentiments on religion and freedom:

> In linking religion to American liberty, Adams and Jefferson were not simply bowing to the political correctness of their time, or verbalizing empty sentiment that no one was expected to take seriously. They were articulating a core principle of American nationhood: Religious faith, and the civic virtues it gives rise to, is as indispensable to a democratic republic as freedom of speech or the right to own property. Religion can survive in the absence of freedom, but freedom without religion is dangerous and unstable.

I urge my colleagues to remember the wisdom and wishes of our Founding Fathers, and to take steps to ensure that free expression of religion once again reigns in America. Support the Religious Freedom Amendment.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Madam Speaker, I rise with great trepidation to oppose a bill or a resolution that purports to restore religious freedom, but this bill does nothing of the sort.

If I thought for one moment, one moment, that thousands of American teenagers, because of a 15-second or a 30-second school-sponsored prayer, were going to stop taking drugs or stop being involved in teen relationships or stop using alcohol, I might vote for this bill.

If I thought for one moment that a 2-minute prayer exercise at a commencement program is going to take guns out of the hands of kids across America, I might just vote for this.

If I even thought that thousands of kids in America would come home after this school-sponsored prayer, come home and simply hug their mother or hug their father and say, "Mom, I honor you," just like the Ten Commandments say, I just might vote for this.

But let us really think, outside of the constitutional context, what will really happen to children across America? Let us think about those thin-skinned children that the sponsor spoke of, that courageous young child that will be in a high school football game after this one-size-fits-all prayer is said by the majority will of the students, and since when is our First Amendment determined by majority will? There is no such thing as majority will built into the First Amendment. But that is what we will have.

What will that young, courageous child be subjected to, that thin-skinned child? They will be humiliated. They will be scorned. In the worst-case scenario, they will be beaten up and involved in fights. Why? Because they had the courageousness of their convictions to say that one of the most beautiful things about being an American is that no matter how powerful or influential a person or a group is, you cannot tell me how to pray, and you also cannot tell me to sit down or shut up, and do it respectfully, while somebody else tells me how they are going to pray at their school, at their commencement.

I love being an American. I cherish being an American, because as an American we have an opportunity to say that we and our family will learn religion the way our family wants it to be learned. We have an opportunity to pray or not pray the way our families have prayed for thousands of years, because of a thing called the Bill of Rights.

The Bill of Rights is not determined by the majority, it is not determined by a political whim, it is determined by the greatness of our Founders; that little children will have the opportunity to stand and pray as they choose, without consideration of whether the school said they sponsored it or not sponsored it, and without the consideration of whether they happen to be in the majority or the minority.

Do not, do not change the Bill of Rights. Do not change the First

Amendment. It is one of the things that makes this country so great, and which most Americans cherish until they will have the opportunity not to, if this amendment were in some way passed today.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ARMEY), the majority leader.

Mr. ARMEY. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I want to first compliment my friend, the gentleman from Oklahoma (Mr. ISTOOK). The gentleman has spent so many long hours, so many days working on this, and working with so many people, constitutional scholars and others. I want to also thank the committee for their hard work.

This is a good piece of legislation. For 150 years we in this Nation understood and we practiced a restraint of government against the pattern that we had seen, our Founding Fathers had seen and found aberrant in so many other cases where governments imposed religion on people.

Our Founding Fathers understood that the role of the government in this right, as in all other human rights, was to recognize and honor and appreciate that these rights are given to man by God Almighty, and that it is the role of the State to protect those rights.

But beginning in the fifties and then in the sixties, we saw what anybody that had any common sense understanding of personal liberty and religious conviction would understand to be bizarre decisions made in the courts, and sometimes, in fact, in regulations by the Federal Government.

For example, in San Francisco, after 63 years, a cross that had stood in a public place was declared unconstitutional, while in nearby San Jose, $400,000 of taxpayers' money was used to erect a statue to an ancient Aztec God.

In April last year a minister was arrested by police for praying on the steps of the Supreme Court. In 1988, a South Carolina man was told by his county government to stop his weekly Bible study in his own home because it violated zoning ordinances.

Last year, a Florida student was suspended for handing out religious literature before and after school hours. Two students in Texas were told by their principal they could not wear their rosaries, because he thought it meant they were part of a gang; and maybe they were, part of God's gang. But rosaries?

An elementary student received a zero because she wrote a thesis on her hero, and her hero happened to be Jesus, and that offended somebody. A district judge was told by another court that he could not display the Ten Commandments in his courtroom. And in Stowe, Ohio, recently, a court ordered a cross removed from its seal, as had happened in Edmond, Oklahoma. It took a congressional action to block proposed Federal regulations which would have regulated what on-the-job workers could or could not mention about religion.

Nobody, nobody with any common sense can believe that it is the role and the function or legitimately acceptable by agencies or courts of the Federal Government to impede people's ability to practice their faith in their home, in their school, in their job, as long as they do so freely and voluntarily. That is what this is about. It is about respect. It is about respect for any person of any faith in this Nation to be protected, and their right and their ability to express that faith.

We protect the American people in many ways, in many ways that are important to us: our fortunes, our families, our health, our safety, our security, our nourishment. Is not our faith, each and every one of us, individually, separately, and in our own way, as important a dimension of our life as our food, shelter, clothing, nourishment, health?

Does this government not have even more so a sacred responsibility to protect the practice of religion, and to restrain itself from prurient impulses, derived out of thinking that can be called nothing other than sophistry, to repress people's practice of their faith? It is time we set this straight. In doing so, we will have the ability to understand the faith of our Founding Fathers, the decency to respect it, and the courage to require it for our children.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Madam Speaker, I thank the gentleman from Virginia for yielding time to me.

Madam Speaker, I rise today to oppose this amendment. I recognize that in opposing this amendment, that there are good intentions on both sides.

I am the grandson of the chairman of the deacon board, and I strongly believe in prayer. This is the graduation season. I have spoken to a lot of students about the importance of spirituality and faith in their lives. But the fact remains that despite its good intentions, this amendment will not work, and will in fact lead to an infringement on the rights of others.

I had the opportunity to discuss this amendment with the sponsor, who is very sincere and well-intentioned. But when we got to the fine points of how this would be implemented, when we got away from the general language we all agree on, we came down to some fundamental questions, questions such as who decides on what day who gets to pray for how long, and who gets a turn? What about the satanists? Do they get a turn? Personally, I do not think I should be subjected to that, nor should my child be subjected to that.

This is not philosophy. This is not a question of exposing people to other philosophies. This is religion. Religion is a very personal, perhaps the most personal of all rights and all beliefs. People have the right to protect that and not be exposed. They have the right not to hear or be forced to hear beliefs with which they disagree. This is not an academic exercise. This is religion, this is faith.

We have in our current system the ability to pray in schools, not just because of math exams. We have the right to pray before school, during lunchtimes, after school. The Department of Education has issued regulations making it clear that students can say grace, students can meet in religious groups, students can use all school facilities to exercise their religious rights, like any other club or group. There are over 10,000 religious clubs in America, and I think that is a good thing. I think they ought to exercise their rights on school property.

But as we used to say when I was in law school, the exercise of your right stops at my doorstep. I do not believe we should have a system that infringes on my rights so you can exercise your rights. I urge us to reject this amendment. It is well-intentioned, but it is wrong and it is unworkable.

Mr. GOODLATTE. Madam Speaker, I yield 1½ minutes to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Madam Speaker, a government that silences its people and denies them their religious beliefs should be considered nothing less than oppressive. We would expect this behavior from a nation where freedom is neither respected nor revered. We would expect it in a nation where the Almighty is the state and faith is a dirty word. However, we would never expect this in the United States.

Nevertheless, with increasing hostility and insensitivity, our courts have systematically stripped us of our First Amendment right to the basic and fundamental right of religious expression. It is time we reversed this trend of suppressing religious expression. It is time we pass a new constitutional amendment that retains and strengthens the Constitution's original intent.

Government should neither compel nor control religious expression. We must pass this amendment so no other generation will ever be deprived of its constitutional right of religious expression due to some extreme and overly zealous Supreme Court justices.

Mr. Speaker, a 5 to 4 majority in today's court should never overrule 220 years of constitutional authority. If this amendment passes, it never will again.

Mr. SCOTT. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I would respond to a couple things that have been said. Several anecdotes have been given, and I think we need to respond to them a little as we go.

One suggested that a student could not read the Bible in class. The court held in that case that the student could read the Bible all he wanted, but could not proselytize religion to a captive audience. It also concerned itself with what would happen if other students wanted to practice the same freedom in religions that their parents were not interested in having them listen to.

□ 1315

So that was the holding in that case. Not that they could not read the Bible, but they could not read it to a captive audience and they did not want other religions being given the same, all religions including Satanism and everything else, being given the same freedom.

Also, the F that was received because someone wrote on the topic of Jesus Christ, both the Federal court and appeals court found that the F was not because of the religious discrimination but, quote, her refusal to comply with the requirements of the teacher, including changing her paper topic without permission and choosing a topic which she was already familiar with, and the assignment was to do something they were not already familiar with.

The first amendment already protects the student's right to address religious topics in homework if relevant and otherwise complying with the assignment.

Madam Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Speaker, for more than 200 years the Bill of Rights has protected our liberties and has served as an example to the world of how democracy can work. The United States is the most religiously diverse and the most religious Nation in the world.

Fifty percent of Americans go to church at least once a week or more. Our religiosity, our religious quality makes us a strong Nation. The separation of church and State spelled out so eloquently in the Bill of Rights by our Founding Fathers has allowed people with very, very diverse views to live together in peace and to flourish for hundreds of years. But now for the first time in our Nation's history we have an amendment that would change the Bill of Rights.

Children can pray in school right now any time they like, so long as the prayer is not organized by the school. They can hold a prayer group, a Bible study class during lunch, recess or study hall or in a classroom at the end of the day. They can close their eyes and they can pray silently right at their desk or any time that they wish. And, yes, they can even pray before a math test.

There are Bible clubs and prayer clubs all over this country. The Istook amendment would jeopardize that freedom and dangerously politicize religion. This amendment would, for the first time in our Nation's history, allow for government-sponsored religion. It would allow for the imposition of government into our citizen's private religious beliefs. It would allow town councils to set an official prayer. It would allow government to fund religious activities.

That is why we have such a broad coalition of mainstream religious groups who oppose this amendment: The National Council of Churches of Christ in the U.S.A.; the Presbyterian Church, U.S.A.; the Episcopal Church; the United Church of Christ; the United Methodist Church; the Evangelical Lutheran Church in America; the Religious Action Center of Reformed Judaism, and many others.

Madam Speaker, I urge my colleagues to support religious freedom. Support the flourishing of religion in America in the proud tradition fostered by the first amendment. Support the Bill of Rights and vote against the Istook amendment.

Mr. GOODLATTE. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I rise in strong support of House Joint Resolution 78, the Religious Freedom Amendment offered by the gentleman from Oklahoma (Mr. ISTOOK). I would like to commend the gentleman for offering this much-needed constitutional amendment.

Madam Speaker, in the last few decades courts throughout the United States have twisted the traditional understanding of the first amendment to require the government to favor the nonreligious over the religious. The courts have pitted the Constitution's establishment clause against the free exercise clause rather than reading them as equal parts of the same first amendment. This misinterpretation has led to the government, whether it be through teachers, judges or public officials, placing barriers on all types of religious expression.

Abusive courts are using the first amendment as the club to drive anything with even the slightest religious overtone out of the public sphere. Religious expression now enjoys no more protection in our culture than obscenity or libel. According to the courts, flag burning is protected by the first amendment, pornography is protected by the first amendment, but posting the Ten Commandments on a public school wall is not.

Madam Speaker, where is the common sense? Religious expression, the one form of expression specifically carved out for protection by the first amendment, is the one form of expression under the heaviest attack. We clearly have a problem in this country when children are told they cannot sing Christmas carols or Chanukkah songs at school, when students in our schools are not allowed to have open prayers, even observe moments of silence.

The Religious Freedom Amendment does not amend the first amendment, it restores it. This amendment merely restates the understanding of our Founding Fathers and the vast majority of the American people today that government should protect the religious freedom of its citizens, not infringe upon it.

The Religious Freedom Amendment protects the rights of Americans to express their religious views in the same way that Americans currently enjoy the right to express nonreligious views. It does not permit the government to compel prayer to occur or to compel participation in religious activities. It simply permits prayer or other religious activity to occur on a voluntary basis among those individuals who choose to participate.

Madam Speaker, as Americans, we should encourage the open expression of our many religious backgrounds and the knowledge and tolerance that can be gained from the sharing of our religious histories. We should once again embrace our Nation's diverse religious heritage, not reject it.

I urge my colleagues to vote in support of this important amendment.

Mr. SCOTT. Madam Speaker, I yield myself 30 seconds to respond to one of the things that was said.

Madam Speaker, in "*Wallace* v. *Jaffree*" the Court held that the government may give objective instruction about religion in public schools and provide for religiously neutral moments of silence, permit students to engage in private, nondisruptive prayer during the school day, and impose no barrier to organized, student-initiated religious clubs under the Equal Access Act. That is a 1985 decision.

Madam Speaker, I yield 2½ minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Madam Speaker, I need no sanction from the United States Congress to confirm my abiding faith and do not need congressional authority to pray when and where I desire.

The unanimous Declaration of Independence of July 1776 says that when in the course of human events, to paraphrase it, it becomes necessary to exercise a vote of solemn conscience to uphold and defend the Constitution, a decent respect to the opinions of mankind requires a declaration of the causes which impel the stand, that vote, in the service of the oath of this high office of our Congress. Our vote to uphold what our forefathers so eloquently wrote, that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

These are the very first words of the very first change of the fundamental document at the root, the base of our scheme of government: the first amendment to the United States Constitution.

Much has been said in support of this proposal to amend, that it will redress and resolve a crisis endangering religious freedom. It is also urged that our moral decline or even school gun violence will be arrested by amending the Constitution. Yet crisis often helps faith to flower. In this time of asserted crises our citizen of all walks of life are everywhere engaged in religious pursuits, praying, worshipping, building churches, helping those less fortunate to find comfort and faith and nourishment.

The crisis that was the life of cruel deprivation suffered by so many who worked so hard and gave so much to make America so great worked wonders in the creation of our Nation, and religious worship survived and came to flourish.

There is written in the book of Matthew:

> But thou, when thou prayest, enter into thy closet, and when thou has shut thy door, pray to thy Father which is in secret; and thy Father which seeth in secret shall reward thee openly.

Mother Teresa was once quoted as saying that,

> Prayer is needed for children. Children need to learn to pray, and they need to have their parents pray with them.

Madam Speaker, I recognize that the vote that we cast here today, the way we vote today will come under rigid political scrutiny. I commend those who, like Paul, remain unmovable and unshakable in our abounding belief in the Constitution as it now stands.

I will cast my vote to uphold the Constitution as it now stands. I would encourage my colleagues to do likewise.

Mr. GOODLATTE. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, first of all, I want to thank Mr. ISTOOK for his leadership on this issue; and I want to commend him for being willing to change his proposal from last session. He has put some new safeguards in there. It sounds as if some of the Members are arguing against his proposal from last session and that they have not read this one.

Frankly, it is quite unfortunate that we must even have this debate today here in America, the most free country of the world. Yet it has come to the point that a primary aspect of our freedom, our right to practice the religion of our choice, is no longer afforded to everyone.

We are talking here about free speech protection for students; and we are talking about student-initiated, not teacher-initiated, not government, not school-sponsored prayer, but voluntary, student-initiated right to free religious speech. Just as they have protection on political speech or philosophical speech, they should have the right to the protection for religious speech.

What we have proclaimed throughout the world now must be practiced here in the United States. Madam Speaker, the Religious Freedom Amendment is needed today to correct and clarify 36 years of Supreme Court decisions which have warped the plain and simple meaning, original meaning, of the Constitution as far as religious rights being protected under the first amendment are concerned.

The Religious Freedom Amendment simply states that individuals in this land have a constitutional right to acknowledge God according to the dictates of their conscience. It states specifically, and I quote, "neither the United States nor any State shall establish any official religion," end quote. Yet although the United States cannot establish an official religion, neither should it prevent its people from this free exercise; and that is why people of all faiths can support this amendment.

This amendment would in no way infringe on an individual's rights to pray or not to pray. The amendment would, however, support the opportunity that people in this country have to practice their beliefs and even to recognize their religious heritage or traditions on public property.

Even though the Religious Freedom Amendment allows students to initiate school prayer explicitly, it does not permit the government or its agents to dictate that a prayer be given or dictate any contents of a prayer. Schools should be able to simply permit prayer, voluntary prayer, to occur, much like that which is practiced in this body, right here in this Chamber.

The Religious Freedom Amendment follows the same standard which the Supreme Court applied to the Pledge of Allegiance. That is, no student can be compelled to take part, but those who do not want to participate are not permitted to censure and silence those who do.

Madam Speaker, this goes to the heart of the first amendment rights. It goes to the heart of who we are as a people in America. We are, after all, one nation under God.

Therefore, Madam Speaker, I urge the Members to support this amendment which would practice freedom of religion, not freedom from religion.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Madam Speaker, I rise in reluctant opposition to the amendment, and I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time.

Madam Speaker, I have two principal objections.

First of all, this amendment legitimizes the Supreme Court's application of the establishment clause of the first amendment to the States.

I should note that it was not applicable to the States from 1791 through 1947. In fact, many States had established religion at our Nation's founding. Massachusetts, for example, paid the salaries of the Congregational ministers in that State until 1833, 42 years after the ratification of the first amendment.

Indeed, it was proposed but rejected by Congress to directly apply the religious clauses of the first amendment to the States.

In 1876, 8 years after ratification of the 14th amendment, Congress considered a constitutional amendment introduced by Senator James Blaine of Maine. The Blaine amendment read, quote, "no State shall make any law respecting an establishment of religion or prohibiting the free exercise thereof," end quote. This amendment was debated at length and defeated in the Senate.

Madam Speaker, if this amendment is ratified, our States will forever lose their ability to define the appropriate level of public expression of religion.

My second objection to the amendment is in its apparent definition of "establishment." The language of the RFA suggests that any action beyond "acknowledgment" or "recognition" of God may be in violation of establishment.

□ 1330

Indeed, the entire amendment is prefaced on the mere right to "acknowledge." Does this mean that 30 years from now we will be told by the Supreme Court that mentioning the Bible or wearing a cross or crossing oneself is prohibited by the RFA because it goes beyond acknowledgment and into the particular? Does this mean that school prayers which go beyond simple recognition will be forbidden? What about worship?

Time will tell. Or maybe, I should say, a future Supreme Court will tell. The First Amendment is not the problem. The Constitution is not broken. I do not believe that the RFA will restore true religious freedom in America today.

Mr. GOODLATTE. Madam Speaker, I yield 1 minute to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Speaker, I thank the gentleman from Virginia for yielding me the time.

I support the religious freedom amendment, and I thank my friend, the gentleman from Oklahoma, for introducing the legislation. For 200 years our Constitution was interpreted as allowing for the free expression of religion. It was not until 1962 that a liberal

Supreme Court changed Thomas Jefferson's meaning of the wall of separation between church and State.

The right to free speech is one of the most highly revered rights in our Constitution, but the Constitution does not protect freedom from religion. It guards against having one religion imposed on us all. The drafters of the First Amendment did not intend to bar religious speech and actions. This amendment requires that those who express their religious beliefs receive the same treatment as those who express nonreligious views.

For instance, it will prohibit discrimination against student religious groups and provide them the same opportunities nonreligious groups now enjoy. This amendment will allow public prayers to be offered but it will not require any student to participate. A single student will no longer be able to silence the prayers of others.

I urge my colleagues to support the religious freedom amendment.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Madam Speaker, I thank my colleague from Virginia for yielding time to me.

I rise in opposition to the Istook amendment. It is uncomfortable to be opposing it because I think a lot of Members on both sides of the aisle, on both sides of this issue, feel uncomfortable in talking about prayer because prayer has often been such a private matter. I believe in the power of prayer and I know it works, and that is why it is uncomfortable to be opposing it because I worry, just like my colleague from Indiana, that the Istook amendment goes much further and does things that maybe they do not realize.

Frankly, we already have prayer in our schools. My district, I have a number of public school districts in my district and my wife is a high school teacher. She has been teaching since 1969. She teaches math. And in the last 3 years, ever since the Department of Education sent out their guidelines, "Dear Superintendent," I have this here, if there is a school board member or administrator that is watching today or if some Members want this, they need to ask the Department of Education, August 10, 1995, where it takes the guidelines from the court opinions and where we do have prayer in our schools.

At my wife's high school, Aldine High School, there is Bible study for teachers on their own time. It is voluntary. In the mornings, around the flag pole, that is one of those 10,000 at my wife's high school, 10,000 student groups around the country have the ability to pray every morning voluntarily. There is not an administrator, there is not a teacher there, but it is organized.

I have been honored for a number of years to give prayers at our football games because in the district my kids went to school in, we have four high schools. Obviously, in Texas football is important so we obviously pray for a win. But I have been honored to do. We have prayer at our schools. I worry the Istook amendment goes much further than we want.

The Washington Post on May 7, an article talked about in public schools, religion thrives. We have religious expression in the public schools. That is why it is so important that we defeat the Istook amendment today.

Mr. SCOTT. Madam Speaker, could the Chair advise us of the time remaining?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Virginia (Mr. GOODLATTE) has 29½ minutes remaining, and the gentleman from Virginia (Mr. SCOTT) has 38 minutes remaining.

Mr. GOODLATTE. Madam Speaker, I yield 1½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Madam Speaker, religion is important to every single Member in this House. I think that this is a real healthy debate because Members on both sides of the issue have concerns.

My friend, the gentleman from Virginia (Mr. SCOTT), I would say that when it comes to not shying away from being religious or right, the Black Caucus, regardless if we agree on fiscal issues or not, always stand out in front for their beliefs. I laud especially the Black Caucus. For that they take second to no one in this body. I think because of those reasons and those concerns, I think this is a healthy debate.

But there has been, my concern is that there have been abuses. My wife is a principal in an elementary school. I do not think it is wrong to be able to have a Christmas tree at Christmas, but at the same time I do not think it is wrong to celebrate Hanukkah or any other religion.

When I was dean of a college, one of my staff members, his name was Mostafa Arab, he was on the Shah's Gold Cup soccer team, came to me and said, "Can I pray to my God at the school?" And his God happened to be Allah. I said absolutely. Would I want him to conduct lessons in the Koran? No. But if he wanted to offer a prayer prior to an event, I would say yes.

Maybe that is why this is so much of a problem, is that people do not know what is yes, what is no. But there have been abuses. I support the Istook amendment because I think it clarifies our position. Let us clear up the abuses and support the freedom of religion.

Mr. SCOTT. Madam Speaker, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Madam Speaker, I rise in opposition to this proposed constitutional amendment, which is in the guise of expanding religious freedom but will actually narrow religious freedom for all Americans.

First, there is simply no need for this legislation because the First Amendment to the Constitution already protects religious freedom and expression, including in our public schools and public institutions. But I think more importantly I am in some respects offended by what this amendment seeks to do.

I deeply value the role that religious and moral beliefs have in shaping the history of this Nation and they continue to have today. As a person of faith I personally believe that it is my obligation and right to pass on these beliefs to my children as I see fit, and as do millions of parents across the country.

But I abhor the belief that the State should usurp my authority as a parent to make such a choice, and that is exactly where this amendment is headed. I am offended by those who would seek to impose their will on my children absent my consent. Each of us is less free when a government is given the power to intrude upon this right.

I oppose the amendment, and hope my colleagues would do the same.

Mr. GOODLATTE. Madam Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary.

Mr. HYDE. Madam Speaker, I appreciate being given this opportunity to talk on this very important issue. Essentially stripped of all the verbiage, this amendment seeks a couple of things: basically to permit and to guarantee a right to pray in schools and, secondly, to afford equality of treatment between faith-based social service providers and treat them the same as secular ones.

So reduced to its simplest terms, this amendment provides more free speech by removing prayer in a public space from the list of constitutionally forbidden conduct. It recognizes the value to our society, as the founders and framers did, of religiously-based providers of social services.

So it expands free speech. It does not narrow it. It restores free speech to the original dimensions that we find in the Declaration of Independence, where God is mentioned four times. That must drive some people crazy when they go by the Archives, knowing that in that building is the Declaration of Independence, our country's birth certificate, that talks about the Creator and nature and nature's God in four different places. It certainly would not pass muster with the Supreme Court today.

So this expands free speech and seeks to correct constitutional distortions that have crept into our jurisprudence as a result of a series of misbegotten court decisions.

Now, our Nation, we all agree, was founded by people searching for freedom. The First Amendment properly interpreted, guarantees the free exercise of religion and at the same time prohibits the government from establishing a religion or showing any preference toward any sect or particular religious faith. The aggressive secularism that now constitutes our establishment was never intended by those who drafted and who ratified our Constitution.

It is unfortunate that we must amend the Constitution to repair the damage done to our liberties by foolish and ill-considered interpretations of the Constitution by the Supreme Court, but this is the situation we find ourselves in today. Basic liberties are being infringed because of judicial wrong-headedness and, frankly, secularist bias.

Today we must seek to restore the equality and genuine neutrality with respect to religion that inspired our founders and framers. Neutrality towards religion, not hostility, is the ideal we seek. That is what the Religious Freedom Amendment is intended to repair.

This amendment preaches more than mere tolerance. It says equal protection of the law applies to religious expression with the same force as it does to secular expression. In a word, it preaches equality.

This is not a perfect vehicle, but it makes a statement that I share and am proud to associate myself with.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. WISE).

Mr. WISE. Madam Speaker, I do not question the sincerity of anyone on either side of this issue because people of faith are on both sides of this issue.

I believe in prayer. I believe in God. I believe in the importance of prayer. But I do not believe that the best thing to do is to amend the Constitution of the United States.

Can children pray in school? They are praying every day. They can pray quietly or silently at any time. Bow your head right now, if you want, and say a prayer to your Lord. They can say grace. They can go to a prayer club like thousands are now in schools.

Madam Speaker, my faith, I want to get personal for a minute, comes from my heart. I seek, and I know many do, God in many ways, and we each find him in our own way through our parents, through our churches, through our community groups, through our pain, through our joy, through our many errors. That is how we find God. I take comfort in Matthew, Chapter 6 and Verse 6, "and when thou prayest, pray to thy father in private and he shall hear you." I think those are important words because that is the prayer that the Lord hears.

Madam Speaker, I have great respect for everyone in this Chamber, men and women devoted to their government and to doing right. But with all due respect, I want this Chamber writing laws, I want us writing budgets, I want us writing resolutions. I do not want politicians writing my children's prayers. Let my children find God as we all must find God, through ourselves and our churches and our communities and our parents and our upbringings and our many experiences.

I urge a "no" vote on this amendment.

□ 1345

Mr. SCOTT. Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Madam Speaker, I rise in strong opposition to this amendment. It is both unwise and unnecessary.

We have heard time and time again anecdotal evidence from the proponents of this amendment. That evidence only highlights the need to set the record straight as far as what the establishment clause currently allows in the United States Constitution.

There were hearings held on this issue as identified in the committee report. One of them was held in my hometown of Tampa in which some children were under the misunderstanding they could not carry their Bibles to school, which of course is incorrect.

Our focus here should be on educating principals, teachers, parents and students about what rights they currently enjoy to protect their religious freedom in schools. The United States Department of Education has issued guidelines which clearly state that students have the opportunity to voluntarily pray privately and individually in school, to say grace at lunchtime, to meet as religious groups on school grounds, and to read the Bible or any other religious text during free class time or study hall. These are rights we should jealously protect.

This amendment has the opposite effect. It will introduce the government into policing and refereeing the competing faiths among children in our schools. Far from clarifying the religious freedoms of Americans, this amendment would lead to greater confusion, more court cases, and further misinterpretation by schools and the courts. Is this body ready to endorse the taxpayer funding of religious schools? Are we here today voting to allow judges to lead a courtroom or a jury inprayer before a trail? And ultimately, are we endorsing public school prayers over public address systems? If so, how can we possibly accommodate the diversity of faiths that exist in our society without so diluting the prayer's content that it becomes a watered-down, homogenized recitation? That indeed would trivialize religion and ignore the robust tradition of religion and diversity which has enriched and strengthened our Nation for over 200 years.

We do not need to inject the government into this very intensely personal and private exercise on the part of each individual. We need to use those rights we have, and we need to defeat this amendment.

Mr. GOODLATTE. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. DICKEY).

Mr. DICKEY. Madam Speaker, there is a story that comes from Pine Bluff, Arkansas, that explains why I am for this amendment and want to speak for it at this time.

Some 8, 10 years ago, there was an organization called the Fellowship of Christian Athletes at Pine Bluff High School. A minister had been over the years taking care of it. He got transferred out. He could not find anybody, no faculty member, nobody else. He came to a group of us adults and he said, Would you all take over the Fellowship of Christian Athletes and just kind of monitor it and see if you can continue to do the good that we have tried to do? We said yes.

We met once a week during school. We would have prayer, we would provide prayer before ballgames, we would get the kids at the ballgames to go get the other kids after the game and those that wanted to would pray in the middle of the field, and we did those things.

We also did other things. We tried to raise funds in the community so that we could go to national camp. At one time we sent 75 kids to national camp. They all got together and they sold different things, car washes, and everything else. We did things on the weekends. We would have a hobo olympics on the weekends. No one objected to that.

But all of a sudden there started to come in some objections from other areas. Not the parents or anything else. We had a lot of minority. We would go into their churches when they would have times when they were called to preach and so forth. We would all just kind of converge on the churches of our members.

Then all of a sudden people started complaining. Well, what church is behind this? Or how much is the school paying for this? We had to prove these things and prove these things.

Then came a letter one day and it said, "If you don't stop this, we're going to take your school to court." We had to stop it.

Now, the reason I am here is to tell you that I could not answer the question that came by phone after that. One of the athletes, he was not a very good athlete, but he was an athlete which qualified him for this organization, called me and said, "Mr. DICKEY, tell me, are we going to have FCA next week?" I said no.

He said that he had heard that. He said, "How about the week after that?"

"No," I said, "we're not."

And he said to me a question that I cannot answer. He said, "Why not? What have we done wrong?" I tried to answer him but I could not.

What I hope this amendment will do and what I trust this amendment will do will answer that young man so that we can have organizations like this across the Nation.

Mr. SCOTT. Madam Speaker, I yield 1 minute to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Madam Speaker, if you listen to this debate, you would think that if you oppose this amendment, you are against religion. Nothing could be further from the truth. Many of us who are believers or have a belief do not wear it on our shirt. My belief is that if it ain't broke, we don't need to fix it. This amendment fixes something that isn't broke.

The thing that is most disturbing about it is this. If you look around the world, at Northern Ireland, the Middle East, South Asia, the Azerbaijanis and the Armenians, all of those are religious-based conflicts. We have managed to avoid that in this country.

We have always had a party of fear. There was a party of fear called the Know-Nothings, which was really the base of the Republican Party in the 1850s. They did not like Catholics and they did not like anybody who did not speak English. So they did not like Germans and they did not like Irish immigrants. That is the nature of this debate.

There is an exhibit opening in the Library of Congress today about the issue of religion in this country. My belief is we ought to pay attention to Ignacius who said, "Give me a boy to the age of 6. After that, you can have him."

You choose the prayer in his schools, you affect his life.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, under the first amendment, individuals have a sacred right to religious expression. Students have the right to pray, read the Bible, initiate prayer clubs, and distribute religious materials.

The constitutional amendment before us would go far beyond the first amendment by sanctioning organized prayer and display of religious symbols. Instead of guaranteeing religious freedom, this amendment would actually burden the religious rights of individuals.

Questions like this are presented by the amendment: Which prayer? What symbols? What happens to those whose prayer and symbols are not included?

How is everyone's religious freedom served by this amendment which would allow a particular prayer to be organized, broadcast over the school intercom and participated in by a teacher or other administrator.

The first amendment protects the balance necessary to ensure individual religious freedom. This constitutional amendment jeopardizes that balance so carefully crafted by the founders of our Constitution. Their wisdom prevails to this day and should not be rejected by passing this amendment.

Mr. SCOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time. The Founding Fathers recognized that faith in God was critical to this Nation and any Nation. Indeed, they said that our inalienable rights were God-given, not by the State, not by the king, but God-given.

Mr. Speaker, I believe that no government on earth is powerful enough to exclude my God from any place that a person of faith raises their voice to pray to my God. I believe that faith is critical.

Concern about majority religion prevailing over the masses is not a new phenomenon in Maryland. In 1643, the Catholic community passed the Act of Religious Toleration because they were concerned that the majority of Protestants in the colony would force them to practice the Protestant religion rather than the Catholic religion.

Mr. Speaker, the concern here is to protect faith, to protect church, to protect those who choose to pray and who choose to worship in their own way. I believe that the First Amendment was designed specifically for that purpose.

Roger Williams, indeed a Baptist like me, was an antecedent to the creation of the First Amendment. I believe that we do not need to amend this provision. But we do need to stress that faith in God and raising our voices in prayer continues to be one of the most important things that Americans can do.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, this Nation rests on a foundation of religious liberty. None of our freedoms are more jealously guarded. I would urge my colleagues to approach this amendment very cautiously, because it could very well undermine the freedom we so cherish.

The truth is, this amendment is not about religious freedom, which is already guaranteed in the United States of America. It is not about religious expression in public places, which is permitted under current law.

The amendment is about something else, about allowing one person's religious commitment to encroach on another's, about letting a student prayer leader use school microphones to lead class prayer, or letting a judge lead jurors in prayer.

I am deeply concerned about the impact this amendment could have on public education. This amendment could require public funding of non-public religious schools and shifting dollars and resources from our public system at a time when public schools are literally crumbling and our education system is struggling to keep the resources in our classrooms and keep our students at pace. I urge my colleagues not to do this today.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

Mr. Speaker, I rise in strong support of the Religious Freedom Amendment. Our Founding Fathers never intended the Constitution to be used as an argument against the very freedom of religious expression that brought our earliest forefathers to this great land in the first place.

In the last 20 years, our right to free, personal religious expression has been virtually destroyed by misguided court rulings and wrongheaded public policy. We now live in a world where birth control devices can be dispensed at public schools but a voluntary moment of silent worship is often forbidden.

We have become so afraid of personal religious expression in schools and public places that in my State, ironically a State founded by those fleeing religious persecution, and on a national level, teacher unions are decrying a return to conservative values and, in particular, personal religious expression. They say those values and those religious expressions are a threat to public schools. Why? Because they are liberals, and they are out of touch with 80 percent of the people of my State and indeed this country, who believe that we should get violence out of our schools and allow into our schools personal religious expression. Religious speech is as free as any other form of speech, yet the courts have regulated religious expression more stringently than they regulate pornography. This amendment would return our Nation to a balanced approach that says personal religious expression shall be permitted, not restricted.

This clear, commonsense amendment does not limit. It does not ban. It does not require. It does not proscribe or compel. It simply allows people to exercise that most fundamental of human rights, the right to acknowledge their God and their religious traditions and beliefs in all places, according to the dictates of their own consciences, not just at home, behind closed doors, but in public places, on public property and in our schools.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I teach my daughter she can pray and anytime, anywhere she wants, and my daughter does that. She has taught me a lot of things about prayer. My wife knows she can pray anywhere she wants at any time. I urge my colleagues to recognize that we already have this right. All we need to do is fight for it. We do not need to change the Constitution of the United States.

In a letter that was sent out to the Constituents of the gentleman from Texas (Mr. EDWARDS) the Christian Coalition, said this amendment would allow all Americans the freedom of religious expression in public places and would ensure that school children are not punished for creating a valentine to Jesus or for reading a Bible during free time.

They can do that right now. If someone seeks to punish them, they should use their freedom of speech under the Constitution and protest, however they have to protest.

Let's just fight for our rights under the Constitution, instead of trying to change it.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I rise in opposition to the Istook amendment. I am really concerned that this amendment would have more far-reaching and negative effects than most Americans realize.

First of all, the issue of prayer and religion in public schools touches deep emotions in most Americans. It has spawned much heated debate here in Congress, and in State legislatures across the Nation. In 1978, the State of Maryland passed a moment of silence law allowing schools in the State to incorporate voluntarily a daily moment of silent meditation into opening exercises. A part of this law allows teachers or students to pray or read silently from the Holy Scripture during this moment of meditation. Other States have passed similar laws.

Amending the Constitution is a serious business. Our Founding Fathers were wise to set up a wall separating church from State matters. We should not be rewriting the religious freedom provisions in the Constitution. The establishment clause substantially protects the religious freedom of every American. Under the establishment clause, the bells of religious liberty ring in every corner of our Nation with clarity, with harmony and without discrimination.

I urge my colleagues on behalf of all Americans to vote no on this issue.

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Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise to lend my voice to allow every American citizen the fundamental right to express their religious faith on public grounds. The previous speaker from Maryland, my good colleague, has indicated that the States are starting to do what we are trying to do here in Congress. So the fever and the enthusiasm to have voluntary prayer is spreading across this Nation already, and I think it goes to the heart of the matter that we in Congress need to do this on a national basis.

In fact, in a recent poll in which voters were asked about moral issues that are confronting this Nation, almost 70 percent agree that America needs a religious freedom amendment that would simply allow voluntary prayer.

Mr. Speaker, Benjamin Franklin rose during the gathering of the Constitutional Convention in Philadelphia in 1787 and stated, quote, the longer I live, the more convincing proofs I see of this truth, that God governs the affairs of men, end quote. He went on to suggest at that point that the Convention begin its very own sessions with prayer "imploring the assistance of heaven, and its blessings on our deliberations."

We pray in the Senate, we pray in the House. We are simply asking for voluntary prayer today. Why can not schoolchildren rise today, just as Benjamin Franklin did 211 years ago, and ask for God's providence and assistance at the start of their day?

This amendment is simply the very essence of our Constitution and our cultural history, to allow the free religious expression of the American people that every American was able to enjoy for 190 years of our Nation's existence.

So, Mr. Speaker, I think the Religious Freedom Amendment is very important. It would eliminate the ambiguous constitutional question that has been established as a standard for religious expression. This amendment does not force religious choice on anyone who does not want to participate.

Mr. Speaker, I urge its adoption.

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
May 28, 1998.

PROTECT RELIGIOUS FREEDOM—VOTE FOR THE RELIGIOUS FREEDOM AMENDMENT

DEAR REPRESENTATIVE: On Thursday, June 4th, the House will hold a truly historic vote. For the first time in 27 years, you will consider an amendment to the United States Constitution concerning the fundamental right of an American citizen to publicly acknowledge his or her religious faith. This constitutional amendment will guarantee the same First Amendment protection to religious speech as for non-religious speech, including voluntary school prayer. In a nation that was founded on the principle of religious liberty, we must take steps to restore the rights that our Founding Fathers intended to protect. And in a recent poll in which voters were asked about moral issues confronting the nation, almost 70% agreed that America needed a Religious Freedom Amendment that would allow voluntary school prayer. The Christian Coalition strongly urge you to vote for the Religious Freedom Amendment (H.J. Res. 78).

The most dramatic example of a religious freedom that has been whittled away is the right to religious speech. The right to free speech is one of the most highly revered and protected rights in our Constitution. Yet, a series of Supreme Court rulings over the past 35 years have misinterpreted the Constitution to ban and censor free speech when that speech is religious in nature. Specifically, the Supreme Court has censored free speech in only three areas: inciting violence and insurrection, obscenity, and religious speech. It is absurd for the Supreme Court to equate the act of expressing one's faith in God with expressions of insurrection or obscenity.

This amendment would protect the right of school children to organize prayer during the school day, while explicitly reigning in the influence and participation of the government in such activities. The government, represented by either a teacher or a school administrator, would be prohibited from requiring, writing or forbidding prayer.

With the protection of the Religious Freedom Amendment, courts would no longer issue rulings such as the one in which the judge upheld a teacher's decision to give a young Tennessee student an "F" on a research paper simply because the student decided to write her paper about Jesus. (Settle v. Dickson County School Board). And the highest court in our land would be required to enforce the right of a rabbi to offer a nonsectarian prayer at a middle school graduation.

Enactment of the Religious Freedom Amendment is the only effective means to truly restore our religious freedom. On behalf of the Christian Coalition, I strongly urge you to vote yes for final passage on Thursday, June 4th.

Sincerely,

RANDY TAKE,
Executive Director.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished gentleman from Florida, chairman of the Subcommittee on the Constitution on which I am very proud to serve, for yielding this time to me.

Mr. Speaker, I would ask those of our colleagues here today who argue against this proposed amendment, "What exactly is it that you fear? What is it in this amendment that makes you so fearful of having the American public debate and decide this issue, that causes you to deny even the American people the right to debate and vote on this issue?"

Is it that perhaps, if the American people had the issue presented to them through their legislatures in a clear-cut way what this amendment, proposed amendment, will do, that they might actually in large numbers all across America, not just in my district in Georgia which strongly supports this but all over the country rise up and tell their legislatures, yes, we do want America to return to its roots; yes, we do want schoolchildren to know that perhaps the Bible and the scriptures, the Old and New Testament and other religious writings are better than guns to solve problems? Is that what they truly fear? Because if it is, then I think this debate ought to really recognize that and ought to highlight that here today. America truly is at a crossroads.

Where we see schoolchildren taking up not the scriptures, not the Ten Commandments, but guns to silence their colleagues, their friends in school, their teachers, then something is wrong. Why are we not to try some new approaches, which after all are not really new approaches at all?

This is an old, old approach. It is an approach recognized by our Founding Fathers, recognized through the greater part of our history and in our schools and our community institutions all across America, that in order to solve our problems here on this earth we ought to have the option of recognizing that there is a power greater than ours to which we ought to turn for guidance and for solutions to our problems.

All we are asking here today is for our colleagues to give the American people what the American people not only want but have an absolute right to, and that is a right to debate this issue. I urge adoption of this so that the States can decide this important issue.

Mr. SCOTT. Mr. Speaker, I yield 1¼ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, freedom of religion is certainly a vital cornerstone of this country. The right to pray, the right to seek divine guidance should be unimpaired, and heaven only knows by watching this Congress in action, or this year in inaction, we have more and more to pray about every day.

But throughout recorded history our forebears have recognized the importance not only of religious conviction but of religious freedom and tolerance, for throughout recorded history there have been those who, as Jonathan Swift so aptly put it, had just enough religion to make us hate and not enough to make us love. And so it is this country was founded on the concept of religious freedom, to respect the rights of others, and that concept has served this Nation very well.

As we look around the world today we think of the divisions caused in society over religion. We look to South Asia or to the Balkans or to the Middle East. But indeed we have our own religious Ayatollahs right here in this country. Some of them unjustly attacked our colleague the gentleman from Texas (Mr. EDWARDS), and others like Jerry Falwell have declared, "I hope to live to see the day when there will be no public schools. What a happy day that will be."

That is what this amendment is all about, the movement to destroy public education and to substitute religious arrogance for religious freedom.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Virginia and the gentleman from Texas, Mr. Edwards for his leadership and for yielding this time to me, and it is interesting that he would have the honor of presiding over this very important debate, for it was in Virginia when those very able gentlemen like Madison and Jefferson debated for 10 years this whole concept of the freedom of religion, something we do today in a mere 2 hours? What a tragedy that we have failed to remember those who fled Europe to avoid persecution because of their religion.

Although this H.J. Res. 78, has received so much attention and phone calls are coming in, and it appears at first innocuous. Further, it seems like it is something those of us who are believers would want to stand up and say, "Lord, we want to see this passed," or Allah or whoever we might believe in. But yet it is something that denies the freedom of religion. It interferes with the First Amendment that respects that there should not be a federal establishment of one religion over another. This freedom of religion in our Bill of Rights is a fundamental and imperative part of who and what America is. Both court decisions and the First Amendment have already allowed our children to pray to whomever their ultimate religious guider is.

This is not running away from the freedom to pray. This is to acknowledge what faiths from all over this country have said, like the Baptist Joint Committee that stated, that this amendment is unnecessary and would in fact completely upset the balance our founders provided between the obligations of religion and those of government in a religiously pluralistic society. The Union of American Hebrew Congregations and the Central Conference of American Rabbis have said that this amendment poses a grave danger to the American Jewish community by seeking to radically rework the entire relationship of government entities with religious faith.

I heard my colleague the gentleman from California (Mr. CUNNINGHAM) and he knows that we have respected each others' differences, but yes, we can pray in schools, 10,000 prayer groups around the country pray in our schools, yes, students do gather to pray everyday they are protected by the first Amendment. The question is, who do you want to have dominate the prayer line if this amendment passes? Will you be accepting of everyone's prayer? Or will you want your child to pray quietly and be able to have the freedom of joining groups of like kind and then going to their respective houses of worship, being trained and loved by their parents or guardians as they desire. These same children can read the scripture wherever they might find it and pursuant to their conscience.

This is a bad amendment, and there are too many religious groups to name who oppose it. I take special issue with the characterizations of those of us who believe in the Founding Fathers' premise of the Bill of Rights and the freedom of religion in the purest sense, so that we do not develop a Bosnia or an Ireland who have fought all these years, that we are unbelievers. We do believe and our faith is strong and that faith is exercised under the first amendment.

I resent being accused of being nonreligious and nonspiritual. It is a private issue. It is an issue that we have died for. It is an issue, when our National Anthem was written, the one thing they looked for: Is the flag still there? This flag protects the freedom of religion; H.R. 78 destroys it.

Mr. Speaker, I pray today that we do the right thing today.

Mr. Speaker, I come to the floor of the House today to urge Members to oppose H.J. Res. 78, the "Religious Freedom Amendment." First colleagues let me say that we already have Religious Freedom. It's called the First Amendment. The First Amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Prohibiting the free exercise thereof. The Establishment Clause of the First Amendment prevents the government from funding religious ministries or entangling the government in the affairs of religious institutions. In 1787, Thomas Jefferson said to James Madison "I do not like . . . the omission of a bill of rights providing clearly and without the aid of freedom of religion." Jefferson also said in 1813 to Richard Rush that "Religion is a subject on which I have ever been most scrupulously reserved. I have considered it as a matter between every man and his Maker in which no man, and far less the public, had a right to intermeddle." These constitutional safeguards provide religion with a great degree of autonomy from the influences of government. Thus, the Establishment Clause prohibits the government from funding sectarian institutions in order to further a particular mission. H.J. Res. 78 would overrule this fundamental provision of the Bill of Rights. I am always very wary of any attempt to alter the Constitution of the United States. Amending the Constitution is a serious undertaking. It should be reserved for those rare instances where there is a compelling need to establish rights that cannot be secured by other means. Moreover, it must be done in a manner that expands the rights of all individuals—not that expands the rights of some persons by diminishing the constitutional rights and protection of others.

Although the language of H.J. Res. 78 appears at first to be innocuous, it would, in fact, operate to weaken the First Amendment's Establishment Clause. The Establishment Clause, in conjunction with the surrounding court decisions that have arisen from it, is a carefully balanced set of rules to try to settle the tension between a religious (or nonreligious) people's need to express their religion, and at the same time be free from a Government that seeks to compel religion, either religion generally or a particular religion. The Baptist Joint Committee states that this amendment is unnecessary and would, in fact, completely upset the balance our founders provided between the obligations of religion and those of government in a religiously pluralistic society." The Union of American Hebrew Congregations and the Central Conference of American Rabbis have said that this amendment "poses a grave danger to the American Jewish community by seeking to radically rework the entire relationship of government entities with religious faiths. The National Council of the Churches of Christ in the USA state that this ill-conceived attempt to amend the First Amendment is opposed by most of the mainline churches and synagogues in the United States. They also state that a Congress that prides itself on being somewhat conservative could do nothing more radical than amending the First Amendment.

The National Council of Jewish Women believe that amending the Constitution to protect religious expression is unnecessary. Currently, students can pray silently at any time, and student-led religious clubs can meet on school property to pray and study Scripture. They think that this amendment goes too far. While proponents of this legislation will likely argue that it is intended to bolster individual religious freedom, the Istook amendment is both unnecessary and dangerous. H.J. Res. 78 rests on the false premise that current law does not adequately protect religious expression in public places. The courts, however, continue to uphold religious freedom, making a constitutional amendment unnecessary and duplicative. Recent court decisions have reaffirmed the right of citizens to erect religious symbols in public areas and to have access to public facilities for religious activities. Students have the right to pray, read the bible, and distribute religious materials to their friends.

H.J. Res. 78 would go much further and would permit organized prayer and other sectarian activities in public schools. Any student would have the right to lead the class in prayer or other form of worship, because the school would not be able to "discriminate" against the student's religious expression or exercise. The amendment would also permit a teacher to join in the religious worship, because any attempt to prohibit the teacher could be deemed "discrimination" against the teacher's religious expression or beliefs. The Constitution currently respects religious beliefs as a deeply personal manner. Under this amendment, parents could no longer be certain that the religious beliefs, ideas, and modes of prayer taught in the home would not be undermined at public school. Whether a student is ostracized for refusing to participate in the prayer practiced by the majority of his or her classmates, or is pressured to participate in that prayer, organized school prayer would burden the religious liberty of individual students. H.J. Res. 78 would also have the effect of allowing government funds to go to pervasively sectarian institutions to finance thoroughly religious activities. The amendment would mandate that the government directly fund religious schools, houses of worship, and other "pervasively sectarian" institutions that can not be funded under current law. If a government entity denies funding based on the pervasively sectarian nature of an institution, the religious group could claim "discrimination" under the amendment based on "religious belief, expression or exercise." The Founders of our great nation were all too aware of the dangers of allowing government to promote religion. Such a role on the part of the government would almost inevitably result in the promoting of selected religions over others. Because of that concern, the Establishment Clause prevents the government from funding religious ministries or entangling the government in the affairs of religious institutions. This measure is the fifth amendment considered on the House floor so far this Congress alone—represents a continuation of an unprecedented assault on our Constitution and our civil liberties. It would significantly harm religious liberty in America and is contrary to our heritage of religious freedom that is ensured by our nation's current doctrine of separation of church and state. James Madison and Thomas Jefferson were right two hundred years ago and the American public is right today. We already have a religious freedom amendment; it's called the First Amendment.

I have heard from several of my constituents on this issue. Ryan Dickerson writes: "I believe that the real effects of this amendment go far beyond hat its supporters claim. The amendment would allow government officials to make decisions in their jobs that favor one particular faith." Anne Hanzel writes that, "this legislation, if enacted, would dismantle the existing constitutional separation of church and state by allowing the promotion of prayer in schools, the display of religious symbols on public property, and the use of tax dollars to subsidize private religious schools. Congresswoman, she writers "these are dangerous steps." I leave you with the words again of the great Thomas Jefferson who stated that "I should indirectly assume to the United States an authority over religious exercises which the Constitution has directly precluded them from. It must be meant, too, that this recommendation is to carry some authority. Civil powers alone have been given to the President of the United States, and no authority to direct the religious exercises of his constituents." Let's listen to Jefferson and Madison and defer to the First Amendment. Vote for religious freedom and liberty and Vote No on H.J. Res. 78.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in opposition to House Joint Resolution 78, and I understand that the sponsors of this want to do something positive. They want to help in terms of freedom of exercise of religion.

The fact is that the existing language in the Establishment Clause that this addresses is 16 words long. They propose about 85 words to replace this, and they suggest that the court decisions revolving around these 16 words have caused great consternation, and so they propose to send to the Supreme Court and the other courts of this land 85 words to be involved with in terms of judicial review.

So I would just suggest to my colleagues, just on the basis of that particular analysis, now I understand that there is over 200 years of judicial review, and for a nonlawyer like myself that represents a substantial amount of reading. So what they are suggesting is to set that on the shelf and to add to it these 85 words, and my concern is that in their zeal to in fact provide for greater liberty and exercise of religious freedom they in fact may do something very, very different, adding over five times the verbiage for the courts to interpret.

I think that the fact is that if this is a solution, it is a mighty peculiar problem that our colleagues are trying to deal with. I just suggest that they stop and take a deep breath and look at what they are doing in terms of this constitutional amendment.

This establishment provision in the Constitution, while sometimes being interpreted incorrectly by some institutions and historically has evolved in meaning by the courts, has in fact served us very well in terms of trying to establish the proper balance, regards church and state. I am very concerned that the language that is presented to us today as a solution may in fact wrap our religious freedom around the axle with regards to the exercise of religion an essential liberty. The establishment clause in the Constitution is to establish that freedom, and I hope the Members will vote "no" on House Joint Resolution 78 which undermines the first amendment and our religious liberties.

I rise today in opposition to the Constitutional Amendment, H.J. Res. 78. While I support the right to the free exercise of religion guaranteed to all Americans by the First Amendment, I do not support amending our basic document of governance, the U.S. Constitution, to superimpose government sanction and regulation of religious activities.

This measure is completely unnecessary. The United States already has a Religious Freedom Amendment, which has worked for the past 200 years—it is called the First Amendment! The First Amendment would be undermined by the provisions in this measure, not enhanced. Struggles in the colonies created a distaste about unions of church and state, and fostered a movement to eliminate existing establishments. Therefore, the very first Congress of the United States correctly laid the groundwork for government neutrality in religious affairs.

One major point of contention with this legislation is the issue of school prayer. I want to be absolutely clear about this. I support the right of students to voice their beliefs in ways which do not interfere or disrupt the rights of other students in a school setting. The First Amendment certainly provides for the religious expression by students while maintaining the people's freedom from government-sponsored religion. This measure would tear apart that existing balance.

There are several ways that students express their religious beliefs in schools. Student prayer and religious discussion groups are becoming more common within such settings. Students may speak and express opinions about religion, just as they would speak about political opinions, or any other topics. Students may well express their beliefs about religion in the form of chosen topics, written projects. artwork, and other assignments or endeavors. Furthermore, schools today, with the rights confirmed by the First Amendment, may not bar students from expressing their personal religious views or beliefs solely because they are of a religious nature. School authorities may not discriminate against private religious expression by students. It is clear that the First Amendment provides ample room for religious expression by students, while at the same time maintaining freedom from government sponsored religion.

Not only is this measure unnecessary, it represents a grave risk. The language of this legislation would permit the government to fund establishments such as churches, synagogues and parochial schools. Rather than solve a problem, this creates new problems and undermines an over 200 year old Constitutional balance.

First of all, it creates an entanglement of church and state. Government funding leads, necessarily, to government monitoring. Government-subsidized religion would invariably trigger battles among legislators and religious groups about who gets a cut of the limited money in the public purse. Inevitably, only majority religions would prevail—religions that can, in essence maintain popular support!

This amendment has vast implications regarding school prayer and school funding. Existing interpretations of the establishment of religion clause clearly prohibit government-financed or government-sponsored indoctrination in to the beliefs of a particular religious faith. If the Religious Freedom Amendment were passed, private elementary and secondary schools would be fully eligible for direct government funding. The result? Tax dollars would be diverted to religious school voucher programs. The public will is clear on this point, "public tax payer dollars should be used to support public education".

With some substantial effort, taxpayers already support a school system. They can't and shouldn't be expected to support multiple systems, some of questionable purpose and quality, most with a religious mission, and others which are for the wealthy in our society.

The First Amendment to the Constitution has long served as a protector of religious rights and provide a safeguard against using public funds to establish a religion or advocate religious practices. The amendment has served our nation well, and there is absolutely no reason to alter it. H.J. Res. 78, a transparently politically inspired measure, undermines our liberties. This legislation has been trumped up for political purposes, not to expand the rights of American people but rather to make virtue of force feeding extreme religious views to the public, willing or not to accept those views. The effect would be to dishonor and undermine both of our rights and our liberties concerning religion and free expression. I urge my colleagues to join me in opposing H.J. Res. 78.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

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Mr. ADERHOLT. Mr. Speaker, the Constitution was intended to guarantee freedom of religion, not freedom from religion, but there are those who have clearly been determined to drive out all traces of religion from the public sphere. They have ignored the religious traditions upon which this great Nation was founded.

When a small child in De Kalb County, Alabama, is subjected to two restrictions on how, when and where they can pray, this is not freedom. When tax dollars are used against people that will go to pay court-appointed monitors to go into the schools, this is not freedom.

This amendment does not endorse any one religion, but it, rather, states that religious expression such as prayer, which has deep-rooted significance in the history of this Nation, should not be excluded from the public square.

How can we promote integrity in our leaders and improve the moral fiber of our people without a basis and some absolute standard? George Washington, of course, the Father of our Country, probably said it best in his farewell address when he said morality could not be maintained without religion. His words were, "National morality cannot prevail in the exclusion of religious principle."

As has been mentioned here today, we open each session with prayer in this Chamber, the face of Moses looks down on us all as we stand here this afternoon, and we should not deny that same privilege to our children and the people of the United States of America.

This amendment reaffirms that we are a Nation dedicated to religious liberty, and I am proud to stand here on the floor of the United States House of Representatives to speak out in support of public religious expression and against the proposition that religious values and people of faith should be relegated to the back seat of public life.

I commend my colleague, the gentleman from Oklahoma (Mr. ISTOOK), for bringing this issue to the national attention, and I strongly urge my colleagues to support religious freedom.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, this amendment seeks to solve a problem that does not exist and then quietly create a very serious problem.

There is no constitutional prohibition against children praying in school. Yes, teachers have told children not to read the Bible on the school bus or say grace before meals. Those teachers were wrong. Teachers are not infallible. Children have the right to do that. At all of those many moments during the school day when, without disrupting the regular procedure, children are free to talk, to read, to decide what to do, they may themselves pray, if they have been taught to do so.

The real problem here, and I find this ironic from people who talk about themselves as "defenders of family values," is that there are many in this country who do not think that the average family, left to its own choices, will inculcate enough religion in their children, because any schoolchild who has been brought up to be religious will find innumerable chances during the day in school, and certainly before and after at school clubs that are sanctioned, as they should be, to pray. They can read the Bible on the school bus. They can say grace before they eat. They can say a prayer as they walk to class. They can say a prayer in the school yard at recess.

But people think children, left to their own, will not do enough, so this amendment seeks to allow us as a society to use the mechanism of compulsory school attendance to inculcate in official settings more religion in schoolchildren than they would learn at home.

Nothing now in the law prevents children from expressing themselves religiously, if they have been told to. But people who think they should be in charge of other people's religious instruction think that this does not provide enough. They want to use the coercive school mechanism, so that children who would not otherwise pray will be pressured into doing so, or pressured into doing so in a certain way.

Religion does not need now, as it has not in the past, the help of these self-appointed volunteers. Let us leave religion to the families and to individual choice. That choice can be freely expressed in school, as it can elsewhere, in the way that prayer has always been meaningful.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, let me ask my friends, how has the first amendment failed this country? I do not understand what we are doing here today. How has the first amendment failed this great land?

As with other parts of the Bill of Rights, the Founders had the foresight to set aside this precious area of individual religious choice and belief as free and insulated forever from majority rule, a terribly important central principle in a land as huge and as diverse as ours.

What this amendment, if it were to pass and become part of the Constitution, will do is to reverse that. It will make the use of public places and public spaces for religion subject to majority rule.

For those of you who believe we should have prayer in those places, including prayer in school and other religious observances, please think for a moment again about how fragile this country of ours is in matters of religious tolerance, how much care and work it takes to keep its fabric together, keep it from coming undone.

If we take this step, if we say to our friends in this country who do not share the majority faith, that you will be subjected, as will inevitably happen if this were to become part of the Constitution, in that most private and precious individual area of faith, to having your beliefs subordinated to those of the majority in the public business in this country, think again as to whether that really contributes to keeping this country whole, to living up to that value of one out of many. And reject this amendment.

Mr. Speaker, all year long we've been neglecting our work. There are important measures the House should be taking up, to properly attend to the people's business. But this is not one of them.

In fact, rewriting the bill of rights the way this amendment would do is something we should not be doing—not today or any other day.

This proposal is unnecessary. It's also profoundly unwise. Its adoption would undermine, not advance, our country's heritage of religious freedom. Its adoption would be breaking faith with our proud heritage of liberty.

Its supporters say that its primary purpose is to protect the ability of students to join in voluntary prayers in a school setting. But in fact, that's a problem that's already been addressed. Thanks to the Equal Access Act, passed in 1984 and upheld by the Supreme Court in 1990, thousands of students are joining in prayers and other religious expressions organized not by the state but by voluntary, student-run clubs that meet before or after classes—just like other extracurricular groups.

In fact, the free exercise of religion in America is alive and well among students and adults alike—protected by the same First Amendment whose establishment clause also protects against imposition of state-sponsored religion.

But this amendment is not just unneeded. It's also a bad idea. By revising the bill of rights, it would replace the familiar, balanced protections of the First Amendment with new language, language that hasn't been applied in any context or tested in any court. That means this amendment, if adopted, will create new disputes; it will trade new lawsuits for old ones. In other words, it's a prescription for new controversies, not a recipe for resolving old disputes.

Also, the language isn't just new. It's also very sweeping. The first part of the proposed amendment says "the people's right to pray and to recognize their religious beliefs, heritage, or traditions on public property, including schools, shall not be infringed." Note that this would establish a right that could be exercised on any public property—not just in schools.

Whose right would this protect? Who are "the people"? It could mean anyone and everybody—it could be an individual right of any person. If so, what would that mean?

Well, public school teachers and administrators are people, so arguably this would mean that they stand and recite prayers in classrooms, regardless of the wishes of the students or their parents.

Judges are people, and courtrooms are public property, so presumably all judges could place symbols of their various faiths in their courtrooms, regardless of how offensive this might be to people of other faiths who are legally summoned to come to those courtrooms and to comply with the rulings of those judges.

Sheriffs, prosecutors, and prison wardens are people, too, so presumably they also could insist on offering prayers or displaying religious symbols in their offices or in prisons, regardless of the different religious beliefs of their deputies, the members of the public with whom they come into contact, or the prisoners under their control.

The doctors, nurses, and administrators of Veterans' hospitals are people, and so are their colleagues in city-owned hospitals or similar facilities—so, again, those public properties could be used to emphasize or support one faith, regardless of the views of some of the very taxpayers who support them or the patients they treat.

And the same goes for every other public employee and every public official, great or small, in every community, and on every kind of public property.

On the other hand, as a legal term "the people" often means people acting through their governments, not as individuals. If that's what is meant here, then this amendment may establish a new right for the people of a community, acting through their state or local government, to use public property to set up religious symbols or to otherwise give official recognition to some religious traditions but not others.

So, whatever "the people" may mean, this amendment—even though it starts out by saying that neither the federal government nor any state government can establish any official religion—will have the predictable effect of entangling religion and government throughout the country, leading to exactly the ugly disputes and bitter resentments that have so deeply divided so many other societies. Why would we want that?

And that's not all. The proposed amendment also says "Neither the United States nor any State shall * * * deny equal access to a benefit on account of religion." Again, this would be new language, untested language. What could it mean?

Well, it could mean that religious institutions serving a particular faith could insist on "equal access" to any program funded by any taxes—local, state, or national. According to the many groups who form the National Coalition for Public Education, it can be read to mean "public schools being used to support religious education and * * * tax dollars being diverted to religious schools". Others may not agree with that—but, again, this is new and untested language and so at a minimum it means new controversies, new litigation, new divisions.

As I said, Mr. Speaker, this is not what we should be about. We should get on resolving our problems, not adding to them. We should be working together to meet our country's needs and enabling Americans to improve their lives. We should not be doing things that will produce new and unnecessary divisions and controversies. We should focus on making the government work better, not on trying to revise the bill of rights. We should reject this resolution.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), a member of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, this amendment should really be labeled the religious coercion amendment, or the establishment of religion amendment, because it does so. It establishes religion according to the tenets of the majority in a given local area in three ways:

First of all, it says it is a school prayer amendment, a coercive school prayer amendment. Someone once said that there is plenty of prayer in the public schools; that as long as there are math tests, there will be prayer in the public schools. Of course, that sounds funny, but it recognizes reality. Children are free to pray at any time they want in the schools.

What nobody is free to do is to have organized prayer in a coercive manner, to coerce someone to pray or to have to separate himself or herself from the group and say, "I am different and I do not want to join in your prayer." That is coercive prayer. This amendment would permit that. That is what the Supreme Court does not, and properly does not, permit.

Secondly, this is far more than a coercive prayer amendment in two ways. This amendment says the people's right to recognize their religious beliefs, heritage or traditions on public property, including schools, should not be infringed.

What does that mean? The people, collectively, through their local city council or school district board or legislature, the people's right to put a cross or a Star of David or a crescent or a centaurea symbol above the judge's bench in the courtroom or in the school, will not be infringed.

If you are a member of the minority and a member of a jury and you do not want to be on the jury in front of a religious symbol that is not yours, too bad. If you are a member of the minority in that town, if you are a Catholic and they have a Protestant symbol, or vice versa, and you do not want to be in the school room with that, too bad. Because the right of the people, the majority, to bring their religious beliefs, heritage or traditions into public property, including schools, shall not be infringed.

Finally, what does it say? It says neither the United States nor any State shall deny equal access to a benefit on account of religion. What does that mean? What that means is that you cannot deny access to a benefit on account of religion.

Let us assume we establish, as we have, a hot lunch program for poor people, and let us assume that a church wants to be the agent for distribution of the hot lunch program and submits a grant proposal. That is fine.

But let us assume that that church, as a condition of giving out the hot lunches, wants to subject the people to proselytizing, to a religious sermon or to a prayer first. Right now, they cannot do that. You are entitled to the hot lunch if you qualify. But we cannot deny to the church the benefit of distributing the hot lunches on account of religion, so now we can have religious tests for getting benefits from government. The church cannot be denied the right to religiously proselytize in order to get the benefit of participating in the government program.

This, Mr. Speaker, is a coercive reestablishment of religion amendment, and I submit it is extraordinarily ill-advised.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, the Founding Fathers struggled long and hard over the very issue that we are spending relatively little time on here today on the floor, but I can say I think from listening to this debate that the Members on both sides of the aisle speak from deep conviction. Their comments today about their own personal faith that they bring to this debate I think have made the debate on this issue exemplary. I am particularly impressed by those Members who perhaps do not talk about their religion on a regular basis but who have today talked about their belief in God and the way in which they attempt to communicate with their God through private prayer.

But, unfortunately, I think the amendment we are voting on today is unnecessary and, frankly, could do damage to the first amendment that gives Americans the freedom to practice whatever religion they choose and the protection, which we often overlook, of not having religion forced upon them.

Our Founding Fathers were just as concerned about the people who came to this country to practice their beliefs out from under organized, government-sanctioned religion. This is not simply a concern about religion influencing a secular world. We all believe that spiritualism and prayer can infuse themselves into our public deliberations in a private way, but we are also concerned about somehow government making a determination as to what private prayer can be and what people can do under the first amendment protection of Freedom of Religion.

I am convinced that all of us understand that while there have been some decisions made at some levels of government that have confused or confounded us about the appropriateness of public displays of religion conviction, that the essential benefit of the first amendment of the separation of church and State is ultimately a protection of those who believe in religion and practice it daily.

So I am very hopeful that, despite the elevated nature of this debate and the sincerity with which the positions are held, we will come to the conclusion that it is not timely to abandon the first amendment of the Constitution, now over 200 years old. Protect our rights and vote against this misguided amendment which is so strongly opposed by most of our nations organized religions.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, I think it is time to restore some perspective on what we are discussing and what we are not. This is the text of the Religious Freedom Amendment. "To secure the people's right to acknowledge God according to the dictates of conscience: Neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion."

That is what is at issue before us, and people that do not like it seem to fall into, they say, one of two categories.

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Either those who say there is no problem or those who say, well, there is just no solution. Those who say there is no problem, I have gotten very tired of hearing people say, oh, they already have prayers in school; because we have got math tests, we have got prayer in school; or because we do have Bible clubs that are permitted to meet on school grounds.

Ladies and gentlemen, read the law. Read what the Supreme Court said. They are permitted to meet on school grounds before school or after school. They are not permitted to meet during instructional time like any other student club is: Spanish club, chess club, Future Teachers of America, whatever it may be. They can meet during a recess. They can meet during a lunch time. They can meet during a study hall. But not a faith-based club.

Read the Supreme Court decision on the equal access law. Maybe some are still doing it; they are practicing civil disobedience, and more power to them, because, perhaps, the ACLU and the other groups that oppose this amendment have not gotten around to filing suit there yet. That is why we still have some prayer in different environments. They have not yet filed all the suits.

Someone mentioned football game prayer. Great. I think it is fine. They are suing in West Virginia to stop it. Look at Ohio, with the ACLU suing to stop the use of the State motto, which is "With God, all things are possible."

I mean, they are coming down on it right and left all over the country. Do you say there is no problem, or do you say, well, there is no solution? To those who say maybe there is a problem but this is not the way to go about it, get your heads out of the sand. What are you doing about it?

I could not believe I heard one Member earlier say that, yes, we have a problem but we already have the right to do the same things that this says, so just fight for it. If they seek to punish us, just protest and fight.

What are they saying? Do they or do they not respect a court opinion even if they disagree with it? Are they saying that the solution is for people to go out there and fight against what the Supreme Court has said, or use the orderly process set up by the Constitution to fix it when the Supreme Court has gone astray and has twisted and distorted the beautiful, plain, simple words of the First Amendment? That is what we are trying to do, use the peaceful process to resolve the disputes.

If my colleagues say, well, yes, there is a problem but we ought to do something about it, then what is their solution, and why are they not helping us?

I have heard persons say there is a problem but we do not want this amendment. Those persons have not done diddly to help with this effort. Vote for the RFA.

Mr. SCOTT. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, I had signed on to support this amendment, and I started calling some of my friends that I had known for years. For some 16 years I traveled all over this country and into Canada and places, singing gospel music, and I have been in every kind of church that my colleagues can imagine. I have been in the churches where their religious beliefs led them to take up the serpent. I never did get into that too much, but I have been in all kind of churches.

My grandfather started Happy Hill Baptist Church in Alabama, where I am still a member. I went there last Sunday. About 40 people. People got up and testified and talked about what God had done for them. Over these 16 years that I traveled all over the country, I have seen every type of religious philosophy.

You would think from some of the calls that we have had in our office that only the people that support this amendment can be Christians. You would believe, if you believe these calls that we are having, that unless you support this amendment, that when you stand before the bar of God and you stand before the bar of judgment, they are going to say, "Sorry, you cannot come in here because you did not support the Istook amendment. Sorry about that. You have been good. You have been a good family man. You have supported your children. You have gone to church. You have tithed. But you did not vote for the Istook amendment and you cannot come in here."

My good friend the gentleman from Texas (Mr. EDWARDS), who I have known many years, there is not a better family man, a better moral man in this body than the gentleman from Texas (Mr. EDWARDS). When somebody takes the liberty to send out a massive mailing that says that this man is a bigot, and the author of this amendment last night on television refused and would not say that he acknowledged that he was a bigot, he would not deny it, and when they send out a letter this way and a card and say this man is a bigot, that to my knowledge, and I do not judge, but that is not Christian.

This is one of the finest family men, one of the most devoted men that I have ever met. To say that he is a bigot and there is no place for him in this Congress or in this country because he is against the Istook amendment is wrong.

Ladies and gentlemen, I am leaving this body at the end of this year. I have had threats, and most of the threats that I have had over the years had to do with religious issues. The Christian Coalition is sending out a letter that says this is going to be on the report card: if Members vote against the Istook amendment, we are going to get them in the next election.

Some of this posturing reminds me of the Pharisees when they stood in the temple and said, "Lord, look at me. I have given all this money, and I have done all of this." The people that have labored in the vineyard, that have helped the hungry and the needy, went about their business of praying in private. Give me that crowd rather than the ones that posture and try to make political mileage out of something that is so precious to all of us.

I will say this today. I believe that when I stand before the bar of judgment and God looks at my record, He is going to judge my record, not only whether I voted for the Istook amendment, but He is going to rate me on what I have done to obey His word and to do what I am supposed to do for the most needy in this country. I will take my chances on that.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, few issues are more difficult for a legislative body to deal with than those that affect religion. At issue today is the question of whether the First Amendment to the Constitution should, in effect, be modified.

The approach brought forward today represents an attempt to ensure that the faith which founds our lives as individuals and the religious values that bind us together as a society can have free expression. This is an honorable and most worthy motive and the only credible grounds for opposition must be based on the assumption that the First Amendment to the Constitution crafted by Jefferson and Madison is a greater protection of prayer and worship than the approach brought before us today.

The question this House must answer is thus whether expressions of faith in America will be freer with or without this proposed amendment.

My view is that the Constitution as it currently is written, which carries with it certain court decisions which at times are perplexing, nevertheless better protects freedom of religion than the well-meaning but potentially counterproductive language of the proposed amendment.

I reach this conclusion reluctantly, because I realize this amendment is championed by individuals and groups which have the well-being of our children, families, and Nation at heart.

I also realize we are considering this amendment at a time when a seeming epidemic of lethal violence perpetrated in some instances by children against children has led to deeply troubling questions as to how and even whether the faith and values that have sustained this country for over two centuries can be transmitted to the next generation of Americans.

Yet I am convinced that faith will be freer and thus more meaningful under the Constitution as it is now crafted than under the strictures under consideration today.

Nowhere more than in the First Amendment is the genius of our Nation's founders more clearly revealed. Its sixteen words—"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"—establish for the first time in human history that coercion would be replaced with persuasion in the religious life of a people.

The founders understood that citizens derive their values from faith, but that faith should be practiced willingly, not on demand. Proselytizing under the Constitution can only occur with permission, not compulsion.

I believe Congress would be wise to validate the appropriateness of moments of silent prayer or meditation in public schools, but for all its good intentions, the amendment before us opens the door to the authorization of majority-crafted spoken prayer in public schools. To say that children need not participate and would, for example, be free to leave the room is to deny the coercive power of peer pressure on young people.

As a Member of Congress, I frequently visit schools. When the prayer in school issue is raised, students are generally divided. But to the question: "Assuming prayer is required, would you prefer spoken prayer or a moment of silence?" every class I have spoken to has overwhelmingly indicated a preference for silent prayer or meditation. "Group prayer," one 9th grader told me, "would embarrass too many of my friends . . . It would be unfair."

My advice to the students I talk to is to pray at home, pray in church, pray in school and on the playground, but pray in your way, alone with God, and don't forget to pray for tolerance and those of differing faiths.

Moreover, no matter how carefully and sincerely stated, any prayer, especially if written by an official or arm of the State—i.e., teacher, principal or school board—can too easily offend members of one or another Christian denomination. For some, a "non-denominational" prayer that makes no mention of Jesus Christ would lack depth. For Protestants and Roman Catholics, the difference regarding the status of Mary and the saints and the role of the church hierarchy is profound.

For Jews and Christians, piety takes very different expressions. For Muslims, prayer involves turning toward Mecca and prostrating one's self. For Islam prayer is adoration of Allah, involving no requests and asking no blessings, as most Christian prayers do. For the son or daughter of Vietnamese-American Buddhists a "voluntary" prayer satisfactory to Southern Baptists or the Eastern Orthodox is likely to be unintelligible.

James Shannon, one of the most thoughtful theologians of our times, points out that in both the Hebraic and Christian traditions, specific modes of prayer, going back to Mosaic and early Christian times, distinctly demarcate the prayer lives of scripturally oriented Jews and Christians. The name of God, Shannon notes, is so sacred in the Mosaic code that it is to be used seldom in prayer or speech. Hence the preference in Hebraic prayers for alternative expressions that praise the majesty and other attributes of God without specifically mentioning the sacred name of Yahweh. For Jews there are right and wrong ways to conduct a conversation with God, and it is unlikely a public school board is a competent institutional forum for developing modes of prayer inoffensive to Jewish students.

At the same time, because prayer is the most intimate expression of the human mind and heart, anything prepared with the specific intent of being inoffensive to all would be form without substance, not prayer in any genuinely spiritual sense.

Such an empty effort would be demeaning to sincerely religious individuals and run the risk of leading children to view religion as just another expression of the hypocrisy they already see in so much of the adult world.

On a more mundane level, the amendment before us would permit—or by some readings even require—the government to fund religious activities on the same basis it does secular activities. This would violate the constitutional principle that taxpayers not be forced to support religious institutions. It would also open the door to an unseemly and contentious competition between religious groups for public funds.

More importantly, government funding inexorably leads to government regulation, which would precipitate a most pernicious unintended consequence. Government regulation would undermine the autonomy of religious organizations and in the process rob churches, synagogues, mosques and temples of the vital prophetic role they play in America's national life.

In the United States there is no state "Church." But by recent count there are thousands of organized religious groups which provide solace and inspiration to the individual believers who belong to them. Without intending to do so the amendment before us could undermine the ability of these institutions to serve as independent, vibrant witnesses to our nation on behalf of the values on which they are founded.

Our founding fathers established a Nation "under God," one in which revolution against British authority was premised upon "self-evident" individual rights and an appeal to a higher law of conscience which precedes the more mundane civil laws of society. But in appealing to conscience to justify a revolutionary government, America's first citizens labored carefully to construct, in Jefferson's terms, a wall between church and state.

When erecting this Constitutional barrier between church and state, the crafters of the Bill of Rights looked inward to well as outward and turned a wary eye to the American as well as European experience. They fully understood that it was religious authoritarianism in Europe that drew many of the early settlers to our shores, but that upon arriving in the New World, some like the Puritans invoked a rather exclusionary discipline of their own, with witchcraft trials and stocks and pillories used to coerce alleged nonbelievers. "Who does not see," Madison warned, "the same authority which can establish Christianity in exclusion of all other religions may establish, with the same care, any particular sect of Christians in exclusion of all other sects?" The strength of the haven we have provided for oppressed people the world over comes from a tolerance for diversity rather than an enforced conformity.

It is sometimes suggested by politicians that God has been excluded from the public schools and that we must amend the Constitution to put God back into our schools. Is this not blasphemy? Just as the Supreme Court cannot keep God out of our schools, Congress cannot put Him back in. God is not an object like a bicycle or candy bar. He is the Creator of Heaven and Earth, and anyone—adult or child—may speak to Him from the heart whenever and wherever they are moved to do so. As long as human tribulations exist—whether caused by a math test or unreturned glance—prayer will not be locked out of schools.

Twenty years ago, in the seminal decision of the Supreme Court banning group prayer in public school, Justice Hugo Black wrote that the Establishment Clause "stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate," Justice Black went on to say of the faith in the power of prayer which animated so many of the authors of the Constitution:

> These men knew that the First Amendment, which tried to put an end to government control of religion and of prayer, was not written to destroy either. They knew rather that it was written to quiet well-justified fears which nearly all of them felt arising out of an awareness that governments of the past had shackled men's tongues to make them speak only the religious thoughts that government wanted them to speak and to pray only to the God that government wanted them to pray to. It is neither sacrilegious nor antireligious to say that each separate government in this county should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance.

Rather than stifling prayer or religious worship, the principal purpose of the First Amendment is to preserve religion in the United States from the inevitably corrupting influence of secular authorities.

Finally, that individual to whom Christians look first for religious guidance, Jesus of Nazareth, warns in the Sermon on the Mount to "beware of practicing your piety before men in order to be seen by them." He goes on to say in Matthew 6:6, "When you pray, go into your room and shut the door and pray to your Father who is in secret; and your Father who sees in secret will reward you."

Prayer is an expression of the individual soul's longing for God as the source of all that is true, good, and beautiful. As such, it is far too central a part of life to be tampered with by any government body, be it a local school board or the Congress of the United States.

While the arguments of those who would tamper with our Bill of Rights are not persuasive to this Member, the premise of their arguments cannot be lightly dismissed. America is indeed in need of a spiritual awakening. Evidence mounts every day of the breaking down of family bonds and governmental ethics. But to transfer to the state responsibilities that historically have been the province of the church and family is the ultimate in welfare statism. Americans must come to understand that there are no easy panaceas to moral challenges and no public substitutes for the inculcation of personal values at home.

As for public life, the best reflection of faith is that of example. There is no substitute.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank the gentleman from Florida (Mr. CANADY) for the time. I rise in enthusiastic support of this legislation today.

The Religious Freedom Amendment would not change the First Amendment to the Constitution, nor has the First Amendment failed this Nation, as some of my colleagues have said today. It is a narrow majority of the United States Supreme Court that has inaccurately interpreted the First Amendment. That is why we are here today.

The fact is that we do have emblazoned on the wall behind me the words "In God We Trust". We do have a picture of Moses, one of the great religious leaders of all times. We do begin each session of this Congress with prayer. Oftentimes I might not agree with that prayer, and oftentimes I might not agree with the religion represented, but even so, that in itself is enlightening to me and I am glad for it.

But in auditoriums, gymnasiums and other public buildings around this Nation, people are deprived of that same freedom of religious expression, and that is not what the Founding Fathers intended.

Let me point out, Mr. Speaker, that this debate is not about government-imposed prayer. It is about voluntary prayer. One of my colleagues said he did not want the government writing a prayer for his children. Go back and read this legislation. Nothing in this amendment would allow a school to require prayer or to write a certain prayer for a child. There is no coercion here.

But here is what our children need to know, Mr. Speaker, and this message ought to be sent out from this Congress today: that faith and religious beliefs have always been at the center of this Nation's conscience; that faith-based convictions are an integral part of our Nation today; and that there is no place in America for court-imposed, government-sanctioned hostility to religious expression.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition. Religious freedom flourishes in America. Individuals already have the right to pray, talk about their beliefs, express their spirituality, and read scriptures, whether they are in a school, in a courthouse, or on the street.

The most precious thing about that freedom is that it protects individuality. It forces no leaders and demands no followers.

The so-called Religious Freedom Amendment would rob Americans of their individuality. It would break down the barriers between church and State and permit individuals to force their beliefs on others.

Mr. Speaker, this amendment allows the government to endorse a particular religion by displaying certain symbols. It allows the government to fund sectarian groups and creates the likelihood that some groups will be excluded.

Recently conducted polls show that Americans are pleased about their current religious freedom. More than 60 groups representing dozens of faiths are speaking out against this bill. We cannot let one voice take away our freedoms. We must not let the political right take away our religious right. Vote against this.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on both sides.

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from Florida (Mr. CANADY) has 9½ minutes remaining. The gentleman from Virginia (Mr. SCOTT) has 7¼ minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman from Florida for yielding to me. Mr. Speaker, much has been said in this very interesting debate, and I would just like to put and enter into the record part of what Justice Douglas opined in 1952 in a case entitled Zorach v. Clauson.

Justice Douglas opined that the First Amendment does not say that in every respect there should be a separation of church and state. He wrote that "it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other." That is what the Istook amendment continues to clearly define.

Douglas wrote "That is the common sense of the matter. Otherwise, the State and religion would be aliens to each other, hostile, suspicious, and even unfriendly." I do not think anyone in this body would want to see us reach that result.

Douglas went on to write that "We are a religious people and our institutions presuppose a Supreme Being. When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events" or even prayer "to sectarian needs, it follows the best of our traditions."

The Justice found that there was no constitutional requirement making it necessary for government to be hostile to religion. In fact, he found quite the opposite. "The government", he said, "must remain neutral when it comes to competition between sects."

Justice Douglas said, "We cannot read into the Bill of Rights such a philosophy of hostility to religion."

The government remaining neutral is exactly what Mr. Istook has drafted into this amendment. It allows for all people of religious convictions to be able to pray.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Under existing law, if a student group wants to invite a political figure to address their graduation, they may do so. I remember my brother's graduation. Ramsey Clark was invited, and he gave a political speech. If that same group of students invites a religious person, however, that religious person may not give a prayer. That is the Supreme Court ruling in 1992.

A second example: Right now, if a political group wants to hold a meeting and express themselves at a public park, they may do so, and there is no obligation that anybody else must be there to water down what they say.

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Democrat, Republican, Libertarian, Communist, Independent, all their speech is permitted, with no obligation for anybody else to have to be there to water down what they say. Yet, if a religious group wants to put up a menorah at Chanukka time or a manger scene at Christmastime, the Supreme Court has held it may not do so unless there are also items of non-religious significance so surrounding the manger, so surrounding the menorah, as to deprive it of its religious content.

This is what is known, rather sadly, as the infamous "plastic reindeer rule" of the Supreme Court, that you can only put up a crib at Christmastime if you have enough Frosty the Snowmen, candy canes, snowflakes, and reindeer so as to deprive the religious component of the message.

So I come to the conclusion that given the way the Supreme Court has interpreted the first amendment, religious speech has less protection under our Constitution than does political speech. I do not believe it should have more, but it should not have less.

I quoted two recent Supreme Court opinions that apply in this area of the law. There are others that recently were decided on a 5 to 4 decision going the other way, in fact, going the way that I think it should be, but still, only by 5 to 4. One case dealt with a grant of special education privileges to students who were in particular need of physical rehabilitation, and whether that could be provided on the premises of a parochial school.

The Supreme Court originally said no, I am sorry, you have to take the children down to the fire station, with expense to the school district or to the parents. That was in 1985. Just recently, the Supreme Court eventually got around to reversing itself.

The other recent case is where the Supreme Court said, after a number of years of contrary interpretation, that if a school pays money for some student publications, then it ought also to have to pay money for a school publication by students who have formed a group that is religious in nature.

But look what I have just gone through—two Supreme Court opinions that bind us today that are, in my judgment, quite wrong (that you may only put up a Christmas scene if you have reindeer and that students may not invite a religious speaker who chooses to pray at the commencement address), and two other cases that could have been wrong, but for one Justice.

What we do today is to protect the expression of religion, that it be as fairly allowed in our country as the expression of a political point of view, and we do it the constitutional way.

To those of my colleagues of very good intent who say we must never amend the first amendment, I put to them, please, walk out of our Chamber and look across the street, and they will see the Supreme Court of the United States, where they amend the first amendment regularly. What is wrong with us following the constitutional method, the constitutional route, for doing so?

Let me conclude by saying what is tremendously right about this amendment. If we do not vote for this amendment today, the only way for the States to propose amendments to the Constitution is through a constitutional convention, and then the entire Constitution is open, whereas if we take the narrowly drawn restrictions of the amendment before us today, that is all we put to the States.

We stand in the way of the States' consideration of this amendment. I believe we should vote in favor, to allow the States to amend our federal constitution to guarantee that religion will be on the same level as political speech in our country.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes and 15 seconds to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, in 1994 we got a new majority in this body. They came saying that they were part of a conservative revolution. They were going to be conservative. Who would have ever guessed that that conservative group would have introduced 118 amendments to the United States Constitution? Who would have ever guessed that that conservative group would have voted on 10 amendments in one session, 10 amendments to the Constitution in one session of Congress more than the whole 10 sessions of Congress leading up to it? And they called themselves conservatives, protecting conservative philosophy. They must believe that they are smarter than the Founding Fathers.

So here we are today. We can either have George Washington or we can have Istook. We can have Alexander Hamilton or we can have Istook. That is the choice we have. They say they can draft it better, when our Founding Fathers said it in 10 words: "Congress shall make no law respecting an establishment of religion." They take 86 words to say that they are doing the same thing, using the same word, "establish."

If the Supreme Court is having trouble understanding what "establish" means in the existing Constitution, how are they going to understand it any better in this Constitution? If the Supreme Court is having trouble deciding what it means to discriminate under the existing Constitution, how are they going to have less trouble understanding it under this Constitution?

If the Supreme Court is going to have trouble understanding what it means to deny equal access under the existing Constitution, how are they going to find out, all of a sudden, because the gentleman from Oklahoma (Mr. ISTOOK) drafted 86 words, and the words of our Founding Fathers were not sufficient? It is a cavalier notion to think that we somehow have a better insight into how to deal with this, with the same words, I might say, than the Founding Fathers.

This is not a conservative proposition we are about, here. Amending the Constitution of the United States is a revolutionary principle. Amending the Constitution is a revolutionary proposition, so they can be true to part of what they said. They said they were going to be a revolution, and they can have a revolution, but if they are true to their word that they are going to be part of some conservative revolution, the principle there is to uphold the most conservative document of our country, the United States Constitution.

Mr. SCOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. EDWARDS), who has done such a lot of good work on this amendment, and has taken a very courageous stand.

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from Texas (Mr. EDWARDS) is recognized for 4 minutes.

Mr. EDWARDS. Mr. Speaker, America already has a religious freedom amendment. It was not written by the gentleman from Oklahoma (Mr. ISTOOK), and passed through this House after less than 1 day of committee hearings and 2 hours of floor debate. Rather, it was written by Mr. Madison of Virginia, after debating with Mr. Jefferson for well over a decade, 200 years ago. Those 16 words that begin the first amendment of our Bill of Rights have served this Nation extraordinarily well. We should not change it for the first time today.

Mr. Speaker, I would like to respond to some of the things I have heard on the other side of this debate today. First, I have heard that prayer and God have been taken out of our schools. In fact, the gentleman from Oklahoma (Mr. ISTOOK) this morning in a debate with me said the gentleman from Texas (Mr. EDWARDS) wants to take God out of our schools. Nothing could be further from the truth.

I would say, Mr. Speaker, to the gentleman from Oklahoma (Mr. ISTOOK) and others that the God I deeply worship and pray to cannot be taken out of any classroom, anyplace, anywhere in America, any time, not by the Supreme Court, not by any Member of this Congress.

I have heard it said that we are talking about, as we change the Bill of Rights, student-initiated prayer. I must wonder, that begs the question, are we going to have committees of 8-, 9-, and 10-year-old schoolchildren in the first, second, and third grade with the responsibility to defend the constitutional rights of the other children in that classroom? Children who have a hard time picking up their toys at home are going to be laid with the burden of protecting the constitutional rights of other children in their schoolhouses?

We heard this will be voluntary prayer. There is nothing voluntary, Mr. Speaker, about an 8-year-old Jewish child who, because of his faith, must leave a classroom every morning, since 99 percent of the other children in that classroom and 99 percent of the prayers in that classroom are Christian.

There is nothing voluntary about a Christian child having to leave because his parents do not want him to be forced to listen in a classroom that the law says he must attend, in most States, must listen to an Islamic prayer, or some other prayer.

We have heard a lot about tolerance from the other side, Mr. Speaker. Let me tell the Members about the kind of tolerance that has been engendered by the supporters of the Istook amendment.

The Christian Coalition sent out this letter in my district: "The Edwards bigotry", and they were saying my bigotry because I simply opposed the Istook amendment, "The Edwards bigotry directed at Christians and other people of faith is outrageous and must be stopped. His attitudes have no place in Texas or anywhere in America."

Mr. Speaker, I never thought I would be accused of being un-American because I stand with Jefferson and Madison in defense of that wonderful Bill of Rights. That is not the kind of tolerance we should have. If this is the kind of tolerance and respect we are going to have for diverse religious and political views in every classroom across America, that is the kind of divisiveness our schoolchildren do not deserve.

I have heard that the modern day Supreme Court, the liberal Supreme Court, has somehow prostituted the original intent of our Founding Fathers. Let me first point out that seven of the nine Justices of the modern day Supreme Court were appointed by Republican Presidents, including that well known liberal, President Ronald Reagan.

Let me point out that the gentleman from Oklahoma (Mr. ISTOOK) and I do not have the right to change the Bill of Rights every time we disagree with a court decision. Had we maintained that belief, there would not be a Bill of Rights.

If we pass this today, what is next? Do we amend the freedom of speech, the freedom of association? I ask Members to vote against the Istook amendment. The Bill of Rights have served this Nation well for 207 years.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma (Mr. ISTOOK).

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. ISTOOK) is recognized for 3½ minutes.

Mr. ISTOOK. Mr. Speaker, we are closing the debate on general debate, but we will have a further discussion about a proposed amendment in just a moment. I think it is very important that we keep in mind, Mr. Speaker, that I have heard many people say, we do not want majority rule. That raises a lot of questions in people's minds, because most of the Supreme Court decisions which will be corrected by the Religious Freedom Amendment were decided by the narrowest of all possible margins, 5 to 4 on the Supreme Court. But they refused to correct it. They have refused to fix it.

So I guess they do not want the majority of Americans to rule, they only want the slimmest possible majority on the Supreme Court to dictate and say that, in today's era of political correctness, there is not much worse than having somebody offer a prayer if there is someone else in the room that does not want to hear it.

What a false standard. It is not just about freedom of religion, it is about free speech. If we cannot say something to a group unless everybody there agrees with us, we do not have free speech.

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And if we are told that we cannot offer a prayer when we are on government property, and that is everywhere today, then we do not have the right to pray and we do not have religious freedom, if we only have it when we are in a confined area, selected for us by the U.S. Supreme Court. We are not advocating government interfere with religion. We are advocating that government stop interfering with religion and stop dumping on the constitutional rights.

Now, I heard the gentleman from North Carolina (Mr. WATT) say, how will the Court understand this any better than the first amendment? Because we have taken the same structure and said, do not have an official religion, but this is what the people's rights are. And we have spelled out what is permitted.

And I noticed, maybe it was a Freudian slip, the gentleman read the first part of the first amendment, "Congress will make no law respecting the establishment of a religion," and he entirely left out the next phrase, "or prohibiting the free exercise thereof." Because that is what the Supreme Court has done. They have left out the second part of the first amendment.

They have only focused on there cannot be an establishment of religion; and having a prayer in school is the same thing, the same thing as having an officially chosen church for people in the country; and they leave out the next part of the first amendment that says we cannot not prohibit the free exercise of religion. They are so scared that somebody will be offended that they forget that they have offended almost everybody in the process.

How about the people that want to be able to pray in a group? The Lord taught us not only to pray in private and singly but also to pray together. And if my colleagues do not believe that, read the Sermon on the Mount and see where He prayed with multitudes, not just singly or in private.

Mr. Speaker, we believe in traditions of prayer that are both private and public. They are both good. They are both positive. They are both what should be protected by the Constitution of the United States of America.

The Supreme Court has wrongly said we are only going to protect it when it is private or in secret and nobody else knows about it. We want to be able to come together. Come let us reason together. Come let us pray together.

As four Justices in many of those 5-4 decisions wrote, nothing, absolutely nothing is so inclined to foster among religious believers of various faiths a toleration, no, an affection for one another, than voluntarily joining in prayer together. Justices Rehnquist, Scalia, Thomas and White. That is the standard we seek to apply.

Mr. DINGELL. Mr. Speaker, I rise in opposition to the Istook Amendment. The First Amendment already guarantees the Nation religious freedom. Do we really need another guarantee? The Istook amendment is both unnecessary and dangerous. This Amendment is an attack on the balance struck by two centuries of jurisprudence on the separation of church and state. Indeed, this amendment would put American religious liberty at risk.

It seems to me that the Founding Fathers thought a thing or two about religion. And they felt so strongly about if being a good thing that government should leave it alone—that it is a personal matter. Indeed, they told us that "Congress shall make no law respecting an establishment of religion." But today, proponents of this amendment want to make some law on the subject by changing the Constitution. I can only assume that many of the supporters of this language desire to further the Founding Fathers' notion that religion is good. However, that is where they part company.

The Founding Fathers realized that an important, if not the most important aspect of any faith, is to have the freedom to pursue it as one desires. Indeed, it is curious to me that advocates of the virtues of this amendment would go about advancing religion in a fashion that would effectively force religion on Americans in many settings, including our students in their classrooms. Compulsion controverts freedom. Freedom is vital to our democracy. And that freedom is what has allowed religion to prosper here for all these years. Moreover, what seems to be most religiously constructive is for an individual, if at all, to come to a belief on one's own accord. This amendment would permit an opposite result.

The result of this amendment would be that teachers, judges, generals, and wardens could hold prayer sessions with their respective audiences and limit such prayers to their own or the majority faith of the surrounding community. And it doesn't take much to see that, under this amendment, some actions would be permitted which heretofore have been limited by other powers under the Constitution. For example, could a group of high school students engage in sexual activity on school grounds because their particular faith has taken a literal interpretation of the Biblical passage in Genesis instructing humanity to go forth and reproduce? The answer under current law is clear: No. With the amendment, litigation could result because the students' acts might be protected from "infringement" or "discrimination" by this legislation.

On the matter of prayer in the classroom, government-supported school prayer would make strangers of children who do not share the same beliefs as are being prayed in their own schools. Religious minorities, especially, would suffer. As a practical matter, it is nearly impossible for students who wish not to participate to feel comfortable leaving the classroom. Students will be whip-sawed: excuse yourself and feel ostracized or stay and feel uncomfortable. The prayers could be lead by government officials. Whose prayers could be required for your children? Bahai, Baptist, Catholic, Jewish, liberal, conservative, or Orthodox, Greek or Russian, Muslim, or Mormon.

Already, current law allows for prayer and other religious expression in public schools. This amendment is unnecessary. Students' religious rights are already protected. They can pray individually or in groups and discuss religion in groups. In addition, under the Equal Access Act Congress passed more than a decade ago, schools must give extra-curricular student religious organizations "equal access" to space, time, and resources that is provided to non-religious groups.

Regarding religious institutions, this amendment would permit, if not require, government funding. This is not a proper role of government. Government should not be medding in the affairs of institutions of faith or religion. It would violate the conscience of the American taxpayer who would not choose to support the religions that are aided in such fashion. Already, organizations that are religiously affiliated, like Catholic Charities, but which are not pervasively sectarian, can and do receive government grants for social programs as long as they do not advance religion or discriminate on the basis of religion. The amendment would allow taxpayer resources to go to pervasively religious institutions that would be able to use the funds for their own purposes.

Mr. Speaker, the Constitution should only be amended in rare circumstances and only where necessary. My Republican colleagues view matters differently and propose amendments like this one for political purposes, after only one day of hearings. The reasoned and better approach is not to dismantle our Founding Fathers' wisdom in the Bill of Rights with this amendment. Ours is a proud experiment that has permitted religious freedom to flourish in this country, and we should not change that with a politically-motivated attack on that very freedom.

Mr. STARK. Mr. Speaker, I rise today to oppose House Joint Resolution 78, the so-called "Religious Freedom Amendment." This proposed constitutional amendment would obliterate the separation of church and state and would result in government-sanctioned worship, taxation to benefit religion, and majoritarian oppression.

In order to serve its own interests, the radical right is overlooking what is already current law. Religious expression is protected by the First Amendment, and private religious expression is legal everywhere, including public schools. Under the First Amendment, students can pray silently at any time and even aloud in groups so long as they are not disruptive. Student-led religious clubs can meet on school property to pray and study Scripture. Religious speech in the public square already abounds.

We learned at the beginning of this Republican-led Congress that the government does not hand out money without strings attached. This proposed Amendment to our Constitution goes much further by permitting a wide array of government-sponsored religious expression. It would allow state endorsement and financial support for religious activity not only in schools, but on all public property, including government offices, court houses, and military bases.

It is coercive and vain to impose religion, to require our government to recognize or single-out one faith from another when it is one of thousands of beliefs, faiths, doctrines, and creeds. Allowing government to endorse religion in this way turns religion into a political tool and sends the message that those who do not hold a certain faith are outsiders—and not full members of the political community.

Nearly every mainstream religious group, including the Baptists, the Presbyterians, the Muslims, the Unitarians, the Episcopalians, the Lutherans, and the entire Jewish community oppose this amendment. It is clearly supported by a radical religious minority who seek public endorsement of what should be a private affair.

Rather than promoting religious liberty, the "religious freedom" amendment presents a grave peril to the crucial principles protecting religious liberty that are part of the framework of American law. What is not broken needs no repair.

Mr. LEWIS of California. Mr. Speaker, I rise today in reluctant opposition to this proposed constitutional amendment. I have always and will always support voluntary school prayer. I believe the right of all people to worship according to the dictates of conscience is fundamental. Reviewing this amendment, however, I am not convinced amending the Constitution is the right answer to bring prayer back to our schools.

As some constituents in my congressional district have pointed out to me, a Constitutional amendment could do more harm than good. It is quite possible that, if enacted, this amendment could even be used to force children to be subjected to religious briefs well out of the mainstream. At the very worst, this amendment could be used to shoehorn cult-beliefs into our schools. One thing is for certain, enacting this amendment would result in even more litigation on religious questions going before the same liberal-leaning judiciary.

I have long supported refining the law to allow maximum room for religious expression. You may remember the House of Representatives passed the Religious Freedom Restoration Act in 1993 with my positive vote. But I have been repeatedly dismayed by judicial decisions on religious questions, most recently by the Supreme Court decision in Boerne vs. Flores which overturned the Religious Freedom Restoration Act. I am pleased, however, with the results of the Equal Access Act of 1984 and at least one 1990 Supreme Court decision which got it right. As a result, we now have thousands of voluntary student prayer groups flourishing around the country in public schools as a result.

This is a subject which is very important to me, and I have given it a great deal of thought. It is with reluctance I can not support House Joint Resolution 78, an amendment to the Constitution. Nevertheless, I will continue to work with my colleagues in Congress to find statutory remedies for mistaken decisions of the courts regarding religion.

Mr. POMEROY. Mr. Speaker, I rise in opposition to House Joint Resolution 78, the Religious Freedom Constitutional Amendment. This amendment, which proposes to dramatically alter the First Amendment to the Constitution, is simply unnecessary.

Mr. Chairman, I feel very strongly about preserving the complete freedom of religious expression that is part of what makes this nation great. I also believe that the First Amendment of our Constitution has safeguarded this freedom for over 200 years, and continues to do so today. The First Amendment maintains the delicate balance between the church and state established by the Founding Fathers, and House Joint Resolution 78 threatens this hard-won balance by unnecessarily amending the Bill of Rights of the first time in our nation's history.

However, I do recognize the concerns of several of my colleagues about the impact of certain court decisions on religious expression. Unfortunately, no court can be completely free of human error when interpreting the Constitution. I believe, as do most of my colleagues, that religious expression does have a place in public life. Prayer should not be prohibited in graduation ceremonies. Valedictorians should not be prevented from mentioning God in their speeches. Children should be allowed to engage in voluntary prayer in schools, or anywhere else. By passing House Joint Resolution 78 would not protect religious liberty any more effectively than the First Amendment already does.

Ironically, House Joint Resolution 78 does more to restrict religious freedom than it does to preserve it. By forbidding federal and state governments from denying "access to a benefit on account of religion", House Joint Resolution 78 encourages religious organizations to complete for government funding. Because all groups cannot be funded equally, the awarding of government funds represents unofficial government sponsorship of religious organizations. This is the very situation the First Amendment was enacted to prevent. Government funding of religious groups allows government hands into the workings of these groups, makes them financially dependent on government funds, and is just a bad idea.

Mr. Chairman, I believe that House Joint Resolution 78 needlessly tampers with out nation's strong tradition of the protection of religious liberty. We do not need to amend the Bill of Rights for the first time in our nation's history to protect religious freedom in this country, and I would urge my colleagues to oppose this amendment.

Mr. CLAY, Mr. Speaker, I rise in opposition to this measure because its clear intent is not to ensure the freedom to engage in religious activity on public property, but rather to open the door to the diversion of hundreds of millions of dollars from public schools to private religious schools.

I find it ironic that after three failed attempts to get school voucher legislation enacted during this Congress, the Republican majority is now pushing a constitutional amendment that would make public funding of religious schools lawful. We repeatedly told the majority it was unlawful during the floor debates on the various voucher bills, but they rejected our claim and the court decisions that supported it. I am pleased the majority now admits that their voucher scheme was legally flawed, but I continue to oppose direct Federal funding of religious institutions.

The amendment before us states that neither the Federal Government nor any State could deny equal access to a benefit on account of religion. This would mean that whenever public funds are being dispensed to a non-sectarian organization for a program or activity, a religious organization would be entitled to make a claim to the same funding. The religious organization would be free, however, to integrate their philosophy and practices with its service delivery—something that many taxpayers seeking services might find objectionable. But, as a result of this amendment, these organizations would have a constitutionally protected right to do so, no matter whether the focus of the program or activity is education, health care, housing, or criminal justice.

Mr. Speaker, our Founding Fathers did not believe it appropriate for the Government to subsidize religious activity. I believe that, today, this remains a wise policy. The first amendment to the Constitution has served the Nation well for over 200 years by protecting religious expression while also prohibiting Government entanglement in religious practices. This delicate balance should not be disturbed.

Mr. KLECZKA. Mr. Speaker, I rise today in opposition to House Joint Resolution 78 which would amend the constitution to allow prayer in public buildings, including prayer in public schools.

Of the thousands of issues I have debated and cast votes on as a Congressman, none has been more volatile and contentious, nor has any decision been more agonizing than this, because it touches on religious beliefs and practices which are at the very core of our lives. And it is precisely because of the great importance of this issues, to me and to my constituents, that I must oppose this constitutional amendment. There are three reasons for my opposition.

First, the language of H.J. Res. 78 is seriously flawed, will not accomplish what its authors intend, and may in fact invite the very result—government intrusion into private religious beliefs and practices—which its supporters hope to outlaw. Two distinguished constitutional scholars, whose legal and conservative credential are unquestioned, submitted testimony at House Judiciary Committee hearings held on this resolution last summer, and each drew the same conclusion: H.J. Res. 78 is fundamentally and, in their view, fatally flawed.

Consider the observations of Professor Michael W. McConnell of the University of Utah College of Law, who said: ". . . the supporters of this amendment are to be commended for continuing to focus public attention on the importance of religious freedom . . . [but] the multiple ambiguities in the current proposal make it an unacceptable vehicle for accomplishing its intended purpose." And the statement of Michael P. Farris, a constitutional lawyer and President of the Home School Legal Defense Association, who said: "I am in full accord with the principle goals of [the resolution's] supporters. I want to fully invigorate the right of the free exercise of religion. I simply point out that I do not believe this language achieves the goals of its well-intentioned supporters in either the free exercise or establishment arena."

Second, three recent Supreme Court decisions have substantially strengthened the freedoms at issue in this debate: The Court held that private religious speech is a right entitled to as much constitutional protection as private secular speech (Capitol Square Review & Advisory Board v. Pinette (1995)); that it is unconstitutional for a public institution to deny benefits to an otherwise eligible student organization on account of the religious viewpoint of that organization's publications (Rosenberger v. Rector & Visitors of the University of Virginia (1997)); and that its earlier decision forbidding certain types of educational assistance to children attending religiously affiliated schools should be reversed (Agostini v. Felton (1997)). According to Prof. McConnell, the reach of these decisions, along with similar rulings in the U.S. Court of Appeals, "represent a major step forward, and in fact solve a majority of the problems with [this] constitutional doctrine . . . " In short, the resolution's broad and ambiguous language would, if adopted, threaten the reasonable gains which these recent Court decisions embody.

Finally, and perhaps most importantly, though, I believe that any constitutional amendment—but especially one such as this which is so central to who we are as a nation and as individuals—should endure debate, examination and scrutiny of the most rigorous standard before it is ratified by lawmakers and the people we represent.

It is no accident that, despite hundreds of attempts, the Constitution of this beloved nation has been amended a mere 27 times since its ratification in 1789, and 10 of those were ratified at once as the Bill of Rights. The original authors understood the importance of this document, and possessed the wisdom to write it as a timeless testament to freedom from oppression and tyranny, political and religious. As I reflect on this blessed history, I harbor no doubt whatsoever that each and every one of those men beseeched his God—the same God to whom we turn every day for guidance—to bestow on him the wisdom to understand the profound historic moment they were creating with His helping hand. That guidance served them well then, serves us well now, and requires no constitutional amendment upon which to draw its strength and purpose.

Mr. POSHARD. Mr. Speaker, after much reflection and careful consideration, I must rise in opposition to this resolution, a constitutional amendment intended to preserve the freedom of religious expression. This is not a decision I make lightly, and because of the complexity of this issue, I feel compelled to share with my colleagues my thoughts and concerns.

Like most Americans, and I am sure like all of my colleagues, I believe very deeply in our Constitution and its Bill of Rights. Amending this document and altering in any way its fundamental principles, which have guided this nation through centuries of growth and change, is something to be done only in the rarest of circumstances. I have been extremely reluctant to tamper with the delicate balance of political and moral tenets embodied in the Constitution, and I am not prepared to do so today.

For 200 years, the First Amendment has guaranteed the protection of all Americans from government intrusion on religious freedom. Under this amendment, students currently enjoy significant opportunities for religious expression within the school environment. School children are free to say grace before lunch, pray privately, read the Bible during a study period, distribute religious materials to their friends and join voluntary religious clubs. I strongly support a moment of silence in schools, during which students could pray, reflect or meditate according to their own beliefs and desires. However, Representative ISTOOK's amendment would go much further by permitting organized prayer and other sectarian activities in public schools, as well as in other public arenas such as courtrooms and government offices. We cross a dangerous line when we move from respecting a student's right to pray in private to imposing a particular kind of prayer or expression of faith on a group of students regardless of personal choice.

Under the First Amendment, government is not permitted to entangle itself in the affairs of religious institutions. This is a fundamental safeguard which has allowed many religions to flourish in this nation and has provided religion with a large measure of autonomy from government influence. Rather than preserve this separation, the Istook amendment would permit, or even require, the government to fund religious activities on the same terms as secular activities. It would, in essence, allow the use of tax money to advance particular religions, without regard for the personal, spiritual beliefs of individual taxpayers. Furthermore, once religious organizations begin to receive government assistance, they become subject to government restrictions, further infringing upon the fundamental guarantees of the First Amendment.

Mr. Speaker, my faith and religious convictions are deeply held. I unequivocally support the right of all Americans to practice and express their personal religious beliefs and the right of all students to worship privately in a school setting. However, I believe that we already have a Constitution and Bill of Rights which guarantee these freedoms. We must remain vigilant and ensure that government continues to respect and protect the freedom of religious expression that has been enjoyed in America for over 200 years. But we must not allow government to become entangled with religion in such a way that the delicate balance constructed by our Founding Fathers is upset. I will therefore vote against this amendment, secure in the conviction that the deeply personal choices inherent in religious faith should remain not with government, but with the individual where they belong.

Mrs. EMERSON. Mr. Speaker, I rise in strong support of H.J. Res. 78, the Religious Freedom Constitutional Amendment. I am proud to be an original cosponsor of this bill and would like to thank the author, Congressman ISTOOK, and Judiciary Chairman HYDE for their hard work on this critically important issue.

President Reagan once remarked, "The First Amendment of the Constitution was not written to protect the people of this country from religious values; it was written to protect religious values from government tyranny." President Reagan recognized that the Founding Fathers did not intend for the First Amendment to limit or prohibit all religious expression in public life, which has been the unfortunate interpretation of liberal courts and high-minded bureaucrats. The courts and bureaucracies have systematically eroded our First Amendment right, which is why the legislation before us today is so necessary.

One of the most glaring injustices resulting from liberal court rulings is the restriction of voluntary school prayer. It is a disgrace that the law actually discourages children from religious expression. I have authored a Constitutional Amendment, H.J. Res. 12, to reaffirm the right to voluntary school prayer, and H.J. Res. 78 would also achieve this important goal.

I urge a strong yes vote on the Religious Freedom Constitutional Amendment.

Mr. WELDON of Florida. Mr. Speaker, I rise in support of H.J. Res. 78, a Constitutional Amendment restoring religious freedom, of which I am a cosponsor, because I believe strongly that it is necessary to restore the rights of individuals to freely express their religious convictions wherever they may be: the workplace, a school, or on government property.

It is essential that we ensure the religious liberties guaranteed in the Constitution to all Americans. I believe that in many instances, the pendulum has swung in the opposite direction and, in response to fears of lawsuits, government and school officials have been overly restrictive and, in many cases, have denied individuals their Constitutional rights to express their religious views in the public sphere. Also, in the workplace some employers have silenced religious expression because of fear of lawsuits by employees who are intolerant of religious expression.

It is wrong for a teacher to give a child a failing grade because the child chose to write their school assignment on Jesus Christ. It is also wrong to stop a child from saying a blessing over their meal at the school cafeteria. Also, it was wrong for the courts to rule that a moment of silence at public school is unconstitutional because it could be used by students for silent prayer. These acts have silenced religious expression and run counter to the First Amendment.

This Constitutional Amendment declares that people have a right to pray and to recognize their religious beliefs, traditions, and heritage on governmental property and in schools. In addition, it states that the government cannot require people to participate in religious activities, discriminate against religion, initiate or designate school prayers, or deny equal access to a benefit because of a religious affiliation. I rise in full support of this amendment which will remedy the damage done by past court decisions that have silenced religious expression.

Mr. PORTER. Mr. Speaker, I rise in opposition to the resolution offered by my good friend from Oklahoma, Mr. ISTOOK. Our first Congress carefully drafted the First Amendment of the Constitution to include special protections for religious freedom. The government may not impose or establish religion, nor may the government restrict individuals from practicing their religion.

I believe that the First Amendment and the Equal Access Act adequately protect religious liberty in public schools and other public places. The Supreme Court already permits voluntary, individual prayer in public schools. Given the degree to which American school children and their teachers enjoy the right to freedom of religion, the proposed constitutional amendment seems entirely unnecessary.

My opposition to this proposed constitutional amendment does not reflect hostility toward religion. To the contrary, I am sure that all citizens treasure the religious freedom we enjoy in our country. For well over 2000 years, the First Amendment has guaranteed our right to worship as we choose, while at the same time guaranteeing our right to be free from religious coercion, We already have a "Religious Freedom" amendment, it is the First Amendment, and it has served our nation well.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to the Istook Amendment. I believe prayer, reflection and spiritual observation are important individual liberties—liberties that are already protected by the First Amendment. Our First Amendment freedoms are the basis of our democratic institution. It is precisely because of these constitutionally protected freedoms that our country has flourished.

At a time when most Americans want the government to leave them alone, the Istook Amendment injects the federal government into an argument where it is not needed—to regulate prayer in our nation's classrooms. The Religious Freedom Amendment would authorize government-sponsored prayer; I think this sets a very dangerous precedent. The government should not be in the business of approving or disapproving specific prayers in public places—including schools. The government instead should be working to keep our constitutionally-protected right to freedom of religion. Today, America's school children can and do pray in their own schools, during recess, at breaks and before and after they go to school. The lesson to pray is one taught by their parents at home, not by their public school teacher.

The Istook Amendment is a threat to preserving our freedom to worship as we see fit and without government interference. Will schools and the government begin to decide which prayers and which religions are "good" for our children? In my opinion, this opens the flood gates for community division based on religious beliefs. If a school has a class of Catholic, Muslim, Baptist and Jewish students, what time do each of them pray? Are some students excused so that an organized section of school time can be set aside for a specific religion's prayer? These children now pray as they are allowed under the First Amendment. Nothing more is necessary.

I can think of few issues other than school prayer which create such a debate on this House floor and across the Nation. I would like to point out again we already have voluntary prayer in schools. Quiet moments or periods of reflection, before school meetings and after-school religious clubs have been protected by our courts and by Congress. Thousands of students across the country are exercising their right to express and debate their religious views at school.

I am also concerned that this amendment could mandate the use of public funds to support private schools. We have many problems in our education system. We will have many more if we allow limited tax dollars to be diverted to nonpublic education. Rather than siphoning money away from public education, we should focus on fixing the problems so that all school children will benefit. It is bad public policy to abandon our federal commitment to public education. What will happen to students left behind in public schools when their resources are given away?

Mr. Speaker, America's children have all of the protection they need without further government oversight of school prayer. I urge my colleagues to vote no on the Istook Amendment.

Mr. HOSTETTLER. Mr. Speaker, I rise in reluctant opposition to this amendment because I understand the motivation behind the Religious Freedom Amendment, or RFA, and share its supporter's frustration with the Supreme Court's misguided applications of the First Amendment.

But the RFA is the wrong means to instruct the Court. In fact, I fear that should the RFA be ratified, supporters of religious freedom will—for a short-term gain—jettison the very heritage they seek to protect.

My colleagues, the RFA is not a clarification of the First Amendment, it is a new amendment.

This becomes clear when we consider the establishment clause of the First Amendment, which we are today seeking to amend.

The establishment clause states, as it has since 1791, that "Congress shall make no law respecting an establishment of religion."

This clause is not without meaning.

Let us first take the term "Congress".

This term clearly limits the application of the clause to the federal legislature, not to the states. In fact many states had established religion at our nation's founding. Massachusetts, for example, paid the salaries of the Congregational ministers in that state until 1833—42 years after the ratification of the First Amendment.

Indeed, it was even proposed but then rejected by Congress to directly apply the religious clauses of the First Amendment to the States.

In 1876, eight years after ratification of the Fourteenth Amendment, Congress considered a constitutional amendment introduced by Senator James Blaine of Maine.

The Blaine amendment read: "No state shall make any law respecting an establishment of religion or prohibiting the free exercise thereof. * * *" This amendment was debated at length and defeated in the Senate.

With this clear legislative precedent, one must wonder how the establishment clause came to be applied to the States.

Well, the fact is that it did not occur until 1947.

In that year, the Supreme Court—for the first time—decided that the establishment clause should apply to the states.

The Court found—despite a complete lack of historical evidence—that the phrase "liberty" in the Fourteenth Amendment included, or in their words "incorporated" the establishment clause. Keep in mind, the Fourteenth Amendment was ratified eight years prior to the Blaine amendment's failed attempt to apply establishment principles to the states.

Since 1947, the Court—with its newfound power over the states—has prohibited all 50 states from allowing prayer, Bible reading, and the posting of the Ten Commandments.

What has the Supreme Court's application brought us? A severe curtailing of the public expression of religion.

As Mr. ISTOOK has pointed out, in nearly every state of the nation our local and state officials have come under the control of the Supreme Court not only out of touch with the Constitution, but also a Supreme Court with its own policy agenda.

And herein lies my first objection to the RFA.

Rather than keep the control over the public expression of religion with state and local government—as did the First Amendment until 1947—the RFA legitimizes the Supreme Court's control.

If this amendment is ratified, our states will forever lose their ability to define the appropriate level of public expression of religion.

The RFA is not a clarification, it is a new amendment.

So what did the establishment clause prohibit Congress from doing? It says "Congress shall make no law respecting an establishment of religion."

What is an establishment?

Clearly, it refers to the appropriate level of expression of religion either on public property, by public officials, or through public funds.

What level of public expression of religion constitutes an establishment has been the subject of much debate.

Opinions currently range from those, on the one hand, like Justice Joseph Story in 1833 and the House and Senate Judiciary Committees in 1853 and 1854, who believed that establishment means a national church or denomination, to, on the other hand, the current Supreme Court which believes that any government action that might advance religion constitutes establishment.

Whatever the historical meaning of the term "establishment," I have reservations about the RFA's apparent re-interpretation of that term.

The language of the RFA suggests that any action beyond "acknowledgment" or "recognition" of God is in violation of establishment.

Indeed the entire amendment is prefaced on the mere right to "acknowledge."

Does this mean that thirty years from now we will be told by the Supreme Court that mentioning the Bible, or wearing a cross, or crossing yourself, is prohibited by the RFA because it goes beyond acknowledgment and into the particular?

Does this mean that school prayers which go beyond simple recognition will be forbidden?

What about worship?

Time will tell.

Or maybe I should say, a future Supreme Court will tell.

The First Amendment is not the problem. The Constitution is not broken.

The problem we face is with judicial misinterpretation, or misapplication, which Congress could address, if it had the will.

What we are really doing here, my friends, is redefining the meaning of religious freedom which was cherished and flourished until 1947—when a Supreme Court on its own agenda—ventured into the policy arena.

We are limiting religious freedom under the RFA to the right to merely acknowledge or recognize.

I do not believe that the RFA will restore true religious freedom in America.

Mr. PACKARD. Mr. Speaker, I rise today in support of H.J. Resolution 78, the Religious Freedom Amendment. This bill will guarantee that individuals may recognize and express their religious beliefs, heritage or traditions anywhere in America, including public schools.

Let me point out that H.J. Res. 78 does not mandate religious worship in public schools, allow the government to promote religion, or force people to pay taxes to support religion. In fact, it specifically states that "the government shall not require any person to join in prayer or other religious activity."

The Bill of Rights guarantees the freedom of religion, not freedom from religion. I find it very disturbing that while the courts support the rights of everyone from flag burners to Klansmen, activist judges continue to restrict religious expression anywhere and everywhere in America.

The Amendment we are debating today is very simple. We are not just protecting any particular religion or set of beliefs. This amendment protects the very foundation this nation was built on and it should be supported by every Member of this body. Mr. Speaker, this is a subject of deep personal conviction for me. Again, I rise to support the Religious Freedom Amendment.

The SPEAKER pro tempore (Mr. DICKEY). All time for general debate has expired.

AMENDMENT OFFERED BY MR. BISHOP

Mr. BISHOP. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BISHOP:

Page 3, line 18, strike "acknowledge God" and insert "freedom of religion".

Page 4, beginning in line 1, strike "discriminate against religion, or deny equal access to a benefit on account of religion" and insert "or otherwise compel or discriminate against religion".

The SPEAKER pro tempore. Pursuant to House Resolution 453, the gentleman from Georgia (Mr. BISHOP) and the gentleman from Florida (Mr. CANADY) each will control 30 minutes.

PARLIAMENTARY INQUIRIES

Mr. ISTOOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ISTOOK. Mr. Speaker, I want to make sure that everyone understands, the amendment that is offered by the gentleman from Georgia (Mr. BISHOP), which is very worthy of consideration, actually has two different topics that are addressed in it. I believe under the Rules of the House that it is proper to request a division when it comes time to vote so we will have separate vote on the first issue and then a separate vote on the second one.

I want to make a parliamentary inquiry if that is correct and if it is at this time or a later time that I need to make the request for the division.

The SPEAKER pro tempore. The gentleman may make that request now.

Mr. ISTOOK. Mr. Speaker, I request that when the vote is called upon the amendment now before the House, that the question be divided so that we may vote separately on the first part relating to the mention of God, and the second part separately relating to benefits.

Mr. SCOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SCOTT. Mr. Speaker, I would ask if this is permissible under the rule that was adopted for the consideration of the bill.

The SPEAKER pro tempore. The rule does not prohibit a division of the question for the purposes of voting on the amendment.

Mr. ISTOOK. Mr. Speaker, I request that division.

The SPEAKER pro tempore. The question on adopting the amendment will be divided between the first instruction to strike and insert on page 3 and the second instruction to strike and insert on page 4.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very, very serious and profound amendment. And as all of the speakers thus far indicated, this is not to be taken lightly.

I offer an amendment to the Istook amendment. While I am a cosponsor of Istook, I do believe that Istook can be improved upon to meet some of the objections raised by the critics. But before I get into the details of my amendment, I would like to make some general comments.

Many years ago in England, Charles Dickens wrote in his book, A Tale of Two Cities, tnat it was the best of times and it was the worst of times. Today, here in America, I am reminded of those words, for we, too, have the best yet the worst of times.

On the one hand, times are good. The economy is booming; the stock market is soaring; employment is up; wages are up; inflation down; interest rates down; corporate profits up. The deficit is coming down. The budget is on the way to being balanced. The major crime rate is down. More people are healthier and have access to health care than ever before. Things appear to be going well.

But, on the other hand, there are strong indicators that our morals have decayed and that too many of our children are not learning and living the high moral values and do not have the respect for human life and human property.

Youth crime and violence is up. Children are breaking and entering and stealing guns and ammunition and opening fire on their teachers and their students, and youngsters angry at parents set fire to the beds that they are sleeping in, killing them without remorse.

Drive-by shootings in urban and rural areas killing rap stars and innocent babies persist. Drugs, dropouts, hopelessness, 12- and 13-year-olds fully believing that they will not live to see their 21st birthday. Yes, it may be the best of times, but it is also the worst of times.

When I was a boy growing up in Mobile, Alabama, each and every day for 12 years I started school with The Lord's Prayer, the Twenty-third Psalm, the Pledge to the Flag, and My Country Tis of Thee. The stated moral values that are repeated day in and day out in those passages of the respect for the flag, the patriotism learned from the pledge and the song gave generations of students, including me, a foundation of character, patriotism and love for our country.

That is not so today. For over 30 years with the series of Supreme Court decisions, the pendulum has swung away from the freedom of religion that was envisioned and embraced by the Founding Fathers, to a wall of separation, of hostility and of contempt for the expression of religious faith in public places, including our schools.

There is now more protection for nude art and pornographic literature than there is for religious expressions in public places. That, Mr. Speaker, is simply not right.

So I congratulate the gentleman from Oklahoma (Mr. ISTOOK) for leading the effort to restore religious freedom to our public life. I am a cosponsor of the Istook amendment, and I intend to vote for it. But I believe that it can be perfected and it can be made just a little bit better.

The first portion of my amendment, which has been asked to be divisible, would establish as the amendment's purpose to secure the people's right to freedom of religion, as opposed to the committee's version, which would secure the people's right to acknowledge God.

Because God is a term that is used in western religions to refer to a deity, but other religious faiths use other terms rather than God, such as Allah or Vishnu or Shiva or Brahma, in the case of Hinduism, or Kami, in the case of Shintoism. And some such as Taoism do not center themselves about a deity.

I believe, Mr. Speaker, that in order to make the Istook amendment more ecumenical so that it will not be targeted to those of us who share the Judeo-Christian faith but rather open to reflect the diversity of all of America's religions, I believe that it would be appropriate for us to amend that language.

The second part of my amendment would simply remove some of the language that has been criticized by speaker after speaker today, and that is the language that is called the equal advice language that would remove the denied equal advice to a benefit language and prohibit the United States or any State from requiring any person to join in prayer or other religious activity, prescribe school prayer or otherwise compel or discriminate against religion.

This would eliminate a lightning rod for litigation or what would constitute equal access. Here we are dealing with something that is obviously going to cause reasonable minds to disagree. Rather than fret over that, if we can protect religious expression and carefully crafting the language so as not to invite disagreement, I believe we can accomplish the purpose.

Mr. Speaker, I do not have all of the answers to what is happening in our society today. But I believe that the values that I learned day in and day out for 12 years reciting those passages of scripture, the prayer, pledging to the flag and singing My Country Tis of Thee helped give me a grounding in values and respect that seems to be devoid with today's generation.

It is my hope that by the adoption of the language in the Bishop amendment that we would be able to accomplish the purpose of restoring the right of people to stress their religious heritage and faith in public places, including schools, without discrimination and without the ethnocentric or Judeo-Christian emphasis on an anthropomorphic God.

I would ask the Members of this House to consider if they do not feel comfortable voting for the Istook amendment as drafted, here is something that they can vote for. It answers the problems that many of the critics have raised, and it still accomplishes the purpose.

If this amendment is adopted, our Constitution would simply have these additional words: to secure the people's right to freedom of religion according to the dictates of conscience, neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers or otherwise compel or discriminate against religion.

Here we have it. Fully balancing the right to participate and to express religious traditions and faith or not to do so. Not tipping the balance one way or the other.

I would like to ask that Members consider this is not coercive, this is not a religious test for benefit of government. In fact, we remove the benefits language altogether. It is clear that there will be no establishment of a religion. It is clear that people will be allowed to recognize their beliefs and heritage on public property, including schools and that that will not be infringed.

□ 1515

How will that happen? People say we do not want to embarrass a child. This will foster diversity. One of the beautiful things about America is that we have a diverse population. And as early in life as school children can learn that there are differences that need be respected, the better we will be and the better they will be as adults. So if they can learn to hear dissenting or differing views in the proper context on an equal basis, that would, I believe, stimulate the democratic principle of diversity and would help us to have a much more congenial society, helping us to be able to disagree agreeably.

I believe that if we adopt this language, this will take place.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do rise in opposition to this amendment. I want to acknowledge that the gentleman who is proposing this amendment has been a supporter of the underlying proposal and I appreciate his support for this proposal. I respect his motivation in offering these amendments. I understand that he believes that this is a way to improve and perhaps make the amendment somewhat less controversial, but I must strongly oppose the amendment offered by the gentleman from Georgia, notwithstanding my respect for his intentions.

I would just ask that the Members focus on exactly what the proposal of the gentleman from Georgia would do. It essentially has two provisions, as he has explained. I think if we look at these two provisions, we should conclude that this amendment is not worthy of adoption by the House.

The first provision in this amendment would simply remove the reference to God in the phrase "to secure the people's right to acknowledge God according to the dictates of conscience." It would take that reference to God out of this proposed amendment to the United States Constitution.

The other provision that the gentleman has proposed would eliminate the prohibition on the denial of equal access to benefits on account of religion that is contained in the amendment.

I believe that both of these proposals would move the amendment in exactly the wrong direction. I would simply ask Members of the House to consider, what is the problem with recognizing the people's right to acknowledge God according to the dictates of conscience? I am afraid that this amendment that the gentleman is proposing fits in with the prevailing politically correct view that it is somehow inappropriate or offensive to mention God in our public life. That is one of the things that we are attempting to combat with this particular amendment.

Again, I am struck by the irony that we would be considering a proposal to remove God from the underlying amendment as we stand here in this Chamber debating, when on the wall inscribed above the Speaker's chair are the words "in God we trust."

Mr. BISHOP. Mr. Speaker, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Georgia.

Mr. BISHOP. Mr. Speaker, the gentleman is aware that nowhere in our existing Constitution now does the word "God" appear, not even in the First Amendment. And while we recognize that on our money and in the Constitutions of most States the word "God" does appear, not in the supreme law of the land, our United States Constitution.

Mr. CANADY of Florida. Reclaiming my time, Mr. Speaker, I understand the gentleman's point, but I think that the fact is that I believe in all 50 State Constitutions reference to God is made. In our Declaration of Independence reference is made to the Creator. Throughout our life as a Nation references have been made to God in public documents and public events. So to attempt to cleanse the underlying amendment of the word "God" I think is simply moving in the wrong direction and is inconsistent with the fundamental purpose of this amendment.

I would just suggest to the Members that they look at what this amendment would do and judge it in light of the history of our Nation and in light of the 50 State Constitutions.

Turning to the second part of the amendment, which would remove the prohibition on the denial of benefits on account of religion, I would simply ask, why should anyone, any individual or any institution, be denied a benefit on account of religion? Why should we allow that to take place?

Why should any person or any institution be subjected to a disadvantage because of that person or institution's religious nature or religious activity? It seems to me to allow such a policy of disadvantaging people and institutions simply because they are religious is the antithesis of our goal of protecting the free exercise of religion. Indeed, to deny a benefit on account of religion is to punish the free exercise of religion.

I am not suggesting that the gentleman from Georgia intends to punish the free exercise of religion. I do not believe that is his intention. But I would have to submit to the gentleman and to the Members of the House that I believe that that would be the result, the unintended result of the adoption of the proposal that he is advancing.

It makes no sense to deny someone or some institution a benefit on account of religion. That is not what the First Amendment was intended to do. It is a perversion of the First Amendment that we see court decisions and other governmental decisions that have had that impact, and I believe that the underlying amendment, in its provision prohibiting the denial of equal access to benefits on account of religion, is very much on target in correcting a very real problem that exists. I would suggest that we would be stepping very much in the wrong direction to adopt the gentleman's proposal on this point.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

The gentleman spoke to the striking of the portion that refers to God. It is clear that we have more religions in this country, we have a very diverse country, and that there are a number of religions where the deity is referred to by a name other than God.

The gentleman and I share a common religious heritage and of course God is certainly appropriate in our faith. However, there are other religions which we are duty bound as upholders of the Constitution, in providing equal protection of all of our laws, to support. For example, the term Allah in the religion of Islam, which they believe means the one and only God; or Vishnu, Shiva, Brahma in the case of the religion of Hinduism; Kami in the religion of Shintoism. Then there is the religion of Taoism which is not centered around a deity at all.

And with the complete diversity that our country now shares, it would seem totally inappropriate for us to introduce for the first time into the supreme law of the land, our Constitution, the word "God" to the point that it would discriminate against all of these other religious heritages and traditions. For that reason, for that reason only, we want to make it sectarian, neutral and ecumenical, so that rather than saying to secure the people's right to acknowledge God, that we say to secure the people's right to freedom of religion and that protects whatever that person's religious heritage might be.

Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, the gentleman's amendment is going to make some technical changes that are going to make an objectionable bill a little bit better. It is going to delete provisions saying that governments cannot deny equal access to benefits on the basis of religion. But still, in the underlying bill, as it was in 1960 for President Kennedy, as it is for us today and for the Founding Fathers when this country was established, there has been a belief in a separation of the church and State which is absolute.

This amendment is in search of a problem. It is based on the false premise that the Constitution merely prohibits the establishment of a national religion. In fact, the first Congress considered and rejected earlier drafts of the First Amendment that would have simply prohibited a national religion. So this amendment would effectively permit the government to sponsor religious expression.

The Bishop amendment is going to go to make these technical changes, but the underlying amendment to the Constitution that is being proposed is an amendment that would effectively permit the government to sponsor religious expression. Whose prayer will be used? If prayers are read over the intercom, where do students go who object to prayer going on during that time? Would the government be required to financially support religions, and which ones?

The fact remains that religion has not been shut out of the public square or public school. Court decisions have reaffirmed the right of private citizens to erect religious symbols in public areas and to have access to public facilities for religious activities. Under the Constitution as it stood for the last 200 years, individuals in public schools and other public places clearly have the right to voluntarily pray privately and individually, say grace at lunchtime, hold meetings of religious groups on school grounds, use school facilities like any other school club, and read the Bible or any religious text during study hall, other free class time or breaks.

This amendment, the underlying amendment to amend the Constitution, in fact would significantly harm, not help, religious liberty in America, and is contrary to our heritage of religious freedom that has ensured our Nation's current separation of church and state. It seems very ironic, Mr. Speaker, that in 1960 when President Kennedy was going around trying to make sure that people understood that there was a separation, that we seem to be trying to embrace it today.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. MCINTOSH).

Mr. McINTOSH. Mr. Speaker, I thank the gentleman for bringing this bill to the floor. I rise in opposition to the amendment.

More than 100 years ago our young Nation faced the first great test in its dedication to the principle that all men are free. In that Civil War more than 600,000 soldiers gave up their lives, more casualties than any other war in our country's history, for the moral cause of ending slavery and securing freedom.

During that war, the abolitionist Julia Ward Howe visited a Union camp near Washington, and amidst the carnage of war, the valor and courage she saw there inspired her to write one of our Nation's favorite songs, the Battle Hymn of the Republic. The final stanza of this hymn is particularly moving to me:

"In the beauty of the lilies Christ was born across the sea, with a glory in his bosom that transfigures you and me. As he died to make men holy, let us die to make men free, while God is marching on. Glory, glory, hallelujah."

Today in this Congress we fight a new moral battle. Through this battle we will determine whether or not our sons and daughters will be free to practice their faith in accordance with their conscience and whether the constitutional guarantees that our Founding Fathers wrote into that document of religious freedom will live on or will perish.

Over the last 30 years, the Supreme Court has failed to apply the true meaning of the First Amendment. In case after case the court has chosen to support not freedom of religion but freedom from religion. It rulings seek to systematically wipe out any manifestation of faith from every part of the public sphere.

For example, one of the most endearing memories that I have in my first term of Congress was when I spoke to a graduating class in Triton High School at Shelby County, Indiana. Every graduating senior said a prayer for his or her classmates that day, yet the Supreme Court would not let them have a minister come and say an invocation.

□ 1545

That is freedom from religion, not freedom of religion.

In another part of my district, in Parker City, Indiana, the Indiana Civil Liberties Union sued the local school district to stop a 30-year-old tradition of staging a live nativity scene during the Christmas holidays. The court in that case forbade the children from participating in the nativity scene during school hours and banned the nativity scene from the school grounds. Again, this is not freedom of religion, it is freedom from religion.

These battles continue today. In Elkhart, Indiana, the Indiana Civil Liberties Union is suing once again, this time to remove the 10 Commandments from a pillar that was erected as a monument to World War II 40 years ago. Again, freedom from religion, not freedom of religion.

The monument in question was donated to the city by the Fraternal Order of Eagles in a Memorial Day ceremony in 1958. In that ceremony, local protestant, Catholic and Jewish clergy all spoke and endorsed the monument. It happens to include two Stars of David, a Pyramid with an Eye, a Christian Kairos symbol, an eagle and a flag.

What do the opponents have against the 10 Commandments? Is it the first commandment, "You shall have no other gods before me"? Or the second commandment, "You shall make for yourself no graven image"? Or the third commandment, "You shall not take the name of the Lord your God in vain"? Or is it the fourth commandment, "Remember the sabbath day and keep it holy"? Or the fifth commandment, "Honor your father and your mother"? Or the sixth, "Thou shalt not kill"? Or maybe the seventh commandment, "You shall not commit adultery." Is it the eighth commandment, "You shall not steal"? Or the ninth, "You shall not bear false witness against your neighbor"? Or maybe the 10th commandment, "You shall not covet your neighbor's property." What is it that they oppose from having that posted on that pillar?

America was founded so that all men and women would be free to worship God. The future of that freedom is at stake in today's vote.

My colleagues, I ask you for a moment, let us put politics aside. Above us are the words "in God we trust." I ask you to search your heart and decide whether you will be on the side of freedom or the side of repression. Will you make the same commitment today that the Union soldiers of the Civil War made 140 years ago to the freedom of all human beings?

Let us all, Republicans and Democrats, put aside politics and vote for the freedom of religion amendment. Let us restore freedom of religion and not freedom from religion in the Constitution. Let us vote yes so that when we look back on this day, it will one day be said, "As He died to make men holy, we lived to make men free."

God bless you all.

Mr. BISHOP. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the Bishop amendment. I do so because I have basically been taught that the true mark of statesmanship is to seek common ground and find it, and then proliferate it and show it so that others can see it.

I believe that that is exactly what the Bishop amendment attempts to do. It attempts to put in broad perspective the freedoms that we have in this country to worship as each individual determines. I listened to the last speaker talk about the idea of freedom to make men holy, to make men free, to allow each and every individual to do in a way his own kind of worshiping. The only thing that I have heard today that actually would do that would be the Bishop amendment.

I would urge my colleagues, those who are in favor, those who are against the main idea, to look at the Bishop amendment as a way of providing something for everybody in America relative to religious freedom. I thank the gentleman for his amendment.

Mr. BISHOP. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, I am a little bit confused. The Istook amendment I would like if only the Baptists were protected and we can set the prayer and whatever. But that is not what we are talking about.

But the way I understand it, and I hope the gentleman from Florida is listening, he objects to taking out the word "God" in this amendment. If you do that, do you exclude the Muslims, do you exclude the Buddhists or what have you, which is not something that is high on my agenda, I do not understand those religions, but if the amendment is to have a freedom of religion, and these are classified as religions, they can only have a prayer that says "God."

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, no one is excluded from this protections of the amendment any more than people or ideas are excluded by the words "in God we trust" here on the wall of this Chamber.

Mr. HEFNER. The point I am trying to get at, we spend lots of money to get elected to come here. We do not have to come for the Pledge of Allegiance or whatever. But in these other areas where you are talking about, these children come and some of their parents are Muslim, all different kinds. In that context, if the word "God" is in there, then you are excluding some people. It seems to me that you would say that you will not infringe on the religious beliefs.

Mr. CANADY of Florida. If the gentleman will yield, I simply think the gentleman is mistaken about the impact of the language. No one would be excluded from the protections of this amendment. All religions would be protected, all people of faith, and, quite frankly, people not of faith are protected.

The problem we are trying to get at in this amendment is there has been a desire to kind of exclude people of faith from the public arena and any reference to God or faith in the public arena. That is what we are trying to address. I understand the gentleman's concerns. I simply do not think they are well founded.

Mr. HEFNER. What I am getting at, a Muslim child or their parents are Buddhist, they could not say the prayer, could they?

Mr. CANADY of Florida. Again, if the gentleman will yield, that is simply not accurate.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

I have to point out in response to the gentleman from Florida that it is clear from the wording of the first sentence of this amendment that everything that follows is prefaced as its purpose upon securing the people's right to acknowledge God. This is a technical amendment. I am trying to help the committee's amendment and the Istook amendment by at least making sure that no one is discriminated against, that any religious tradition or belief is protected, not just those people who want to acknowledge God, whom I would want to acknowledge, but there are Muslims, there are Taoists, there are Shintos, there are Hindus, there are Buddhists, there are Zoroasters. All of these religions deserve the same protections if they are practiced by people who have the protections of our Constitution.

Unless this language is changed, I believe that this amendment will be fatally flawed, because it is targeted solely at those people who believe in God. All I want to do through my amendment is to broaden it to the point where it protects the freedom of religion, whatever that religious tradition might be, whether it is the practice of worshiping God, as I do, or Allah or any of the other of the world's recognized religions.

Mr. Speaker, I reserve the balance of my time.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to start off by saying I have great respect and sincerity for my friend from Georgia, but I disagree with him on this particular issue in terms of using the word "God." I think removing the word "God" is not just a casual suggestion or a technical correction. It is a very meaty change to the gist of this.

In fact, what many people want to do is acknowledge God, not to the exclusion of other religions but to say that God is the head, regardless of what you call him. We think God is great. We think God is good. We want to have the word God in there. Guilty as charged.

The words up here that I look at, in God we trust, should we say in blank we trust? Or maybe instead of saying God Bless America in the great song, maybe we should say fill-in-the-blank bless America. Or in the Pledge of Allegiance, one Nation under fill-in-the-blank with liberty and justice for all.

At some point, you have to say, enough is enough.

Today, Mr. Speaker, we have lots of constitutional scholars. People are coming out of the woodwork as constitutional experts today. I am glad. I did not know we had 435 of them in this Chamber. It is going to be something good for all issues from here on out.

But whenever you bring out something simple, like allowing children in a school to have a student-led prayer for somebody who has a sick mother or before a football game or before a graduation, you get all these experts in there. You know, are these things really to be feared? A prayer before graduation? A prayer before a football game? Somebody's mother gets sick and you say, let us all pray for Susie's mother who was in a horrible car wreck. Are these things to be feared?

These prayers will not be headed by the teachers. The school cannot endorse a religion. The school will not be funding religions. But the rhetorical terrorists who are against this and generally against school prayer would have you believe that we are trying to publicly finance religion. It is not the case.

Vote down this amendment. Vote for the legislation. Let us give our school kids the right to enjoy prayer before football games.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comment of my colleague from Georgia. However, I must respectfully disagree with him. This is a very fundamental question of tolerance and fairness.

I think that the intent of this amendment is good. The intent of the Istook amendment is good. I certainly intend to vote for the amendment, because I think it is high time that we protect religious freedom. However, the only way that we can protect religious freedom is to protect everyone's right to worship in his or her tradition. This use of the word capital G-o-d, God, is a term that is used in the Judeo-Christian tradition. It is not used in the Muslim tradition or the Hindu tradition or the Buddhist tradition or the Taoist tradition or the Shinto tradition.

For that reason, if we are going to be the land of the free, the home of the brave, if we are going to allow equal opportunity for all to enjoy the protections of this amendment and not just those people who believe in God, then we ought to say, "In order to secure the people's right to freedom of religion," whatever that religion may be.

Mr. Speaker, may I inquire of the time remaining?

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from Georgia (Mr. BISHOP) has 7½ minutes, and the gentleman from South Carolina (Mr. INGLIS) has 17 minutes.

Mr. BISHOP. Do I have the right to close, Mr. Speaker?

The SPEAKER pro tempore. No, the gentleman from South Carolina has the right to close.

Mr. BISHOP. On my amendment, sir?

The SPEAKER pro tempore. The gentleman is correct.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Speaker, I respect the gentleman from Georgia (Mr. BISHOP). He has talked eloquently about a very, very sensitive subject. There is no question that this amendment improves the bill. However, it does not change the basic premise of it, that is, a bill which I basically oppose.

It is hard to sort out the issues here, because both sides claim they are on the side of the righteous. Since 1995, we have had a religious equality amendment and a religious liberty amendment, and now we have got a religious freedom amendment. What are we trying to do? Who are we trying to help? What are the facts?

□ 1545

Well, the facts are, as I see them, these:

This is a constitutional amendment. It will alter the First Amendment's religious clause for as long as we can see; and, thirdly, it expands government's involvement in religious activities, and is this really what we want? When I was elected here in 1986, one of the premises on which I came down here was to try to get government out of peoples' lives.

I received a letter 2 days ago from an 83-year-old lady in my district, and let me just read you part of it:

> I remember when there was mandatory prayer in my public school. Before the prayer, which was recited by the teacher, those who were non-Christians had to leave the room and stand in the hall until the prayer was over. I am a Christian, but I decried this practice then and I do now 60 years later. The Supreme Court did not take God out of our schools. Parents have taken God out of their children's lives by not praying with them. People are screaming to get the government off our backs, but they turn around now and want the government to tell our children how to pray, a function which is only between them and God.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would hasten to point out that there is nothing in the Istook amendment nor the Bishop amendment that would require that any school child have to stand outside because they disagreed with a prayer that was being said. Nothing in this amendment would require such nonsense, and if it were ever implemented in such a way that require such nonsense, then I would be the first to urge the ACLU and every opponent to take the necessary steps to see that those school boards discontinue such practice.

Mr. Speaker, that would be nonsense to do that, and neither this amendment, the Bishop amendment, nor the Ishtook amendment would countenance such conduct.

Mr. Speaker, I reserve the balance of my time.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, we are taking an extraordinary and an unprecedented step even though we are not actually confronted with any problem. Every study demonstrates that Americans are by far the most religious people in the industrial world. Students can voluntarily pray and study scripture in school and other public facilities. Religious education at church and parochial schools and home is thriving. The United States remains a beacon and a sanctuary for those seeking religious freedom.

It simply is untrue to say that students are prohibited from praying in school. Indeed, Time Magazine just recently devoted an article to the explosive spread of voluntary student prayer clubs.

Now I understand the sentiments that motivate people in support of this amendment. Many of us have the feeling that families have weakened, that morality is not what it once was, that society has become more violent. But these problems cannot be addressed by eliminating basic constitutional protections.

Let us not allow legitimate concerns about morality to curdle into an effort to restrain religious freedom. Americans are already God-fearing people. There is no reason to make them fear their Constitution.

PARLIAMENTARY INQUIRY

Mr. EDWARDS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. DICKEY). The gentleman will state his parliamentary inquiry.

Mr. EDWARDS. Mr. Speaker, I would like to inquire, as we debate this fundamental issue dealing with whether the word "God" should be in our Constitution and the issue of whether there should be funding of religious organizations with taxpayer dollars, that fundamental issue, do I understand that under the rules of this bill, that Democrats who would respect the point of the gentleman from Georgia (Mr. BISHOP) but who would oppose his amendment were not given any block of time? Is that correct?

The SPEAKER pro tempore. The time was divided under the rule.

Mr. EDWARDS. So under the rule on this fundamental issue dealing with the Constitution and the First Amendment, Democrats were not given a block of time to even debate this issue which, regardless of one's point of view, is an extremely important debate.

The SPEAKER pro tempore. It was not directed to any one side. It was divided between the proponent of the amendment and a Member opposed.

Mr. EDWARDS. I understand. Mr. Speaker, I think that makes my point.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I think this is an important amendment because really it goes right to the heart of what we are talking about here. What the gentleman from Georgia (Mr. BISHOP) would like to do is strike out the words "to acknowledge God" and to replace them with a more generic sounding series of words, and really that is sort of the nub of the issue about this amendment. I think that this is why the underlying language is the better language rather than the proposed amendment.

The reason for that is this: I think the Founding Fathers fully anticipated that there would be a public expression of a private faith. They did not want a public expression of a public faith. They had experience with that, with the king, and they did not like that. It turned out to be a corrupt system, really more corrupting the church than the state.

But they did not want that. They did not want a public expression of a public faith, but they surely expected a public expression of a private faith, and that is what we are here debating, is the ability of Americans to express their private faith publicly, to go to the public square and to have the rights that everyone else has in the public square.

Now I think if the Founding Fathers were here present they would think, now this is rather strange that they are taking time on the floor to discuss this because surely this is what we intended, a public expression of a private faith. Why do they need to reiterate this? Well, the reason is unfortunately a series of decisions and a whole milieu that is created out of those decisions makes it so that we have to reiterate this.

The last speaker at this podium said something about the explosive growth of prayer groups in schools and the ability of students to pray. Well I think it is interesting. Yesterday I met with a recent graduate of Riverside High School in Greenville, South Carolina, a young man named Allan Barton. Allan formed a Bible club at school, and as my colleagues know, in what some would consider the shiny buckle on the Bible Belt, that is, my hometown, they were not allowed to meet.

In fact, the principal of the school said, "Oh, my goodness, horrors. No, we couldn't do that." The school board said they could not do that, and it took this high school student, Allan Barton, courageously and not in a militant way, but rather in an appropriate and a respectful way going before the school board repeatedly to say, "Please, let us get together as a group of students and study our Bibles just like the chess club can get together."

As my colleagues know, it is interesting that again in what some people would consider the shining buckle in the Bible Belt, it was a split decision at the school board. It was a close vote as to whether this student would be allowed to have a Bible club at Riverside High School. Well, thankfully we won, and yesterday I presented him with a certificate thanking him for his work on establishing the principle of religious freedom in Greenville, South Carolina, at Riverside High School.

Now what I think this indicates is we have come a long way. This started out saying the Founding Fathers thought we had a public expression of a private faith. The gentleman from Georgia (Mr. BISHOP) wants to take out those words and make it more generic so that basically we are not acknowledging God, we are sort of acknowledging something generic.

Well, I think that is a mistake because what we are trying to do here is say clearly to Allan Barton at Riverside High School, "Allan, you're right. You obviously have a right to meet equal to the right of the chess club."

Now thankfully the school board in Greenville decided to go along with him, but that was after the American Center for Law and Justice threatened to sue, and it should not be that it takes a threat of a lawsuit in order to enforce our constitutional rights. In fact, we should be able to exercise those rights without seeking redress to the courts. These are rights under the Constitution.

So I would ask my colleagues to vote against the Bishop amendment and vote for the underlying language because we need to reestablish this principle.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the previous speaker apparently is a little bit confused in suggesting that we would in our amendment take out the word "God" and acknowledge something generic. All we are trying to acknowledge in the language that would be substituted is the title of the very amendment that we are voting on, the Religious Freedom Amendment, and we are saying that the purpose is to secure freedom of religion. It is titled the Religious Freedom Amendment, RFA.

Why that would be ironic or contrary to the desires of people who want to have the Religious Freedom Amendment passed, I do not know. It seems to me to make good sense. It is ecumenical. It will support and protect the religious traditions of all people, not just those people who believe in the God, capital G-O-D. It would reflect those who believe in any other deity or no deity.

I personally am Christian. I believe in God, in Jesus. However there are others who do not, and I respect their right under this Constitution of the United States to that belief.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I would like to focus on the words behind you, and I sure do not want to change it to "In Religious Freedom We Trust." It has the word "God" in it. And Lewis Farrakhan, time after time I have heard him refer to God. When I was in Egypt President Sadat said, "Intrahlah," which means, "In God we trust," and that was out of his own words "in God." Mostafa Arab on my staff at National University came to me and asked me, said, "Duke, can I pray to my God?" which was Allah, and I think that is correct. I think by using the word God, if the gentleman were saying Jesus Christ, then maybe he would have a point, but we use God for all different religions, and from what I have heard all different religions use God.

Mr. BISHOP. Mr. Speaker, will the gentleman yield? I will yield him back the same amount of time I consume.

Mr. CUNNINGHAM. I yield to the gentleman from Georgia.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. CUNNINGHAM) has expired.

Mr. BISHOP. Mr. Speaker, I yield myself 30 seconds.

In the context of this amendment it is spelled capital G-O-D, which is specific, as opposed to the context in which the conversation the gentleman had where it was used, it was a small g-o-d; to my god, it would be a small g-o-d. In that context it is not universal.

In the context that we want to put it in the Constitution it should be universal, and that is why we are asking to substitute that language of the Religious Freedom Amendment, to protect, to secure freedom of religion.

The SPEAKER pro tempore. The time of the gentleman from Georgia (Mr. BISHOP) has expired.

Mr. BISHOP. Mr. Speaker, I yield 10 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. In Vietnam even Buddhists dispense with the "God", and I do not know of any religion that uses "God" with a little G. To all of us it is a big G just like it is up here, and let us not change this to religious freedom. Let us keep it "In God We Trust."

□ 1600

Mr. BISHOP. Mr. Speaker, in Islam, the god is Allah, which means the one and only god, with a small "g."

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to thank all of the participants for this debate today. I think this is a very important debate.

Just the other night, all of us were invited to a presentation by the local public television station. They are doing a three-part series on the Face of Russia. It was interesting, because the public television group has gone over there. They spent 5 years making this film. And on the cover of this invitation, there is a picture, a replication, of the Holy Icon of Vladimir.

Now, they also asked us to watch an 18-minute video which talked about Russian culture. In that video, fully two-thirds of the time was taken talking about the influence of religion on the Russian culture. Perhaps I was the only one in that audience, knowing that we were going to have this debate later on this week, who saw the irony, that you cannot talk about the culture of Russia without a serious discussion of the effects of religion on that culture. Yet here in the United States we are almost barred today from having an honest discussion of the influences religion has had in our culture.

That is why I think this is an important debate.

We can debate, and I think the gentleman from Georgia (Mr. BISHOP) is, in effect, saying, yes, it is time that we have this debate; the courts have gone too far. And we can argue about the language, and perhaps this amendment will not pass today, but this is not the end, this is the beginning of a very important debate to return some form of balance to our public discourse and the influence that religion has on our culture.

Let me also suggest it was about a year ago that his All Holiness, Bartholomew, the head of the Greek Orthodox Church, came to this Capitol and received the Congressional Gold Medal. When he gave his remarks after receiving that medal, he said some very important things. He talked about religion in the Eastern European continent, particularly in Russia, and what an influence religion had had.

When his All Holiness closed his remarks that day, he closed with a very powerful statement, because he said that he had been following the religion and the effects of communism on religion in the Eastern Bloc, and he said this, and we ought to all be reminded. He said, "Faith can survive without freedom, but freedom cannot long survive without faith."

I think that is important for us to discuss as we discuss this important amendment. This is a very important discussion. It is time for us to restore balance in the public square and the influence that religion has had upon our culture.

I thank the gentleman for bringing this amendment forward, and I thank the gentlemen for the debate.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to, first of all, thank the committee for giving us this opportunity to debate this very, very important issue. I would like to thank the gentleman from Oklahoma (Mr. ISTOOK) for his courage in bringing the matter forward. I would like to thank the ranking member, the gentleman from Michigan (Mr. CONYERS) and his staff, and the gentleman from Florida (Mr. CANADY) and his staff for the courtesies they have offered to me in helping us get to the floor with this, as well as the chair of the Committee on Rules and the Committee on Rules for their kindness and courtesy in helping us fashion this debate so that we could have a full and thorough discussion.

Mr. Speaker, I return back to my opening remarks, that it is the best of times, yet it is the worst of times. We have a great economy, things are going well, but we also have a society that has deteriorating moral values. Our youth seem not to have the values of generations past, and unless we try to recapture those values, our society will be lost.

I believe the 30 years of Supreme Court rulings that have erected this artificial wall between our religious faith and traditions and our public life and our schoolchildren has led us down a primrose path to destruction, and I regret that very much. I hope that through the passage of this amendment, perfected by the Bishop amendment, that we will be able to stem that tide and we can move America into the next millennium with a glorious and bright future.

As I prepare to take my seat and close, I do not know whether this amendment will pass or not, but I leave you with the words that come from one of the Hebrew writers in the Book of Chronicles: "If My people which are called by My name shall humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven, will forgive their sins, and will heal their land."

Let us pass a religious freedom amendment. Let us pass the best possible religious freedom amendment, and hopefully it, in part, along with our other efforts, will help to heal our land.

Mr. Speaker, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma (Mr. ISTOOK).

The SPEAKER pro tempore (Mr. WICKER). The gentleman from Oklahoma is recognized for 6½ minutes.

Mr. ISTOOK. Mr. Speaker, let me begin with the highest words of praise for the chief Democratic cosponsor of this legislation, the gentleman from Georgia (Mr. BISHOP). I have the highest, highest opinion of his courage, his commitment, his dedication, his efforts.

I know it has been a difficult experience, some of the experiences which the gentleman has gone through on this, and I appreciate his efforts to try to make sure that this legislation is in the best possible form.

As we all know, we are part of the process that includes consideration of the constitutional amendment not only by the House but by the Senate, and we go through a perfecting process, trying to listen at every stage, trying to learn from that.

When I began efforts on this amendment about 4 years ago, we frequently had meetings with 40 or 50 people at a time to try to get a multitude of opinions, and some did not necessarily support the effort. I met with them privately. I met with people who were adamantly in favor of the status quo and did not want anything done. I still met with them.

I even went to the national convention of the group which has financed and pushed so many of these lawsuits. It is a kind of an offshoot of the ACLU called Americans United for Separation of Church and State. I accepted an invitation they were gracious enough to extend to speak to them at their national convention. It was not exactly a friendly reception. But we have all sought to listen and learn, and the lesson ought to be that we ought to understand to be tolerant.

As the Supreme Court justices who dissented from these decisions said, if we will listen to one another, we will develop not just a tolerance but an affection for each other's faith, rather than trying to conceal the fact that there are some differences.

Justice Potter Stewart dissented from the original school prayer cases, saying you cannot conceal the fact that there are differences, and if you try to conceal it and keep it out of the schools, all you will do is make the problem worse. And the problem has become worse, with people saying, I have a right to shut you up because I do not like the way you may pray or maybe I do not like prayer at all.

Now, the amendments of the gentleman from Georgia (Mr. BISHOP), I do not favor them, but I told the Committee on Rules and everyone for years, I support his right to offer those and make sure important issues are addressed.

I believe that we should do what every State in the Union does, which is have an expressed reference to God in the Constitution. In 42 of the 50 States, they do not say "creator," they do not say "supreme ruler of the universe," they say either "God" or "Almighty God," and I think that it is proper and in tune with the best traditions of this country to say the same thing.

There is no functional difference between this and the language of the gentleman from Georgia (Mr. BISHOP), but I do think there is an important thing that resonates with the American people. Regarding the language should government benefits be denied to someone on account of religion, should they? We already have Supreme Court decisions that permit it. But the Supreme Court has been going back and forth on it.

We have hundreds of millions of dollars each year that go into social service programs run by churches, including over $1 billion a year to Catholic Charities, USA. We have Pell grants, student loans and GI benefits that go not only to public universities and colleges but also to church ones, whether it be the university where I attended, Baylor University, or Georgetown or Notre Dame or Southern Methodist or whatever it might be.

This is nothing new or different. We are not talking about funding religious activity. But there have been a series of court attacks, and the court's rulings have been one of these precarious 5–4, and this time 5–4 in favor of it, and we wanted to preserve that, lest the court go off and say, we are going to start saying if your group is connected with a religion you are disqualified from any sort of Federal benefit program.

So I know that it invites people to try to claim that we are financing churches, which is not the case whatsoever. We are not requiring any money to go to any group. We are just saying if the government funds some activity for some public purpose, then you do not disqualify somebody from participating just because they may be related to church.

It might be useful to look at the cover story of Newsweek Magazine this week, which is about this very thing, how groups fighting crime, fighting drugs, fighting teenage pregnancy have such higher success rates if they are based in churches and they are faith-based.

We want those programs to be able to continue, because they are good and because they work, and they work so much better because they appeal to values. That is why some people, perhaps, are afraid of prayer in school, because they say, my goodness, the idea of talking about values is threatening.

Sure, parents ought to be talking about it. But do we say that parents, you do your job at home and, by the way, we are going to take your child away for most of the day and put him in school, where they do not have the possibility of the same influences and the same values that you taught at home?

That is the captive audience; not the "captive audience" so-called of someone who says, "I do not want to hear a prayer; therefore, these court decisions give me the right to make you stop it."

What has happened to our society as that has happened? Look at the guns, the knives, the drugs, the teenage pregnancies in public schools, and you tell me we do not need to make sure that values are repeated every time we can?

And you cannot separate them. You cannot separate them from the moral basis, and you cannot separate a moral basis from a religious basis. Government should never insist, never, never, never, never, never, that people have a particular faith or they be compelled to pray, and this amendment makes sure they never will. But it stops the practice of government interfering and silencing people.

Mr. Speaker, I am thankful for the opportunity to present this. I urge Members, with or without the Bishop amendments, to vote for the Religious Freedom Amendment.

The SPEAKER pro tempore. All time for the debate on the amendment has expired.

Pursuant to House Resolution 453, the previous question is ordered on the amendment offered by the gentleman from Georgia (Mr. BISHOP).

The question on adopting the amendment has been divided between the first instruction to strike and insert, on page 3 of the joint resolution, and the second instruction to strike and insert, on page 4 of the joint resolution.

The question is on the first divided portion of the amendment offered by the gentleman from Georgia (Mr. BISHOP).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ISTOOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, after this 15-minute vote on the first divided portion of the Bishop amendment, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the second divided portion of the amendment.

There was no objection.

The vote was taken by electronic device, and there were—yeas 6, nays 419, not voting 8, as follows:

[Roll No. 198]

YEAS—6

Bishop
Davis (IL)
Fawell
Hoyer
Jefferson
Lantos

NAYS—419

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—8

Furse
Gonzalez
Lewis (GA)
McDade
McKinney
Mollohan
Reyes
Ros-Lehtinen

☐ 1633

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. OXLEY, ANDREWS, BILBRAY and SOUDER changed their vote from "yea" to "nay."

Mr. Jefferson changed his vote from "nay" to "yea."

So the first divided portion of the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WICKER). The question is on the second divided portion of the amendment offered by the gentleman from Georgia (Mr. BISHOP).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ISTOOK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a five-minute vote.

The vote was taken by electronic device, and there were—ayes 23, noes 399, not voting 11, as follows:

[Roll No. 199]

AYES—23

Berry
Bishop
Boucher
Clayton
Clyburn
Danner
Ehrlich
Fawell
Fowler

Green
Jefferson
Johnson, E. B.
Klink
Lazio
Martinez
Ortiz
Paul
Payne
Scott
Spratt
Tanner
Watt (NC)
Wynn

NOES—399

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Brown (OH)
Dreier
Furse
Gonzalez
Hunter
Lewis (GA)
Markey
McDade
Mollohan
Reyes
Ros-Lehtinen

□ 1643

Mrs. ROUKEMA changed her vote from "aye" to "no."

So the second divided portion of the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1645

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the joint resolution, as amended.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. SCOTT. Mr. Speaker, I am opposed to the joint resolution.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SCOTT moves to recommit the joint resolution H.J. Res. 78 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Florida (Mr. CANADY) will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, this motion to recommit simply restates the first amendment to the Constitution which, as we know, says: Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof. Any further amendments to our Constitution in the guise of protecting religious liberty are unnecessary.

Mr. Speaker, under current law, students can pray and read the Bible privately; they can say grace at lunch and distribute religious materials to their friends and join voluntary religious clubs. The United States Department of Education has issued guidelines on religious expression that have been mailed to 15,000 public school districts in the Nation making it clear that schools are not religious-free zones.

In those few instance where a student's religious speech has been unfairly denied, the law already has sufficient remedy. Education is the key to correcting the mistakes of teachers and educators, not an attack on the Bill of Rights.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof. For 207 years those eloquent words embedded in our Bill of Rights have protected America's religious freedom. Perhaps the single greatest contribution of our experiment as a Nation and democracy is the contribution of the freedom, the religious freedom that we have ensured to all of our citizens from all backgrounds as a result of these very words.

Today, Mr. Speaker, we have heard Members say they admire the Bill of Rights. We have heard Members say they cherish the Bill of Rights. We have heard Members say they respect the Bill of Rights. Well, now all the Members of this House today will have the right to vote for the Bill of Rights; and not only the Bill of Rights, but the first 16 words of the first amendment dealing with religious liberty.

Mr. Speaker, this is a very clear vote. It is very simple. If Members vote for this motion to recommit, they are voting to endorse the first 16 words of the first amendment. If they vote no and then vote for the Istook amendment, they are voting to change the Bill of Rights for the first time in our Nation's history.

But what I would suggest at this moment that the Bill of Rights needs is not just respect or just those who cherish it or admire it, but the Bill of Rights deserves Members of this House voting for it. I urge a vote for the motion to recommit.

Mr. SCOTT. Mr. Speaker, reclaiming my time, the first amendment to the Constitution and the first 16 words of the Bill of Rights have never been amended. They have served us well for over 200 years. This first amendment offers us all the protection we need against religious discrimination and to avoid the strife which has saddled other areas of the world with religious strife, killings, murders for many years.

I urge my colleagues to support the motion to recommit and to reaffirm our belief in the first amendment to the Constitution.

Mr. CANADY of Florida. Mr. Speaker, as the gentleman has indicated, the motion to recommit would simply result in the reenactment of language that is already in the Constitution in the first amendment to the Constitution.

As we have discussed repeatedly throughout this debate, those of us who are in support of the underlying proposal find no fault with the first amendment to the United States Constitution. We believe that the framers of the first amendment were wise in the words they chose. The problem we have is with the interpretation that the courts and various other government officials have placed on those words of the first amendment.

Now, the truth of the matter is, if the motion to recommit were to be adopted, it would simply endorse the status quo. It would simply endorse all of the decisions that have trampled on the free exercise of religion in this country. It would endorse a situation which we are faced with in this country today where students giving commencement addresses are faced with the prospect of being fined by a Federal court if they mention the name of God. That is what is going on. That is what courts in this land are doing, and it is not right.

It is not what the Founders intended. It is not what the framers of the first amendment intended. It is wrong, it is an injustice, and we have a responsibility to correct it.

The Subcommittee on the Constitution of the Committee on the Judiciary held hearings all over this country. We heard from more than 70 witnesses. Many of those people who came to testify before the subcommittee told us of the ways in which their religious freedom had been trampled on under the status quo, and we need to do something about it.

Mr. Speaker, we are the people's House. We have a responsibility to ensure that the rights of the people, the free exercise of religion are respected in this country. And people who want to reinforce protection for religious freedom will reject the status quo. They will reject this motion to recommit and will support the bill.

Mr. ISTOOK. Mr. Speaker, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Speaker, a vote for the motion to recommit is a vote for the status quo. It is a vote for all the court decisions that have restricted religious liberty. It is a vote for the Stone v. Graham case whereby, 5 to 4, the Supreme Court said the Ten Commandments cannot be on the wall of a public school. Four justices said they could stay; 5 said they have to come down. If Members vote yes, they are voting they have to stay down.

A vote for this is a vote for the Lee v. Weisman decision, where they said that a Jewish rabbi's prayer at a school graduation was unconstitutional, a 5-4 decision. If Members vote for the motion to recommit, they are voting for the five Justices that said the rabbi could not pray with these kids at that graduation. If they vote against it, they are voting for the four Justices that said it was wrong.

We have had a lot of court decisions. If Members vote for this motion to recommit, they are endorsing each and every one of them.

They are endorsing the decision where Judge DeMint in Alabama ruled in Federal court that the schools are permanently enjoined, Members would be endorsing the court interpretation under which he issued an order which reads that the schools are permanently enjoined from permitting prayers, biblical and scriptural readings and other presentations or activities of a religious nature at all school-sponsored or school-initiated assemblies and events including, but not limited to, sporting events, regardless of whether the activity takes place during instructional time, regardless of whether attendance is compulsory or noncompulsory and regardless of whether the speaker is a student, school official, or nonschool person.

That is what they are doing under the misinterpretations of the first amendment. That is why we need the Religious Freedom Amendment.

If Members want to keep with the current court decisions, tell that to this first grader, Zachariah Hood, who was told he could not read a story from the Beginner's Bible that did not even mention God but was told by a Federal judge he cannot read that story at school. Not because there is really anything religious about the particular story he chose but simply because it came from the Beginner's Bible.

That is what the courts are doing and twisting and distorting the first amendment and what is meant to be a guarantee of religious freedom in the United States. That is why Members should vote no on the motion to recommit and yes for the Religious Freedom Amendment.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The vote was taken by electronic device, and there were—ayes 203, noes 223, not voting 7, as follows:

[Roll No. 200]

AYES—203

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gilchrest
Gilman
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (CA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)

Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stump
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—223

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Foley
Fossella
Fowler
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Furse
Gonzalez
Lewis (GA)
McDade
Mollohan
Reyes
Ros-Lehtinen

□ 1714

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WICKER). The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 203, not voting 7, as follows:

[Roll No. 201]

AYES—224

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
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Davis (VA)
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Ehlers
Emerson
English
Ensign
Everett
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Foley
Forbes
Ford
Fossella
Fowler
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
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McIntyre
McKeon
Metcalf
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Moran (KS)
Myrick
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Redmond
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Roukema
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Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
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Young (AK)
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NOES—203

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
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Boyd
Brady (PA)
Brown (CA)
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Brown (OH)
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Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
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Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehrlich
Engel
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Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gilchrest
Gilman
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
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LaTourette
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Lewis (CA)
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Maloney (CT)
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Mascara
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McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stump
Stupak
Tauscher
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
White
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Furse
Gonzalez
Lewis (GA)
McDade
Mollohan
Reyes
Ros-Lehtinen

□ 1724

The Clerk announced the following pair:

On this vote:

Ms. Ros-Lehtinen and Mr. Mollohan for, with Ms. Furse against.

So (two-thirds not having voted in favor thereof) the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT THE PRESIDENT SHOULD RECONSIDER DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY PEOPLE'S REPUBLIC OF CHINA

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 454 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 454

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Con. Res. 285) expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China. The resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion except: (1) one hour of debate on the resolution equally divided and controlled by the Majority Leader or his designee and a Member opposed to the resolution; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, I rise in very strong support of the legislation and the rule.

Mr. Speaker, nine years ago the world witnessed the massacre of at least a thousand people by the Communist Chinese regime in a place called Tiananmen Square.

It was one of the most brazen and contemptible acts of terror by a government in recent history, violating all internationally recognized human rights, and cutting to the core against one of the most cherished American values, that of freedom of political expression.

Yet in a few weeks, the President of the United States will condone that terrorist act by the Communist Chinese regime, place those internationally recognized human rights on the back burner, and throw those cherished American values into the trash can by being formally received by the Butchers of Beijing right in that very place where the massacres occurred!

For years, Mr. Speaker, I have been appalled and aghast at the depths of shamelessness to which this administration has sunk in its cowardly but relentless effort to appease the government of Communist China, but this decision by President Clinton is the topper.

At least one can make a plausible-sounding, even if incorrect, case for granting Most-Favored-Nation trade status to China. But how in the world can this totally indecent decision be defended?

What reason could possibly be good enough? Are there jobs at stake if the President doesn't go to Tiananmen Square?

Would China perhaps do something irrational in its foreign policy if President Clinton doesn't go to Tiananmen? Of course not.

The only reason for President Clinton to engage in this full-blown publicity stunt for the Butchers of Beijing is the same reason that explains all of the rest of his appeasement policies toward China.

This administration has long since lost any sense of a moral compass when it comes to foreign policy, period.

The administration that said in 1992 that it would be the most ethical in history has categorically subordinated American values and U.S. national security interests to the interests of the business community, which always wants to appease all foreign governments.

We have known this for years, but President Clinton's forthcoming farce in Tiananmen Square takes us to a new and extremely low level.

Now this administration is not only betraying our most fundamental principles, but it is doing so openly, brazenly, and apparently with no shame whatsoever.

It is disgusting, and the very least the President can do is reverse this decision.

This is an excellent resolution and I urge unanimous support for it.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Yesterday, Mr. Speaker, the Rules Committee met and granted a closed rule to House Concurrent Resolution 285. The rule provides for consideration of the concurrent resolution in the House with 1 hour of debate equally divided and controlled by the majority leader, or his designee, and a Member opposed. The rule also provides for one motion to recommit.

Mr. Speaker, today is the ninth anniversary of the massacre at Tiananmen Square. It was on June 4, 1989, that the Chinese tyranny killed hundreds, perhaps thousands, of students who were peacefully calling for democracy in that square.

The gentleman from Virginia (Mr. WOLF) in a letter asked us if we might wear a sign, and I am wearing here on my lapel a sign of memory, in memory of, the valiant students who were massacred that day, the unarmed representatives of the Chinese people who were massacred that day.

□ 1730

It is a date that will be recalled by history in infamous terms, in the most infamous of terms.

This month, Mr. Speaker, the President of the United States seeks to become the first U.S. President to visit China since the brutal massacre of 1989, and we are informed that the President of the United States plans to commence his visit to China by attending ceremonies with the Chinese hierarchy precisely at Tiananmen Square. That act, if in fact it takes place, that the President of the United States take part in a ceremony in Tiananmen Square, that act, if it takes place, will be a condemnable act, Mr. Speaker.

Now in the past weeks we have learned that the President of the United States may, may have turned a blind eye as wealthy campaign contributors harmed our national security by helping the Chinese communists improve their ballistic warheads. We have learned that the President of the United States may have accepted campaign donations from the Chinese army, the communist Chinese army, at the same time that he changed United States policy to benefit the Chinese Communist missile program.

We have learned that the President of the United States may have ignored his own Secretary of State and the director of the Central Intelligence Agency and the Pentagon and allowed his campaign donors to help the Chinese communist military. And we have also learned that the President of the United States may have intervened personally to stop the Department of Justice's investigation into this matter.

Now the facts as we are learning them are deeply disturbing, and it is quite obvious that we do not know all the facts. These are serious matters, Mr. Speaker. The Chinese government, the Chinese Communist government, has at least 13 missiles aimed right now at United States cities. It would indeed be shocking if the President of the United States helped China to make those missiles more accurate.

It is clear that the American people deserve a thorough and complete explanation of the facts, and so unless and until we get such an explanation, we believe that the President should reconsider his visit at the very least to Tiananmen Square. We think that the Tiananmen Square visit is without any justification and is inherently not only unjustifiable but insensitive as well.

And so that is what the resolution that is being brought to the floor today in essence is all about, Mr. Speaker. It expresses the sense of Congress that President Clinton should reconsider his decision to be formally received by the Chinese tyranny in Tiananmen Square until the Government of China, of the Peoples Republic of China, acknowledges that Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students that still to this moment remain in prison for supporting freedom and democracy in China.

Nine years ago today thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and for democracy while soldiers of the Chinese regime, the Chinese Communist regime, were ordered to fire machine guns and tanks on unarmed civilians. Now according to the Chinese Red Cross, more than 2,000 Chinese pro democracy activists, demonstrators, Chinese citizens who believed in the right of the Chinese people to have self determination and freedom, thousands died that day at the hands of the Chinese tyrants.

And so that is why this simple resolution is just and proper, and that is why on this anniversary that we bring it to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly want to thank the gentleman from Florida (Mr. DIAZ-BALART) for yielding me the time.

As my colleague has described, this is a closed rule. It will allow consideration of H. Con. Res. 285, which expresses the sense of Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the government of the People's Republic of China. This rule allows for 1 hour of debate and provides for one motion to recommit.

While I support this underlying resolution, and I just like to say that I would hope that we could have soon some resolution like this on the floor for the country of Sudan that I just returned from an 8-day trip, where 2 million people lost their lives and there is hardly any publicity about it, there is hardly any press about it, there is hardly anybody in the world that really cares about it. It just breaks your heart to see so many children and mothers that are dying from starvation, and to walk into and see killing fields where people have absolutely been shot, killed, hacked up with knives, being eaten by vultures. We talk about all these countries of the world, but there are so many countries where millions of people died and there is never a squawk out of this Congress. So I hope that some day we can start putting Sudan on the map.

I just like to say, relative to this resolution, I do have some reservations about the process in this Resolution 285. It was just introduced and the committee of jurisdiction has held no hearings that I know of, or markups on it. The rule was voted out of the Committee on Rules last night around 11 p.m. It is a closed rule which allows no amendments. This should be an open rule to allow the House to work its will. However, I reluctantly rise in support of this rule because of my concern for human rights abuses in China.

Today is the anniversary of the Tiananmen Square massacre. It has been 9 years since the killings of hundreds of unarmed civilians by the Chinese army in Beijing. The Chinese authorities have taken no steps to investigate these human rights violations, and Congress needs to send a strong message to the People's Republic of China that we have not forgotten Tiananmen Square.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I would inform the gentleman from Ohio (Mr. HALL) we have no other speakers, and I would inquire as to whether he does.

Mr. HALL of Ohio. Mr. Speaker, I have no Member here to speak on this particular rule, and therefore, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe that even in the short period of time that we have discussed this rule it has become apparent, especially because of the significance of the date that we bring this rule to the floor, the date that we are acting, it has become apparent, the importance of this statement that the House will be making very clearly pursuant to the resolution that is being brought to the floor by this rule.

This is a date, the 4th of June, that will forever be recalled as an infamous date, as a date where unarmed people who represented the dignity of an entire nation were slaughtered by the weapons in possession of a totalitarian dictatorship that is still in power, that, as the gentleman from Ohio (Mr. HALL) stated, has not only not acknowledged its crime but continues to perpetuate crimes.

We have recently learned that the Chinese government is in the business of selling organs, human organs from prisoners, and if the price is right they will simply shoot the prisoner and sell the organ. That is the regime we are talking about. It is a regime that now Mr. Clinton, the President of the United States, is going to visit, and even though I still find it hard to believe, he apparently is going to be received officially for his state visit at the square where those thousands of Chinese innocent students were slaughtered. What pleasure, what profound and limitless pleasure would be obtained by the Chinese murderers if the President of the United States, the elected leader not only of the only superpower in the world but the ethical and moral leader of the world, agrees to be received by that regime of thugs in the same physical place where thousands of students were murdered for believing in the ideals that are also the ideals of the United States of America.

And so what we will be saying in this resolution is, "No, Mr. President, if you think you have to go, and we think you shouldn't, but if you think you have to go, at the very least do not give the Chinese thugs the ultimate pleasure of showing their people that the President of the United States of America is willing to receive honors in the same place where the blood of the Chinese people flowed in rivers simply some years ago, a few years ago now. No, that is unacceptable."

That is what we are saying in this resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GILMAN. Mr. Speaker, pursuant to the provisions of House Resolution 454 and as the designee of the majority leader, I call up the concurrent resolution (H. Con. Res. 285) expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The text of House Concurrent Resolution 285 is as follows:

H. CON. RES. 285

Whereas 9 years ago on June 4, 1989, thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and democracy;

Whereas it was with horror that the world witnessed the response of the Government of the People's Republic of China as tanks and military units marched into Tiananmen Square;

Whereas Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on young, unarmed civilians;

Whereas "children were killed holding hands with their mothers", according to a reliable eyewitness account;

Whereas according to the same eyewitness account, "students were crushed by armored personnel carriers";

Whereas more than 2,000 Chinese pro-democracy demonstrators died that day, according to the Chinese Red Cross;

Whereas hundreds continue to languish in prisons because of their belief in freedom and democracy;

Whereas 9 years after the massacre on June 4, 1989, the Government of the People's Republic of China has yet to acknowledge the Tiananmen Square massacre; and

Whereas, being formally received in Tiananmen Square, the President would bestow legitimacy on the Chinese Government's horrendous actions of 9 years ago: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square until the Government of the People's Republic of China acknowledges the Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students still imprisoned for supporting freedom and democracy that day.

The SPEAKER pro tempore (Mr. GOODLATTE). Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the distinguished gentleman from Texas (Mr. ARMEY) for taking the time to craft this very timely and important resolution. H. Con. Res. 285 expresses a sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square in the People's Republic of China by the government of the People's Republic of China. In light of China's actions in Tiananmen Square 9 years ago, it would be inappropriate for the President to go there. That square was the site where thousands of students and workers who held up a replica of the Statue of Liberty and looked towards our Nation for support were brutally gunned down and run over by the tanks in the People's Liberation Army.

□ 1745

Subsequent to that unforgivable crime against their own people, authorities within the PLA tried to smuggle to Los Angeles, to the street gangs here, Stinger missiles and thousands of AK–47s.

The People's Liberation Army runs a vast network of prisons and labor camps throughout China and occupied Tibet and holds untold numbers of Christians, Muslims and Buddhists for attempting to practice their religion without authorization from the state.

The People's Liberation Army threatens democratic Taiwan and fuels the nuclear arms race in South Asia by transferring nuclear and ballistic missile technology to Pakistan. Recently, high-placed authorities within the PLA were accused of influencing U.S. policy in order to obtain very critical and sensitive ballistic missile technology.

Our full Committee on International Relations and the Committee on Government Reform and Oversight today has conducted a joint hearing on the sale of body parts by the People's Republic of China. The PLA is at the center of an international sale and transplant scheme that takes kidneys, corneas, livers and lungs from condemned prisoners and transplants them into wealthy patients who can afford the price.

There comes a time, Mr. Speaker, and a place, to put a limit on just what our Nation needs to do in order to engage China and its military. The administration gave a 17-gun salute in Washington to the Chinese general who orchestrated the Tiananmen massacre.

I ask, does the President really need to stand on that bloodstained Tiananmen Square so that Beijing can feel comfortable trading with us? I think not. Accordingly, I strongly urge my colleagues to join us in supporting H. Con. Res. 285.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose this resolution. I think it is a bad policy, I think it is bad politics, and I think it is bad procedure.

On the face of it, the resolution seems innocuous. It declares the sense of Congress that the President should reconsider his decision to be formally received in Tiananmen Square when he visits China later this month, until the Chinese Government acknowledges the Tiananmen Square massacre, pledges that such a tragedy will never occur again and releases the Chinese students still imprisoned for their participation in the pro-democracy movement in 1989.

It is important to note, I think, that the resolution does not oppose the President's trip to China itself, but it does put conditions on the reception ceremonies that would inevitably make a successful visit less likely.

This resolution claims that, by attending arrival ceremonies in Tiananmen Square, the President will somehow bestow legitimacy on the cruel events that took place there 9 years ago today. I think that is unfair to the President. I think it is absurd.

President Clinton has spoken out time after time against the brutal actions of the Chinese Government at Tiananmen Square. As Members will recall, President Clinton gave China's President a public lecture on this very issue at a joint press conference in Washington at the summit last fall, a lecture that many Members praised at the time.

The President, through his policy of engagement, has pushed aggressively on human rights, and he has gotten results. China has, with American prodding, released a number of political and religious prisoners, including Wei Jingsheng and Wang Dan. It has acknowledged its obligation to abide by the terms of the International Covenant on Civil and Political Rights, a concession that makes it now impossible for Beijing to argue that human rights is a domestic concern in which we should not intrude.

China has begun to tolerate a level of public discussion and dissent that even a year ago would have been unimaginable. Of course, China has a long way to go in its human rights practices, but we should also recognize that the typical Chinese today has more personal freedoms and a better quality of life than at any time in history.

Tiananmen Square is the central feature of Beijing. The Great Hall of the People faces one side and the entrance to the Forbidden City faces another. It is China's equivalent of the White House south lawn. It is where heads of state visiting China are formally welcomed. It is where Prime Minister Major, President Chirac, Prime Minister Hashimoto and Prime Minister Netanyahu have all been welcomed in recent years.

So Mr. Clinton's presence there is similar. It has no suggestion of approval of China's human rights policies, any more than the presence of many Members of this body who have, accompanied by their Chinese hosts, visited Tiananmen Square in the past.

May I remind Members, for instance, that just last year the Speaker of the House of Representatives visited Tiananmen Square; and during his visit to China the Speaker enunciated a fundamental truth when he said, and I quote him now, "If you can be respectful but firm, you can get a long way talking with the Chinese."

China is a sovereign country. We cannot tell it where to hold its welcoming ceremonies. We would be deeply offended if the Chinese tried to dictate this to us. Why does anyone imagine that they will react differently?

The real question this resolution raises is how we can best promote human rights in China. Do we advance our human rights concerns by telling the Chinese where to receive the President of the United States, or do we advance those concerns by engaging with the Chinese?

This resolution suggests that we can improve China's human rights record behavior by telling the President not to go to Tiananmen Square. Frankly, in my view, that is a very superficial way to deal with a very difficult, complex issue. Do we really believe that this resolution will improve human rights conditions in China? And, if it does not, what then is the purpose of the resolution?

The only practical way to promote human rights in China is by maintaining the policy of engagement toward China that has been followed by every administration, Democratic and Republican, since President Nixon. Engagement works. It is not easy, it does not produce results as quickly as we might like, but if we are to have any chance of pushing the Chinese toward greater respect of human rights, we must continue to engage with them. Insults will not do the trick.

There are things that we can do that hold out the promise of improving human rights in China.

We must make it clear to China that, until it changes its human rights practices, it cannot become a modern, stable, prosperous country.

We must make it clear to China that, unless it improves its human rights performance, it will never be a fully accepted member of the international community.

We must make it clear that it is in China's own interests that it adhere at least to minimal international standards of due process, accountability, transparency and the rule of law.

We must continue to press China on these contentious human rights issues. We must not abandon our efforts, but we must be ready for the long pull.

I do not question the sincerity of those who will speak in support of this resolution today, and I fully understand how the votes will go in a few minutes. All of us were appalled by China's brutal actions in Tiananmen Square 9 years ago. All of us agree that the Chinese Government should formally and publicly repent its tragic actions and immediately release those who are still imprisoned for their participation in the pro-democracy movement of 1989.

We are not considering this resolution today in isolation. This resolution must be put in the context of other measures this House has debated in recent months. It is part of a pattern that has seen this House take up one anti-China resolution or amendment after another since the U.S.-China summit last fall. Together, these measures are immensely complicating the management of this most difficult foreign policy relationship.

I understand that many Members of this House do not favor a policy of constructive engagement with China. That is, of course, their prerogative. For myself, I do not want to undermine the policy of engagement. I do not want to promote a policy of confrontation, and that is what I believe these resolutions and amendments do.

There are many Chinese policies that I abhor, as much, I think, as any Member of this House. We should speak out against those policies, but we should also think about what actions will change those policies and bring results.

Anti-China rhetoric may make some feel good, but it will not bring the results that we seek. It complicates the issue. The President's policies have led to some improvements in the human rights situation in China. This resolution will not.

Finally, I voice my dismay with the procedure followed for this resolution. It was introduced only yesterday and went directly to the Committee on Rules. The Committee on International Relations has jurisdiction over such resolutions, but apparently the chairman waived consideration in order to facilitate the resolution coming up today.

I understand that today is a significant date, but that is not an excuse for a flawed, hurried process. There has been no consideration of this resolution or the difficult issues it addresses by the Committee on International Relations. There has been no consultation with the administration, at least to my knowledge. Little thought has been given to the foreign policy implications of this resolution. This is not a deliberative, careful process. A flawed process is producing, I think, a flawed product. This does not reflect well on the House of Representatives.

Mr. Speaker, I take second place to no one in my support for human rights and freedom in China, but that is not what we are debating in this resolution. Let us consider how we can promote the values of freedom and justice in China, but let us do it thoughtfully, deliberatively and free of partisan and political motives.

This resolution will not advance freedom in China. It will not help those who, 9 years after the tragedy we commemorate today, continue to suffer for their belief that the Chinese people should enjoy the same liberties we in this country so cherish.

This resolution will not prod Chinese authorities to open their country to the forces of pluralism and the winds of democracy. It will do none of these things. It will only convince Chinese leaders that many in this institution, the House of Representatives, want to declare a war of words against China. It will promote confrontation and make it less likely that the Chinese will listen to us on human rights or the other issues of deep importance to us.

The administration, of course, opposes this resolution, and so should all those who are interested in results and not just rhetoric. I urge my colleagues to vote no on this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 6 minutes to the gentleman from New Jersey (Mr. SMITH), our distinguished chairman of the Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me time.

Mr. Speaker, I urge a yes vote on this important human rights resolution. Nine years ago today, the ground of Tiananmen Square was hallowed by the blood of thousands of peaceful democracy advocates. Those Chinese patriots were slaughtered by a communist regime that remains unapologetic for its actions and that continues to deny the truth of what happened. It is repugnant that the President of the United States of America, the country that, foremost of any of the world, ought to bear the standard of freedom and democracy, would meet at the very site with dictators who continue to lie about the murders committed less than a decade ago.

□ 1800

This resolution is not anti-China. It is anti-abuse, the abuse that was endured by those democracy activists, that was witnessed by the world via C-SPAN, via CNN and other networks that were there on the scene.

Mr. Speaker, in December of 1996 General Chi Haotian, the Defense Minister of the People's Republic of China and the operational commander of the forces that attacked the pro-democracy demonstrators, was invited to the United States by the Clinton Administration. During his visit, he was given full military honors, a 19-gun salute, visits with several military bases, and a tour of the Sandia Nuclear Laboratory. He even had a personal meeting with President Clinton at the White House.

General Chi said that not a single person, and I quote, not a single person lost his life in Tiananmen Square. He claimed that on June 4, 1989 the People's Liberation Army did nothing more violent than pushing people whom he called hooligans.

The supposed idea behind these official visits such as General Chi's visit and President Clinton's trip to Beijing is to foster mutual understanding. That is just what they say. If we are going to live in the same world with governments run by people like General Chi, the argument goes, we had better get to know each other.

General Chi's big lie about Tiananmen Square certainly helped many Americans understand what he and his government are really like. However, in China the visit by the Butcher of Beijing was a public relations coup. He could not have gotten better press, being feted at the White House and being given all of these honors. Again, this is the man that ordered the killing of those students.

I believe that the process of getting acquainted must be a reciprocal one. In an effort to help General Chi understand that in America it matters whether you tell the truth, my Subcommittee on International Operations and Human Rights invited him or any other representative of the Chinese Government to appear at a hearing on the Tiananmen massacre. If he could present convincing and compelling evidence that the massacre was really a myth after all, those of us who view the Beijing government and had our views shaped by that massacre would have to admit that we were wrong.

We were prepared to give General Chi an opportunity to substantiate his claim that China has sold no illegal weapons to Iran. Perhaps he could have shown us that there were no persecuted Christians in China, no ethnic and religious persecution in Tibet and Xinjiang, no forced abortions, which are millions per year, women who are literally thrust and brought into these abortion mills, no coerced sterilizations, and no dying rooms for unwanted children. These claims would have all been contrary to the evidence, but in America everyone is given a fair opportunity to be heard.

Unfortunately, General Chi did not respond to our invitation, and the place we had saved for a representative, either he or a member of the government, sat empty during that hearing, at which time we heard from multiple eyewitnesses, including an editor from the People's Daily who recounted the horrors of Tiananmen Square.

In commentary about Tiananmen Square, Mr. Chairman, Nicholas Kristoff of the New York Times, who was in the Square that night, reported, and I quote, "The troops began shooting. Some people fell to the ground, wounded or dead. Each time the soldiers fired again and more people fell to the ground."

When he went to the Xiehe hospital, the nearest to the Square, "it was a bloody mess with hundreds of injured lying on the floors. I saw the bullet holes," Nicholas Kristoff goes on to say, "in the ambulances."

Jan Wong of the Toronto Globe and Mail, looking down from the balcony at the Peking Hotel, "watched in horror as the army shot directly into the crowds. People fell with gaping wounds." Later, she reported, "The soldiers strafed ambulances and shot medical workers trying to rescue the wounded." "In all," she reported, "I recorded eight long murderous volleys." Dozens died before her very eyes.

This is what Tiananmen Square means to the people of China and to the world. If President Clinton goes there and stands shoulder to shoulder with the very people who ordered the massacre, that gesture will be a thousand times more powerful than any mere words he may exchange with those who mowed down and bayonetted students and democracy activists. It will be the diplomatic equivalent of dancing on the graves of the courageous and innocent victims of Tiananmen square.

Mr. President, for God's sake and for the sake of the people of China and for the sake of everything the U.S. used to and hopefully still stands for, do not mark the ninth anniversary of the murder at Tiananmen Square by celebrating with the murderers at the scene of the crimes.

Mr. HAMILTON. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Speaker, I thank the distinguished gentleman from Indiana for yielding to me.

Mr. Speaker, I rise to oppose the resolution. I put a question to my colleagues: What were 122 Members of the House of Representatives doing visiting Beijing in 1997? I visited there four times with 39 of them, including the Speaker of the House, the distinguished gentleman from Arizona (Mr. KOLBE), chairman of the Committee on International Relations, and the distinguished gentleman from Nebraska (Mr. BEREUTER), chair of the Subcommittee on Asia, 39 members.

On the visits each time, each one of us went to Tiananmen Square. No one in this House failed to condemn the atrocities in Tiananmen Square, nor are in support of what happens there.

The President has spoken clearly and often in condemnation of human rights violations in China. When we traveled there, Speaker GINGRICH, I was there on March 30 when he said if we can be respectful, but firm, we can get a long way talking with the Chinese.

I have been in those rooms with the Prime Minister and the Vice Premier, with other distinguished Chinese persons. In each instance our priorities were human rights, democracy, the rule of law; and in each instance we raised those questions time and time again.

Fundamentally, the question of the arrival ceremony becomes a question about whether or not President Clinton goes to China. When a foreign leader goes to China, the leader has a welcoming ceremony, and that is where the ceremony is, period.

We have discussed it with the Chinese at great length. Not surprisingly, the Chinese leaders consider China their country, not ours, and feel that a guest should have the ceremony where they always have had it. I am not aware of other countries that do arrival ceremonies where and when we tell them.

Finally, I will put this question to my colleagues: When President Richard Nixon went to China, the Red Guard, Mao Tse-tung, and countless other official individuals reigned supreme. The question that I put: Was China as bad on human rights then when President Nixon visited? The answer is, of course, it was. But it was right to be engaged then, and it is right to be engaged now.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform and Oversight.

Mr. BURTON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I have heard some of my colleagues say that we have to make it clear to China that if they are to join the people of nations, that they are going to have to change their policies. I have heard some of my colleagues say that we have to be respectful, but firm. I have been in Congress now for 16 years, and every single year I have heard that same kind of statement. Every single year, the situation either remains the same or worse.

Recently, a Clinton administration official said frankly on the human rights front, the situation has deteriorated. They are rounding up dissidents and harassing them more.

There were 7,300 young men and women who wanted nothing more than liberty and freedom 9 years ago and were brutally massacred or hurt in Tiananmen Square. Many of them are still in communist Chinese gulags today.

What are we going to do about it? We have got to continue to be engaged with them. We have a $60 billion trade deficit that is really putting pressure on communist China. They are using 10 million men, women, and children in slave labor camps, gulags, to make tennis shoes and things that we buy in this country every day.

Yet, when they commit human rights atrocities like Tiananmen Square, we say we have to keep engaged. We have to be respectful, but firm. We have to make it clear to them they have got to change, but they do not change. It goes on year after year after year.

Today, we had a hearing before our committee. The gentleman from New York (Mr. GILMAN) and I cochaired that meeting. We had Harry Wu testify before our committee, and Wei Jingsheng before the committee. Both of them told us very clearly that in the prisons over there they are killing prisoners for body parts.

They come to foreign countries, and they say to foreign countries, if you want a kidney, we will get it for you for $30,000. Then they go back for tissue samples and blood samples, and they find a prisoner or group of prisoners. They say, okay, come over here on a certain date, and I will kill them and give you their kidneys, and they do it.

They are making an estimated minimum of $60 million a year by harvesting body parts off of prisoners, many of them possibly political dissidents, and selling them to people around the world. I cannot hardly believe that. It is ghoulish. Yet, we turn our backs on that.

It is going on today. They are doing it in Taiwan. They are doing it in Macao. They are doing it all over Southeast Asia. They are doing it even here in the United States, where people have already been arrested trying to sell these body parts.

But we have to stay engaged with them. We have to look the other way while these human rights atrocities continue to take place. I say, why? Are we our brother's keeper or not? Are we supposed to turn our heads and look the other way just for the almighty dollar? Is American business so callous that they do not care about people in other parts of the world?

Obviously we want to make money. Money is very important. But, for God's sake, what about human beings who are suffering? We look the other way.

What kind of penalties do we impose on the Chinese Government for these atrocities? Nothing. Nothing. We talk about it year after year after year. Many of my colleagues have been here as long as I have, and nothing changes. There are still 10 million people in those gulags making tennis shoes for us, slave labor camps, being paid nothing, but we look the other way. We have got to stay constructively engaged with no penalties.

I submit to my colleagues, we have got to put some pressure on them. We have done it before, I think, when we had some property rights. A couple years ago I think we put some pressure on China and they relented, but it was only because we put pressure on them. But we do not do that anymore. Very rare cases.

So I would just like to say to my colleagues we need to put pressure on communist China. We now believe that we have had technology transferred that has endangered the very security of every man, woman, and child in this country, or possibly may have. We know that the Chinese Communist government has given political contributions in this country, and they do not do it for their health. They must have been doing it, trying to influence our policies in some way.

These things need to be investigated thoroughly before the President of the United States goes over there in Tiananmen Square where this massacre took place and starts shaking hands with the President of China, who lied to the American people when he said there were no political contributions coming from them into this country, and he knew it

I would just like to end up by saying this to my colleagues: For God's sweet sake, think about those people over there who are dying today while we are so callously looking the other way.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, as I listen to this debate, I think we are back into debate like we just finished on the prayer amendment. The question is: Does the President of the United States condone what happened in Tiananmen Square? Is anybody seriously asserting that the President of the United States condones what happened there? The answer is absolutely not. He has spoken about it over and over again.

I would respect the matters of this resolution if they would put in it what they really want, which is that the President should not go. To say to the President of the United States, look, Bill, when you get over there, tell them where you are going to land and where you want to meet them and what door you want to go into, the Great Hall of the People. Just send over a letter to the Chinese Government and say, I am not coming in the front door, I want to come in around back through the alley.

That is so ridiculous as to make the Chinese either laugh or be angry, one way or the other. It is their country. They decide how every official delegation comes to China.

I traveled with the President on his South American trip and his African trip. People in Brazil and Argentina were distressed by the amount of intrusion we made about how the President comes into a country.

□ 1815

For us to stand here on the floor and seriously say he should not go to the official reception place of the Chinese Government is just simply ridiculous.

Now, I believe that we have no choice but to remain engaged with China. For us to return to the pre-Nixon era, when we said they are communists so we are not going to talk to them, is simply not possible. Clearly, the events in South Asia that everybody was out here 2 weeks ago passing resolutions about, that is, the exchange of nuclear technology with Pakistan, and the whole problem of the Pakistan-China-India triangle, is an issue that must be discussed at the highest level.

If Members and I share a concern about peace in the world, we have to be talking to the people who have the ability to control that situation. For us to say to the President, why do you not start by insulting the Chinese, tell them where you are going to land, you are going to go into Nanking, the old south capital, you are not going to Beijing because that represents a bad place, would be like saying to Yeltsin, I do not think I am going to come into Moscow because that is where a lot of tragedy and trauma occurred.

Mr. Speaker, I think this resolution is very ill-conceived and bad public policy.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arizona (Mr. SALMON).

Mr. SALMON. Mr. Speaker, I wholeheartedly support this resolution, which could not have come at a more poignant time. Nine years ago today thousands of young Chinese men and women lost their lives while demonstrating support for freedom and democracy. This peaceful demonstration came to a violent end when Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on these innocent unarmed civilians. Many of the survivors remain incarcerated today.

I realize I have a somewhat different point of view than many of my colleagues. In fact, I urged the President to go to China. There was a letter circulated recently asking him not to go. I think that would be a tragic mistake. I think he should go. I think there are a lot of valuable things he could accomplish. I think he can reaffirm the moral values of the American people in terms of human rights, nonproliferation, and on and on. He should have gone long ago, in fact, not for just some kind of a photo opportunity, but to discuss the serious issues facing our Nation today.

However, he should not go to Tiananmen Square. In fact, just 3 days ago I sent a letter to President Clinton, and I will quote it:

> I must urge you in the strongest terms to avoid any official activities in Tiananmen Square. No American President should appear at Tiananmen Square, at a minimum, until Chinese officials acknowledge young Chinese men and women whose blood was shed 9 years ago this week. Your visit there would set back the Chinese struggle for human rights, and would be an insult to those heroic students who gave their lives for the cause of freedom.

Mr. Speaker, Chinese officials must acknowledge the bloodshed that occurred in Tiananmen Square if they expect to advance a constructive relationship with the United States. I urge all of my colleagues to support this resolution. It is not about trying to dictate to the President where he should go or where he should not go, it is simply about common sense. It is simply about reaffirming our values. That is a great opportunity to build constructively this relationship.

A lot of folks who have said that MFN does not work, they say so because I do not think we have been constructively engaged. We do not take the opportunities to use the bully pulpit to speak plainly with our colleagues on another continent.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Speaker, I, too, am outraged at the atrocities at Tiananmen Square 9 years ago. I, too, as the concurrent resolution states, am outraged that children were killed holding the hands of their mothers, outraged that students were crushed by armored personnel carriers. As the resolution says, I am outraged that more than 2,000 Chinese, pro-democracy demonstrators, died that day.

But is this resolution about changing policy in China? Unfortunately, it is not. It is just yet another partisan political attempt to embarrass the President. While I would never dare impugn the motives of those speaking in favor of the resolution, where were all the voices, where was the Speaker's voice, when he supported extending China once again Most Favored Nation trading status? Where were all the voices who support extending Most Favored Nation trading status on China? Why were they not talking about the atrocities then?

To support China-MFN and to support this concurrent resolution is intellectually incompatible, because to do so is to argue that these brave souls, 2,000 of them that lost their lives, their lives are worthy of changing a ceremony but they are not worthy of changing our economic policy. Those lives are worthy of changing some ceremonial thing that the President will do, where he will walk, but they are not worthy of us, God forbid, losing a buck.

I am sure those that bring back the memory of those whose lives were lost in Tiananmen Square are very genuine, very genuine in their memories. But I respectfully suggest to bring up the memories of such brave freedom fighters in the context of something that is not a great debate about policy about China, but is yet just another attempt to rebuke the President on an international stage, is not what we ought to do.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, our relations with the People's Republic of China are multidimensional. We have trade relations, we have security relations, and yes, we care about human rights in China. Yes, we should talk about these things always together. But there are people of good will on both sides who believe that keeping tariff rates low is a way for us to engage China. That is the view of the President of the United States.

While I am one who has voted against MFN, and so probably do not fall into the category that my colleague just described of being inconsistent, I do not see it as hypocrisy when people wish to stand up for human rights and also wish to stand up for low tariff rates.

It seems to me that when we have a vote on this in just a little while, we are likely to have about 90 percent of the Congress voting together, because on either side of the MFN issue, we ought to agree that human rights in China are important. Because our relations, our bilateral relations with the People's Republic of China are complex, it is, to state the obvious, that human rights is not all there is.

But if the President of the United States were to appear in Tiananmen Square, with all of the symbolism that that carries, were to appear in this very public killing field, that visit, that event, would be all about human rights and nothing else. That is why the President ought not to do it.

It is not just that over 2,000 people were killed by PLA troops and tanks on that day, as estimated by the Chinese Red Cross and other reliable sources, including eyewitness accounts. It is that the survivors of those democracy demonstrations are still in jail today, in 1998. It is awfully difficult to imagine an America that stands for freedom sending its President to the very site of this notorious event, which all the world saw and still concerns itself with, and not send the kind of signal that all of us hope is not sent, that America no longer cares about freedom. We do care about freedom. I believe President Clinton cares about freedom. That is why he should not go there.

Last year I went with the leadership of this Congress to meet with President Jiang Zemin in Beijing. We were not received in Tiananmen Square. It was not necessary for us to be received there. The Vice President of the United States, AL GORE, last year went to the People's Republic of China. He was not received in Tiananmen Square.

President Clinton should not become the first American President, the only American President, to be received in Tiananmen Square since that horrible occurrence in 1989. That is what this resolution is all about. I am very confident that it will receive broad and bipartisan support. I am very confident that the advice that we will be giving I think will be received as it is intended, for the good of the United States of America, for the good of human rights around the world.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. BERMAN), the ranking member of the Subcommittee on Asia and the Pacific.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do not think supporting this resolution is standing up for human rights. I think well-intentioned people can disagree about this, but for me this is the essence of meaningless symbolism over real substance.

If Members do not think the President should go to China, bring forth a resolution saying that the President should not go to China. If Members do not believe in the policy of constructive engagement, then come out and speak against that particular policy. If Members want to do something that will hurt the Chinese and bear the consequences of it, then come out for MFN. If Members want to withhold imports and trade benefits because of the constant and continuous policy of proliferation of nuclear and missile technology, deal with that.

But do not say, all this is fine, constructive engagement is good, going to China makes sense, renew MFN, but, Mr. Speaker, do not go to the place that for all of us symbolizes the most horrible, indescribable terror imaginable and the example of brute government force, do not go there, as your statement of protest.

Mr. President, go there, speak against that horror, speak against what we do not want, push an agenda which is meaningful and real in terms of helping America's interest in stability and the interests of nonproliferation and the cause of human rights, but do not take the cheap symbolism of this kind of resolution as a substitute for a policy.

I have watched, too much, people who write letters urging the President to allow American satellites and Chinese launchers and then pass one House bill to stop it, and people who stand up and decry China and then go vote for MFN because American corporations want it.

I agree with the gentleman from Florida (Mr. HASTINGS) about his point, and I urge a "no" vote on the resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I rise in very strong support of this resolution. The resolution calls for the release of prisoners. The gentleman from New Jersey (Mr. SMITH) and I went into prison. In fact, this is Beijing Prison Number 1. This is the back of the head of the gentleman from New Jersey (Mr. SMITH).

These were prisoners, Tiananmen Square prisoners, and we picked the socks up off the line that the prisoners were making. There were 1,000 to 2,000 people killed, but there were men, many of them or most of them, and I see the gentleman from New Jersey (Mr. CHRIS SMITH) in the back there, who remembers vividly when we went in the Beijing Prison Number 1. What it says was Hosiery Factory, when it was basically a very, very brutal prison.

For their families, it is absolutely important to pass the resolution. It is not a free vote, because I will tell the Members, tomorrow morning on Radio Free Europe and Radio Free Asia and Voice of America, if you will, this will go on, that the United States Congress has passed this. What it will say is that the people's body, the United States Congress, has passed this resolution.

If you were a mom or dad who had had your son or daughter killed, and I have brutal pictures of those who have been run over by tanks, this would send a message. But for those who are in prison and languishing, it will send a message: One, he ought not to go to Tiananmen Square, and I am one who has been opposed to MFN; but two, I think for the children, for the prisoners that are in there who made these socks, and these have golfers on them and they do not play golf in China, they are for export to the United States, this resolution is a good resolution.

I strongly hope that it is passed by an overwhelming margin, because tomorrow in Beijing when they hear, I think it will send a positive message, and the prisoners in Beijing Prison Number 1 and throughout the gulags will find out about this resolution. Their moms, their dads, their wives, their families within the next couple of weeks will tell them, and that will give them hope.

I appreciate the sponsorship of this, and I strongly support this, and hope it can be almost by unanimous vote.

□ 1830

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the distinguished gentleman from Indiana (Mr. HAMILTON) for yielding me this time.

Mr. Speaker, I come to the floor today with my prized possession which is the great icon, the picture, probably one of the greatest symbols of the 20th century, of the lone man before the tank. And it is signed by almost every important dissident who has come out of China. It is a great treasure to me because of the courage of the people that are represented here.

I rise today in support of the resolution, and I want to tell my colleagues why. But, first of all, I want to associate myself with some of the remarks of the gentleman from Florida (Mr. WEXLER) and the gentleman from California (Mr. BERMAN), because far too often we have resolutions on the floor that serve as a fig leaf for those who, when the really serious issues come up like trade status and the rest, are never with us.

Members are quick to criticize the impact of the President's policies while they have stuck with him every time a vote is taken, but use these issues for political purposes and bring up resolutions, as I say, to make themselves well, when they are voting against the really serious issues that we have to deal with.

Having said that, I want to say that this is not about whether the President should go to China. I think the President should go to China when the time is right. He thinks that is now. I disagree, but I am not against his going to China.

And it is not about whether we should be engaged with China, because we certainly should be engaged with China, but in a sustainably and constructive way, which I do not think we are right now.

The reason why I am opposed to the President being received in Tiananmen Square is because the President is trying to frame his visit as the end of the Tiananmen era. That is not so. And just saying it will not make it so.

The Tiananmen era will not be over until the Chinese regime reverses the decision of Tiananmen Square; until the over 100 people who were arrested at that time are freed and are allowed to speak freely in China; until the over 2,000 political prisoners are freed, not exiled but allowed to stay in China and speak freely, and over 200,000 people who are in reform-through-labor camps because of their political beliefs are released.

Mr. Speaker, in closing, I just want to say that Mr. Harry Wu said this morning if the President goes to Tiananmen Square, he will join the Chinese regime on the wrong side of history. I urge our colleagues to vote aye.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I rise in support of H. Con. Res. 285 expressing the sense of Congress that President Clinton ought not to be received by the Chinese Government on his arrival at Tiananmen Square when he goes there later this month.

Mr. Speaker, as many in this body know, I am one who believes very strongly in a policy of engagement. I am one that supported China MFN. I believe that engagement works. I believe that when American citizens, businesspeople, students, and academicians travel to China, we help to spread our values there. And I do believe that makes a difference. I also do not oppose the President's visiting China. Indeed, I believe he should visit China, because I believe it is an important element of a sound foreign policy for China.

Others that have supported this resolution have talked about the abuses that are going on today in China. They have talked about widespread political prisoners. They have talked about body parts being sold commercially and about forced abortions. We know there are human rights abuses in China—some of them alleged, some that we know take place.

But that is not what this resolution is about. The resolution says that this President ought not to be received as an official part of his visit in Tiananmen Square because of the very symbolism that an event there would suggest. It would suggest that the United States, that the President of the United States, forgives and forgets what happened there only 9 years ago when the Chinese Government callously crushed an incipient student political democracy movement. It was brutal, and we all saw it on television.

And, yes, the gentleman from Florida (Mr. HASTINGS) said that I was in Tiananmen Square with him. Yes, I was there. But I think there is a difference in walking across Tiananmen Square and being officially received there as part of the opening ceremony.

Mr. Speaker, the President should go to China, but he ought to be in control of his own visit. No Chinese visitor would agree to be received on American soil at the site of some atrocity against its citizens in this country, if such an event were to occur. If we believe in freedom and human rights for Chinese, our president should not visit in any official capacity the scene of the brutal repression.

Mr. Speaker, I say, "Mr. President, make your visit. Stay engaged. But do not say to the Chinese that we condone and forgive what happened there 9 years ago. Mr. President, do not go to Tiananmen Square on this visit."

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise in opposition to this resolution.

It was over 20 years ago the Republican President Nixon fought off the forces of isolationism and turned this country towards a direction of engagement with China. When I hear many of the speakers today that are suggesting that our President should not be entertained on Tiananmen Square, that are suggesting which door he should enter when he goes to the Great Hall of China, I am troubled by that, because it seems to me that we have seen clear demonstration over the last 20 years that this policy of constructive engagement has done more to advance the interest of human rights, the interest of religious freedom in China than any policy of isolationism could have ever achieved.

Sure, there are still problems in human rights. There are still problems in religious persecution. But for us to suggest and to dictate to this President how and where he should be entertained is clearly not appropriate. It does not serve us well to dictate to the President that he should insult the host, the President of China and the citizens of China.

Mr. Speaker, I urge Members to vote against this resolution.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I commend the gentleman from New York (Mr. GILMAN) for his leadership on this.

Mr. Speaker, the President "continues to coddle China, despite its continuing crackdown on democratic reforms, its brutal subjugation of Tibet, and its irresponsible export of technology." That is not my opinion.

Let me read that again. The President "continues to coddle China, despite its continuing crackdown on democratic reforms, its brutal subjugation of Tibet, and its irresponsible export of technology." December 11, 1992, William Clinton when he was President-elect.

Mr. Speaker, talk about a whopper. I mean, if my colleagues wonder why the American people distrust our leadership, it is when they say one thing to get elected and, when they get elected, they do exactly the opposite.

We heard earlier in the debate that he is just yielding to the interests of that country, that they set the schedule. But when another President of the United States went to Bitburg, where Nazi butchers had killed Jews that were buried in that cemetery, there was a justified outcry in America, and from the other side of the aisle, that said that we do not think the President should go to Bitburg.

Mr. Speaker, what is the double standard here? Thousands of students were butchered. Many are in prison today. And the last thing we need from the President of the United States is to break his word that he gave the American people about coddling the Chinese, about not standing up for human rights, because he ran on it. We would like him to keep his word and not do what would be a terrible signal to those who are trying to stand up for human rights and democratic reforms around the world.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia (Mr. WISE).

Mr. WISE. Mr. Speaker, I think with the eloquence of many who have spoken here on both sides, it is important to remember what happened 9 years ago in Tiananmen Square. The people must remember. The U.S. Congress must remember. The President of the United States and, yes, the Chinese people and government must remember.

But I have got to ask, too, why do we not remember and remember how important it is to engage? Would anyone have seriously suggested that Presidents Reagan or Bush or Ford or Carter, going all the way back, should never have gone to Moscow to meet with the Soviet Union, now, of course, the Russians, because of the gulags, because of the Korean Air 007 shooting down, because of the oppression in Afghanistan and countless other countries? Of course not. We knew they had to go.

Or Richard Nixon, should he not have gone to China? Talk about human rights violations. Mao Tse-tung and the Red Guard were running in full bloom at the time. Millions massacred, millions incarcerated. Deng Xiaoping himself, a later leader of China, was being subjected to imprisonment by the Red Guard, but we had to engage.

The President of the United States standing in Tiananmen Square does not gloss over what happened there; it highlights it. It highlights it because of the attention it draws, and I think President Clinton will stand well in representing what Americans believe.

We have to look at this trip in the entirety, not in separate events. And that is what I think is important, is what does the President come back with?

Finally, I am a little tired of micromanaging by Congress. I am tired when the Speaker of the House goes to Israel and decides it is okay to bash foreign policy on foreign soil. I am tired of Congress trying to micromanage the foreign policy of this country. It is fair to hold the President accountable, but let the President do what the Constitution says he is to do.

Many, and I am one of them who has supported MFN status, but I would be insulted if someone tried to say that business was trumping blood in that situation. So it is that I feel the President should be given the leeway and the discretion to do what he knows is fair to be done, and then it is fair to judge him on the entirety.

Mr. Speaker, I urge rejection of this resolution.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER), a member of the committee.

Mr. ROHRABACHER. Mr. Speaker, I am going to be blunt. The presence of the President in the United States, President Clinton with his record on human rights, in Tiananmen Square makes a mockery of this country's sincere commitment to human rights and democracy.

This administration has the worst human rights record of any administration in my lifetime. And any utterance the President of the United States might make about human rights in Tiananmen Square, where thousands of young people struggling for democracy in China were murdered, just takes away from any message that we might have as a people to the peoples of the world that we are serious when we talk about democracy and freedom.

In reality, it will be seen as purely posturing by a President that has time and again said making money and making sure that the Chinese can keep that $50 billion trade surplus to be used to build up their own weapons systems which they then use to suppress their people is much more important than human rights.

President Clinton said, well, we must have Most Favored Nation status again just recently; and he told the people of the United States that this was because China can help us. It is not good in human rights. At least it can help us in a broader role by bringing peace to Asia or whatever. And further evidence of this, of the role they can play, is the important role that the President said that we can be working with China in some strategic relationship in the 21st century.

But what constructive role was he talking about with Beijing as a strategic partner? Since May 26, one week previous to the President's statement, U.S. intelligence has been tracking a Chinese cargo freighter that departed from Shanghai loaded with missiles and electronic components to be used for nuclear weapons steaming for Pakistan. Steaming for Pakistan. With that type of a record I would suggest that China cannot help us with anything, and they are not good for human rights.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in opposition to House Concurrent Resolution 285 which urges President Clinton reconsider his decision to be received in Tiananmen Square.

Mr. Speaker, President Bush condemned the Chinese government when the killings occurred; and President Clinton has repeatedly been on record and made clear his view that the breakup of the demonstrations and killing of innocent civilians was unacceptable and a great mistake by the Chinese leaders.

Traditionally, the Chinese Government welcomes heads of state by arrival ceremonies held at the Great Hall of People which is next to Tiananmen Square. All dignitaries from around the world are accorded the same reception at the Great Hall, as was done with Japanese Prime Minister Hashimoto, French President Chirac, British Prime Minister Major, Russian President Yeltsin, and even Israeli Prime Minister Netanyahu.

Mr. Speaker, are we as a Nation greater than all of these democratic nations combined? It seems to me that we are bordering along the line of arrogance to tell another sovereign nation how it should receive our President. The reception of these world leaders at the Great Hall did not signify their government's condoning the Tiananmen Square massacre. Likewise, President Clinton's reception at the Great Hall cannot be construed as bestowing legitimacy on the Chinese Government's brutal actions 9 years ago.

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Mr. Speaker, contrary to the views of my friends in the Republican majority, I honestly believe the presence of President Clinton on Tiananmen Square will reinforce and reaffirm fundamental basic democratic values and principles to all the leaders and the people of China. President Clinton should respect Chinese protocol and use the opportunity of the Great Hall to expressly honor the memories of those who died in Tiananmen Square, while urging that China continue progress at all levels for human rights.

Mr. Speaker, I urge that our colleagues vote against this measure.

Mr. GILMAN. Mr. Speaker, would the Chair advise us how much time remains?

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from New

York (Mr. GILMAN) has 3 minutes remaining, and the gentleman from Indiana (Mr. HAMILTON) has 2½ minutes remaining.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, in many instances we see bravery by going forward, marching strong and tall. I would hope this country would view the visit of the President of the United States just in that form.

I, too, was outraged and overcome with sadness at the tragedy of Tiananmen Square in 1989. Thousands of Chinese students marched peaceably, children were killed and students were trampled, and horrendous and horrific acts perpetrated on the people of China who wanted freedom.

But I would say that this resolution does not speak to that question. For if it seriously did, and I believe in human rights and have argued vigorously against the travesties in Rwanda and Burundi and Bosnia and places around the world, we would not want our President not to go and confront the leaders and the tragedy of Tiananmen Square.

We would want our President to stand tall in that square and declare a day of freedom for all of those prisoners who are incarcerated. We would want our President to challenge the Chinese on their own territory about the travesty of the lack of human rights and human dignity in that country.

This resolution is not a resolution to bring about those kinds of acts. It is a partisan one, although I do not in any way argue against those who are committed to the issues of human rights. I know that they are standing on solid ground. I simply ask them to reconsider whether or not any action will come out of this.

I believe it is extremely important that our President go bravely into China, stand up for what America believes in, the human dignity of all people, ask for those incarcerated because of their difference in views to be freed now and immediately. That is what I want the President of the United States to do, to stand for freedom and human rights, to do it and say it loudly and to bring the United Nations along with him. I believe we can do this better if we allow our President to represent us in the way he should.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise in strong support of the resolution.

Mr. Speaker, I rise in strong support of this resolution that simply asks President Clinton not to be formally received at the site of Tiananmen Square.

Tiananmen Square is probably the site of the worst government violence brought upon an unarmed population in the last thirty years, where at least 2000 people were murdered by their own government.

I adamantly believe that the President, in light of explosive allegations that the Chinese military was attempting to funnel illegal campaign donations to political candidates and because of China's weapons and nuclear proliferation, should not even travel to the People's Republic of China at this point.

But if he is, the President must send the strongest signal to China that we will not accept such butchery on an innocent people.

Mr. HAMILTON. Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. ARMEY), the distinguished minority leader.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARMEY) is recognized for 3 minutes.

Mr. ARMEY. Mr. Speaker, this debate has been a good debate and I want to thank the committee for bringing it to the floor. The debate is about H. Con. Res. 285, expressing the sense of Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the government of the People's Republic of China.

It is unusual. I think we have acknowledged that. It is an unusual thing to bring such a resolution to the floor. It is probably even more unusual for the resolution to have been brought to the floor by me or to have been submitted by me. I listened to the debate, and good points were made on both sides of the debate, and I want to thank everybody who participated in the debate.

Why would I do this? It is not my usual posture to suggest that I should describe for the President how and where he should travel, where he should be received when he travels. What would compel me to do this? What compels me is the love of freedom and the scene of that love of freedom that I saw 9 years ago on this day, the young students in China gathered together on Tiananmen Square.

They gathered for the purpose of celebrating freedom and democracy. They gathered for the purpose of hoping and dreaming, wishing, praying and, no doubt, demanding freedom and democracy for themselves. They gathered around them on that square the symbols of freedom that they knew, even from their relatively closed society, they knew symbols of freedom from around the globe. One such symbol of freedom that they knew of was the Statue of Liberty in the United States. The students had built a papier mache model of that statue and it was, I am sure, something of enormous encouragement to them.

Then the troops confronted the students, armed troops, tanks, we have all seen the pictures. We sit there and we wonder why would a lone figure stand in the face of those tanks. Why would the students risk the carnage that they experienced? The same reason people have risked their personal lives and their fortunes and their sacred honor before, for the love of freedom.

They saw during all that carnage their comrades fall, fellow students. They must have been as horrified as we were as we watched the scenes. They saw the symbol of liberty, the Statue of Liberty in papier mache, crushed under the tanks. They later experienced the arrests and some of them are there today.

One of the things I marveled about 9 years ago and one of the things I marvel about today, no matter how rigorously the Government of China keeps the message of freedom out, the message is heard by these young people. I guess there is an old line, with love all things are possible, and with the love of freedom they hear the message of freedom.

They look to America as the peoples of the world look to America for freedom, and they see in America many, many symbols of freedom, the Statue of Liberty that they reproduced. I expect this building is seen by many people around the world and would be seen by these young people today in their prisons or worrying about arrest, this Capitol would be a symbol of freedom. The White House is seen as a symbol of freedom, the eagle.

Mr. Speaker, to most of the world the President of the United States, the American presidency is a symbol of freedom. What an honor. What an honor for this great Nation to have our head of State recognized as a head of State, as a symbol of a thing so precious as freedom.

They saw the Chinese army crush their symbol of freedom and it broke their hearts. Should these young people now see the symbol of freedom, the American presidency, received in Tiananmen Square, celebrated by that same government that was so callous and so cruel, so harsh, so brutal in crushing their love of freedom?

It is not about the President, Mr. Speaker. It is not about the Congress. It is not about you and I. It is not about American business enterprise. It is not about trade. It is about young people with freedom and the love of freedom in their hearts and their hopes and their dreams, who should not have to observe one of the great world symbols of freedom received on what is to them sacred, hallowed ground by the despotic government that crushed their dream.

Mr. PORTER. Mr. Speaker, nine years ago, the People's Liberation Army and the State Security Forces of the People's Republic of

China turned their weapons on a group of unarmed, peaceful demonstrators who had gathered in the center of Beijing for several weeks to protest the corruption of the communist Chinese government and demand democratic reforms and greater freedom. Many of those who had gathered there were students—the best and brightest of China—but there were also factory workers, older people, families and even party members. They had come to Tiananmen Square—the physical and psychic center of China's capital city—to peacefully petition for change in their government. This peaceful petition was met with bullets and tanks. Between 2,000 and 5,000 people were killed in and around Tiananmen Square by Chinese military and police forces. They were shot in the back as they ran away. They were crushed under tank treads. They were killed by indiscriminate machine gunfire. They put their own lives at risk to save others. They are heroes and martyrs, and we will never know many of their names even though we watched their fate unfold on CNN. We cannot allow their memory to die and we cannot allow what they stood for to be diminished.

By ordering Chinese troops and police to fire on their own people, Jiang Zemin, Li Peng and the rest of the Chinese Politburo earned their place in history. Nothing that has happened since can change this fact. President Clinton seems determined, however, to create his own place in history as the American leader who turned his back on the democracy movement in China in order to avoid offending his authoritarian hosts. The Chinese leadership remains unapologetic about the events of June 4, 1989 and they continue to vilify, imprison and exile these brave democracy activists. By standing in Tiananmen Square with these men, President Clinton lends them and their policies—including the actions of June 4th—the veneer of legitimacy they have sought since that fateful day. This is unacceptable.

Tiananmen Square is more than a vast expanse of concrete in the middle of Beijing through which one must inevitably cross. It is more than a typical example of totalitarian architecture; and it is more than a place for ceremonial receptions of foreign dignitaries. Tiananmen Square evokes a visceral emotional reaction within those of us who followed the events of May and June of 1989. It is the place where we saw the spirit of freedom and democracy living in the faces of tens of thousands of Chinese people. It is also the place where we saw their dreams of freedom and democracy crushed by their own brutal and illegitimate government. In 1989, Jiang Zemin and Li Peng—among others—made the decision to use force against peaceful demonstrators at Tiananmen Square. In June 1998, they will be at Tiananmen Square to greet the President of the United States. I believe that such an act is an insult to the memory of those who died in the Tiananmen Square massacre and those who remain in prison or in exile today as a result of their participation in that historic protest. Is this the message that we want to send to those inside China and around the world who are fighting for freedom and democracy?

I strongly support the substance of this resolution and I am pleased that the House has seen fit to bring it to the floor today. I believe that it is important that President Clinton visit China, and that the U.S. remain engaged with China. I do not, however, believe that it is inconsistent with engagement to join my colleagues in calling on the President to honor the memory of those brave Chinese men and women who died nine years ago in the name of freedom and democracy by refusing to stand in Tiananmen Square with the architects of the massacre that is synonymous with that place. Engagement does not mean we fail to stand with those who are our values, rather than those who repudiate our values. Engagement does not mean that must allow the Chinese dictatorship to manipulate a visit by the U.S. president to their own political purposes. U.S. policy should not get "beyond Tiananmen Square" until and unless the Chinese government admits that what happened there nine years ago was a mistake and apologizes to the Chinese people for this crime which was committed against them. When that happens, I will be the first one to urge our President to visit Tiananmen Square. Unless he goes to lay a wreath there in memory of the victims of June 4th, however, he should not go to Tiananmen Square on this trip.

The SPEAKER pro tempore. All time for debate has expired.

The concurrent resolution is considered as read for amendment.

Pursuant to House Resolution 454, the previous question is ordered.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 116, not voting 13, as follows:

[Roll No. 202]

YEAS—305

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meeks (NY)
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Minge
Moran (KS)
Morella
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Woolsey
Young (AK)
Young (FL)

NAYS—116

Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Deutsch
Dicks
Dingell
Dixon
Dooley
Edwards
Eshoo
Farr
Fattah
Fazio
Filner
Ford
Frost
Gillmor
Gordon
Green
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Houghton
Hoyer

Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
LaFalce
Leach
Lofgren
Luther
Markey
Martinez
Matsui
McCarthy (MO)
McDermott
McGovern
Meehan
Meek (FL)
Millender-McDonald
Mink
Moakley
Murtha
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Pickett
Rahall
Rangel
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Sawyer
Skaggs
Skelton
Smith, Adam
Stokes
Stupak
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wynn
Yates

NOT VOTING—13

Burr
Engel
Frank (MA)
Furse
Gonzalez
Lewis (GA)
McDade
Mollohan
Moran (VA)
Myrick
Reyes
Ros-Lehtinen
Serrano

□ 1916

Ms. KILPATRICK, Mr. CLYBURN, Mr. OLVER, Ms. VELÁZQUEZ, Mr. TIERNEY and Mr. MEEHAN changed their vote from "yea" to "nay."

Messrs. McINNIS, WALSH, McHUGH, MASCARA and MANTON changed their vote from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. SUNUNU). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1614

Mr. SKAGGS. Mr. Speaker, I ask unanimous consent to be removed as a cosponsor from H.R. 1614.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

CONFERENCE REPORT ON S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Mr. SMITH of Oregon. Mr. Speaker, pursuant to previous order of the House, I call up the conference report on the Senate bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

The Clerk read the title of the Senate bill.

UNFUNDED MANDATES POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I rise to a point of order under section 425 of the Congressional Budget Act regarding unfunded intergovernmental mandates on every single senior citizen homeowner in America.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, this does increase property taxes on senior citizens, and everybody ought to be listening.

Pursuant to section 426 of the Congressional Budget Act, the language on which this point of order is premised is contained in section 502 of the subtitle A of title V, "Reductions in Payments for Administrative Costs for Food Stamps," of the conference report.

(For section 502, see CONGRESSIONAL RECORD of April 22, 1998, page 6426.)

The SPEAKER pro tempore. The gentleman from New York makes a point of order that the conference report violates section 425(a) of the Congressional Budget Act of 1974, and according to section 426 (b)(2) of the Act, the gentleman must specify the precise language of his objection in the conference report on which he predicates this point of order.

Having met this threshold burden, the gentleman from New York (Mr. SOLOMON) and a Member opposed each will control 10 minutes of debate. Pursuant to section 426 (b)(3) of the Act and after debate, the Chair will put the question of consideration, to wit: Will the House now consider the conference report?

Will the gentleman from Oregon (Mr. SMITH) claim the 10 minutes in opposition?

Mr. SMITH of Oregon. Mr. Speaker, I am in opposition.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. SMITH) will be recognized for 10 minutes in opposition, and the gentleman from New York (Mr. SOLOMON) is recognized for 10 minutes.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

I do want the Members to listen up. It is very, very important. We are about to force every single senior citizen homeowner in America to pay more real estate taxes. That is why I raise this point of order against this unfunded mandate.

This conference report would lower each State's reimbursement for administrative costs in the food stamp program by an amount to be determined by the Secretary of Health and Human Services. That provision, my colleagues, according to CBO would limit the Federal Government's responsibility to provide funding to States and local governments to cover the administrative costs of the food stamp program.

Mr. Speaker, the National Governors Association opposes this provision, and almost every single individual governor in America has expressed outright hostility to this reneging on them and putting more costs on our States and our local governments, and that is wrong.

Mr. Speaker, I mentioned CBO had scored this legislation as exceeding the unfunded mandate threshold in the law, which is $50 million. In fact, those costs on the States are much, much higher, in the hundreds of millions of dollars in administrative costs to our individual States and each one of our counties and cities and towns and villages that we represent. And that is according to the National Governors Association, my colleagues.

Overall, this represents a cost shift from the Federal Government to the States as high in my State of New York as $280 million, $280 million, of which local governments are going to have to pay 25 percent of that cost. That is what we are leveling on our senior citizens. What that means, Mr. Speaker, is a "yes" vote for this unfunded mandate is a vote to increase property taxes on every single one of our homeowners that own a home in America.

Mr. Speaker, there are so many families living in my district on fixed incomes that it is almost impossible today for them to even pay the taxes. As my colleagues know, we have tremendous school taxes and land taxes, all of which are caused by the cost of welfare. When State and local governments are forced to raise taxes and ordered to pay for this unfunded mandate from Washington it is going to get even worse.

Taken together, this legislation reserves a fundamental principle of the American majority, of the Republican majority in this House, returning power and influence to the States and letting them not be saddled with these terrible unfunded mandates.

Mr. Speaker, I reserve the balance of my time in order to let other people speak as strongly as I have.

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have the utmost and greatest respect for my friend from New York. But I must, Mr. Speaker, correct the issue here because without question this is an unfunded mandate, and we are asking our colleagues to recognize what kind of an unfunded mandate this truly is. Certainly not in the minds of those who passed the unfunded mandate law, but indeed by decision, this is an unfunded mandate. How did it occur?

These are funds, Mr. Speaker, that were allocated to the States as a cushion should the welfare rolls go up and we have a huge downturn in the economy. They are funds that we do not anticipate being used, certainly in the near future, maybe not ever, so they are funds residing within each of the States that may never be used. That is because of the action of this Congress in reducing the welfare rolls by requiring people to work and by reducing the need for food stamps.

So if these funds were not used in the manner in which we have provided to our colleagues in the conference committee report, they would be used for some other purpose, maybe for highways, maybe for other purposes. Certainly there is a great demand for the use of these funds. This in no way is an increase in property taxes, this is in no way an increase in senior citizens' costs, in no way.

Mr. Speaker, let me also advise my colleagues, particularly from these States: California, New York, Florida, Illinois, Maryland, Massachusetts, Nebraska, New Jersey, New York, Rhode Island, Washington, and recently Texas, that funds are already being used, State funds, for the very purposes that we talk about here in the bill and in the conference committee report regarding legal aliens' food stamps. Already States are paying, through State coffers, for these exact kinds of funds for food stamps for illegal aliens. Therefore, the passage of this bill will relieve States like New York and Texas and other States who may choose to substitute the conference committee report for State funds.

It makes great sense to pass this. Believe me, not addressing the unfunded mandate kills the conference committee report.

Mr. Speaker, I reserve the balance of my time.

□ 1930

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know, I have heard of smoke and mirrors in my lifetime, but let me tell you, I have been a town mayor, I have been a county legislator, I have been a State legislator, and nobody knows more about this welfare system in this country than I do.

Let me tell you, when you take away the administrative cost of this, you are going to give them something on one hand and take something away on the other. Let me tell you, that is smoke and mirrors.

This letter from the Governors Association says this would deny several hundred million dollars in food stamps and Medicaid funding from New York State alone, and $3.6 billion in Federal costs to the States by forcing States to absorb food stamp and Medicaid administrative costs, and it goes on and on and on.

Let me tell you, in New York State, and I think it is the same in most every State in the Union, the local share is raised by property taxes. That means that older Americans that are paying property taxes today are going to have to pay that increase, a very substantial increase, to pay for somebody else's food stamps in another area.

That is wrong. If you are going to give those food stamps, at least pay for them out of Federal coffers, and do not force local governors to raise property taxes.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I must say I was reminded of the famous quote of Will Rogers, when he observed that, "it ain't people's ignorance that bothers me so much, it is them knowing so much that ain't so is the problem."

The gentleman from New York is totally nonfactual in what he was saying. All States are not affected by this bill. States are affected only to the extent they charge common AFDC food stamp administrative costs, and the only States that will be detrimentally affected are those that have been double-dipping, and that is something that we would not want to see done.

First, make no mistake about it, a vote against consideration of S. 1150 will kill the bill, and that is what the gentleman from New York honestly wants to do, is kill this bill. Funding for crop insurance research and rural development and nutrition will be denied.

Now, Federal mandates are generally thought of as any provision that imposes an enforceable duty upon a State, except as a condition of Federal assistance. The original intent was simply to require the Federal Government to pay for requirements placed on States. The Committee on Rules identified the purpose of the unfunded mandates bill as being to prevent Congress from passing feel-good legislation that transfers the cost burden from the Federal Government to State and local governments, for example, the Occupational Safety Health Act, the Clean Air Act and the Clean Water Act.

The provision we are considering in this bill today is unlike any of these. Technically, a Federal intergovernmental mandate is any provision that relates to a program which provides $500,000 annually to States if the provision would decrease funding to the State and the State lacks authority to amend their programmatic responsibility.

An unintended consequence of the 1996 welfare reform bill allows States to shift administrative costs previously charged to the AFDC program and already included in their Temporary Assistance for Needy Families grants, the TANF block grants, to the food stamp program. The result is duplication of Federal administrative reimbursement to States for the same activity, since these costs are included in the TANF block grants and would be matched at a 50 percent rate by the food stamp program.

S. 1150 would close this loophole by annually adjusting States' claims for administrative cost reimbursement by the amount that was included in their TANF block grants for the same purpose. The CBO has identified this provision of S. 1150 as an unfunded mandate relative to the food stamp program because there would be a reduction in funding for that program without a commensurate reduction in administrative requirements.

While this determination is technically correct for the food stamp program in isolation, the provision is drafted to deal with interaction between the two programs. Therefore, when the provision in question is examined from a broader perspective, it prevents States from being overfunded due to the combined effects of TANF block grants and the change in the food stamp cost allocation methodology.

It is difficult to see the provision as an unfunded mandate in this light. Without S. 1150, CBO estimates payments to States for food stamp administrative costs will be $2.5 billion more than prior to welfare reform. Even with enactment of this conference report, States will receive over $800 million more for administrative costs than they were projected to receive prior to enactment of welfare reform.

Welfare reform was never intended to allow States free access to the Federal Treasury, to double-dip for reimbursements to carry out these programs. I certainly am speaking for the State of Texas, who has informed me they support what we are attempting to do for the reason that the gentleman from Oregon (Chairman SMITH) mentioned a moment ago. We are one of those States that will, in fact, benefit fairly from the passage of this act, and double-dipping or having an unlimited access to the Federal Treasury is something I believe this body would not want us to do.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say to the previous speaker, you know, he says, "All SOLOMON wants to do is kill the bill." The gentleman from Texas (Mr. STENHOLM) came here when I did 20 years ago. The gentleman knows that I represent an agricultural district in this country. We are the 20th largest dairy-producing district in America. The last thing I want to do is kill this bill. I just want the Federal Government to pay for it and not saddle the local property taxes with the costs.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. BARTON) to counter what the other gentleman from Texas just said.

Mr. BARTON of Texas. Mr. Speaker, I thank the distinguished gentleman from New York for yielding me time.

Mr. Speaker, I will enter into the record a letter received by every Member of Congress from the National Conference of State Legislators, dated June 4, 1998, signed by Representative Tom Johnson, Ohio House of Representatives.

It says, "As reported by the conference committee, S. 1150 contains a substantial unfunded mandate to States, confirmed repeatedly by CBO, that not only violates the Unfunded Mandate Reform Act but breaks the agreement crafted by the Congress and the States on welfare reform. The proposed offset reducing the Federal reimbursement rate for State food stamp administration represents a $1.7 billion cost shift to States without similar reduction in programmatic responsibilities required under the Unfunded Mandate Reform Act."

The National Conference of State Legislators supports the point of order of the gentleman from New York (Mr. SOLOMON).

Mr. Speaker, under the savings that were found in the conference, there were $2 billion of administrative cost savings found in the overall administration of the food stamp program. The conferees allocated $800 million to restore benefits for certain categories of legal aliens in this country. That is 40 percent of the increase. They did provide an additional $500 million for crop insurance and $600 million in a new program for agricultural research and an additional $100 million for other agriculture research programs.

Those are good programs that would stand the scrutiny of this House. I am not sure that $800 million restoration of food stamp benefits for legal aliens would withstand the scrutiny of this House if we had a full vote.

I hope we would sustain the point of order of the gentleman from New York (Chairman SOLOMON). Let us eliminate the unfunded mandates that are in this bill. Let us report out the money for the farmers and the research universities that needs to be reported and then work on the food stamp program as a stand-alone issue.

Mr. Speaker, I include the letter from Representative Tom Johnson for the RECORD.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, DC, June 4, 1998.

DEAR MEMBER OF CONGRESS: The National Conference of State Legislatures fully supports the Rules Committee's decision to allow a point of order on S. 1150, the Agricultural Research bill and urges you to support the point of order when it is raised by Representatives Rob Portman and Gary Condit.

As reported by the conference committee, S. 1150 contains a substantial unfunded mandate to states (confirmed repeatedly by CBO) that not only violates the Unfunded Mandate Reform Act (UMRA) but breaks the agreement crafted by the Congress and states on Welfare Reform. The proposed offset reducing the federal reimbursement rate for state Food Stamp administration represents a $1.7 billion cost shift to states without similar reduction in programmatic responsibilities required under UMRA.

The National Conference of State Legislatures has long been supportive of efforts to restore Food Stamp benefits to legal immigrants; however, we vehemently oppose the funding of these benefits through a reduction in federal Food Stamp administrative reimbursement to states. It is disingenuous for the Congress to solve one cost shift to states by imposing another.

We urge you to support the point of order on S. 1150 and look forward to continued partnership with the Congress in restoring Food Stamp benefits to legal immigrants.

Sincerely,

TOM JOHNSON,
Ohio House of Representatives, Chair, NCSL Federal Budget & Taxation Committee.

Mr. SMITH of Oregon. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COMBEST).

Mr. COMBEST. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the conference report includes a provision that corrects an unintentional consequence in the 1996 welfare law reform. That provision would have allowed some States to be paid twice for the same administrative costs for determining eligibility for food stamps. That is corrected in the conference report.

What we are presented with is a situation in which it is an obvious windfall extra payment to some States that must be corrected. If I were one of those States or representing one of those States, I would probably like to be a part of the recipient of $2.5 billion of Federal money that is not due to those States. If in fact that is the desire of Members, to give them $2.5 billion more than is necessary, then vote with the gentleman from New York (Mr. SOLOMON). If it is not and you have a desire to see the bill continue to move forward, vote on the position of the gentleman from Oregon (Mr. SMITH).

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON), one of the most respected Members of this body.

Mr. SAM JOHNSON of Texas. Mr. Speaker, you know, it is funny that we pass welfare reform and then turn around the next year and destroy it. It is also kind of funny that we have a provision in here that does not address just crop insurance and agricultural research, which is what we should be addressing. Instead, we add to it a bunch of unfunded mandates, which has been admitted by the Committee on Agriculture chairman, and those same unfunded mandates that are coming out of our hide are going to be asked of the Committee on Ways and Means again, we just learned today, to take another $16 billion out of this very same program.

Somewhere, the well runs dry. We have to pay the piper. It is time to stand on the laws that we passed. It is time to stand with our welfare reform and not suck the States into more spending.

Mr. SMITH of Oregon. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY), also a member of the conference committee.

Mr. DOOLEY of California. Mr. Speaker, I think every Member has to fully understand what would happen if you vote with the gentleman from New York (Mr. SOLOMON) on this point of order. You would ensure that we would not provide the largest increase in agriculture research which will benefit U.S. farmers in a generation. You will ensure we will not provide the crop insurance money which is vitally needed by a lot of farmers struggling out there.

A year ago, we passed welfare reform by a large bipartisan margin. That welfare reform decreased AFDC benefits, it decreased food stamp benefits, and it was certainly not the intention of those who supported welfare reform to increase administrative payments to the States.

What we are doing with this legislation is ensuring we are going to have a commensurate reduction in the administrative costs to the administration of the welfare programs. This is a sound fiscal approach. The States should not be allowed to double-dip when we are reducing their obligations under our welfare reform policies.

Ensure that we can maintain the agricultural research funding. Ensure that we can maintain the crop insurance funding. Vote against the gentleman from New York (Mr. SOLOMON).

Mr. SMITH of Oregon. Mr. Speaker, I yield 30 seconds to the gentlewoman from North Carolina (Mrs. CLAYTON), a member of the Committee on Agriculture.

Mrs. CLAYTON. Mr. Speaker, I also want to emphasize the fact that this may be an unfunded mandate in its technical sense, but you have a way to close this and you also have a way of correcting the unintended result.

Please know when you vote yes for the gentleman from New York (Mr. SOLOMON), you vote against agricultural research, you vote against crop insurance, and you vote against the opportunity to correct something that we should not have had in the first place. Plus you do good by allowing legal immigrants to have food they so desperately need, particularly children and senior citizens and the disabled.

Mr. SMITH of Oregon. Mr. Speaker, I yield myself the final 30 seconds.

Mr. Speaker, I would just point out again to Members that this unfunded mandate does not impact States because they are not in a position to use it, as has been indicated by the gentleman from Texas (Mr. STENHOLM) and others. They are in no position to use it. It is excess money that will never be used.

Here is a chance to reinvigorate agriculture, for crop insurance, for research and for food stamps for legal aliens in this country. Here is our chance to do it. If you vote for the gentleman from New York (Mr. SOLOMON), you lose that opportunity. Please vote no.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let us clear the record here. The worst thing we can do is to not use accurate figures. In a few minutes we are going to take up the budget for 1999, and I want Members to look at it very carefully, because in that budget we are going to knock off another $16 billion out of this same category, okay? Where is that money coming from? Your State and local governments are going to pick up that. In this alone, we are talking about $3.6 billion.

My good friend from North Carolina, and I have great respect for her, she says that this is a vote against crop insurance and ag research. Let me tell Members what a no vote does here right now. A no vote is to not go forward; and if we carry the no vote, it means that the bill rests on the calendar until we find a better way to pay for it and not mandate this expense on your counties and towns and cities and villages.

□ 1945

We have until June 30 to solve the crop insurance program. Nothing is in danger. We have got another 3 weeks here.

So I ask you to vote "no" so that it stays on the calendar so we have time to come here with a manager's amendment from my very good friend, the gentleman from Oregon (Mr. SMITH), who is articulate and very innovative about finding ways to pay for things, and we will pay for this and not mandate it on local governments.

Having said that, Mr. Speaker, you all should vote for every homeowner in America and vote no to go forward at this time, and we will take that bill up in a few days when we find a way to legitimately pay for it.

Mr. Speaker, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. SMITH of Oregon. Point of parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman will state his parliamentary inquiry.

Mr. SMITH of Oregon. Mr. Speaker, I am attempting to determine how Members are going to analyze this vote. This is a vote, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, regular order here. What is the gentleman doing?

The SPEAKER pro tempore. The gentleman will state his point of inquiry.

Mr. SMITH of Oregon. Is this a vote to proceed?

The SPEAKER pro tempore. The question before the House is: Will the House now consider the conference report?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STENHOLM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 324, nays 91, not voting 18, as follows:

[Roll No. 203]

YEAS—324

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Combest
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Goodling
Gordon
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastings (FL)
Hayworth
Hefner
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Morella
Murtha
Nadler
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Pastor
Payne
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Scott
Serrano
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Thomas
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)

NAYS—91

Archer
Armey
Barr
Bartlett
Barton
Bass
Bilbray
Bilirakis
Bliley
Bryant
Cannon
Chabot
Chenoweth
Coble
Coburn
Collins
Condit
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Ehrlich
English
Ensign
Fawell
Fossella
Fowler
Gallegly
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Greenwood
Hastert
Hastings (WA)
Hefley
Herger
Hinchey
Hostettler
Inglis
Istook
Johnson, Sam
Jones
Kingston
Largent
Livingston
Manzullo
McHugh
McIntosh
Mica
Miller (FL)
Neumann
Pappas
Paul
Paxon
Petri
Pombo
Porter
Rohrabacher
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Smith (TX)
Solomon
Spence
Stump
Sununu
Taylor (MS)
Taylor (NC)
Tiahrt
Traficant
Wamp
Weldon (FL)
Whitfield
Young (FL)

NOT VOTING—18

Burr
Engel
Frank (MA)
Furse
Gonzalez
Harman
Hoyer
Lewis (GA)
Markey
McDade
Mollohan
Moran (VA)
Myrick
Ney
Pelosi
Reyes
Ros-Lehtinen
Yates

□ 2005

Messrs. ARMEY, CRAPO, DREIER, WAMP, GILLMOR, PORTER, BILBRAY, INGLIS of South Carolina, and EHRLICH changed their votes from "yea" to "nay."

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement see proceedings of the House of Wednesday, April 22, 1998, at page H2171.)

The SPEAKER pro tempore. The gentleman from Oregon (Mr. SMITH) and the gentleman from Texas (Mr. STENHOLM) each will control 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the conference committee report on S. 1150.

Mr. Speaker, first I want to thank members of the conference committee who were responsible for bringing this issue to us after long and deliberate discussion, dating back to last year, in fact, with the gentleman from Texas (Mr. STENHOLM) and the Committee on Agriculture discussions on this very issue, but especially the gentleman from Texas (Mr. COMBEST) and the gentleman from Nebraska (Mr. BARRETT) who served with us, and the gentleman from Texas (Mr. STENHOLM) and the gentleman from California (Mr. DOOLEY), who with myself made up the House side of the conference committee.

I want to say first, Mr. Speaker, that this is a transfer of spending, as most Members understand, mandatory spending to mandatory spending. We have rearranged the priorities here, and we have rearranged them in a way which we think is most beneficial to agriculture, but certainly takes into consideration food stamps to legal aliens as well.

In fact, as some have already identified, the Members' conference committee is bringing to them a bill which provides for $600 million of research money, which we think is the backbone of the future of agriculture. We know it is imperative that we pass crop insurance, and finally we have a 5-year program, mandatory spending at $500 million for crop insurance, which again is going to be used, by the way, by the end of this month, and therefore it is essential that we act, and act today.

Of course, there is a $100 million program for rural development, which all of us in rural areas of America would support, as well as the food stamp money, which is $800 million, to compose totally the so-called unfunded mandate which we just discussed, of about $2 billion.

The urgency of the conference committee report, Mr. Speaker, is simply, as I mentioned, that we must provide a solid program for crop insurance. Risk management is an essential part of the future of agriculture, as is research. So those two factors are addressed directly in this conference committee report.

We have not only provided for crop insurance, but through innovative management we have reduced the cost to taxpayers of some $500 million, so the passage of this research bill will essentially provide a savings of some $500 million in crop insurance itself. As I mentioned, the whole program for crop insurance is now $500 million.

The conference committee report was carefully balanced to offset further reductions in excess food stamp spending, and represents, and I want to underline this, represents no net increase in spending. So if budgeteers are listening, there is no net increase in spending. The conference committee accomplished the most substantive reforms to our agricultural research infrastructure in more than 20 years.

If there is another part of the responsibility of government besides risk management, it is certainly research, because those of us who have found that it is the responsibility of government to provide help in research know that is the underpinning of a huge agricultural export program for this country. We export almost $60 billion, Mr. Speaker, of agricultural commodities to foreign countries. The reason we do that is because we are the most competitive Nation in the world, bar none, in the production of foods and fiber. That is why we can be competitive in the world, and it is the result of research that has been successfully done in the past.

Let me give some examples. For instance, one that most of us know about, I know more, from Oregon now, than I did before, having traveled to Georgia, but the whole question of the boll weevil, the control of the boll weevil has restored cotton production to much of the South, a huge breakthrough for agriculture in America.

The genetically modified organisms that we have heard about, BT corn, Roundup Ready soybeans, the increase in grain crop production and yields, the protections for food safety, all are part of this research program, of which we are quite proud.

Yes, it does include some money for legal aliens coming into this country. Listen to who they are, please: the elderly, over 65, living in this country since August 22, 1996; the disabled, legal noncitizens, living in this country since August 22, 1996; and children under the age of 18, living in this country since before August 22nd of 1996. All of these people must have lived here before August 22, 1996.

We invited them here. They are legal; not citizens, but they are legal aliens. We have invited them to this country.

□ 2015

And if, for a small time, it is our responsibility to help them with food stamps, it is my belief we ought to do that.

Mr. Speaker, this is the most important agricultural issue and bill that Members will vote on in this session of Congress, without question. This is a huge advance for agriculture production in America, and it is a huge advance for agricultural people and farmers.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in strong support of this conference report, and I want to begin by acknowledging and thanking the gentleman from Oregon (Chairman SMITH), the gentleman from Texas (Mr. COMBEST), the gentleman from Nebraska (Mr. BARRETT), and the gentleman from California (Mr. DOOLEY) for their work on the conference that brings us this report tonight, a result of months of hard work by Members on both sides of the aisle.

Mr. Speaker, a number of significant differences between the House and the Senate bill had to be reconciled during conference. I believe the legislation we bring now is a fair and balanced compromise among those competing priorities.

This legislation provides for a number of improvements in our system to conduct and deliver information from federally funded agricultural research. It increases producer input into the research process and authorizes research in several new and important areas such as nutrient management, food safety, and crop diversification.

In addition, this conference report reprioritizes the spending which falls under the jurisdiction of the Committee on Agriculture to provide critically needed resources to a number of important national priorities. By limiting the States's ability to shift administrative cost to the Federal Government, this legislation prevents States from circumventing welfare reform while at the same time providing necessary funding for agricultural research, crop insurance, rural development and nutrition programs.

Despite the fact that this bill results in a $1.2 billion reduction in Federal spending for food stamps, S. 1150 has still won support from nutrition advocates. This legislation enjoys broad support because it reprioritizes spending in the food stamp program to provide needed benefits for those who cannot move to self-sufficiency as envisioned by the recent welfare reform, such as the elderly, disabled, and children. And for those refugees and asylees who are fleeing political and religious persecution, it provides a realistic time frame to make application for United States citizenship.

In addition, this bill fulfills a commitment made by our government during the Vietnam war to some unfamiliar people, the Hmongs and the Highland Laotians who assisted our military during the Vietnam era. As a result of providing assistance to our military, these people suffered terribly at the hands of Communists. By supporting this legislation, we can provide assistance to those who fought so bravely for us.

S. 1150 will provide funding certainty for the crop insurance program. Farmers will no longer have to worry if crop insurance will be delivered, nor will bankers who require it. But although S. 1150 provides this certainty, make no mistake about it; much more needs to be done. We must continue to search for new and innovative ways to improve the program in order to provide meaningful risk management for our farmers.

In terms of budget discipline, S. 1150 is a perfect example of what balancing the budget is all about. Unlike other bills recently considered which provide no offsetting reductions in spending, this bill will not result in increased government expenditures as was stated by the gentleman from Oregon (Chairman SMITH). I underline that. We do not balance the budget by creating new spending but by redirecting existing resources to needed areas.

Mr. Speaker, this legislation simply reprioritizes existing funds from within the agriculture function. From my perspective, that is the very definition of budget discipline.

This bill does not create unlimited spending but limits it by closing a loophole that the States could use to shift costs to the Federal Government, costs that were funded as a result of welfare reform. We are simply looking at agriculture, rural development, and nutritional needs and reprioritizing our existing resources to address current problems.

If we are going to successfully address problem areas, our programs cannot remain static. With limited resources we have to have the ability to address issues as they arise.

So if Members care about agricultural research, if they care with rural communities, if they want to save farmers' crop insurance, if they are concerned about reducing hunger in America, I urge them to support passage of this conference report. It is a responsible and balanced piece of legislation.

Mr. SMITH of Oregon. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COMBEST).

Mr. COMBEST. Mr. Speaker, I thank the gentleman from Oregon (Mr. SMITH) for yielding me this time.

Mr. Speaker, I would like to again reemphasize the title of this conference report as the Agricultural Research Extension and Education Reform Act of 1998. Initially, I would like to join with Chairman SMITH in also thanking him but also thank our colleagues, the gentleman from Texas (Mr. STENHOLM), the gentleman from California (Mr. DOOLEY), and the gentleman from Nebraska (Mr. BARRETT) for their hard work and cooperation in bringing the conference report to the floor.

This has been a bipartisan effort from the start, and it represents a lot of hard work on the part of a lot of Members. Agricultural research has brought us a multitude of results, from the mass production of penicillin to the sixfold increase in today's agricultural productivity. For American agriculture to continue to be profitable and competitive in the global economy, it is critical that we maintain strong agricultural research programs.

As chairman of the subcommittee with jurisdiction over ag research, I presided over four hearings which provided the basis for crafting this bill. We worked diligently to improve upon the structure of research education and extension. We increase competition and maximize the research by leveraging private dollars with limited Federal funds.

As we know, this conference report contains several provisions which were not in the House research bill. S. 1150 is the product of some very tough negotiations in conference. In the end, we meet our responsibilities to the truly needy, to the farmers who feed them and the researchers and crops insurers who support them; and we do this by putting unspent Ag Department funds to work.

The funding for food stamps is limited primarily to the truly needed among immigrants who legally entered this country prior to the 1996 welfare reform. Children, the elderly, and the disabled will be included in the coverage. Let me stress, no food stamps will be given to new immigrants, only to needy immigrants legally here on or before August 22, 1996.

This is by no means a wholesale repeal of the provisions of welfare reform. Those who can and should work will still be required to do so. No immigrant who came here after August 22, 1996, will be able to receive food stamps.

The funding for the crop insurance program and ag research programs fulfill a commitment that the last Congress made to our farmers and ranchers. With the passage of the 1996 farm bill, Congress reduced the direct payments farmers have historically received to offset the natural risk of farming. In return, Congress promised to provide better risk management, production and marketing tools to maintain farmers' competitive advantages in the global market.

Mr. Speaker, passage of this conference report is critical to America's farmers and ranchers. They deserve our support. I commend this to our colleagues, and I would urge them to support this conference report.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

(Mr. FARR of California asked and was given permission to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, today we have an opportunity to pass bipartisan legislation built by broad coalition. This should have been a no-brainer, but, once again, the House leadership decided to attack the most vulnerable of our society. I commend my colleagues for their strong vote on opposing the previous rule on May 22 and ask them to join me in supporting this bipartisan legislation.

Mr. Speaker, I rise in strong support of S. 1150, the Agricultural Research, Extension and Education Reform Act, and I would like to thank the hard work of the gentleman from Oregon (Mr. SMITH), our chairman; the gentleman from Texas (Mr. COMBEST); the gentleman from California (Mr. DOOLEY); and the gentleman from Texas (Mr. STENHOLM); along with their staff, for crafting this legislation that is so important to the central coast of California and to the rest of the Nation.

The farmers in my district are the most productive specialty crop growers in the world. They produce over $2.2 billion worth of fresh fruits, vegetables, and horticultural crops each year. I represent the "Salad Bowl" of the country. The agriculture industry is the backbone of the communities in my district, and they do this without Federal price supports.

In this highly competitive field of agriculture, research is one of the few ways that the Federal Government can help my farmers. The new money in the Initiative for Future Agriculture and Food Systems will jump-start our efforts on emerging technologies as farming moves into the 21st century. The partnerships for high-value agriculture product quality research will give farmers and researchers the ability to work in conjunction with each other to address a wide range of opportunities facing the research community, including production, packaging technology, and value-added enterprises in rural areas.

Mr. Speaker, the bill contains for the first time an initiative for organic farming and will help this niche market continue to grow. We have barely begun to tap the full potential of organic farming systems today. This initiative will provide competitive grants to facilitate the development of organic agriculture production, processing, and potential economic benefits associated with both domestic and foreign markets.

Lastly, I think we have an obligation to provide food assistance to whose to fell through the cracks when we restored the SSI benefits to the elderly and disabled last year. This conference report restores the nutritional safety net for 250,000 legal immigrant adults and children who were indiscriminately cut off from the food stamp rolls.

Mr. SMITH of Oregon. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to make sure that this debate is based upon the manner in which this bill was brought to the floor, that is, with respect and restraint. Now, the facts are that if it were not for the leadership, this bill would not be on the floor. And I will say that one more time. If it were not for the leadership, this bill would not be on the floor.

So from this point on, I hope that this discussion continues on a bipartisan basis, because that is the only way this bill will pass.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. BARRETT).

Mr. BARRETT of Nebraska. Mr. Speaker, I, of course, rise to urge the adoption of the conference report, S. 1150, and am very pleased, incidentally, to see the House is considering this bill this evening.

The Federal Government's investment in research, except for agricultural research, has increased dramatically over the last several years. The reality is that spending on ag research has barely kept up with the rate of inflation. As a matter of fact, this is the first time that agricultural research has been seriously reevaluated in about 25 years. This bill would correct that situation and provide a total of, as has been mentioned, $600 million over 5 years to boost research for agriculture.

Today, we are at a critical juncture. The 1996 farm bill charted the course for a free market in agriculture. Unfortunately, this year we are experiencing for the first time since passage of that bill a depressed market for agriculture. If Congress does not resist the call to open the farm bill, we could end up seriously distorting our markets, reversing a positive trend toward a free market in agriculture and losing credibility with many of our trading partners.

Agriculture research can help this situation. It could help with the depressed prices by developing new uses and markets for our products and through teaching programs that help farmers and ranchers learn new marketing techniques.

Congress' support for this bill gives agriculture a confidence boost. Farmers and the industry will know that Congress is interested in agriculture and will support it in the future, even if we do not support it in the old way with subsidies and acreage controls. This new way is much more positive. We support research, new and expanded markets for our products, and less restrictions on private land.

Let me say a few words to my friends who are opposed to the bill because it restores food stamps to some legal immigrants. I understand the controversy that this creates for many. I have the same concerns. I supported welfare reform in 1996. I believe, however, that the Congress can do more to further reduce the dependence on and the size and the cost of government. However, I think there are times when one has to swallow the good with the bad; and I think this is one of those times, Mr. Speaker. And in this case, I think the good far outweighs the bad.

Congress is about compromise. We come from all parts of the country. We have widely divergent political and ideological backgrounds, but we are here to achieve the best we can for this country. This conference report is the best thing that we could do for agriculture right now, and we need Members' support.

Mr. Speaker, I strongly encourage all of my colleagues to support the bill.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. STABENOW).

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Ms. STABENOW. Mr. Speaker, I rise tonight to strongly support the conference committee for agricultural research and to first commend our chairman and ranking member, as well as the Chair and ranking member of the subcommittee who have worked so hard.

This is truly a bipartisan bill. It is good for production agriculture and it is good for families in Michigan. It is good for families across the country. We have heard tonight about the important need for crop insurance, critical agricultural research, food and nutrition programs, and I want to speak just a moment about food safety.

My good friend, the gentleman from Missouri (Mr. BLUNT) and I introduced a safe food action plan just a number of months ago. Two critical provisions of that are in this legislation: making food safety a top priority for research, and creating a crisis management team to respond in the case of an emergency in a very rapid fashion. Today also at Michigan State University, where we have a national food safety and toxicology program, we are doing a two-day national research institution conference to focus on risk factors for food safety. Today's action could not come at a better time.

Mr. SMITH of Oregon. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EWING), a member of the committee.

Mr. EWING. Mr. Speaker, I thank the gentleman for yielding me the time. I thank all on the conference committee for the hard work on this important bill, S. 1150, the Agricultural Research, Extension and Education Reform Act of 1998.

This is the first comprehensive overhaul of agricultural research programs in over 20 years. This is quite an impressive accomplishment. It provides $600 million over the next five years for research. This conference report funds important agricultural research programs, vital crop insurance, rural development programs, and restores food stamps for some legal aliens.

S. 1150 is fully offset from savings from food stamp programs. There is no budget impact with this legislation. If American farmers are to compete in the world of free trade, the commitment that we made in the Freedom to Farm Act must be provided. This is a step in that direction. Crop insurance, research, these are very important elements of keeping the Freedom to Farm movement going in America.

In my part of the country the corn is up, the beans are in the field, and the wheat is green, and it is time that we give them their crop insurance program and let them know what it is so they can move ahead.

This bill also creates some exciting new research opportunities, improving the productivity and efficiency and generating, I think, a better environment, higher quality air and safer and more affordable food products for American consumers. This legislation also establishes an animal waste management research initiative, something we hear so much about today when we talk about confinement livestock operations.

Mr. Speaker, this is an excellent bill. It is time that we move on. Parts of it are very time sensitive, particularly the crop insurance portion. I hope that we will give this a resounding "yes" vote tonight. Again, my thanks to the chairman and all on the conference committee.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank the ranking member for yielding time to me. Let me also congratulate the chairman and the gentleman from Texas (Mr. STENHOLM) and other members of the committee for bringing this conference report to us. I commend the Republican leadership for bringing this report to the floor.

I hope we now realize it is time to stop balancing the budget on the backs of farmers. Farmers have taken it on the chin, and it is time that we show our support for the people who risk so much to produce the safest, most abundant food supply in the world.

This conference report passed the Senate by 92 to 8. We should pass it in a similar margin in the House. Nothing could have highlighted more the support for this bill than our failure to pass it prior to the Memorial Day recess. I certainly heard about it. I am sure others did.

Americans want to support their farmers. Americans want farm communities to be made whole after a disaster. Americans want research reform that will make our food cheaper and safer. Americans want research reform that makes production agriculture environmentally friendly, and Americans want this bill passed.

The most important part of this legislation or at least one of the more important ones, in my opinion, is the provision on crop insurance. With the traditional safety net for farmers disappearing, crop insurance is the one barrier to ruin for farm families from natural disaster. Maybe the only one left.

In North Carolina farmers have been faced with two hurricane seasons in a row. Without a healthy insurance system in place, many farmers in these communities would have been ruined. This is a good bill for farmers in their communities, which means it is a good bill for all Americans.

I urge Members to cast their votes in favor of these hard-working Americans and the programs that they depend on. Vote "yes" on the conference report.

Mr. SMITH of Oregon. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Speaker, I rise in strong support of this conference report. I would like to take a moment to congratulate the gentleman from Oregon (Mr. SMITH) and the gentleman from Texas (Mr. STENHOLM), the gentleman from Texas (Mr. COMBEST) and the gentleman from California (Mr. DOOLEY) for the great job they did in putting this ag bill together.

In 1996 we passed a farm bill that is a very historic farm bill, a farm bill that is a 7-year bill instead of the normal 5-year bill, a farm bill that participated in the balanced budget process, a farm bill that moves agriculture into the 21st century, and a farm bill that gets the Federal Government off the farm and allows our farmers to do what they do best and grow the very finest agriculture products of anybody in the world. In that farm bill we phase out commodity support prices over that 7-year period.

The Federal Government has got to stay involved in agriculture in three areas: Number one, we have got to stay involved from a market standpoint. We have got to move forward to continue to open markets for our agriculture products.

Secondly, we have to provide a safety net, a safety net in the form of a good substantive crop insurance program.

Thirdly, the Federal Government has got to stay involved in the area of research.

Why do we need crop insurance? The year 1997 was a disastrous one in my section of the country from an ag perspective. Going into July we had the most beautiful crops we had ever had and then the rain stopped. We had 60 days of drought, when yields started decreasing and the sun took its toll. Then the rain started again in September and El Nino brought rains into February and March, and our farmers were unable to get their crops out of the field. Crop insurance is extremely important to farmers who are faced with that problem.

Why do we need research? My son-in-law is a farmer. Joe is living the American dream of coming back home and farming with his father. But Joe is only able to do that because through research we are now planting seeds in the ground every day that are more resistant from a disease standpoint than what his father planted, and we are also providing seeds that yield higher yields and better quality yields than what his father was able to produce. That is why we have to have research.

Mr. Speaker, I thank the gentleman very much for this very positive bill, and I urge its passage.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Minnesota (Mr. MINGE).

Mr. MINGE. Mr. Speaker, the bill that is before us this evening is truly one that is supported on a bipartisan basis, as is evident in the discussion. But I think that it needs to be said that we have gone through a fair amount of turmoil in this body as we have discussed agricultural policy, and there is not unanimity as to the wisdom or the effectiveness of the farm bill under which we are operating.

Agriculture in many areas of this country is in severe economic distress. The bankers in my area tell me that we have more farmers that are facing foreclosure or forced exit from farming than we have had since the mid-1980s, and the condition of the farm economy rivals what we saw in the farm depression of the mid-1980s. The farm bill, by transferring billions of dollars in automatic transition payments, is not truly addressing the needs that many of these farmers face.

What I feel is good news is that the bill that we are taking up this evening indeed does. I believe that agricultural research is something that has paid rich dividends to the American consumer and to the American farmer, and investing in this area is one of the key investments that we should make in this Nation. Agricultural research is every bit as important as scientific research, medical research and other research.

The crop insurance program similarly pays rich dividends because what we are doing is, we are giving farmers a better tool with which to manage their risks. This is not from my perspective a safety net or a welfare program for farmers. This is a tool to manage risk. What we are doing is making sure that we are handling at the Federal level the overhead or the administrative cost of the insurance program and the farmers are paying for the underwriting cost or the risk element of the program.

They choose what level of coverage they wish. I believe one of the more exciting opportunities is to move ahead with what is called crop revenue insurance, and this would enable farmers to not just look at the problems of crop failure but also of marketplace failure; that is, where prices are too low. I hope that the U.S. Department of Agriculture uses the authority that it has and the funds that are now available through this bill to expand the revenue assurance program throughout the country.

Mr. Speaker, I believe that this indeed is an historic occasion this evening, that we are operating on such a bipartisan basis in a body that often is fractured by partisan rhetoric. I look forward to quick passage of this measure.

Mr. SMITH of Oregon. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, notwithstanding the assault two weeks in a row by the chairman of the Committee on Rules, I am glad that we are finally at the point where we can pass in a very bipartisan way this bill. I think some of us who have worked for the last year and a half in many ways dislike the tactics that were used to assault a bill that was passed in a very bipartisan way. I am glad that we are at the point now that I am sure it will pass overwhelmingly.

I give a good amount of credit to the gentleman from Texas (Mr. COMBEST) and the gentleman from California (Mr. DOOLEY) for the many hearings that they held, for wanting to reach out to every Member that had any interest in agriculture to say, give us good information and we will put a bill together. And they did that. And to the gentleman from Oregon (Mr. SMITH) and the gentleman from Texas (Mr. STENHOLM), our thanks to them, too.

For me personally, I have one of the four ag research labs in my home town of Peoria. This bill means an awful lot. For agriculture it is just not growing corn and soybeans. Research is the future of agriculture well into the 21st century. That is why this bill is important, because what happens in these ag research labs and what happens at the University of Illinois in Champaign, Illinois as a result of this bill means that corn farmers and soybean farmers and people that grow commodities and crops all over this country will have the advantage of the best research anywhere in the world. I am delighted to have played a very small part in that.

In addition, this bill contains an opportunity for those of us who live in

States where these megahog farm operations are beginning to crop up all over to really do some swine odor research over the next four or five years, to really try and go after the problem that has been created by megahog operations not just in Illinois but in other parts of the country. I know that Members grin and smile when we talk about swine odor research but if they have one of these megahog operations crop up in one of their communities, they know it is a very serious problem. This bill also helps address that.

So for the future of agriculture, for the future of research in agriculture, I ask everyone in the House to support the bill.

Mr. STENHOLM. Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me the time.

I too want to join and commend the leadership on both sides of the House for bringing this bill to this point and hope that the delicate, carefully crafted, bipartisan compromise conference report is indeed overwhelmingly supported. Members should know that it provides vital funding for agriculture research, education and extension programs, as well as the restoration of food stamps benefits and much-needed crop insurance.

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This legislation is also critical as it addresses badly needed funding for crop insurance for particular farmers and for those who have suffered disasters in years past.

These moneys will be used for Federal crop insurance research. The moneys will be used for production liability and limiting of a farmer's risk due to natural disasters beyond their control.

I am pleased that the conference report continues to recognize the need for research along with the need for water and sewage on this rural development program.

This agreement continues the education, research and extension programs that are so vital at our county level. They also provide essential funding for the entire agriculture community, providing new research initiatives and priorities, including Pfisteria, a microorganism that has plagued much of our waters in North Carolina, creation of consistent funding standards that all the universities will know how to have access to the funding, and better funding and better accountability for these funds.

It also furnishes integral funding for land grant universities, including historically black colleges and universities, oftentimes who need these research funds to further their education research activities. It also provides much needed funds for Hispanic-serving institutions as well.

Finally, I want to express my heartfelt appreciation and profound support for the restoration of food stamp benefits for legal immigrants. The food stamp restoration program has caused a lot of discussion, but this conference report, I think, targets this to the most vulnerable of our legal immigrants, the elderly, the disabled, children, refugees, those who often come to this country with very little, those who have come to our country who were veterans, who fought alongside other veterans in the U.S. military forces in Vietnam. They were eligible for food stamps prior to the Welfare Reform Act of 1996. When we changed the rule, we really denied these persons who needed these benefits. I am pleased that we are doing the right thing by restoring that.

I represent a rural district where the need for Federal crop insurance is very great and very much appreciated. And 1996 demonstrated not only our need but also our utilization of this. I am pleased that we are restoring that today.

The importance, the urgency and the fairness of this conference report both by the producers and the consumers of agriculture products is paramount.

Mr. Speaker, I urge all of my colleagues to support this much needed and very well crafted report.

Mr. SMITH of Oregon. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise to support the conference committee report. It has not been all that long ago that we passed the 1996 farm bill, the most dramatic 7-year farm bill in the history of agriculture. At the time that we passed the bill, a majority of the Members of this body supported it, the leadership of this body supported it, the other body supported it by voting for it, and by his signature the President showed his support.

What was one of the main points that we made in the 1996 farm bill? We said, "Farmers, go forth and farm for the market and we will help provide you with the tools that you need."

Today, Mr. Speaker, we have a wonderful opportunity to help provide those tools. This bill provides additional resources for agricultural research to the tune of $600 million, a commitment that the Federal Government has been involved in for 130 years that has benefited not only farmers and ranchers but the American consumer, as well as crop insurance, almost $400 million to make that program work, to make those resources maximize themselves.

The amazing thing is, this is funds that the committee in effect made decisions that were saved, the money was saved in other areas and then spent in these areas. The best of all worlds. We live up to our commitments, we use the resources that we have more efficiently allocated, and we have done what we said we would do. I thank the chairman for the opportunity to support this conference committee report.

Mr. SMITH of Oregon. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Speaker, I want to thank the gentleman for yielding me this time and for all the good work of the leadership on this committee and the leadership of the House in bringing this bill to the floor.

A couple of years ago we did away with production controls and supply management and price supports and deficiency payments and all those things that have marked our farm policy for a lot of years. In doing so, we said to the American agricultural producer that we want you to make your living at the marketplace. But we did not give them very many tools with which to manage their risk. Crop insurance is really the only thing that they have out there to do that. We have the opportunity here today to cure this annual crisis that we have over the funding mechanism for crop insurance. This is very important for that reason.

The second thing that is important is because this legislation provides a mechanism whereby researchers can compete for ag research funding. The reason American agriculture is even remotely profitable today to the extent it is, and many would argue when you have prices below the cost of production that it is even the least bit profitable, but the reason it is is because of the technological breakthroughs that we have seen in the past few years. We have become much more efficient. We have got a lot better yields on a lot less farmable land. If American agriculture is going to be profitable and continue to be profitable in the future, we are going to have to make the investment in research and development.

Agriculture is a tough business under even the best of conditions. We have an opportunity today to say something that is very positive to producers of this country, and, that is, that we want to work with you in making this crop insurance program workable so that you have a tool whereby you can manage your risk, and, secondly, we are going to invest in research, so as we head into the next century that agriculture continue to lead the way and our producers can be the most efficient in the world and our consumers can continue to benefit from the lowest prices for food. This is a very important step in that direction.

Again, I thank the leadership and the chairman for his hard work, diligence and persistence in bringing this bill to the floor and would urge my colleagues to support the conference report.

Mr. SMITH of Oregon. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. HILL).

Mr. HILL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the agriculture research conference report. As my colleagues know, the United States has led the world in agricultural production. We have the best producers in the world. We can compete on a level playing field with anyone, any producer, anywhere in the world.

Right now things are not very good on the northern plains. We have dry conditions, we have trade imbalances, market failures, and it has created a lot of problems for producers on the northern plains. This bill does not address all those problems, but it does deal with one, and that is the insurance program for our drought conditions. But we cannot continue to compete unless we have research and an investment in research, because it is research that increases the productivity of our farms and ranches, it is how we lower costs, and it is how we increase yields. Frankly it is how we feed America and it is how we feed the world and it is why Americans enjoy the highest living standard in the world.

When the last Congress asked U.S. farmers to compete in the world markets, we said that we would help them manage risk with a better insurance program and assure our commitment to an effective crop insurance program. This bill delivers on that promise. We also said that we would invest in research so that we could assure our long-term competitiveness. This conference report delivers on that promise as well.

Mr. Speaker, my State leads in agricultural research. At Montana State University, we have research with regard to different grains. At our Agricultural Research Station at Sidney, we are dealing with pest management. At Fort Keogh, we are dealing with increased production for people in the livestock industry. It is research that has increased our production, it is research that will improve our environment, and it is research that will deliver on our standard of living for all Americans. I urge all my colleagues to support the conference report.

Mr. STENHOLM. Mr. Speaker, I yield myself 15 seconds for purposes of saying thank you to the staffs on both the majority side and the minority side for the hours and days and weeks and months of hard work that they have put in to bringing us to this point tonight. We appreciate it.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. DOOLEY), the ranking member of the Subcommittee on Forestry, Resource Conservation, and Research and I thank him for his work.

Mr. DOOLEY of California. Mr. Speaker, I also want to commend the gentleman from Oregon (Mr. SMITH) and the gentleman from Texas (Mr. COMBEST), along with the gentleman from Texas (Mr. STENHOLM), for really continuing the tradition of the Committee on Agriculture to work in a bipartisan fashion to devise ag policy which is going to work in the best interests of our farmers.

I think also that the environment that they have created in the Committee on Agriculture, that bipartisan environment, certainly has contributed to our staffs working in a very effective and bipartisan fashion, too.

I rise today in strong support of the conference report to accompany S. 1150, the Ag Research, Extension and Education Reform Act. It has been a long road, but I believe that passage of this bill is imperative, and I am pleased that the House will vote on it today.

As with any legislation that we consider in Congress, S. 1150 is a product of hard work and compromise. While there will be some here today who will criticize certain provisions of this bill, I strongly believe that we have crafted a good bill that deserves the support of the House.

Mr. Speaker, I believe that the Federal investment in ag research is the most vital component of the agricultural safety net for the future. Our country has a long and successful history of agricultural research innovations, and our system is the envy of the world. I believe that the research provisions of S. 1150 will lead to an even better agricultural research system in our country and provide farmers with the tools that they will need to be competitive in this international marketplace into the next century.

Specifically, the conference report requires a competitive process for high-priority research projects and requires a match for those projects. The conference report does not contain any earmarked projects for specific States or specific universities, and I also think that the peer review and merit review provisions will improve the quality of research conducted at USDA.

The most exciting provision of the bill is the establishment of the Initiative for Future Agriculture and Food Systems. This new program, which is funded at $120 million per year, will provide a new and stable source of competitively awarded research money to be targeted at high-priority issues. I want to applaud Senator LUGAR for his persistence in establishing this program and know that it will begin delivering benefits to farmers in the next few years.

While the research provisions of the bill were a top priority, the crop insurance components are also very important, because they provide the needed ability for farmers to manage the risk that is going to be inherent in the marketplace certainly as we move away from many direct subsidies to farmers.

But one other important component was the restoration of food stamp benefits for certain groups of legal immigrants and refugees and asylees. Many people in this body have criticized this provision, but I take exception to that. As part of the Balanced Budget Act we passed last year, we tried to provide some I think responsible reforms to the welfare act that many of us voted for in a bipartisan fashion.

We are not turning our back on welfare reform. What we are trying to do is provide some important assistance to some people who we invited into our country that have been important contributors to our society. I am particularly pleased about this because in my district I am home to a large number of Hmong refugees who will be benefiting from these provisions.

Oftentimes, we forget the sacrifices that these Hmong and Lao refugees have provided our country in participating in the secret war, participating alongside of our soldiers in the Vietnam War, saving many of their lives. I do not think we have to make any apologies for providing a restoration of food stamp benefits to some of these individuals who we invited into our country and provided service to our country.

Mr. Speaker, I think we have a great conference report here that meets the needs of U.S. farmers and is a responsible bill. I urge the entire body of the House to vote in support of it.

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume. In closing, let me thank again the gentleman from Texas (Mr. STENHOLM) and his great statement about our staff, on both sides. They have worked arduously and well together. Members would be surprised how closely we work. I think they would be proud, as I am, this evening, proud of the conduct of this debate, and the people who are in it, because we who represent agriculture represent farmers. We do not represent anybody else, not huge companies, not foreign interests. We represent farmers. I think that is the reason that we can find ways to accommodate one another's issues and accommodate one another's ideas.

I am especially proud to bring this conference committee report to my colleagues. I might say to them that it is not only because of our work together. There were 71 agricultural organizations in America, I cannot find any organization that was not represented, that not only had great patience with us with this bill when we asked them to have patience but then when we asked them to step forward and to support this bill with Members, they did so enthusiastically. It is out of great respect for the organization of agriculture in America which stood together on this issue is the reason that we are here.

□ 2100

So, Mr. Speaker, I again thank all my colleagues for the debate, and I ask them all to support this very good conference committee report.

Mr. BEREUTER. Mr. Speaker, this Member rises in reluctant support of the conference report for S. 1150, the Agricultural Research Bill.

This Member is voting for the conference report because of the urgent need for crop insurance and the importance of agricultural research. However, this Member is strongly opposed to the provision in the bill that reinstates food stamp benefits for legal immigrants.

Two years ago, we finally passed major legislation that ended welfare as we knew it. The Personal Responsibility and Work Opportunity Act of 1996 contained a provision that barred most legal immigrants from the Food Stamp program, and we need to remember that immigrants are sponsored by American citizens who have agreed to take financial responsibility for their needs during the naturalization process. Too many sponsors have failed in their responsibility. This Member is strongly opposed to the reinstatement of food stamps for legal immigrants that was added to the bill during conference.

However, the need to approve crop insurance funding has reached a critical point. Funding is necessary so that our nation's farmers have in place a safety net to protect them against the natural disasters which are a constant threat. Allowing crops insurance coverage to lapse would make too many producers vulnerable to the uncertainties cause by weather. The farm bill enacted in 1996 creates more freedom and opportunities for farmers, but it is important for crop insurance to remain in place as a viable option.

It is also critically important to reauthorize the agricultural research program. Funding for research offers a long-term and far-sighted approach to supporting producers and improving our nation's food supply. Clearly, the success of agriculture in the future depends on the research we support now.

This Member is voting for the conference report because of the importance of crop insurance and agricultural research.

Ms. DELAURO. Mr. Speaker, today, I rise to support passage of S. 1150, the conference report on the Agricultural Research, Extension, and Education Reauthorization Act, which reauthorizes these programs for five years. Funding provided through this authorization is used by state research centers to protect and improve the use of crops.

Three weeks ago, I spoke against the rule that would have allowed a vote on this legislation. The rule, if passed, could have stopped funding for food and nutrition assistance.

Today we have a chance to vote on a clean bill. This bill contains funding for some of the most important research done in this country. In my congressional district, scientists at the Connecticut Agricultural Experiment Station have used U.S. Department of Agriculture grants to fund research on ticks that cause Lyme Disease and on yew trees that produce Taxol to fight breast and ovarian cancer.

I support today's bill because it ensures that 250,000 individuals and families will receive needed hunger assistance. I also support this bill because it provides for research that saves lives.

I urge my colleagues to join me in support of this important legislation.

Mr. SANDLIN. Mr. Speaker, I want to commend Chairman SMITH, Ranking Member STENHOLM, and the members of the Committee. I commend you for the excellent legislation we have before us today.

The Agriculture Research, Extension and Education Reform Act will give stability to crop insurance programs, boost spending on agricultural research for the first time in 10 years, and provide an additional $100 million for economic development in rural areas. By doing so, the bill will bring jobs to East Texas and improve long-term productivity and profitability for East Texas farmers and ranchers.

As government subsidies for agriculture come to an end, crop insurance has become one of the last barriers against financial ruin for farm families. The 1996 farm bill guaranteed crop insurance to our agricultural producers, but without this bill, farmers across the nation face the prospect of crop insurance cancellations as early as this month. In East Texas, there are agricultural producers facing drought conditions in some counties and floods in others, and we cannot deny them the crop insurance they have been promised. I share the relief of every crop producer in East Texas tonight as we pass this bill and ensure the continuation of crop insurance.

Equally important is the research component of this bill, providing $600 million over five years in mandatory spending on agricultural research, including funds for the Texas A&M University System across Texas. We have a long history of agricultural research in this country, and it has led to the most productive and most efficient agricultural industry in the world. Continuation of this commitment is vital for America's farmers and ranchers as agricultural subsidies disappear and global markets become more competitive.

Mr. Speaker, this bill has been carefully crafted to pay for itself and protect the future of our agricultural producers and every American who relies on their products. I encourage all my colleagues to cast a strong vote for rural America and pass this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, thank you for the opportunity to speak on this crucial issue. I strongly oppose the rule striking reauthorizing food stamps for legal immigrants in the United States.

The rule that has been recommended would set up a ridiculous procedure which gives Republican opponents two extraordinary procedural mechanisms to kill the bill. Under this absurd procedure, the House will not even be allowed to debate the bipartisan conference report, even though the conference report has already been filed and has already been approved by an overwhelming bipartisan majority in the Senate. I vote to reauthorize food stamps for those who need them.

We must restore food stamps to our 900,000 legal immigrants including farmworkers. Food stamp recipients are refugees, the elderly, disabled Vietnam veterans and children who are facing food and nutritional deficiencies in larger and larger numbers.

This year, approximately 600,000 U.S. citizen children with immigrant parents will have less food on their tables because of these cuts. Since food stamp access has been cut, a widening hunger crisis has emerged that private charities and State and local governments have not been able to handle.

There simply have not been enough resources to feed all the hungry. Catholic Charities USA, Second Harvest and the U.S. Conference of Mayors have all reported major increases in request for emergency food assistance while food pantries are going empty and are turning people away.

In my home State of Texas, 124,000 legal immigrants lost food stamps. 13,090 of these who lost food stamps are children!!! The State itself is only able to cover approximately 15,000 people under a State program for elderly and disabled during this biennium.

The elimination of food stamp benefits for adults without children is calculated to create a mass of people who are desperate to take any job, no matter how poor the wages and conditions.

It will serve to intimidate all lower paid workers, a valuable and crucial section of the American workforce.

President Clinton singled out these welfare provisions as particularly unfair, and has since asked for $2 billion to restore benefits to about 730,000 immigrants.

Striking this rule would deny almost a million people, old and young, and those contributing as a valuable force to our Nation's economy. I vote not to strike the rule and to reauthorize food stamps.

Mr. SMITH of Oregon. Mr. Speaker, I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore (Mr. SUNUNU). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 50, not voting 19, as follows:

[Roll No. 204]

YEAS—364

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell

Canady
Capps
Cardin
Carson
Castle
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goodling
Gordon
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—50

Archer
Barr
Barton
Bass
Bliley
Blunt
Brady (TX)
Cannon
Chabot
Coburn
Collins
Crane
Deal
DeLay
Doolittle
Ensign
Goode
Goodlatte
Goss
Greenwood
Hefley
Herger
Hostettler
Hunter
Istook
Johnson, Sam
Kingston
Largent
Manzullo
Miller (FL)
Neumann
Pappas
Paul
Rohrabacher
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Shadegg
Solomon
Stearns
Stump
Sununu
Taylor (MS)
Tiahrt
Weldon (FL)

NOT VOTING—19

Bartlett
Bateman
Burr
Engel
Frank (MA)
Furse
Gonzalez
Harman
Lewis (GA)
Martinez
McDade
Mollohan
Moran (VA)
Myrick
Pryce (OH)
Reyes
Ros-Lehtinen
Talent
Yates

☐ 2119

Messrs. GOODLATTE, HERGER and SALMON changed their vote from "yea" to "nay."

Mr. GALLEGLY changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. MYRICK. Mr. Speaker, earlier this evening, I was unavoidably detained and as a result missed rollcall votes #202, #203, and #204.

Had I been present for these votes, I would have voted "Yea" on rollcall vote #202, "Nay" on rollcall vote #203, and "Nay" on rollcall vote #204.

PERSONAL EXPLANATION

Ms. PRYCE of Ohio. Mr. Speaker, on rollcall no. 204, I was unavoidably detained in traffic. Had I been present, I would have voted "yes."

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 3989, USER FEE AND TAX INCREASE ACT OF 1998

Mr. SOLOMON. Mr. Speaker, after consultation with the minority, I ask unanimous consent that it be in order at any time to consider the bill (H.R. 3989) to provide for the enactment of user fees proposed by the President in his budget submission under section 1105(a) of title 31, United States Code, for fiscal year 1999; that the bill be considered as read for amendment; that the amendment I have placed at the desk be considered as adopted; and that the previous question be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the gentleman from New York (Mr. SOLOMON) and the minority leader or his designee; and (2) one motion to recommit, with or without instructions.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

At the end of the bill add the following title:

TITLE IV—TAX INCREASES

SEC. 401. TAX INCREASES.

It is the sense of the House of Representatives that the following tax increases proposed by the President should be enacted as soon as possible:

(1) ACCOUNTING PROVISIONS.—

(A) Repeal lower of cost or market inventory accounting method.

(B) Repeal nonaccrual experience method of accounting and make certain trade receivables ineligible for mark-to-market treatment.

(2) FINANCIAL PRODUCTS AND INSTITUTIONS.—

(A) Defer interest deduction on certain convertible debt.

(B) Extend pro rata disallowance of tax-exempt interest expense that applies to banks to all financial intermediaries.

(3) CORPORATE TAX PROVISIONS.—

(A) Eliminate dividends received deduction for certain preferred stock.

(B) Repeal tax-free conversion of large C corporations into S corporations.

(C) Restrict special net operating loss carryback rules for specified liability losses.

(D) Clarify the meaning of "subject to" liabilities under section 357(c).

(4) INSURANCE PROVISIONS.—

(A) Increase the proration percentage for property and casualty insurance companies.

(B) Capitalize net premiums for credit life insurance contracts.

(C) Modify corporate-owned life insurance rules.

(D) Modify reserve rules for annuity contracts.

(E) Tax certain exchanges of insurance contracts and reallocations of assets within variable insurance contracts.

(F) Modify computation of "investment in the contract" for mortality and expense charges on certain insurance contracts.

(5) ESTATE AND GIFT TAX PROVISIONS.—

(A) Eliminate nonbusiness valuation discounts.

(B) Modify treatment of gifts of "present interests" in a trust (repeal "Crummey" case rule).

(C) Eliminate gift tax exemption for personal residence trusts.

(D) Include qualified terminable interest property trust assets in surviving spouse's estate.

(6) FOREIGN TAX PROVISIONS.—

(A) Replace sales source rules with activity-based rule.

(B) Modify rules relating to foreign oil and gas extraction income.

(C) Apply "80/20" company rules on a group-wide basis.

(D) Prescribe regulations regarding foreign built-in losses.

(E) Prescribe regulations regarding use of hybrids.

(F) Modify foreign office material participation exception applicable to certain inventory sales.

(G) Modify controlled foreign corporation exception from United States tax on transportation income.

(7) ADMINISTRATIVE PROVISIONS.—

(A) Increase penalties for failure to file correct information returns.

(B) Modify definition of substantial understatement penalty for large corporations.

(C) Repeal exemption for withholding on gambling.

(D) Modify deposit requirement for FUTA.

(E) Clarify and expand math error procedures.

(8) REAL ESTATE INVESTMENT COMPANY PROVISIONS.—

(A) Freeze grandfathered status of stapled or paired-share REITs.

(B) Restrict impermissible businesses indirectly conducted by REITs.

(C) Modify treatment of closely held REITs.

(9) EARNED INCOME TAX COMPLIANCE PROVISIONS.—

(A) Simplify foster child definition under the earned income credit.

(B) Modify definition of qualifying child for purposes of the earned income credit where more than one taxpayer satisfies the requirements with respect to the same child.

(10) OTHER REVENUE-INCREASE PROVISIONS.—

(A) Repeal percentage depletion for certain nonfuel minerals mined on Federal and formerly Federal lands.

(B) Modify depreciation method for tax-exempt use property.

(C) Impose excise tax on purchase of structured settlements.

(D) Reinstate Oil Spill Liability Trust Fund excise tax and increase Trust Fund ceiling to $5,000,000,000 (through September 30, 2008).

(11) REINSTATE HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAX AND ENVIRONMENTAL INCOME TAX.—

(A) Reinstate Superfund corporate environmental income tax.

(B) Reinstate Superfund excise taxes (through September 30, 2008).

Mr. SOLOMON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from New York?

There was no objection.

ORDER OF BUSINESS

Mr. SOLOMON. Mr. Speaker, I would like to make an announcement regarding the remainder of the session this evening.

Mr. Speaker, we are about to take up the rule that will make in order the budget for 1999 and two substitutes that go with it. That will be debated fully this evening. There may or may not be a vote on that rule. Then we would go into 3 hours of general debate, and there would be no further votes in the House this evening when that takes place.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I assure the gentleman there will be a vote on the rule tonight.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I am glad we got that cleared up. So it is 9:25, and we can expect a vote around 10:25, and then bid you all good night. The rest of us will stay here and debate the very important bill.

PROVIDING FOR CONSIDERATION OF H. CON. RES. 284, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 455 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 455

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003. The first reading of the concurrent resolution shall be dispensed with. General debate shall not exceed three hours, with two hours of general debate confined to the congressional budget equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, and one hour of general debate on the subject of economic goals and policies equally divided and controlled by Representative Saxton of New Jersey and Representative Stark of California or their designees. After general debate the concurrent resolution shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original concurrent resolution for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in the report are waived except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the concurrent resolution for amendment the Committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted by the Committee of the Whole to the concurrent resolution or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion except amendments offered by the chairman of the Committee on the Budget pursuant to section 305(a)(5) of the Congressional Budget Act of 1974 to achieve mathematical consistency. The concurrent resolution shall not be subject to a demand for division of the question of its adoption.

SEC. 2. Rule XLIX shall not apply with respect to the adoption by the Congress of a concurrent resolution on the budget for fiscal year 1999.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded, of course, is for debate purposes only.

Mr. Speaker, I am not going to bother to repeat and explain the rule itself, because the House Clerk has done a very good job with it.

I would say, Mr. Speaker, last February the President of the United States submitted a budget to Congress that was a relic of the tax-and-spend policies of Democrats of the past. Just 6 months after this Republican Congress and President Clinton enacted into law the first balanced budget in a generation and the first tax cut in 16 years, President Clinton sent us a backward-looking budget. It was just the opposite of what we had been doing.

□ 2130

That budget, ladies and gentlemen, called for 85 new spending programs, 85 new spending programs. It created 39 new entitlement programs. It increased spending by $150 billion, again, going just the opposite direction of what we have been moving to, and it increased taxes and user fees by $129 billion, ladies and gentlemen.

Mr. Speaker, in this Republican-controlled House, that approach to budgeting and governing is a nonstarter. We can thank the gentleman from Ohio (Mr. KASICH) sitting over here, the chairman of the Committee on the Budget, for what I would call unbelievable due diligence of bringing this budget which is not draconian. As a matter of fact, I think if he and I had our total way and we were to dictate the terms of this budget, we would see some further major, major cuts in this bill.

But today the House has the opportunity to move this Nation in a new direction and, I would argue, in the right direction with the passage of the Kasich budget. The Kasich budget establishes an honest blueprint for this Congress to achieve four important goals.

Those four important goals are, Mr. Speaker: paying down our $5.5 trillion debt. That is important. If we polled into our district, the gentleman from Montana (Mr. HILL) just was here telling me what he had done, that is what the American people want. They want us to pay down on that $5.5 trillion debt that is a disgrace to this Nation.

Number two, preserving and protecting Social Security.

Number three, shrinking the growth of government by reducing spending by 1 percent over 5 years. That is not much, but let me tell my colleagues, it is a step in the right direction.

Finally, relieving the tax burden on families through elimination of the marriage penalty, and that may be the most important thing that we do here this year.

Mr. Speaker, this rule allows the House to choose between two distinct investigations of government. One is envisioned by the President and his tax-and-spend plan, which is largely characterized by the substitute offered by our colleague from South Carolina (Mr. SPRATT). It follows the same vision of the President in the budget that he had presented to us.

If we favor increasing spending, and if we favor increasing government and oppose cutting taxes, then we ought to stand up here tonight and vote for the Spratt substitute. If we oppose allowing this Congress even the opportunity to provide a net tax cut for American families, then we should support the Spratt budget. But I do not think we ought to do that.

Mr. Speaker, there is another vision of the government before this House tonight, and that vision is captured in both the Kasich budget resolution and in the Neumann substitute, both of which are good budgets in my opinion.

Both of these budgets seek to make the Federal Government's budget smaller and the family budget larger. Both seek to fulfill our outstanding commitments in Social Security, in Medicare, and to our veterans and even to our children and our grandchildren by paying down the national debt and ensuring, and this may be the most important part of all, ensuring our national defense is the best state-of-the-art that we can give to men and women that serve in our uniforms today.

Both seek to take advantage of our Nation's positive fiscal climate by continuing the country's shift towards a smaller government, greater individual responsibility, and expanding entrepreneurship and economic initiative.

That is really what we ought to be here doing, because that creates jobs and it helps small business across this Nation, particularly small business that creates 75 percent of all the new jobs in America every single year, not only for those that are being displaced by downsizing but young men and women, girls and boys, coming out of high school and college.

Mr. Speaker, in closing I would just observe that the rule before us allows the House to openly debate two different visions of government, one Republican, and one Democrat, and boy, are they different, for a total of 5 hours of debate.

So I would urge my colleagues to support this rule. After the gentleman from Massachusetts (Mr. MOAKLEY) has opened his statements, we want to get into a colloquy with the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Ohio (Mr. KASICH), the Committee on Budget chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York (Mr. SOLOMON), my colleague and my good friend, for yielding me the customary half hour; and I yield myself such time as I may use.

Mr. Speaker, I rise in opposition to this rule and would like to voice my strong opposition to this Republican budget resolution. The Republican budget picks on those who are the most vulnerable in our society. The Republican budget will hurt low-wage working families. It will hurt the victims of crime. It will hurt the students. Mr. Speaker, once again it will hurt the veterans.

This Republican budget cuts Medicaid and children's health programs by $12 billion over 5 years, in addition to the $10.2 billion cut imposed by last year's budget. Republicans remove a guarantee of health care to families in need by block-granting the acute care portion of Medicaid.

Mr. Speaker, the cuts on those in need do not stop there. Republicans cut temporary assistance to needy families by $10.1 billion. This is a change in their reported budget. They must be very ashamed of it because they submitted it only last night, in the dark of night, after the House was in recess.

The Republicans also cut educational opportunities for those in need. The Republicans cut Head Start and grants to school districts with high levels of poverty. The Republicans, listen, Mr. Speaker, the Republicans cut veterans' benefits by $10 billion.

The Republicans also cut law enforcement. They refused to fully fund the Violent Crime Reduction Trust Fund. They eliminate the Legal Services Corporation.

Mr. Speaker, the gentleman from New York said he is proud of this Republican budget. I hope he is, but I am not. I would be willing to bet most Americans care far more about education and law enforcement and preserving a safety net for working families than they do about $101 billion in tax cuts for corporate fat cats and the very rich.

I think my Republican colleagues agree with me, because as draconian as these cuts may sound, nearly every single one of them is set to go in effect in the future, like a budget cut time bomb. This could mean that the cuts will, God willing, never materialize; or it could mean that my Republican colleagues want to be as far away as possible when this blast finally goes off.

Mr. Speaker, the most surprising cuts are those in the areas that the House has spoken out loud and clear. The Republican budget cuts $21.9 billion from the highway bill we just voted on 2 weeks ago. It cuts $21.9 billion from that bill, the highway bill we just sent to the President. The Kasich budget would slice off $21.9 billion.

The Republican budget will also impede the passage of any tobacco legislation. It will hurt our chances of fixing Social Security. It does not stay within the requirements of last year's balanced budget agreement either.

In contrast, Mr. Speaker, the Democratic alternative budget proposed by the gentleman from South Carolina (Mr. SPRATT) will reserve the Social Security surplus until Congress and the President can agree on how to save it. The Democratic alternative will enable Congress to pass the Patient's Bill of Rights and also the tobacco settlement. The Democratic alternative stays within the parameters of the balanced budget agreement.

The bipartisan budget proposal offered by the gentleman from Minnesota (Mr. MINGE) and the gentleman from Texas (Mr. STENHOLM) is also a far better choice than the Republican budget. It is nearly identical to Senator DOMENICI's budget proposal, which means it is very possible it could pass in both Houses, which is exactly why my Republican colleagues refuse to make it in order. Last night at the Committee on Rules it was said that the Minge budget should not be made in order because it is so close to the Senate position; it might pass. That would make that conference just too easy.

Mr. Speaker, the budget of the gentleman from Minnesota (Mr. MINGE) does not hurt Medicaid recipients or needy families or students or crime victims or veterans, and it might win more votes than the Republican budget. It is not surprising that the Republicans will not allow it to come to the floor for a vote.

This rule is a very unusual one, Mr. Speaker, in one respect. Until last year it was traditional for a rule on the budget resolution to guarantee that major alternatives would be considered. Special procedures called king of the hill, queen of the hill ensured that each of the substitutes would at least be debated and voted on. This rule just does not offer that traditional guarantee. If the first substitute is agreed to, the Democratic alternative cannot even be debated.

This rule will not allow Members to vote on the Minge-Stenholm budget. It does not guarantee that the Democratic alternative will be heard. It encourages Members to vote for a dangerous Republican budget.

Mr. Speaker, I urge my colleagues to oppose the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my hero, Ronald Reagan, used to say, "Well, you have heard it again. There they go again. There go those Democrats: Tax, tax, tax; spend, spend, spend." You just heard the greatest old New Deal speech that we ever heard on this floor.

What he is talking about is creating 85 new spending programs. Spend, spend, spend. Creating 39 new entitlement programs. Spend, spend, spend forever. Forever. Increasing spending by $150 billion. Tax the taxpayers. Increase taxes and user fees by $129 billion.

Mr. Speaker, we have a big difference between these two bills.

Mr. Speaker, I yield such time as he might consume to the gentleman from Pennsylvania (Mr. SHUSTER) so that he can have a colloquy with the gentleman from Ohio (Mr. KASICH), the Committee on Budget chairman, and clear up some misunderstandings.

Mr. SHUSTER. Mr. Speaker, I was dismayed to learn that the committee-reported budget resolution before the body today does not reflect the additional Highway Trust Fund outlays guaranteed and firewalled in the conference report on TEA–21.

The TEA–21 conference report, which is about to be signed by the President, enacts into law firewalls within the discretionary spending caps. These firewalls guarantee that we will spend future Highway Trust Fund tax receipts on highway and transit infrastructure and not continue the past practice of setting spending from the trust fund without regard to the tax revenues being collected.

In drafting TEA–21, we worked closely with the Committee on the Budget and the administration to cut the cost of the bill substantially and to fully offset the additional spending in TEA–21. Given that TEA–21 is fully offset, and the overwhelming vote of both bodies for the funding levels and the guarantees in TEA–21, I believe that the budget resolution should fully reflect the guaranteed spending levels in TEA–21.

Mr. Speaker, I would ask my good friend the distinguished gentleman from Ohio (Mr. KASICH), chairman of the Committee on the Budget: Is it the position of the chairman of the Committee on the Budget that any budget resolution conference report or any other measure that will be used to govern appropriations in budget actions this year will fully reflect the firewall funding guarantees in TEA–21?

Mr. KASICH. Mr. Speaker, if the gentleman will yield to me, the committee-reported resolution was adopted prior to the conference agreement on TEA–21. As reported, this budget resolution assumed that the additional Highway Trust Fund spending could be accommodated if fully offset. It is my intention that the budget resolution conference report fully comply with the highway trust fund funding guarantees contained in the conference report on TEA–21.

Mr. SHUSTER. Mr. Speaker, I thank the distinguished gentleman from Ohio. Based on those assurances, I urge my colleague to support both the rule and the budget.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentleman from Ohio (Mr. KASICH), chairman of the Committee on the Budget, I am just a little confused by that explanation. Can the gentleman tell me how he can accommodate that $29 billion that he took out of the Highway Trust Fund?

Mr. KASICH. Mr. Speaker, if the gentleman will yield to me, let me say to the gentleman from Boston, Massachusetts, my good friend, I am really kind of amazed to listen to his comments, because I think ranking member of the Committee on Rules knows that what we are asking the Federal Government to do is, instead of spending $9.1 trillion over the next 5 years—

Mr. MOAKLEY. Mr. Speaker, I have limited time. Would the gentleman just answer my question?

Mr. KASICH. Mr. Speaker, I am answering the gentleman's question. Instead of the Federal Government spending $9.1 trillion with all these things you talk about, guess what? You are going to get to spend $9 trillion. Do you know something else? The families in your district that are being penalized by the marriage penalty will be helped. We will be able to accommodate this highway bill.

Mr. MOAKLEY. Mr. Speaker, I reclaim my time.

Mr. KASICH. In fact, we will be able to pass the resolution.

Mr. MOAKLEY. Mr. Speaker, I reclaim my time. The gentleman does not want to answer the question.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. MINGE).

Mr. MINGE. Mr. Speaker, we are now 45 days and 45 nights late in action on a budget in this Congress. Why? It is not clear to this Member why this Congress has procrastinated and failed to live up to its responsibility to provide the Nation and the appropriations committees and the other institutions with guidance as to our budget policies for this fiscal year and the four fiscal years to follow.

□ 2145

Shame. After 3 years of Blue Dog Coalition budgets coming to the floor of this body, the Committee on Rules has refused to allow such a budget to be considered this week.

Why is that? Is it because a moderate, bipartisan budget was proposed? Is it because it is an updated version of the Domenici version adopted by the United States Senate? Is it because there is fear that a bipartisan budget that is brought to this floor would pass and would defeat the more partisan budgets that are coming from both sides of the aisle?

It is not clear to me, and I think it is truly unfortunate that this body does not have the opportunity to consider a budget similar to the Senate budget, a budget that passed overwhelmingly, a budget that represents a mainstream course in this country, a budget that is designed to put Social Security first, not to spend the budget surplus until we have fixed the financial problems of Social Security; to reserve that surplus, to make sure that we are careful in husbanding our resources and not embarking on numerous new programs, not taking the resources that are so badly needed to eliminate the deficit and spending those resources on other purposes.

We are deeply disappointed that this budget was repudiated by the Committee on Rules, that we have not had an opportunity to bring it to the floor. Shame, shame, shame.

Mr. SOLOMON. Mr. Speaker, one of the reasons why we have a different vision in our party is because of the majority leader of this House. I yield such time as he might consume to the gentleman from Texas (Mr. RICHARD ARMEY) to explain that vision.

Mr. ARMEY. I thank the gentleman for yielding me the time, Mr. Speaker.

Mr. Speaker, a very good friend of mine, Thomas Soul, once wrote a book entitled "Conflict of Visions." It was a good book, and I would commend it to all of us.

But what we are doing here today with this rule is we are setting up an opportunity for this House of Representatives to consider alternative visions. Earlier this year the President of the United States submitted his recommendation, his budget recommendation, to Congress. In that recommendation he set forth what is his vision for America. The President's vision was presented in a budget that called for 85 new spending programs, that created 39 new entitlement programs, that increased spending by $150 billion, and increased taxes and user fees by $130 billion.

Mr. Speaker, the gentleman from Ohio (Mr. KASICH), the distinguished chairman of the Committee on the Budget, and the members of the Committee on the Budget got together, and they all agreed that that was not the vision for America that they would recommend to this House.

In fact, they wrote a vision for America in which we see a contrasting view; that their vision says, let us reduce spending by $100 billion, and let us reduce taxes by $100 billion. Let us take one penny on the dollar out of an annual budget that is $1.7 trillion. A 1 percent spending reduction will allow us to have sufficient tax reduction that we can correct some of the more disparaging things in our tax code.

Mr. Speaker, we all tell our children, our best advice, young man, our best advice, young lady, is for you to get married and settle down. Yet, in today's tax law, they are punished if they do that. The Kasich budget makes available to us through reduced spending an opportunity to eliminate that penalty for marriage, and to do other things that are beneficial to the lives of our children through tax reduction, and to give them also a smaller, more efficient, more effective, more responsive government.

The Committee on Rules has taken these visions under consideration and they have written a fair rule, a rule that says, let us have the contest, let us have the contest between these two contesting visions.

If I might close, Mr. Speaker, with this observation to my colleagues on the Republican side of the aisle, in particular, this is our vision. This is what we believe we want for our children, a budget that reflects the need in this Nation for a government that knows and respects the goodness of the American people, and has the decency to respect that goodness by restraining itself from its excesses, both in the manner in which it takes money out of the pockets of the American working man and woman, and the manner in which that money is spent.

The Kasich budget gives us an opportunity to set a new standard to spend the taxpayers' hard-earned dollar as minimally as necessary to get the greatest service possible per dollar for the people of this Nation.

Mr. Speaker, I ask my colleagues, vote yes for this budget, vote yes for this rule. Reaffirm our vision for America.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today out of sadness. I do not make many partisan statements. I do not do one-minutes. By virtue of the Committee on Rules turning down an opportunity for this House to talk about the Blue Dog budget, it reminds me of a saying that many may have heard, that the Republicans are more efficient than Democrats. They are. By the adoption of this rule, they have achieved the same level of arrogance in 4 years that it took the Democrats that they accused of it 40 years to achieve.

To deny us a budget debate on this floor that might pass because it has too much bipartisan support says to me that partisan politics is more important than doing something good for this country. I rise out of sadness because we are not permitted to debate the Blue Dog budget.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. BOYD).

Mr. BOYD. I thank the gentleman very much, Mr. Speaker, for yielding time to me.

Mr. Speaker, I wanted to spend my minute talking about the transportation issue, but I think at least after the weak attempt to explain why the transportation package that we passed here 2 weeks ago is not included in this budget, we all understand how bad this budget rule is.

I would just tell the Speaker and my good friend, the gentleman from Texas (Mr. ARMEY), the majority leader, that with the majority and with the power of the gavel comes a certain amount of responsibility. That responsibility is to bring to this body a budget which makes a lot of sense.

There is not a budget here presented today that I can vote for, because I believe that we ought to stick with the balanced budget agreement which we passed last year. We ought not to go off on a wild goose chase with a bunch of new spending programs, and we ought not to go off on a wild goose chase with a bunch of tax cuts. We owe $5.5 trillion of debt in this Nation that we need to pay down. We need to take whatever dollars we have and preserve Social Security and pay down that debt.

I would ask Members to vote against this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LEE)

Ms. LEE. Mr. Speaker, I rise today in opposition to the recommended rule on this budget resolution for several reasons. First, this rule would pit the $10.1 billion cut in Medicare against funding for income security programs such as public housing, disability assistance, and WIC nutrition programs. This proposed rule demands the cruel and callous task of choosing whether to cut vital Medicare programs for our elderly citizens, or programs to provide basic services to our poor.

The policy of pitting people who need critical social service programs against each other is unethical, particularly since we are now experiencing a boom of wealth in our Nation. It is our responsibility to assure that we provide a safety net for those who need it, rather than decide who should fall through it.

I also oppose this rule because it is extremely limiting to this vital discussion in which we are about to engage. The debate on the Federal budget is a discussion of our national priorities, and the fundamental principle of democracy really dictates that we all have an opportunity to participate in the lawmaking process.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, for those just tuning in, this might well be called "Trillions after 10," because as we approach the 10 o'clock in the evening hour here in Washington, we are beginning to consider how trillions of dollars, of taxpayers' dollars of the American people, are to be expended.

Why this manner of consideration? Because this Republican budget, taken up after a full day of dilly-dallying, like most of this Congress, this Republican budget is truly a national embarrassment. It rejects the whole spirit of bipartisanship that produced the first balanced budget in decades, and the largest Federal surplus in the history of this Nation as a result of a bipartisan spirit.

Instead of a bipartisan approach to trying to resolve our budget for the next few years, the approach we hear tonight is the same tired old rhetoric of tax and spend that had to be rejected in order to get us together in a bipartisan spirit for this budget.

We came in as members of the Committee on the Budget to consideration of this proposal in much like the circumstances we find ourselves in tonight, with a take-it-or-leave-it budget, that rejected at the outset the number one goal of budgeting this year, and that is to save Social Security, first and foremost.

We presented an amendment that suggested that every penny of this large surplus ought to be devoted to protecting and preserving the Social Security system. That approach was rejected. It is rejected in this embarrassing Republican midnight budget.

Secondly, we said, recognize that there are a lot of American families out there struggling to make a go of it. Give them a targeted tax cut to address their needs with reference to child care, and support public education for those families that are trying to help their children get through our public schools.

Instead, this Republican budget proposes to eliminate the only Federal program that provides direct assistance to our schools for economically disadvantaged children. It is an embarrassing budget that rejects the needs of America's families and the needs of this Congress to work together.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just have to say, there they go again. I am one of these oldtimers. I keep records. Members can go up in my Committee on Rules office up there, and I keep a record on everybody who votes against our rules we bring down here. I just need Members to know that.

I also keep a record of how people vote on increasing spending and decreasing spending. I follow the National Taxpayers Union's rating. I cannot help but call attention to everyone here the fact that most of these speakers who are speaking are the same ones who are rated as the biggest spenders in the Congress by the National Taxpayers Union. Not only are they rated that way by the National Taxpayers Union, they are rated that way by me, because I keep track of them.

All last year when people like myself were offering cutting amendments to all of these appropriation bills, cut a little here, cut a little there, somehow to save a little, to tighten our belts, these same people that are standing up here talking were voting against all of those cuts. As a matter of fact, I have never seen them vote for one cut in spending.

Mr. Speaker, I yield such time as he may consume to the gentleman from somewhere in California (Mr. DAVID DREIER), a real spending cutter.

Mr. DREIER. Mr. Speaker, from somewhere in California, I thank my friend for yielding time to me.

Mr. Speaker, I rise to think back to 3 years ago, when, at the second lectern right behind us, the President, in delivering his State of the Union message to an overwhelming bipartisan ovation, said the era of big government is over.

Then I am reminded of what he did here just this past January, when he unveiled his plan for $150 billion of new spending programs, and it included, as I guess the gentleman from Ohio (Chairman KASICH) told us in the Committee on Rules last night, 85 new programs, 39 new entitlements, $130 billion in new taxes.

□ 2200

And then I was struck with the fact that just a few weeks after that the new premiere of the People's Republic of China, Zhu Rongji, unveiled his plan to close down 14 government ministries and lay off 4 million bureaucrats. And as we debate this China-U.S. problem that we have got that the administration has quite possibly created, I wonder which government is headed in the right direction.

Thank God we are having this debate which is beginning to focus back onto the issue of individual initiative and responsibility and creating a climate where we will have Washington do better with less so that the American family will do better with more.

Now it seems to me that, as we look at this, one of the things that was very troubling to me, and I raised it last night when the ranking minority member of the Committee on the Budget was in the Committee on Rules, was this idea of saying that any time that we look at the prospect of cutting taxes it has to be offset with a tax increase. I am not a big fan of this paygo provision, because we found that since we were able to reduce the top rate on capital gains what happened? We have generated a tremendous surge in revenues to the Federal Treasury.

Mr. Speaker, 172 Democrats and Republicans joined with us in our quest to reduce that top rate on capital gains from 28 to 14 percent. We did not quite get there. But I am convinced that if we were to go even further we could generate another level of revenues to the Treasury.

I think that what we need to do is we need to have a cut in the payroll tax. 75 percent of the American people pay more in payroll taxes than they do in Federal income taxes. It seems to me that we are now at least starting to get back on the right track, countering what was said here at the State of the Union message earlier.

Mr. Speaker, I urge support of this rule, and I urge support of the Kasich budget that we will be moving forward with.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, as we discuss our budget, we are really discussing the priorities that the American people have for the utilization of its resources. And certainly any budget discussion should include a variety of alternatives. Indeed, the majority denied one alternative which perhaps could have met in a consensus of the Members of this House on both sides. It might not have been the one that I wanted, but still we needed a full discussion of it.

I also rise to say that the proposal that we have here in terms of the Kasich bill denies the bipartisan approach that we had when we had the balanced budget agreement of last year. This violates the principles of it. It violates the undergirding caps of it. It has a black hole. We do not even know how indeed we are going to finance the resources for paying for the transportation bill, which is the bill of authority. And we know there ought to be a fire wall between the trust fund and this bill. It has many inconsistencies that one would think one who would want to be prudent in the spending and caring for priorities would address.

For that reason, I urge that we reject this rule, because it is not only unfair but it is the wrong way to discuss the priorities which will utilize the resources of the American people, and it certainly is unfair for us now to undo what we did last year where we had a balanced budget that indeed was crafted with a bipartisan approach. I urge a "no" on this vote.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining?

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from New York (Mr. SOLOMON) has 13½ minutes remaining, and the gentleman from Massachusetts (Mr. MOAKLEY) has 14 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY), the ranking member, for yielding me this time.

Mr. Speaker, here we do go again. After 30 years of partisanship and 30 years of red ink, I thought we learned something in 1997. When the parties work together, they can balance the budget, and we should all be proud that we did that in 1997.

There is a proposal that would build on that tradition. It was put forward by the gentleman from Minnesota (Mr. MINGE) and the gentleman from Texas (Mr. STENHOLM). It deserves a hearing on this floor. It is not perfect. It may not even win majority support. I would support it, as I intend to support the budget offered by the gentleman from South Carolina (Mr. SPRATT), but it deserves a hearing because it builds a bridge between the two parties, and it builds a bridge between this House and the other body.

We should reject this rule because this rule rejects our right to fully and fairly debate all of the alternatives before the American people. Reject this rule. Give us a chance to debate all the alternatives.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I stand in support of the rule, of course, which makes in order three alternative budgets tonight. Frankly, two of them seem to me pretty good ideas.

Both of them, one sponsored by the gentleman from Ohio (Chairman KASICH) and one by the gentleman from Wisconsin (Mr. NEUMANN), they spend less, but they also make a number one priority elimination of the marriage tax penalty suffered by 42 million taxpayers. The Democratic proposal spends more, taxes more, and fails to address the marriage tax penalty suffered by 42 million taxpayers.

Let me explain why elimination of the marriage tax penalty is so very, very important to 42 million taxpayers.

Think about it. Do Americans feel that it is fair that under our current Tax Code a married working couple pays more in taxes just because they are married? Do Americans feel that it is fair that 21 million married working couples pay $1,400 more in higher taxes just because they are married than an identical couple with identical incomes that live together outside of marriage?

Americans back home in Chicago and the south suburbs feel that is wrong. Let me give an example of a south suburban couple in the suburbs of Chicago, Joliet, a machinist who works at Caterpillar and a schoolteacher in the Joliet public schools. This Joliet Caterpillar machinist makes $30,500 a year. If he is single, under our current Tax Code, after the standard deductions and exemptions, he is in the 15 percent tax bracket. If he meets and marries a gal who is a public schoolteacher with an identical income and they combine their incomes, under our Tax Code, if they file jointly, their combined income of $61,000 after standard deductions and exemptions still makes them pay more taxes. Almost $1,400 more they pay under our Tax Code today.

That is wrong that the average working married couple pays, on average, $1,400 more just because they are married. And the Republican budgets eliminate the marriage tax penalty. Think about it. For this couple in Joliet, this machinist at Caterpillar, this public schoolteacher at the Joliet public schools, $1,400 is real money. For some in Washington, $1,400 is a drop in the bucket, but for this couple in Joliet $1,400 is one year's tuition at the local community college at Joliet Junior College. $1,400 is 3 months' day care in the local day care center. That is real money for this machinist and schoolteacher.

If we care for working families, let us eliminate the marriage tax penalty. Why? Because it is real money for real people. And I think like I know a lot of my friends do, and it should be a bipartisan concern. We should allow this machinist and this schoolteacher to keep more of what they earn. Is it fair that they pay a penalty because they are married? Of course not. Let us eliminate the marriage tax penalty.

There are three alternative budgets here. Even the one that was proposed that was not listed that everyone keeps referring to on the other side fails to address what should be our number one priority this year, that is eliminating the marriage tax penalty. I urge adoption of the rule and the elimination of the marriage tax penalty.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, the gentleman who just spoke said that our resolution, the substitute which I am offering on behalf of the Democratic Caucus, makes no effort to mitigate the marital tax penalty, and that is not correct.

Section 11 says, it is the sense of the Congress that the Committee on Ways and Means should undertake high-priority tax relief of at least $30 billion over 5 years and lists four things we would like to accomplish; and the fourth is mitigate the Tax Code marriage penalties in a manner at least equal in scope to the 1995 tax relief provision of H.R. 2491, which was a Republican bill.

We are endorsing that. Twice the gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means, has moved a marital tax mitigation bill. Twice the majority on the committee have rejected it. Last year, he moved it in the Committee on the Budget, and they rejected it. We are calling for action this year in our resolution also.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for letting us on the Democratic side of the aisle come forward and acknowledge that for a long time we have been fighting as well against the marriage penalty, and I appreciate the gentleman's clarification.

Mr. Speaker, we are here today because the budget resolution of last year was a bipartisan effort. But I will assure my colleagues that I am not going to support this rule or any part of this budget that cuts the entitlements of people who are in need of some $56 billion. Entitlements including $12 billion in Medicaid, $10 billion in temporary assistance for needy families.

The proposed Republican plan would terminate all direct Federal assistance to public schools in our poorest areas, particularly repealing Title 1 grants. It is as well shocking that the Republican plan guts the discretionary education program by $6 billion. We who claim to be in support of family values, we who claim to be in support of children, and yet we are cutting some $28.7 million from the State of Texas Child Family Services. Child Care and Adult Protective Services will be reduced by $8.89 million, and the Texas Workforce Commission will be cut by $340,000.

Mr. Speaker, let me say this is a bad bill. I urge my colleagues to vote against the rule and vote against the budget as well.

Mr. Speaker, I rise today to voice my concerns about H. Con. Res. 284, the House Budget Resolution. I strongly object to the Budget that has been proposed by the Republican leadership.

I believe that the hope and future of this country depends on its children, and this Budget Resolution does not provide our young people with the access to child care, health care and education that they deserve and need to become healthy and independent members of our workforce and communities.

The Republican plan misses every opportunity to make constructive investments in our future to improve our government's services and benefits for our citizens who need it most. The Republican plan cuts entitlement by $56 billion dollars. Entitlements including $12 Billion in Medicaid, $10 Billion in Temporary Assistance for Needy Families!

This is a travesty! How can we say that we care about the health and welfare of our future, about our children's health when we remove poor children's access to crucial health care?

And what about our children's chances for education, for advancement, for their chance to be respected, learned and contributive members of our communities? The Republicans themselves have criticized the plan. Senator DOMENICI in relation to the bill said "You just can't do this. This is just not a possible solution and we [in the Senate] would not do it because we couldn't live with it in the waning days of the session."

If the Republicans themselves say they cannot live with the bill, how can our most needy and most vulnerable populations live with such a plan? The answer is that our children, our inner city poor, our single parents, will suffer and unfairly, if this absurd Republican plan is passed.

The proposed Republican plan would terminate all direct federal assistance to public school districts in our poorest areas by repealing Title I grants. It is shocking that the Republican plan cuts the discretionary education program by $6 billion below last year's Balanced Budget Agreement and $7 billion below our Democratic plan.

It will eliminate Americorps and the Legal Services Corporation both which provide critical assistance to may of our poor citizens who need to secure housing, fair pay and a fair chance.

We must put the health and welfare of our people, our families, our communities first. The Republican plan would freeze WIC, and head start at 1998 funding levels for 5 years, as well as section 8 Housing causing at least a million households to lose federal vouchers and certificates by 2003.

In fact 14 percent of the Mandatory cuts come from low income programs, hitting those who need the funding the most. Our families who need food stamps for their basic nutritional needs, welfare to work and social service programs, will lose their tentative grip on self-sufficient independent living when all these are erased. Combined with the proposed $12 billion worth of cuts in Medicaid/Children's Health Insurance Program, almost 49% of the Republican's mandatory cuts hit programs for the poor and near poor, even though these programs constitute only about one-fifth of all entitlements.

In the President's state of the Union address, he proposed initiatives in child care, health care and education, yet, the Republicans in Budget Committee voted to reject every single initiative, even the most inexpensive. We have a responsibility to provide for our nation's future—and all the people who need services to survive and to thrive.

In my home state of Texas, proposed cuts in the Social Services Block Grant will result in a loss to the State of Texas of approximately $28.7 million. Child and Family Services, Child Care Regulation and Adult Protective Services will be reduced by $8.89 million from the amount they currently receive, and the Texas Workforce Commission which receives 1.2% of the Texas allocation and supports child care for low income families will be cut by 17% or $340,000. The Department of Human Services providing Family Violence and Community Care Services will lose 14.34 million dollars.

In Harris County where I live, poverty has increased 42%, and 240 thousand children are living in poverty, and 30,000 families are on the waiting list for child care assistance. Child abuse and neglect accounts for 20% of all children's homicides in the county, and only 42.7% of all the children who were abused in Harris County actually received any therapeutic services.

I urge my colleagues to think carefully when they cast their votes this evening on H. Con. Res. 284. It is critical that we consider fairness, and compassion in making their decisions. We must provide adequate resources to ensure our America, our children a strong and healthy future.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, in this budget resolution, why are we asking our veterans to give up more than they have already sacrificed? We looked in terms of the recommendations that were being brought up, and it was brought in terms of a "new vision." It was presented as a "new vision."

Mr. Speaker, what kind of a new vision is it? I cannot even imagine cutting one of the following programs. This new vision eliminates the cost-of-living adjustments for education and service-connected veterans benefits. It eliminates the cost-of-living adjustments for low-income wartime veterans who receive a pension. It eliminates dependent benefits for veterans whose service-connected disabilities are rated at 30, 40, and 50 percent. It eliminates compensation for veterans with service-connected disabilities rated at 10 percent.

Is that the new vision that the majority is presenting? Is this the vision that goes after those individuals who have fought for our country? Again, even if such drastic benefits reductions have changed and continue to be made, we would still have met less than half of the savings required under the Budget Resolution.

The Committee on Veterans' Affairs has done its fair share through the era of downsizing and cutbacks. I find it profoundly unfair that at this time we come back and hit those individuals that have fought for our country. We are asking to cut $10.4 billion total from veterans service.

At this time, I ask Members to vote against the rule and consider reassessing that warped vision that they have.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. SMITH), the hard-working member of the Committee on the Budget with his very impressive chart.

Mr. SMITH of Michigan. Mr. Speaker, I am a farmer from Michigan and seems to me we need to get the budget hay out of the mow and down on that barn floor where we can chew on it a little bit.

This graph represents what has been happening to spending in this country. There has been a lot of complaints from liberals that would like to spend more, have government bigger and solve more problems in Washington. Of course that would mean increase taxes or increase borrowing.

This chart shows that, in 1994, we were spending about $1.4 trillion. By 2003, the last year of this new 5-year budget, we are going to be spending $1.9 trillion, over a 30 percent increase in spending. Spending even on this budget increases almost twice as fast as inflation.

In the final year of this budget, in the fifth year, 2003, we are spending about $1.9 trillion. If we followed the President's and the Democrats' recommendations, we would be spending $67 billion more in that 1 year alone.

□ 2215

The question before us is do we want bigger government or more efficient government? Do we want more taxes or fewer taxes? Do we want to continue borrowing or pay down debt? What has brought about economic vitality is the fact that government is borrowing less money.

Now, through these years shown on this chart, we are also going to experience the largest surplus in our history. In some of these years tax revenues are increasing four times the inflation rate. So if we want to help American families, if we want to stimulate the economy, if we want to make it easier for working families to spend more time with our children, we need to continue tax cuts. Let us also look at starting to pay down the debt of this government.

As we look back over past years, I think it is fair to say that some of us have been determined to reduce the size of this government, reduce taxes and try to make this huge bureaucracy more efficient. One way to make this government more efficient is to tighten the purse strings. If there is any operation in the United States that has opportunity to be more efficient and at the same time provide more and better services to the American people, it is the Federal government.

I hope that we all appreciate the fact that there are better and more efficient ways to spend taxpayers moneys. There are better ways to serve the citizens of the United States. Even this budget that has been critized for not spending enough, increases spending twice the rate of inflation. In the early 1990s, we had budgets that increased over 9 percent a year. This budget increase spending 2 to 3 to 4 percent a year. In conclusion, let us reduce the growth in spending, reduce taxes, and reduce the public debt and start saving Social Security. We can do that by supporting this rule and supporting this budget.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to the rule and the budget resolution because again we are playing politics more than balancing budgets. Why, for example, did not the rule allow the Stenholm-Minge budget to be considered? The reason it did not was because it probably would have passed, because it is virtually identical to the Senate budget resolution. Instead we are on the path that we were on in the 104th Congress that led to two government shutdowns. Why are we doing this again?

When you look at this budget resolution, you realize that this budget cannot pass, that we cannot reach agreement on its specifics nor its cumulative impact. For example, $3.3 billion is cut from the Federal Employees Health Benefits Plan. CBO estimates that means Federal employees, instead of paying 28 percent for their health insurance which they do now, in 7 years will be paying 50 percent of their health insurance premiums. Last year we took $5 billion away from Federal employees, and we said in return we are going to at least provide health insurance security, then this year we take it away from them. How are we going to provide the kind of quality professional Federal work force that we need when we cannot retain and recruit people, when we cannot even keep our promises?

Throughout this budget we have got the very kinds of things we encountered in the 104th Congress, things that are going to create problems throughout the rest of this term, things that are bound to create problems within our appropriations bills and are going to put us in the very same situation that caused us to shut down the government. We should not be on this path. We should be finding a way to reach agreement. The Stenholm-Minge budget resolution would have enabled us to do that. That is why it is not part of this rule. That is why we should oppose this rule. What we ought to be doing is trying to find reconciliation instead of trying to foment division.

When you look at what we do to dependent groups, whether it be veterans, whether it be Federal employees, whether it be people dependent on Medicare or the people that are affected by welfare reform, or children stuck in inferior education systems—all of them get hurt far more than our constituents would want. Vote against this budget rule and the budget resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Speaker, during the budget hearing the gentleman from Ohio (Mr. KASICH) made an amazing statement. He said, "I know that most Americans, interestingly enough, do not believe that we are actually going to have a balanced budget. We are going to have a balanced budget, but they don't believe it. So not only don't they believe it is going to be balanced, they do not believe there is going to be a surplus."

Now I call that amazing, not because the public does not trust us, but because the gentleman from Ohio (Mr. KASICH) seemed surprised by the fact that the public does not trust us. Balancing the budget and the surplus comes up in my district all the time. My constituents are not confused by the issue at all. They understand that the budget can be called balanced only when one includes the monies from the various trust funds, most notably Social Security. They also understand that when Social Security monies are removed from the mix, the surplus evaporates and the Federal budget is actually in deficit to the tune of nearly $100 billion a year for the indefinite future.

The Blue Dog budget operates from the realities that I just mentioned. But this rule deprives the public of the opportunity to hear debate on that proposal. Why do not the folks at home trust us? Maybe it is because of decisions like that.

If the chairman is concerned about our credibility out there in the real world, he should reconsider this budget. Why? Well, first, it does not add up. You have heard about a $5 billion hole that has not been fixed as this budget has proceeded. You have heard about double counting the cuts, and about sleight of hand which makes us pretend that decisions like the transportation bill and the food stamp decision earlier this evening do not really exist. It all ignores reality. And the gentleman from Ohio (Mr. KASICH) is surprised that the public does not trust us.

They have also said it is just 1 percent, anybody can take a 1 percent cut, which of course is meant to lead people into believing that all programs will share equally in the cuts. It is not true. Two-thirds of all the spending we do will not be part of these reductions.

Let us take a look at what will happen over the next five years, starting with before the balanced budget agreement started. We find a 21.2 percent cut in international affairs in the face of an increasingly perilous world, 30 percent in housing, 16 percent in regional and community development 2 percent in transportation, 12 percent, 1 percent. It is not so, and we wonder why people do not trust us.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. HAYWORTH), my favorite play-by-play sportscaster.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from California for yielding me this time.

This is not a game nor an athletic event, nor an exercise in partisan politics. My friend from Michigan who preceded me in the well wondered aloud why people do not trust us. There is a fundamental reason for the cynicism, Mr. Speaker. The distrust comes because when we are given an historic opportunity to rein in the growth of government, not to radically cut spending but to rein it in and reduce its size, sadly we hear the familiar litany of fear and smear and that the sky is falling in and that there will be those who will bear the brunt of these cuts.

Mr. Speaker, I am serving my second term in this body, and one thing I know about a budget statement is that it is a road map, a statement of principles that sets a goal. As we all know, we go through the appropriations process to decide how money is to be spent. So all the talk about all the cuts and all the fear is just talk.

Mr. Speaker, that is why a group who used to control this body no longer does. That is why the American people and my constituents in the 6th District say something very simple. For the last half century, they have been called on time and time again to sacrifice so that Washington could spend more. They tell me overwhelmingly and resoundingly, it is time for Washington to sacrifice so that working families can keep more.

That is the essence of the debate tonight, to restore trust in this process and to restore fiscal sanity and to maintain spending at more than the rate of inflation, certainly not draconian cuts. Reasonableness and common sense demand that we support the rule and support the budgetary process to offer this sensible road map to improve and to build upon what was done before, not to be locked into stagnation or into a revisionist history that would say that tax increases are laudable and desirable, not to continue with the mistaken notion that if we only spend more and if we only tax more and if we only ask more of the American people, then that is the key to nirvana or success. No, nothing could be further from the truth.

The fact is that the minority should stand with us and improve upon that historic agreement by stepping forward to say, let us live within reasonable limits, for those reasonable limits offer true compassion that working families understand and offer that restoration of trust so vital across this country.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the distinguished gentleman for yielding me the time.

I rise in opposition to the rule and to the budget resolution; in opposition to the rule because it deprives this body of the opportunity to debate other alternatives, for example, the Blue Dog budget.

Mr. Speaker, I believe that our budget should be a statement of our national values. But in the budget bill before us the priorities and values are seriously askew. This budget plan is cowardly and irresponsible. It is cowardly because it masks the deep cuts it would make in education, health and nutrition programs by providing few details about which programs will be downsized and defunded. This budget is irresponsible because it violates the carefully crafted budget agreement that everyone is paying homage to here tonight, but this budget violates that carefully crafted budget agreement which passed the Congress last year.

This budget today dedicated budget surpluses to untested private accounts for Social Security, when we should be shoring up the long-term financial health of the entire Social Security system. By cutting Medicaid $12 billion, we miss opportunities to expand health care access for children through the Children's Health Insurance Program. This is a very important investment for our country. The budget targets steep cuts on nondefense programs which are investments which pay off for us.

Once again, when some Members want to look like budget hawks, it is the family, the working families of America, the poor, the young and the old who are their prey. But the programs, the investments that we should be making in Medicare, Medicaid, the Earned Income Tax Credit, food stamps, education and many other vital initiatives would all be cut substantially.

Today we need a spending plan, an investment plan that protects Social Security, health and education, a budget that attends to our domestic strength and security as well as our international strength, and it must be done in a fiscally sound way. I urge my colleagues to oppose the rule and the budget resolution.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. STENHOLM), elder statesman of the Blue Dog Caucus.

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from Texas (Mr. STENHOLM) is recognized for 4 minutes.

□ 2230

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to this rule because of its unfair treatment of the

Blue Dog budget. We have heard a lot of rhetoric tonight about what is or is not in anybody's budget. Some of it has been true. Some of it has been stretching. The Blue Dog budget that we wanted to offer and have a chance for an honest and open debate on would have moved us toward a consensus by narrowing the differences in this body instead of dividing us as we are hearing tonight. The Blue Dogs tried to find a reasonable, realistic alternative to the budget resolution based on a simple philosophy. When you have a game plan that is working, you should stick with it.

Unlike the President's budget, we did not think it was wise to reopen the budget agreement for new, major spending initiatives. Unlike the majority's resolution, we did not think it was wise to call for another round of spending cuts until we have enacted the spending cuts we said we were going to do in the last year's balanced budget agreement.

We support tax cuts, including the abolition of the marriage penalty. And we agree with many of the initiatives in the President's budget. But we believe that staying the course on the budget agreement until we balance the budget, without relying on the Social Security trust fund, is a greater priority.

Our amendment would have saved 100 percent of the projected unified budget surplus for Social Security and recommend the unified budget surplus be reserved to fund the cost of Social Security reform legislation. Our budget reaffirmed the principle that budget discipline should be maintained until the budget is balanced without relying on the annual surplus in the Social Security trust fund. Our budget was based on the principle that the numbers in our budget should be honest and realistic. That is where our budget differs the most from the budget reported by the committee, especially with the changes in the manager's amendment.

Our budget incorporated the changes in the ISTEA bill, BESTEA bill and the agricultural research bill as estimated and paid for by CBO in order to provide a credible budget blueprint that reflects the realities of this body. We do not reopen Medicare, Medicaid, Federal retirement and other mandatory programs for additional reductions. We did not double count savings as the majority does tonight in the resolution they bring before us. We do not rely on unspecified spending cuts mainly backloaded until 4 or 5 years from now in order to pay for a tax cut up front.

Mr. SOLOMON, there you go again. I remember down the road that magic asterisk in David Stockman's budget that you and I both voted for and we are doing it again tonight with this resolution and I am not going to give credit to the gentleman from Ohio (Mr. KASICH) for this because I know he is not for doing what the Speaker has ordered somebody to do.

We hear a lot of rhetoric around here about free speech. Well, free speech apparently does not apply to action on this House floor when it comes to having alternatives considered and an honest debate, an honest debate between a little different idea between the majority and the minority.

I do not understand what you fear. I fear that every dog in America is going to wake up tomorrow morning a Democrat. I hope he will. Because we are discriminating against dogs. The CATS got their amendment, the Conservative Action Team. They said, "You bet, come on the floor, debate your idea." But the Dogs, "No, you can't have your time on the floor." That is wrong. That is wrong.

We should defeat this rule. We should allow the Blue Dogs and others to have our opportunity to debate our idea in a free and open debate. This rule will shut down the Blue Dogs' opportunity to debate our idea. What are they afraid of? Why not let us have an opportunity to have our day in court.

Mr. DREIER. Mr. Speaker, to close the debate on our side, I yield the balance of my time to the gentleman from Minnesota (Mr. GUTKNECHT) a member of the Committee on the Budget who is neither a CAT nor a Dog.

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from Minnesota is recognized for 4½ minutes.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from somewhere in California for yielding me this time.

Mr. Speaker, I was thinking about this debate, and what we have been doing for the last several months in talking about the budget. I was trying to figure out what I could say tonight and to my colleagues and to my constituents about this budget. But I was listening to the debate earlier. It was interesting because it almost seems like deja vu. Have we not been here before? Have we not had this debate before? With people saying, "You can't do that. You can't eliminate 300 programs. You can't balance the budget and provide tax relief. You can't reform welfare. You can't require able-bodied people to work." We did all of those things. And the budget is now balanced. We have come so far. Now they are saying, "Well, you can't reduce the rate of growth in Federal spending by 1 percent and eliminate the marriage penalty tax." They are saying, "You can't do that."

I was trying to think, how can we use some kind of a prop or some kind of an analogy to demonstrate what this debate is all about. Finally, I came upon it. I asked my staff to go out and see if they could not find a nine foot belt. We could not find a nine foot belt. What we found was three belts. We put them all together. It is nine feet long. Every foot of this belt represents $1 trillion. That is how much the Federal Government is going to spend over the next 5 years, $9 trillion. Anywhere you go, whether it is in Texas, whether it is in Ohio, in Minnesota, Michigan, wherever you go, I think everyone will agree that $9 trillion is a lot of money.

What the Committee on the Budget has come up with is a fairly simple plan. They said if we could get the Federal Government, if we could get our colleagues on the Committee on Appropriations to simply tighten this belt one notch, one notch, we can eliminate that marriage penalty tax. As earlier the gentleman from Illinois (Mr. WELLER) said, this affects about 21 million couples and they pay a penalty of about $1,400 per family. Everyone that spoke tonight has said that is wrong, it is bad tax policy, it is bad family policy, and frankly it is downright immoral that we require married couples to pay a higher tax than if they lived together without the benefit of marriage. And so all we are asking tonight is for our friends on the Committee on Appropriations, and if we work together on a bipartisan basis, I believe, and frankly I will guarantee you 98 percent of the people who might be watching this on C–SPAN will agree that we can get ourselves to tighten this nine foot belt simply one notch.

I know there are people on this side of the aisle, in fact, I think there may even be some people on this side of the aisle who say, "You can't do that." But I will flat guarantee you that out in middle America, most Americans believe that you can tighten this belt one notch. That is all we are asking for.

I submit this rule is fair. We will have a thorough debate of three different alternatives. But in the end, Mr. Speaker, I will suggest to my colleagues that the Kasich budget, it is fair, it is reasonable, it is responsible, and frankly it is long overdue. I think we ought to approve the rule, we ought to vote for the Kasich budget and we ought to send a clear message to America that yes, we can tighten this nine foot belt simply one notch.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) has 30 seconds remaining.

Mr. DREIER. Mr. Speaker, with that I would like to urge support of this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 216, nays 197, not voting 20, as follows:

[Roll No. 205]

YEAS—216

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Emerson
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frost
Ganske
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—20

Bateman
Conyers
Engel
Frank (MA)
Furse
Gonzalez
Harman
Hefley
Lewis (GA)
Martinez
McDade
Mollohan
Reyes
Ros-Lehtinen
Schumer
Smith (OR)
Stark
Whitfield
Yates
Young (AK)

☐ 2257

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just passed.

The SPEAKER pro tempore (Mr. SUNUNU). Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENTS TO H.R. 2709, IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–566) on the resolution (H. Res. 457) providing for the consideration of the Senate amendments to the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–567) on the resolution (H. Res. 458) providing for further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, which was referred to the House Calendar and ordered to be printed.

☐ 2300

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to House Resolution 455 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution, H. Con. Res. 284.

☐ 2300

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003, with Mr. GILCHREST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the concurrent resolution is considered as having been read the first time.

General debate shall not exceed 3 hours, with 2 hours confined to the congressional budget, equally divided and controlled by the chairman and ranking member of the Committee on the

Budget, and 1 hour on the subject of economic goals and policies, equally divided and controlled by the gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. STARK), or their designees.

The gentleman from Ohio (Mr. KASICH) and the gentleman from South Carolina (Mr. SPRATT) each will control 1 hour of debate on the congressional budget.

The Chair recognizes the gentleman from Ohio (Mr. KASICH).

Mr. KASICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to, first of all, begin by talking about the fact that last year we were as a Congress able to reach an historic agreement that is going to be able to achieve for the first time since we walked on the moon a balanced budget. We also anticipate that in the course of this year we will have a surplus. It will be generated primarily from the Social Security taxes as part of the budget. And next year, I am going to predict tonight, we will see a surplus in the general fund.

I think it was a significant accomplishment that we were able to move to do something we have not done since we landed on the moon, but, frankly, maybe I need to let you in on a little secret: Our effort here was really never just to balance the budget. Our effort here was really to transfer power, money and influence from this city back to where people live, in every community and every family in America.

Mr. Chairman, Teddy Roosevelt rode into this century with the idea that he should break the monopolies of the big corporations so that people could be set free to be successful. Well, I believe and the members of the Committee on the Budget believe that we ought to ride into the next century and break the monopolies and trusts of the Federal Government so that people can be set free and that we can begin to run America from the bottom up, rather than from the top down.

Whether it is more choice for parents in education or whether it is to allow communities to set the rules and the standards in public housing and in job training or whether it is ultimately to set Americans free, to be able to invest payroll taxes, to be able to prepare for their retirement years, or whether it is beginning to break down that big money-raising machine called the Federal Tax Code that props up the monopolies of the Federal Government, our efforts are to make this city a lot less important, to make this city and government a lot more efficient and a lot more effective, and to make the budget of government a lot smaller and the budget of the family a heck of a lot bigger.

Now, we reached this historic agreement last year. This budget agreement, historic only from the standpoint we have not achieved this in over 30 years, we viewed that agreement as a ceiling on government; not a floor of the growth of government, but a ceiling on government. The President, however, and many of my colleagues on the other side of the aisle, viewed the agreement last year as a floor on government and not a ceiling.

Now, can you imagine, with an American people, an American electorate that has very little confidence in the fact that we can get a balanced budget, that the President came up here to Capitol Hill and he announced a program that would increase fees and taxes by $130 billion? Think about that. The President of the United States, who declared the era of big government over, within a period of 6 months after we signed an agreement and he declared the end of the era of big government, comes to the House, comes to the House and proposes $130 billion worth of new tax increases. And that was not enough, because the tax increases were going to fund $150 billion worth of new spending.

The President of the United States raises taxes by $130 billion and raises spending by $150 billion. He has 39 new entitlement programs. I hear so many of my friends talk about the need to control entitlement programs. He has 39 new ones.

I never heard a peep, never heard a peep out of the minority when Franklin Raines came up here to present this President's budget. In fact, the budget resolution that the Democrats offer will provide for bigger government, breaking the spending caps, and having a philosophy that "we like government."

At the same time that the President proposed $150 billion in new spending and $130 billion in new taxes and 39 new entitlement programs, we also developed 85 new spending schemes. This is the President that said the era of big government was over. But, you know, he could not really stay with it, because too many people in his party believe in running America from the top down.

There is nothing wrong with somebody that feels that way. I just think that we all know across this country, outside of this Beltway, in most communities, it does not work anymore. What we are really trying to do is to empower people and take power, take power from this city and give it back to people all across this country.

Now, what are we asking to do in this budget resolution? I heard the whole litany, the whole litany of all these things we were going to do.

Mr. Chairman, over the next 5 years, the Federal Government is slated to spend $9.1 trillion. Do you know what we are asking in our budget resolution for the government to strain under the yoke of? Instead of spending $9.1 trillion over the next 5 years, and, by the way, in the last 5 years we spent $7.8 trillion, we are going to go from $7.8 trillion in the last 5 years to $9.1 trillion in the next 5 years, and we are suggesting that we really tighten our belt and we really restrain ourselves and we spend only $9 trillion to run this Federal Government.

Do you know what that works out to? Talk about deja vu all over again. Tim Penny and I came to this floor in a bipartisan effort, the same way the President and I got together on the budget agreement last year, and we proposed that we save 1 penny on every dollar. Do you know why? Because the President raised taxes in 1993, and Tim Penny came to this floor and said we should have some cuts. One penny on every dollar.

Now, I am going to ask a question: Do Members not think they can go home and tell people that the Federal Government cannot become more efficient and more effective and save one penny on every dollar in Federal spending over the next 5 years and cannot live within a budget of $9 trillion, rather than $9.1 trillion?

Because you know what they know about back home? They know about the $800,000 outhouse. You know, the Park Service built an $800,000 outhouse at the Delaware Water Gap National Recreation Area. The Park Service built new employee homes in Yosemite at an average cost of $584,000. At the Grand Canyon, the average was $390,000. More than $8.5 million was spent on planning, design and supervision at housing at both parks.

Approximately 26,000 deceased persons in four States receive food stamps worth a total of $8.5 million, according to the GAO. The X-Files, the Forest Service budgeted $500,000 for a motivational conference to help its employees explore alternative reality. I suppose they were studying Washington. How about $34 million so that the Jerry Springer Show and Baywatch can be close-captioned?

We look at the reports on fraud and waste and so many of these big programs that we have not had the guts to dig in and begin to fix. And what we are asking is we cannot get all of this accomplished this year, to fix all of this, but what we are saying is, we can find a penny out of every dollar. We can live with only $9 trillion in spending. And out of those savings, those savings that every American knows is there, we can eliminate the marriage penalty for the 22 million Americans who get penalized because they decided to get married.

You know, the wife goes out to get a job, and all of a sudden she is paying at the high marginal rate. She is paying at the higher tax rate. She is being punished because her husband may earn more than her.

We want to fix that. Do you know why we want to fix that? We want to fix that because we know that the family is the incubator of everything good that happens in our society. And we look around at the tragedies that we have seen in this country over the period of the last couple of years, and we hold our breath, and you know what we all know? We need better families to provide more love, more hope, more discipline.

But do Members know what? Families are hurting. Tax rates are going to be at the highest level and revenues are going to flow in at the highest level since World War II.

Look, this is just an honest disagreement among some of us about the way we think America ought to work. I do not begrudge the fact that 50 years ago in the middle of the Great Depression that it was necessary for us to send a lot of our power, money and influence to Washington to fix some of the biggest problems, including civil rights and some of the gaps in education.

But do you know what I hear people saying? I hear people saying, I am tired of the country being run from the top down. I want to be involved in solutions that are located in my own community. I want to break the monopolies of government. I want to be set free. I want my power, influence and money back so that I can fix the problems in my family and my community and in the area where I live. And that is what we are trying to do.

Are we getting there all at once? The fact is a penny on a dollar is something that is not very satisfying to me. I would like to do a lot more for people in this country. I would like to let them have a lot more in their pockets. So what we attempt to do with this budget resolution is to say people can get it right at home, that the government can become more efficient, that the government can become more effective, that we can squeeze a penny out of a dollar, that we can live with just $9 trillion in spending, that we can save $100 billion, and we can give some of that money to the family.

Because we believe that at every turn of the road the family budget needs to be bigger, the government budget needs to be smaller, and that we need to transfer power, money and influence from government back into the hands of the American people because we trust them and we believe in them. And we are going to work on this every single day.

To my Republican colleagues, when you go home tonight, I want you to think about why we came to power. I want you to think about the fact that this party has always been committed to reducing the size and scope of the government budget, empowering people at the local level.

□ 2315

I want you to think about coming here tomorrow and supporting this. But I am going to tell you, every single day that I am involved in government and in community activities, I am going to fight the fight to give you the power, the American people the power to solve the problems that they know how to solve best.

I urge support for the resolution and would look forward even to maybe a couple of my friends on the other side of the aisle supporting this resolution.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, my good friend, the gentleman from Ohio (Mr. KASICH), the chairman of our committee, is an effective speaker, so effective that, in listening to him, you would hardly perceive how far we have come in the 1990s and particularly since 1993 in coming to grips with what was the most compelling problem facing the Federal Government, a huge, swelling deficit that we seemed not to be able to get our hands around.

Really, the first step we took was in 1990, when Mr. Bush was the President of the United States. He submitted to a budget summit. It was convened at Andrews Air Force Base, and it went on and on and on and finally came to a resolution that fall. We voted on it twice on the House floor.

The first, it was voted down for lack of support on this side of the aisle. We finally mustered the votes to pass a modified version of it. It kept discretionary spending. It raised revenues. It cut entitlements. It was the first serious effort that we had made since we passed Gramm-Rudman, which was barely followed through on, to come to grips with this compelling problem. Its effects were eclipsed by a recession.

But let me not get ahead of myself. When the votes were counted in support of that provision, that budget that Mr. Bush wholeheartedly endorsed, only 47 Republicans voted for it.

In 1993, when Mr. Clinton came to Washington, the deficit the preceding September was $290 billion and headed upward. Indeed, if the President had read the economic report of Mr. Bush dated January 13, 1993, he would have foreseen, and probably did if he looked at it, that the deficit projected by Mr. Bush for fiscal year 1993 was $332 billion. That is where we were 5 years ago.

Today, today, there is a deficit no more. We are looking at a surplus of $43 billion to $63 billion in September of this year. That is considerable, phenomenal progress. It has been made on the watch of Mr. Clinton. It has been made because of the votes we cast in 1990 and the votes we cast in 1993 when only Democrats in the House and only Democrats in the Senate voted for the Deficit Reduction Act of 1993.

They have had a phenomenal impact on the government of the United States. They have radically changed, fundamentally changed our fiscal situation. It is better than it has been in a generation. Those are not my words. They are Alan Greenspan's words. Better than it has been in a generation.

We have got to go back to the 1960s to find numbers such as we have today with respect to unemployment, with respect to inflation, and certainly with respect to deficit reduction. Indeed, we will have the biggest surplus we have experienced in history this September. That is good news. That is good news.

What we are concerned about here is that that discipline that has brought us this far from $300 billion deficits headed upwards to surpluses as far as the eye can now see, the discipline may be dissipated by the budget resolution that the Republicans have proposed, that the gentleman from Ohio (Mr. KASICH) is pushing. Why is that?

Back in 1990, one of the things we passed was something called a Budget Enforcement Act. This is really esoteric, but there were a couple of common-sense rules in that Budget Enforcement Act.

We said, among other things, we are going to cap, numerically cap, put a dollar cap on discretionary spending for 5 fiscal years. We did it in 1990. We renewed it in 1993. We did it again in 1997. It has worked. We have adhered to those limits, and we have reduced discretionary spending, and we are seeing the results on the bottom line in the form of surpluses that will show up.

In addition, we adopted a common-sense rule called a pay-as-you-go rule, which said simply that, before anybody undertakes to do another tax bill such as the one we did in 1981, they have to pay for it. They can cut taxes, but they have got to offset the revenue losses to the Treasury so it will be deficit neutral either by commensurate cut and entitlements, permanent spending, or by some other adjustments in the Tax Code that would increase revenues to offset the decrease in revenues occasioned by the tax cut. Common-sense rule, but it has worked. That discipline has worked.

What the gentleman from Ohio (Mr. KASICH) would propose is a budget that would unrealistically lower discretionary spending. He proposes it as though it were 1 percent cut, but we all know it is not a 1 percent cut. He is not cutting Social Security. He is not cutting national defense. He is not cutting interest on the national debt. It is obligatory. It has to be paid.

About one-quarter of the budget in discretionary spending is left subject to cuts. Bob Reischauer has written a very compelling article in which he analyzes the different components of this account, called Discretionary Spending, and shows that really only about half of it is effectively cut.

In last year's budget agreement, we effectively cut over 5 years' discretionary spending by 11 percent. This year, the gentleman from Ohio (Mr. KASICH) would take another 7 percent. If you consider that it only will actually affect half of discretionary spending, that means the cuts would have to be 35 percent. Does anybody realistically think that will happen? No.

The Republicans have proposed a bill which backloads the cuts. They will not happen this year. We will adopt them now, and on the strength, the promise that they are going to be realized, we will do a big tax cut. That is the third piece of unraveling the discipline that has brought us to where we are. That is why this is a serious debate, and it is a travesty that we are having it at this time of night, at this point in the day, when this should be given the most serious attention we possibly could.

Mr. KASICH. Mr. Chairman, I yield myself whatever time I might consume.

Mr. Chairman, let me tell you about this discretionary spending that we have just heard about and how we are going to devastate it. Again, gang, do you know what? I appreciate the gentleman saying, you know, he is an effective speaker. You are not an effective speaker because you just say things. You are an effective speaker because you say things and people go, you know, that makes a lot of sense.

We are going to go from $7.8 trillion to $9 trillion in spending, and somebody is making the argument that we are devastating programs. Are you kidding me?

Let me tell you a little bit about the growth in discretionary spending. In 1990, we grew the discretionary budget by 17.7 percent. In 1991, we grew it by 11 percent. In 1992, we grew it by 8.9 percent. In 1993, we grew it by 6.7 percent. Last year, we grew it by 6.7 percent.

I mean, to talk about how we have got to scrimp and how we have got to tighten and how we have got to starve ourselves when we are averaging 7 or 8 percent, the American family wishes they can get 7 or 8 percent a year more in their pockets.

Do you know what we are talking about in the area of entitlement savings? We are talking about saving approximately $50 billion out of $5 trillion in spending so that the families can have a little bit more.

See, the problem is, if the American people had a vote, you would not get $9 trillion to spend. You would not get $9 trillion if we went in their homes tonight, at their dinner tables, and we said the Federal Government was going to go from $7.8 trillion to $9 trillion. Do you know what they would say? Why do you not keep it at $7.8 trillion? Why do you not freeze it, is what they would say.

We are not talking about freezing it. We are talking about saving $100 billion. And we strain under that yoke, and we come here and congratulate ourselves.

Let me just suggest another thing to you. I keep hearing about how the Clinton tax increase did so great for our country. Do you know what it did? Slowed the economy down. Drove up interest rates.

Do you know what Alan Greenspan told us? Well, it is a fact. It is a fact. Let me just tell you what Alan Greenspan said. Alan Greenspan came before the Committee on the Budget, and he said, if in fact you can put a budget together that can balance, interest rates will come down.

So what I would argue to the Committee is, it was in 1995, do you remember the President sent us a budget that had deficits as far as the eye could see? He sent us a budget in 1996 and in 1997 that had deficits as far as the eye could see, and we put the plan together to balance the budget and cut taxes, which you said we could not do.

Do you know what happened? Interest rates came down two points. As a result of interest rates coming down two points and as a result of this Republican Congress having some discipline to not just cut spending but also to cut taxes, yeah, we have seen a great spurt of economic growth.

Now to make the argument that if we save more money, that if somehow the Federal Government saves more money, that that is going to have a negative effect on the economy, I ask you to call the Chairman of the Fed tomorrow and ask him what would happen if we would cut Federal spending by $100 billion and live within the strain of only $9 trillion.

Do you know what I get told? Do you know what the Fed Chairman tells me? If we do not spend the surplus and we can learn to control government, interest rates can come down even further. Do you know what that will give us? More sustained economic growth and surpluses that will allow us to transform Social Security for three generations and, at the same time, to put us in a position to be able to have tax cuts out of the general fund surplus that I will anticipate we will have next year.

The fact is what we are proposing in this is just a little bit of savings and a little bit more efficiency out of the way this government works. I believe that we can get it done. I believe that we can achieve it.

Mr. Chairman, I yield 3½ minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Chairman, I appreciate a chance to address the body.

Mr. KASICH. Mr. Chairman, will the gentleman yield to me for one second?

Mr. HERGER. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I just want to point out for the record, after the President's 1993 tax bill, a year after the Clinton's 1993 tax hike, long-term Treasury rates moved up from 5.75 percent to 8.25 percent. The trend of real economic growth slowed from 3.3 percent to 1.7 percent. That is what happened 1 year after the President's tax increase.

It was soon after that that the Republicans became a majority in this Congress and put together a plan that balanced the budget that has resulted in lower interest rates for this country to the tune of two points. That is just a fact.

Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. HERGER. Mr. Chairman, I rise to express my strong support for this budget resolution. It is amazing just how far we have come over the past 4 years.

Just prior to the new leadership taking over our Congress 4 years ago, we had the largest tax increase in our Nation's history of $270 billion. I might mention to the gentleman from South Carolina that is why virtually no Republican voted for that bill.

It also was an attempt, a Federal attempt, to take over the health care industry of our Nation, one-seventh of our entire economy. That is also why we did not support it. It had in it a deficit of $203 billion.

In contrast, this last year with the new Congress, we passed a historic budget agreement which placed in law our present steadfast commitment to a balancing for the first time in 30 years the Federal budget. The Congressional Budget Office projects not a $203 billion deficit as it was under the last Congress but a $43 billion to $63 billion surplus this year.

□ 2330

This Congress has also passed the largest tax decrease in 16 years of $95 billion.

While much progress has been made, some still subscribe to the failed budget policies of the past. Mr. Chairman, the President's budget calls for $129 billion in tax increases over 5 years, more than $150 billion in new spending, and 85 new spending programs.

We have a different vision. We know the Federal Government is still too big, too inefficient, and too intrusive in our lives. This budget reduces the rate of growth of government by only one penny out of $1 over the next 5 years. Making the Federal Government tighten its belt for a change will allow us to completely eliminate the marriage penalty, and save 21 million American couples an average of $1,400 each year in taxes.

Mr. Chairman, I urge my colleagues to help build upon our progress, and vote for this budget resolution.

Mr. SPRATT. Mr. Chairman, I yield myself 30 seconds to explain that the gentleman from Illinois (Mr. EVANS) will explain from his vantage point, as the ranking member of the Committee on Veterans' Affairs, a major discrepancy in this bill. Namely, it calls upon the Committee on Veterans' Affairs to reconcile another $10 billion out of veterans' benefits.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Chairman, I rise to voice my strong objections to the budget recommended by the Committee on the Budget. This is an anti-veterans budget. It represents a direct frontal assault on the benefits and programs which Congress has carefully considered and enacted into law.

This budget proposal assumes the Committee on Veterans' Affairs will achieve 5-year savings totaling $10.4 billion, of which $10 billion is to be achieved by prohibiting service-connected disability compensation for tobacco-related illnesses.

Who are we kidding, here? As all of our colleagues know, and as the Committee on the Budget certainly knows, Congress has already spent the savings associated with this provision.

Is there a single Member of this body who does not understand that shortly before the Memorial Day break, Congress included a provision to prohibit service-connected disability compensation for tobacco-related illnesses in H.R. 2400, the Transportation Equity Act for the 21st Century, and the savings associated with that provision have already been spent, to partially pay for the spending authorized by H.R. 2400?

As the chairman of the Committee on the Budget knows, the transportation bill is now awaiting the President's signature. It will become law within a matter of days.

My question to the chairman of the Committee on the Budget is simple and direct: Will he commit to crediting the Committee on Veterans' Affairs with achieving this savings directed by House Concurrent Resolution 284, if it reports legislation to prohibit service-connected disability compensation for tobacco-related illnesses? If not, what other veterans' benefits does the gentleman from Ohio, the chairman of the Committee on the Budget, want this committee to reduce or eliminate?

The Committee on Veterans' Affairs has always fulfilled its duty to be responsible and meet the reconciliation targets established for it. Since 1986, in fact, reductions in veterans' programs and benefits have resulted in savings to the Federal Government of over $12 billion. That is $12 billion in veterans' benefits savings over 13 years. It is irresponsible to call on veterans to give up another $10.4 billion in benefits this year. America's veterans have already given enough.

I cannot and I will not support this anti-veteran budget being proposed by the Committee on the Budget. I strongly urge the Members of the House to reject House Concurrent Resolution 284.

Mr. SHAYS. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I would point out that the program that the gentleman was referring to was recommended by the President and endorsed by this side of the aisle.

Mr. SPRATT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to straighten out the record. The highway bill visits a $10 billion hit on the Committee on Veterans' Affairs. It extinguishes benefits for smoking-related illnesses that the general counsel's office had announced were the rights of veterans, if they were service-connected. The highway bill takes away that right.

This bill still requires the Committee on Veterans' Affairs to yield another $10 billion in reconciliation, give up another $10 billion. What the President recommended, that is, the extinguishment of those benefits, has already been done in the highway bill. Yet, this bill comes back and hits again for another $10 billion in veterans' benefits. It is a fact. It requires reconciliation of $10 billion in savings in veterans' benefits. After they have already paid once, they have to pay again.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY), ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I have to hand it to some of our friends on the other side of the aisle. They are really something. They give their poll-driven speeches, they bring cliches and mantras to the floor. Regardless of subject or regardless of content, they utter them with the alacrity that we expect from political slogans in a campaign season.

Their campaign slogans are what passes for thought at 11 o'clock at night in this place, I guess. Then they produce budgets which have virtually nothing whatsoever to do with the rhetoric that they have just expounded.

They pretend they are bringing a 1 percent cut in the budget in discretionary spending to this floor, when in fact, in real dollar terms over the life of this budget resolution we are talking about at least a 18 percent across-the-board cut, and by the time we apply it only to the programs that they expect to cut, we are, as the gentleman from South Carolina (Mr. SPRATT) has told us, really talking about at least a 30 percent cut. So get off this 1 percent baloney. That is exactly what it is, it is baloney. It is a packaging gimmick that has nothing whatsoever to do with what happens to real, live people under the budget.

I would also suggest that, again, the gentleman from Illinois (Mr. EVANS) is absolutely right when he lays out that this budget has a double cut on veterans. It doubles the reduction in veterans' health care benefits that were mandated in the highway bill. For anyone to pretend otherwise in my view is to give hypocrisy a bad name.

I would simply say, there is a very good reason why the Republican leaders in the Senate have already labeled this budget unworkable and extreme. That is because it is. If it were not, we would have the Republicans in the Senate rushing to endorse it, rather than running away from it in their acute embarrassment.

Everyone knows that this is not a program designed to get through the Congress, it is designed to get the Republican Party through the night. They want to vote on this package. At least they want to debate it at 11 o'clock at night when nobody is watching, because they are so embarrassed by it they would not bring it to us in the light of day. That is because the numbers do not work. The numbers clobber real, live Americans.

This is not a 1 percent solution, this is a 35 percent hatchet job, so they can have a campaign slogan that once again involves their mantra of pretend that what they suggest is they are going to cut spending. But if we look at the Kasich budget, it does not cut anything this year. It saves all of the cuts until after the election, so they can package a tax cut before the election. That, too, is enough to give hypocrisy a bad name.

Mr. SPRATT. Mr. Chairman, I yield six minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Chairman, I thank the ranking member of the Committee on the Budget for yielding time to me.

Mr. Chairman, it is a little shocking how confused the majority is tonight, that they cannot even find speakers to speak up on this budget. I know that the Republican leadership told everyone they could go home because there would be no votes tonight. I know that they made it abundantly clear that there will be no opportunity to discuss the President's budget, or Democratic alternatives, so I would think they would have a lot of pride in the document that they have put together.

Why in God's name, in a document, in a budget that is so important, would we wait until midnight to bring it up before the American people? Why would Members do that? Is there any shame that they would have, with something that is this important, that they would want Members to hear, they would want people to hear, and that we should discuss these things?

I know this is an election year. I know tax cuts are popular. Why can we not talk about where the money comes from for the tax cut, who we have to hurt? If we have to hurt the veterans, stand up and say that they get enough. If the cuts are coming from education, and I think that the chairman of the Committee on the Budget, the gentleman from Ohio (Mr. KASICH), he said the used-to-be days of the Roosevelt days, the days of the Depression, where we needed help, we needed Social Security, we needed pension funds, we needed Medicaid, we needed Medicare, we needed aid for education, but we do not need that now. Ronald Reagan brought us a surplus, or was it Bush? I forgot the rhetoric on the other side. Whatever it is, we got this surplus, so now we have to talk about cuts.

Democrats want to talk about tax cuts, too. The only difference between us and these rascals is that we like to tell the Members where they come from, and they like to say they will tell us in 5 years.

If Members really do not believe that the Federal Government should be involved in educating our young people, providing health care for our kids, for older people, day care for mothers who have to work, why do they not stand up in the daytime and say it?

But no, they just cover things, saying, in the bye and bye we will tell you what we are going to do. It is shameful to have a document like this, with no alternatives allowed, restricting the debate that we have on the floor, and tell us that we can debate it at midnight. I said midnight, and someone says it is not midnight yet, and they look at their watches. That is no way to treat a budget that is going to really affect the lives of Americans.

I know, with the coupon clippers, it just does not make any difference, but not all of America is going through the good times. Some want their kids to get an education, to get a decent job, to be productive, and they need the Federal Government there. Some people do not believe that the Social Security fund is going to to be there for them, but they did not discuss that. No, those are the olden days, the Roosevelt days. Everyone can take care of themselves without government today.

Thank God they have done one thing. No one has to say that all of the Members of Congress are alike, that there is no difference between a Republican and a Democrat. I will tell the Members this, before this is over, a lot of Republicans are going to wake up, when the American people see what they are trying to sneak through in the middle of night on them. When they do, they will be calling on Members before November to ask them to stand up and be counted, and say, yes, we want a tax cut, but you owe it to us to say what you have to cut in order to give this to us.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, I applaud the ranking member for his eloquent statement. I want to be very specific, I say to the gentleman from New York (Mr. RANGEL), on what the Republicans are going to do regarding welfare reform.

Any Republican who votes for this budget is voting to undercut welfare reform of 2 years ago. They had $10 billion in cuts in Medicare. They grew nervous, so what did they do? Last night they take $10 billion, instead, out of Function 600.

The heart of that is TANF. They are going to say to us on the Committee on Ways and Means, cut Function 600, and therefore, cut welfare reform, TANF, by 10. It is going to take $20 billion.

This is what State legislators say about this: "This budget would disproportionately cut State programs, and abrogates a fundamental agreement reached among State legislators, Governors, and Congress in 1996 regarding welfare reform."

If Members adopt the resolution, "It will prove that the States cannot trust Congress," i.e., you, "to abide by its word."

□ 2345

Here is what the governors have to say: "Your budget resolution is a serious violation of the welfare agreement reached in 1996, and would erode the Federal-State partnership and the future success of welfare reform."

And they go on to say, "We urge you in the strongest possible terms to uphold the historic welfare agreement reached in 1996, and reject any cuts in TANF, Medicaid or other welfare-related programs as part of the budget resolution." Signed Tom Carper, John Engler, Tommy Thompson, Tom Ridge.

Any Republican from Michigan, from Wisconsin, from Pennsylvania, who votes for this is going to be voting to undercut welfare reform. We are telling the majority this at midnight, and we are going to tell them this tomorrow at 10 o'clock in the morning.

Mr. SHAYS. Mr. Chairman, I yield 5½ minutes to the gentleman from Michigan (Mr. SMITH), who can address the entire Nation, even those in California where it is 15 of 9:00.

Mr. SMITH of Michigan. Mr. Chairman, what is disconcerting is that I think that side of the aisle, I think the Democrats after experiencing success 2 years ago in demagoguing what the Republicans were doing in trying to slow down the growth of the budget, when they realized some success at the polls suggesting that Republicans were taking health care away from the elderly for tax cuts for the rich and taking food out of the mouths of children for tax cuts for the rich, that demagoguery resulted in some Americans believing it.

I think most Americans are now realizing that government is growing much faster than it should and the United States Congress, along with the President, is taking more and more money out of those taxpayers' pockets.

Let me show the chart of what is happening in spending of the Federal Government in the 10 years from 1994 to 2003. In the first five bars of this chart representing the last 5 years of spending, it is going to be a $7.8 trillion expenditure over those 5 years. The last five bars of the chart representing what is in this budget is $9.1 trillion, going from $7.8 trillion to $9.1 trillion. And just imagine for a moment this budget that we are having grows faster than inflation, yet what we are seeing is the other side of the aisle saying it is not growing fast enough.

So imagine what would happen in the future if we projected this line out for the next 10, 20, 30 years, and imagine how much money is coming out of the pockets of the American taxpayer if we continue to expand Federal Government almost twice as fast as inflation. That is what we do here.

1994, we have a budget of $1.4 trillion; 2003, we have a budget of $1.9 trillion. If we followed the President's recommendation, the President's recommendation was that we have $102 billion of tax increases, that we have $27 billion of fee increases for a total of $129 billion of fee and tax increases. So where would that have left us is with a much steeper rate of expenditures. And in the year 2003, in the year 2003 if the Democrats had their way with the President's budget, we would be spending $67 billion more that year than we are in this particular budget.

Look, this budget goes up pretty steep; and if we project the next few years, one can see that it is going to go all the way to the ceiling. Does anybody here or in America think that this government, that this Congress, that this President cannot make government more efficient and save some of the money we are spending?

I just want to mention briefly Social Security. Social Security in this budget, we do not spend any of the surpluses. That could be as high as 60 or $70 billion this year, could go up to 110, 115 billion next year. We do not spend that surplus. We are saving it for Social Security. This budget says from now on any money we borrow from the Social Security Trust Fund it is going to be in negotiable Treasury bills, not the blank IOUs that has been happening for the last 20 years.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, there are 150 job training programs scattered across 15 Federal agencies; 340 programs in housing, including 18 involving community development, 49 concerning public housing, 8 concerning the homeless and 103 that are enacted. There are 660 programs in education and training, spanning 39 Federal agencies, boards, and commissions.

It is interesting because would it not be a great thing if the people who had the jobs had the power to train the people who needed the jobs, rather than having the job training occur from this town out to where we live?

Mr. SMITH of Michigan. Listen up, Democrats. Listen up, America.

Mr. KASICH. Mr. Chairman, there are a lot of bureaucrats in America who do not know what the time zone is in Ohio, let alone what our job needs are.

When I say we should break the monopoly of the Federal Government, would it not make sense if that computer company or high-tech company that needed that employee that they would have the incentive to train me rather than me marching into a Federal building for job training that has no relation to the jobs located in my community?

Would it not make more sense that instead of dictating all the rules of the way we ought to run public housing in my district in Columbus, Ohio, that we ought to set the standards and the rules for the way in which we want to run public housing in our communities rather than dictate it from a bunch of people down here who do not even know what is going on out in my district?

Mr. SMITH of Michigan. Mr. Chairman, they are not dumb in Columbus, Ohio, or Jackson, Michigan.

Mr. KASICH. Mr. Chairman, do you not think it is time that mothers and fathers have the power to be able to get their kids the best education they can possibly get and that most of the money ought to be put in the classroom?

Those are the kind of things that I think most Americans want. I think they want to be in charge. I think they want to be in control. I think they want to have their job training run at home. I think they want local control of education. I think they want public housing at the local level to reflect local values.

Now, that is the new way. The old way is we run it from here. We train a few people who really do not know what goes on in our community, then they tell us what to do. That makes some people happy, but it does not make most Americans happy. That is why we are winning.

Mr. SPRATT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let my give some quick numbers. In the height of the Reagan years, the government was spending 23.3 percent of our GDP, our total economy. The bite of the government was 23 cents out of every dollar. Today it is 19.8 cents under Clinton, down 3.5 percentage points. That much decreased by.

As for discretionary spending, in 1993, when Clinton came to office, in outlays it was $540 billion in 1993. In 1997, it was $548 billion. In 4 to 5 years, it grew $8 billion. I think that answers abundantly the effort, the argument that was just made.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, there are two issues I want to raise. I want to talk a little bit about the so-called 1 percent solution, but before I do that I want to speak to the issue that was just raised about decisions being made about eliminating programs.

It is interesting when we were in committee in the Committee on the Budget when we asked repeatedly for the specifics of the proposal, what was going to be cut, what was going to be changed, it was very clear that we were not going to get that information. The argument that was put forward was that we really want to leave this to the committee chairs to make those decisions.

Interestingly, tonight the committee chairman has a lot of arguments to make about programs that are not under his jurisdiction, about how many are too many. Now, why is that? Why could we not have some specificity about what we thought was going to be cut and what was bad in committee, but now we have arguments?

Mr. Chairman, if in fact there are far too many training programs, far to many housing programs, far too many programs in general, why have the majority's appropriation people not come forward with those cuts in the 4 years that they have been controlling the procedure? Why did we have to wait until tonight for the chairman of the Committee on Budget to say in fact that the appropriation chairs have been making all of these bad decisions over the last few years? I do not understand.

Now, I want to talk about the 1 percent solution, so-called. It was just said all these things that the public wants, all the things that families want. I can tell my colleagues what families do not want. They do not want to be misled, and the 1 percent proposal is being put out there to lead people into believing that in fact these cuts are going to be spread across all programs and that the burden will be an easy one for all to bear. That, of course, is not true.

When we look at facts, we find that all programs will not share this burden; and that, in fact, more than two-thirds of the budget will not be available to be a part of this reduction.

Let me go through what these are. These numbers are beyond the agreement that was made as part of the balanced budget agreement:

International affairs, beyond the balanced budget agreement, would be cut 21.2 percent. 21.2 percent in an increasingly perilous world. Natural resources and the environment, 8.5 percent. Commerce and housing credit, the chairman just made comments about that, 30.5 percent. That is Section 8 housing for low-income people.

Rural housing, FHA, the Patent Office and the Census Bureau also within this function, 30 percent. A third of every dollar spent in that function would be eliminated. Transportation, we just as a Congress affirmed overwhelmingly increased spending in transportation. This budget says 22.7 percent reduction. Community and regional development, 16.3 percent reduction. Not 1 percent, 16 percent.

The gentleman from New York (Mr. SOLOMON) argued passionately for us to be responsive to the needs of our communities just a couple of hours ago. Apparently, this is not much of a concern to him.

12.1 percent, not 1 percent, 12.1 percent reduction in administration of justice. That is law enforcement. That is the judiciary. That is prisons. 12.1 percent. Not 1 percent.

Even education programs take a 4 percent hit. Now this is argued that it is a penny on the dollar. Something that families can understand. Let us put it in terms that families can understand. Let us say that our families decide we have to make a 10 percent cut in our spending. Seems reasonable. But then they sit down and look at their budget and say, well, we cannot stop paying our mortgage. We cannot do that. Cannot stop paying our child care cost because we are going to keep working. Cannot put aside our credit card debt or paying our health insurance. We do not want to cut our contributions to our children's college fund. Okay, we are going to make a 10 percent cut, and it is all going to come out of our grocery money.

It does not feel like 10 percent anymore when it is 1 percent of something you need. This is not a 1 percent cut. You know it, and the public will know it once the information gets out. And to say it is 1 percent and it does not hurt is not right.

Mr. SHAYS. Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Chairman, we are headed down the same road we were in 1995: Cut services for the elderly and the poor and give tax breaks to the rich.

Let me take one specific. When we went into the Committee on the Budget we said, give us the specifics. They would not. But if we look in the budget document they put out, there is $10 billion in cuts in Medicare.

Now, we start talking about that. There is $12 billion cuts in Medicaid. That is $22 billion of the $100 billion in tax cuts coming right out of health care. That is out of the same place that we took $115 billion last year in Medicare and untold billions also out of Medicaid. So they are going right back to the same well.

Now they got nervous about that and last night about 9:30 or 10 o'clock up in the Committee on Rules they said, oh, my goodness, we better get this Medicare stuff out of here. Let us shift it all over into Medicaid or unspecified health care cuts.

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What are the unspecified health care cuts? The children's plan we put in last year, $16 billion, most of it has not been spent yet, and they are now going to cut $10 billion out of the children's program that they will be on the campaign trail in about three months saying, "We did this great program for children." Meanwhile they are going to gut it with this particular proposal.

Why are they getting this money? Well, it is for the marriage tax penalty. I offered that amendment in the Committee on Ways and Means and in the Committee on the Budget and in the Committee on Rules, and every single one of those committees, every single Republican Member voted against it last year. I guess maybe a miracle has occurred or an epiphany, I do not know what it is.

The problem is, mine was a little tax cut for families below $50,000 who really need the benefit. But if you are going to use $100 billion in a tax cut for a marriage penalty, it is going to people above $50,000, most of it above. It is a bad, bad budget.

Mr. SHAYS. Mr. Chairman, I yield myself 10 seconds to just say that only in Washington when you spend more do people call it a cut. That is the line that the gentleman from Washington is getting into. We are going to spend $1.3 trillion on Medicare in the next five years. The last five years we spent about $900 million.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, the last speaker said it is just like 1995. It is just like 1995. We have, again, on the other side folks saying we are cutting spending to give tax cuts to the rich. Neither is true.

The gentleman from Washington (Mr. McDERMOTT) may not like the idea of eliminating the marriage penalty but that is something that actually will benefit middle income families, and he may not like the idea of not spending as much as we would otherwise would have spent, but that does not make it a cut.

The gentleman from Connecticut (Mr. SHAYS) specifically talked about the Medicare numbers. Those numbers apply to the entire budget. We are talking about spending a little less than we would otherwise have spent. This is where we are.

Last year we all got together and we passed a balanced budget agreement to balance the budget over five years. The American people, through their hard work and productivity, did it quicker than that, but there was a lot of pain, a lot of agony. We gave. The Democrats gave. The Clinton administration and the House Democrats and Senate Democrats gave, and we ended up with this common ground balanced budget agreement.

It is only natural that this year we Republicans would come back and we would say, okay, we gave a little, now we are going to get back to our fundamentals. We are going to roll up our sleeves and we are going to spend a little bit less than the $9.1 trillion that was agreed to. We are going to spend 1 percent less, and we are going to give some of that back in terms of tax cuts because we are actually spending, as a percentage of GDP, more in taxes every year as Americans than we have historically in this country, so we have a relatively high tax burden right now even with the good economy.

It is also natural Democrats would do the same thing. They are back this year saying they want to go beyond the balanced budget agreement that was agreed to last year also, but they are saying that they want to spend more. The President's budget, 85 new spending programs, 39 new entitlement programs, over $150 billion in new spending, over $150 billion in new spending over five years. $129 billion in tax increases over 5 years is how it is paid for, largely, again, from the same President who in 1993 put in place the largest tax increase in our history.

So that is where we are, and I would just say I would cast my lot with those who believe we can do more. I would cast my lot with those who think we can do a little better. Yes, the chairman gave some examples earlier in response to the gentlewoman from Michigan. She criticized the chairman.

Today on a partisan basis in this House we voted to reform the SSDI program. We improved the program and we saved $40 million to the American taxpayer. There is darn good example. Yes, we can streamline. Yes, we can consolidate. Yes, it takes rolling up our sleeves and looking anew and thinking outside the box on some of these Federal programs, but sure we can do that. Instead of spending $9.1 trillion, we are going to spend $9 trillion over the next five years. And remember, we only spent $7.8 trillion over the last five years.

So I thank the chairman for putting together this good budget, and the Committee on the Budget. I wholeheartedly endorse it.

Mr. SPRATT. Mr. Chairman, I yield myself 30 seconds to remind him that the President's budget, which he misconstrued, is not on the floor. Our resolution is. It does not increase spending. It is in complete sync with the balanced budget agreement and it calls for $30 billion in tax relief paid for within the Tax Code itself.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, my constituents are listening to this debate, even though it is midnight, because it is only 6:00 p.m. in Hawaii. I thank the majority for the courtesy extended to my constituents.

I think the whole matter of our legislating has at its kernel the idea of conveying confidence to the American people that they should be able to rely on the promises and the agreements that we make with respect to the programs that we enact.

Less than 2 years ago this Congress enacted the welfare reform bill, and it was hard fought. And one of the ingredients in that welfare reform bill was an agreement that was struck with the governors. There was a commitment made to the States that there would be even funding over the length of that program, 5, 6 years. And the governors went and made this agreement with the Congress in the assumption that we would keep our word, that we would not go back on this deal.

Sometime around 9:00 last night the majority decided that they would breach that agreement that was struck with the governors. Today we have a letter sent to us by the National Governors Association, signed by 10 governors, expressing their dismay that the Congress is being asked by the Republican Party to renege on their agreement.

What they did in the Committee on Rules was to take $10 billion additional from the TANF program, the welfare program that we just enacted. They said cut the function 600 program, which is the income security item. But if we look in it, all that is vulnerable for a cut, for a raid, is the TANF program, and it completely decimates the agreement that the governors are relying on. So they have asked this Congress to reject this resolution, and so have the National Conference of the State Legislators.

I ask my colleagues here tonight, is our word good or are we going to go back on it?

Mr. Chairman, I rise today in strong opposition to the Kasich Budget Resolution, which sets this nation on a budgetary course that will end in disaster.

At a time when our nation is experiencing its greatest economic boom in decades we should be asking ourselves what can we do for the people of America, not what can we take away from them. This budget resolution proposes to take away $100 billion from programs critical to the overall health and well-being of this nation. The American public will not stand for cuts in Medicare, Medicaid, education, health care, health research, and social services. Even programs that have strong bipartisan support, like Head Start and WIC will not receive enough funds to maintain current services under this budget.

Hasn't the Majority learned by now that we can balance the budget, and still address the most pressing needs of our people. The budget before us today is a shift back to the draconian cuts and radical proposals that forced a budget showdown and government shut down.

Bringing forth this proposal, which even Senate Republicans agree is too radical, only proves that the Majority can't keep a promise. They can't keep the promise made in last year's balanced budget agreement and they can't keep the promise made in the 1996 welfare law.

I am outraged to find out that at the last minute in the wee hours of the night this resolution was changed to cut $10 billion of the welfare program (TANF). This cut is on top of cuts already in the bill which totally eliminate programs to move families from welfare-to-work.

Some may argue that the $10 billion is not specified to come from TANF, but it is a cut required in the Income Security Function which includes TANF. Well, let's look at some of the other programs in the Income Security Function that would have to take the cut—unemployment compensation, SSI, Child Support, Child Care, the EITC, and Foster Care. I don't think anyone is willing to take a $10 billion chunk out of any of these programs.

Certainly, states cannot live up to the mandate of moving welfare recipients to work, if their funds are cut by $10 billion.

During the debate on welfare reform in 1995 and 1996, the Majority constantly preached the ethic of work and championed the idea that welfare mothers must work. Now, they seek to eliminate the very programs that help these disadvantaged women find jobs.

The Resolution eliminates $1.5 billion dedicated for welfare-to-work programs. The elimination of these funds would result in direct loss of funds to 44 states and jeopardize the job training and job placement of 300,000 welfare recipients.

And with an additional cut of $10 billion from the TANF program, there will be virtually no federal training funds dedicated to moving families from welfare to work. The 1996 Welfare law becomes an unfunded mandate under this Resolution.

The Resolution compounds the problem by eliminating the employment and training money under the Food Stamp program. The 1996 welfare reform law limits Food Stamp benefits to able-bodied adults with no children between the ages of 18 to 50 to 3 months unless they are working or in a training program. The Resolution eliminates funding states use to help train and employ these individuals so that they can achieve self-sufficiency or meet the work rule under the Food Stamp program.

This Budget Resolution unfairly targets the most vulnerable in our nation—families that are struggling to make ends meet and striving for self-sufficiency.

The Democrats in great contrast seek to lift up those who are struggling in our society, by helping to ease their every day burdens. Nothing signifies this more than the huge investment the Clinton Administration and the Democrats have proposed in expanding the availability of child care in this nation.

Currently the federal government spends about $9.4 billion (FY 1998) on child care programs including after-school and child care nutrition programs. We propose the President's child care initiative unveiled earlier this year, which adds a $16 billion investment over five years in child care and early childhood education programs. This includes the expansion of existing programs such as the Child Care Development Block Grant and Head Start.

In 1996, we passed a Welfare Law which requires welfare mothers to work, but it fell short $1.4 billion short of the funding necessary to provide child care for those welfare parents. The President's child care initiative would allow us to take care of the working welfare families as well as low-income working parents who are not receiving public assistance.

It also includes $3 billion over five years for a new Early Learning Fund to improve the quality and safety of services to children ages 0 to 5 years. In the past year we have all heard about the ground breaking research which revealed the significant capacity for learning in the first three years of a child's life. Assuring quality child care and early childhood education is critical in those early learning years and important to the future success of our nation's children, and indeed our entire nation.

$800 million over five years would go to expand after-school programs. This funding would support an estimated 4,000 programs serving half a million children. After-school activities are a way to keep children in a safe place, to provide additional learning experiences and tutoring and most importantly, it keep children off the streets and involved in productive activities rather than destructive or delinquent activities.

Unfortunately, the Majority not only rejects these much needed child care programs, but freezes the current child care programs so that they won't be able to keep up with inflation. The Child Care Development Block grant will lose $107 million over five years, the Head Start program will lose $536 million over five years, and the Title X Social Service Block Grant will be cut by $3.1 billion.

Mr. Chairman, I oppose this Resolution also because it is clearly an attempt to undermine federal education programs in the Budget Resolution. The Chairman's May 12th draft clearly stated the intention to turn the Title I program for disadvantaged students into a voucher program, and to block grant other education programs.

During the Committee debate, the Chairman was unclear about his intentions but made specific references to block granting Title I and other education programs.

Whether it is a block grant proposal or a voucher proposal, it is clear that the Majority is once again attacking federal education programs that send billions of dollars to our states and local school districts.

I am deeply concerned about any effort which would virtually eliminate the Title I program and replace it with a voucher program. Title I was enacted in 1965 to assist low income communities in educating their most educationally disadvantaged. It was an attempt to equalize educational opportunities for our most needy students.

Based on current funding levels, individual Title I vouchers are likely to be about $700 dollars per student, hardly enough for parents to pay for private education as intended by the proponents of this proposal.

Title I dollars helps to raise the individual achievement of disadvantaged children, but also, it helps the overall educational opportunities within the school. Taking the dollars away from these most needy schools through a voucher system, will do nothing but leave the school with less resources and at a greater disadvantage.

Criticism about Title I during Committee debate focused on the ineffectiveness of some programs and how the federal bureaucracy was to blame. This criticism is really not about the federal government, but a complaint against state and local school districts which manages the Title I program. Only .1% of the Title I funds stay at the federal level, for evaluation and administrative costs. That means that states and locals have responsibility for $99.9% of the money. So when the Republicans complain about how that money is being spent, they are criticizing the states and local school districts.

What is ironic is that Majority's criticizes the state and local management of the Title I, yet at the same time they propose to block grant even more federal programs, with less accountability to the very same people they contend are running ineffective Title I programs.

While there is always room for improvement, the reality is that in the vast majority of school districts throughout the nation Title I is making a significant difference in the lives of disadvantaged students. To eliminate the Title I program as we know it today is a terrible mistake that would have serious consequences in many low-income communities throughout the country.

In my estimation, education should be this nation's highest priority, and the Majority's budget, block grant and voucher programs fall far short of what is necessary to improve education in this nation.

Finally, Mr. Chairman, I need to mention the elimination of the Native Hawaiian Health Care program, assumed under this budget. It is clear that the Majority lacks the understanding of special relationship between the Native Hawaiian people and the federal government, much like the relationships forged between Native American Tribes and the federal government. Programs like the Native Hawaiian Health Care Act were specifically enacted to acknowledge the federal government's responsibility and relationship with the Native Hawaiian people. Elimination of this program would mean the end of valuable services which address the significant health needs of the Native Hawaiian population and it abrogates the federal government's responsibility to assist in improving the overall well-being of the Native Hawaiian people.

Mr. Chairman, this budget fails the American people. It fails to set forth a vision for our nation worthy of our economic prosperity; it fails to invest in our most precious resource—our human capital; and it fails to address the needs of the most disadvantaged in our society.

I urge my colleagues to reject this radical budget, which turns away from the balance budget agreement and the welfare law of 1996. We can do better, we must do better.

Mr. SHAYS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Chairman, I rise in strong support of the budget resolution we are debating here tonight of the gentleman from Ohio (Mr. KASICH). This is my sixth year on the Committee on the Budget. The first 2 years was as we were part of the minority and then 4 years as majority now.

In our budget, in each of the budgets we have had the same philosophy of reducing the size and scope of the government and shifting power, money and responsibility back to the States, and this budget continues that philosophy. It shows the real difference with the Democratic philosophy.

Back in 1993 when the President proposed a budget to increase taxes, the largest tax increase ever, more spending programs and more new programs that we had to take responsibility for here in Washington, the Republicans had cut spending first, and we showed how we really can reduce the size and scope of the government. And the voters back in 1994 said, "That is what we want to do," and so starting in 1995 we have had great success in moving this country to fiscal responsibility.

This year we are going to have the first balanced budget since 1969, a tremendous accomplishment. We are going to have a surplus for the first time. One of the most important things is the issue that we have reformed entitlements. The previous speaker talked about, oh, my gosh, we are hurting the entitlement programs. We have had major change in the welfare program.

Let me tell my colleagues what happened. Welfare case loads have declined by 30 percent nationally since 1994. In 1997, States spent only 72 percent of their available welfare funds because case loads have declined and more welfare families have entered the work force.

Six States have turned down welfare-to-work grants enacted by the balanced budget agreement because they did not need the money and they objected to the red tape required to get the grants. Welfare reform has worked. It is saving money. But more important, it is helping those people that have been trapped in a cycle of poverty.

On the discretionary spending side we have had great success. While defense spending has been kept fairly level for the past decade, the Democrats kept increasing discretionary nondefense spending, the domestic spending side.

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Our first time in control of the House of Representatives in 1995 and 1996, we actually had in real dollars a reduction in domestic discretionary spending. That was our promise to the American people. We got rid of 300 programs in the Federal Government. But then important programs that we thought were important, for example, like National Institutes of Health, have gotten larger increases under a Republican Congress than they received under the Democratic Congress. In fact, last year they got a 7.1 percent increase whereas President Clinton only asked for a 2.6 percent increase.

We have established priorities, programs that are important, like biomedical research, and we have said we do not need some programs and we have cut out many programs. This budget that we have this year is a continuation of that philosophy and a clear contrast with what President Clinton has proposed. President Clinton's budget proposed 85 new programs, $150 billion in more spending over 5 years, $129 billion in more taxes. What does this budget have? No new spending programs, $100 billion of tax cuts, and just a 1 percent cut in spending. Support this budget.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I find it so curious that the majority refuses to discuss their budget tonight and instead want to discuss a budget that is not even on the floor. I have been on the Committee on the Budget for 6 years and I have never seen such a fiasco in all my life. Usually the budget is when a party lays forward their plan, their vision of government.

What have you done tonight? Brought this to the floor after midnight, not that the press who is not here, the American people who are long asleep are missing much, because you have not had the integrity, the courage, to tell the American people what your plan is. You do not specify the cuts. You get up here and make lofty language, and you do not specify the cuts. What is more, this plan changes all the time.

Take Social Security, what I think is the most vital function of government. In the Committee on the Budget we debated, one of the highlights of the chairman's bill, a plan to take all the surplus out of Social Security, embark on a new venture, no more Social Security, a new venture of private accounts. We debated. Every one of you voted for it. Your colleagues would not stand for it apparently.

You go to the Committee on Rules, the bill comes out, and there is no aspect of that dimension of this budget. Where did it go? We have all this debate, you are going to end Social Security as we know it and it comes out of the Committee on Rules and we are just supposed to be left with an "oops, never mind"? This is ridiculous.

I would feel comfortable if Social Security was secure. But of course it is not secure. Because you take revenue out of the Federal Government without telling us how we are going to match in spending reductions.

You have done this before. This was a David Stockman technique in the early 1980s. It produced deficits then. Now it will produce spending the surplus. That is why the Washington Post called this a triple fraud, and I quote, an election year tax cut on the strength of unlikely spending cuts to be named later, all the while preaching fiscal responsibility.

What happens when you do not come up with the spending cuts you are so afraid to talk about tonight is that they do not get made, and this surplus that we so need to reform Social Security is dissipated. And you do not even lay out the plan to the American people.

This budget is a failure. One of the things about the chairman, like him or not, like his ideas, do not like his ideas, he would always tell you where he was going, he would always be square with you about the details. This plan tonight is such a disappointment in that respect.

You fail to lay out the details of your plan. You fail to advance a budget that makes sense. Most important to me, you fail to fundamentally protect the Social Security surplus until we can come up with a comprehensive overhaul plan for Social Security. You have failed with this budget, and that is why I think there is a fighting chance your own colleagues will reject it with us in the vote tomorrow.

Mr. SHAYS. Mr. Chairman, I yield 3½ minutes to the gentleman from New Hampshire (Mr. SUNUNU).

Mr. SUNUNU. Mr. Chairman, I thank the gentleman from Connecticut for yielding me this time.

Mr. Chairman, I will begin by emphasizing that the colleague who just spoke was correct in one regard, and that is a simple point that the President's budget is not on the floor tonight. It is not on the floor tonight because nobody on the other side had the guts to bring it to the floor tonight. Even the ranking member of the Committee on the Budget refused to bring the President's budget to the floor, because it raises taxes $130 billion, it raises spending $150 billion, it creates new entitlements, it creates new programs, and not a single Member on the other side was willing to bring that sham to the floor. Instead we are talking about a Republican budget plan.

Perhaps the problem is that it is too simple a vision for some on the other side to understand. It does three principal things. It pays down public debt. It reduces the amount of debt held by the public by taking surpluses and using it for that important cause. It shrinks the rate of growth of government by 1 percent. And it uses that controlling the size of government to eliminate the marriage penalty.

I do not know what the other side is opposed to. Maybe they are opposed to paying down the debt. Maybe they are opposed to eliminating the marriage penalty. And we have heard that they certainly may be opposed to reducing the size of the government from $9.1 trillion to $9 trillion. Maybe $9 trillion just is not enough. Maybe they need $10 trillion or $11 or $12 or $15 trillion. But the fact is we have spent $7.8 trillion over the past 5 years and under this budget we spend $9 trillion.

Government will grow at greater than the rate of inflation. Maybe it is not enough for some on this side of the aisle. Maybe government has to get bigger and bigger and bigger. But what we are trying to do is just control the rate of growth. Three goals, pay down the debt, control the rate of growth of government, and eliminate the marriage penalty.

Paying down debt, why is it important? It is important because it brings down interest rates. We reduce public borrowing, we let the private sector borrow more and we reduce interest rates, lower cost of home mortgages, lower student loans, lower cost of auto loans.

We heard what happened with the President's tax increase in 1993. Interest rates shot up. Over the next year they shot up 2 percent, from 6 percent all the way up to 8 percent. That is tens of thousands of dollars more in home mortgage costs, thousands of dollars more in student loan costs or automobile loan costs, right out of the pockets of the American consumer.

Today interest rates are low. If we continue to pay down debt with these surpluses, they will go even lower; 1, 2 percent less if you talk to Alan Greenspan. Paying down debt keeps money in the pockets of the average American family.

Second, controlling the rate of growth of government. We talked about that. From $9.1 trillion to $9 trillion. Earlier this evening, much earlier this evening, not at midnight or 11 o'clock or 10 o'clock, but around 9 o'clock or 8 o'clock, we saw a nine foot belt out here and said, can we not just take a nine foot belt and bring it in one notch, from $9.1 trillion to $9 trillion. We can reduce the rate of growth.

And finally, eliminate the marriage penalty. Bring tax relief to the American people, more money in their pockets, take a little bit of power away from Washington, and give it back to the American people. I think any time we take power away from Washington and give it back to Americans, we are doing right thing. I urge my colleagues to support this resolution.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, in last year's balanced budget, we had a bipartisan agreement to protect the environment. But this year the Republicans in their budget proposal throw away that commitment, out the window.

The Democratic alternative, however, does restore the vital environmental funding that we know as Members of Congress we have a responsibility to fund. We must fund projects to ensure clean air and clean water, to ensure that our public lands are preserved, and that our toxic and hazardous sites are cleaned up.

The Democratic budget provides funding for water quality improvement, because 40 percent of our Nation's waterways are too polluted to swim or fish in. The Democratic budget provides assistance to States and communities to reduce non-point pollution, clean up streams and improve coastal water quality.

The Democratic budget provides vital funding for our Superfund cleanup sites. One in four children under the age of 12 live within four miles of a Superfund site. It is time, time for Republicans to join us and clean up the toxic waste dumps near our schools, our parks and in our neighborhoods.

□ 0020

The Democratic budget includes funding to enhance national parks, national forests and other public lands.

The final and crucial environmental area addressed by the Democratic budget provides funding for water infrastructure improvements. These improvements give localities greater ability for compliance and construction of much needed wastewater and other facilities.

Mr. Chairman, as we consider this budget resolution this year, we must also protect our environment. But as usual, when it comes to our children's future, the Republican budget is way off course. By supporting the Democratic alternative we create a budget that moves this country forward without leaving our environment and our children behind. I urge my colleagues to support the Democratic budget alternative.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in opposition to the Republican resolution and in support of the Democratic alternative. The Republican plan unravels last year's budget deal by cutting over $100 billion from important programs like education, veterans' benefits and crime prevention. The Democratic alternative, however, builds on the balanced budget agreement, and it invests in the future of our country and in the priorities of our people by protecting Social Security, allowing for a reasonable tax cut to end the marriage penalty, and by making a real investment in the education of our children.

An example of this commitment to education is the school construction initiative in the Democratic budget. This initiative is critical because our schools are in worse shape today than any part of our nation's infrastructure. As a result, millions of our children in urban, suburban and rural districts are forced to attend schools in desperate need of repair. Also, thousands of our schools are tragically overcrowded. It is estimated that we need to build 6,000 new schools over the next 10 years just to maintain our current class size.

These appalling conditions are not merely annoyances and inconveniences, they are barriers to learning, and sadly these conditions serve to diminish the self-esteem of children who must attend these run-down and overcrowded schools.

Mr. Chairman, the Republican budget ignores this crisis. The Democratic budget, however, creates a tax credit to help States and localities build new schools and to make desperately needed repairs. The Democratic plan sends a clear message that the education of our children is a top priority vital to our Nation's future.

I urge my colleagues to reject the failed Republican budget and to vote in favor of the Democratic alternative.

Mr. SHAYS. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my colleague for yielding this time to me.

For the last 18 months we have had the opportunity to go around America and we have had hearings in 17 States about what works and what does not work in education. We have also had an opportunity to take a look at education and what education means in Washington, and we have found that in Washington education means hundreds of programs, and we say "Hallelujah, at least they're all in the Education Department," and it is kind of like, no, they are spread over 39 agencies, and we say, "Well, at least they're effective and efficient which means that we're going to get those dollars down to kids," and it is like, no, that is not true either because for every time we take a dollar out of a local community and send it to Washington, we only get about 65 cents back to a child and back to a classroom.

That is not very good, and that is not helping kids.

Going around and spending time at local school districts, we find out what has worked. What works is when we leave control at the local level, when we leave the money at a local school district and do not take it to Washington and siphon off 30 to 40 cents, when we leave control at the local level, and we do not get people at the local level begging for money from Washington and getting the money back with a whole lot of rules and regulations. What works is when we focus on basic academics, and what works is, when we empower parents.

Now is not the time to come up with a whole new range of education programs in Washington that move control away from parents and away from the local level and move it to Washington.

What is the mantra in Washington? Where have we gotten to today?

Where we are moving to in Washington is we say, "We want to build your schools, we want to put in your technology, we want to hire your teachers, we want to determine your class size, we want to teach your kids about sex, we want to teach your kids about drugs, we want to feed them breakfast, we want to feed them lunch, we want to feed them snacks, and other than that they are your local schools."

Let us keep control with parents.

Mr. SPRATT. Mr. Chairman, I yield 30 seconds to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, I will take just a brief amount of time to point out that in the committee meeting I did put forward a proposal to do what several of the Republicans on the committee as well as other members of the party have suggested, which is to send back 40 percent of all special education dollars to the States, to local school districts. Made a very strong case for that.

The majority declined to do that, and instead substituted for my motion a motion to make it a sense of the Congress. So the gentleman from Michigan (Mr. HOEKSTRA), along with others on the committee who were given an opportunity to make a very clear and concrete statement to send dollars back to schools, declined to do so.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, it is really kind of a joke that we are here at 12:30 in the morning Eastern time debating this. We heard about families sitting around the dining room table and what they could end up cutting. None of the traditional families in my district in Texas, I believe, are sitting around the dining room table at this time, and I doubt they are in Columbus, Ohio either, but I do not know a lot about Columbus. And if this is the best my colleague can do, he probably ought to try and keep the job he has got.

But, Mr. Chairman, this is not a blueprint for the Nation's fiscal policy. This is a testament to the continuing inability of the Republicans to govern the House.

The truth be known, the budget process has already been hijacked by the Committee on Appropriations and the Committee on Transportation and Infrastructure. Last week, 2 weeks ago, we were racing to get out of here so we could pass a highway bill that everybody could pave up their State, that busted the budget by $22 billion. We forgot all about the Balanced Budget Act of 1997. Democrats and Republicans were in a real big hurry to spend as much money as possible. We gutted the veterans' program by somewhere between $11 billion to $17 billion, depending on what committee and whose numbers are used, and then we found out that it was not done properly. So we race back in here quietly on Tuesday, and when no one was looking we passed by voice vote a correction of that.

That is what Republican control has been all about. They stuck it to the veterans, they stuck it to the budget process, and now at 12:30 in the morning we are going to debate this grand budget resolution. They cannot even get the senior team down here to debate the bill.

□ 0030

This is just ridiculous. And then you think that after the fact we are going to have to, under the Balanced Budget Act of 1997, have to continue to make reductions in discretionary spending, both defense and non-defense, we are going to continue to make reductions in that, and then you want to go in and make another $100 billion of reduction, $50 billion approximately in non-defense. And you talk about waste. You could not find one dollar, not one dollar of waste in defense. What happened to those ashtrays and the toilet seats that we were paying all that extra money for?

But you really think those cuts are going to be made, and then you are going to go spend the money on the tax cut. What you are going to do is end up spending the surplus, just like you are trying to do with the transportation bill, and running up the debt.

You know what that is going to do in the end? It is going to make the Social Security problem worse, and then you are going to come around and try to privatize it and do away with the safety net. That is why you are doing it at 12:30 in the morning, because you know this is a joke.

Mr. Chairman, the Republican budget resolution is both hollow and meaningless because it doesn't recognize reality and responsible fiscal policy. Rather than provide a blueprint for the nation's fiscal policy, this is a testament to the continuing inability of the Republicans to govern. Truth be known, the budget process has already been hijacked by the Appropriations Committee and the Transportation Committee.

This budget resolution is a sham. It proposes $100 billion in budget cuts beyond the Balanced Budget Agreement we approved last July, but it doesn't tell us where to cut and postpones the tough choices for a future Congress. It ignores the reality that Congress just approved a highway bill that exceeds the budget agreement by $22 billion. And in its latest incarnation, it plays games with the projected budget surplus to hide the fact that the majority would rather use the surplus to pay for tax cuts than to buy down the $5.4 trillion federal debt and strengthen Social Security.

Not only does this budget resolution renege on the good faith, bipartisan agreement reached last year to balance the budget, but it goes even further by destroying our hard work to achieve that agreement. Last year's hard work has given way to magic asterisks, false hopes, and irresponsible promises. It's only now that we are finally balancing the budget and escaping the pit of red ink that has quadrupled our national debt and made interest payments the third largest federal program. It's the height of irresponsibility that the majority would now propose that we go down that road again.

The "one percent plan" is a pithy slogan, but it's the biggest sham of all. The truth is that this budget doesn't cut just one percent. By exempting three-fifths of the budget and failing to take the highway bill into account, this bill would actually cut some domestic programs by as much as 19 percent below a freeze. That means deep cuts in education, social services, environmental protection and other vital programs, and leave our nation unable to increase vital investments such as medical research. Despite what the majority may say today, it also means draconian cuts in Medicare and Medicaid, and even in the newly enacted Children's Health Insurance Program that we worked so hard to create just nine months ago.

Most prominently, the budget resolution neglects that fact that we have a $5.4 trillion debt and that we spend $250 billion on interest annually. that's about three percent of GDP. By sticking to the 1998 Balanced Budget Agreement, interest payments on the debt would fall to just one and a half percent of GDP by 2008. Paying down the debt yields ample rewards because interest payments on the debt would fall. This would free up private and public investment. Long term interest rates would fall further as well. Then, a responsible tax cut or even greater investment in education, children's health care, and research become possible. These productive investments help keep our economy growing.

If we abandon fiscal discipline, by the early 2040s, CBO projects that federal debt will exceed 100 percent of GDP. That is nearly twice as high as the current ratio and is a level previously reached only at the end of World War II.

Included in the $5.4 trillion debt is $600 billion of Treasury bonds owned by the Social Security trust fund that will have to be retired after 2013. The budget resolution should give serious attention to paying down the debt to reduce interest and principal costs to ultimately strengthen the Social Security Trust Fund. Raiding the surplus to pay for tax cuts will put us in worse shape. In fact, if only half the surplus was spent, interest payments would rise $12 billion over the next five years. According to the CBO, spending the annual surplus would cause the fiscal gap, which is the size of the permanent tax increase or spending cut needed to keep the ratio of federal debt to GDP at or below its current level, to increase to 2.3 percent of GDP from 1.6 percent of GDP. This translates into an estimated $200 billion tax increase or spending cut.

Additionally, some on the other side of the aisle might argue that the surplus is scandalous because it's expected to grow to $1.34 trillion over the next five years and that money should be returned to the American people in the form of a tax cut. But, that money is essentially today's profit that needs to repay yesterday's debt. No business would carry such a debt much less make no effort to repay it. Enacting a tax cut this year would like a business that carries significant debt, has a great year, and then pays out its new profits in dividends instead of paying down its debt. Companies know that paying down debt is the only way to increase its value in the long term, which would make more money for investors. So both tax cuts and personal savings accounts are irresponsible before paying down the debt.

So before we start tinkering with half-baked notions of privatization, it is important that we begin a debate on Social Security with a clear understanding of what Social Security is and why it was created before we begin proposing radical solutions. And we must not confuse problems while trying to solve them.

First and foremost, we must remember that Social Security is a safety net below which no American will fall. It is a retirement security program, it is a disability insurance program and it is a survivor insurance program. It is not a 401(k) or an individual retirement account. It is also an income transfer program whereby higher income workers support lower and moderate income workers through the establishment of the safety net. Without the cross-subsidy the net is pierced. Any reform must not destroy the safety net, or it will destroy the essence of the program.

If we squander the surplus without beginning to retire the national debt to a more manageable level, in the long run, we may have to borrow more to pay off bonds as they come due, including the Social Security, and we will be shortchanging the American people. Without maintaining a course of fiscal discipline, the Congress' hard work since 1990 will be compromised. Federal budget surpluses will be short lived and we will return to deficit spending. Given the impending retirement boom and the economic and political uncertainty brought on by the Asian economic debacle, that's not a direction we want to move.

Mr. SHAYS. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. EHRLICH).

Mr. ERHLICH. Mr. Chairman, I thank the gentleman for yielding me time.

I guess there are some first-teamers still around here. I see some first-teamers behind me.

Mr. Chairman, I rise in support of the Kasich budget. There are four relatively easy planks that the American public does understand. Pay down debt. Forty percent of public debt is Social Security debt. You pay that down, you save Social Security. It makes sense. You shrink the government by 1 percent, and you relieve families of the marriage penalty.

Under the balanced budget agreement, and that is really the crux of the problem here tonight, some viewed it as a ceiling, some viewed it as a floor. It is not a ceiling. We can do better. We get paid to do better. The American public expects us to do better.

Last year was not a stopping point. They still feel overtaxed, feel that the government does too much in this country. $9.1 trillion to $9 trillion. That is not a whole lot to ask in most cities in this country. Maybe not in this town.

We talk about marriage tax relief. We had an interesting comment from the other side earlier on. The rhetorical question was, where do the tax cuts come from? Where do the tax cuts come from?

Tax money is our money. We send it here, hopefully to be used appropriately, and we ask for some of it back. That is where the money comes from. We know where the money comes from, from the people who work.

Last January we saw the old Bill Clinton, the post-election-year Bill Clinton, the nanny state Bill Clinton came back. You heard the numbers, 85 new programs, $150 billion in new spending, new tax increases, the whole nine yards.

What led to this? What do we hear tonight and every day on this floor? The politics of yes, because the politics of yes is real easy. The politics of no means leadership. It is not easy to say no. It is not easy to say maybe a cent from every Federal dollar over 5 years.

It is easy to get votes when you say yes, because the politics of yes is easy, and the politics of yes ruled this town for 40 years, and a bunch of us came here a couple of years ago to exhibit some leadership and say no for a change. And sometimes no is not pleasant and sometimes no leads to negative ads against you on TV, and that is the way it goes in the United States in the 1990s.

I rise in support of the Kasich budget for this reason: We should reject the politics of the old and the politics of yes, as the American people have done, and give the American family a break for a change, because they deserve it.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong opposition to the proposed Republican budget resolution. This resolution is very similar to the very one we discussed last year, proposing spending cuts to pay for tax cuts. However, the difference in the last time and this time is we are not certain where they propose to cut the $100 billion. We know it is supposed be in domestic, but we do not know where. We only know they intend to cut $55 billion from entitlement programs, including some $10 billion from Medicare, until last night. Then that became too political. We said we do not want to be political, but that became too political and risky to do.

Guess what you did? You decided to cut that from the most vulnerable people in America, the poorest of the poor. Yes, your Welfare Reform Act that you wanted to keep there, you reneged on your commitment to the States that you would provide welfare reform, but made sure that your objective had $10 billion now that will be taken from there. $12 billion from Medicaid. You are not fair to the poor, you are certainly not fair to seniors, and, in fact, you are really cruel to the most vulnerable people in the community.

Yes, this may sound like rhetoric, but it is the basic truth. You are also cruel to veterans. It is cruel that you would treat veterans, those who protect this country, in the way they have.

Mr. Chairman, I support fair cuts, and most Americans do. In the Spratt substitute that will be offered tomorrow, there will be $30 billion in fair tax cuts. Fair tax cuts.

Mr. Chairman, I will also tell you, the gentleman from South Carolina (Mr. SPRATT) tells you where those offsets will be. It is paid for. There is no ambiguity around it, no mirrors and smoke.

I suppose fairness is to be for certain citizens and not for others. We should have a budget resolution that speaks to the needs of all America, including all citizens, not just some of the citizens. And this program does not do that, because in addition to the $10 billion coming from welfare, what we call assistance to the dependent children, in addition to that, food stamps will be cut, training, welfare-to-work will be cut, WIC will be cut, LIHEAP will be cut, Title I education will also be cut.

By repealing our vital education programs, the Republican plan just fails to understand that the American people put education first as their main priority.

The Spratt commitment, yes, it does have a new initiative. The new initiative says 75,000 new teachers. Again, you say that is spending more. Yes, but he tells you how that will be paid for. $10 billion over 5 years, $2 billion a year, and it is paid for. That is not spending more money. It is simply changing the priorities to speak to the needs of the people.

Mr. Chairman, I urge a "no" vote on the Republican resolution.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, much of our debate tonight has focused on the fiscal irresponsibility of the Republican majority's budget, on its failure to reserve the surplus, its failure to ensure the future of Social Security and to reduce the national debt, its failure to take account of the huge transportation bill we just passed, its failure in double counting the savings from veterans health care and Social Service accounts.

But the Republican budget is not only fiscally unrealistic and irresponsible, it also gets the priorities wrong, and that is what I want to address in the few minutes that I have tonight.

It gets the priorities wrong. I want to stress one priority, education, which is number one in my district and number one to me personally and which represents an investment in the future of our children and our country.

The Republican budget would cut the education and training portion of our budget by some $4.4 billion below, below, the balanced budget agreement.

Details are few and far between, but the Republicans claim to find savings by consolidating higher education programs. While the budget promises to increase Pell grants, there is no way of telling what might be cut in order to achieve that. Will work study be cut? Will State student incentive grants be eliminated? Will the Republican budget limit the access to higher education that is the key to a higher standard of living, that is the key to equipping people to meet their goals and better serve their families and serve their communities?

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The House has just passed a Higher Education Act which promises to open up opportunities, and yet this budget takes little or no account of that.

In the area of elementary and secondary education, the Republicans propose to repeal the current Title I program and create a voucher program in its place. Title I provides opportunities for disadvantaged young children who are the most vulnerable in our society. The Republican budget will put Federal efforts to meet the needs of these at-risk children in jeopardy. Education is the key to equal opportunity.

The House Republican budget would do more damage to the goal of expanding opportunity than any budget in recent memory. The Democratic budget, by contrast, is fiscally responsible, and it recognizes the priority we place on education.

It includes the provision to reduce the classroom size in this country in grades one through three with the hiring of 75,000 new teachers. It provides tax credits to enable working parents to afford good child care. It provides a tax break so that school districts can more easily finance the bonds necessary to modernize and build schools. These modest initiatives are all paid for, and not a penny, not a penny comes from the surplus.

The Democratic budget is consistent with the balanced budget agreement and observes the budgetary rules that have produced surpluses and a booming economy. It gets our country's priorities straight, including the education of our children. I urge support for the Democratic alternative.

Mr. SHAYS. Mr. Chairman, I am delighted to yield 4½ minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, there has been some talk about whether or not we are defending the Republican budget and whether we are proud of it. I am very proud of this budget. This budget does set the right priorities and takes this country in the right direction. If there were a little more truth on this floor and a little less rhetoric, perhaps we would see that.

We have heard our colleagues on the other side say time after time after time that this budget cuts spending. Let me make it very clear. Nowhere outside of this beltway that surrounds this city is an increase in spending from $7.8 trillion over 5 years up to $9.0 trillion a cut. It is simply not a cut. We cannot go from $7.8 up to $9.0 and call it a cut. So let us get that point of truth on the record to begin with.

Then let us go to what this debate is really about, because it really is a very simple debate. It is a simple debate between their belief in bigger government and higher taxes because they do not trust people; our belief in a slightly smaller, more efficient government with lower taxes because we do trust people.

That is the fundamental debate going on here tonight. They want to reach deeper into the pockets of the American people and take more money out so that they can spend it because they do not trust Americans to spend their own money.

The gentleman from South Carolina (Mr. SPRATT) talks about a $30 billion tax cut in his budget. Unfortunately, that just is not true. There is not a $30 billion tax cut in the Spratt budget because there is not a $1 billion cut in the Spratt budget, because there is not a one penny tax cut in the Spratt budget.

Because do you know what the Spratt budget does? It raises taxes on some Americans by $30 billion and includes a sense of the Congress that we ought to give that $30 billion back. Do you know what? The American people are going to figure that out. If we raise taxes on some by $30 billion and we lower it on others by $30 billion, that is a net tax cut of zero, not a net tax cut of $30 billion.

So how does that fit into the scheme? That fits into the scheme that they want more of the American people's money, and we want to leave more of the American people's money with them.

The President, the President told us in 1994, right after I got elected, that we could not balance America's budget in 7 years; and we shut down the government over that fight. Three years later, I am proud to be standing here, and we did not balance it in 7 years, we balanced it in 3 years. They brag about the surplus, the surplus their President fought us tooth and nail over.

Let us talk about the President and his record. He says the era of big government is over. Do you know why? Because for him the era of bigger government had just begun. In his budget, which they do not have the guts to propose, taxes go up by $130 billion. New spending goes up by $150 billion.

There are 39 new entitlement programs. They talk about controlling entitlement spending, but their President proposes 39 new entitlement programs. Do you want to burden the American people? That is the way to do it. And 85 new additional programs.

Let us talk about the other issue that has really gotten to them tonight, and that is the fact that this is a 1 percent cut in spending. That has really bugged them all night long. They have come to the floor and said, by, gosh, this is a fraud to call it a 1 percent cut. Do you know what? In a technical sense, they are right, because it is not a cut in spending.

Spending is going up. In our budget, it goes up at about the rate of inflation. In their budget, it goes up dramatically above the rate of inflation. They want bigger. They want more. They want deeper into the people's pockets because they think only government is the answer. But do you know what? Our budget is a 1 percent reduction in the planned increase in spending.

My friend, the gentleman from Minnesota (Mr. GUTKNECHT) just said it: Well, take a 1-inch notch out of a belt that is 9 feet 1 inch long. I think the American people understand we can do that, and they are darn proud of us for trying and darn proud of this budget for doing it. It is a 1 percent cut. Deal with it.

Now, details. They say, oh, we lack all the details. There is a process for details. It is damned if we do and damned if we do not. They want to see the details because they want to ridicule the details.

Then they do not want to deal with the fact that the process here says the budget resolution is supposed to set numbers. The details are supposed to come from the appropriators and the authorizers. In this case, that is the process we are going to follow, and it is the process the American Constitution and the laws and the rules that govern this Congress are arranged to deal with and are designed to deal with.

They believe in government. We believe in people. Do you know what? The American people sent us here to do that.

The Spratt budget says one more thing. It says that in the balanced budget agreement of last year we set a spending floor. Do not go below it by a dime. Do not try to save another penny.

Do you know, I have a family that I run. In my family, in the Shadegg family, because we built a budget last year, we do not quit trying to save money next year. Do you know what? In every family budget in America, if they can figure out a way to save a little bit more money next year, they try to do it.

In every business in America, the entire rubric is efficiency. Produce more with less. That is what the genius of America is about. But inside the beltway, inside the Congress, inside this highway, inside this House, the only thing we can do is more means more means more means spend more. It means reach into the pockets of the American people deeper, and it is wrong.

Mr. SPRATT. Mr. Chairman, I yield myself 1½ minutes to respond.

Mr. Chairman, first let me respond with respect to the tax cuts. We see a code replete with deductions and credits and exemptions and preferences and concessions, and most of them work to the advantage of well-heeled taxpayers. We are saying in this resolution to the Committee on Ways and Means, can you not give the code a scrub and see if you cannot tilt the code a little bit more in favor of working families so we can increase the child tax credit, and, yes, mitigate the marital penalty? Can we not do that within the code?

Let me say something about the growth of government. I am reading from a CBO report, the Economic and Budget Outlook of the Government. Discretionary spending once again. When President Clinton came to office in 1993 it was $540 billion. Last year it was $548 billion, 1997. In 4 years it grew by $8 billion.

Let me remind my colleagues again, the middle of the Reagan years, 1986, the government was taking 23 cents out of every dollar made in this economy. Today it is down, under the Clinton administration, to 19.9 cents, down three full percentage points.

□ 1250

Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, those were the facts out of CBO's book, who that side has appointed. The chairman of the Committee on the Budget mentioned Alan Greenspan early on in this debate, and people have forgotten that. Alan Greenspan came before the Congress in 1995 and said to the Joint Economic Committee, before their policies had any place in this economy, that the economy was in the best shape it had been in over 30 years. Those were the facts.

Tonight we talk about budget baloney, budget baloney. I did not say that, the New York Times said it. The New York Times, not a good source. I tell my friend, the gentleman from Arizona, that his neighbor from New Mexico did not call it baloney. He called it a mockery.

He was then joined by Senator STEVENS, another Republican leader, chair of the Appropriations Committee, and he said, if the Republican budget in the House is adopted, "I don't think Congress could function." The New York Times, Senator DOMENICI, Senator STEVENS.

We have had a lot of talk on this floor. In 1993 your CBO said the 103rd Congress reduced the deficit by $116 billion. That same CBO, not a Democratic CBO, that same CBO, said that the 104th Congress, 105th Congress and 106th Congress, reduced it by $23 billion; in other words, 20 percent of what was done under the Clinton Congress with Democratic leadership.

Mr. Chairman, that is not why we balanced this budget, because there was another budget in 1990 that a President named Bush had the courage at that time to stand up and say it was necessary because the OMB Director, Mr. Darman, and maybe even Mr. Sununu, said "You had better do this. You had better do this if America is going to get on the right track."

So it was the 1990 budget deal, the 1993 Budget Act, for which no Republican voted, which was, by the way, not, underlined not, the largest tax increase in history; not. The largest tax increase in history was in 1983, signed by Ronald Reagan. Check the facts. Check the book.

Stop lying to the American people. What the American people want, whether it is 1 o'clock in the morning in Columbus, Ohio, or 7 o'clock in the evening in Honolulu, Hawaii, is honesty.

This 9-foot belt is the diet they want to go on; 1 percent, baloney, malarkey, mockery. They cut it by three-tenths of an inch next year. Why? Because they do not want any political ramifications. Then the next year they cut it by six-tenths of an inch. They are almost up to an inch, the courageous budget cutters over there. Then, to the fifth year of their diet, they cut it by two inches. Guess what? None of us may be around by then, so we may not have to do the consequences. None of the Members on that side of the aisle believes for one second they will be able to cut it by 2 inches.

Mr. Chairman, as usual, one thing they did cut was Federal employees, those bureaucrats that the chairman spoke so derisively about who have paid mightily, over $200 billion since 1981, to contribute to bringing this deficit to surplus. They cut them by another approximately $3.5 billion over 5 years, they who want to cut the taxes for average working Americans.

It is amazing how they do not believe that Federal employees are average working Americans. It is okay to cut them in terms of their salaries, so they can transfer that to cut taxes for somebody else; very good, take it out of one pocket and put it in another pocket.

The reason we ought to reject their budget is because it is not an honest budget, which is why it is called by the New York Times "budget baloney." We ought to defeat this budget because it is not honest, as I said, at 1 o'clock or 6 o'clock, at any time.

As Stockman said in 1983 in his book, we hid the real facts. We said we were going to cut later, and guess what? Everybody knew, everybody knew, including Stockman at the time he offered the budget that ballooned these deficits out of sight that this President has brought down, that it could not be done. They repeat that error today at the country's risk.

Reject this budget, pass the Spratt budget. It is good for America.

Mr. SHAYS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, to be perfectly honest, I was one of the 49 people who voted for that tax increase in 1990, and I have regretted it ever since. I vowed I would never do it again. I vowed I would not do it, because when we increased the so-called luxury tax and increased the taxes, we got less revenue, because taxes are dynamic. When we cut taxes on capital gains in 1997, we found that taxes grew.

That is the way I honestly feel. I felt that a lot of the gentleman's dialogue was rhetoric to me tonight. I would just like to be honest and tell the gentleman that one of the things that really concerns me is this House thinks it has a surplus, and we can go on our spending ways. That is how I honestly feel.

I am ashamed of the transportation budget that passed, and I am grateful that the gentleman from Ohio (Mr. JOHN KASICH) reoriented us to think about saving money, rather than spending money. That is how I honestly feel.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, can I ask the gentleman an honest question?

Mr. SHAYS. Sure.

Mr. HOYER. I voted with the gentleman on ISTEA.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. SHAYS) has expired.

Mr. SPRATT. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, the gentleman thought ISTEA was not a good bill. The gentleman passed it overwhelmingly. His leadership brought it to the floor. Why does the gentleman not fund it in this budget?

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, because I hope the President has the good sense to veto it.

Mr. HOYER. The President has been trying to help the gentleman out for a long time. He has done a pretty good job so far.

Mr. SHAYS. Mr. Chairman, I am delighted to yield 5 minutes to the gentleman from Wisconsin (Mr. NEUMANN).

Mr. NEUMANN. Mr. Chairman, I rise to express my support of the Kasich budget, too, and to supply praise to our chairman. He came into a meeting about 2 months ago. The meeting was kind of downcast at that point. He said, it is about time we got back on track and started doing what we came here to do. He got a lot of us fired back up and back on track, doing what we came here to do in the first place, which is get spending under control.

In regard to the last comments that I have heard here, I have to say, if somebody can show me a bigger tax increase in the history of the United States of America, or the history of the world, for that matter, than the 1993 tax increase, I would certainly be interested in taking a look at the statistics.

But I will tell the Members this, I know for a fact, I know for a fact, that the American people did not want a tax increase on gasoline of 4.3 cents a gallon that was not even spent to build roads. I can absolutely guarantee the gentleman that the senior citizens in the United States of America did not want a tax increase on their Social Security benefits. That was the wrong approach to balancing the budget.

I have a colloquy I need to get into, but before I do I just want to show the Members how we did get to a balanced budget, and show what the American people really wanted and why they turned over control of the House of Representatives in 1994.

The Democrats brought us the answer of higher taxes in 1993, and that was the wrong answer. The right answer is they wanted us to get spending under control in government. The American people could not figure out why it was that the government budget had to grow faster than the family budget. Year after year after year after year the budget in this community kept going up at twice the rate of inflation, much faster than the rate of inflation.

When we came in here we said, we are not going to balance the budget by higher taxes, we are going to get spending under control in this community: not draconian cuts, we are just going to get spending down to a point where it is not going up faster than the rate of inflation.

I brought a little chart with me here this evening. Before we got here, this is the last 7 years before we got here, it was Democrat control of the House of Representatives, with spending going up at 5.2 percent annually. This is now. This is how we got to a balanced budget. We got spending under control. This shows 3.2. The actual spending growth rate is down even lower in this blue column. It has actually been cut in half, not draconian cuts but spending brought under control, to the point where it is only being allowed to grow at the same rate as inflation.

□ 0100

Mr. Chairman, I need to enter into a colloquy with the gentleman from Ohio (Mr. KASICH) to clarify a particular issue that I have had Members coming and asking me about, and I just want to make sure that I understand it correctly.

I would just like to verify, and this refers to section 5 in the substitute amendment, and I would just like to verify that this in no way has any impact on congressional salaries in one way or another. This is designed to require that any salaries for any new commissions and employees of those commissions, such as the Social Security that is being discussed, that the salaries of these new employees shall be under the heading of discretionary spending as opposed to mandatory spending, and that is the purpose of the discussion here in section 5. It merely changes the accounting procedures by which the House estimates the cost of appropriations bills. It clarifies that pay or compensation for Federal staff positions such as those of Federal commissions are subject to annual appropriation.

This change conforms House scoring practices with those in the Senate. In summary, it is a technical change in budgetary treatment of Federal positions. It makes no change whatsoever in pay or compensation levels.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, the gentleman is correct.

Mr. NEUMANN. Chairman, reclaiming my time, I thank the gentleman. I appreciate that.

Mr. Chairman, I would like to get back to a further discussion of this budget and exactly what it is all about, because when I got out here to Washington, I got off the plane this week from Wisconsin, and it is like I enter a brand-new world out here. Everything is different. Everything I understand in Wisconsin, when I get out here it is all different.

In Wisconsin, we would say that if we spent $1,722 billion in one year and $1,910 billion in another year, we would call that a spending increase. In fact, under the Kasich plan, we are going to have spending of a total of $9 trillion. That is 9,000 billions of dollars over the next 5 years. An inflationary number would be approximately $8,980 billion, so the increase is roughly at the rate of inflation.

Mr. Chairman, I would like to again commend the gentleman from Ohio (Chairman KASICH), because if we take Social Security out of the picture, which is increasing faster than the rate of inflation for obvious reasons because we have new seniors coming in, if we look at the rest of the budget other than Social Security, we would find that the Chairman KASICH and the Committee on the Budget has held spending increases actually below the rate of inflation.

I bring this up for a good reason. We recently asked through the Polling Place, a firm recently asked 2,000 adults in the United States of America, Kelly Ann Fitzpatrick's poll, the Polling Place, "Do you think spending at the Federal Government level should go up faster than the rate of inflation, at the rate of inflation, or slower than the rate of inflation?" It was a 90-to-3 answer in the American people. Ninety percent of the people said government spending should go up at or below the rate of inflation. And if we take Social Security out of the picture, that is exactly what this budget accomplishes.

This budget is not about a Democrat or Republican fight or this rhetoric that we are hearing here tonight. It is about what the American people want by a 90-to-3 margin. The American people expect us to keep our budget going up at or below the rate that the family budget is going up out there across this great country.

That is what this budgeting is about. It is not about the rhetoric. It is about holding the line on spending. Not draconian cuts, but holding the line on spending so that it does not go up faster than the rate of inflation.

It would be my pleasure tomorrow to vote for the Kasich plan.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, in his introductory speech, the gentleman from Ohio (Mr. KASICH), chairman of the Committee on the Budget, talked a great deal about American families. Well, Federal employees are members of American families, too.

Last year, Federal employees' families were asked to contribute almost $5 billion in savings so that every other American family could enjoy a tax cut. And in return for that contribution, Congress fixed the structure of the Federal employee's health benefits package to make it more affordable and sustainable.

This budget reneges on that contract and does so in a way that will cause immeasurable harm to the Federal employee's health benefits program and to the Federal civil service by changing the formula on which the employer's share of their health premiums are based.

This maneuver saves $3,300 billion, but it is an unwise policy change, and it violates last year's budget agreement that stabilized the cost-sharing relationship between the Federal Government and its employees.

According to CBO estimates, this change would reduce the employer's share of health insurance premiums from 72 percent to 50 percent over the next 7 years. In other words, the employee's share will rise from 28 percent to 50 percent.

This will result in Federal employees and retirees paying hundreds of dollars more in additional health care costs. Moreover, the budget resolution will lead to adverse selection by encouraging healthy employees to switch to less expensive plans.

This will profoundly undermine the integrity of the Federal Employee's Health Benefits Program. The Federal Employee's Health Benefits Program is one of the most successful programs in the country for providing health insurance to employees. It is promoted as the model for any changes in Medicare, military retiree health care. We just incorporated FEHBP into military retiree health care, Medicaid and so many private insurance plans. It is successful because it is managed as a part of a compensation package for Federal employees, and it has thus been protected up until now from arbitrary political changes.

Although it is one of the most successful programs, it is definitely not one of the most generous health insurance packages. Making the changes that this committee proposes will not only hurt Federal employees and Federal retirees living on fixed incomes, but it will also hurt the ability of the government to recruit and retain highest-quality employees. And that will hurt American citizens who count on professional, efficient, incorruptible Federal workers to serve them.

Mr. Chairman, this alone is a reason to oppose this budget resolution. There are other reasons. The tax cut basically is financed by using what is a surplus from Social Security Trust Funds. We do not have a surplus now in general funds. We have a surplus in Social Security Trust Funds. There is still about a $50 billion general fund deficit. Perhaps over the years it is projected we will have a surplus that we can devote to tax cuts. But when we promise the American people these kinds of $100 billion in tax cuts without a real surplus to do so, it is irresponsible, it is a false promise. This budget resolution is a political document and it should be rejected.

Mr. SHAYS. Mr. Chairman, I yield 6 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I thank the gentleman from Connecticut (Mr. SHAYS) for yielding me this time.

Mr. Chairman, it has been interesting to listen to this and I would note I am honored for the mention of prime time in Arizona, because it is high time my constituents believe to approach these questions with less heat and a lot more light.

I listened with interest to my colleague from Maryland decry the largest tax increase in American history. He said that fact was not true. I would agree with him to this extent. A member of the minority party in the other body, Senator DANIEL PATRICK MOYNIHAN of New York, called it the largest tax increase in the history of the world. So I think that is important to note for the record.

But we are really not here to hurl brickbats as much as we are here to try to find reasonable solutions for the American people.

The people of the Sixth Congressional District of Arizona work hard for the money they earn. They want to hang on to more of it and send less of it to Washington, D.C. I appreciate the concern that we all have for Federal employees, but there is a broader question that requires comment based on what the gentleman from Virginia just recited, and it is this. The fact is in the early 1990s, government at all levels had become this Nation's number one employer; and in the early 1990s, government outstripped manufacturing in this country in excess of 600,000 jobs. And the fact is that has only grown.

So there is a larger question. Should dedicated, hard-working people have more opportunities in the private sector rather than always searching for government?

And I understand the political dynamic. I understand how sadly some people are yoked to the public employee's union and to Boss McEntee and Boss Sweeney and those who claim we should always have more government jobs and more government spending and higher taxes.

□ 0110

There is another component of the Spratt plan that my colleague from Arizona pointed out: No net tax cuts but a sense of the Congress resolution that maybe conceivably tax cuts, tax relief might be a good idea.

My friend from South Carolina wanted to task my committee, the Committee on Ways and Means, and he talked about massaging the Tax Code and various and sundry other measures. Mr. Chairman, we do not need to massage or try to change in that way. What we need to do is clearly and unequivocally offer tax relief to working families.

One of the most egregious tax penalties we have today is the marriage penalty. It is our goal, with this common sense conservative majority budget, to outline for the American people a reasonable, rational way to throw off the yoke of this marriage penalty, to allow working families to hang on to more of what they earn, not to be penalized, and to understand underpinning all of this is the common sense notion that this money belongs to the American people.

I heard some friends from the other side talk about education. I would ask those friends to join me in the spirit of bipartisanship for those educational solutions that empower local communities and parents and teachers rather than empower Washington bureaucrats.

Indeed, I have put forth two bills. I would welcome bipartisan sponsorship of the new Education Land Grant Act that offers conveyances of federally controlled land with no budgetary impact, so that we can make sure that resources are used to help children learn and help teachers teach in a way that draws on the best of our history and the best of our experiences. Proverbs notes there is nothing new under the sun, and we see the wisdom of that scripture.

As my colleague from Arizona pointed out, there are two philosophies at work here on the floor. When you strip away the rhetoric and the revisionist history and some of the mundane points, there are really two philosophies here. It is this simple concept. Do we want to continue runaway spending and runaway growth, or are we reasonably assured that we can put the brakes on to the extent not that we offer draconian cuts in spending but that we offer government spending at the rate of inflation?

It is a reasonable concept. We have a chance to build on this historic landmark, not to have it as the floor nor the ceiling but as the starting point on which to build and improve, for we have the chance to allow the American people to hold on to more of their money and at the same time increase surpluses by simply recognizing this fact.

We have asked the American people to sacrifice time and again so that Washington could offer more and more programs. Let us make this change. Let us ask Washington to rein it in so that American families can hold on to more of what they earn, so that working people can provide for their own families.

There are a lot of dedicated people that work for the government. I have no doubt of that. But no Washington bureaucrat, no matter how well-meaning or how compassionate, can possibly care for your family as much as you can. Our budget plan recognizes that in a common sense fashion that does not rely on smoke and mirrors and does not promise everything to everybody but says simply this: It is time to rein in spending, it is time for a common sense approach. It is time to stand on the shoulders of those who have gone before, and it is time to improve on the bipartisan agreement of last year. Let us do so.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding time to me.

My 5-year-old daughter Jacquelyn graduated from nursery school last night and I was unable to be in attendance because I thought this was an important place to be for this debate.

The President of the United States, Members of both parties of this institution and, more importantly, workers and entrepreneurs around America have already given my daughter and her classmates a very precious gift in the last few years, in that we have stopped running our government by borrowing money.

That is a magnificent achievement that we should make sure that we enshrine permanently into the budgets of our Federal Government. I think it is time that we gave my daughter and those of her generation another gift, and that is the permanent preservation of Social Security. Because the Spratt Democratic budget is superior to the Republican budget in that way, I will be casting my vote in favor of the Spratt budget and against the Republican budget tomorrow.

Let me explain why. Since 1970 we have taken about $700 billion out of the country's pension fund, out of the Social Security trust fund. It is now projected that over the next five years, somewhere between one half or, I should say, between one-third and two-thirds of that money will be available for replenishment of the money that we have taken out, somewhere between $240 and $490 billion in accumulated surplus. This debate is first and foremost about what to do with that money, what to do with that surplus that we are confident will accumulate over the next five years.

The Republican plan is mysterious in this regard. The document before us tonight is silent, but the record is not.

The majority has talked about an untested theoretical think tank approach to Social Security that really is not Social Security, it is social engineering, an idea of giving Americans across the country an undefined amount of money in an undefined account to act in an undefined way. When it comes to Social Security, I believe that the gentleman from South Carolina (Mr. SPRATT) and the Democrats have the right answer: "If the ain't broke, don't fix it."

The basic formula of Social Security has worked in this country for over 60 years. The system needs modification and improvement but the basic formula, I believe, does not need retooling.

Earlier this year I introduced legislation that would guarantee the use of any accumulated Federal cash surplus first and foremost for the preservation of Social Security. I am very pleased that that principle has been very much enshrined in the resolution put forward by the gentleman from South Carolina (Mr. SPRATT). If his resolution becomes the law, and I am confident that some form of it will, we will set aside and replenish anywhere from one-third to two-thirds of that money that has been taken out of the national pension fund since 1970, so it will not solve the problem of Social Security because of the demographic lines it will inevitably cross, but it will make the solution to that problem infinitely more within our reach, and it is the right thing to do.

The difference between the Democratic budget and the Republican budget is very stark, very simple and very clear. When it comes to the $700 billion that Republicans and Democrats, Presidents and Congress have taken out of the Social Security fund for the last 8 years, the Democratic budget puts the money back in. The Republican budget raises a series of questions that I believe are not appropriately answered.

For those and for other reasons, I would urge my colleagues tomorrow to reject the budget the majority has put before us and to embrace and adopt the resolution put forward by the gentleman from South Carolina (Mr. SPRATT).

This is not simply a matter of fiscal policy. It is a matter of national integrity. Each week when Americans have their FICA tax taken out of their paycheck, they are honoring a promise to us to pay their taxes. It is high time we honored the promise to them and adopted the Spratt resolution.

□ 0120

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I listened with great interest to my friend from New Jersey. I would just point out, because I think it is important and perhaps the gentleman is unaware, that sadly this President has already violated the promise he made right there about keeping the Social Security surplus intact in sending two billions of those dollars to keep troops in Bosnia. The stakes are too high to engage in catcalls about Social Security. The cautionary tale for all of us, Republicans and Democrats, is this: We owe it to seniors, today and tomorrow, to end the disinformation, to deal with them straight. I know the gentleman from New Jersey shares that sentiment. But for the historic record, as the chairman of the Committee on Ways and Means pointed out in a letter to the President, as he pointed out in yesterday's edition of the Washington Post, this President has already spent $2 billion of the Social Security surplus.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from New Jersey.

Mr. ANDREWS. I ask my friend from Arizona, the Congressional Budget Office projects surpluses of $223 billion over the 5 years we are talking about here tonight. Under the majority budget, how much of that is reserved for the Social Security surplus?

Mr. HAYWORTH. I thank my colleague very much, and I appreciate the fact that he would like a specific notion on this, but I would defer to my friend who actually sat in the Committee on the Budget deliberations for these numbers because, as he knows, I do not sit on the Committee on the Budget. I would be happy to yield to my friend from Connecticut if he has a definite answer or perhaps since the gentleman from New Jersey asked the question, maybe he would like to share it with all of us in the Chamber.

Mr. SHAYS. If the gentleman will yield, my understanding is that what you all do is you put it into a special fund and then you are paying down debt. We are saving the surplus. We are not spending it. We did not go with our separate fund because we only have a margin of 10 votes and we did not get the margin to pass that.

The thing that is very troubling to us on this side of the aisle is that the President sought not to save all that surplus. He was going to spend $43 billion of it.

Mr. SPRATT. Mr. Chairman, I yield the balance of my time to the gentlewoman from Michigan (Ms. RIVERS).

The CHAIRMAN. The gentlewoman from Michigan (Ms. RIVERS) is recognized for 2½ minutes.

Ms. RIVERS. Mr. Chairman, I wanted to make two comments to my friend from Arizona, the first one being relative to the argument that the President has already spent $2 billion of Social Security money.

My recollection is that that came through the House here as a bill that actually was passed by this House. I know a significant number of Democrats did not vote for it, which suggests to me that a significant number of Republicans did therefore join the President in the decision to do that. So I think that when we talk about that particular issue, we should be talking about the fact that a bipartisan group, the President and a bipartisan group of Members of the House and the Senate decided to make that decision. It clearly was not a unilateral decision made on the part of the President.

Secondly, my friend from Arizona pointed out that he would invite people to join him on educational issues and it was said in such a way to suggest that perhaps I was being disingenuous in my concern. The issue that I raised was that in the Committee on the Budget, several people had talked about the desire to have the greatest impact on local education by fully funding the Federal portion of special education. As a school board member for 8½ years, I believe that that is a very important thing to do and it is a view that I have held for a very long time. I offered an amendment to do that very thing. Unfortunately the committee was not willing to accept that and instead altered my proposal to make it a sense of the Congress so it would not be binding.

I would be willing to join with the gentleman from Arizona. If he would like to cosponsor that bill here in the House, I would be happy to do it. I understand he has a bill, a conveyance of land which is probably a nice gesture but it does not pay the bills for local school districts, and I think a change in the funding formula for special education would have a huge impact on local schools and it is something I am very supportive of.

We have talked a lot about process, about history, we have put out charts, we have talked about our own view of the problem before us and depending on your perspective, that may be fact, that may be demagoguery. But at the end of the day all these proposals are going to be evaluated by everyday Americans on how they affect them and their families. It is going to be the impact of the decisions that will determine whether or not they are supported.

I want to talk about one particular proposal in here, because I think the impact could be truly egregious. Initially this proposal came out as a $10 billion change in funding for Medicare. On May 12, 1998 we saw that in a document that was presented. Last night that decision was altered. My assumption is that there was a hue and cry that went up about Medicare, there was an understanding that this is a group of people affected, senior citizens, who are a little too responsive, a little too organized, a little too likely to vote, and so the decision was made to go with Medicaid, seniors who are in long-term care, kids and poor people. Shame.

The CHAIRMAN. All time for general debate on the Congressional budget allotted to the minority has expired.

The gentleman from South Carolina (Mr. SPRATT) as the designee of the gentleman from California (Mr. STARK) is recognized for 30 minutes on the subject of economic goals and policies.

Mr. SHAYS. Mr. Chairman, I just have a two-minute closing. The gentleman might just want to make a few closing remarks, and then we can yield back the time. Does the gentleman care to make any other comments?

Mr. SPRATT. Mr. Chairman, I am ready to close. It is 1:25.

Mr. SHAYS. Mr. Chairman, I will yield back our time after I just make a 2-minute comment.

Mr. SPRATT. Is the gentleman yielding back all the time?

Mr. SHAYS. I was going to use 2 minutes and then yield back the rest.

Mr. SPRATT. We are waiving the Humphrey-Hawkins debate, then?

Mr. SHAYS. We would yield it all back.

Mr. SPRATT. Mr. Chairman, I yield back the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is a process that has not been easy for this side of the aisle for a variety of reasons. When the President came in with his budget, he came in with 85 new spending programs, including 39 new entitlements, more than $150 billion in new spending over 5 years, $129 billion in tax increases over 5 years to pay for some of that spending, from the same President who in 1993 signed a very large tax increase. We had a Congress that got eager to spend more money, on roads and bridges, and we have frankly on this side of the aisle only a margin of 10 votes. It is very difficult to bring forward a budget when you have 435 Members of Congress who have many different views on how to do a budget. But the bottom line is that the gentleman from Ohio (Mr. KASICH) got us reoriented in a way I think was very important. He began to question whether we had assumed that we had arrived at a point of surplus where we did not need to begin to focus on finding ways to continue to slow the growth of government spending and help reduce government.

He has had a tough battle. He has not won all his battles. There have been continual changes to his budget as one Member or another says, "I am not voting for the budget unless we do the following." But I wager to say if he did not do this battle, we would be spending more than the caps allowed, as the President sought to do.

The President sought to spend more than the caps would allow in the next 5 years. I do not think my colleagues on the other side of the aisle agreed with that and are going to come in with another plan. But we will have extensive debate in the next few weeks. The appropriators will come out with their plan. The Committee on Ways and Means will come out with their plan. In the end, I hope we come to a conclusion that finds this government not as large, that saves money, and provides for a tax reduction in an area that is paid for not by surplus but by slowing the growth of spending.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to voice my concerns about H. Con. Res. 284, the House Budget Resolution. I strongly object to the Budget that has been proposed by the Republican leadership.

The Republican plan misses every opportunity to make constructive investments in our future to improve our government's services and benefits for our citizens who need it most.

The House Republican budget resolution eliminates the 15% exemption from the food stamp work requirement for able bodied adults without dependents. This will eliminate food stamp benefits to more than one million hungry people in the average month. It eliminates funding for food stamp employment and training programs so that people who are relying on food stamps to feed their children and themselves will have nowhere to find job training after they lose their access to food. Over a five year period this plan will reduce food stamp employment funding by $200 million. $200 million for needy families.

This is a travesty! How can we say that we care about the health and welfare of our future, about our children's health when we remove poor children's access to crucial health care?

If the Republicans themselves say they cannot live with the bill, how can our most needy and most vulnerable populations live with such a plan? The answer is that our children, our inner city poor, our single parents, will suffer and unfairly.

In contrast, the Democratic bill includes $10 billion over five years to help working families. This money can be used to reduce classroom size: 75,000 additional teachers and 1.2 billion for the Child Care and Early Learning Fund.

And what about our children's chances for education, for advancement, for their chance to be respected, learned and contributive members of our communities? The Republicans themselves have criticized the plan. Senator DOMENICI in relation to the bill said "You just can't do this. This is just not a possible solution and we [in the Senate] would not do it because we couldn't live with it in the waning days of the session."

We simply can and should not terminate all direct federal assistance to public school districts in our poorest areas by repealing Title I grants. It is shocking that the Republican plan cuts the discretionary education program by $6 billion below last year's Balanced Budget Agreement and $7 billion below our Democratic plan.

We must not eliminate bilingual education. Our children who speak a foreign language as a first language should not be forced to suffer because their English is not as proficient. We can learn so much from each other, but only if we listen and work with each other.

It will eliminate Americorps and the Legal Services Corporation both which provide critical assistance to many of our poor citizens who need to secure housing, fair pay AND a fair chance.

We must put the health and welfare of our people, our families, our communities first. The Republican plan would freeze WIC, and head start at 1998 funding levels for 5 years, as well as section 8 Housing causing at least a million households to lose federal vouchers and certificates by 2003.

In fact 14 percent of the Mandatory cuts come from low income programs, hitting those who need the funding the most. Our families who need food stamps for their basic nutritional needs, welfare to work and social service programs, will lose their tentative grip on self-sufficient independent living when all these are erased.

Combined with the $12 billion worth of cuts in Medicaid/Children's Health Insurance Program, almost 49% of the Republican's mandatory cuts hit programs for the poor and near poor, even though these programs constitute only about one-fifth of all entitlements.

Again, the Democratic bill includes the "patient's Bill of Rights Act" which reform the managed care system, this will help families and help those who cannot afford adequate health care. The Democratic bill will also fund health care, health research related to Tobacco. The Republican plan ignores the effects smoking has on youth in America.

In the President's State of the Union Address, he proposed initiatives in child care, health care and education, yet, the Republicans in Budget Committee voted to reject every single initiative, even the most inexpensive. We have a responsibility to provide for our nation's future and all the people who need services to survive and to thrive.

In my home state of Texas, proposed cuts in the Social Services Block Grant will result in a loss to the State of Texas of approximately $28.7 million. Child and Family Services, Child Care Regulation and Adult Protective Services will be reduced by $8.89 million from the amount they currently receive, and the Texas Workforce Commission which receives 1.2% of the Texas allocation and supports child care for low income families will be cut by 17% or $340,000. The Department of Human Services providing Family Violence and Community Care Services will lose 14.34 million dollars.

In Harris County where I live, poverty has increased 42%, and 240,000 children are living in poverty, and 30,000 families are on the waiting list for child care assistance. Child abuse and neglect accounts for 20% of all children's homicides in the county, and only 42.7% of all the children who were abused in Harris County actually received any therapeutic services.

I urge my colleagues to think carefully when they cast their votes this evening on the budget. It is critical that we consider fairness, and compassion in making these decisions. We must provide adequate resources to ensure our America, our children a strong and healthy future.

Mr. HOBSON. Mr. Chairman, I rise today in support of the budget here before us and urge my colleagues to support the measure.

The budget resolution we're debating today is the natural extension of our mission in Congress to balance the budget, eliminate the deficit, cut taxes, and return power, money and influence to the American people. The goals we are seeking with this budget are the same goals of every other major piece of reform legislation we have passed here since 1994.

This budget continues our commitment to fighting the tendency of government to expand and spend more money. It slows the future growth of government by one penny on the dollar so that Congress can eliminate the Marriage Tax Penalty—a uniquely harmful quirk of our tax code which actually delivers a specific tax increase to men and women who seek to build their lives together.

Refuting the President's bloated 1999 spending plan is also accomplished by our resolution here today. When the President sent up his suggestions for the 1999 budget I had to scratch my head because I thought someone had accidentally delivered one of the President's big government budgets from before he signed the Balanced Budget Act. His big-spending, Washington-knows-best version of the budget comes from a mindset that says people at the state and local level don't know how to solve their own problems. We know that just isn't true.

The President's budget actually contains $150 billion in new spending, creates 85 new spending programs, and 39 new entitlements. He even wants to raise taxes to the tune of $129 billion over five years. And he does nothing about the Marriage Tax Penalty. This is the same President who just a few days ago declared the budget balanced and took credit for our country's new budget surplus. I wonder if he'll hold a similar press conference when his big new spending plans put us back into the red? The budget before us today refutes the President's bloated spending plan and reminds him that he did in fact sign the Balanced Budget Act and he is obligated to honor it, just as Congress must honor it.

One of my proudest moments as a member of this body was when we approved the legislation which balanced the budget for the first time since 1969 and gave Americans their first tax cuts in 16 years. This was a dramatic move forward which permanently changed the way the government works, and reminded Washington that it does in fact have a master—the people.

Now we are moving forward and taking the next step in order to control the size and scope of government, in order to reduce its interference in our businesses and personal lives, and in order to let families keep more of their hard earned money.

If you're like me and you think that somewhere, someplace in the halls of the bureaucracy, there might be just one penny of savings to be found for each buck we spend, then maybe you should consider supporting this budget.

And, if you're like me, and you think that we should take that one percent of savings and use it to end a policy that singles out families for higher taxes and instead reduce their taxes, then maybe you should consider supporting this budget.

Federal Reserve Board Chairman Alan Greenspan credits the actions of Congress with the new-found fiscal responsibility that today rules our federal government. Let's build on these successes, not sit on our laurels, and let's move forward with the logical next step in the budget process, which is to continue to deliver savings and tax relief to the people of this great nation which we serve.

Pass the resolution.

Mrs. MALONEY of New York. Mr. Chairman, I remember that when I became a member of this Congress six years ago, the American economy was in trouble. In 1993 the budget deficit was over a quarter of a trillion dollars, growth was an anemic 2.3 percent and unemployment was hovering at an alarming seven percent.

Today I can't pick up the paper without reading about the latest statistics of good news: the longest period of post-war expansion, with last year an amazing 3.9 growth rate; the lowest unemployment rate in about three decades, today barely over four percent, and a fiscal situation that was regarded as a fantasy when this president took office: this year a projected budget surplus of $39 billion.

The difference between then and now can be seen in the newspaper almost every day. In fact, on the front page of today's New York Times business section was a story reporting a 12.1 percent increase in American car and truck sales. The reason for the continuing bright news was explained by General Motors' chief forecaster, who stated, "The fundamentals of the economy are very strong. A lot has been written about the industry slowing down, but frankly it's hard to see that happening because of low unemployment, low interest rates and high consumer confidence."

Some people from the other side who are a little embarrassed that the economy is doing so well under a Democratic president like to point out that a president isn't responsible for every aspect of the economy. Maybe so. But if there is one area where the executive does make an impact, it's fiscal policy. It's a simple relationship: when the budget is balanced, interest rates stay down. And low interest rates drive a robust economy.

Over 12 years of Republican presidents, we saw budgets eat up trillions of dollars that we are all going to have to repay. What this President did when he took office was something that everybody said had to be done for the past three decades: stop government from borrowing from our future.

As we all know, those policies paid off much more quickly than even the most optimistic predictions: The budget moving into surplus years ahead of schedule. And why? The government is taking in record taxes. But not because citizens are being taxed more, but because with more people having jobs, fewer people need public assistance, while more working men and women pay taxes.

Some might scoff at the President's claim that his policies led to the massive creation of jobs that is the envy of the world. The president obviously isn't taking all the credit. But he can claim that America's private sector, especially its technology leaders, has flourished under an administration committed to eliminating obstacles and promoting opportunity. And just as importantly, he can point to the steadily decreasing budget deficit as a catalyst for growth, since business doesn't have to compete with the federal government anymore for capital.

The budget proposal we are considering today seems to turn the most common folk wisdom on its head. The Republican leadership seems to be saying: If it's fixed, let's break it. Just at the moment that we are poised to begin paying down our debt and shore up what is widely believed to be an unsustainable social security system, the other side wants to risk opening up the flood gates of deficit spending.

Just how does this budget resolution go about doing this? Well, first it calls for a $100 billion tax cut in order to address the "marriage penalty." But the marriage penalty is in no way considered to cost that much. Furthermore, there is no guarantee at all that in the final budgets that Congress produces over the next few years that these cuts will have anything to do with fixing the marriage penalty. That will be determined by a Ways and Means Committee which has yet to support such a fix.

And what does this resolution cut in order to pay for this tax scheme? Well, one offset is veterans spending, which was already hit in the transportation bill, and another is welfare reform, hitting the people who need the most help. Mr. Speaker, these are not the people who should be sacrificing so that others can get a tax break.

This is no time to make long-term changes in the budget. This is no time to create new tax schemes that are likely to trigger chronic deficits yet again. It took twenty years and trillions of dollars of red ink to produce the political will needed to tackle the last round of deficits. It won't be easy to reverse this mistake even when its effects become apparent.

Let's stay with the President's plea to save social security first, an idea which enjoys tremendous bipartisan support throughout the nation. After we finish with the business at hand, then we can have an honest debate about the benefits of a surplus.

Mr. GEKAS. Mr. Chairman, I want to commend my colleagues on the House Budget Committee who supported NIH funding increases: the gentleman from Ohio, Budget Committee Chairman KASICH stated at the Budget Committee markup that he hoped that the Appropriators could give the NIH an even bigger boost than the Budget recommended and I want to thank him for the support, along with the gentleman from Florida, Mr. MILLER who also spoke about the excellent testimony he heard from our Noble laureates in Medicine about the health advances we could make with increased funding, and the gentleman from Minnesota, Mr. GUTKNECHT, who also urged for increases in health research, which he knows from the excellent research and health care facility in his District, the Mayo Clinic. Also, the effort was bipartisan in the Budget Committee with the gentleman from Texas, Mr. BENTSEN, offering an amendment to double NIH funding over 5 years.

Appreciating all the excellent efforts of the House Budget Committee Members to increase NIH funding, I respectfully urge them to recede to the Senate Budget Resolution on NIH funding for FY'99 when they go to the Conference.

Under the current budget spending caps it will be difficult to increase funding for the NIH at the level that is needed to make medical progress and it is impossible to fund the doubling goal under the caps. Again, I urge my colleagues on the Budget Committee to consider alternative budget offsets that might be used and not counted under the budget caps, such as the revenues from tobacco use, a natural, related and logical step to allow some of these revenues if available to be used by the NIH for health research. This would be the best form of compensation to the victims of tobacco, if we were able to cure cancer or heart disease from tobacco revenues, because if we merely use these tobacco funds to compensate the States and the Federal Government for Medicaid and Medicare costs, just paying over and over for the same treatments and interventions without progress through health research for more effective care, we will never have the funds needed for all these health care treatments. Only progress through health research will truly reduce the costs of these programs. Save Medicare and Medicaid by using budget offsets to increase health research at the NIH. Senator DOMENICI has called for protecting Medicare through use of the tobacco revenues in the Senate Budget Resolution, but we can only insure that result through increased health research funding at the NIH from tobacco revenues.

I want to continue to work with my colleagues on the House Budget Committee, NIH Authorizing Committee, and Appropriators to achieve these goals from some of the funding sources that I have discussed.

Mr. GOSS. Mr. Chairman, I want to begin by commending Chairman KASICH for his leadership and I concur with him that our Federal Government is still too big, too bloated, and too tax heavy. The surplus hasn't even hit the Treasury and we have passed the largest transportation bill in American history—breaking our budget caps by tens of billions of dollars. If this is any indication, we need the Kasich budget now more than ever!

Far from being "radical," the Kasich budget recognizes that fiscal discipline is not a sometimes thing, it's an everyday thing. The modest savings in this plan are achievable, and they send a clear message that we are still serious about cutting Washington's budget to help the American family's budget.

Finally, I would like to clarify some misconceptions about tax cuts. As much as Congress and the President would like to think otherwise, the American taxpayers are primarily responsible for our current surplus. They are the ones working two jobs, taking risks, and investing in our economy . . . and they deserve a break. In this fiscal year alone, tax receipts are up by 11 percent, yet some of my friends would punish these Americans by maintaining the status quo. Remember Tax Freedom Day was May 10—later than ever before.

Mr. Speaker, we can do better than the status quo. The American people deserve relief and they demand continued fiscal discipline in Washington.

I strongly urge a "yes" vote on the Kasich budget.

Mr. SHAYS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 0130

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. GILCHREST, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003, had come to no resolution thereon.

INTRODUCTION OF DISAPPROVAL RESOLUTION OF MFN FOR CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, yesterday the President notified Congress that he is seeking to grant Most Favored Nation trade status to Communist China.

Today I am introducing a resolution of disapproval, which, if passed, would deny MFN status for China.

My reasons are the same as they have been over the years, and that is that appeasing Communist China has failed to encourage more decent and more responsible behavior by that criminal dictatorship in Beijing.

Across the board, the policies of the government of China continue to be repugnant and dangerous.

The human rights violations continue unabated.

China's unfair trade practices are as implacable as ever.

And China's rogue foreign policy continues to lead the world to an ever more dangerous situation.

In fact, China's proliferation activities have contributed mightily to the new nuclear arms race we are seeing in South Asia.

Only the threat of a big stick will moderate this regime, and MFN is that stick.

I look forward to the debate over the next few weeks.

WISHING BILLIE "THE GODMOTHER" CARR GREETINGS ON THE OCCASION OF HER 70TH BIRTHDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to recognize and celebrate the 70th birthday of a great American, Texan, and Democrat: Ms. Billie Carr. Please permit me to tell you a little bit about her. Her life is instructive.

Billie Carr is a native Houstonian. She attended the University of Houston and South Texas College. In 1954 she ran and was elected precinct chair in her home precinct. She still serves as precinct chair on the Harris County Democratic Party Committee.

Billie served on the state Democratic Executive Committee from 1964–1966. In 1972 she was elected to serve on the Democratic National Committee (DNC) and was elected in 1992 for her fifth term. She served on the National Resolutions Committee from 1984–1988, the National Platform Committee 1983–1984, and the National Fairness Commission from 1984–1986. She was elected in August this year to serve on the DNC's National Rules Committee.

What's more, "the Godmother," as we call her, was elected by the Southern region to represent it on the Executive Committee of the DNC in 1988 and still serves to this day. Clearly, Billie Carr has almost no rival in her commitment to political activism.

Further, Carr has been the recipient of many fine awards. She received the prestigious Eleanor Roosevelt Award in 1986. In 1987, she sort of received her own award, if you will—the Harris County Democrats Billie Carr Lifetime Achievement Award. Carr received awards from the Texas Democratic

Women in 1987 and a Star Award from the National Federation of Democratic Women. And, in 1994 the Texas Young Democrats gave her their Democrat of the Year Award.

In 1992 the Democratic Party had the 40th anniversary party for her 40 years of political activity. Every statewide official attended as well as then Presidential candidate Bill Clinton, who came for the convention, and spoke of his warm lifetime friendship with Billie.

Lastly, she is President of Billie Carr Associates and is the proud grandmother of two beautiful children.

In sum, Billie Carr's career began early and has lasted a virtual lifetime. From the start of her political involvement with Ralph Yarborough and Adlai Stevenson to the founding of Billie Carr Associates, she has displayed an amazing dedication to Democratic politics and public service. The awards and achievements you have earned in your life are truly breathtaking. Your record of accomplishments are an inspiration to us all. You certainly deserve to be called the Godmother of liberal democratic politics. Perhaps most significant, Mr. Speaker, she refused to take part in the despicable act and mindset of racial segregation when many chose to be passive or look the other way.

On behalf of the residents of the 18th Congressional District of Texas, I would like to offer you my heartfelt thanks for your continued efforts to serve our Houston community. Happy Birthday! Billie Carr.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. ROS-LEHTINEN (at the request of Mr. ARMEY) for after 1:00 p.m. today and the balance of the week on account of attending her daughter's graduation.

Mr. REYES (at the request of Mr. GEPHARDT) for after 1:00 p.m. today, Thursday, June 4, 1998 on account of official business.

Mr. LEWIS of Georgia (at the request of Mr. GEPHARDT) for after 12:30 p.m. today, June 4, 1998, and for the balance of the week on account of personal business.

Mr. MCGOVERN (at the request of Mr. GEPHARDT) for today before 4:00 p.m. on account of official business.

Mr. ENGEL (at the request of Mr. GEPHARDT) for today after 5:30 p.m. on account of personal business.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 7:30 p.m. on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILCHREST) to revise and extend their remarks and include extraneous material:)

Mrs. LINDA SMITH of Washington, June 5, for 5 minutes.

Mr. REDMOND, today and June 5, 8, 9 and 10, for 5 minutes each.

Mr. HUTCHINSON, today, for 5 minutes.

Mr. HORN, today, for 5 minutes.

Mr. RIGGS, today and June 5, for 5 minutes each.

Mr. SOLOMON, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SPRATT) and to include extraneous matter:)

Mr. NEAL of Massachusetts.
Mr. BARRETT of Wisconsin.
Mr. DAVIS of Florida.
Mr. KIND.
Mr. MENENDEZ.
Mr. MCHALE.
Mr. FROST.
Mr. REYES.
Mr. SCHUMER.
Mr. GEJDENSON.
Mr. BORSKI.
Mr. KUCINICH.
Mr. FORD.
Mr. PALLONE.
Mr. STARK.
Mr. ROEMER.
Mr. LANTOS.
Mr. SERRANO.
Mr. STARK.
Ms. KAPTUR.

(The following Members (at the request of Mr. GILCHREST) and to include extraneous matter:)

Mr. WELDON of Pennsylvania.
Mr. GILMAN.
Mrs. ROUKEMA.
Mr. HORN.
Mr. CRANE.
Mr. GEKAS.
Mr. PAPPAS.
Mr. ROGAN.
Mr. ROGERS.
Ms. ROS-LEHTINEN.
Mr. BEREUTER.
Mr. GALLEGLY.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 824. An act to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the "Howard T. Markey National Courts Building."

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for this approval, a bill of the House of the following title:

H.R. 3565. An act to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

ADJOURNMENT

Mr. GILCHREST. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 33 minutes a.m.), the House adjourned until today, June 5, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9441. A letter from the Administrator, Commodity Credit Corporation, Department of Agriculture, transmitting the Department's final rule— Amendment to the Production Flexibility Contract Regulations (RIN: 0560–AF25) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9442. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada; Nevada Division of Environmental Protection; Washoe County District Health Department [FRL–6014–5] received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9443. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Florida [F1-071-9810a; FRL–6015–4] received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9444. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey (Transmittal No. DTC–54–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9445. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1998 Summer Flounder, Scup, and Black Sea Bass Fisheries [Docket No. 09–302051–8119–02;I.D. 021198B] (RIN: 0648–AK78) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9446. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—New Mexico Regulatory Program [NM–038–FOR] received June 3, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9447. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Kansas Abandoned Mine Land Reclamation Plan [SPATS No. KS–015–FOR] received June 3, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9448. A letter from the National Director of Appeals, Internal Revenue Service, transmitting the Service's final rule—Federal Income Tax Withholding on Compensation Paid to

Nonresident Alien Crew by a Foreign Transportation Entity—received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9449. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Certain Cash or Deferred Arrangements [Rev. Rul. 98-30] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9450. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Permitted Elimination of Preretirement Optional Forms of Benefit [TD 8769] (RIN: 1545-AV26) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOSS: Committee on Rules. House Resolution 457. Resolution providing for the consideration of the Senate amendments to the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles (Rept. 105-566). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 458. Resolution providing for further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes (Rept. 105-567). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DINGELL (for himself and Mr. GORDON):

H.R. 3990. A bill to amend the Telephone Disclosure and Dispute Resolution Act to prevent unfair and deceptive practices in telephone billing for miscellaneous products or services; to the Committee on Commerce.

By Mr. BUNNING of Kentucky:

H.R. 3991. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by certain nongovernmental placement agencies, and for other purposes; to the Committee on Ways and Means.

By Mr. CRANE (for himself and Mr. MATSUI):

H.R. 3992. A bill to amend the Internal Revenue Code of 1986 to establish a 5-year recovery period for petroleum storage facilities; to the Committee on Ways and Means.

By Mr. GORDON:

H.R. 3993. A bill to extend the period for beneficiaries of certain deceased members of the uniformed services to apply for a death gratuity under the Servicemembers' Group Life Insurance policy of such members; to the Committee on Veterans' Affairs.

By Mr. KNOLLENBERG (for himself, Mr. HOEKSTRA, and Mr. UPTON):

H.R. 3994. A bill to amend the Wagner-Peyser Act to clarify that nothing in that Act shall prohibit a State from using individuals other than merit-staffed or civil service employees of the State (or any political subdivision thereof) in providing employment services under that Act; to the Committee on Education and the Workforce.

By Mr. NEAL of Massachusetts (for himself, Mr. MCDERMOTT, and Mrs. KENNELLY of Connecticut):

H.R. 3995. A bill to amend the Internal Revenue Code of 1986 to reduce the marriage penalty in the earned income tax credit; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 3996. A bill to amend the Reclamation Wastewater and Groundwater Studies and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Alameda County Brackish Water Desalination Project for the reclamation and reuse of water, and for other purposes; to the Committee on Resources.

By Mr. STARK (for himself, Mr. CARDIN, Mr. KLECZKA, Mr. LEWIS of Georgia, and Mr. BECERRA):

H.R. 3997. A bill to amend title XVIII of the Social Security Act to require Medicare+Choice organizations to assuring access to obstetrician-gynecologists and to assure continuity of care; referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER (for himself, Mr. GILMAN, and Mr. SMITH of New Jersey):

H.J. Res. 120. A joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.J. Res. 121. A joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Ways and Means.

By Mr. BARTON of Texas (for himself, Mr. SOLOMON, Mr. GIBBONS, Mr. SESSIONS, Mr. COBURN, Mrs. MYRICK, Mr. TAYLOR of Mississippi, Mr. BALLENGER, Mr. BURTON of Indiana, Mr. SHAYS, Mr. TRAFICANT, Mr. PORTMAN, Mr. HASTERT, Mrs. NORTHUP, Mr. GRAHAM, and Mr. LATHAM):

H. Res. 456. A resolution amending the Rules of the House of Representatives to provide for mandatory drug testing of Members, officers, and employees of the House of Representatives; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. HERGER, Mr. DOOLITTLE, Mr. ROYCE, and Mr. LEWIS of California.

H.R. 64: Mr. PAUL.

H.R. 371: Mr. ABERCROMBIE, Mr. HALL of Texas, Mr. PETRI, and Ms. JACKSON-LEE.

H.R. 372: Mr. NEAL of Massachusetts.

H.R. 530: Mr. FOSSELLA, Mr. KING of New York, and Mr. INGLIS of South Carolina.

H.R. 535: Ms. SLAUGHTER.

H.R. 536: Ms. MILLENDER-MCDONALD.

H.R. 617: Mr. KLECZKA.

H.R. 746: Mrs. FOWLER.

H.R. 815: Mr. LIVINGSTON.

H.R. 857: Mr. PAPPAS.

H.R. 859: Mr. COX of California.

H.R. 1025: Mr. SANDERS.

H.R. 1037: Mr. BLUNT.

H.R. 1173: Mr. ROMERO-BARCELO.

H.R. 1315: Ms. HOOLEY of Oregon.

H.R. 1401: Mr. OBERSTAR, Mr. LEACH, Mr. LATHAM, Ms. DEGETTE, Ms. KAPTUR, and Ms. LEE.

H.R. 1689: Mr. GOODLATTE.

H.R. 1951: Mr. WYNN, Mr. BISHOP, Mr. MCNULTY, Mr. MANTON, Mr. RAHALL, and Mr. PICKETT.

H.R. 2023: Mr. PALLONE.

H.R. 2094: Mr. JACKSON.

H.R. 2275: Ms. KILPATRICK and Mr. FOX of Pennsylvania.

H.R. 2348: Mrs. BONO.

H.R. 2349: Mrs. BONO.

H.R. 2450: Mr. MANZULLO.

H.R. 2488: Mr. DEUTSCH.

H.R. 2504: Ms. CARSON.

H.R. 2593: Ms. SÁNCHEZ.

H.R. 2598: Mr. LUCAS of Oklahoma.

H.R. 2661: Mr. BOEHNER, Mr. HALL of Texas, Mr. NORWOOD, and Mr. PAUL.

H.R. 2721: Mr. SESSIONS and Mr. BARCIA of Michigan.

H.R. 2740: Mr. ENSIGN.

H.R. 2818: Mrs. CAPPS.

H.R. 2854: Mr. MCGOVERN.

H.R. 2914: Mr. WELDON of Pennsylvania

H.R. 2923: Mr. MCDADE and Mr. OLVER.

H.R. 2938: Mrs. MEEK of Florida.

H.R. 2956: Mr. THOMPSON.

H.R. 3001: Mr. BURR of North Carolina, Mr. BROWN of Ohio, and Mr. TAUZIN.

H.R. 3126: Mr. WAXMAN, Mr. SERRANO, and Mr. SANDERS.

H.R. 3128: Mr. HINCHEY.

H.R. 3149: Mr. TALENT.

H.R. 3151: Mr. TALENT.

H.R. 3162: Mr. NEY.

H.R. 3181: Mr. YATES.

H.R. 3189: Mr. SPENCE, Mr. SHIMKUS, Mr. DOOLITTLE, Mr. SMITH of New Jersey, and Mr. BACHUS.

H.R. 3205: Mr. GOODE and Mr. FORD.

H.R. 3240: Mrs. MEEK of Florida.

H.R. 3243: Mr. STEARNS.

H.R. 3259: Mr. SANDERS, Mr. FORD, Mr. WAXMAN, Mr. KILDEE, Mr. SAWYER, Mr. SERRANO, and Mr. FILNER.

H.R. 3262: Mr. WYNN.

H.R. 3283: Mr. HASTINGS of Florida, and Mr. HALL of Texas.

H.R. 3300: Mr. PAUL.

H.R. 3304: Mr. BUNNING of Kentucky and Mr. ENSIGN.

H.R. 3334: Mr. WATKINS, Mr. CLAVERT, Mr. ISTOOK, and Mr. SHADEGG.

H.R. 3396: Mr. MANTON, Mr. THOMPSON, Mr. STRICKLAND, and Mr. NEY.

H.R. 3514: Mr. BORSKI.

H.R. 3537: Mrs. CLAYTON, Mr. BARRETT of Wisconsin, Mr. LUTHER, Mr. MCGOVERN, and Ms. CARSON.

H.R. 3567: Mr. KIM, Mr. ROMERO-BARCELO, and Mr. DEFAZIO.

H.R. 3570: Mr. ANDREWS and Mr. JACKSON.

H.R. 3605: Mr. SPRATT.

H.R. 3624: Mr. HOBSON and Ms. MILLENDER-MCDONALD.

H.R. 3640: Mr. SERRANO.

H.R. 3648: Mr. PICKERING and Mr. MCCOLLUM.

H.R. 3659: Mr. WICKER, Mr. PICKERING, Mr. HAYWORTH, Mr. SOLOMON, Mr. RYUN, Mr. BOUCHER, and Mr. WALSH.

H.R. 3661: Mr. PICKERING and Mr. METCALF.

H.R. 3682: Mr. SCARBOROUGH.

H.R. 3687: Mr. STENHOLM.

H.R. 3783: Mr. CALVERT, Mr. NEUMANN, Mr. SOLOMON, Mr. BARTLETT of Maryland, Mr.

Hutchinson, Mr. Watts of Oklahoma, and Mr. McHugh.

H.R. 3795: Mr. LoBiondo.

H.R. 3831: Ms. Lofgren, Mr. Lewis of Georgia, Ms. Eddie Bernice Johnson of Texas, Mr. Stokes, Mrs. Maloney of New York, Mr. Borski, Mr. Waxman, and Mr. Sandlin.

H.R. 3833: Mr. McDermott, Mr. Towns, Mr. Waxman, Mr. Jackson, and Ms. Carson.

H.R. 3862: Ms. Hooley of Oregon, Mr. Stark, Mrs. Kelly, Mr. Blumenauer, Mr. McGovern, Mr. Cook, and Mrs. Meek of Florida.

H.R. 3879: Mrs. Emerson, Mr. Solomon, Mr. Talent, Mr. Lucas of Oklahoma, Mr. Hutchinson, Mr. Canady of Florida, Mr. Norwood, and Mr. McHugh.

H.R. 3886: Mr. Ensign.

H.R. 3911: Mr. Filner.

H.R. 3925: Mr. Blumenauer, Mr. Brown of Ohio, Mr. Wynn, and Mr. Thompson.

H.R. 3938: Mr. Camp, Mr. Archer, and Ms. Danner.

H.R. 3940: Mr. Becerra, Mr. Lewis of Georgia, Mr. Hilliard, and Mr. Frost.

H.R. 3948: Mr. DeFazio, Mr. Kleczka, Mr. Skelton, Mrs. Mink of Hawaii, and Mr. Filner.

H.R. 3949: Mr. Wicker, Mr. Bishop, Mr. Watts of Oklahoma, Mr. Ney, and Mr. Goode.

H.R. 3966: Mr. Barcia of Michigan.

H. Con. Res. 27: Mr. Tierney.

H. Con. Res. 65: Mr. Hamilton.

H. Con. Res. 229: Mr. Berman, Mr. Dicks, Mr. Fossella, Mr. Gibbons, Mr. Hastings of Washington, Mr. Horn, and Mr. Pappas.

H. Con. Res. 249: Mr. McGovern, Mr. Vento, Mrs. Kelly, Mr. Allen, Mr. McNulty, Mr. Brown of Ohio, and Mr. Gephardt.

H. Con. Res. 264: Mr. Canady of Florida, Mr. Price of North Carolina, Mr. Goode, and Mrs. Thurman.

H. Con. Res. 270: Mr. Berman.

H. Con. Res. 274: Ms. Furse, Mr. Weldon of Florida, Mr. Hall of Texas, Mr. Faleomavaega, Mr. Burton of Indiana, Mr. Clement, and Mr. Porter.

H. Res. 16: Mr. Canady of Florida.

H. Res. 363: Mrs. Bono.

H. Res. 404: Mr. Abercrombie, Ms. Pelosi, and Mr. Becerra.

H. Res. 418: Mr. Souder.

H. Res. 438: Mr. Ensign.

H. Res. 444: Mr. Lipinski.

H. Res. 452: Mr. Livingston, Mr. Calvert, Mr. Barrett of Nebraska, Mr. Duncan, Mr. Gutknecht, Mr. Buyer, Mr. McCrery, Mr. Boehner, Mr. Lucas of Oklahoma, Mr. Paul, Mr. Combest, Mr. Chambliss, Mr. Burr of North Carolina, Ms. Ros-Lehtinen, Mr. Walsh, Mr. LoBiondo, Mr. Ballenger, Mr. Saxton, Mr. Upton, Mr. Hobson, Mr. Boehlert, Mr. Quinn, Mr. Talent, Mr. Bonilla, Mr. Tauzin, Mr. Baker, Mr. Pombo, Mr. Watkins, Ms. Pryce of Ohio, Mr. Shimkus, Mr. Houghton, Mr. Blunt, Mr. Ehrlich, Mr. Hastert, Mr. Christensen, Mr. Bryant, Mr. Watts of Oklahoma, Mr. Bilbray, Ms. Granger, Mr. Thune, Mr. Aderholt, Mr. Nussle, Mr. Taylor of North Carolina, Mr. Hastings of Washington, Mr. Largent, Mr. Graham, Mr. Packard, Mr. Nethercutt, and Mr. Camp.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1614: Mr. Skaggs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

Offered By: Mr. Faleomavaega

Amendment No. 53: Add at the end the following new title:

TITLE —CONTRIBUTIONS BY NATIONALS OF THE UNITED STATES

SEC. 01. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

H.R. 2183

Offered By: Mr. Faleomavaega

(To the Amendments Offered By: Mr. Hutchinson)

Amendment No. 54: Add at the end the following new title:

TITLE —CONTRIBUTIONS BY NATIONALS OF THE UNITED STATES

SEC. 01. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

Offered By: Mr. Faleomavaega

Amendment No. 55: Add at the end the following new title:

TITLE —CONTRIBUTIONS BY NATIONALS OF THE UNITED STATES

SEC. 01. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

H.R. 2183

Offered By: Mr. Goss

Amendment No. 56: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—LIMIT ON CONTRIBUTIONS FROM NON-RESIDENTS

SEC. 401. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election—

"(1) from persons other than individual residents of the congressional district involved in excess of 50 percent of the total of contributions accepted; or

"(2) from persons other than individual residents of the State in which the congressional district involved is located in excess of 10 percent of the total of contributions accepted.".

H.R. 2183

Offered By: Mr. Goss

(To the Amendment Offered by: Mr. Hutchinson or Mr. Allen)

Amendment No. 57: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—LIMIT ON CONTRIBUTIONS FROM NON-RESIDENTS

SEC. 401. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election—

"(1) from persons other than individual residents of the congressional district involved in excess of 50 percent of the total of contributions accepted; or

"(2) from persons other than individual residents of the State in which the congressional district involved is located in excess of 10 percent of the total of contributions accepted.".

H.R. 2183

Offered By: Mr. Goss

(To the Amendment Offered by: Mr. Shays or Mr. Meehan)

Amendment No. 58: Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. REDUCTION IN LIMITATION AMOUNT APPLICABLE TO CONTRIBUTIONS BY A MULTICANDIDATE POLITICAL COMMITTEE TO A HOUSE OF REPRESENTATIVES CANDIDATE.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after "$5,000" the following: ", except that in the case of an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the limitation shall be $1,000".

H.R. 2183

Offered By: Mr. Goss

(To the Amendment Offered by: Mr. Shays or Mr. Meehan)

Amendment No. 59: Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to a reporting period for an election—

"(1) from persons other than individual residents of the congressional district involved in excess of 50 percent of the total of contributions accepted; or

"(2) from persons other than individual residents of the State in which the congressional district involved is located in excess of 10 percent of the total of contributions accepted.".

EXTENSIONS OF REMARKS

IN SUPPORT OF SAMPLING FOR 2000 CENSUS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. FROST. Mr. Speaker, I rise today to bring attention to the importance and the need for a fair and accurate census count in the year 2000. The Constitution commands that a census of the nation's population be taken every ten years. Through its failure in accuracy, the 1990 census provided us with many valuable lessons, although better designed and executed than any previous census.

An accurate census is of the utmost importance, because the effects from inaccuracy can be detrimental to the population. As a result of inaccuracy, the 1990 Census caused many Americans to be denied an equal voice in their government. Federal spending employing population based formulas—for schools, crime prevention, health care, and transportation—were misdirected. The census provides the structure to base information and knowledge about the American population, and can only be done in an efficient, effective manner.

The census provides information for virtually all demographic information used by educators, policy makers, journalists, and community leaders. Census data directly affects decisions made on all matters of national and local importance, including education, employment, veterans' services, public health care, rural development, the environment, transportation and housing. Federal, state and local governments use census information to guide the annual distribution of $180 billion in critical services. Congressional seats are reapportioned and legislative districts are drawn based on census data.

The 1990 Census was a difficult undertaking, and in spite of unprecedented efforts to count everyone, accuracy in the 1990 Census fell short of the accuracy achieved in the 1980 Census. According to the Census Bureau, the 1990 Census missed 8.4 million people and double-counted 4.4 million others. In Texas alone, the 1990 Census missed more than 482,700 people, with children representing nearly half of Texas' undercount. Like the national results, a disproportionate number of the undercounted Texans were minorities—4% of African Americans were missed; 2.6% of Asians were undercounted; 5.4% of Latinos and persons of Hispanic origin were missed; and 2.8% of Native Americans were undercounted in Texas.

With all of the information we have gathered, regarding our past mistakes, it is of the greatest urgency that we utilize the most effective, efficient method for counting. Experts from the Census Bureau and three National Academy of Sciences panels concluded that lower accuracy and undercounts were caused through a number of societal trends. Congress has already addressed the issue of inaccuracy in the Census through the Decennial Census Improvement Act of 1991, signed by President Bush, requiring the National Academy of Science to study "the means by which the Government could achieve the most accurate population count possible." Specifically considered was *inter alia,* "the appropriateness of using sampling methods in combination with basic data-collection techniques or otherwise, in the acquisition or refinement of population data for different levels of geography. . . ." The legislation passed in both the House and under suspension of the rules by unanimous consent in the Senate.

An accurate count in the 2000 Census is far too important for partisan, political disputes. We need to ensure that we utilize the most scientific methods available. It is what every American deserves.

CONGRATULATING HIGH POINT REGIONAL HIGH SCHOOL

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate High Point Regional High School in Sussex Borough, New Jersey, on receiving the U.S. Department of Education's prestigious Blue Ribbon Schools Award.

This award recognizes that High Point Regional High School is one of the finest schools in our entire nation. This proves that public education works and that our young people in Sussex County are among the best and brightest. This honor is the result of hard work on the part of students, their parents, teachers and the Board of Education. Special congratulations go to Principal Barbara Miller. As a former teacher and school board member, I am proud of everyone associated with this accomplishment.

Of the thousands of middle schools and high schools across the United States, only 166 this year were found to be outstanding enough to receive this high honor. Recipients of the Blue Ribbon Schools Award have been judged particularly effective at meeting local, state and national goals. The award is presented to schools that have shown strong leadership, a clear vision and sense of mission, high quality teaching, challenging curriculum, a safe environment for learning, solid evidence of family involvement, evidence that the school helps all students achieve high standards, and a commitment to share best practices with other schools. These schools clearly display the quality of excellence necessary to prepare our young people for the challenges of the next century.

High Point serves more than 1,000 ninth-through-twelfth-grade students from the municipalities of Branchville, Frankford, Lafayette, Sussex Borough and Wantage—an area of 123 square miles. The modern, two-story facility was built in 1965 to replace the former Sussex Borough High School and was expanded in 1975 and 1991 to accommodate steady increases in enrollment. The building includes a 7,000-square-foot library/media center, five computer labs with 105 work stations, a variety of comprehensive science labs, a modern television production studio, five physical education facilities, a vocational guidance center, and special education vocational training classrooms. Last year, a fiber optics system was installed to facilitate the expansion of future technology into every classroom. Outdoors, an outstanding rock climbing facility accentuates the extensive recreational opportunities of the region served by the school.

High Point's extensive and rigorous academic program spans more than 170 course offerings, including special courses in computers, engineering, law and cinema. Honors and advanced placement programs are offered in English, computer science, social studies, science, mathematics and foreign languages. Required courses for freshmen include English, mathematics, science, social studies and physical education. A rich and varied arts program is offered, with 25 percent of students participating in the music program and 30 percent in art. The Gifted and Talented program provides unique courses, independent study options, and many workshops and extracurricular activities such as Mock Trial and Model Congress. The fully functional Road Kill Cafe provides on-the-job training for vocational students while special education programs offer both departmental and mainstream classes. A program for autistic students was added during the 1997–1998 school year.

Recognizing that student attendance is essential to foster high student performance, High Point has a strict attendance policy that mandates summer sessions for students with excessive absences. The result is an attendance rate that exceeds 95 percent.

The excellence of High Point's academic program has been repeatedly recognized. The school was selected for the state Department of Education's Best Practices Award in recognition of its innovative Peer Leadership and Adventure Program. The *Star-Ledger* newspaper has ranked it No. 1 in New Jersey among schools of its class. The quality of the academic program is further proven by student test scores. More than 90 percent of students have passed the New Jersey High School Proficiency Test in the past three years, with passing rates of 91.3 percent in reading, 97.8 percent in writing and 98.9 percent in mathematics.

High Point students are well prepared by their teachers, parents and role models in the community. They can rest assured they will be able to handle whatever challenges they

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

choose in life. Once again, congratulations to everyone involved in this impressive achievement.

COMMEMORATING THE RETIREMENT OF LOIS SCHMITT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to commemorate Beattie Elementary School Principal Lois Schmitt upon her retirement after 34 years of service to the community. As the school's principal of 24 years, Principal Schmitt has touched the lives of teachers and students at Beattie Elementary for nearly three decades. Having begun as a teacher when the school first opened, she rose to the position of principal after two years. Her devotion to children and her openness to new suggestions and ideas earned her the respect of her colleagues, parents, and students over the years.

Principal Schmitt committed her life's work to education. Her legacy is the success of this school and the children who have spent their first years of learning within its classroom walls. Although she retires this June, her contribution to our community flourishes through those whose lives she has touched. In the words of Historian Henry Brooks Adams, "A teacher affects eternity; he can never tell where his influence stops."

Thank you, Mr. Speaker for the opportunity to commemorate the work of Lois Schmitt upon her retirement.

THE ANTI-CRAMMING PROTECTION ACT OF 1998

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GORDON. Mr. Speaker, I rise today to introduce important consumer protection legislation, H.R. 3990, the Gordon and Dingell Anti-Cramming Protection Act of 1998. This bill will prevent unauthorized charges from showing up on a consumer's telephone bill, or "cramming" as this practice has been dubbed.

Cramming is the fastest rising subject of fraud, according to the National Fraud Information Center. It has risen from the twelfth on the list of most frequent frauds to fourth. The FCC has received nearly 2000 complaints, and these are largely under-reported numbers.

In most instances of cramming, unauthorized charges are billed every month as a "Miscellaneous Charges and Credits" entry on the local phone bill. I am concerned that cramming will tarnish the integrity of the local phone bill as an option for billing competitive telecommunications services, and hope that it does not lead to selective billing. That way, customers will continue to have competitive choices when ordering telecommunications services.

Approximately 32 million of these "Miscellaneous" transactions are processed for residential customers—that is one out of every 6 Americans. Some of these charges are for long-distance calling plans like 5-cent Sundays that come with a $3.00 monthly fee. Other charges are for enhanced telecommunications services, Internet Access, calling card fees, paging services or telecommunications equipment like caller-ID boxes. The fraudulent or "crammed" charges seem to threaten the legitimate products and services that are billed in the same manner, except without consent.

In my home state of Tennessee, the Tennessee Regulatory Authority has recently handled over 100 cramming complaints—resulting in the removal of over $11,000 in charges from consumers' phone bills.

One of my constituents, Mark Cole, of Smyrna, Tennessee, was crammed when an unauthorized charge for a calling card plan appeared as $9.02 charge on his local phone bill every month. As it turns out, while shopping one day, his wife filled out a contest entry form. However, the fine print was illegible. By signing the contest entry form, she was unknowingly enrolled in a new calling card plan with a monthly fee. It took at least three months and help from the Tennessee Regulatory Authority before the charges were removed.

I have been an advocate for consumer protection and of maintaining the integrity of local telephone billing for several years. I first became involved when constituents began complaining about extraordinary high charges for calls to 1-900 numbers.

Cramming has emerged in a similar fashion as the fraud that once plagued the 900 Number Industry. As the author of the Telephone Disclosure and Dispute Resolution Act (TDDRA), the bill that regulates the 900 Numbers Industry, I know that, it serves as a basis for cleaning up the cramming problem. That is why my bill adds a new Title to TDDRA and will prohibit this deceptive practice.

Allow me to share a few highlights from my legislation. The Anti-Cramming Prevention Act:

Ensures that the subscriber has knowingly consented to any purchase or charges that appear in the miscellaneous section of their phone bill.

Requires the service or product to be clearly listed and described on the phone bill.

Permits consumers to block blocking for miscellaneous charges, where cramming appears, at their request.

Requires the names and phone numbers of the Service Provider and any third party billing company to be printed on bill for the consumer's information.

Entitles consumers that have been crammed to an automatic refund or credit within 90 days of the billing date.

Orders the Federal Trade Commission to prescribe rules and procedures for the resolution of disputes of unauthorized charges reported after the first 90 days.

Cramming is a spreading problem nationwide, and must be stopped. Mr. Speaker, I encourage all of my colleagues that care about consumer protection to sign on as a co-sponsor to the Anti-Slamming Protection Act.

IN HONOR OF ST. JOHN CANTIUS CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. KUCINICH. Mr. Speaker, I rise to recognize the Centennial Anniversary of Saint John Cantius Church.

One hundred years ago, the "Heights" area of Cleveland was a quiet community near the Cuyahoga River. Many of Cleveland's steelworkers and other laborers were Polish immigrants who, although financially poor, were rich in faith. Their religious fervor transcended their small numbers and His Excellency, the Most Reverend Bishop Ignatius Horstmann appointed Reverend Orlowski to serve the parish of St. John Cantius. Masses were originally held in a two-story barn, but the hardworking parishioners looked forward. The poor immigrants understood the importance of a good education. So, they created a pastoral residence, a school, and a Sisters' home in separate apartments behind the barn.

From those humble beginnings, the community built a magnificent Romanesque church, a grade school and high school, and a convent. Yet the parish never forgot their heritage. Still comprised of, in some instances, fourth generation Polish-Americans, St. John Cantius is as active and vital as ever.

Parishioners serve their church and those around them. They belong to service organizations including the Parish Councilmen, 111 Order of St. Francis, Knights of Columbus, St. Stanislaw Kostki Lodge, and the Booster Club. And like their forefathers, today's parishioners also look toward the future. To reflect the changing neighborhood, the Church has brought in two sisters with experience in Latin America and hold Mass in Spanish on Saturday. They recognize the effects of world communication and urbanization on their children; so, they attempt to combine the sophistication of today, with the goodness and humility of their past.

My fellow colleagues, please join me in applauding this committed congregation and the centennial anniversary of Saint John Cantius Church.

CONGRATULATING RIVER DELL REGIONAL HIGH SCHOOL

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate River Dell Regional High School in Oradell, N.J., on receiving the U.S. Department of Education's prestigious Blue Ribbon Schools Award.

This award recognizes that River Dell Regional High School is one of the finest schools in our entire nation. This proves that public education works and that our young people in Bergen County are among the best and brightest. This honor is the result of hard work on the part of students, their parents, teachers and the Board of Education. Special congratulations go to Principal Lorraine Brooks. As a former teacher and school board member, I am proud of everyone associated with this accomplishment.

Of the thousands of middle schools and high schools across the United States, only 166 this year were found to be outstanding enough to receive this high honor. Recipients of the Blue Ribbon Schools Award have been judged particularly effective at meeting local, state and national goals. The award is presented to schools that have shown strong leadership, a clear vision and sense of mission, high quality teaching, challenging curriculum, a safe environment for learning, solid evidence of family involvement, evidence that the school helps all students achieve high standards, and a commitment to share best practices with other schools. These schools clearly display the quality of excellence necessary to prepare our young people for the challenges of the next century.

With 750 students, River Dell has been a four-year high school since 1994. It serves the communities of Oradell and River Edge, hence the name River Dell.

River Dell offers its students a variety of rigorous academic courses which emphasize writing, computer and research skills in all disciplines. All students are required to take four years of English and 25 percent take advanced placement English. Innovative courses such as 10th-grade American Studies—combining American history and literature—supplement more-traditional World Cultures and U.S. History. Chemistry, physics, biology, calculus, statistics, business and economics courses are all offered, most of them at the advanced placement level. The Fine Arts Department requires a professional portfolio of students participating in its advanced placement program. Musical opportunities include band/orchestra, strings, chorus, musicianship and ensemble groups. The Business Department operates a real company, the Sweet Tooth Corp. All students are required to take at least two computer courses.

River Dell teachers are exceptionally well-educated, with 7.4 percent holding doctorates and 90 percent holding a master's degree.

The excellence of River Dell's academic program has been repeatedly recognized. The school has won a series of Best Practices Awards from the state Department of Education, recognizing its programs for the gifted and talented, special students, business and history. The success of the academic programs is also proven by students' success—92 percent of the members of the Class of 1997 went on to college.

River Dell students are well prepared by their teachers, parents and role models in the community. They can rest assured they will be able to handle whatever challenges they choose in life. Once again, congratulations to everyone involved in this impressive achievement!

REMARKS OF ANDREW J. MAIR

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to introduce the remarks of my friend and constituent, Andrew J. Mair. Even in retirement, Andy continues his long tradition of public service by speaking and writing on important issues of domestic and foreign policy. His insightful commentary on social security and the federal budget was published in the Ft. Collins "Coloradoan" on Sunday, May 31, 1998.

As Andy points out, current surpluses generated by the Social Security tax are being used to finance other functions of the federal government. Of the $5.5 trillion gross national debt, $1.7 trillion is held by government accounts. This portion of the debt represents obligations of one government agency, in this case the Treasury Department, to various federal trust funds. The Social Security trust fund is a good example. I hereby submit for the RECORD, Andy Mair's report.

May 14, 1998.

TO THE EDITOR: We are in a period of record prosperity and a booming economy. Unemployment is at a 28-year low. This prosperity has resulted in a record amount of money collected by Social Security in payroll taxes. The surplus goes into the Social Security trust fund.

For decades the federal government has been borrowing the surplus of Social Security and spending it on other federal programs. Therefore, the money owed to Social Security becomes part of the federal public debt.

The current push to reform Social Security and the discussions on what to do with money accumulated by balancing the budget caused me to search out data on the 1998 federal budget.

The White House Office of Management and Budget collects and maintains financial data for the federal government. The data in the attached chart is taken from their report. Copies are available to the public.

The chart shows a rapid expansion in the money collected and the money spent by the federal government. It shows the increase that started in the 1980s has continued through the 1990s.

It shows total receipts, "all money collected" by the federal government; total outlays, all money spent; and the increase in federal debt by fiscal year.

Using three six-year periods in the chart provides the opportunity to evaluate the last six years.

TABLE 1.3.—SUMMARY OF RECEIPTS, OUTLAYS, AND FEDERAL DEBT

[In billions of dollars]

	Receipts	Outlays	Federal debt
1980	$517.1	$590.9	$909,050
1986	769.3	990.5	2,120,627
1992	1,091.1	1,381.7	4,002,453
1998	1,566.8	1,687.5	5,465,000

Total money collected in 1980 was $517.1 billion and in 1998 was $1,566.8 trillion, an increase of over 300% in 18 years. The "outlays," total money spent, went from $590.9 in 1980 to $1,687.5 trillion in 1998, and the public debt increased from $909,050 billion in 1980 to $5,465,000 trillion as of April 15, 1998.

The annual report from the office of Social Security shows total income for retirement, survivor payments, and disability insurance for 1997 was $449.9 billion, and total outgo's were $367.5 billion. This increased the Social Security trust fund by $75.4 billion.

Projections for fiscal year 1998 show income to Social Security will exceed $500 billion, and $100 billion will be added to the trust fund. This will bring the total value of the Social Security trust fund to over $700 billion.

By the year 2012 projections are that money paid out to retirees will exceed money received, unless drastic changes are made in Social Security. Money to pay Social Security benefits will have to be borrowed by increasing the federal debt, or dramatically raising taxes. Will either of these choices be available?

If a thirty-year-old worker looks at the record of the last 18 years, or the last six years. He cannot be optimistic there will be any Social Security for him.

In prosperous times, with everybody working, why have we increased total federal debt by over $1 trillion during the last six years? Why have we increased federal spending by over $300 billion?

No, the day of big government is not over. We are not putting Social Security first. We have the best government in the world. Social Security is a good program. It can be saved if the government will put its financial house in order and stop the rapid expansion in federal spending.

ANDREW J. MAIR,
Retired, U.S. Government.

By current estimates, the Social Security trust fund will continue to run a surplus until 2012, when the first of the Baby Boom generation begins to retire. After that time, general federal tax revenues will be required to cover the ever-increasing difference between Social Security expenditures, and the revenue from Social Security taxes. Unless changes are made, this situation will place an ever-increasing squeeze on the federal budget, forcing either massive cuts in other programs or cutting Social Security benefits bloating the debt or eventually, a combination of these responses. The arithmetic which makes this a certainty is clear: As recently as 1950, there were 16 workers for every Social Security beneficiary. Today there are only 3.3. By 2025, there will be fewer than two.

What is needed is a fundamental reassessment of how the federal government spends the taxes it collects. Though the budget is technically near-balance, we must continue to reduce spending and real reforms must be instituted to sustain Social Security.

The National Debt Repayment Act (H.R. 2191) offers responsible management for any future budget surpluses. As an original cosponsor of this legislation, I am working hard to see it become law. The proposal will require an annual surplus of one percent. The proceeds from that surplus will then be used to pay for the various trust funds, tax cuts and debt repayment. This planned, systematic approach to the budget will assure continued progress toward a rational fiscal policy. This will enable us to further decrease interest rates, ensure the integrity of the Social Security and highway trust funds, and eliminate the burden our children and grandchildren would otherwise have to bear. Reforms such as H.R. 2191 are a good first step, but we must act now to assure the government fulfills its obligations to today's retirees, as well as tomorrow's Clearly, spending the "surplus" on new programs is unacceptable. I thank Andy Mair for his continuing involvement on this and other issues of importance to my constituents and all Americans.

HONORING HENDERSONVILLE HIGH SCHOOL STATE SOCCER CHAMPIONS FOR AN OUTSTANDING SEASON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GORDON. Mr. Speaker, I would like to express my congratulations to the Commandos of Hendersonville High School in Hendersonville, Tennessee as they celebrate their victory in the 1998 TSSAA Class AAA State Soccer Championship.

This is a tremendous achievement for the Commandos as it is their first State Championship since 1989. In a remarkable show of school and community spirit, senior team members aspired to win not only for themselves, but also for alumni who had played before them.

The championship game was won 2 to 1 by the Commandos under the leadership of Head Coach Russ Plummer and Assistant Coach Darren Frank. Goals were made by seniors Jeff Cundiff and Dylan Brown. Other team members include seniors Ryan Brody, David Kopko, Ryan McComas, Leif Sherry, Clark Hastings, Ian Cummings, and Ben Meyer; juniors Danny O'Keefe, Doug Ziegler, and Michael Rose; and sophomores Joe Carmack, Ryan Alexander, Travis Pulley, Jeremy Willis, Hank Stanfill, Andy Duensing, Corey DeGuira, and Zach Glaser. I congratulate these players and others who have made significant contributions to their success, including Hendersonville High School Principal Paul Decker, Athletic Trainer Robb Williams, Athletic Director Charlie Lewis, and Team Managers Kathy Calderala and Megan McMullen.

However, the greatest honor goes to the parents who, I am sure, are very proud of their sons' accomplishments. I give my highest congratulations to these young men on their great achievement. I am certain the Hendersonville community is very proud of these young men for their hard work and dedication.

IN HONOR OF COLONEL DAVID (MICKEY) MARKUS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. SCHUMER. Mr. Speaker, I stand here today to honor the memory of a truly exceptional citizen on the 50th anniversary of his tragic death.

Colonel David (Mickey) Markus was a hero. Brooklyn born and bred, Colonel Marcus graduated from West Point in 1924 before returning to Brooklyn to attend Brooklyn Law School. After graduation, Colonel Marcus served our country as an Assistant United States Attorney and then as an officer in the Army during World War II.

In 1948, Colonel Markus travelled to the Middle East to fight for the creation of a Jewish state in the War of Independence. While serving as an officer in the Israeli army, Colonel Markus was killed in battle.

Even though he was serving in a foreign army, Colonel Markus was buried at West Point under special permission by President Truman. His contribution to the fight for an independent Israel were recognized by Prime Minister Ben Gurion, who issued a special statement in his honor. Colonel Marcus's grave is honored with pebbles left by visitors in the Jewish tradition.

Colonel Marcus made our neighborhood and our country proud. We recognize his achievements on this solemn day and honor his memory.

CONGRATULATING BENJAMIN FRANKLIN MIDDLE SCHOOL

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Benjamin Franklin Middle School in Ridgewood, New Jersey, on receiving the U.S. Department of Education's prestigious Blue Ribbon Schools Award.

This award recognizes that Benjamin Franklin Middle School is one of the finest schools in our entire nation. This proves that public education works and that our young people in Bergen County are among the best and brightest. This accomplishment is the result of hard work on the part of students, their parents, teachers and the Board of Education. Special congratulations go to Principal Paul Folkemer, and Superintendent of Schools Frederick J. Stokley. As a former teacher and school board member, I am proud of everyone associated with this accomplishment.

Of the thousands of middle schools and high schools across the United States, only 166 this year were found to be outstanding enough to receive this high honor. Recipients of the Blue Ribbon Schools Award have been judged particularly effective at meeting local, state and national goals. The award is presented to schools that have shown strong leadership, a clear vision and sense of mission, high quality teaching, challenging curriculum, a safe environment for learning, solid evidence of family involvement, evidence that the school helps all students achieve high standards, and a commitment to share best practices with other schools. These schools clearly display the quality of excellence necessary to prepare our young people for the challenges of the next century.

With 600 students, Benjamin Franklin has served students in the sixth, seventh and eighth grades as a middle school since 1985, when it reorganized from a junior high serving seventh, eighth and ninth grades. The mission of the school is to "help children grow up"—intellectually, emotionally, socially and physically—and its organization, instructional program and support system are focused on that goal. The school is divided into two "houses," each with an administrator, guidance counselor, learning disabilities consultant and 12 teachers divided into three teams of four each. Each team meets daily to discuss curriculum, review individual student progress and coordinate activities.

The school's curriculum is comprehensive and challenging. All sixth-grade students are required to take classes in English, math, science, social studies, a foreign language, physical education, art, technology, health and music. Seventh- and eighth-graders take courses in the same categories plus a selection of electives. The focus of the curriculum is on mastery of the language, problem solving, creativity, critical thinking and basic skill development.

Modern technology is a part of all courses. The school has a three-room technology center, a television studio, an automated information retrieval system, and televisions, telephones and computers in every classroom. Students word process all English assignments.

Since 1990, Benjamin Franklin has emphasized a "reality-based" curriculum that links academic topics to real-life situations. Students have explored how race relations played a role in the Yankees' decision to stay in the Bronx, the arson of African-American churches and the World War II Holocaust.

The excellence of Benjamin Franklin's academic program has been repeatedly recognized. In 1996, the school was selected as one of the top 10 schools in New Jersey and was recognized for its reality-based curriculum. In the past four years, the school has received nine Best Practices Awards from the state Department of Education, recognizing its courses in citizenship (twice), career education, English (twice), art, special education, foreign language and physical education. No other school in New Jersey has received that many awards during the four-year history of the Best Practices program.

Benjamin Franklin students are well prepared by their teachers, parents and role models in the community. They can rest assured they will be able to handle whatever challenges they choose in life. Once again, congratulations to everyone involved in this impressive achievement.

SPEAKER GINGRICH ADDRESSES ISRAEL'S PARLIAMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GILMAN. Mr. Speaker, I want to take this opportunity to share with our colleagues the address the Speaker delivered at Israel's parliament during our visit last week in commemoration of Israel's jubilee anniversary. The Speaker's appearance at the Knesset podium was the first by any Speaker of the House of Representatives. Such a historic event reaffirms and underscores the bonds of friendship and cooperation between the United States and Israel, and especially between Israel and the Congress of the United States. Accordingly, while many of our colleagues were privileged to hear the Speaker deliver these moving remarks, I am certain that the remainder of our colleagues would appreciate having the opportunity to review these remarks as well.

This congressional visit to Israel—to celebrate the miraculous rebirth of the modern State of Israel—was the largest visit of Members of the House and Senate to Israel in its fifty-year history. Under the Speaker's leadership, Members participated in valuable meetings with Prime Minister Netanyahu, and with Speaker Dan Tichon, with colleagues of ours in the Knesset. In what was a precedent-setting meeting, it was agreed that a US-Israel parliamentary group would be established, with the first bilateral focus to be on missile defense systems.

We were also privileged to spend several hours with Minister of National Infrastructure Ariel Sharon, who took us to two settlements across the green line in the West Bank. At one site, known as Paduel, we saw across the entire coastal plain to Ben Gurion airport and the skyline of Tel Aviv. It was clear that Israel's security concerns are deep and real.

In his remarks to the Knesset, Speaker GINGRICH eloquently relayed the affection and respect we have for the people and State of Israel. It was a memorable and historic day for the Knesset, the Congress of the United States, and for the citizens our two great democratic institutions represent.

Accordingly, I submit the Speaker's speech for the Knesset to be printed in the CONGRESSIONAL RECORD.

REMARKS BY U.S. HOUSE SPEAKER NEWT GINGRICH TO THE ISRAELI KNESSET, JERUSALEM, ISRAEL, TUESDAY, MAY 26, 1998

Speaker Dan Tichon and Mrs. Tichon; ministers and deputy ministers of the government of Israel; members of the Knesset, former Knesset Speaker Shlomo Hillel; former members of the Knesset; my congressional colleagues; distinguished guests and friends—and as I look out, I see friends, many of whom go back for many years—it is a great honor to stand before you today in the Knesset, the one truly democratic parliament in the entire Middle East. For 50 years, the Knesset has led a nation that has gathered in people from over a hundred lands, survived the perils of many wars, and built a thriving nation out of the desert.

As we celebrate the remarkable achievements of the last 50 years, let me simply say: kol hah-kavod—all honor to you. Democratic leader Dick Gephardt and I have joined with the largest bipartisan gathering of congressmen and senators ever to visit Jerusalem. We are here to celebrate the 50th anniversary of Israel's rebirth as a modern state. We commemorate 50 years of a close and cooperative relationship between our two countries and our two peoples.

In a sense, however, we are not only celebrating the last 50 years. The American and Israeli people are bound together by 3,000 years of a shared and ancient tradition. We are bound together by a common spiritual experience.

It is a bond that is felt most powerfully here, in this city. As we overlook Jerusalem and look at the sights that touched the lives of Abraham, David, and Christ, we understand the depth of a relationship that is far more than shared geopolitical interests. We are bound together morally. Our two countries are committed to freedom, democracy, the rule of law, and individual rights. We're bound together by pure friendship.

It has been a privilege for me to return to Israel and spend time with your leaders, some of whom I've known for almost 20 years. For Marianne, it has been a chance to see friends she worked with on the Israel free trade zone issue.

A member of our delegation, Congressman Tom Lantos, a survivor of the Holocaust, first visited Israel in 1956. And this is his 57th trip to visit Israel.

Two key chairmen in our delegation, Bob Livingston and Ben Gilman, have coupled their leadership in Congress with a deep understanding and love for the land and people of Israel.

Another member, Congressman Henry Waxman, returns to Israel often to visit his daughter, son-in-law, and grandchildren, who live here.

The ties that bind America to Israel are greater than the economic and security interests that our nations share. We are two nations grown from a common source, both forged by the courage and imagination of pioneers and both expressing in our founding documents our ultimate reliance on divine providence.

As we celebrate with you, we remember together the courage of David, who established Jerusalem 3,000 years ago as the political and spiritual capital of the Jewish people. We commemorated that event the last time Marianne and I saw Prime Minister Rabin alive, at an event in our Capitol, in the Rotunda, to celebrate the 3,000th anniversary of Jerusalem. Prime Minister Rabin spoke with deep emotion of his own ties to Jerusalem, the city where he was born and the city he fought to defend throughout his life. We in Congress stood with him then and stand with you today in recognizing Jerusalem as the united and eternal capital of Israel.

We remember the commitment of the early Zionists who convened the first Zionist Congress a century ago, lived through the horror of the Holocaust, and finally, witnessed the birth of a Jewish homeland in Eretz Yisrael. We remember the story of the last 50 years, of a state that has survived wars and countless acts of terrorism to maintain its place among the nations. We remember with you because we believe that the anniversary of Israel's rebirth is not just a celebration for Israel alone, it is a celebration for all who are inspired by the faith that was born in this land. It is a celebration for all who see in Israel an outpost in the struggle for freedom across the globe. And it is a celebration for all who see in the fundamental relationship between our two countries a remarkable history and a great hope.

For we are here to celebrate more than the first 50 years. In a sense, we're here to celebrate the first 3,000 years. And we're not just here to look ahead with you to the next 50 years; we dream of how we and our children can build a future that holds more than the hope for mere survival, a future that can lead to a lasting prosperity, an enduring peace, and a truly free land. Such a future, one marked by peace, prosperity and freedom, must be built upon an unending commitment to security for those who seek peace.

One of our greatest presidents, Ronald Reagan, had a simple strategy to expand freedom across the globe. It came down to three words: peace through strength. He knew that strength was the key to security and that security was essential to peace. He knew that a lasting peace required a durable security.

This truth was reinforced for me in a personal and powerful way during this trip to Israel. On Sunday, we visited the Weizman Institute, where we met with some of your most talented scientists to learn about the technological breakthroughs that will shape our mutual future. As we were leaving, I spoke to Manuela Deviri, whose son Yoni was killed in Lebanon on February 26th of this year. A 20-year-old staff sergeant from Kfar Saba, he served in an intelligence unit and died when a mortar round struck his position. Manuela had, in Abraham Lincoln's words, laid the most costly sacrifice on the altar of freedom. She had lost her son. She still has another son and a daughter and a granddaughter. Yet she said to me unequivocally that she did not believe peace could come without security. And this was her formula: "You should not need two words," she said. "Peace has within it the word security." When you say peace, it must include security, or it has not meaning. While this tragedy has deprived Manuela of Yoni, I know the deepest hope that she has for her granddaughter, Gali, is a future of peace, freedom and security. We join Manuela Deviri and the rest of the Israeli people in their aspirations for peace. No one can understand the depth of that aspiration unless they have lived so long without peace. And no one can hope to achieve true peace unless it is always coupled with true security.

The peace process must ensure that Israel will retain the ability its own citizens from terrorism. It must ensure that Israel maintains secure borders with its neighbors. Without establishing those realities, it cannot succeed.

For this reason, we support the Clinton administration when it says that Israel alone must determine its security needs. We cannot allow non-Israelis to substitute their judgment for the generals the Israel has trusted with its security. If Israel is to take risks for peace, as she has often done in the past, it must be risks she accepts, not risks that are imposed upon her.

While the peace process is designed to provide security within Israel and on her borders, perhaps the greatest threat is beyond the peace process. Israel and the United States now face a growing threat beyond the horizon: weapons of mass destruction in the hands of outlaw dictatorships.

Through our victory in the Cold War, the United States and its allies defeated Soviet communism. In the subsequent years, however, rogue regimes in countries like Iraq, Iran, North Korea and Libya emerged from the shadows of the vanishing Soviet empire. In the hands of these dictatorships, weapons of mass destruction and the means to deliver them have become a dangerous threat to Israel, to the United States and to our allies. Like few others on the planet, Israelis know the real palpable threat from dictatorships that are methodically developing these weapons and delivery technologies.

In 1991, 28 Iraqi Scud missiles rained down on Israel, inflicting causalities and portending Israel's vulnerability. We too know the consequences of these weapons. Thirty-eight young Americans were killed when an Iraqi Scud struck their barracks in Dhahran. Despite the partial effectiveness of Patriot missiles, at times our only defense was the inaccuracy of the Scuds themselves. In our review of the Gulf War, we discovered that not one Scud or Scud launcher was confirmed as destroyed on the ground in Iraq, despite a great effort to do so.

Since 1991, rogue dictatorships have relentlessly worked to improve both their weapons of mass destruction and their delivery systems. Nevertheless, in some quarters, there is a breathtaking avoidance of what these facts imply. If dictatorships work while democracies talk, a catastrophe will become inevitable. For democracies to survive and dictatorships to fail, we must establish a vision of a secure democracy, and we must implement three parallel strategies to achieve that vision.

Our success must be built on the strategies of containment, defense and replacement. First, we must put unrelenting pressure on anyone assisting these outlaw dictatorships with their weapons programs. We cannot have normal relations with governments' either tolerating or encouraging assistance to these dictatorships, whether the governments are active participants or acquiescent partners.

Due to Russian assistance, Iran will reportedly be able to manufacture its own medium-range ballistic missiles by the end of this year capable of striking Israel and parts of Europe. Russia has also assisted Iraq with its own weapons program. It is time for our patience with the Russian government to come to an end. It should be clearly communicated that Russia's relationship with the United States and Israel, and other nations of the West, will suffer if its actions do not match its commitments. The same message should be expressed to others, including China, who assist these countries in their nuclear, chemical, biological and missile programs. We have a range of policy instruments at our disposal, including diplomatic and economic levers, and we should be prepared to use them.

The United States must make clear that stopping Iraq and Iran from acquiring weapons of mass destruction is its most intense goal. And we should organize our allies to jointly prevent these dictatorships from acquiring weapons of terror.

Second, we cannot rely solely on containment to protect us from rogue dictatorships' developing these capabilities. As these countries develop more and more accurate guidance systems for their missiles with increasingly virulent biological and chemical warheads, it will become even more urgent to develop effective defenses against these systems. In the United States today, we do not have the military capability to stop even one theater or intercontinental ballistic missile from reaching its target.

Our senior military officers would be reduced to scanning the horizon like the rest of us, watching for the missile that could destroy our city, our family, our home. We are totally vulnerable. But we are told that a 25-year-old treaty with a non-existent entity, the Soviet Union, prevents us from responding to this danger.

Israel, not bounded by an outmoded dogma, is taking steps to develop missile defense and we are assisting in those efforts. We have joined the Israeli government in the Arrow ballistic missile defense initiative to protect your citizens from the very real threat. The Arrow program is a tribute to the ingenuity and determination of the people of Israel to forge an effective defense for your homeland. The United States must aggressively develop both theater and global missile defenses to complement and reinforce the protection Arrow will provide here in Israel.

Containment and defense provide interim security, but they cannot, by themselves, guarantee success. As long as individual dictators or regimes based on hatred work to develop terror weapons, all democratic societies will be threatened with catastrophe. A single nuclear, chemical or biological device in one of our great cities would create a tragedy of unthinkable proportions.

Our third strategy must be to preempt catastrophe by insisting that dictatorships be replaced with democracies. Clearly, the free world has the capacity to liberate the people of Iraq; clearly, the free world has the resources to encourage the people of Iran to complete the process of change which hopefully began with the election of President Khatami. We need the will, the courage and the determination to work together to replace dictatorships seeking weapons of terror with democracies seeking friendship and economic prosperity.

This vision of democratic success and the failure of dictatorships will require the same level of courage and commitment that in World War II defeated Nazi Germany, fascist Italy, and imperial Japan. It will require the unrelenting persistence that for 45 years methodically contained, defended against, and in concert with the Russian and other captive peoples, ultimately replaced a communist dictatorship with fledgling democracies. Those democracies, while still struggling, have advanced freedom dramatically from the police state they replaced.

Free peoples who face down and defeated these dangers, should see today's dangerous but fragile dictatorships for what they are—our opportunities to expand freedom. Sustaining security and establishing freedom will lead not only to peace but also to economic prosperity. If we achieve peace through security in this region, the economies will flourish. They will flourish first because open borders and free trade produce wealth. No one should know this better than the Palestinians. When acts of terror force Israel to seal its border, it is the Palestinians who suffer most. They lose access to the strong Israeli economy, and 100,000 Palestinians are cut off from their jobs. When regional tension chokes off commerce, it is Israel's neighbors who suffer most. Open borders and free trade allow others to share in Israel's economic growth.

In addition, the region's economies will flourish as broad cooperation solves the most pressing problems of the next 50 years. Nowhere is that cooperation more vital than in dealing with the shortage in the region's most precious resource, water. Water has always been a central security concern in this land. Hezekiah enhanced Jerusalem's security dramatically when he protected the Gihon spring, his water source, by extending the walls of the city. Today, water is an equally critical security concern, with the future of aquifers like the Yarkon as a principal issue in the peace process.

Right now, the United States gives incremental assistance to manage the problem. It has provided hundreds of millions of dollars to the Palestinians, primarily to tap new sources of water and manage the existing ones. In addition, it has assisted other countries in the region by providing them with Israeli expertise on things like drip irrigation and water recycling.

Each of these efforts does assist countries that have a large and growing water deficit. They ultimately have a marginal impact, however. Our challenge for the next 50 years is to find the strategic solution to the shortage of water in the region. We must do more than manage an ever-scarcer resource. We must support the scientific and engineering advances that will erase the shortage of water forever. Israel, the country that caused the desert to bloom, must lead this effort. From the cisterns of Masada to the drip irrigation of today, Israel has learned how to preserve a scarce resource. Today it is the world's leader on those questions.

In the future, Israel should become the world leader on expanding the supply of water. It has both the regional need and the human capital to lower the cost of desalinization and end the shortage of water for the region.

The United States has already invested in sharing Israeli expertise with the region, learning to manage a scarce resource. For the future, leadership demands that we do more than simply manage the current options. We, the United States, must invest with Israel to overwhelm the shortage of water with research that will provide fresh water from an abundant source, the oceans that cover most of our planet.

Our joint efforts for the future are built on the close relationship between our two countries. This relationship has been fostered in a sustained way by the United States Congress. The strong personal bond that members of Congress feel toward Israel has led to consistent support of the state, reaching back to congressional resolutions as early as 1922 that supported a Jewish homeland in Palestine.

Congress approved its first package of aid to Israel, $65 million, in 1951. Congress pressed to maintain Israel's qualitative military edge. It provided emergency military assistance during the Gulf War. Congress approved $10 billion in housing-loan guarantees in order to absorb the flood of Jewish refugees from the former Soviet Union and Ethiopia. It is Congress that enacted legislation in 1995 that requires our government to move its embassy to Jerusalem, finally recognizing the fact that Jerusalem has been Israel's capital for the last 50 years.

As speaker of the United States House, I want to initiate a far more direct relationship between the Knesset and the Congress. Today, Speaker Tichon and I are inaugurating a new U.S.-Israel interparliamentary initiative on strategic cooperation to be pursued by members from the U.S. Congress and the Knesset. This effort was conceived by Chairman Uzi Landau of the Knesset's Foreign and Defense Affairs Committee and Senator JOHN KYL of the U.S. Congress. The initiative will focus on security issues, particularly the crucial question of missile defense. It offers an excellent starting point for broadening and deepening the interaction between the Congress and the Knesset. The relationship are we establishing between Congress and the Knesset, will not be unique. As democracy spreads across the region, as it inevitably will, we should work together to broaden the interaction with other democratic parliaments.

As we celebrate Israel's 50th anniversary, we honor those both American and Israeli whose commitment to security and freedom ensured Israel's survival. Today, we must draw inspiration from their example. And let me just close by sharing with you. We've had a wonderful several days. We just had a meeting with your Foreign and Defense Committee that was very direct and very candid on both sides, not quite up to the Knesset standard of bluntness, but we're trying to learn. I just want to share with you, for one brief moment, the magic that you represent. One hundred years ago, this was Ottoman Turkish land. Russia was czarist. Germany was imperial. China had not yet had the revolution that ended the Confucian domination, and the Manchu Dynasty was still there. Japan was imperial in every sense, and democracy was a strange idea in only a few countries.

One hundred years later, we are gaining. It's painful. It costs lives. We make big mistakes. If you go to Yad Vashem you're reminded with heart-rendering clarity of the cost of being wrong.

And yet in America, in Israel, in Europe, in more and more of Asia, in Russia, day by day, this thing that we jointly represent—elect people to speak for you, put them in one room, and make them fight it out—this thing is slowly spreading across the planet.

I am convinced from our trip here that Israeli democracy's never been more vibrant. It's never had a greater range of potential leaders pushing, shoving, arguing. It's never wrestled more passionately with the future of Israel and its relation with its neighbors. And as an American, I can tell you how much we gained from these days, how stronger we will be going home, how much more grateful we are that you here, in the city of David, continue to stand for freedom, and how much we want to reach out to work with each and every one of you to make sure that 50 years and 3,000 years from now freedom exists in this land.

Thank you for allowing us to visit.

TENTH ANNUAL ASBURY PARK CAROUSEL AWARDS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. PALLONE. Mr. Speaker, this evening, Thursday, June 4th, the Greater Asbury Park, NJ, Chamber of Commerce, will present its Tenth Carousel Awards Dinner at Christie's Restaurant in Wanamassa, NJ. It is a great honor for me to pay tribute to this year's recipients.

The Carousel Awards express the recognition and appreciation of a grateful community to individuals and organizations who have contributed in many ways to the revitalization of Asbury Park, making this great American city a better place to live and work. The recipients of the 1998 awards are:

New Jersey Natural Gas Company, Spirit of Asbury Park Award; Monmouth County Freeholder Theodore J. Narozanick, Special Recognition Award; The Monmouth Ocean Development Council, Special Recognition Award; Kleenzie-Benje Carpet Specialist, Business Achievement Award; Burger King of Asbury Park, Community Service Award; and Asbury Park Fire Department & Emergency Medical Services, Community Service Award.

Mr. Speaker, it is a great honor for me to represent the City of Asbury Park in the U.S. House of Representatives. Asbury Park, on the Jersey Shore, is a city of legendary proportions. Many Americans from other regions of the country may only recognize its name from the title of Bruce Springsteen's first album, "Greetings from Asbury Park, New Jersey." For years and years, people from all walks of life have come to Asbury Park to enjoy the boardwalk, the night life and the sandy beaches. But, besides launching the career of one of America's best-loved singer-songwriters and being a favorite tourist destination for decades, what Asbury Park is really about is a thriving, diverse, tight-knit community, proud of its illustrious past and working hard to build a better future. The recipients of this year's Carousel Awards have all contributed significantly to the advancement of this very special community.

RECOGNIZING EAST BRUNSWICK HIGH SCHOOL FOR ACHIEVING FIRST PLACE IN THE NATIONAL "WE THE PEOPLE" COMPETITION

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. PAPPAS. Mr. Speaker, it is my distinct pleasure to rise today to congratulate John Calimano and his students at East Brunswick High School on earning first place in the nation at the We the People . . . The Citizen and the Constitution competition in Washington, D.C. on May 2 through 4, 1998. This is an exceptional program with an outstanding advisor deserving of much acclaim.

During the national finals of the event, more than 1200 students from 50 states and the District of Columbia demonstrated their knowledge of constitutional principles and their relevance to contemporary issues before simulated congressional committees composed of constitutional scholars, lawyers, journalists, and government leaders.

East Brunswick High School has represented New Jersey in the national finals of the program for ten consecutive years—every year that this prestigious event has been held. They have consistently been recognized as an outstanding institution by the program and have set a standard for excellence during their tenure. Their knowledge of the material is exceptional and their ability to articulate this knowledge is impressive. This year, they demonstrated once again that they are among our nation's best and brightest.

Mr. Calimano has been the teacher and advisor for the program at East Brunswick High School and has established a remarkable track record in his time at the school. The founder of the Institute for Political and Legal Education program at the high school, Mr. Calimano's dedication and tireless efforts have established a tradition of honor at the school. I commend him for all that he has done and wish him much success in his future endeavors.

Congratulations to Mr. Calimano and the members of the National Champion team: Mian Azmy, Michael Carr, Daniel Cohen, Michael Cohen, Stacie Dubin, Andrea Feit, Naomi Finkelstein, Christian Forsythe, Hillary Gallanter, Gina Gancheva, Heather Gerchen, Brett Gursky, Denise Heitzenroder, Rachel Katz, Terry Lin, Jonathan Meer, George Mossad, Amanda Rosen, Joel Pruce, Niyati Shah, Naseer Siddique, Michael Sturm, Robert Thompson, Howard Wachtel, Ari Waldman, Jamie Yonks, and Joanna Young. Mr. Speaker, if this outstanding achievement is any indication of the future success of these students, America's brightest days are truly to come.

PERSONAL EXPLANATION

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BASS. Mr. Speaker, the RECORD currently indicates that I did not vote during rollcall No. 170, on the Hunter Amendment to H.R. 3616, the FY99 Defense Authorization Act. It is my recollection that, in fact, I voted in favor of this important amendment. I therefore ask unanimous consent that the RECORD indicate my support for this amendment.

PERSONAL EXPLANATION

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. MICA. Mr. Speaker, due to official business, I was unable to vote on June 3, 1998.

On approving the Journal Agreed to by the Yeas and Nays, Roll No. 193, I would have voted yes. On designating the Carl D. Pursell Post Office, Roll No. 194, I would have voted yes. On designating the Steven Schiff Post Office, Roll No. 195, I would have voted yes.

THE NEED FOR TECHNOLOGY FOR THE F-15E EAGLE AIRCRAFT

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. COSTELLO. Mr. Speaker, I want to pass along information to my colleagues today bout our nation's defense and a critical issue facing our military forces. The issue concerns much-needed technology for the F–15E Eagle aircraft. The need for this technology is almost always pitted against the realities of the budget and other domestic needs which compete with our military readiness and maintenance expenses.

The F–15E has received the support of the Congress in developing and testing low band self-protection. In the FY97 budget deliberations, Congress chose to develop and test the ALQ–135 Band 1.5, to help the Air Force continue to try and protect the F–15E. We must now move forward to ask the Defense Department to consider the need to procure the ALQ–135 Band 1.5.

Procuring this new technology, which is made in my home state of Illinois, would give greater protection to our men and women in the Air Force. During Desert Shield/Storm, 48 F–15E's were equipped with the ALQ–135 Band 3, or high band. It performed so well during Desert Storm that no a single F–15E was lost to enemy threats, against which the Band 3 provides protection. Unfortunately, there is not the same level of protection with the low band threats. Band 1.5 was not available and as a result, at least one F–15E valued at $50 million was lost. We cannot afford to allow this situation to persist; our airmen and women need the most up-to-date technology possible.

Accelerating funding for the ALQ–135 Band 1.5 will allow much earlier installation and protection of the F–15E, and will provide essential protection to our aircrews. The F–15E can accept this technology; everything is ready to plug the black boxes into the aircraft and provide this protection. One reason to accelerate the funding will be to keep the ALQ–135 Band 1.5 production line open, and avoiding $100 million in cost, savings thousands of jobs with only a $25 million investment.

I urge my colleagues to give consideration to the need to accelerate funding for the F–15E's ALQ–135 Band 1.5 technology. It will provide needed capability to our airmen and allow hardworking citizens to continue working on the current production line.

STATEMENT RECOGNIZING EL SALVADOR'S SUCCESSFUL PRIVATIZATION PROGRAM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GILMAN. Mr. Speaker, I would like to join with the honorable gentleman from North Carolina, Mr. BALLENGER, to recognize the successful privatization program being implemented in El Salvador. Mr. BALLENGER is a distinguished member of our Committee on International Relations, and he and I share a longstanding interest in El Salvador.

After more than a decade of civil war, many people understand that El Salvador has made a successful transition into a healthy, functioning, multi-party democracy—one in which the former FMLN rebels are now completely integrated into Salvadoran society as a political party. What is not as widely known, however, is the fact that El Salvador has also undergone an equally dramatic economic transition. With this statement, we would like to pay tribute to the people of El Salvador and their political leaders, including especially President Armando Calderón Sol, and congratulate them for the success of their recent privatization efforts.

In 1990, El Salvador embarked on the process of modernizing its national economy, including the privatization of key industries. The effect of these policies on the people of El Salvador has been dramatic. In 1997, El Salvador's economy grew by 4 percent, the inflation rate was pushed (from highs of 30 percent in the late 1980s) to below 1.93 percent and unemployment fell to around 7 percent in urban areas. El Salvador is now ranked by the Heritage Foundation as the third most open economy in Latin America. In addition, Moody's recently issued a Baa3 investment grade rating for the country—effectively putting it on par with some of its larger neighbors in Latin America most notably Chile.

Recently, El Salvador successfully privatized its state electricity industry. The state entity known as CEL (the Comisión Ejecutiva Hidroelectrica del Río Lempa) has been the traditional operator of electricity generation and transmission assets in El Salvador.

On January 20, 1998, CEL auctioned 75 percent of the shares of four state-owned electric distribution companies in El Salvador for a total of $586.1 million dollars. This transaction was the first successful privatization of the electric industry in central America, and represents the most money earned to date from any privatization in the region. The three international investors who won the bidding process were: Enersal C.A. of Venezuela, Electricidad de Central America (a division of EMEL) of Chile (in which Pennsylvania Power and Light is a major stock holder) and AES Aurora El Salvador from the United States. Each company reserved 20 percent of its shares for purchase by its workers. The remaining 5 percent shares in each of the four companies will be offered to individual investors on June 10, 1998 on the El Salvador stock exchange.

In April, El Salvador launched a new retirement system based on the Chilean pension fund model. Five companies, including Citibank from the United States, were authorized to manage pension funds. After passing legislation to create the new pension fund retirement system in December, 1996, the Salvadoran government worked carefully to create a proper framework to safeguard and regulate the new pension system. The United States Agency for International Development provided key training for the Superintendencia de Pensiones.

The Government of El Salvador is planning to finalize the privatization of the state telephone company ANTEL next month. In addition to French, Spanish, Swedish and Mexican concerns, three U.S. companies, GTE, Bell South and Southwest Bell have submitted bids.

These privatizations have brought significant private investment to El Salvador. Moreover, to date, organized labor and El Salvador's political parties have been involved and have supported the government's efforts. The privatization process has also been roundly praised for its transparency and openness. These privatizations put El Salvador on the map as a good place to invest in the region.

We extend our best wishes for success to El Salvador as it moves forward with its privatization process.

IN HONOR OF FR. JOHN CHARLES DALTON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor the achievements and contributions of Fr. John Charles Dalton, on the 50th Anniversary of his Ordination.

Father Dalton entered St. Mary Seminary in 1943 and was ordained five years later, by Most Reverend Edward F. Hoban. In his years of service, Father Dalton baptized over 2,000 parishioners and united 545 couples in marriage. He served as Associate Director of Services to the Deaf, Counselor to self-help groups, and role model to his community.

Throughout his distinguished life of service, Father Dalton has been a powerful force in the ministry. From the physical exertion of constructing a ballfield, to the patience of teaching, to the compassion of working with the deaf, Father Dalton has proven himself as a gentleman driven to help his community. He continues to visit the homebound and the hospitalized, and remains active in the Parish Ministry at Holy Name, Cleveland. From him, we can all learn of dedication, selflessness, generosity and wisdom.

My fellow colleagues, please join me in recognizing the community service of Father John C. Dalton, and celebrating the 50th Anniversary of his Ordination.

CARL D. PURSELL POST OFFICE

SPEECH OF

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 3, 1998

Mr. PORTER. Mr. Speaker, I rise in strong support of H.R. 3808, a bill to name a Post Office building in Plymouth, Michigan after my good friend Carl D. Pursell.

Mr. Speaker, this is a fine honor for one of the finest gentlemen to ever grace the halls of Congress. Carl Pursell distinguished himself through his incisive intelligence, his leadership and his friendly demeanor. I had the great honor to serve with Carl on the Appropriations Committee and on the Labor/HHS/Education Subcommittee. I learned a great deal from Carl about appropriations and about the legislative process and, in particular, like the other members of the subcommittee, I benefitted immensely from the knowledge that Carl brought to the subject of education as a result of his past career as a teacher. Carl was uniquely suited to the challenge of formulating a coherent federal education policy and his contributions continue to this day to benefit the nation's students. He was also an early and tireless crusader for the interests of the nursing profession and the driving force behind formation of the National Institute for Nursing Research. His compassion, his common sense, and his strong knowledge of health and education policy issues all combined to make him a strong and effective legislator on behalf of the American people.

Mr. Speaker, this is a truly fitting honor for a truly fine gentleman and I commend the gentleman from Michigan, Mr. UPTON, for his efforts in steering this important legislation to the floor today.

IN HONOR OF FATHER ANTHONY C. CASEY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. SCHUMER. Mr. Speaker, I would like to take a couple of minutes today to recognize the contributions of Father Anthony C. Casey on the 40th anniversary of his ordination.

Father Casey was ordained as a priest on June 15, 1958 in his native Ireland. He came to the United States soon thereafter, and immediately devoted himself to our communities. He has faithfully served on dioceses in Brooklyn and Queens, including St. Mel's in Flushing, Holy Innocents in Flatbush, Saint Joan of Arc in Jackson Heights, and Holy Family in Flushing.

Father Casey joined the Saint Columba family in 1979, bringing with him a strong sense of spirituality and a deep desire to help others. All who have met him have been touched by his sincerity, devotion, charm, and tireless commitment to those in need. The Brooklyn community benefits from the hard work of this truly special man.

Father Casey has also distinguished himself outside the church. While serving our community, Father Casey also devoted considerable energy to his own education. He earned a Master of Science from Iona College and a Ph.D. in Clinical Psychology from St. John's University. A diligent scholar, he has brought the same dedication to his work as an author, linguist, and artist. A leader by example, Father Casey recently lent considerable time and effort towards the push for peace in Ireland.

On this special day, we take time to recognize the contributions of our leader and dear friend. We extend our sincerest thanks to Father Casey, and hope that the Brooklyn community can enjoy the fruits of his labor for years to come.

PERSONAL EXPLANATION

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. McINNIS. Mr. Speaker, because I was attending the funeral services of police officer Dale Claxton, who was shot in his patrol car, I was not present to participate and vote on Wednesday, June 3, 1998.

Mr. Speaker, on the morning of Friday, May 29, 1998, Cortez Police Officer Dale Claxton was fatally wounded. Officer Claxton was a cherished and beloved husband, father and member of the community of Cortez, Colorado. He is survived by his wife Susan Claxton and his children Judy Claxton Choate, Caitlin Claxton, Colton Claxton and Corbin Claxton. The tragic and sudden death of Officer Claxton has left a tremendous hole in a community and he will be greatly missed.

Additionally, deputies Jason Bishop and Todd Martin of Montezuma County Sheriff's Department were wounded as well. The death of officer Claxton as well as the injuries sustained by deputies Bishop and Martin remind us that every day thousands of brave men and women put their lives on the line providing the thin blue wall between the law abiding citizenry and lawlessness.

IN HONOR OF MRS. MARY L. LIDDELL

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. HASTINGS of Florida. Mr. Speaker, it is my privilege to rise today in order to publicly recognize a civic leader of South Florida, Mrs. Mary Liddell.

As some of you may know, Mrs. Liddell has worked tirelessly for the students of the Dade County Public School System.

Mary began her career as an elementary school teacher at Miami's Dubar Elementary School in 1964. Since then, she has served six schools in four decades. In each community, she has blessed her students with an uncommon commitment to an education that goes far beyond reading, writing, and arithmetic.

In addition to her long years of service to the Dade County Public Schools, Mrs. Liddell is a leading community activist. As a representative of the March of Dimes, the YWCA, numerous voter registration drives, and the Democratic Black Caucus of Dade County, she has demonstrated to her students first hand what it means to be an interested and concerned citizen.

After more than 35 years serving the Dade County Public Schools, Mary Liddell will be retiring on June 19, 1998. The following evening, Miami's education and community service communities will be joining together to celebrate her noteworthy career. Mr. Speaker, I ask for any colleagues to join me today as we honor a truly great American. Mary has touched the lives of literally thousands of our children and for that we thank her.

IN HONOR OF HOST/SHPE GALA BANQUET

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate the Society of Hispanic Professional Engineers (SHPE) at the New Jersey Institute of Technology (NJIT) for their second place finish at the SHPE National Academic Olympiad in Orlando, Florida. The NJIT team was attempting to defend their 1997 Academic Olympiad National title, but narrowly lost to the worthy team from Rice University.

The Collegiate Bowl Competition is in a Jeopardy format, but with a focus on engineering. The NJIT SHPE team did successfully defend its regional title by besting teams from MIT, RPI and Stevens Institute of Technology.

The NJIT SHPE team is a tremendous example of the New Jersey Institute of Technology's commitment to diversity and scientific excellence. Team members Rene Yandum, Priya Singh, Omar Rodriguez, and Edward Komenda have done their school and our state proud.

These champions' accomplishments will be celebrated May 16 at the Hispanic Organizations of Students in Technology/Society of Hispanic Professional Engineers of New Jersey Institute of Technology Gala Banquet. The banquet will be held at the Campino Restaurant in Newark, New Jersey.

THE 95TH ANNIVERSARY OF THE HARLEY-DAVIDSON MOTOR COMPANY OF MILWAUKEE, WISCONSIN

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, on June 13, 1998, if you are shaken from your bed in the middle of the night by a loud rumbling while your windows rattle and your floor shakes, don't worry, it's not an earthquake, it's just Milwaukee going "HOG WILD" in anticipation of Harley-Davidson's 95th Anniversary.

All around the country, HOG riders are saddling up and heading to the Midwest and the great City of Milwaukee for a week-long celebration of one of the world's most recognizable American-made products, Harley-Davidson Motorcycles.

I share my hometown of Milwaukee with Harley-Davidson. After college, I even worked on the factory assembly line for a summer. Its commitment to excellence has established Harley-Davidson as a world-class corporation, and its commitment to the Milwaukee community has established Harley-Davidson as a world-class corporate neighbor. And in the true spirit of corporate responsibility, Harley-Davidson is sponsoring five-week-long rides to Milwaukee from around the country and will use the rides to raise funds for the Muscular Dystrophy Association (MDA).

When Harley-Davidson issued its invitation to call its family home for this great celebration, Milwaukee responded by dedicating its resources to ensuring that this celebration will be one for the ages. On June 13, Milwaukee will open its arms and welcome more than 60,000 people to the city for a reunion celebration unparalleled in Milwaukee's history. The city will host spectacular parades of motorcycles winding their way through Milwaukee to the festival grounds. The reunion celebration will feature national and regional entertainment on eight stages located around the grounds and antique motorcycle displays, demonstrations, games, auctions, raffles and an evening birthday celebration.

Harley-Davidson's international success and world-wide recognition for quality is epitomized by the international celebrations of its 95th Anniversary. In conjunction with the activities in Milwaukee on June 13, rides and celebrations are scheduled for Prague, Czech Republic, Mexico City, Mexico, Vancouver, Halifax and cities in Asia and Australia.

I congratulate Harley-Davidson for 95 years of service to motorcyclists across America and around the world and I am proud to be a part of the celebration of this great American corporation.

RECOGNIZING SASHA SCHWARTZ FOR PARTICIPATION IN THE INTERNATIONAL MATH OLYMPIAD

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to recognize an outstanding student from my district—Alexander (Sasha) B. Schwartz. Sasha, a sophomore student at Radnor High School, has won a place on the U.S. Mathematics Olympiad Team which will compete against seventy-five other nations in a two day, nine hour mathematical examination to be held this summer in Taipei, Taiwan.

Sasha took part in the American Invitational Math Exam along with 250,000 other students nationwide. After being named one of the 7,500 students who qualified for the United States of America Math Olympiad, Sasha competed in a grueling six hour exam. As a result of his extensive studying and preparation, Sasha tied for first place in the nation and was named to the National team. Armed with only a compass, protractor, ruler, and pencil, Schwartz will lead the six-member team in a two-day, nine-hour exam in Taipei, Taiwan this coming July.

At a time when many question the quality of our mathematic education in this country, Sasha proves that the United States will produce many of the best students in the world. Sasha's exceptional achievement also speaks for the superb quality of our public school systems in Pennsylvania, highlighting that of Radnor Township.

Mr. Speaker, I ask my colleagues to join me in congratulating this amazing young man on his achievement and in wishing him and the entire U.S. Mathematics Olympiad Team good luck in the upcoming competition in Taipei.

SALUTE TO THE PAINTSVILLE MIDDLE SCHOOL COMMUNITY FUTURE PROBLEM SOLVING TEAM

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. ROGERS. Mr. Speaker, on June 12th and 13th the members of the Paintsville Middle School Community Future Problem Solving Team will be in Ann Arbor, Michigan, for the Future Problem Solvers of America national competition.

This competition is an excellent opportunity for young men and women throughout our nation to put their creative thought processes to work as they find workable, innovative solutions to many of the problems that face our schools, communities, states and nation.

The Paintsville Middle School Community Future Problem Solving Team has already demonstrated its outstanding problem solving abilities by winning the State of Kentucky's Problem Solving Competition. The group helped tackle a local school problem by trying to find a way to help improve student performance on state-required tests.

They analyzed the current situation and came up with the idea of offering instant, confidential, one-on-one help through a free Homework Hotline. The Team worked with the local telephone company and school officials to establish the Hotline, setting up both a telephone line and an Internet chat room. The members of the Community Problem Solving Team manned the Hotline under the supervision of adult volunteers and the 8th grade members of the Team.

The response to the new Homework Hotline was extremely positive. Students who used the service became more adept at refining their questions and moved away from one-line fact requests to research-based inquiries for additional sources of information that they could access on their own. The Team is now considering continuing the program into next year.

I want to congratulate all the members of the Paintsville Middle School Community Future Problem Solving Team: Catlin Boswell, Zachary Boswell, Ashley Boswell, Katie Brown, Hayley Castle, Elizabeth Combs, John Compton, Sashi Param, Malloree Collins, Katie Gilkerson, and John Petot. They have spent countless hours working on the Homework Hotline project, and their dedication to their community and fellow students should serve as an inspiration to us all. I also want to commend the Team's Coach, Brenda Porter, and the Team's advisors: Teresa Boswell, Larry Compton, Teresa Petot, and South Central Bell. Their support and guidance has been invaluable in spurring the success of the Community Future Problem Solving Team.

Mr. Speaker, the activities of the Problem Solvers are important, and we should support their efforts. Today's problem solvers are tomorrow's problem solvers and community leaders. I ask my colleagues to join me in congratulating the Paintsville Middle School Community Problem Solving Team on a job well done, and to wish them the best of luck as they compete in Ann Arbor, Michigan, next week.

TRIBUTE TO GARRY FREID

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. DAVIS of Florida. Mr. Speaker, I rise today to honor Mr. Garry Freid, a constituent of mine in Tampa who will celebrate his eightieth birthday on Monday, June 8th.

Mr. Freid has contributed tirelessly and selflessly to his country, state, community, and family. His patriotism and citizenship continue to shape the face of our nation and are held out as examples to all Americans. As a soldier, businessman, and father, he helped mark many milestones in the history of the United States. So now, it is with great respect and thanks that Congress and I acknowledge his personal milestone today.

As a child of immigrant parents, Mr. Freid and his family represent the earnest fabric of our country. He endured the Great Depression and World War II; his service record is a source of great pride to his family. With his wife Hannah, he prospered, raised four children, supported public education, became a part of the workforce, and helped grow the city of Tampa. Therefore, with thanks and reverence, we mark his personal triumph by saying congratulations.

HONORING MR. CHESTER J. MACKOWIECKI OF AUBURN, MA, ON THE OCCASION OF HIS RETIREMENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to have the opportunity to acknowledge and honor my constituent, Mr. Chester J. Mackowiecki, on the occasion of his retirement from the field of education. Mr. Mackowiecki, resident of Auburn, Massachusetts, has been an educator, administrator, and leader in education in the over 30 years that culminate his career in education. His dedication to improving children's lives through education is evident by his past involvement in and progression through the school system in Webster, Massachusetts.

Mr. Mackowiecki began his career in 1959 as a fifth grade teacher at the School Street School. He then moved to the Webster Intermediate School in 1961 where he served as a fifth grade teacher until he was appointed Assistant Principal. Shortly thereafter, Mr. Mackowiecki served as Principal of the Intermediate Annex and Filmer School until he was appointed to his present position of Principal of the Park Avenue Elementary School. He has served as a leader and mentor to all those students and teachers that have had the opportunity to learn and flourish under his administration at Park Avenue Elementary over an astounding 28 year period!

Mr. Mackowiecki's 39 year commitment to education and to providing quality education to the children of Webster is a most admirable achievement that should serve as an inspiration to all who enter the field of education. The loyalty and pride that is felt toward him by his colleagues and all teachers who have served under his leadership is indicative of the positive atmosphere for learning that Mr. Mackowiecki fostered within the classrooms of the Park Avenue Elementary School. Mr. Mackowiecki will be greatly missed by all those who he has touched and influenced, both young and old. I wish him many years of health, happiness, and peace during his retirement and am assured that the legacy he has left in Webster Education will not be forgotten.

CONGRATULATING KITTATINNY REGIONAL HIGH SCHOOL

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Kittatinny Regional High School on receiving the U.S. Department of Education's prestigious Blue Ribbon Schools Award.

This award recognizes that Kittatinny Regional High School is one of the finest schools in our entire nation. This proves that public education works and that our young people in Sussex County are among the best and brightest. This accomplishment is the result of hard work on the part of students, their parents, teachers and the Board of Education. Special congratulations go to Principal Susan Kappler, Superintendent of Schools Robert Walker and English teacher Carol Fishbone, who helped Mrs. Kappler shepherd the Blue Ribbon application. As a former teacher and school board member, I am proud of everyone associated with this accomplishment.

Of the thousands of middle schools and high schools across the United States, only 166 this year were found to be outstanding enough to receive this high honor. Recipients of the Blue Ribbon Schools Award have been judged particularly effective at meeting local, state and national goals. The award is presented to schools that have shown strong leadership, a clear vision and sense of mission, high quality teaching, challenging curriculum, a safe environment for learning, solid evidence of family involvement, evidence that the school helps all students achieve high standards, and a commitment to share best practices with other schools. These schools clearly display the quality of excellence necessary to prepare our young people for the challenges of the next century.

Kittatinny Regional High School is located on 95 acres in Hampton Township and offers its 1,100 seventh-through-twelfth-grade students a modern physical plant designed for learning. It includes more than 50 classrooms, nine science labs, six computer labs, a media center, two gymnasiums, cafeteria, main office, superintendent's office, a pool and eight athletic fields. A computer network has been installed throughout the building. Each classroom has a telephone, at least one computer and a video connection. The computer labs offer facilities ranging from word processing to presentation software.

An outstanding physical plant is, of course, worthless without an excellent teaching staff and Kittatinny's teachers have been recognized as some of the best in New Jersey. Special education teacher Lynn Bishop and speech coordinator Marie Decker this year jointly received the state Department of Education's Best Practice Award. Social studies teacher Ellen Kolonoski received a grant from the National Geographic Society Education Foundation and sociology teacher Pamela Bilby was chosen to participate in the Belfer National Conference for Education held by the U.S. Holocaust Memorial Museum. English teacher Mary Jane Westra was the 1997 Kittatinny Teacher of the Year and received the Paul Harris Fellow Award from the Newton Rotary. Computer assisted drafting teacher Bill Meyer was the 1997 New Jersey Technology Teacher of the Year and received the 1996 Distinguished Alumni Award from the College of New Jersey. These are just a few of Kittatinny's award-winning teachers and I offer my apologies to those I've left out.

The school offers a wide variety of courses in English, mathematics, science, social studies, history, foreign languages, fine arts, technology, creative arts, health, physical education and business. Many of the courses are given credit by Sussex County Community College. A strong emphasis is placed on honors courses and advanced placement courses. A successful school-to-career program helps prepare non-college-bound students for direct entry into the workforce.

The excellence of Kittatinny's academic program has been repeatedly recognized. Last year, it was selected as one of 10 "Star Schools" in New Jersey. It has received several "Best Practices" awards in New Jersey. Mock trial and other academic teams have earned state championship titles and athletic teams have produced championship titles at county, regional and state levels.

Management style at Kittatinny emphasizes collaborative decision-making, site-based management and teacher/staff empowerment. Committees deal with current and future needs of the school and allow the faculty to have a voice in changes in policy.

Kittatinny students are well prepared by their teachers, parents and role models in the community. They can rest assured they will be able to handle whatever challenges they choose in life. Once again, congratulations to everyone involved in this impressive achievement.

COMMUNITIES IN SCHOOLS OF THE LEHIGH VALLEY

HON. PAUL McHALE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. McHALE. Mr. Speaker, in this season of graduation throughout the country, today I would like to highlight the achievements of a very special group of students. Four years ago, Communities In Schools of the Lehigh Valley created a new "Academy" within William Allen High School in Allentown, PA, in my district. Young people who were at risk of dropping out of school were identified and asked to participate in this new program. With the support of the Allentown School District, an innovative curriculum was created and instituted by two teachers: James R. Gollatz and Darryl Skrovanek. Mr. Gollatz was recently honored as a "Teacher of the Year" at the high school. Mr. Skrovanek has taken a leadership role as President of the Allentown Education Association.

The students recruited into the program found a safe place where they could successfully learn and prepare for life. When additional services were needed to help, Communities In Schools forged partnerships with scores of other organizations to meet these needs. These students found the resources within themselves, in the school, and in the community to meet their challenge. They stayed in school.

Next week, on June 10th, 1998, this group of young adults will accomplish something perhaps they and others doubted they could do: they will graduate with a diploma from William Allen High School. Mr. Speaker, please join me in recognizing the accomplishments of: Albert Albino, Saywood Cross, Brent Davis, Theresa Duch, Lazarus Figueroe, Jeffrey Freer, Zila Gonzalez, Shane Heiser, Stephen Hertzog, Mellisa Koehler, Peter Macias, Mathew Reese, Shuree Riddick, Jennifer Seltzer, Jessica Snyder, and Lindsey Wargo.

I know you join me in offering heartfelt congratulations and best wishes for all their future endeavors.

HONORING ALEX KIRPNICK

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. REYES. Mr. Speaker, I rise today to honor Border Patrol Agent Alex Kirpnick, who was shot and killed last night in Nogales, Arizona. Alex and his partner came upon five drug smugglers crossing just west of Nogales and in the course of doing his job, Alex was killed.

Alex Kirpnick immigrated to the United States from Russia 10 years ago. He had been with the Border Patrol for 20 months and was a highly skilled agent who spoke eight languages. I know from speaking to Alex's colleagues that Alex was a man of great character and he will be missed.

Alex was well-liked and respected by all those he worked with. Alex is survived by his parents, Boris and Eta Kirpnick, and a sister, Zhanna, who live in California. I have never felt the pain of losing a child, but during my tenure as Border Patrol Chief in Texas, I lost many good officers. I would like to extend my condolences to Alex's family and to his colleagues in Nogales who have lost a dear friend and a good agent.

As a former border patrol chief, I know the sacrifices made by the men and women on our border, protecting our communities. I ask all of my colleagues to remember Alex and the often thankless job he performed each and every day. Alex faithfully served our nation and protected our communities while serving on our nation's border and we owe Alex a great debt of gratitude for his service and commitment.

RECOGNIZING THE NEW JERSEY SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS ON THEIR 100TH ANNIVERSARY

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. PAPPAS. Mr. Speaker, I rise today to honor the New Jersey Society of Certified Public Accountants in commemoration of their 100th anniversary. I am honored to recognize this outstanding association for all that they have done for the state of New Jersey and its citizens. Each year, many New Jersey residents turn to these professionals to help sort through the countless number of forms and regulations that the Internal Revenue Service puts out. It is often our CPA that we can thank for keeping our family or business in compliance with the laws.

The New Jersey Society of Certified Public Accountants was founded on January 19, 1898 in Newark, New Jersey and has served the community ever since. They have experienced significant growth and change in their century of existence. Similarly, they have also sparked much growth and prosperity in partnership with New Jersey businesses and citizens.

The organization has encouraged modifications in the tax rate, has supported state tort reform, and was instrumental in the creation of the State's Taxpayer Bill of Rights. It is for this that I pay tribute to this organization on this special anniversary. Their record of service to the people of New Jersey has been meritorious and for this I commend them.

I want to congratulate all of the members of the society and thank them for all of their years of dedication and service. It is a pleasure to have many of the members as my constituents and I wish every one of them future success.

HOUSE CONCURRENT RESOLUTION 286—UNDERSTANDING THE LINK BETWEEN ANIMAL ABUSE AND HUMAN VIOLENCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. LANTOS. Mr. Speaker, I rise today to call attention to the strong link between violence against animals and violence against people, and to call to the attention of my colleagues House Concurrent Resolution 286 which urges greater attention to identifying and treating individuals who are guilty of violence against animals because of the link between abuse of animals and violence against humans. The resolution also calls for additional research to increase our understanding of the connection between cruelty to animals and violence against humans.

After the recent school shootings in Arkansas and Oregon, heavy attention has been paid to the early signs of the potential for children to commit violent crime. It is no coincidence that the accused in these two tragic cases are juveniles with disturbing histories of animal cruelty and abuse. Mr. Speaker, it is common sense knowledge that any individual who harms animals cruelly and deliberately is not otherwise well adjusted.

Mr. Speaker, the FBI already lists violence against animals as a behavioral trait and characteristic of violent offenders. Almost all serial killers are known to have abused animals. Indeed, cruelty toward animals is often a sign of mental disturbance in both children and adults.

Teachers, principals, parents, and law enforcement officers must all be encouraged to recognize this connection and to take incidences of animal cruelty seriously. An abused animal is often a sign that a spouse, a child, or an elder in the household is or may become the victim of aggression and abuse. A pet may be a surrogate target of violence. Abuse of a household pet often fuels violent tendencies that are a precursor to acts of violence against family members and others.

Violence against animals co-exists with and precedes violent crimes, especially crimes of domestic violence. The Federal Government must not overlook this correlation. By studying this link, we can increase awareness and understanding of violent crime and the potential violent crimes in our homes, in our schools, and in our communities.

Furthermore, we must reject the notion that violence against animals is simply normal societal behavior. If we treat cruelty to animals with a dismissive "boys will be boys," we may well be ignoring critical initial signs that may lead to violent behavior and we may be passing up an opportunity to take action to prevent a future tragedy. By allowing children and adults to abuse animals without sanction, Mr. Speaker, we are ignoring an important tool in the fight against domestic violence and an important tool in helping to prevent other tragic acts of violence such as those we have seen in Arkansas and Oregon.

Mr. Speaker, the legislation I have introduced today with the cosponsorship of thirteen of our colleagues expresses the sense of Congress that appropriate Federal agencies thoroughly support and incorporate research on the connection between acts of cruelty against animals and humans. Furthermore, it recognizes the validity and significance of this link.

Mr. Speaker, I urge my colleagues to join me in encouraging research and awareness about this disturbing connection between violence against animals and violence against people. I ask that the full text of this resolution be placed in the RECORD.

H. CON. RES. 286

Expressing the sense of the Congress regarding the link between violence against animals and violence against humans and urging greater emphasis upon identifying and treating individuals who are guilty of violence against animals, which is a crime in its own right in all 50 states, in order to prevent violence against humans and urging research to increase understanding of the connection between cruelty to animals and violence against humans.

Whereas as urgent need exists to prevent violence, especially among juvenile offenders and in domestic situations;

Whereas a strong correlation between animal abuse and violence against humans has been documented by criminal profiling experts associated with the Federal Bureau of Investigation, who have identified cruelty to animals as one of the three traits often found in the "homicidal traid" which indicates the characteristics of a violent personality;

Whereas a disproportionately high number of violent killers in the prison system admit to having abused animals, and virtually every serial killer and many violent killers have a history of abusing animals;

Whereas many of the recent cases of school violence have involved students with a history of abusing animals;

Whereas individuals who deliberately abuse animals are more likely to abuse their spouse and their children or otherwise be involved in violent crimes;

Whereas some experts believe that abusing animals may increase or fuel the desire to commit violence against humans in certain disturbed individuals;

Whereas animal cruelty is violence and should be recognized as such when assessing an individual's propensity to commit future acts of violent crime;

Whereas intentional animal abuse is an early warning signal that individuals, including young people, could perpetrate violent crimes against other individuals; and

Whereas laws against cruelty to animals have been enacted in all 50 states and provide penalties for the purposeful torture and killing of animals, and the enforcement of these animal abuse laws provide law enforcement officials with an opportunity to bring potentially violent offenders into the criminal justice system before they commit more serious crimes against humans;

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes that individuals who abuse animals are more likely to commit more serious violent crimes against humans;

(2) urges social workers, teachers, mental health professionals, and others to be aware of the connection between animal cruelty and human violence and to evaluate carefully and to monitor closely individuals who have a history of abusing animals because this may indicate a propensity to commit violence against other humans;

(3) urges appropriate Federal agencies to encourage and support research to increase the understanding of the connection between cruelty to animals and violence against humans in order to utilize instances of animal abuse to identify and intervene with potentially violent individuals, and urges federal agencies which are undertaking research on violent crime and its causes to incorporate examination of the link between violence against animals and violence against humans;

(4) urges local law enforcement officials to treat cases of animals cruelty seriously both because such cruelty is a crime in its own right in all 50 states and because it is a reliable indicator of the potential for domestic and other forms of violence against humans; and commends the fine work of local animal control officials and humane investigators who enforce laws against animal abuse and urges these professionals to work more closely with local law enforcement personnel to identify and prevent potential violence against humans.

THE MEDICARE CONSUMER BILL OF RIGHTS CONFORMING ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. STARK. Mr. Speaker, earlier this year, President Clinton issued an Executive Memorandum directing all Federal health plans, which serve over 85 million Americans, to come into substantial compliance with the Consumer Bill of Rights recommended by the President's Quality Commission.

The Advisory Commission on Consumer Protection and Quality in the Health Care Industry recommended: Consumer information disclosure; choice of providers and plans; access to emergency services; consumer participation in treatment decisions; nondiscrimination protections; confidentiality of health information; access to complaints and appeals processes; and, a recognition of consumer responsibilities.

The Medicare program is already meeting most of these standards, but there are two specific components of the Consumer Bill of Rights that cannot be enforced in Medicare without a statutory fix. Both provisions affect the choice of plans and providers. The first would grant women direct access to obstetricians and gynecologists, the second would grant transitional care protections to patients who are undergoing a course of treatment and faced with an involuntary change in health plans or their doctor leaving the plan.

Today, I rise with my Democratic colleagues from the Ways and Means Health Subcommittee to introduce "The Medicare Consumer Bill of Rights Conforming Act" which creates statutory authority for Medicare to fully enforce the President's Quality Commission's Consumer Bill of Rights.

The Medicare Consumer Bill of Rights Conforming Act would require health plans to allow a Medicare beneficiary to select an OB–GYN as her primary care provider if she so chooses. It would also prohibit health plans from requiring women to obtain prior authorization before obtaining routine gynecological care.

An issue of real concern to people in managed care plans, and those thinking of joining them, is that doctors come and go from health plans, resulting in a loss of continuity of care for patients during those transitional times. The Medicare Consumer Bill of Rights Conforming Act would create short-term protections for Medicare patients in such situations. Patients undergoing a course of treatment when a health care provider is terminated from the plan would be able to continue that care with the same provider for up to 90 days. Cases involving institutionalization, pregnancy or terminal illness could have longer periods of transitional coverage. In all instances, the provider would need to accept the payment rate of the patient's health plan in order to qualify for continued participation.

The Medicare Consumer Bill of Rights Conforming Act is a small but important piece of legislation that would ensure Medicare beneficiaries of a basic set of consumer protections. These protections are not controversial. They were endorsed by the President's Quality Commission, which included representatives of big business, insurers, small business, labor, consumers, seniors, and the managed care industry. This is a very small step for Congress to take to provide Medicare with the authority to enact these protections for our nation's seniors and disabled population. I look forward to working with my colleagues to enact this sensible, non-controversial legislation.

INTRODUCTION OF LEGISLATION TO REDUCE MARRIAGE PENALTY OF EARNED INCOME TAX CREDIT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, along with Representatives MCDERMOTT and KENNELLY, I am introducing legislation which addresses the marriage penalty of the earned income tax credit (EITC). Recently, there has been a lot of talk about reducing the marriage penalty. Several bills have been introduced to reduce the penalty. In addition, the House Budget Resolution includes a provision to reduce the marriage penalty.

The focus of reducing the marriage penalty has been geared toward middle income and upper income families. Senator PHIL GRAMM was the first Member of Congress to bring attention to the marriage penalty of the EITC. Senator GRAMM is attempting to amend the tobacco legislation. His amendment addresses the marriage penalty for families with lower incomes and the marriage penalty of the EITC.

Today, we are introducing legislation which addresses part of the marriage penalty in the current Tax Code by increasing the phase-out of the EITC for joint filers with qualifying children. This legislation increases the phase-out by $3,500. In 1999, the current law phase-out is $12,520 and this bill increases it to $16,020. The substantive effect of this bill is the same as the EITC provision in Senator GRAMM's amendment.

This legislation complements legislation introduced by Reps. MCDERMOTT and KLECZKA. Their bill increases the standard deduction for those filing joint returns. The bill I am introducing today and the McDermott/Kleczka bill provide a realistic solution to the marriage penalty that addresses the issues at all income levels.

I urge you to join me in reducing the marriage penalty associated with the EITC. This legislation will help working families who are trying to stay off welfare.

H.R. 3990, THE "ANTI-CRAMMING PROTECTION ACT OF 1998"

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. DINGELL. Mr. Speaker, I rise today to introduce H.R. 3990, the "Anti-Cramming Protection Act of 1998" to protect the American public from those that perpetrate the unfair and anti-competitive outrage known as "cramming." Crammers are companies that impose phantom charges on customers' telephone bills without their knowledge or consent.

In this information age, consumers are increasingly turning to their telephones not only to communicate with their friends, family, and business associates, but as a device for engaging in electronic commerce. With this legislation, we can ensure that consumers have protections from those who would swindle them simply because they use their telephone.

This legislation entitles consumers to have crammed charges dropped from their telephone bills if they dispute the charges within 90 days of receiving their telephone bill. The bill authorizes State Attorneys General to sue crammers under Section 5 of the Federal Trade Commission (FTC) Act to protect consumers in their States from crammers. The bill requires the FTC to write rules to outlaw unfair and deceptive acts and practices in connection with billing for products or services on telephone bills. These rules would ensure that such charges are authorized by the consumer and are easily identifiable on the consumer's telephone bill. Also, subscribers would be permitted to block telephone billing of miscellaneous products and services at their own election. Finally, telephone companies would be authorized to discontinue billing on behalf of known crammers.

Cramming is a spreading problem. Cramming is one of the most frequent sources of consumer complaints at the Federal Communications Commission (FCC). Moreover, since cramming is a relatively new breed of consumer fraud, existing law is inadequate to provide consumers needed protection. Since the FCC began recording cramming complaints in December, it has processed nearly two thousand complaints. Local telephone companies also have received thousands of complaints, and that number is rising rapidly. Worse, since crammed charges are usually undetected by the consumers who are victimized, many cases go unreported. Without tough legislation, the number of victims is certain to rise, and legitimate competition will be stifled.

How do crammers get away with this trickery? Their creativity is boundless. For example, when a consumer dials a number to learn about a product, get sports scores, or hear their horoscope, their home telephone number is often captured through a number identification system. Crammers then use the telephone number to submit bogus charges to the consumer's local telephone company. Worse, crammers are not limited to finding victims through incoming calls. The white pages directory lists their potential prey in alphabetical order. Again, the crammer simply selects telephone numbers at random and submits bogus charges for billing.

Some crammers use names on telephone bills that intend to mislead or confuse the consumer. They will call themselves "F.C.C.", for example, in an attempt to be mistaken for a government agency. Or they will use a name like "Enhanced Services" that may be mistaken for other legitimate charges the consumer has ordered. In addition, there is often a middleman involved that submits billing to the local telephone service provider on behalf of multiple vendors, further complicating matters for consumers who want to dispute a charge. These charges are typically in the $3 to $5 range in an attempt to fall below the consumer's radar screen. Of course, these charges add up.

Many more choices are available to consumers today to make purchases of goods and services they want and need. Unfortunately these benefits also create many more opportunities for consumer confusion and fraud. Mr. Speaker, we need tough legislation to stop bad actors who are cramming bogus charges onto our constituents' phone bills. The "Anti-Cramming Protection Act of 1998" provides the tools needed to solve this problem.

TRIBUTE TO MR. JUAN VENÉ

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Mr. Juan Vené, one of the most knowledgeable and experienced sports reporters and writers about baseball in the history of this sport.

Mr. Vené was honored for his achievements and dedication to writing about baseball by the organization Latino Sports. The banquet dinner in his honor was held at the Grand Hyatt, in New York City, on October 30.

Mr. José Rafaél Machado Yanes, better known by his pen name of Juan Vené, was born in Caracas, Venezuela in 1929.

His career as a reporter started in 1947, and since then he has dedicated every single day of his life to his profession as a director, editor, investigative reporter, columnist, sports writer, radio and TV commentator. The Spanish newspaper El Diario/La Prensa in New York City has honored him for each of the past 11 years as the most distinguished reporter who writes about the Yankees and the Mets.

Mr. Vené holds the record as the only sports reporter in the United States and Latin America who has covered every World Series for the past 37 years.

He was born with the passion for writing and reporting about the sport of baseball. Mr. Vené went to Cuba in 1948 to study journalism at the School of Marques Sterling, University of Havana, because during those years Venezuela did not have an institution of higher education that taught this field. He graduated from the university in Cuba in 1952. His interest in learning more about journalism motivated him to attend specialized seminars in the field. He also obtained a designation as a historian of baseball and has taught 73 courses on this field.

Mr. Vené writes a daily syndicated column on baseball for numerous newspaper in the United States, Puerto Rico, the Dominican Republic, Mexico and Venezuela. He was a sports commentator for the Voice of America. He is also credited with being the first to launch a Spanish-language radio network to provide detailed coverage of the history of baseball, the training of baseball players, and all the games of the Major Leagues. The program aired in 11 countries.

He has produced many TV shows on baseball including, "Play Ball", "El Mundo en su Marcha", "Los Cuadros del Pueblo", "La Historia del Beisbol", "Magazine", "Juan Vené en Acción". He also belongs to the team of producers and writers of Major League Baseball Productions. Mr. Vené is a member of the Baseball Writer's Association of America and the Society for American Baseball Research. He is married and has four children and one grandchild.

At age 68, Mr. Vené talks about covering baseball with the same excitement and passion that he has demonstrated throughout his life. According to an interview conducted by Bob Shannon, which was published in "New World" in London, when he was asked what he would do next in his life, Mr. Vené responded that he will probably write an encyclopedia on the history of baseball in Latin America and Spain. When he was asked what sports he likes other than baseball, he responded: "As Babe Ruth once said, 'Is there any other sport?' ".

Mr. Speaker, I ask my colleagues to join me in recognizing Mr. José Rafaél Machado Yanes, writing as Juan Vené, for his great contributions to reporting and recording the history of our beloved national sport—baseball.

GLENN "JEEP" DAVIS

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. SAWYER. Mr. Speaker, on Sunday, June 7, 1998, one of Barberton, Ohio's favorite sons will be honored. A statue of Glenn "Jeep" Davis will be unveiled as part of a community-wide celebration of an extraordinary athlete, teacher, and example for us all.

If there is an award in amateur athletics, Glenn "Jeep" Davis has probably won it. If there's a hall of fame, he's probably in it.

Jeep won three Olympic Gold Medals. He took the Olympic Gold in 1956 in the 440y Intermediate Hurdles. His Gold Medal win was no surprise. Earlier in the year during the Olympic trials, Jeep became the first man to break the 50-second barrier in that event. In 1960, he doubled his Gold Medal accomplishment. That year, he defended his Olympic title with a second Gold Medal in the 440y Intermediate Hurdles and went on to win another Gold Medal in the 4x400 Relay.

Jeep set eight World Records and won a NCAA title in addition to the Olympic gold. He also played two years in the National Football League for the Detroit Lions even though he had never played college football.

Perhaps his most fitting tribute was in 1958 when Jeep won the prestigious James E. Sullivan Award. That award has been presented annually since 1930 by the U.S. Amateur Athletic Union recognizing our nation's most outstanding amateur athlete. But the award is about more than athletic performance. The Sullivan Award is given to the athlete who, "By his * * * performance, example and influence as an amateur, has done the most during the year to advance the cause of sportsmanship."

No finer tribute could be given, and no one has been more deserving of it, than Glenn "Jeep" Davis.

Glenn "Jeep" Davis' remarkable career began in Barberton, Ohio where he singlehandedly won Barberton High School the 1954 Ohio state high school title in track and field. Best of all, Jeep returned to Barberton where he continued his distinguished career as a coach, a teacher, and a mentor. Today, with hurdles far behind, he remains an inspiration to the people of Barberton and to everyone who remembers his outstanding athletic achievements.

TRIBUTE TO CONNECTICUT STATE UNIVERSITY WARRIORS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GEJDENSON. Mr. Speaker, I rise today to pay tribute to the Eastern Connecticut State University Warriors, a college baseball team in my district that took home the national Division III title on May 28. The accomplishments of Division III teams are frequently overlooked, and I believe we should all take the time to recognize the extraordinary efforts made by both the players and coaches.

As we in Congress all know, NCAA Division III programs are not allowed to offer scholarships or other financial incentives to their players. These college athletes truly play for a love of the game. These students put in as much time and effort into the sport as any other college athletes, even though there is little media coverage and less fanfare.

This Division III team's return to Connecticut last Thursday, however, met with a great deal of fanfare. On their route back to the campus in Wilamantic, the team members and coaches were met with a police escort. The students sat on a flatbed truck, which paraded them onto campus, where some 250 fans were waiting to greet them at a celebration.

This recognition is well-deserved. The Warriors blew out their opponent 16–1 in the Division III finals last Wednesday in Salem, Virginia. Among this fine group of athletes and coaches, I would like to especially recognize a few.

First of all, I would like to congratulate Coach Bill Holowaty. This marks his third national title in his 30-season coaching career at Eastern Connecticut. Coach Holowaty has a winning percentage of .725, making him the second-winningest active coach in Division III.

My congratulations to him; his wife, Jan, and his three children.

Secondly, I would like to also extend my congratulations to the tournament MVP, Chris D'Amato. D'Amato, who is also the team cocaptain, batted .786 in the tournament and finished the season with a 20-game hitting streak. He will be starting a student teaching position in the fall, and this will complete his studies in physical education. D'Amato hopes to coach baseball as a future career. My best wishes for his future with the game.

Each of the other players, assistant coaches and everyone associated with the team should be commended for their efforts. This has been an amazing year for an excellent program, and I wish all of them the best for the future.

PERSONAL EXPLANATION

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. HAYWORTH. Mr. Speaker, yesterday, June 3, 1998, I missed roll call votes 193, 194, and 195 because I was attending former Arizona Senator Barry Goldwater's funeral.

Had I been present, I would have voted "aye" on all three votes.

THE ALAMEDA COUNTY DESALINATION PROGRAM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. STARK. Mr. Speaker, I rise today to announce the introduction of important legislation that will benefit the people in Alameda County, California.

I have introduced a bill that would authorize the construction of the Alameda County Brackish Water Desalination plant. This plant would treat the water from San Francisco Bay that has been creeping into the groundwater used by residents of my district in Alameda County. The water would either be directed for residential use or be put back into the ground.

This project will decrease our dependability on water imported from the San Francisco Bay Delta and help us reclaim our groundwater basin. Additionally, this plant will improve the water quality and availability for almost 300,000 people in Fremont, California and the surrounding areas.

This bill would authorize construction of the plant under the Reclamation Wastewater and Groundwater Studies Act and will cost $30 million. The bill makes specific provisions to exclude the U.S. Government from incurring any costs associated with the operation of the plant and limits the total federal expenditures to 25% of the total construction cost. This one-time appropriation for construction will go a long way to ensure water quality and accessibility for the people of Alameda County.

I urge my colleagues to support this important project and to take action soon to allow the Bureau of Reclamation to proceed with the feasibility study.

IN HONOR OF PROFESSOR EDWARD REICHBACH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, I pay a respectful tribute and congratulate a man I am proud to call my former college professor, Dr. Edward Reichbach, on his well earned retirement.

Dr. Reichbach was a member of the founding faculty at my alma mater, Florida International University. He will retire this June after forty-four years of being an educator. Throughout his career he prepared both elementary grade students and trained college students to become teachers, guiding them toward graduate degrees. Concentrating in the field of Social Studies, Dr. Reichbach taught mostly minority students to become elementary school teachers in south Florida.

As a college professor, he urged his students to make teaching Social Studies fun and enjoyable by emphasizing why historical events occurred and what effect they had on the people, particularly children, of the time. Dr. Reichbach's classes at Florida International University soon became a favorite as he was able to capture the attention and adoration of his students through his wit and innovating teaching techniques.

During his tenure, Dr. Reichbach conducted workshops throughout the country and participated in travels to India, China and Africa to speak on Social Studies topics. During his travels, he was fortunate to meet with important leaders, such as Indira Ghandi, with whom he discussed the problems confronting the Indian education system.

This month, Dr. Reichbach and his wife Judith will be traveling in a motor home to revisit the historical and geographical sites, in both the U.S. and Canada, that he lectured on for forty-four years.

In honor of Dr. Edward Reichbach's vast accomplishments and outstanding achievements, I ask my Congressional colleagues to join me in honoring and congratulating him on his well-deserved retirement.

A CELEBRATION OF FORTY YEARS OF PRIESTHOOD: THE REVEREND WILLIAM J. SHIELDS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BORSKI. Mr. Speaker, I rise today to pay a special tribute to Reverend William J. Shields in honor of his forty years of priesthood.

Father Shields has brought a wealth of knowledge, sensitivity, inspiration, and service to all that have encountered his wisdom. He was born in the "Swampoodle" section of North Philadelphia, near St. Columba's Church at 24th and Lehigh. Father Shields likes to remind us that he was born in the shadow of the old Connie Mack Stadium.

The young William Shields was extremely involved in the Parish Scouting Troop #22. After graduating from St. Columba's Grade School, Father Shields then went to Roman Catholic High School at Broad and Vine Streets, the oldest Catholic High School in the nation. He graduated from Roman in 1948 and began his college career at St. Charles Seminary in Philadelphia. He received his B.A. in Philosophy in 1954 and then began graduate studies in Theology. He completed his Theological studies in 1958 and was ordained to the Priesthood by Cardinal John P. O'Hara, Archbishop of Philadelphia.

The young Father Shields began his priesthood at St. Ambrose Parish in Schuylkill Haven. After that a succession of appointments took him to Shillington, Hamburg, Shenandoah, Allentown, Catasauqua, and Lansford and Reading. He then went to Weatherly, where he spent 22 years as the Pastor of St. Nicholas Parish. In 1995 Father Shields retired and now resides at Holy Family Villa in Bethlehem.

Father Shields is a man of many interests. The greatest of his interests is people. He has a genuine and abiding interest in the people around him. He loves his family. He loves Philadelphia and its history. He has a great love of church music. He has an appreciation and love of architecture as he repeatedly argues, "Don't look down. Look up and see the tops of the buildings!" He loves Cape May. He loves traveling—meeting new people and seeing new scenes. But above all, he loves language—words and concepts.

On Sunday, May 17, 1998 Saint Columbkill Church in Boyertown, Pennsylvania, gathered to honor Father Shields on his Fortieth Anniversary of his priestly ordination. With great love and admiration, his friends and family came to celebrate a good friend, a good priest, a good pastor, and a good Christian man. I am proud to extend to him my most heartfelt good wishes in honor of his forty year achievement.

INTRODUCTION OF LEGISLATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. CRANE. Mr. Speaker, I rise to commend to the attention of my colleagues legislation that I am introducing today with my fellow Ways and Means Committee member, ROBERT MATSUI.

Quite simply, this bill will clarify the length of time which petroleum storage facilities are depreciated for tax purposes. Since 1981 the petroleum terminal industry has depreciated this property over a 5 year time period. Recently, however, the Internal Revenue Service (IRS) has challenged this practice. Instead, the IRS has suggested that the correct depreciable life for petroleum storage facilities is 15 years. My bill will end this debate and state that petroleum storage tanks may be depreciated over five years.

Congress has changed the depreciation rules for numerous properties since 1981, but we have not acted to specifically change the depreciation rules for petroleum storage tanks. The petroleum storage industry has complied with the tax code in good faith, now only to be told the IRS wants to change the rules. The IRS is even instituting this change in selective cases through examinations. While we in Congress do give the IRS the authority to enforce the tax laws, only Congress, and specifically the House Ways and Means Committee, has the Constitutional authority to originate new tax laws.

Enactment of this legislation will resolve this issue, and both the taxpayers in the petroleum storage industry as well as the IRS will be saved the millions of dollars which would otherwise be spent disputing the correct depreciation time. I urge my colleagues to join us in cosponsoring this important bill.

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

MICHIGAN CITY NEWS DISPATCH 60TH ANNIVERSARY CELEBRATION DAY

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. ROEMER. Mr. Speaker, Thomas Jefferson once said of newspapers: "The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."

Today, June 4th, one of the great papers in the State of Indiana, the Michigan City News-Dispatch, marks 60 years of continuous publication as a daily newspaper. Formed by the merger of the Michigan City News and the Evening Dispatch in 1938, the News-Dispatch has compiled an outstanding record of professionalism and public service. Michigan City and the State of Indiana are fortunate to have a newspaper that sets such a high standard for community service and journalistic competence.

The News-Dispatch is an exceptional newspaper in a variety of ways. Allow me to mention a few examples. First, the dedicated and devoted staff of the News-Dispatch produce a newspaper that is consistent in the high quality of its content. Even though the newspaper has recently changed ownership, the News-Dispatch has retained its reputation as a reliable source of the community's daily information.

Second, the News-Dispatch has been actively involved in and devoted to improving the Michigan City community. From the very beginning of its publication, the News-Dispatch has successfully pursued projects such as helping to rid crime from Michigan City; financially supporting area children's groups; and promoting community pride and civic participation.

Third, the News-Dispatch has been devoted to ensuring that local businesses receive support from the area. By initiating a successful campaign for the development of a municipal airport, voicing the need for more trade within the area, and by organizing a developmental advisory counsel, the News-Dispatch has not only voiced its concern about the livelihood of area businesses, but also taken action to ensure that these businesses are able to thrive in the community.

When Joseph Pulitzer retired, he outlined a standard for newspapers that exemplifies the history of the News-Dispatch. "That it will always fight for progress and reform, never tolerate injustice or corruption, always fight demagogues of all parties, never lack sympathy with the poor, always be drastically independent, never be afraid to attack wrong, whether by predatory plutocracy or predatory poverty."

The residents of the News-Dispatch will mark June 4th with the hope and assurance that the newspaper will continue to have a similar impact for many years into the future.

AUDREY A. STRICKER HONORED BY COOPERATIVE OF AMERICAN PHYSICIANS, INC. "21ST CENTURY WOMAN OF MEDICINE"

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GEKAS. Mr. Speaker, I want to bring to your attention that Audrey A. Stricker, a native born and raised Pennsylvanian who did her early nursing training in Pittsburgh, has devoted 30 years to the field of medicine in evolving capacities and is returning home from Los Angeles, CA to the East Coast this month. On June 17, 1998, the Cooperative of American Physicians-Mutual Protection Trust (CAP–MPT) is honoring Ms. Stricker at their Los Angeles headquarters on her retirement to express their appreciation for her 19 years of service to CAP–MPT. The mission of the Cooperative of American Physicians, Inc. is to provide risk reduction and financial protection services of the highest quality for physicians and affiliated groups, and to promote membership in the interindemnity trust (MPT). The mission of the Mutual Protection Trust is to provide the highest quality, cost effective professional liability protection services for qualified member physicians and affiliated entities. CAP–MPT continues to strive to put doctors in charge of the business of medicine with its 13 physician member Board of Directors led by President and Chairman Darwood B. Hance, M.D. .and its 5 physician member Board of Trustees led by Chairman J. Michael Wormley, M.D. CAP–MPT, as it did in its beginning 21 years ago in response to the California crisis in medical malpractice liability insurance, remains a physician directed enterprise.

Ms. Stricker's early career was devoted to front-line management and delivery of medical care at various hospitals from 1968 until 1979, including: Shadyside Hospital, Pittsburgh, PA as an Operating Room and Recovery Room Supervisor; Director of Operating and Recovery Room Services at Northridge General Hospital, Fort Lauderdale, FL; and finally as Asst. Director of Nursing, Operating Room Services at Cedars Sinai Medical Center in Los Angeles. During this period, Ms. Stricker pursued a quest of knowledge and personal growth that mirrors the changing times in medical practice in the United States by enhancing her skills from an R.N. Degree obtained in Pittsburgh, PA to a B.S. in Nursing Degree from the University of Buffalo, N.Y. Continuing in the path of expanding her medical expertise and horizons while serving at Cedars Sinai Medical Center, Ms. Stricker in April, 1980 obtained a B.S. Degree in Management from Pepperdine University, Los Angeles.

With this broad base of educational and professional experience and resources in medicine, Ms. Stricker began in 1979 her service with CAP–MPT, and from 1987 to 1994 served at different times as both Executive Vice President & Chief Operating Officer of CAP–MPT. Retiring as Executive Vice President, Ms. Stricker is an example of the high quality of CAP–MPT's current leadership team headed by Chief Executive Officer James L. Weidner and their commitment to assisting its physician members in reducing the risks associated with medical practice and to improving the quality of patient care.

It is through CAP–MPT's advocacy and Ms. Stricker's participation in that effort that I become better acquainted, while serving on the House Committee on the Judiciary, with California's 20 year experience with the Medical Injury Compensation Reform Act (MICRA) and its important role in holding down the costs of medical care. The MICRA model as employed by CAP–MPT is of renewed significance as the Congress continues to address the issue of managed care and HMO reforms and how to best insure physician control of the patient care.

We welcome home Audrey Stricker as our own Pennsylvania inspired and ever evolving "21st Century Woman of Medicine". She will continue to inspire us, as she did all her colleagues through her steadfast pursuit of excellence. We look forward to the continued success of CAP–MPT's model of patient choice and physician control in its pursuit for the best medical results.

TRIBUTE TO DR. BILL J. JAMES

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor my constituent and my friend, Dr. Bill J. James, who is retiring this August as Superintendent of the Pleasanton Unified School District.

I applaud Dr. James for his continuous efforts on behalf of the children and their education in Pleasanton over the last 13 years. He is clearly one of the most recognized and revered educational leaders in the Tenth Congressional District and I thank him for the advice and expertise he has so graciously provided me in my first term.

In 1985, Dr. James came to Pleasanton to serve as the Superintendent of the then Amador Valley Joint Union High School District and the Pleasanton Joint School District. Prior to his arrival in Pleasanton, Dr. James was the Superintendent of the Paso Robles Joint Union High School District and the Paso Robles Union Elementary School District.

Some of the accomplishments in Dr. James' 13 years as Superintendent include the passage of a $85 million school bond in 1988 with 76% of the vote and the passage of a $70 million school bond in 1997 with 77% of the vote, the initiation of a Chamber of Commerce education subcommittee that later evolved into the PPIE Foundation, his appointment by the Governor to the Educational Council for Technology and Learning in 1997, the construction of a 1300 capacity middle school, the implementation of elementary counseling for grades K–5 in 1989 and the execution of a developer fee agreement to ensure that new growth covers the cost associated with expanding enrollments.

Dr. James, even with his very busy schedule, has truly been an involved and active member of the community. The Pleasanton

Chamber of Commerce, the Pleasanton Rotary Club, the Pleasanton Fine Arts Council, the Tri-Valley Business Council and the Pleasanton Partnerships in Education Foundation are just a few of the many organizations Dr. James has contributed his time to over the past 13 years.

Though Dr. James is retiring as Superintendent of the Pleasanton Unified School District, I take great comfort in knowing that he will continue to reside in Pleasanton. He is an incredible resource on educational matters and he can certainly expect me to continue to take advantage of his expertise. Let me again offer my warmest congratulations for his 13 years of exemplary stewardship of Pleasanton's public schools and his 38 year career in education. I wish him the best in his well-deserved retirement.

TOBACCO LEGISLATION IN THE 105TH CONGRESS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. GALLEGLY. Mr. Speaker, I would like to take this opportunity to express some thoughts regarding the legislation dealing with the proposed tobacco settlement.

Several weeks ago I sent a letter to the Chairman of the Committee on Commerce, the Honorable TOM BLILEY, asking that as the Committee considers legislation in this area, that it include several elements which I believe are critical to decreasing the rate of tobacco addiction among young people. I would briefly like to outline these points.

First, I strongly believe that any settlement legislation should include language requiring the General Accounting Office or other nonpartisan, respected organization to conduct periodic studies on the impact of any tobacco legislation on tobacco usage by young Americans. These studies should examine tobacco usage not only among both teenagers, but also among pre-teenagers.

These follow-up studies are necessary, I believe, for providing policy-makers, including members of Congress, with detailed information on the success or failure of various aspects of a tobacco bill. The findings will also serve as the basis for any future legislative or regulatory changes to our nation's tobacco-reduction efforts. Currently, it is estimated that over 35 percent of high-school seniors smoke—a nineteen-year high—and that since 1991 smoking rates for both eighth and tenth graders have increased dramatically. It is imperative that any policies enacted are successful in reversing these alarming trends.

Second, I also strongly urge that any tobacco legislation include provisions aimed at curtailing the use by young people of all tobacco products, including smokeless tobacco and cigars. These products are very harmful to young persons. I am particularly disturbed by a Centers for Disease Control study which found that 16 percent of boys in grades nine to twelve use smokeless tobacco products in a thirty-day period. Other reports have found that cigar usage has increased at an alarming rate among American boys and girls.

The inclusion of these two elements will ensure that any tobacco legislation reduce the usage of all types of tobacco products. It will further ensure that Congress is given the data and information necessary to make common sense, effective changes in future tobacco policy with the ultimate goal of significantly decreasing the number of teenagers who smoke.

"U.S. POLICY OPTIONS TOWARD INDONESIA: WHAT WE CAN EXPECT; WHAT WE CAN DO"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BEREUTER. Mr. Speaker, as Chairman of the House International Relations Subcommittee on Asia and the Pacific, this Member urges his colleagues to pay careful attention to the crisis in Indonesia. It is far too large, and far too important a nation to dismiss in a cavalier fashion. This Member would take a moment to address the ongoing crisis in Indonesia and to explore what the United States and the international community can do to help stabilize that nation's economy and to help promote its nascent democratization.

Virtually all of Asia seems to be in turmoil these days, and Indonesia is no exception. Following months of economic turmoil and decline, unsatisfactory elections where the old regime sought an artificial vote of confidence, and weeks of student protest, President Suharto resigned after 32 years of autocratic rule. He leaves behind a nation on the edge of chaos. Although we must give Suharto due credit for leading his country through several decades of strong economic growth and development, this narrow economic success took place in the absence of the development of sound social and political institutions. The media was stifled, as were other forms of political and social expression.

The tragic neglect of these institutions and basic human rights by President Suharto may overshadow his economic achievements; only history will tell. Ironically however, President Suharto's neglect of political reform while promoting economic reform has perhaps done more to debunk the myth of Asian values and expose the Asian miracle than any other single action.

Most importantly, however, Suharto's neglect of political reform has caused much human suffering and tragedy. Indonesia's recent past has been marked with violence and bloodshed. Over 500 people died in the riots that left much of Jakarta's Chinatown in ruins. Some estimates have the death toll much higher. Many elites fled the country along with the large expatriate community, taking their capital with them.

The current situation in Indonesia is at the same time both complex and fragile. The public euphoria that accompanied Suharto's resignation is already being replaced by the sobering reality that Indonesia is entering a dangerous period. Suharto—who led his nation through a period of dynamic growth under an autocratic system—has left behind a political vacuum. The various social and political forces kept impotent under the Suharto regime must now forge a new identity and find a way to reassert themselves without causing a splintering of Indonesian society. Proliferation of ethnic or religious-based parties that would pull the country apart at precisely the time when unity is most fragile is a risk that Indonesia cannot afford to ignore.

The Indonesian military is widely recognized as one of the linchpins of society. With some glaring and regrettable exceptions, it thus far has exercised restraint. (The same cannot be said of the police, who were more brutal during the demonstrations.) Commander-in-Chief Wiranto seems to have served as a force for change, refusing to take Suharto's side last week when the result could have been widespread bloodshed. This Member would like to believe that this restraint is at least, in part, attributable to the salutary effect of years of military-to-military contacts through IMET, E–IMET and other U.S. programs that attempt to raise the level of professionalism of foreign military elites while simultaneously offering human rights training. Whatever the cause, the military will be under enormous pressure as a new government sorts itself out.

Clearly, the economic situation in Indonesia is dire. And most unfortunately, indications are that the situation will get worse before it gets better. It is difficult for us to imagine how desperate conditions are. Credible economists estimate that Indonesia will suffer negative economic growth of between 20–25 percent in 1998. It is hard to over-emphasize the degree of hardship that Indonesia's people have faced in the past months, since the beginning of the Asian financial crisis last summer. Yet, despite the hopeful signs on the political front, Indonesia's economic crisis seems far from over. The economic challenges faced by Indonesia's new government would be daunting under the best of circumstances. But these are anything but the best of circumstances.

The questions now to be addressed include: What steps must Indonesia take to pull its economy out of its nose-dive and restore investor confidence? What are the prospects for Indonesia's future? What political reforms are necessary, and what are possible in the near term and the long term? What institutional factors must first be addressed? And most importantly, what are the implications of Indonesia's current economic and political crisis on U.S. national interests?

These questions about Indonesia's economic and political future raise serious questions for U.S. policy toward Indonesia. For example, as the largest shareholder in the IMF, World Bank, and one of the largest in the Asian Development Bank, we must decide when these institutions should resume their financial assistance to the country and under what conditions. In making these decisions we will appropriately have to decide how long a Habibie caretaker government should last and when elections can reasonably be held.

As a final note, this Member strongly believes this is the time that the United States should focus on the issue of East Timor. For over two decades, East Timor has been a stumbling bloc to Indonesia's relations with the United States and with the European Union. There is a long and complicated history to this troubled corner of Asia, but suffice it to say that the West has never recognized the legality of the Indonesian incorporation of East Timor. It would seem to me that there is an opportunity to put aside the old inflexible positions that the various sides have taken in the past, and to look for new ways to move toward a mutually acceptable solution. Is there any role the United States might play in fostering such a renewed dialogue?

Mr. Speaker, it is clear that Indonesia needs America's help and that of the international community. Our actions must be bold, but not rash. We must be thoughtful, but not timid. Certainly, we must take care to preserve and strengthen the delicate unity which has managed to hold Indonesia together, but we must not allow a new government to fall back into the bad practices that doomed the Suharto regime.

IN HONOR OF JONETTE ENGAN

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. MINGE. Mr. Speaker, today I rise to honor Jonette Engan, a truly remarkable person with a distinguished record in her church, community and Minnesota politics. With great sadness, but best wishes, I announce Jonette's resignation from her leadership position as Chairperson of the Minnesota Second District Democratic Farmer Labor party.

Jonette's commitment to the DFL has been remarkable. Born into a family with strong DFL political roots, she has a keen sense of fairness and how the political process can work to improve our society. After years of volunteering for candidates at every level of government, Jonette took over the reigns of Minnesota's Second Congressional District DFL party. District Chairperson is a herculean task anywhere, but the logistics of coordinating 28 counties is incredibly daunting. Jonette thrived in a position most would not even consider taking.

The advice of Jonette Engan is sought by candidates for public office at all levels. Jonette has helped numerous candidates understand the political system and landscape. Minnesota's state capital is populated by those who aptly learned under Jonette's tutelage. When I was a first time candidate, Jonette walked this greenhorn through the nomination and electoral process with great patience, excellent advice, and wonderful counsel.

Despite the long hours, the DFL has not been Jonette's only interest. Jonette has balanced an incredible time commitment to politics as well as remaining active in her church, the Lutheran Women's League and numerous civic functions.

With so many exciting experiences in her life, Jonette will still tell you that her greatest achievement has been her family. Her husband, Dale, has been supportive and helpful in accommodating Jonette's demanding schedule. The love of her children, Natasha and Nick, is obvious in her proud stories of their latest achievements and adventures. I have had the great pleasure of working with Natasha when she interned in my Washington office.

Although I know Jonette will remain a phone call away for advice and support, her absence from the Second District DFL leadership will be sorely missed. My hat is off to Jonette in thanks for all of her assistance to me, her community, and Minnesota. I wish her the best in the new challenges she undertakes.

PROTECTING CHILDREN FROM TOBACCO

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. HORN. Mr. Speaker, one of the most unsettling recent public health trends has been rising tobacco use among teenagers. In 1991, 14 percent of eighth graders, 21 percent of tenth graders, and 28 percent of 12th graders smoked. By 1996, those percentages had risen to 21 percent of eighth graders, 30 percent of tenth graders, and 34 percent of twelfth graders.

What is most infuriating is that tobacco companies have geared their marketing toward children. Our nation was shocked several months ago to read about tobacco companies' documents detailing their plans to market their products to children. In January, Times magazine reported that R.J. Reynolds official J.W. Hind, in a 1975 memo, urged the company, maker of Camel, Winston and Salem cigarettes, to "increase its share penetration among the 14–24 age group." In 1976, a ten-year plan written for the board of directors of R.J. Reynolds and stamped "RJR SECRET" said that teenagers ages 14 to 18 were "an increasing segment of the smoking population" and suggested a brand targeted to them. After a subpoena from House Commerce Committee Chairman TOM BLILEY (R–VA), documents were released showing that the tobacco industry misled people with its health claims and covered up potentially damaging research. Other documents showed that when industry officials marketed tobacco products to "young adults," they were referring to children as young as 13.

Their strategy worked. In the first four years that Camel ads featured the cartoon character Joe Camel, smokers under 18 who preferred Camels rose from less than 1 percent to as much as 30 percent of the market. Some studies even show that six-year-old are as familiar with Joe Camel as they are with Mickey Mouse.

Big Tobacco did not care that people who start smoking at a young age are more likely to become severely addicted than those who start at a later age. Big Tobacco shrugged at the fact that approximately one-third of these children who become smokers will eventually die of smoking-related diseases. Big Tobacco showed no concern that their product acts as a "gateway drug" for children who enter a sequence of drug use that can include alcohol, marijuana, and harder drugs. Big Tobacco's only concern was its bottom line.

It is imperative that Congress passes a bill to curb teen smoking. In an effort to move that process along, I recently joined a group of House members in introducing the Bipartisan No Tobacco for Kids Act, a tough measure which would dramatically reduce teenage smoking.

The Bipartisan No Tobacco for Kids Act would increase the price of a pack of cigarettes by $1.50 over three years. Health experts say that one of the most effective ways to reduce youth smoking is to raise the price of tobacco products. Except for a small amount of money dedicated to federal tobacco enforcement efforts and payments to settle state lawsuits against the tobacco industry, all funds raised are dedicated to reducing the federal debt. The bill validates the authority of the Food and Drug Administration (FDA) to regulate tobacco products, including stronger warning labels, advertising restrictions, and detailed disclosure of all ingredients. The bill sets aggressive targets to reduce youth tobacco use by 80 percent over 10 years.

The bill embodies the strong tobacco control measures supported by Dr. C. Everett Koop, former U.S. Surgeon General under President Reagan, and Dr. Davis A. Kessler, former Commissioner of the FDA under both President Bush and President Clinton.

By introducing this bill with strong bipartisan support, we hope to keep our national effort against teen smoking out the arena of partisan posturing. Our children's lives are infinitely more important than political gamesmanship, and infinitely more precious than Big Tobacco's profit margins.

The Senate is expected to vote soon on a comprehensive anti-tobacco bill sponsored by Sen. JOHN MCCAIN (R–AZ). Legislation is still being introduced and examined in the House. Congress should act expeditiously to send anti-teen smoking legislation to the President. America's children deserve nothing less.

TRIBUTE TO GOLD STAR PARENTS DAY

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. RODRIGUEZ. Mr. Speaker, I rise to pay tribute to Gold Star Parents Day, commemorated in my home state of Texas on June 8.

Gold Star Parents is dedicated to honoring those who inspire service to our nation in their children. Celebrated halfway between Mother's Day and Father's Day, Gold Star Parents Day is a reminder that behind every veteran who serves his or her nation, there is a mother AND a father who directly or indirectly motivate a son or a daughter into service.

Founded in Laredo, Texas in 1971, Gold Star Parents boasts a membership that spans the state. Among patriotic family organizations, Gold Star Parents is one of the few of its kind in that it offers full membership to both mothers and fathers of veterans.

Last week on Memorial Day we paused to reflect upon the service of our nation's veterans. Today, I urge you to consider the tremendous sacrifice the brave mothers and fathers of those veterans endure when they send their beloved off to war. Our nation's freedom is built upon the sacrifices of our nation's veterans. We must not forget that those sacrifices are borne foremost among the mothers and fathers of those veterans.

For that I honor the parents and urge the remembrance of the mothers and fathers of our fallen heroes on June 8.

THE UNNECESSARY LEGISLATIVE FIGHT OVER ENCRYPTION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. BEREUTER. Mr. Speaker, H.R. 695, the Security and Freedom Through Encryption (SAFE) Act is unnecessary legislation and should not be passed. Past service on the House Permanent Select Committee on Intelligence has provided this Member with considerable evidence of the harmful effects this legislation, in its current form, would have on our national security and law enforcement efforts. In addition, H.R. 695 would prohibit the Administration and specifically, the Bureau of Export Administration, from striking the proper balance between national security and commercial interests in the licensing of strong encryption. The legislation needs to be amended, dramatically, if it comes to the House floor. But most importantly, it is not necessary.

In the House International Relations Committee, this Member co-authored and supported an amendment to H.R. 695 which would have given the President of the United States a national security waiver to the mandated and complete relaxation of export controls of encryption products under H.R. 695. Unfortunately, our amendment was defeated on a 13–22 vote in the House International Relations Committee and H.R. 695 was passed over my opposition. This issue has been intensely lobbied by the software and electronics business sector and others.

On the other hand, this Member also does not support competing legislation to H.R. 695, which would impose domestic controls on the use of encryption in the United States. This very complicated and important national issue has been unnecessarily polarized by the software industry and by the law enforcement community. In fact, the software industry's uncompromising position on H.R. 695 has actually prompted the law enforcement community to push for this more rigorous domestic legislation and a stalemate has been created.

This Member believes that the disinformation that has been provided by a few groups or persons on both sides of this national debate has not led to an environment where a legislative compromise is easily achieved. For example, the software industry currently downplays the fact that many U.S. software manufacturers and hardware exporters are exporting relatively robust encryption after obtaining license approvals from the Department of Commerce. Moreover, U.S. financial institutions have general exceptions to the export controls on encryption for their own purposes.

These two important points reveal that the solution to this issue for U.S. software exporters is not the legislative process, but a change in the administrative regulations. Simply put, current law does not prohibit the Administration from relaxing these export controls and, therefore, a change in law is not necessary.

TEENS URGE HOUSE ACTION ON COMPREHENSIVE TOBACCO BILL

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. FORD. Mr. Speaker, I call my colleagues attention to almost 1,800 students from Tennessee's Ninth Congressional District who want us to act immediately on a comprehensive tobacco bill. Young people have been and continue to be the targets of deceptive marketing tactics of cigarette companies and in light of the industry's most recent lobbying effort, I believe it is critical that the voices of those who are most affected by their practices be heard. It is my hope that these signatures will send a message to those who are captive to the powerful tobacco lobby that our children will no longer be manipulated into taking up the deadly habit of smoking.

I ask that the attached letter to the Speaker and the names of the signers of the attached petitions be entered into the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 4, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: Today I am submitting to the Congressional Record the names of almost 1,800 public and private school students from Tennessee's Ninth Congressional District urging you to act immediately to bring comprehensive tobacco legislation to the floor for a vote.

Since the 1950's, tobacco companies have repeatedly lied in sworn congressional testimony and public statements about the harm caused by their products and whether they intentionally marketed cigarettes to children. Most recently, the industry released more than 40,000 previously secret documents showing that nicotine is addictive. The current public health impact of tobacco on our young people is devastating.

Over 4 million high school seniors are addicted to tobacco.

In Tennessee, 39% of 9th–12th graders smoke cigarettes and 27% of high school boys use smokeless tobacco.

33% of young people who begin smoking while in high school will die early from a smoking related illness.

As you know, the Senate is currently debating a tough and comprehensive tobacco bill, but the House hasn't held one hearing nor have you committed to bringing a bill to the full House for consideration during the 105th Congress. Our lack of action on this matter will only result in more young people becoming addicted to smoking and more smoking related illnesses in the years to come. I urge you to heed the calls from the many young people in Tennessee's Ninth Congressional District and throughout the nation to move a tough tobacco bill this year.

Sincerely,

HAROLD FORD, JR.,
Member of Congress.

Corry Middle School.—LaToya House, LaShanna House, Nicole Gillespie, Gwendolyn Gordon, Shanta Morris, Kyla Goliday, Angel Jackson, Serenity Washington, Monique Wilkinson, TaJuana Bratcher, Shemeka Hall, Ebony Farris, Jeremy Boyd, Richarg Payne, Liz Edwards, Michelle Taylor, Tiffany S. Young, Tiffany Harwell, Jeremy Hunt, Melvin Robinson, Krystal N. Finnie, Kevin Washington, Selena D. Coulta, Sheeria Franklin, Erica Freeman, Catarica Rodgers, Brandi Terrell, Morris Doyle, Nakia Dowdy, Kenesha Payne, Ebony Stone, Latoya Henderson, Shannon Martin, Shawn Bragg, Marquita Palmoo, Willie Simmons, Nick Anderson, Patria´ Bryant, Tabetha Brown, Tina Hines, Allen S. Franklin, Rapheal Poole, Cammie Thomas, Clinton Smith, Dernita Mobley, Carlos Richardson, Crystal Watson, James Boone, Cherenthia Franklin, Tikeya Morris, Toya Bond, Shekia Mouing, Carter Eugene, James Boone, Carlos Richardson, Crystal Watson, Cherenthia Franklin, LaDonna Boyd, Morris Reed, Devin Williams, Jerome Jackson, Chris Demble, Mariario Blair, Darrell Williams, Kenneth Reid, Daniel Jefferson, Cheryl Smith, Audra Carr, David Williams, Bryant Hall, Omari Benyoun, Gloyd Humphrey, Tamika Roberts, Joshua Coleman, Alisa Wesley, and Autowe Jullair.

Humes Junior High School.—Patrice Matthews, Nicole Hall, Charistye Deverry, Tashieka Armour, Shirley M. Mabern, Patrice Mitchell, LaTrevon S. Ealy, Ashley N. Davis, Oneika Fowler, India Butler, Shun 'Quita Martin, Ida Hunley, Shirley Renee Porter, Sharieka Williams, Joanethia Diggs, Benjamin Miles, Tarsha Nelson, Tiffany McGee, Rhonda Shelton, Kendra Meshan, Candance McKinley, Kristy Moore, Shantel Phipps, Kristy Owens, Regina Minor, Kimberly Moore, Lisa Parker, Sharee Murphey, Latoya Kelley, Shakisha Brooks, Aisha Vaughn, Doll Anderson, Nateisha Campbell, Harley Anderson, James Anderson, Chiquita Harvey, Erica Matthews, Lakesha Love, April Brown, Tracy Jones, Shayla Mennis, Casell Macklin, Montual Johnson, Derrick Hollon, Dewayne Mosley, John Hall, Thomas Moore, Jurrett Coward, Kedrick Mitchell, Marcus Jones, Cindy Mckinnie, Billy Toby, Justin J. Tucker, Alicia McKinley, Natasha McClafsky, Marcus Jones, Derrick Hollon, Carvell Lovett, Maurice Joy, Laura Jones, Timothy Coley, Billy Hubbard, Apryl Lampkin, Angel Mitchell, Tinn Legrone, Stacy Jones, Rachel Light, Torin Isaac, Jamison Jones, Tamika J., Alexandria H., Kristin Bell, LaKeshia Bowens, Alicia Beloch, Sherita Franklin, Kamisha Cobbins, Kaia Burnett, Lawrence Bridgewater, LaToya Greer, Khristina Mason, Terrell M. Moore, George Riley, Michael Edwards, Courtney Phillips, Warren Morris, Kristy Moore, Kimberly Moore, Josie Draine, Latisha Williams, Shameka Williams, Kamishilia Mathis, Kristy Owens, Lisa Parker, Stacy McCoy, Crystal Parks, Dumanic Hester, Shantel Phipps, Christal Malone, Regina Minor Emmett Jones, Kendra McShan, Colette M. Mickels, Tarsha Nelson, Crystal Brown, DeAndra Henderson, Latrice Freeman, Trista Brown, Gregory Johnson, Sandra T. Cox, Latoya Harris, Felicia Blackman, Toya Doss, Dewayne Carter, Charles Malone, Chasity Jones, Cedric Arnold, Stacy Jones, Alexander Ayers, LaTonya Laury, Marcus Bibbs, Steven Henderson, Daryl Gibson, Lisa Lang, Ashley Morris, Chezarea Myrio, Krystle Foster, Jaren L. Burks, Shenia Gathing, Deirdre Ford, Kimberly Hendree, Tiffany Cleveland, Vernon Jones, Tameka Holyfield, Steven Crawford, Rodrecus Jackson, Tekio Allen, Darron Cox, Debra Heill, Monroe Lewis, Jonathan Cohran, Darrell Macklin, Albert Hooper, Marco Lewis, Willie Macklin, Nathan

Jordan, Shaunn Burks, Christopher Blakeley, Jamison Jones, Torin Isaac, and Tiffany Johnson.

Chicksaw Junior High School.—Byron Clark, Curtis Mayes, Talisha Hobbs, Tamika Clayton, Coreame Wade, Shaneise Young, Tiffany Maten, Michael McClelland, LaTonya Beard, Tammy Walton, Terry Jones, John Wilson, Damien Stafford, Christine Williams, Vanita Young, Amber Earl, LaDeidra Neville, Stephanie Campbell, Vernita McKinney, Jerome J. Marion, Jr., Christina Hill, Tri'Rese Taylor, Christopher Garner, Daniel Houston, Marqueta McJemore, Shakita Williams, Claudia Afflins, Laquita Wilkins, Herbert Brooks, AnLisa Quinn, Amber Heath, Angela Brooks, Eric Clark, Gemayel Andre Jones, Kesha Surndle, Shaquita Williams, Alicia Causey, Tonya Spight, Yakesha Starks, Derrick Betts, Jennifer Crenshaw, Tiffany Hilliard, Deidre Bess, Stacey Moore, Jineane Banks, Sherry Jackson, Reninea White, Steuelle Reed, LaShaun Johnson, Lasheena Coll, Erick Hayes, Tristan Patton, Assiius Rirley, Davis Garner, Tamarcus Young, Brandon Cole, Antonio Brown, Ashley Moton, and Chasity Jones.

Hamilton High School.—Kehli Bynum, Sharonda Walker, Ca'Tron Robinson, Thais K. Polk, Jeremy Watkins, Mario Albright, RaDonna Hobbs, April Potter, Candace Posey, Lakesha Omill, Oynesha Bolden, Tekesha Johnson, Sherry Heggett, Sherita Fleming, Courtney Williams, Quincey E. Martin, Jaida McKay, Kehin Mays, Tamara Britt, Shawn Partee, Marquis Shaw, Tomy Thomas, Tamika Foster, Lonnetta Wright, Frank Jones, Bryan Franklin, Shaumall Chears, Eva Mitchell, Sandra Calvin, Beltina Watkins, Lattie Jenkins, Thomas Alexander, Terrence D. Sims, Teena M. Ayers, Tita Doggett, Christine Clark, Tanesha Bates, Ericka Strong, Darrell M. Parrett, Renondia S. Patterson, Tenika R. Rose, Robert Humphrey, Angela Green, Monique Galloway, Candis Echols, Patrick Gillespie, Bruce Eason, Darrick Elliott, Beverly Deje, Tamara Edmundson, Yolanda Bruce, Sonya Johnson, Marcus Miller, Diandria B. Wash, Donald Hines, Kimberly B. Carpenter, and Ashley Williams.

Hutchison School.—Catherine Folk, Grace Henderson, Sara Hester, Katie George, Rochelle Cameron, Ellen Thompson, Leslie Turley, Lindsay Caldwell, Caroline Kirkland, Lauren Schwartz, Paige Patrick, Martha Hollis, Anne Frisby, Anne Morrow, Megan Stout, Jessica Jordan, Emily Fudge, Frannie Wesberry, Micah Pioreck, Emily Cadyman, Lauren Ploch, Curry Barton, Cassie McGill, Laura Lochman, Lindsay Wallace, and Katie Siegal.

Collierville Middle School.—Morgan Cox, Kristen Creasy, Natalie Rogers, Nick Ludwig, Laura Albright, Nealy Woodard, Jennifer Ekedal, Adrian Tucker, Beth Willingham, David Nelson, Susanna Williams, Emery Tubbs, Danielle Stilte, Sam White Zack McAlexander, Corey Tharker, Lauren Davis, Jermeca Lockett, Briana Worle, Jessica Willhite, Audra Butler, Katie Phillips, Jenna Crawford, Bagin Krajewski, Nicole Hulbert, Carly Chambers, Scott West, Andrew Thornbury, John Van Grouw, Tina Walker, Ashlee Farmer, Christie Rodgers, Katrina DeZella, Courtney Welson, Maliri Duborg, Kirby Schutzman, Heather Sorsby, Kara Drewry, Sheronda Williams, John Mark Braswell, Gletcher Caulk, Zack Cozart, Kevin Stewart, Sam Whitney, Reuben Booker, David Walls, Danny Waddell, Stefanie Vick, Pam Curry, Ashley Banks, Jami Billings, Sheila Fleming, Artie Fagin, Thomas Darden, Sean Coring, Eric Hays, Omari Fuben, Shane O'Connell, Lauren Morr, Talia Ruggiert, Elliott Skiles, Casy Taylor, Eric Tusets, Greg Benson, Andrea Foxx, Velma Thomson, Margaret E. Davis, Patrick Brown, Eddie Jones, Terrence Marshall, Harolyn S. Butler, Chris Mitchell, Mark Sparybep, David Fletcher, Charles Noble, Lauren Myruik, Elizabeth Mills, Heather Stegall, Will Boothe, Kimberly Ridgway, Cynthia Kallaher, Hally Burten, Michael Cameron, Jessie Seahorn, Jonathan Mahon, Dylan Royal, Rachael Martin, Anna Rowland, Brandon Kelser, Danielle DeFur, Adam Winstead, Chris Barthold, Brittany Fryona, James Johnson, Kevin Kerley, Mike Pastorius, Courtney Knop, Ruth Nall, B.J. Jernigan, William Powell, Samantha McCallum, Ryan Taylor, Julia A. Wilson, Jason Zaloudek, Taylor Buckley, Robert Corken, Brian Donovan, Jason Sanden, Scott Helihy, Ashley Fields, Erica Sanders, Justin Klein, Thaisha Collins, Olivia Davis, Natalie Spencer, Tara Goodwin, Cassie N. Qualls, Amanda Spencer, Keri Logan, Andrew Legge, Allistar Bryant, Liz Schultz, Amanda Morehart, Joshua Hoaglan, Anthony Hall, Matt Hudson, Benjie Marvell, Mark Ledbettei, Erin Dutton, Joseph Martin, Vicki Brand, Justin McTeer, David Oliver, Kimberly May, Jessica Parks, Allie DeCeault, Angela Hood, Matt Hayeslip, Jason Faulstick, Chris Lemon, Emily Phillips, Joanne Upton, Heidi McDevitt, Erin Ours, Tiffany Ford, Angie Dorsey, Matt Wadlington, Michael Slater, Ana Ayers, Maureen Pecinovsky, Britni Achermenne, Alison Barnirrell, Jeremy Beridreamy, Brittany Caggman, Josh Carlan, Kevin Hale, Larry O'Malley, Amanda Duckworth, Patrick Davis, Jessica Hall, Stefanie Hall, Matthew House, Amanda Johnston, Brad Jones, Pam Higginbotham, James Watts, Tommy Siskman, Terry Moore, Chris Britt, Joseph Ferronte, Shenna Williams, Aaron Scott, Adam Maida, Muriel Tedbette, Chris Sniper, Amanda Pirani, Paige Jennings, Jason Casey, Kevin Hogue, Gina Smith, Derick Reayan, Willie Adams, Trey Crouch, Lauren Petrovsky, Kyle Woj, Rosalyn Collins, Mary Jo Bracken, Lindsay Talarico Jaime Pidkowicz, Valerie Short, Don Selentine, Seth Estock, Eric Crocker, Davis Moore, Mark Guess, Charise Hansen, Katie Hindley, Heather Hunt, Christina Oppenhuizen, Brooke Feathers, Amber Chauncey, Katrina Russell, Queta Dillard, Adam Coats, Megan Gabohart, Cecelia Dowling, C.J. Passmne, Matt Foster, Leigh Ann Tippett, Ryan Weaver, Karen Jeffries, Sarah Mullally, Brittany Whittington, Eric Kimura, Farris McDowell, Ryan Bunting, Shannon Simpson, Jamie Runtz, J.R. Moorhead, Emily Schmitt, Trecie Williams, Andy Gardner, Laura Poole, Ashley Gaines, Patty Berry, Adam Winstead, Adam Teveante, Bria Chambers, Jamie Bryan, Austin Williams, Blake Straussen, Hope Anderson, Maggie Tucker, Hunter Eline, Dennis Manning, Kelli Parrish, Cory Garvey, Heather Duborg, James Culpepper, Melissa Brent, Yekeshia Smith, Ashanti Smoot, Kimberly Stigall, Branoon Still, April Stone, Kimathi Streit, Kim Washington, Portia Williams, Rondah Smart, Aisha Sharif, Karonda Kirkwood, Jasmine McNeill, Marsha Jones, Jason Cunningham, Warren Thomas, Dore'al L. Mills, Adam McGahee, Roddrick Cole, Elizabeth Caroul Leng, Donecia Christian, Erica Butler, Terrance Terrell Jones-Young, Kelli Jones, Laurelon Lawson, Nakita Jones, Thomas Seymanek, Melanie Hall, Bridgette Flake, Crystal Holly, Tamyra Henry, Seirra Hamilton, Macus Williams, James A. Barnett, Charla L. Hubbard, Roger Ebstrom Joshua Hordin, Kenny Franklin, Miriam Jackson, L'rae Gregory, Charlotte Austin, Andrea Isom, Pamela Higgs, Andrea Grier Shana Jackson, Troya Hall, Angela Jennings, Jessica Austin, Jeremy Alsobrook, David Armstrong, Desmond Bell, Jefferson C. Beck, Mario Bailey, Marie Arnoult-Duffy, Pier Birong, Shantia Baldwin, NaSundra Burks, Tammy Benner, DeJuan A. Alexander, Christina McKinnie, Alexis Moore, Ibin Moote, Chinita Moore, Lashika Mack, Keona Merriweather, Ramon Smith, Marquist Taylor, Andre Nash, Sakinah Northcross, Miatta White, Natasha Nummally, Anthony Shaw, Barbara Lester, Quinterece Underwood, April Watson, Jason Gardener, Duke Rodda, Marquis Robinson, Elzey Rosebud, Adaryll, Celkite, Shaundra Glass, Kamesha Hervey, Kenya Jones, Michael McCaslin, Shanae Askew, Cecil Moore, III, Marvin Aubsby, Bettina Applewhite, Candace Clear, Jameelah Muhammad, Shelby William, Doug Powell, Sam Hedman, Ajada Bernard, Nina Addison, M.L. Addison, Tachina Alger, Richard Allen, Bria Nicole Rass, Corey Anderson, Lauanda Armstrong, Iquana K. Avant, Kimberly Bandy, Nikayl Bogu, Kapeshia Bouth, Shante Bronn, Rodney Bradley, LaKita Dwan Rooks, Khris Tunstall, Terrell Crutchen, April Gilbert, Patricia Jones, Caherine Jones, James Vally, Andrea Lane, Alicia Lattimore, Derek Richardson, Bruce Thomas III, Shironda Tempton, Ebony Laird, Torica Oliver, Shantel Taylor, Katoshia Broden, Michael Brewer, Mekesha L. Bonds, Rachel N. Benford, Isaac Burch, Shauta Bradley, Kenon Brown, Natasha Bowles, Lauren Belski, Candace Baril, Jacqueline Berg, Jocelynn R. Butler, Peter Parker, and Janelle McCoy.

Ridgeway High School.—Carlesia Smith, Caystal Monique Coley, Kelly Abernathy, Maria McCraw, Allan Picket, John Caldwell, Wayne First, Mathew Jacker, Chris Buirsi, Chris Tatom, Tracy Baer, Lauren McNabb, Brittany Dicky, Kelley Duncan, Matt Lackey, Brad Eiseman, Brad Lackey, Ben Hom, Benjamin Yaffe, Geany Lipum, Tony Maullor, Michael Palin, Robert Watson, Ann Bomgarden, Banji Adebayo, Christie Brough, Rachel Turmen, Kathy Eupen, Jerome Fowell, Jacqueline McGee, Brian Bentsly, Drew Colwell, Clay Yaff, Tiricia Parvetts, Krystie Oliver, Bobie Logan, Yual Banks, Shunica Marshall, Victor Thomas, Alex Martin, Brandy Day, Deidre Puitchard, Seneca McPhee, Jennifer Bernard, Huntiture Day, Jennifer Sidney, Taureya Miller, Brad Jolly, Justin Smith, Jay Raymore, Krystall Lovell, Jarey Jones, Ryan Talin, Joey Palugi, B. Laslay, Summer Woodarer, Tinoynne Webster, Shareka Turner, Chaska Whits, David Tran, Blake Whitters, Ari Zelig, Preston Taylor, Edwin Williams, Richard Todd, Bryan Tayler, Jeffrey Teshman, Kim Abernathy, Jennifer Drake, Johanna Ochoia, Ashley Drane, Lincoln Richie, Daniel Coproe, Lawrence Beirte, Jason Portus, D. Rivers, L. Burkins, Allicia Richard, Tiffany Richard, Chasity Shipp, Lauren Pate, James Robinstein, Edward Reed, Elizabeth Shackelford, Phillip Shimerling, Maurice Owens Jr., Cris Atton, Lisa Shackelford, Temi Odusary, Emily Randolph, Jacind Samuels, James Morison, Steven James, Phillip Fiester, Valerie Baker, Allison Barden, Jennifer Benvenuto, Chase Anderson, Dana Buitenwert, Rachael Beakely, Gabriella Castiglione, Michael Armstrong, Matt Bryant, Justin Brown, Marc Bryant, Jason Belish, Carla Anderson, Clay Anderson, Katie Abel, Erin Earnheart, Brittany Franks, Gina Griffin, Latoya Gray, Ashley Hammon, Magie Grear, Lynley Geston, L.

Edwards, Thomas Blanton, Lee Gurham, L. Brown, L. Thomas, Allison Schwartzberg, Chris Bloomfield, Jermany Weiser, Denise Kurmar, Ellen Larson, Monica Christan, Erin Hover, Jan M. Hutcher, Emily Houston, Danny Holmes, Naryi Kelishadi, Kris Katz, Brittny Hux, Allison Howell, Lisa Horn, Wes Kume, J. Jones, David Day II, Monica Elliot, Vanessa Watson, Katrina Hudson, Rachel Moore, Katie Grashot, Michelle Wilson, Lisa Matlei, Yae Wang, Tony Santucci, Rachal Rivers, Steven Presley, LaShaurdea Stauion, Michael Amstand, Edgin Wright, Sharon Conroy, Mandy Tutor, Bryan Taylor, Chris Pelkey, Todd Cohen, Stephen Aron, Courtney Mayes, Marlon Marray, Joy Pryor, Krystal Larry, T. McKurnney, Jeremy Johnson, Rodney Fitzgerald, Katie Weems, Jherri Webster, Geany Coberun, Eric Richie, A. Rogers, Danielle Russell, Josh Robbins, Marquette Porter, Sharon Fisher, and Landon Pithe.

Northside High School.—Ferdrick Davis, Jermaine Ousley, Jakaysha Ross, Jamika Edwards, Laqueitie Perry, R. Knight, Kyshon Otteridge, Steve Nelson, S. Wesley, James Burks, Audrey King, Shea Thomas, Kimberley Moris, Laticia Nelson, Alexis Dundle, Geoffrey Ballard, Allison Pattion, Jennifer Gladney, Monica Hasin, Stacey Boyle, C. Steniris, April Hunt, Jarvis Mull, Starueltta Gordon, Monique Bradberry, Comelia Bemmy, Sharonda Mason, Tiffany Bess, Shaunta Johnson, Tina Woods, Lasheka Hill, Shamcka Bradford, Carmelita Jackson, Destiny Abraham, L. Gordon, Ronnie Wright, Frenchiska Jones, Tiffany Christie, Joy Metealf, Erika Turneck, T. Butt, V. Aller, Marcus Abobrook, Kristy Dowell, J. Burton, Jashua Hampton, Tiffany Strong, Brandon Oliver, Cortney Polk, Darvin Oliver, Demitrius Jones, David Payne, Valerie Birth, Tiffany Brance, Dala Ahmed, Courtney Munnis, and Marshita Walks.

Mt. Pisgah Middle School.—Melissa Schiles, Steven Baroos, Etta Savage, Cris Watson, Fran Hill, Laquesha Stigger, Bret Howell, Jenie Hoppen, Ronnie Carney, Rosemarie Paoli, Paula Carlton, Justin Sachumbacker, Andrew Zorn, Amanda Lott, Alicia Barnett, Lory McAble, Whitney Greenway, Matt Breeden, Devinn Little, Amanda Patrick, Catherine Bryant, Heather Ivey, Trey Gray, Crystal Green, Jessica McGugan, Chris Greene, Jimmy Holliday, Neely Dickerson, Alec Johnson, Amber Jones, Sean Duncan, Maria Chu, Scott Thompson, Courtney Goddard, Miles Ferguson, Joseph Holmes, Rachel Smith, Rachel Birdsong, Anthony Triholson, Bryan Foller, Morgan Unfield, Justin Backer, Becca Giannini, Ashley Lowe, Paul Scott, Aimber Kages, Paul Earin, Jonathan Brewer, Patrick Woodyard, Candice McDowell, Katy Williams, Colby Harringtton, Katrena Jones, Kali Jones, Whitney Coween, Marie Bugnitz, Christi Ledford, Danielle Richards, Courtney Houston, Sara Garya, Jessica Holbert, Cameron Cathey, Daniel Tigger, Ashely Rainey, Mallorey Dahlin, Ashley Roler, Jackie Ncbert, Alexa Bray, Kara Dubree, Claire Little, Amanda Feeman, Jenny Louie, Kim Morstan, Clint Basinger, Cody Liles, Ali Brooks, Jennifer Tradwell, Tim Miller, Paul Starts, Daniel MeerRamper, Lakindal Smith, Stephanie Allen, Jan Ellis, Brittany Taylor, Kevin Vanchgriff, Samantha Lea, Nicki Robinson, H. Smith, Nathan Rapaus, David Harver, Anthony Berry, C. Freedman Jr., Jennifer Jones, Evan Ledonge, Elizabeth Hard, Aimen Abdi, Shane Armour, Ale Felix, Undsay Winiffth, Jennifer Barnes, Pierre Wherry, Brian Kim, Jonathan Cox, Junichi Snibata, Elizabeth Davidson, Ashli Goings, Aubrey Smith, Carli Swendner, Claire Lovic, Christie Commins, Brandon Budgett, April Chrestman, Kristen Clements, Brent Garrett, Chase Griffiths, Brian Knight, Haley Nelson, Courtney Seal, Billy Saunders, Jake Sluder, Erika Gross, Brad Harris, Josh Chuningham, Ashley Ferree, Emily Ray, Syacy Rodgers, Cynthia Clearwood, Sabrina Torres, Jennifer Boyle, Whitney Deaton, Paula Bennett, David Hines, Taylor Birmingham, Clay Pater, Gary Pittman, Jennifer Drabenwicz, Albany Edmiston, Junji Kamiya, Billy Fisher, Justin Hubbard, Kevin Tipton, Joey Mathews, Jennifer Corbin, Shawna Eveland, Brian Bushy, Brandon Clarck, Kelly Burcl, Kendall Coober, Melanie Tutor, Amber Haris, Olivia Wylie, Christi Mathis, Jck Lipsay, Amanda Belle, Ashley Jonas, Ryan Tucker, Walker Gabriel, Chris Lane, Taylor Clark, Jessica Hale, Christina Baker, Brittony Jones, Candie Russell, Mandy Barnett, Patrick Rowband, Trevor Beahm, Burbon Leffall III, Tracie Davis, Lisa French, Susan Buforh, Jessica Halford, Jonathan Doraper, Jessica Fason, Ryan Hamalton, Clay Hopkins, Emily Currie, Lee Johnson, Brittany Shaw, Alicia Williams, Suzanne Strong, Andrew Neal, Maureen Saunders, Amber Northcott, Britney Cabb, McKenna Frease, Matt Traas, Stephenie Ivie, LaQuita Payne, Talbot Kennedy, Angela Garza, Ryan Staggs, Melissa Williams, Jessica McMillion, Elizabeth Lewis, Tommy Wiabe, Jason Gelineau, Tyler Greene, Jon Scott, Kati Rutherford, Stacy Wright, Chris Brooks, Chrystopher Simpson, Kelley Parks, Rachel Wigginton, Ashley Lester, Thurston Hall, Christi Cook, Audra Mathis, Brandon Rushing, Valerie Hall, Griffin Morrisson, Laura Lambert, Melissa Rosloniec, Erika Kirksey, Mike Parkam, Drew Fryman, David Kim, Justin Cole, Brittany Sistrunk, Jennifer Slavin, Hilary Pepper, Blake Todd, Collin Stale, John Burnett, Mauory Mares, Gibraltar White, Jayme Jackson, Teresa Tucker, Sara Williams, Eric Knight, and Amanda Hutchens.

Briarcrest Christian School.—Brian Wagner, Lauren Wilkey, Elizabeth Smith, Josie Williams, Erica Wyatt, Corrie Stauffer, Laura Williams, Drew Abiz, Chris Moore, Jeremy Moore, Missy Patrick, Lauren Owens, Andy McIntyre, Kayce Morris, Charles Pemberton, Jonathon Phillips, Cannon Morris, Mike Moore, Emily Newson, Malak Moustafa, Nicole Morrison, Meg Malone, John Farley, Adrienne Miller, Brad Colonna, P.J. Redmond, Paige Ashburn, Josie Rote, Ryan Ringley, Morgan Jones, Sarah Copeland, Jenni Romanow, Ally Wutse, Elissa McCarty, Melody Mullins, Gavin Beasley, Kristin Murdock, Daniel Cares, Brian Watson, Lauren Yohanek, Karen Stimpson, Amber West, Alice Willett, Eva Five, Tricia Wiles, Elizabeth Straube, Andrea Welb, Wesley Eoff, Ashley Pulliam, Wiil Wright, Karen Stevenson, Mark Russell, Matt Gates, Christy Wescott, Kelly Doughtary, Lindsey Miles, Jessica Williams, Alison Howe, Blake Snyder, Rachel Jaddia, Noah Bishop, Julie Black, Beth Hamilton, Annie Yancey, Grethchen Strickland, Leslianne Stacey, Taryn Ellesworth, Jeff Gold, Eric Gleuu, John Henderson, Scott Grecham, Suzanne Harris, Nicci Harell, Paul Grimes, David Phillipps, Martha Walker, Megan Dufouty, John Duyer, Alicia Dean, Joy Robinson, Sarah Thompson, Courtney Worley, Lauren Massengill, Katie Worley, Erin Leport, Laura Reddick, Joseph Hill, Matthew Kiefer, Jonathon Burlison, Katie Long, Drew Joyner, Rhyne Putman, Olivia Clifford, Kathryn Anne Cogart, Kellie Edmundson, Betsy Comella, Jonathon Chu, Angii Earhart, Wesley Day, Christi Dawson, Robby Donaldson, Reid Garrett, Matthew Grear, Jeff Grimes, Doug Jora, Tim Hook, David Haren, Callie Kraus, Kevin Glenn, Lisa Harkin, Courtney James, Robert Hill, Brad Huluprik, Brad Rulerun, Paige Ashburn, Brandon Tom, Wesley Montague, Drew Johnson, Charles Reynolds, Stephanie Sutterfield, Brad Young, Charles Haig, Katherine Werr, Scottie Fleming, Molly Ince, Courtney Pierce, Nicholas Kieth, Brent Lyon, Jenny James, Dustin May, C. Boyle, Christine Smith, Omal Cates, Rachel Duffey, John McCommon, Callie Milan, Kristen Murdock, Casey Thornton, Ashely Eason, Elizabeth Whaley, Justin Wright, Lindsey Wildman, Rachel Walter, Elizabeth Snyder, Lindsey Wenner, Garett Vaughn, Megan Thielemer, and Allison York.

Central High School.—Tephane Rainey, John Rogers, John Sanders, Harold Robinson, William Richardson, Antionette Pritchard, Melanie Walker, Natasha Richardson, Erica Pilgram, Glenda Sims, Syaria Nathan, Damitra Scott, Berati Bub, Justyn Robinson, Erika Shannon, Patricia Kee, Charillai Wooten, Charla Webster, Jevita Taylor, Julius Stokes, Tracee Prewitt, Kamesha Reed, Erika Madlock, James Kendrick, Sydney Love, Robyn Trilliams, Sadrigiez Mallett, Tequilia Taylor, Jordan On, Nicole Merten, Crystall Russell, Jocelyn Washington, Evancee Wilson, Anthony Underwood, Antonio McCall, Tyrus William, Richard Trinkett, Derick Milan, Ashley Taylor, Erickia Vaughn, Devin Cruthcher, Bree Curry, Erika Vickqall, Elisha Chestar, Roger Clioves, Reico Collins, Tiffany Knight, Packer Pisnsay, Sharice Thompson, Shannon White, Michael Woods, Tera Wilson, Antonio Foster, Marcus Taylor, Tnya Robinson, Alisha Westbrook, Allisius Williams, Justin Evans, Julian Willis, Andrea Wheeler, Clem Wright, Lia White, Larita Webb, Carl Marley, Sarah Wrianduire, Michelle White, Erica Rogers, Jackline Robinson, Shernard Walton, Pamela Campbell, Marcus Newman, Phui Pich, Synetta Clayton, Lakisha Ramsey, Mareica Smith, Michelle Harris, Nate Frazier, Jade Gior, Tamaria Bridgeforth, Tara Harris, Sashee Hawkins, Dayna Gibles, Sheila Barrison, Emorycarlos Gordon, Tacarra Hodges, Cassi Jordan, Michael Hodge, Latrice Stewart, Sharon Smith, Melissa Green, Ebonie Holmes, Kerri Jones, Alita Humt, Andrea Hardin, Derrick Granderson, Lakisha Murph, Liontyn Pryne, Charles Darner, Tyfany Nathan, Waywotta Mosley, Michael Owens, Marhesia Moody, Erica Humphrey, Jackqueline Newson, Chauncey Owens, Kristoph Dous, Marcus Johnson, Darnisha Bridgeforth, and Temper Phillips.

Frayser High School.—Asley Jack, Talitha Hamilton, Derrick Hollaway, Jeanette Fisher, Luvenia Keys, Erica Eason, Nicole Banks, Lakiesha Hunt, Erica Wells, Kim Ballentine, Donnie Mitchell, Jerry Durner, John Boall, Charlette Robertson, Chris Cullier, Jessica Cook, Terronce Crawford, Kerissa Clark, Yerinda McClinton, Stephanie King, Apee Hope, Alfred Davis, Frederick Jordan, Darron Malte, Samuel McConnell, Kimberly Townsend, Crystal Meeke, Tamera Thomas, Danielle Williams, Justin Walker, Adam Wade, Kendal Hall, Danisha Harbin, Marcus Swatt, Ricky Washington, Melissa Blue, Tandaneiha McFerren, Jackson Hutchinson, Lakeisha Spight, Mitchell Hard, John, Pomfret, Princeton Wilson, Kilan Londy, Yang Lin, Steven Crawford, George Cul, Dewete Dugger, Robert Fiak, Travis Butler, Courtney Woods, Jeremy Cook, Lasonya Curry, Laketa Byrd, Alexis Cooper, Risha Matting, Nadia Smith, Nikia Shields, Tara Long, Corey Washington, Sheddrick Ray, Melomise Felix, Ashley Hicks, Lakita Davis, Tamara Ward, Marjuita Walton, Rashad Robinson, Lashaquita Nix, Tieares Sims, Dynasty Peete, Persha Johnson, Tiffany Burton, Shanna Layrock, Lavonne Williamson, Shy Watson, Derrick Battle, Jaquiese Larry, Shakita Thomas, Dominique Casey, Senobia Rogers, Quincey Willborn, Lakeisha Brown, Tamika Milan, Alla Kyles, Malishan Stigger, Desiree Bullard, Amy Dobbins, Travis Thompson, T'sis Thomas, Camise Ddandridge, Denrell Walls, Venesia Humphrey, Carl Layhr, Quinton Ray, Tamieka Works, Contisa Mathews, Gabrielle Oliver, Cornelius Yancy, Cristen Young, Brenda Reyes, Laheyda Wakefield, Henry Foreman, Carlos Eddius, Lakesheya Nelson, Camille Adams, Sherrod Smith, Ashley Hill, Michael Sharp, Paul Cartem, Jarvis Smith, Trenton Flemmins, Lashell Abston, Tiffany Burks, Wanda Bailey, Tamika Ward, Lakesha Oneal, Renata Mosby, Byron Bell, Christina Williams, Marquette Walker, Kendra Collins, Monica Royal, Tiffany Smith, Alilcia Cleaves, Marcus Brans, Tamekia Mosby, Darrin Gandy, Michelle Green, Lakeisha Ware, Antonio Hibbler, Caurtesia Shawcoant, Marra Wallace, Carcheon Calloway, Tawanda Williams, Angel Hollowell, Barbara Gant, Elinor Cleaves, Kevin Birch, Jaweka Betts, Tania Combs, Chasity Allen, George Webster, Chearm Meggan, Jessica Young, Asia King, Anesha Holmes, Erving Lewis, Lakenshea Bell, Stacey Holbon, Katrina Becton, Dorothy Carter, Erin P. Evan, Trineka Brown, Audria Ardison, Ciena Bibbs, Catisa Proctor, Erika Bennett, Jarvis Taylor, Esqua Brown, Bodney Bolden, Ricardo Anthony, Mac Hasha, Mac Pinney, Michael Nabors, Latoria Jones, Alteena Edwards, Gloria Williams, Tiffany Hill, Shannon Jessey, Sheledal Hayworth, Hanley Young, Rodney Royers, Zippora Lawson, Erick Terry, Herbert Johnson, Lonniel Williams, Fredric Harriett, Renelde Andrews, Aquariees Anderson, Kendria Andrews, Courtney Mass, Erica Carlock, Pam Dickerson, Columbus Williams, Lionel Blockshire, Chris Evans, Latasha Ross, Tymissa Brooks, Monica Harrell, Nicole Chares, Wilbert Smith, Maurice Shields, Justin Smith, Hillary Nutz, Donald Schmith, Terri Johnson, Carnika Toliver, Sherica Elliot, Kyna Gray, Kelli Puckett, Menisha Moore, Crystal Thomas, Demetria Dotch, Mylenkia Willer, Margita Douglas, Leia Giray, Biannca Thomas, Duntinese Davis, Eric Porter, Dorian Ross, Shanikka Hayes, Sriez Phannarath, Jamaal Rufus, Dudie Cannon, Arcka Simmons, Kimberly Spight, Shanika Brown, Terrance Williams, Christopher Sain, Bridget Barr, April Jamison, Tameka Burns, Stephanie Scott, Charles Douglas, Travis Williams, and LaToya Johnson.

SAILORS OF USS "REGISTER" AND USS "INDIANAPOLIS"

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. REYES. Mr. Speaker, I am pleased to recognize that on September 15–21, 1998, survivors of the USS *Register* and USS *Indianapolis* will be having their reunion in El Paso, Texas at the Howard Johnson Lodge.

The USS Indianapolis (CA–35) was commissioned at the Philadelphia Navy Yard on November 15, 1932. The ship served with honor from Pearl Harbor through the last campaign of World War II, sinking in action two weeks before the end of the war. On July 30, 1945, while sailing from Guam to Leyte, the USS Indianapolis was torpedoed by Japanese submarine I–58. The ship capsized and sank in twelve minutes. Survivors were spotted by a patrol aircraft on August 2nd. All air and surface units capable for rescue operations were dispatched to the scene at once. The USS Register was among the several ships involved in the rescue. Upon completion of the day and night search on August 8, 316 men were rescued out of a crew of 1,199.

The USS Register (APD–92/DE233) served in the Pacific theater of operation as an attack personnel destroyer during World War II. On May 20, 1945, the ship survived a hit by a Japanese Kamikaze plane off the island of Okinawa, sustaining casualties and heavy hull damages, after shooting down three enemy suicide planes. On August 3rd, the USS Register was among eight ships that rescued some survivors of the ill-fated USS Indianapolis

After distinguished service, the USS Register was decommissioned March 31, 1946 at Green Cove Springs, Florida on the Saint Johns River. In the Spring of 1966 it was struck from the Naval Reserve Fleet and subsequently transferred to the Republic of China Navy and renamed the Tai Shan.

We the surviving shipmates of the USS Register and the survivors of the USS Indianapolis value the memories of their service in the United States Navy and our shipmates who are no longer with us and are not forgotten for their distinguished service and eternal brotherhood. Rest in peace shipmates. On their behalf, we honor them and Paul James Register, for whom our ship was named for, who was killed in action while serving aboard the ill-fated USS Arizona, December 7, 1941 at Pearl Harbor, Hawaii.—Service members of the USS Register and Indianapolis

The sailors of the USS Register and Indianapolis served the United States of America with honor and distinction. These veterans of WWII contributed to end the war in the Pacific and the war as a whole. They deserve a page in history, for their story is a reminder of all the servicemen and women who gave their lives to preserve the freedoms that we take for granted today.

TRIBUTE TO JACK SIZEMORE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the lifetime of contributions that Mr. Jack Sizemore has made to our community *and district. On this, the occasion of his retirement,* I wish to thank this tireless advocate for the workers and families of our community for his ardent support of our district and Northwest Ohio. The position from which he is retiring, Director of Region 2–B of the United Auto Workers Union and member of the UAW International Executive Board, represents the pinnacle of a long and dedicated career.

Born and educated in Toledo, at Whitmer High School and the University of Toledo, Mr. Sizemore went to work as a precision grinder in the same Dana Corporation plant that employed his father producing heavy-duty transmissions. He wasted no time becoming involved in the union, UAW Local 12, and won election as a steward in the Dana Unit one year after beginning his employment. Three years later, he was elected as a member of the unit's shop committee and a UAW Convention delegate.

When the UAW Dana National Negotiating Committee was founded in 1967, Mr. Sizemore was on board as a member. He participated in national bargaining with the committee until 1974. He was also Vice President of the UAW Dana Council and Chairperson of the Dana Unit Shop Committee during that same time. Before being elected as Director of UAW Region 2–B in 1986, he served as International Representative and Assistant Director. Throughout his career he has fought for the betterment of the standard of living for all our citizenry.

Mr. Sizemore's presence has not been limited to the labor community. He has given his time and energy in the education, sports and business circles of Toledo. He is a member of the University of Toledo Board of Trustees, the Private Industry Council of Toledo, the Board of Trustees of the United Way and St. Vincent Hospital, to name a few. He is also active in the Democratic party, serving on the State Executive Committee and Democratic National Committee.

During all this service, he and his wife, Carol, have raised eight children and are enjoying the blessing of fifteen grandchildren. As he completes his tenure as leadership of the United Auto Workers, our entire community warmly congratulates him for his steady leadership and careful negotiating skills that have retained jobs, upgraded our way of life, and given strength to the cause of workers throughout our nation. Godspeed to Jack and Carol and their family in years hence.

HOUSE OF REPRESENTATIVES—*Friday, June 5, 1998*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. HEFLEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 5, 1998.

I hereby designate the Honorable JOEL HEFLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer: We place before You, gracious God, the emotions that stir our hearts, awaken our minds and revive our energies. As You have breathed into our souls the very breath of life, so may we gain new energy and refreshment from our prayers of praise and thanksgiving. May our communication with Your spirit, O God, give meaning and purpose to what we do, even as we use the gifts You have given in ways that honor You and serve people wherever they may live or whatever their need.

We pray a special blessing this day on our pages who have served this body with enthusiasm and dedication and who now leave for new responsibilities. May Your benediction, O God, be with them, and grant them all good gifts, now and evermore, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 102. Concurrent resolution recognizing Disabled American Veterans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize one-minute requests at the end of legislative business today.

USER FEE ACT OF 1998

Mr. SOLOMON. Mr. Speaker, pursuant to the order of the House of June 4, 1998, I call up the bill (H.R. 3989) to provide for the enactment of user fees proposed by the President in his budget submission under section 1105(a) of title 31, United States Code, for fiscal year 1999, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The bill is considered read for amendment and the amendment made in order, pursuant to the order of the House of Thursday, June 4, 1998, is adopted.

The text of H.R. 3989, as amended, is as follows:

H.R. 3989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "User Fee Act of 1998".

TITLE I—FOOD AND DRUG ADMINISTRATION FEES

SEC. 101. REFERENCES IN THIS TITLE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

PART A—USER FEES

SEC. 111. FEES RELATED TO FOOD ADDITIVE PETITIONS.

(a) TYPES OF FEES.—Beginning in fiscal year 1999, the Secretary of Health and Human Services (referred to in this title as the "Secretary") shall establish, in accordance with section 121, fees to cover activities of the Food and Drug Administration in connection with—

(1) petitions for food additives submitted pursuant to section 409(b) (21 U.S.C. 438(b));

(2) notifications to the Secretary for food contact substances submitted pursuant to section 409(h) (21 U.S.C. 438(h));

(3) petitions for color additives submitted pursuant to section 721 (21 U.S.C. 379e);

(4) petitions, submitted pursuant to sections 201(s), and 701(a) (21 U.S.C. 321(s), 371(a)) and regulations thereunder, for affirmation that a substance that becomes, or may reasonably be expected to become, a component of food is generally recognized as safe; and

(5) notifications to the Secretary, submitted pursuant to sections 201(s) and 701(a) and regulations thereunder asserting that a substance that becomes, or may reasonably be expected to become, a component of food is generally recognized as safe.

The fees shall be payable at the time the petition or notification is submitted to the Secretary.

(b) FEE AMOUNTS AND AVAILABILITY.—Subject to section 121(a)(1)(A), fees for the activities specified in subsection (a) shall be set for each fiscal year at amounts that the Secretary reasonably estimates to be sufficient to generate revenues totaling $10,335,000 for each of fiscal years 1999 through 2003, and shall remain available until expended, to the extent provided in appropriations Acts, for the costs of carrying out such activities.

SEC. 112. FEES RELATED TO GENERIC DRUGS.

(a) TYPES OF FEES.—Beginning in fiscal year 1999, the Secretary shall establish, in accordance with section 121, fees to cover activities of the Food and Drug Administration in connection with applications for approval for new drugs submitted pursuant to section 505(j) (21 U.S.C. 355). The fees shall be payable at the time the application for approval is submitted to the Secretary.

(b) FEE AMOUNTS AND AVAILABILITY.—Subject to section 121(a)(1)(A), fees for the activities specified in subsection (a) shall be set for each fiscal year at amounts that the Secretary reasonably estimates to be sufficient to generate revenues totaling $12,377,000 for each of fiscal years 1999 through 2003, and shall remain available until expended, to the extent provided in appropriations Acts, for the costs of carrying out such activities.

SEC. 113. FEES RELATED TO ANIMAL DRUGS.

(a) TYPES OF FEES.—Beginning in fiscal year 1999, the Secretary shall establish, in accordance with section 121, fees to cover activities of the Food and Drug Administration in connection with—

(1) applications, including supplements, for new animal drugs submitted pursuant to section 512(b)(1) (21 U.S.C. 360b(b)(1), including application and other submissions for import tolerances, as described in section 512(a)(6) (21 U.S.C. 360b(a)(b));

(2) abbreviated applications, including supplements, for new animal drugs submitted pursuant to section 512(b)(2) (21 U.S.C. 360b(b)(2)); and

(3) applications for licenses to manufacture animal feeds bearing or containing new animal drugs, submitted pursuant to section 512(m) (21 U.S.C. 360b(m)).

The fees shall be payable at the time the application for approval is submitted to the Secretary.

(b) FEE AMOUNTS AND AVAILABILITY.—Subject to section 121(a)(1)(A), fees for the activities specified in subsection (a) shall be set for each fiscal year at amounts that the Secretary reasonably estimates to be sufficient to generate revenues totaling

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

$10,100,000 for each of fiscal years 1999 through 2003, and shall remain available until expended, to the extent provided in appropriations Acts, for the costs of carrying out such activities.

SEC. 114. FEES RELATED TO MEDICAL DEVICES.

(a) Types of Fees.—Beginning in fiscal year 1999, the Secretary shall establish, in accordance with section 121, fees to cover activities of the Food and Drug Administration in connection with applications for—

(1) premarket approval of devices (including proposed product development protocols) submitted under section 515 (21 U.S.C. 360e);

(2) supplements to approved premarket approval applications for which clinical data are required;

(3) supplements to approved premarket approval applications for which clinical data are not required; and

(4) device premarket notification submissions under section 510(k) (21 U.S.C. 360(k)).

The fees shall be payable at the time the application is submitted to the Secretary.

(b) Fee Amounts.—The fees required under subsection (a) shall be as follows:

(1) $175,000 for applications described in subsection (a)(1).

(2) $100,000 for supplements described in subsection (a)(2).

(3) $6,000 for supplements described in subsection (a)(3).

(4) $4,500 for submissions described in subsection (a)(4).

(c) Fee Amounts and Availability.—Subject to section 121(a)(1)(A), fees for the activities specified in subsection (a) shall be set each fiscal year in accordance with section 121 to amounts that the Secretary reasonably estimates to be sufficient to generate revenues totaling $25,000,000 for each of fiscal years 1999 through 2003, and shall remain available until expended, to the extent provided in appropriations Acts, for the costs of carrying out such activities.

SEC. 115. FEES RELATED TO IMPORT INSPECTIONS AND EXPORT CERTIFICATES.

(a) Types of Fees.—Beginning in fiscal year 1999, the Secretary shall establish, in accordance with section 121, fees to cover activities of the Food and Drug Administration in connection with the review of imported human and animal drugs, medical devices, and food subject to regulation under the Federal Food, Drug, and Cosmetic Act (including activities relating to admission or detention of, refusal of entry to, and the issuance of export certificates for such items). The fees shall be payable at the time of each import entry or request for export certificates for shipment of the item.

(b) Fee Amounts and Availability.—Subject to section 121(a)(1)(A), fees for the activities specified in subsection (a) shall be set for each fiscal year at amounts that the Secretary reasonably estimates to be sufficient to generate revenues totaling $12,000,000 for each of fiscal years 1999 through 2003, and shall remain available until expended, to the extent provided in appropriations Acts, for the costs of carrying out such activities.

(c) Collections.—The fees authorized by this section shall be collected on behalf of the Secretary by the United States Customs Service.

SEC. 116. FEES RELATED TO ENTITIES UNDER FDA'S OVERSIGHT.

(a) Types of Fees.—Beginning in fiscal year 1999, the Secretary shall establish, in accordance with section 121, fees to cover activities of the Food and Drug Administration in connection with regulatory activities with respect to regulated products approved for marketing. The Secretary shall assess fees for monitoring establishments that are subject to regulation (including inspections conducted pursuant to section 704 (21 U.S.C. 374), and other regulatory activities), as follows:

(1) Food establishments.—An establishment subject to inspection under section 704 (21 U.S.C. 374) because it manufactures, processes, packs, or holds food for (or after) shipment in interstate commerce, is subject to assessment of annual fees under this section. The Secretary may impose an annual registration requirement on such an establishment to facilitate assessment and collection of the fees.

(2) Drug and device establishments.—An establishment subject to the annual registration requirement under section 510 (21 U.S.C. 360) (with respect to products other than those for which such an establishment is subject to section 736 (21 U.S.C. 379h) is subject to assessment of annual fees under this section at the time of registration.

(3) Cosmetic establishments.—An establishment subject to inspection under section 704 (21 U.S.C. 374) because it manufactures, processes, packs, or holds cosmetics for (or after) shipment in interstate commerce is subject to assessment of annual fees under this section. The Secretary may impose an annual registration requirement on such an establishment to facilitate assessment and collection of the fees.

This section does not affect any other statutory or regulatory requirements imposed on these entities.

(b) Fee Amounts and Availability.—Subject to section 121(a)(1)(A), fees for the activities specified in subsection (a) shall be set for each fiscal year at amounts that the Secretary reasonably estimates to be sufficient to generate revenues totaling $57,905,000 for each of fiscal years 1999 through 2003, and shall remain available until expended, to the extent provided in appropriations Acts, for the costs of carrying out such activities.

PART B—GENERAL PROVISIONS

SEC. 121. GENERAL PROVISIONS RELATED TO USER FEES.

(a) Assessment of Fees.—

(1) Fee amounts.—

(A) Collections subject to appropriations.—The fees authorized by this Act shall be collected in each fiscal year as provided in appropriation Acts for such fiscal year.

(B) Relation to costs.—Fees assessed and collected under part A shall not exceed amounts which the Secretary estimates to be sufficient to cover costs of the Food and Drug Administration associated with the activities for which the fees are collected (including costs of assessments and collection of the fees).

(C) Variation factors.—The amount of fees established may vary to reflect the cost of those activities with respect to different entities or groups of entities, including the type and size of entity, volume of business, and other factors the Secretary may find appropriate.

(2) Fee determination and publication.—The Secretary shall annually establish fee amounts under part A, and shall publish schedules of such fees in the Federal Register as an interim final rule. The establishment and publication of such fees shall be solely in the discretion of the Secretary and shall not be subject to the requirements of sections 553 and 801 of title 5 of the United States Code and shall not be reviewable.

(3) Reduction or waiver of fees.—The Secretary may provide for reduction or waiver of the fees under part A in exceptional circumstances in the public interest.

(b) Crediting and Availability of Fees.—

(1) In general.—Fees collected pursuant to part A shall be credited to a special fund in the Treasury for user fees collected by the Food and Drug Administration. The fees shall be available in the amounts specified in appropriations Acts, for salaries and expenses necessary to carry out the responsibilities of the Food and Drug Administration in connection with the activities for which such fees were collected, including the conduct of scientific research, development of methods of analysis, purchase of chemicals, fixtures, furniture, and scientific equipment and apparatus, development and acquisition of information technology and information management systems, acquisition, maintenance, and repair of real property, and expenses of advisory committees.

(2) Fees available only for the category of activity for which assessed.—Fees collected for each category of activities specified in part A shall be separately accounted for, and shall be used only to finance the costs related to carrying out responsibilities in connection with the same category of activities for which the fees were collected.

(c) Collection of Unpaid Fees.—If the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, that fee shall be treated as a claim of the United States Government subject to the provisions of subchapter II of chapter 37 of title 31 of the United States Code.

SEC. 122. AGENCY PLAN AND ANNUAL REPORTING REQUIREMENTS.

The agency plan for the Food and Drug Administration required under section 903(f) (21 U.S.C. 393(f)) shall include objectives with respect to the assessment, collection, and use of the fees authorized under part A, and the annual report required by section 903(g) (21 U.S.C. (g)) shall describe the performance of the Secretary with respect to such objectives.

TITLE II—MEDICARE ADMINISTRATIVE FEES

SEC. 201. COLLECTION OF FEES FROM MEDICARE+CHOICE ORGANIZATIONS FOR CONTRACT INITIATION AND RENEWAL.

Section 1857 of the Social Security Act (42 U.S.C. 1395w–27) is amended by adding after subsection (h) the following new subsection:

"(i) Fees for Contract Issuance and Renewal and Ongoing Monitoring.—

"(1) Authority to impose fees.—The Secretary shall impose, to the extent provided in appropriation Acts—

"(A) fees for initial Medicare+Choice contracts under this part; and

"(B) annual fees for renewal of such contracts and monitoring of the ongoing operations of Medicare+Choice organizations.

"(2) Assessment of fees.—

"(A) Types of fees.—

"(i) Initiation fees.—Fee amounts assessed against a member of a class of organizations pursuant to paragraph (1)(A) shall not exceed the Secretary's reasonable estimate of the average cost of initiating a Medicare+Choice contract for an organization in such class.

"(ii) Renewal and monitoring fees.—Fee amounts assessed pursuant to paragraph (1)(B) against members of a class of organizations shall not exceed the amount which the Secretary reasonably estimates will generate total revenues sufficient to cover total annual costs for renewing contracts and performing ongoing monitoring with respect to such class.

“(B) FEE DETERMINATION AND PUBLICATION.—

“(i) IN GENERAL.—The Secretary shall annually establish fee amounts under this subsection, and shall annually publish schedules of such fees in the Federal Register. The establishment and publication of such fees shall be solely in the discretion of the Secretary and shall not be subject to the requirements of sections 553 and 801 of title 5, United States Code, and shall not be reviewable. Previously published fee schedules shall remain in effect until new schedules are effective.

“(ii) REDUCTION OR WAIVER OF FEES.—The Secretary may provide for reduction or waiver of the fees under this subsection in exceptional circumstances in the public interest.

“(3) COLLECTION AND CREDITING OF FEES.—

“(A) INITIAL FEES.—Fees assessed against an organization pursuant to paragraph (1)(A) shall be payable upon submission of the application to participate in the program under this title as a Medicare+Choice organization (and shall apply whether or not the Secretary approves such application) and shall be credited to the Health Care Financing Administration Program Management Account.

“(B) RENEWAL AND MONITORING FEES.—Fees assessed against an organization pursuant to paragraph (1)(B) shall be payable annually and may be deducted from amounts otherwise payable from a Trust Fund under this title to such organization. Such fees shall be credited to the Health Care Financing Administration Program Management Account.

“(C) OFFSET.—Any amount of fees collected in a fiscal year under this subsection that exceeds the amount of such fees available for expenditure in such fiscal year, as specified in appropriation Acts, shall be credited to the Health Care Financing Administration Program Management Account, and shall be available for obligation in subsequent fiscal years to the extent provided in subsequent appropriations Acts.

“(4) AVAILABILITY OF FEES.—Fees collected pursuant to this subsection shall remain available until expended, in the amounts provided in appropriation Acts, for the costs of the activities for which they were assessed.”.

SEC. 202. FEES FOR SURVEY AND CERTIFICATION.

Section 1864(e) of the Social Security Act (42 U.S.C. 1395aa(e)) is amended to read as follows:

“(e) FEES FOR CONDUCTING CERTIFICATION SURVEYS.—

“(1) AUTHORITY TO IMPOSE FEES.—Except as provided in paragraph (6), to the extent provided in appropriation Acts, the Secretary shall impose, or require States as a condition of agreements under this section to impose—

“(A) fees for surveys for the purpose of making initial determinations as to whether entities meet requirements under this title; and

“(B) annual fees to cover the costs of periodic surveys to determine whether entities participating in the program under this title continue to meet such requirements.

“(2) ASSESSMENT OF FEES.—

“(A) TYPES OF FEES.—

“(i) FEES FOR INITIAL SURVEYS.—Fee amounts assessed pursuant to paragraph (1)(A) against an entity in a class and State shall not exceed the estimated average cost of an initial survey and determination for an entity in such class and State.

“(ii) FEES FOR RECERTIFICATION SURVEYS.—

“(I) IN GENERAL.—Fee amounts assessed pursuant to paragraph (1)(B) against entities in a class in a State shall not exceed the amount which the Secretary reasonably estimates will generate total revenues sufficient to cover the applicable percentage specified in subclause (II) of total annual costs for such surveys and determinations with respect to such class and State.

“(II) APPLICABLE PERCENTAGES.—For purposes of subclause (I), the applicable percentage specified in this subclause is—

“(aa) 33 percent for fiscal year 1999;

“(bb) 66 percent for fiscal year 2000; and

“(cc) 100 percent for fiscal year 2001 and each succeeding fiscal year.

“(B) FEE DETERMINATION AND PUBLICATION.—

“(i) IN GENERAL.—The Secretary shall annually establish fee amounts under this subsection, and shall annually publish schedules of such fees in the Federal Register. The establishment and publication of such fees shall be solely in the discretion of the Secretary and shall not be subject to the requirements of sections 553 and 801 of title 5, United States Code, and shall not be reviewable. Previously published fee schedules shall remain in effect until new schedules are effective.

“(ii) REDUCTION OR WAIVER OF FEES.—The Secretary may provide for reduction or waiver of the fees under this subsection in exceptional circumstances in the public interest.

“(3) COLLECTION AND CREDITING OF FEES.—

“(A) FEES FOR INITIAL SURVEYS.—

“(i) COLLECTION OF FEES.—Fees assessed against an entity in a State pursuant to paragraph (1)(A) shall be payable at the time of the initial survey to the Secretary (or, in the case of surveys performed by a State agency, to such agency).

“(ii) REMITTANCE OF FEE AMOUNT TO SECRETARY WHERE STATE COLLECTS FEES.—In the event a State agency collects a fee pursuant to clause (i), such agency shall remit to the Secretary an amount equal to the Secretary's share of the cost of the activities described in paragraph (1)(A).

“(iii) CREDITING OF FEES.—Fees paid to the Secretary pursuant to clause (i) or remitted to the Secretary pursuant to clause (ii) shall be credited to the Health Care Financing Administration Program Management Account.

“(B) FEES FOR RECERTIFICATION SURVEYS.—

“(i) COLLECTION OF FEES.—Fees assessed against an entity pursuant to paragraph (1)(B) shall be payable annually and may be deducted from amounts otherwise payable from a Trust Fund under this title to such entity.

“(ii) REIMBURSEMENT OF STATE AGENCY COSTS.—Of amounts collected pursuant to clause (i), an amount equal to the State's share of the cost of activities described in paragraph (1)(B) shall be transferred to the appropriate State agency.

“(iii) REIMBURSEMENT OF SECRETARY'S COSTS.—The balance of the amount collected pursuant to clause (i) that is not paid to a State agency pursuant to clause (ii) shall be credited to the Health Care Financing Administration Program Management Account.

“(C) OFFSET.—Any amount of fees collected in a fiscal year under this subsection that exceeds the amount of such fees available for expenditure in such fiscal year, as specified in appropriation Acts, shall be credited to the Health Care Financing Administration Program Management Account, and shall be available for obligation in subsequent fiscal years to the extent provided in subsequent appropriations Acts.

“(4) AVAILABILITY OF FEES.—Fees collected pursuant to this subsection shall remain available until expended, in the amounts provided in appropriation Acts, for necessary expenses related to the purposes for which the fees were assessed.

“(5) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subsection as an allowable item on a cost report under this title or title XIX.

“(6) CERTAIN ENTITIES NOT SUBJECT TO FEE.—The Secretary shall not impose fees under this subsection against entities subject to the requirements of the Clinical Laboratory Improvement Amendments of 1988.”.

SEC. 203. FEES FOR REGISTRATION OF INDIVIDUALS AND ENTITIES PROVIDING HEALTH CARE ITEMS OR SERVICES UNDER MEDICARE.

Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended—

(1) in the heading, by adding “AND REGISTRATION OF OTHER PERSONS FURNISHING SERVICES” after “PROVIDERS OF SERVICES”; and

(2) by adding at the end the following new subsection:

“(j) REGISTRATION PROCEDURES AND FEES.—

“(1) REGISTRATION.—The Secretary shall establish a procedure for initial registration and periodic renewal of registration of individuals and entities that furnish items or services for which payment may be made under this title and that are not otherwise subject to provisions of this title providing for such procedures.

“(2) FEES.—

“(A) AUTHORITY TO IMPOSE FEES.—The Secretary shall impose, to the extent provided in appropriation Acts—

“(i) fees for initial agreements with providers of services and initial registrations of other entities and individuals that furnish items or services for which payment may be made under this title, and

“(ii) annual fees to cover the costs of renewals of agreements and registrations of such individuals and entities.

“(B) ASSESSMENT OF FEES.—

“(i) TYPES OF FEES.—

“(I) INITIAL FEES.—Fee amounts assessed pursuant to subparagraph (A)(i) against a member of a class of individuals or entities shall not exceed the Secretary's reasonable estimate of the average cost of initiating an agreement or performing an initial registration for an individual or entity in such class.

“(II) RENEWAL FEES.—Fee amounts assessed pursuant to subparagraph (A)(ii) against members of a class of individuals or entities shall not exceed the amount which the Secretary reasonably estimates will generate total revenues sufficient to cover total annual costs of performing such renewals with respect to such class.

“(ii) FEE DETERMINATION AND PUBLICATION.—

“(I) IN GENERAL.—The Secretary shall annually establish fee amounts under this paragraph, and shall annually publish schedules of such fees in the Federal Register. The establishment and publication of such fees shall be solely in the discretion of the Secretary and shall not be subject to the requirements of sections 553 and 801 of title 5, United States Code, and shall not be reviewable. Previously published fee schedules shall remain in effect until new schedules are effective.

“(II) REDUCTION OR WAIVER OF FEES.—The Secretary may provide for reduction or waiver of the fees under this paragraph in exceptional circumstances in the public interest.

“(C) COLLECTION AND CREDITING OF FEES.—

“(i) INITIAL FEES.—Fees assessed pursuant to subparagraph (A)(i) against an individual or entity shall be payable upon application for billing privileges under the program under this title (and shall apply whether or not the Secretary approves such application) and shall be credited to the Health Care Financing Administration Program Management Account.

"(ii) RENEWAL FEES.—Fees assessed pursuant to subparagraph (A)(ii) against an individual or entity shall be payable annually and may be deducted from amounts otherwise payable from a Trust Fund under this title to such individual or entity. Such fees shall be credited to the Health Care Financing Administration Program Management Account.

"(iii) OFFSET.—Any amount of fees collected in a fiscal year under this paragraph that exceeds the amount of such fees available for expenditure in such fiscal year, as specified in appropriation Acts, shall be credited to the Health Care Financing Administration Program Management Account, and shall be available for obligation in subsequent fiscal years to the extent provided in subsequent appropriations Acts.

"(D) AVAILABILITY OF FEES.—Fees collected pursuant to this paragraph shall remain available until expended, in the amounts provided in appropriation Acts, for necessary expenses related to initiating and renewing such agreements and registrations, including costs of—

"(i) establishing and maintaining procedures and records systems;

"(ii) processing applications;

"(iii) background investigations;

"(iv) renewal of billing privileges; and

"(v) reverification of eligibility.

"(E) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this paragraph as an allowable item on a cost report under this title or title XIX.".

SEC. 204. FEES TO COVER THE COST OF MEDICARE DESK REVIEW, AUDIT, AND COST SETTLEMENT ACTIVITIES.

Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

"(f) FEES FOR REVIEW, AUDIT, AND COST SETTLEMENT ACTIVITIES.—

"(1) AUTHORITY TO IMPOSE FEES.—The Secretary shall impose fees on providers of services and other entities furnishing items or services for which payment may be made under this title for performance of review, audit, and cost settlement activities in connection with the audit of cost reports under subsection (b)(2).

"(2) ASSESSMENT OF FEES.—

"(A) IN GENERAL.—Fee amounts assessed pursuant to paragraph (1) against members of a class of entities shall not exceed the amount which the Secretary reasonably estimates will generate total revenues sufficient to cover total annual costs for performing such activities with respect to such class.

"(B) FEE DETERMINATION AND PUBLICATION.—

"(i) IN GENERAL.—The Secretary shall annually establish fee amounts under this subsection, and shall annually publish schedules of such fees in the Federal Register. The establishment and publication of such fees shall be solely in the discretion of the Secretary and shall not be subject to the requirements of sections 553 and 801 of title 5, United States Code, and shall not be reviewable. Previously published fee schedules shall remain in effect until new schedules are effective.

"(ii) REDUCTION OR WAIVER OF FEES.—The Secretary may provide for reduction or waiver of the fees under this subsection in exceptional circumstances in the public interest.

"(3) COLLECTION, CREDITING, AND AVAILABILITY OF FEES.—Fees assessed pursuant to paragraph (1) against an entity shall be payable annually and may be deducted from amounts otherwise payable from a Trust Fund under this title to such entity. Such fees shall be credited to the Health Care Fraud and Abuse Control Account. Fees collected pursuant to this subsection shall remain available until expended, for necessary expenses for the purposes for which the fees were assessed.

"(4) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subsection as an allowable item on a cost report under this title or title XIX.".

SEC. 205. FEES FOR PROCESSING CLAIMS.

(a) IN GENERAL.—Part D of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"SEC. 1897. FEES FOR PROCESSING CLAIMS.

"(a) AUTHORITY TO IMPOSE FEES.—

"(1) IN GENERAL.—Subject to subsection (b), each claim described in paragraph (2) submitted by an individual or entity furnishing items or services for which payment may be made under this title is subject to a processing fee of $1.00.

"(2) CLAIMS SUBJECT TO FEE.—A claim is subject to the fee specified in paragraph (1) if it—

"(A) duplicates, in whole or in part, another claim submitted by the same individual or entity;

"(B) is a claim that cannot be processed and must, in accordance with the Secretary's instructions, be returned by the fiscal intermediary or carrier to the individual or entity for completion; or

"(C) is not submitted electronically by an individual or entity or the authorized billing agent of such individual or entity.

"(b) COLLECTION, CREDITING, AND AVAILABILITY OF FEES.—

"(1) APPROPRIATIONS REQUIRED.—Fees shall be collected and expended under this section to the extent provided in appropriation Acts.

"(2) DEDUCTION FROM TRUST FUND.—The Secretary shall deduct any fees assessed pursuant to subsection (a) against an individual or entity from amounts otherwise payable from a Trust Fund under this title to such individual or entity, and shall transfer the amount so deducted from such Trust Fund to the Health Care Financing Administration Program Management Account.

"(3) OFFSET.—Any amount of fees collected in a fiscal year under this section that exceeds the amount of such fees available for expenditure in such fiscal year, as specified in appropriation Acts, shall be credited to the Health Care Financing Administration Program Management Account, and shall be available for obligation in subsequent fiscal years to the extent provided in subsequent appropriations Acts.

"(4) AVAILABILITY.—Fees collected pursuant to this section shall remain available until expended for the costs of the activities for which they were assessed.

"(c) WAIVER OF CERTAIN FEES.—The Secretary may provide for waiver of fees for claims described in subsection (a)(2)(C), in cases of such compelling circumstances as the Secretary may determine.

"(d) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this section as an allowable item on a cost report under this title or title XIX.".

(b) CONFORMING AMENDMENT.—Section 1842(c)(4) of such Act (42 U.S.C. 1395u(c)(4)) is amended by striking "Neither a carrier" and inserting "Except as provided in section 1897, neither a carrier".

SEC. 206. SECRETARY'S AUTHORITY TO ISSUE INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services is authorized to issue any regulations needed to implement the amendments made by this title as interim final regulations.

TITLE III—MISCELLANEOUS USER FEES

SEC. 301. AUTHORITY OF SECRETARY OF AGRICULTURE TO IMPOSE USER FEES FOR CERTAIN SERVICES PROVIDED BY DEPARTMENT OF AGRICULTURE AGENCIES.

The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 219 (7 U.S.C. 6919) the following new section:

"SEC. 220. USER FEES FOR CERTAIN SERVICES PROVIDED BY DEPARTMENT AGENCIES, OFFICES, OFFICERS, AND EMPLOYEES.

"(a) USER FEES AUTHORIZED.—Notwithstanding any other provision of law, the Secretary may prescribe and collect fees sufficient to cover all or some portion of the cost to the Department, including administrative costs, of providing services under the laws specified in subsection (b).

"(b) COVERED LAWS.—Subsection (a) applies to the following laws, notwithstanding any provision prohibiting the imposition of user fees in any such law:

"(1) Laws administered by the Animal and Plant Inspection Service (or any successor agency), including the following specific services:

"(A) Biotechnology testing services under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

"(B) Biotechnology testing services under the Act of August 20, 1912 (commonly known as the Plant Quarantine Act; 7 U.S.C. 151 et seq.).

"(C) Animal welfare licensing services under the Animal Welfare Act (7 U.S.C. 2131 et seq).

"(D) Veterinary biologics services under the Act of March 4, 1913 (commonly known as the Virus-Serum-Toxin Act; 21 U.S.C. 151 et seq.).

"(E) Services under the Swine Health Protection Act (7 U.S.C. 3801 et seq.).

"(2) Laws administered by the Grain Inspection, Packers and Stockyards Administration (or any successor agency), including the following:

"(A) The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.).

"(B) The United States Grain Standards Act (7 U.S.C. 71 et seq.).

"(3) Laws administered by the Food Safety and Inspection Service (or any successor agency), including the following:

"(A) The Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(B) The Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

"(C) The Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

"(4) Laws administered by the Natural Resources Conservation Service (or any successor agency), including authorities regarding the provision of technical assistance and products for natural resource conservation.

"(5) Laws administered by the Farm Service Agency (or any successor agency), including the authorities regarding the provision of information obtained from information collections from persons participating in the programs administered by the Agency.

"(c) EXCEPTIONS.—Subsection (b) does not include any law or service for which a user fee is specifically required or authorized under another provision of law.

"(d) LATE PAYMENT PENALTIES.—If a person subject to a fee under this section fails to pay the fee when due, the Secretary may assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(e) TREATMENT OF FEES.—Fees and other amounts collected under this section shall be credited to the Department accounts that incur the costs associated with the provision of the services for which the fees are imposed. Funds so credited shall be merged with the appropriations to which credited and shall be available to the Secretary without fiscal year limitation for the same purposes as the appropriations with which merged.".

SEC. 302. NOAA NAVIGATION ASSISTANCE FEES.

(a) ESTABLISHMENT AND COLLECTION.—

(1) IN GENERAL.—For fiscal year 1999 and each fiscal year thereafter, the Secretary of Commerce, in consultation with the Secretary of Transportation, shall establish, assess, and collect under section 9701 of title 31, United States Code, fees for the provision of navigation assistance services.

(2) FEE SCHEDULE.—The Secretary shall implement fees under this section by establishment of a schedule for such fees. The Secretary shall publish an interim final rule containing an initial fee schedule not later than 150 days after the date of the enactment of this Act.

(b) CREDITING OF FEES.—Fees collected under this section shall be credited as offsetting collections of the Department of Commerce.

(c) AVAILABILITY.—

(1) IN GENERAL.—Of amounts of offsetting collections credited for fees under this section—

(A) not to exceed $2,500,000 shall be available to the Secretary of Commerce for fiscal year 1999 for expenses of providing services for which the fees are collected; and

(B) amounts in excess of $2,500,000 shall be available to the Secretary of Commerce for fiscal years after fiscal year 1999 for expenses of providing those services.

(2) AVAILABLE UNTIL EXPENDED.—Amounts available under this section shall remain available until expended.

SEC. 303. FISHERIES MANAGEMENT AND ENFORCEMENT FEES.

(a) ESTABLISHMENT AND COLLECTION.—

(1) IN GENERAL.—For fiscal year 1999 and each fiscal year thereafter, the Secretary of Commerce shall establish, assess, and collect under section 9701 of title 31, United States Code, fees for the provision of fisheries management and enforcement services.

(2) MANNER OF COLLECTION.—The Secretary may prescribe the manner in which such fees are collected.

(b) MAXIMUM AMOUNT.—The maximum amount of any fee under this section may not exceed one percent of the ex-vessel value of harvested fish with respect to which the fee is collected.

(c) CREDITING OF FEES.—Fees collected under this section shall be credited as offsetting collections of the Department of Commerce.

(d) AVAILABILITY.—

(1) IN GENERAL.—Of amounts of offsetting collections credited for fees under this section—

(A) not to exceed $19,781,000 shall be available to the Secretary of Commerce for fiscal year 1999 for expenses of providing services for which the fees are collected; and

(B) amounts in excess of $19,781,000 shall be available to the Secretary of Commerce for fiscal years after fiscal year 1999 for expenses of providing those services.

(2) AVAILABLE UNTIL EXPENDED.—Amounts available under this section shall remain available until expended.

SEC. 304. LEVEL OF FEES FOR PATENT SERVICES.

(a) GENERAL PATENT FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) The Commissioner shall charge the following fees:

"(1)(A) On filing each application for an original patent, except in design or plant cases, $790.

"(B) In addition, on filing or on presentation at any other time, $82 for each claim in independent form which is in excess of 3, $22 for each claim (whether independent or dependent) which is in excess of 20, and $270 for each application containing a multiple dependent claim.

"(C) On filing each provisional application for an original patent, $150.

"(2) For issuing each original or reissue patent, except in design or plant cases, $1,320.

"(3) In design and plant cases—

"(A) on filing each design application, $330;

"(B) on filing each plant application, $540;

"(C) on issuing each design patent, $450; and

"(D) on issuing each plant patent, $670.

"(4)(A) On filing each application for the reissue of a patent, $790.

"(B) In addition, on filing or on presentation at any other time, $82 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $22 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

"(5) On filing each disclaimer, $110.

"(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, $310.

"(B) In addition, on filing a brief in support of the appeal, $310, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, $270.

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, $1,320, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.

"(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

"(A) on filing a first petition, $110;

"(B) on filing a second petition, $290; and

"(C) on filing a third petition or subsequent petition, $550.

"(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, $720.

"(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, $790.

"(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, $1,070.

"(12) Basic national fee for an international application where the international preliminary examination fee has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33 (2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, $98.

"(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, $82.

"(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, $22.

"(15) For each national stage of an international application containing a multiple dependent claim, $270.

For the purpose of computing fees, a multiple dependent claim referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.".

(b) PATENT MAINTENANCE FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) The Commissioner shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

"(1) 3 years and 6 months after grant, $1,050.

"(2) 7 years and 6 months after grant, $2,100.

"(3) 11 years and 6 months after grant, $3,160.

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee. No fee may be established for maintaining a design or plant patent in force.".

(b) AUTHORIZATION OF COLLECTION AND EXPENDITURE.—Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: "To the extent and in the amounts provided in advance in appropriations Acts, fees authorized in this title or any other Act to be charged or established by the Commissioner shall be collected by and shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

SEC. 305. EXPORT PROMOTION FEES.

There is authorized to be appropriated to the International Trade Administration of the Department of Commerce $292,452,000, to remain available until expended, of which $6,000,000 shall be derived from fees to be collected and used, to the extent provided in appropriation Acts, by the International Trade Administration for the provision of export promotion services, notwithstanding section 3302 of title 31, United States Code. Any such fees received in excess of $6,000,000 in fiscal year 1999 shall remain available until expended, but shall not be made available until October 1, 1999.

SEC. 306. HARDROCK LOCATION AND MAINTENANCE FEES.

Title X of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) is amended as follows:

(1) Section 10101(a) (30 U.S.C. 28f(a)) is amended by striking the first sentence and inserting "The holder of each unpatented mining claim, mill or tunnel site, located pursuant to the mining laws of the United States, whether located before or after October 1, 1998, shall pay to the Secretary of the Interior, on or before September 1 of each year, for year 1999 and subsequent years, a claim maintenance fee of $116 per claim or site.".

(2) Section 10102 (30 U.S.C. 28g) is amended by striking "and before September 30, 1998," and striking "$25.00" and inserting "$28".

(3) Section 10105 (30 U.S.C. 28j) is amended by adding the following new subsection at the end:

"(d) Availability of Fees.—Fees collected under sections 10101 and 10102 (30 U.S.C. 28f and 28g) shall be available without further appropriation for Mining Law Administration program operations in the year following their collection.".

SEC. 307. IMPOSITION AND USE OF DEPARTMENT OF LABOR EMPLOYER FILING FEES UNDER THE IMMIGRATION AND NATIONALITY ACT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

"(s) Department of Labor Fees for Employer-Related Filings.—

"(1) Beginning in fiscal year 2000, the Secretary of Labor shall impose a fee on each person filing with the Secretary an application for a labor certification, an employer attestation, or any similar petition or application, in order to meet a requirement or condition of a program under this title or title I relating to the provision to an alien of an immigrant, or nonimmigrant, employment-based status. The fee with respect a filing under a program shall be in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties (including enforcement-related functions) with respect to the program.

"(2) Fees collected under this subsection shall be deposited as an offsetting collection in a fund established for this purpose in the Treasury of the United States.

"(3) No amount shall be collected or obligated for any fiscal year under this subsection, except to the extent provided in appropriations Acts.

"(4) The fees in the fund collected with respect to a program shall remain available until expended to the Secretary, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in paragraph (1) with respect to the program, in addition to any other funds that are available to the Secretary to cover such costs.".

SEC. 308. COAST GUARD NAVIGATION ASSISTANCE FEES.

(a) Establishment and Collection.—

(1) In general.—For fiscal year 1999 and each fiscal year thereafter, the Secretary of Transportation shall establish, assess, and collect under section 9701 of title 31, United States Code, fees for the provision of navigation assistance services.

(2) Fee schedule.—The Secretary shall implement fees under this section by establishment of a schedule for such fees. The Secretary shall publish an interim final rule containing an initial fee schedule not later than 150 days after the date of the enactment of this Act.

(b) Crediting of Fees.—Fees collected under this section shall be credited as offsetting collections of the Department of Transportation.

(c) Availability.—

(1) In general.—Of amounts of offsetting collections credited for fees under this section—

(A) not to exceed $35,000,000 shall be available to the Secretary of Transportation for fiscal year 1999 for expenses of providing services for which the fees are collected; and

(B) amounts in excess of $35,000,000 shall be available to the Secretary of Transportation for fiscal years after fiscal year 1999 for expenses of providing those services.

(2) Available until expended.—Amounts available under this section shall remain available until expended.

SEC. 309. SURFACE TRANSPORTATION BOARD.

Section 721 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f) User Fees.—

"(1) Schedule of fees.—The Board shall prescribe by regulation a schedule of user fees for carriers subject to the jurisdiction of the Board. The fees—

"(A) shall cover the costs incurred by the Board in carrying out its functions; and

"(B) shall be assessed on each carrier in reasonable relationship to the relative benefits received by the carriers from the functions of the Board.

"(2) Collection of fees.—The Board shall prescribe procedures for the collection of fees under this subsection. The Board may use the services of a department, agency, or instrumentality of the Federal Government or of a State or local authority to collect the fees, and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

"(3) Use of fees.—Fees collected under this subsection may be used, to the extent provided in advance in appropriation Acts, by the Board for the expenses of carrying out its functions. Any amounts collected in a fiscal year in excess of the amount required for carrying out the functions of the Board for that fiscal year may be retained for use by the Board in a subsequent fiscal year.".

SEC. 310. WETLANDS PERMIT FEES.

(a) Establishment and Collection.—The Secretary of the Army shall establish and collect fees, from applicants for commercial permits under section 404 of the Federal Water Pollution Control Act, for evaluation of applications for such permits, the preparation of environmental impact statements under the National Environmental Policy Act of 1969 in connection with the issuance of such permits, and the delineation of wetlands for major developments affecting wetlands.

(b) Army Civil Works Regulatory Program.—

(1) Establishment.—There is established in the Treasury of the United States a special account to be known as the "Army Civil Works Regulatory Program Account" into which fees collected by the Secretary under subsection (a) shall be deposited.

(2) Use of fees.—Amounts deposited into the Program Account shall be available to the Secretary, as provided in appropriation acts, to apply toward the costs incurred by the Department of the Army in administering laws pertaining to the regulation of navigable waters of the United States, including wetlands. Such amounts shall be in addition to appropriations otherwise available to the Secretary for administering such laws.

SEC. 311. RADIOLOGICAL PREPAREDNESS FEES.

(a) Establishment of Radiological Emergency Preparedness Fund.—There is established in the Treasury of the United States a radiological emergency preparedness fund which shall be available under the Atomic Energy Act of 1954 and Executive Order No. 12657 for offsite radiological emergency planning, preparedness, and response.

(b) Fees.—

(1) In general.—For fiscal year 1999 and each fiscal year thereafter, the Director of the Federal Emergency Management Agency shall establish (by regulation), assess, and collect fees under this subsection from persons subject to the radiological emergency preparedness regulations issued by the Director.

(2) Aggregate amount.—The aggregate amount of fees assessed and collected under this subsection during a fiscal year shall not be less than the amounts anticipated by the Director to be necessary to carry out the radiological emergency preparedness program of the Federal Emergency Management Agency for such fiscal year.

(3) Procedures.—The methodology for assessment and collection of fees under this subsection shall be fair and equitable. Such fees shall reflect the costs of providing services, including administrative costs of collecting fees.

(4) Deposit.—Fees collected under this subsection shall be deposited in the radiological emergency preparedness fund established under subsection (a) as offsetting collections. An amount equal to the amount of fees so deposited shall become available for authorized purposes on October 1 of the fiscal year in which the fees are collected and shall remain available until expended.

SEC. 312. AVIATION ACCIDENT INVESTIGATION FEE.

(a) Establishment and Collection.—For fiscal year 1999 and each fiscal year thereafter the Chairman of the National Transportation Safety Board shall establish, assess, and collect under section 9701 of title 31, United States Code, fees from air carriers to partially cover the costs of aviation accident investigations. Such fees shall be established by publication of an initial proposed fee schedule as an interim final rule in the Federal Register not later than 150 days after the date of the enactment of this Act.

(b) Maximum Amount.—The maximum amount of fees collected under this section shall not exceed $6,000,000 in any fiscal year.

(c) Use of Fees.—Fees collected under this subsection shall be credited as offsetting collections to an account established in the Treasury of the United States for such purpose and shall be available until expended for necessary expenses for the National Transportation Safety Board in conducting aviation accident investigations, including the hiring of passenger motor vehicles and aircraft and services authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate as authorized by law under sections 5901 and 5902 of such title.

SEC. 313. MONETARY ASSESSMENT ON CLAIMANT REPRESENTATIVES UTILIZING THE SOCIAL SECURITY ADMINISTRATION'S FEE APPROVAL AND DIRECT PAYMENT PROCESSES.

(a) Representatives of Title II Claimants.—

(1) In general.—Section 206 of the Social Security Act (42 U.S.C. 406) is amended by adding at the end the following new subsection:

"(d)(1) In any case in which a fee (exceeding zero) of a person who renders services for compensation in connection with a claim for entitlement to benefits under this title is—

"(A) fixed by the Commissioner pursuant to the last sentence of subsection (a)(1),

"(B) approved by the Commissioner pursuant to subsection (a)(2)(A), or

"(C) determined and allowed by a court pursuant to subsection (b)(1)(A),

the Commissioner shall assess such person an amount determined in accordance with paragraph (2).

"(2) The amount of the assessment under paragraph (1) shall be—

"(A) $165 (or such different amount as the Commissioner may prescribe by regulation), if the Commissioner certifies payment of a fee to a person described in paragraph (1) out of past-due benefits payable under this title pursuant to subsection (a)(4)(A) or (b)(1)(A) (or would so certify such payment but for a reduction to zero authorized by paragraph (3)(A)), or

"(B) $40 (or such different amount as the Commissioner may prescribe by regulation) in any other case.

"(3)(A) Notwithstanding section 3716 of title 31, United States Code, and subsections (a)(4) and (b)(1)(A) of this section, the Commissioner may reduce (to not below zero) the amount otherwise subject to certification for payment as a fee to an attorney from past-due benefits in order to recover any assessment or assessments under this subsection owing by such attorney (without regard to whether such assessments derive from the claim giving rise to the past-due benefits in connection with which the fee payment is subject to certification).

"(B) The Commissioner shall establish by regulation procedures for the collection of assessments under this subsection not recoverable as provided in subparagraph (A).

"(4) Assessments collected under this subsection shall be credited to a special trust fund receipt account established in the Treasury of the United States for assessments on representatives under this subsection. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws.

"(5) From amounts credited under paragraph (4) to the special account established in the Treasury of the United States for assessments on representatives under this subsection, there is authorized to be appropriated an amount not to exceed $19,000,000 for fiscal year 1999, $26,000,000 for fiscal year 2000, and such sums as may be necessary for each fiscal year thereafter, for administrative expenses in carrying out this title and related laws.".

(2) Conforming amendments.—

(A) Section 206(a)(4)(A) of such Act (42 U.S.C. 406(a)(4)(A)) is amended by striking the period and inserting ", except that the amount otherwise subject to certification may be reduced (to not less than zero) pursuant to subsection (d)(3)(A).".

(B) Section 206(b)(1)(A) of such Act (42 U.S.C. 406(b)(1)(A)) is amended by striking the period at the end of the first sentence and inserting ", except that the amount otherwise subject to certification may be reduced (to not less than zero) pursuant to subsection (d)(3)(A).".

(b) Representatives of Title XVI Claimants.—Section 1631(d)(2) of such Act (42 U.S.C. 1383(d)(2)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) The provisions of section 206(d) shall apply to this part to the same extent as they apply in the case of title II, except that—

"(i) references therein to title II shall be deemed to be references to title XVI;

"(ii) references to entitlement to benefits under title II shall be deemed to be references to eligibility for benefits under this title;

"(iii) such provisions shall apply only with respect to assessments applicable to cases other than cases involving certification of payment of a fee to a representative out of past-due benefits; and

"(iv) the total amount of the appropriations authorized in paragraph (5) thereof for carrying out this title and title II may not exceed $19,000,000 for fiscal year 1999 and $26,000,000 for fiscal year 2000.".

(c) Effective Date.—The amendments made by this section shall apply to any person who, for a fee, represents or otherwise assists a claimant with a claim arising under title II or title XVI of the Social Security Act, and whose representation of such claimant in connection with such claim commences on or after the 60th day following the date of the enactment of this Act.

SEC. 314. RAILROAD SAFETY.

Section 20115(e) of title 49, United States Code, is amended by striking "1995" and inserting "2003".

SEC. 315. INCREASE IN CUSTOMS MERCHANDISE PROCESSING FEE.

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended as follows:

(1) Subsection (a)(9)(B)(i) is amended by striking "0.21 percent nor less than 0.15 percent" and inserting "0.25 nor less than 0.15 percent".

(2) Subsection (f) is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(B) in paragraph (5), as so redesignated, by striking "paragraph (5)" and inserting "paragraph (6)";

(C) by inserting after paragraph (3) the following:

"(4) Fees collected under subsection (a)(9) in excess of .21 percent ad valorem shall be available until expended for necessary expenses incurred by the Secretary of the Treasury for the National Customs Automation Program established under section 411 of the Tariff Act of 1930, in addition to amounts otherwise available for such purpose."; and

(D) in paragraph (1)(B) by striking "paragraph (5)" and inserting "paragraph (6)".

SEC. 316. PESTICIDE REGISTRATION FEES.

Section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)) is amended—

(1) in paragraph (6), by striking "(5)" and inserting "(6)";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) Registration fees.—

"(A) Authority to levy fee.—The Administrator may levy fees upon applicants for registration and amendments to registration under section 3 of this Act and applicants for experimental use permits under section 5 of this Act, pursuant to regulations similar to sections 152.410(b), 152.412, and 152.414 of title 40, Code of Federal Regulations (as in effect as of July 1, 1997), in amounts sufficient to cover costs associated with the review of such applications.

"(B) Time of payment.—An applicant upon whom a fee is levied under this paragraph shall pay the fee at the time of application, unless otherwise specified by the Administrator.

"(C) Effect of failure to pay by time prescribed.—The Administrator may, by order and without a hearing, deny the application of any applicant who fails to pay, within such time as the Administrator has prescribed, any fee levied on the applicant under this paragraph.

"(D) Authority to reduce or waive fee.—The Administrator may reduce or waive any fee that would otherwise be assessed under this paragraph—

"(i) in connection with an application for an active ingredient that is contained only in pesticides for which registration is sought solely for agricultural or nonagricultural minor use; and

"(ii) in such other circumstances as the Administrator determines to be in the public interest.

"(E) Use of fees.—The Administrator shall deposit in a special fund in the Treasury of the United States all fees collected under this paragraph, and the amount of such fees shall be available, subject to appropriation, to carry out the activities of the Environmental Protection Agency in the issuance of the registrations under sections 3 and 5 in respect of which the fees were paid.".

SEC. 317. CHEMICAL PRE-MANUFACTURING NOTIFICATION FEES.

Notwithstanding section 26(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2625(b)(1)), the Administrator of the Environmental Protection Agency is authorized to assess, in fiscal year 1999 and thereafter, fees from any person required to submit data under section 4 or 5 of such Act (15 U.S.C. 2603, 2604) without regard to the dollar limitations established in section 26(b)(1) of such Act. Such fees shall be calculated to cover costs associated with administering those sections of such Act, and shall be paid at the time of data submission, unless otherwise specified by the Administrator. The Administrator may take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. The Administrator shall promulgate rules to implement this section. Such rules may provide for allocating the fee in any case in which the expenses of data submission under section 4 or 5 of such Act are shared. Increased fees collected under this section shall be deposited in a special fund in the United States Treasury, which thereafter will be available, subject to appropriation, to carry out the Administration's activities for which such fees are collected.

SEC. 318. NRC USER FEES AND ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2003".

SEC. 318. BANK EXAMINATION FEES.

(a) FDIC Examination Fees.—Section 10(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)(1)) is amended to read as follows:

"(1) In general.—

"(A) Regulatory examinations.—Subject to paragraph (6), the cost of conducting any examination under subsection (b)(2) of an insured depository institution described in subparagraph (A) of such subsection shall be assessed by the Corporation against the institution in an amount sufficient to meet the Corporation's expenses in carrying out the examination.

"(B) Insurance examinations.—The cost of conducting any examination of a depository institution under subsection (b)(2) or (b)(3), other than an examination to which subparagraph (A) applies, may be assessed by the Corporation against the institution to meet the Corporation's expenses in carrying out the examination.".

(b) Federal Reserve Board Examination Fees.—The 2d sentence of the 8th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended—

(1) by striking "may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed" and inserting "shall be assessed, subject to section 10(e)(6) of the Federal Deposit Insurance Act,"; and

(2) by striking "and, when so assessed, shall be paid" and inserting "and shall be paid".

(c) Reasonable Reduction in Examination Fees for State Banks and Savings Associations.—Section 10(e) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)) is amended by adding at the end the following new paragraph:

"(6) Reductions and Exemptions.—

"(A) Reduction for depository institutions subject to dual supervision.—

"(i) In general.—The amount of any assessment or other fee imposed on any State depository institution for an annual regular examination—

"(I) by the Corporation under paragraph (1)(A);

"(II) by the Board of Governors of the Federal Reserve System under the 8th undesignated paragraph of section 9 of the Federal Reserve Act; or

"(III) by the Director of the Office of Thrift Supervision under section 9(a) of the Home Owners' Loan Act,

during any 12-month period may be reduced to the extent the agency determines to be appropriate to reflect the fact that the supervision of such State depository institution by an appropriate State bank supervisor has reduced the need for Federal supervision.

"(ii) Limit on amount of reduction.—The amount of any reduction under clause (i) with respect to any State depository institution shall not exceed the amount of an assessment or fee imposed on such institution by the State bank supervisor for the most recent examination of the institution by the supervisor before January 1, 1998 (or, in the case of an institution which was not subject to an examination by the State bank supervisor before such date, the amount which the appropriate Federal banking agency reasonably determines would have been imposed by such supervisor for an examination of the institution as of such date).

"(iii) Adjustment for inflation.—For purposes of clause (ii), the amount described in such clause shall be adjusted annually after December 31, 1998, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(B) Exemption for state depository institutions with assets of less than $100,000,000.—Notwithstanding any other provision of law, no assessment or other fee for an annual regular examination may be imposed on any State depository institution which has total assets of less than $100,000,000—

"(i) by the Corporation under paragraph (1)(A);

"(ii) by the Board of Governors of the Federal Reserve System under the 8th undesignated paragraph of section 9 of the Federal Reserve Act; or

"(iii) by the Director of the Office of Thrift Supervision under section 9(a) of the Home Owners' Loan Act.".

(d) Technical and Conforming Amendments.—

(1) Section 10(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2) is amended by inserting "an examination is required under subsection (d)(1) or" after "whenever".

(2) Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended by inserting "and subsection (e)(6)" after "(1), (2), and (3)".

(e) Report on Fees Required to Be Imposed on Bank Holding Companies.—Before January 31 of each calendar year which begins after the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress containing—

(1) the total costs incurred by the Board during the year preceding the year of such report which are attributable to each examination of a bank holding company conducted during such year pursuant to section 5(c) of the Bank Holding Company Act of 1956; and

(2) the total amount assessed against, and paid by, each bank holding company under such section for the examination.

SEC. 319. EXTENSION OF THE RECREATIONAL FEE DEMONSTRATION PROGRAM.

(a) Authority.—The authority provided to the National Park Service under the recreational fee demonstration program authorized by section 315 of Public Law 104–134 (16 U.S.C. 4601–6a note)—

(1) is extended through September 30, 2005; and

(2) shall be available for all units of the National Park System, except that no recreational admission fee may be charged at Great Smoky Mountains National Park and Lincoln Home National Historic Site.

(b) Report.—

(1) In general.—Not later than September 30, 2000, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report detailing the status of the recreational fee demonstration program conducted in national parks under section 315 of Public Law 104–134 (16 U.S.C. 4601–6a note).

(2) Contents.—The report under paragraph (1) shall contain—

(A) an evaluation of the fee demonstration program conducted at each national park;

(B) with respect to each national park, a description of the criteria that were used to determine whether a recreational fee should or should not be charged at the national park; and

(C) a description of the manner in which the amount of the fee at each national park was established.

SEC. 320. CONCESSIONS REFORM.

(a) Findings.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of preserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as the Secretary determines are necessary and appropriate in accordance with this Act—

(1) should be provided only under carefully controlled safeguards against unregulated and indiscriminate use so that visitation will not unduly impair these values; and

(2) should be limited to locations and designs consistent to the highest practicable degree with the preservation and conservation of park resources and values.

(b) Policy.—It is the policy of the Congress that—

(1) development on Federal lands within a park shall be limited to those facilities and services that the Secretary determines are necessary and appropriate for public use and enjoyment of the park in which such facilities and services are located;

(2) development of such facilities and services within a park should be consistent to the highest practicable degree with the preservation and conservation of the park's resources and values;

(3) such facilities and services should be provided by private persons, corporations, or other entities, except when no qualified private interest is willing to provide such facilities and services;

(4) if the Secretary determines that development should be provided within a park, such development shall be designed, located, and operated in a manner that is consistent with the purposes for which such park was established;

(5) the right to provide such services and to develop or utilize such facilities should be awarded to the person, corporation, or entity submitting the best proposal through a competitive selection process; and

(6) such facilities or services should be provided to the public at reasonable rates.

(c) Definitions.—As used in this section:

(1) The term "concessioner" means a person, corporation, or other entity to whom a concession contract has been awarded.

(2) The term "concession contract" means a contract or permit (but not a commercial use authorization issued pursuant to section 6) to provide facilities or services, or both, at a park.

(3) The term "facilities" means improvements to real property within parks used to provide accommodations, facilities, or services to park visitors.

(4) The term "park" means a unit of the National Park System.

(5) The term "proposal" means the complete proposal for a concession contract offered by a potential or existing concessioner in response to the minimum requirements for the contract established by the Secretary.

(6) The term "Secretary" means the Secretary of the Interior.

(d) Repeal of Concession Policy Act of 1965.—

(1) Repeal.—The Act of October 9, 1965, Public Law 89–249 (79 Stat. 969, 16 U.S.C. 20–20g), entitled "An Act relating to the establishment of concession policies administered in the areas administered by the National Park Service and for other purposes", is hereby repealed. The repeal of such section shall not affect the validity of any contract entered into under such Act, but the provisions of this Act shall apply to any such contract except to the extent such provisions are inconsistent with the express terms and conditions of the contract.

(2) Conforming amendment.—The fourth sentence of section 3 of the Act of August 25, 1916 (16 U.S.C. 3; 39 Stat. 535) is amended by striking all through "no natural" and inserting in lieu thereof, "No natural".

(e) Concession Policy.—Subject to the findings and policy stated in subsections (a) and (b), and upon a determination by the Secretary that facilities or services are necessary and appropriate for the accommodation of visitors at a park, the Secretary shall, consistent with the provisions of this section, laws relating generally to the administration and management of units of the National Park System, and the park's general management plan, concession plan, and other applicable plans, authorize private persons, corporations, or other entities to provide and operate such facilities or services as the Secretary deems necessary and appropriate.

(f) Commercial Use Authorizations.—

(1) In general.—To the extent specified in this section, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to park visitors through a commercial use authorization.

(2) Criteria for issuance of authorization.—(A) The authority of this subsection may be used only to authorize provision of services that the Secretary determines will have minimal impact on park resources and values and which are consistent with the purposes for which the park was established and with all applicable management plans for such park.

(B) The Secretary—

(i) shall require payment of a reasonable fee for issuance for an authorization under this subsection, such fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administration costs;

(ii) shall require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(iii) shall take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(iv) shall have no authority under this subsection to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the park.

(3) Limitations.—Any authorization issued under this subsection shall be limited to—

(A) commercial operations with annual gross revenues of not more than $25,000 resulting from services originating and provided solely within a park pursuant to such authorization; or

(B) the incidental use of park resources by commercial operations which provide services originating outside of the park's boundaries: *Provided*, That such authorization shall not provide for the construction of any structure, fixture, or improvement on Federal lands within the park.

(4) Duration.—The term of any authorization issued under this subsection shall not exceed 2 years.

(5) Other contracts.—A person, corporation, or other entity seeking or obtaining an authorization pursuant to this subsection shall not be precluded from also submitting proposals for concession contracts.

(g) Competitive Selection Process.—

(1) In general.—(A) Except as provided in paragraph (2), and consistent with the provisions of paragraph (7), any concession contract entered into pursuant to this section shall be awarded to the person, corporation, or other entity submitting the best proposal as determined by the Secretary, through a competitive selection process, as provided in this section.

(B)(i) As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate appropriate regulations establishing the competitive selection process.

(ii) The regulations shall include provisions for establishing a procedure for the resolution of disputes between the Secretary and a concessioner in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus pursuant to paragraph (3).

(2) Temporary contract.—Notwithstanding the provisions of paragraph (1), the Secretary may award a temporary concession contract in order to avoid interruption of services to the public at a park, except that prior to making such a determination, the Secretary shall take all reasonable and appropriate steps to consider alternatives to avoid such an interruption.

(3) Prospectus.—(A)(i) Prior to soliciting proposals for a concession contract at a park, the Secretary shall prepare a prospectus soliciting proposals, and shall publish a notice of its availability at least once in local or national newspapers or trade publications, as appropriate, and shall make such prospectus available upon request to all interested parties.

(ii) A prospectus shall assign a weight to each factor identified therein related to the importance of such factor in the selection process. Points shall be awarded for each such factor, based on the relative strength of the proposal concerning that factor.

(B) The prospectus shall include, but need not be limited to, the following information—

(i) the minimum requirements for such contract, as set forth in subsection (d);

(ii) the terms and conditions of the existing concession contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner;

(iii) other authorized facilities or services which may be provided in a proposal;

(iv) facilities and services to be provided by the Secretary to the concessioner, if any, including but not limited to, public access, utilities, and buildings;

(v) minimum public services to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers; and

(vi) such other information related to the proposed concession operation as is provided to the Secretary pursuant to a concession contract or is otherwise available to the Secretary, as the Secretary determines is necessary to allow for the submission of competitive proposals.

(4) Minimum Proposal Requirements.—(A) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include, but need not be limited to—

(i) the minimum acceptable franchise fee;

(ii) any facilities, services, or capital investment required to be provided by the concessioner; and

(iii) measures necessary to ensure the protection and preservation of park resources.

(B) The Secretary shall reject any proposal, notwithstanding the franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is likely to provide unsatisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(C) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(5) Selection of Best Proposal.—(A) In selecting the best proposal, the Secretary shall consider the following principal factors:

(i) the responsiveness of the proposal to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates;

(ii) the experience and related background of the person, corporation, or entity submitting the proposal, including but not limited to, the past performance and expertise of such person, corporation, or entity in providing the same or similar facilities or services;

(iii) the financial capability of the person, corporation, or entity submitting the proposal; and

(iv) the proposed franchise fee: *Provided*, That consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(B) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(C) In developing regulations to implement this Act, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of concession contracts should be identified as a factor in the selection of a best proposal under this section.

(6) Congressional notification.—(A) The Secretary shall submit any proposed concession contract with anticipated annual gross receipts in excess of $5,000,000 or a duration of 10 or more years to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(B) The Secretary shall not award any such proposed contract until at least 60 days subsequent to the notification of both Committees.

(7) No preferential right of renewal.—(A) Except as provided in subparagraph (B), the Secretary shall not grant a preferential right to a concessioner to renew a concession contract entered into pursuant to this section.

(B)(i) The Secretary shall grant a preferential right of renewal with respect to a concession contract covered by paragraphs (8) and (9), subject to the requirements of the appropriate subsection.

(ii) As used in this paragraph, and paragraphs (8) and (9), the term "preferential right of renewal" means that the Secretary shall allow a concessioner satisfying the requirements of this paragraph (and paragraphs (8) or (9), as appropriate) the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best proposal.

(iii) A concessioner who exercises a preferential right of renewal in accordance with the requirements of this subparagraph shall be entitled to award of the new concession contract with respect to which such right is exercised.

(8) Outfitting and guide contracts.—(A) The provisions of paragraph (g)(2) shall apply only—

(i) to a concession contract—

(I) which solely authorizes a concessioner to provide outfitting, guide, river running, or other substantially similar services within a park; and

(II) which does not grant such concessioner any interest in any structure, fixture, or improvement pursuant to subsection (l); and

(ii) where the Secretary determines that the concessioner has operated satisfactorily during the term of the contract (including any extensions thereof); and

(iii) where the Secretary determines that the concessioner has submitted a responsive proposal for a new contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(B) With respect to a concession contract (or extension thereof) covered by this subsection which is in effect on the date of enactment of this Act, the provisions of this paragraph shall apply if the holder of such contact, under the laws and policies in effect on the day before the date of enactment of this Act, would have been entitled to a preferential right to renew such contract upon its expiration.

(9) Contracts with annual gross receipts under $500,000.—(A) The provisions of paragraph (7)(B) shall also apply to a concession contract—

(i) which the Secretary estimates will result in annual gross receipts of less than $500,000;

(ii) where the Secretary has determined that the concessioner has operated satisfactorily during the term of the contract (including any extensions thereof); and

(iii) that the concessioner has submitted a responsive proposal for a new concession contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(B) The provisions of this paragraph shall not apply to a concession contract which solely authorizes a concessioner to provide outfitting, guide, river running, or other substantially similar services within a park pursuant to paragraph (8).

(10) No preferential right to additional services.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services at a park.

(h) Franchise Fees.—

(1) In general.—Franchise fees shall not be less than the minimum fee established by the Secretary for each contract. The minimum fee shall be determined in a manner that will provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed under the contract.

(2) Multiple contracts within a park.—If multiple concession contracts are awarded to authorize concessioners to provide the same or similar outfitting, guide, river running, or other similar services at the same approximate location or resource within a specific park, the Secretary shall establish an identical franchise fee for all such contracts, subject to periodic review and revision by the Secretary. Such fee shall reflect fair market value.

(e) Adjustment of franchise fees.—The amount of any franchise fee for the term of the concession contract shall be specified in the concession contract and may only be modified to reflect substantial changes from the conditions specified or anticipated in the contract.

(i) Use of Franchise Fees.—

(1) Deposits to treasury.—All receipts collected pursuant to this section shall be covered into a special account established in the Treasury of the United States. Except as provided in paragraph (2), amounts covered into such account in a fiscal year shall be available for expenditure, subject to appropriation, solely as follows:

(A) 50 percent shall be allocated among the units of the National Park System in the same proportion as franchise fees collected from a specific unit bears to the total amount covered into the account for each fiscal year, to be used for resource management and protection, maintenance activities, interpretation, and research.

(B) 50 percent shall be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research.

(2) Special account.—Beginning in fiscal year 1998, all receipts collected in the previous year in excess of the following amounts shall be made available from the special account to the Secretary without further appropriation, to be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research:

(A) $17,000,000 for fiscal year 1998.

(B) $18,000,000 for fiscal year 1999.

(C) $18,000,000 for fiscal year 2000.

(D) $18,000,000 for fiscal year 2001.

(E) $18,000,000 for fiscal year 2002.

(3) Existing concessioner improvement funds.—Nothing in this section shall affect or restrict the use of funds maintained by a concessioner in an existing concessioner improvement account pursuant to a concession contract in effect as of the date of enactment of this Act. No new, renewed, or extended contracts entered into after the date of enactment of this Act shall provide for or authorize the use of such concessioner improvement accounts.

(4) Inspector general audits.—Beginning in fiscal year 1998, the Inspector General of the Department of the Interior shall conduct a biennial audit of the concession fees generated pursuant to this section. The Inspector General shall make a determination as to whether concession fees are being collected and expended in accordance with this Act and shall submit copies of each audit to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(j) Duration of Contract.—

(1) Maximum term.—A concession contract entered into pursuant to this section shall be awarded for a term not to exceed 10 years: *Provided, however*, That the Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions necessitate a longer term.

(2) Temporary contract.—A temporary concession contract awarded on a non-competitive basis pursuant to subsection (f)(2) shall be for a term not to exceed 2 years.

(k) Transfer of Contract.—

(1) In General.—No concession contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner without prior written notification to, and approval of the Secretary.

(2) Approval of transfer.—The Secretary shall not unreasonably withhold approval of a transfer, assignment, sale, or conveyance of a concession contract, but shall not approve the transfer, assignment, sale, or conveyance of a concession contract to any individual, corporation or other entity if the Secretary determines that—

(A) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract;

(B) such transfer, assignment, sale or conveyance is not consistent with the objectives of protecting and preserving park resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates;

(C) such transfer, assignment, sale, or conveyance relates to a concession contract which does not provide to the United States consideration commensurate with the probable value of the privileges granted by the contract; or

(D) the terms of such transfer, assignment, sale, or conveyance directly or indirectly attribute a significant value to intangible assets or otherwise may so reduce the opportunity for a reasonable profit over the remaining term of the contract that the United States may be required to make substantial additional expenditures in order to avoid interruption of services to park visitors.

(l) Protection of Concessioner Investment.—

(1) Current contract.—(A) A concessioner who before the date of the enactment of this Act has acquired or constructed, or is required under an existing concession contract to commence acquisition or construction of any structure, fixture, or improvement upon land owned by the United States within a park, pursuant to such contract, shall have a possessory interest therein, to the extent provided by such contract.

(B) Unless otherwise provided in such contract, said possessory interest shall not be extinguished by the expiration or termination of the contract and may not be taken for public use without just compensation. Such possessory interest may be assigned, transferred, encumbered, or relinquished.

(C) Upon the termination of a concession contract in effect before the date of enactment of this title, the Secretary shall determine the value of any outstanding possesory interest applicable to the contract, such value to be determined for all purposes on the basis of applicable laws and contracts in effect on the day before the date of enactment of this Act.

(D) Nothing in this paragraph shall be construed to grant a possessory interest to a concessioner whose contract in effect on the date of enactment of this Act does not include recognition of a possessory interest.

(2) New contracts.—(A)(i) With respect to a concession contract entered into on or after the date of enactment of this Act, the value of any outstanding possessory interest associated with such contract shall be set at the value determined by the Secretary pursuant to paragraph (1)(C).

(ii) As a condition of entering into a concession contract, the value of any outstanding possessory interest shall be reduced on an annual basis, in equal portions, over the same number of years as the time period associated with the straight line depreciation of the structure, fixture, or improvement associated with such possessory interest, as provided by applicable Federal income tax laws and regulations in effect on the day before the date of enactment of this Act.

(iii) In the event that the contract expires or is terminated prior to the elimination of any outstanding possessory interest, the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the remaining value of the possessory interest.

(iv) A successor concessioner may not revalue any outstanding possessory interest, nor the period of time over which such interest is reduced.

(v) Title to any structure, fixture, or improvement associated with any outstanding possessory interest shall be vested in the United States.

(B)(i) If the Secretary determines during the competitive selection process that all proposals submitted either fail to meet the minimum requirements or are rejected (as provided in subsection (g)), the Secretary may, solely with respect to any outstanding possessory interest associated with the contract and established pursuant to a concession contract entered into prior to the date of enactment of this Act, suspend the reduction provisions of paragraph (2)(A)(i) for the duration of the contract, and re-initiate the competitive selection process as provided in subsection (g).

(ii) The Secretary may suspend such reduction provisions only if the Secretary determines that the establishment of other new minimum contract requirements is not likely to result in the submission of satisfactory proposals, and that the suspension of the reduction provisions is likely to result in the submission of satisfactory proposals: *Provided, however*, That nothing in this paragraph shall be construed to require the Secretary to establish a minimum franchise fee at a level below the franchise fee in effect for such contract on the day before the expiration date of the previous contract.

(3) NEW STRUCTURES.—(A) On or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concession contract, shall have an interest in such structure, fixture, or improvement equivalent to the actual original cost of acquiring or constructing such structure, fixture, or improvement, less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles: *Provided*, That in no event shall the estimated useful life of such asset exceed the depreciation period used for such asset for Federal income tax purposes.

(B) In the event that the contract expires or is terminated prior to the recovery of such costs, the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure, fixture, or improvement. A successor concessioner may not revalue the interest in such structure, fixture, or improvement, the method of depreciation, or the estimated useful life of the asset.

(C) Title to any such structure, fixture, or improvement shall be vested in the United States.

(4) INSURANCE, MAINTENANCE, AND REPAIR.—Nothing in this subsection shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

(m) RATES AND CHARGES TO PUBLIC.—The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the bid specifications and contract, be judged primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variance, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

(n) CONCESSIONER PERFORMANCE EVALUATION.—

(1) REGULATIONS.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish, after an appropriate period for public comment, regulations establishing standards and criteria for evaluating the performance of concessions operating within parks.

(2) PERIODIC EVALUATION.—(A) The Secretary shall periodically conduct an evaluation of each concessioner operating under a concession contract pursuant to this Act, as appropriate, to determine whether such concessioner has performed satisfactorily. In evaluating a concessioner's performance, the Secretary shall seek and consider applicable reports and comments from appropriate Federal, State, and local regulatory agencies, and shall seek and consider the applicable views of park visitors and concession customers. If the Secretary's performance evaluation results in an unsatisfactory rating of the concessioner's overall operation, the Secretary shall provide the concessioner with a list of the minimum requirements necessary for the operation to be rated satisfactory, and shall so notify the concessioner in writing.

(B) The Secretary may terminate a concession contract if the concessioner fails to meet the minimum operational requirements identified by the Secretary within the time limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner.

(C) If the Secretary terminates a concession contract pursuant to this section, the Secretary shall solicit proposals for a new contract consistent with the provisions of this Act.

(o) RECORDKEEPING REQUIREMENTS.—

(1) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been, and are being faithfully performed, and the Secretary or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary deems necessary.

(2) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the contracts or contracts involved.

(p) EXEMPTION FROM CERTAIN LEASE REQUIREMENTS.—The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this section.

(q) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 321. FEDERAL AVIATION ADMINISTRATION USER FEES.

(a) USER FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.—Section 48104(a) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "; and" and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) any cost incurred by the Federal Aviation Administration after September 30, 1999, that is authorized by law.".

(b) COST RECOVERY FOR FOREIGN AVIATION SERVICES AND CLARIFICATION OF OVERFLIGHT FEE AUTHORITY.—Section 45301 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by inserting "or to any entity obtaining services outside the United States" before the period; and

(2) by striking the period after "rendered" and inserting ", including both direct and indirect costs, as determined by the Administrator, using generally accepted accounting principles and internationally accepted economic principles.".

TITLE IV—TAX INCREASES

SEC. 401. TAX INCREASES.

It is the sense of the House of Representatives that the following tax increases proposed by the President should be enacted as soon as possible:

(1) ACCOUNTING PROVISIONS.—

(A) Repeal lower of cost or market inventory accounting method.

(B) Repeal nonaccrual experience method of accounting and make certain trade receivables ineligible for mark-to-market treatment.

(2) FINANCIAL PRODUCTS AND INSTITUTIONS.—

(A) Defer interest deduction on certain convertible debt.

(B) Extend pro rata disallowance of tax-exempt interest expense that applies to banks to all financial intermediaries.

(3) CORPORATE TAX PROVISIONS.—

(A) Eliminate dividends received deduction for certain preferred stock.

(B) Repeal tax-free conversion of large C corporations into S corporations.

(C) Restrict special net operating loss carryback rules for specified liability losses.

(D) Clarify the meaning of "subject to" liabilities under section 357(c).

(4) INSURANCE PROVISIONS.—

(A) Increase the proration percentage for property and casualty insurance companies.

(B) Capitalize net premiums for credit life insurance contracts.

(C) Modify corporate-owned life insurance rules.

(D) Modify reserve rules for annuity contracts.

(E) Tax certain exchanges of insurance contracts and reallocations of assets within variable insurance contracts.

(F) Modify computation of "investment in the contract" for mortality and expense charges on certain insurance contracts.

(5) ESTATE AND GIFT TAX PROVISIONS.—

(A) Eliminate nonbusiness valuation discounts.

(B) Modify treatment of gifts of "present interests" in a trust (repeal "Crummey" case rule).

(C) Eliminate gift tax exemption for personal residence trusts.

(D) Include qualified terminable interest property trust assets in surviving spouse's estate.

(6) FOREIGN TAX PROVISIONS.—

(A) Replace sales source rules with activity-based rule.

(B) Modify rules relating to foreign oil and gas extraction income.

(C) Apply "80/20" company rules on a group-wide basis.

(D) Prescribe regulations regarding foreign built-in losses.

(E) Prescribe regulations regarding use of hybrids.

(F) Modify foreign office material participation exception applicable to certain inventory sales.

(G) Modify controlled foreign corporation exception from United States tax on transportation income.

(7) ADMINISTRATIVE PROVISIONS.—

(A) Increase penalties for failure to file correct information returns.

(B) Modify definition of substantial understatement penalty for large corporations.

(C) Repeal exemption for withholding on gambling.

(D) Modify deposit requirement for FUTA.

(E) Clarify and expand math error procedures.

(8) REAL ESTATE INVESTMENT COMPANY PROVISIONS.—

(A) Freeze grandfathered status of stapled or paired-share REITs.

(B) Restrict impermissible businesses indirectly conducted by REITs.

(C) Modify treatment of closely held REITs.

(9) EARNED INCOME TAX COMPLIANCE PROVISIONS.—

(A) Simplify foster child definition under the earned income credit.

(B) Modify definition of qualifying child for purposes of the earned income credit where more than one taxpayer satisfies the requirements with respect to the same child.

(10) OTHER REVENUE-INCREASE PROVISIONS.—

(A) Repeal percentage depletion for certain nonfuel minerals mined on Federal and formerly Federal lands.

(B) Modify depreciation method for tax-exempt use property.

(C) Impose excise tax on purchase of structured settlements.

(D) Reinstate Oil Spill Liability Trust Fund excise tax and increase Trust Fund ceiling to $5,000,000,000 (through September 30, 2008).

(11) REINSTATE HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAX AND ENVIRONMENTAL INCOME TAX.—

(A) Reinstate Superfund corporate environmental income tax.

(B) Reinstate Superfund excise taxes (through September 30, 2008).

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) and the gentleman from Massachusetts (Mr. MOAKLEY), as the designee for the minority leader, each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, I am introducing the bill but opposing the bill. Is there a Member here in favor of the bill to claim the time?

The SPEAKER pro tempore. Is the gentleman from Massachusetts (Mr. MOAKLEY) the designee of the minority leader?

Mr. MOAKLEY. Mr. Speaker, I am opposed to the bill. In fact, I cannot find anybody in the Chamber that is in favor of the bill.

The SPEAKER pro tempore. The answer to the gentleman's inquiry is no, the gentleman need not be in favor of the bill.

Mr. SOLOMON. Mr. Speaker, that does not show very much support for the President of the United States wanting to increase taxes and fees.

The SPEAKER pro tempore. The unanimous consent request only requires that the minority leader or his designee control the time. He does not have to be in favor of the bill.

Mr. SOLOMON. So the Member claiming the time does not have to be in favor of the President's tax and fee increases?

The SPEAKER pro tempore. That is correct.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. I know it is only 9:00 in the morning and unusual for us to start this early. I know that we were here until the wee hours, I know I was, this morning. I just hope Members are listening if they do not have the opportunity to come to the floor.

Mr. Speaker, this is very, very important. In February of this year, President Clinton sent the United States Congress his budget for fiscal year 1999. In that budget the President proposed to increase spending by $150 billion over the next 5 years, including an actual net increase of $15 billion, that is 3.9 percent, in fiscal year 1999 alone.

Mr. Speaker, the President called for, and this is the thing that I just could not believe, after we have gone through a bipartisan compromise on bringing a balanced budget to this floor last year, the President called for 85 new spending programs, in other words, creating new programs, including, and this is the part that is so bad, 39 new entitlement programs. And we have been trying to turn around this myriad of entitlement programs that have been implemented in this Congress under Democrat control for the past 40 years.

These entitlement programs alone add $53 billion to Federal spending over the next 5 years in new entitlements. Not only is that for the next 5 years but, because they are entitlement programs, they go on forever and ever.

Clearly, Mr. Speaker, the President's declaration that the era of big government is over somehow slipped his mind when he presented Congress with this latest attempt to reach into the pockets of the American people.

While the President's renewed commitment to big government is alarming to America's families and businesses, his renewed affection for tax increases, in my opinion, is just intolerable. Just 6 months ago, the President proposed $130 billion in new tax increases and user fees. From the President and his Democratic friends in Congress who passed the largest tax increase, without my vote, in history in 1993, $240 billion worth, as a matter of fact, new Democrat tax increases should, I guess, come as no surprise.

When a liberal Democrat has the urge to tax and to spend in his blood, not even a blood transfusion or a revolutionary election can drain it out of him, I guess. Whenever the liberals need more money for a new government idea, they just turn to the pockets of the American people and American families to foot the bill.

Mr. Speaker, today the American people have the opportunity to speak out on this return to the good old boy Democrat budgeting philosophy of saying no to nobody and yes to everybody, no to nobody and yes to everybody. That is how we got ourselves into this unconscionable sea of red ink, saddling our children, our grandchildren, with $5.5 trillion in debt, even though the Democrat-controlled Congress was reaching deeper and deeper and deeper into the pockets of the American people.

I recall back in the years of Ronald Reagan when we cut taxes and we put money back into the pockets of the American people. We actually doubled the Federal revenues coming into this Congress. But guess what happened? Congress spent every nickel of the amount, double, I think. If I recall back then, it was like $600 million and it went up to a trillion $100 million, and we managed to not only spend the new money coming in but to spend about 2 percent more on top of that.

Mr. Speaker, for the past few days this House has been debating this budget which will govern this Nation's finances for the coming year and also set the tone for future years down the road, at least for the next 4 years. It should be pointed out that the missing participants in this debate have been key portions of the President's budget. The President's budget is not here. It is not on this floor. It is not incorporated into even the Democrat substitute that is going to be on the floor later today.

Mr. Speaker, to highlight the differences in the overall philosophy and the overall vision between we Republicans who oppose tax increases with all our heart and President Clinton and his liberal Democrats who, every 5 minutes, it seems, try to sneak in another tax, try to reach deeper and deeper into the pockets of the American people, today, and that is why it is unusual for this Member of Congress, who has never voted for a tax increase and who has never, certainly, sponsored a bill with a tax increase, it is why I bring to the floor today President Clinton's $130 billion of tax increases and user fees back into this debate, because that needs to be here to show the differences between our two parties.

The bill before us this morning, the Clinton Democrat User Fee Act of 1998, which contains over 100 pages of user fees and tax increases on the American people proposed by the President, Members ought to come down here and look at this, this is 100 pages of fee increases, 100 pages.

Listen to just a brief, I am not going to take the time to read 100 pages of these proposed fee increases, but listen to just this few of some of the 36 discretionary and mandatory user fees worth $25 billion.

Federal Aviation Administration fees, who do Members think is going to pay for that? It is going to be the American people. Bank examination fees; patent and trademark fees going to increase the cost of every product in America today; National Transportation Safety Board fees; farm service fees, going to pile more costs on America's farmers; grain inspection fees; administration licensing fees. I cannot figure out even what those things are, but all I know is it takes money out of the pockets of somebody.

Animal implant service fees; wetland permit fees. These are all increases now that are going to take effect. Fishery management fees; Social Security claimant fees. Here we are going to take more money from senior citizens. National park interests and concession fees are going to skyrocket. Pesticide registration fees, that is not even specified so I cannot tell what that really is. And then, worst of all, Medicare provider fees.

Mr. Speaker, the list goes on and on and on and on and on for 100 pages here.

If Members listened closely to what I have just been saying, they would have seen that the President proposed to increase user fees issued by eight different Cabinet departments, that is practically all of them out there, and three other major government agencies like the EPA and the Social Security Administration.

There are fee increases on farmers. There are fee increases on landowners, on fishermen, on entrepreneurs who are small businessmen with great ideas who start a business, and they are the ones that create 75 percent of all the new jobs in America every single year, not only for displaced Americans who have been caught up in downsizing, but it also includes young girls and boys coming out of high school and college today.

There are fees on physicians, on just plain employees, on emergency personnel. These are voluntary emergency personnel, people that volunteer their time, things that we Americans are noted for. There are more fees on banks. And what do you think that does? That is going to drive up the cost, again, of doing business with banks.

On national park users, I have got a series of national parks in my district, including the Saratoga National Battlefield, which was the turning point of the Revolutionary War.

Incidentally, while I am just speaking, we have got the Medal of Honor, the Congressional Medal of Honor Society convention with about 100 Medal of Honor recipients coming up to Saratoga Battlefield this weekend. We are going to give an award to a great American and his wife, and those great Americans are former Senator Bob Dole and his wife. I just hope we can get out of here in time for me to catch a plane to go up there and enjoy that dinner and see it tonight.

Mr. Speaker, the last one I did not mention was senior citizens, who just get socked with almost every one of these fees.

User fees are nothing more than a back-door hidden way to raise taxes. As a result, taxpayers have less money in their pockets, and the government has more money to spend. If Members believe in that, I guess they want to come over here and vote for this bill. The American people, in my opinion, contribute enough in taxes to the Federal Government; and imposing user fees is just another way, again, a backdoor attempt to raise taxes to reach into their pockets.

□ 0915

What makes President Clinton's user fees especially objectionable? All of you, and I know you are all sincere, and you all were trying to work for this balanced budget, but what makes it especially objectionable is that he uses them as a budgetary gimmick to circumvent the intended discipline of the discretionary spending caps that were an essential part of the balanced budget agreement last year, that we all worked so hard to put together so we could end this further accumulation of this sea of red ink. The President had the opportunity to reform or terminate thousands of Federal programs. Yet out of a $1.7 trillion budget, there are practically no cutbacks there at all in his budget.

Without these fees and without these taxes, the President's discretionary spending would be $5 billion over the discretionary spending caps in fiscal year 1999, and it would be $42 billion over the spending caps over the next 5 years. That is probably hard for the average American person out there to understand when you start talking about spending caps, but it is very, very important because it puts a control on this Congress. It does not allow us to go and spend more. Now we are just throwing that out the window. This means that the President used these user fees as a way to avoid the spending caps established in law, and he can do it. In my opinion it is legal thievery, but he can do it. Mr. Speaker, this is not according to me. This is according to the Congressional Budget Office. Sometime later on today when we get back on the budget that we are debating, Members ought to get the Congressional Budget Office report and they will verify everything that I have just said.

Mr. Speaker, that is the bad news. Now, if you want to hear the worst news, it is the second part of the bill that I just introduced.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, in the Republican budget, there are still $11 billion of user fees, flood insurance, homebuyers for FHA, air travelers, barge traffic on inland waterways, veterans seeking housing, health insurance for civil servants. Would the gentleman join with me to remove those user fees that are in the Republican budget? I would like to help him.

Mr. SOLOMON. I sure would. Let us talk about it.

Now, let us get on to the worst part of the news, because these are real taxes. These are real tax increases. Mr. Speaker, for instance, this bill before us, which I took from the President's budget, every word, I have not added anything to it, so it is actually excerpts from the President's budget, contains the 41 different tax increases totaling $33 billion that was proposed by the President.

Let us just look at some of those. Eliminating the dividends received for certain stock. What did we do? We just reduced the capital gains stock which did more to spur this economy with people that have worked all their lives working for Sears Roebuck, a couple with not much salary all those years but they had some stock saved over that time. Now they can sell that stock, without giving it all to the Federal Government. They can keep 80 percent of it now and in some cases 90 percent and here we are fooling around with this thing again. Defer the interest deduction on convertible debt. Change life insurance rules. You ought to look at those, ladies and gentlemen. Changes in the estate and gift taxes. In other words, stick it to the heirs of the deceased. What did we just do? We just rewrote the laws so that people who have worked all their lives, like I intend to do, and I want to leave a little bit to my five children and my six grandchildren, and now you are going to take it back away again? It gets upsetting.

Reduce the depreciation method for tax-exempt property. What does that mean? That means churches, it means Boy Scouts, Girl Scouts, philanthropies. Increased taxes on real estate. We have just about ruined the real estate market in this country as it is. That hurts jobs. The gentleman from Ohio (Mr. TRAFICANT) sitting over there represents a blue collar district. We need to do all we can to create jobs, especially in the construction and building industries. Here we are going to upset that.

Mr. Speaker, the list just goes on and on and on forever, like I said, more than 100 pages. These proposals would have significant impacts on real people, real American people. Take, for instance, one of these tax increases, the President's proposal to raise taxes on financial products which encourage long-term investment and savings. That is terrible.

It is incredible that the President, who is fully aware, he is no dummy, he is one of the most astute, smartest Presidents this country has ever had, he is a Rhodes scholar or one of those guys over there, sometimes they are too smart, but he is fully aware of the impending crisis in Social Security, that it would propose to hike taxes on the products that the American families and business use to plan their own retirements. I see some of you Ways and Means types over here who are grappling with that now. Here is one sitting over here. We need to do all we can to encourage savings by the American people. Millions of American families use these very life insurance products to save for their retirement. Surveys show that many moderate-income families use private sector retirement products such as annuities to plan for their future. This is so important. In fact, many of the owners of annuities are women, 55 percent of them are married, and 28 more percent of them are widowed. Here we are going to take away their savings? The President proposes to increase the tax burden on these same annuities, annuities that 85 percent of the owners intend to use as a fundamental source of their retirement savings. Why should the government discourage these families from saving their money?

We have to remember that every time an American puts a dollar into the bank or puts it into some kind of savings, that creates jobs, because it makes more money available for the private sector to be able to borrow in competition with all of these governments.

The Federal Government. We pay about $270 billion in interest on the accumulated Federal debt today. Then when we look at the State governments and we look at all the counties, towns, cities and villages and their debt, they are all in competition with the private sector. We should be doing everything we can to encourage the American people to save not only for their retirement but because it stimulates the economy.

Mr. Speaker, there is an old saying around this town, "Don't tax me, don't tax thee, tax that man behind the tree." President Clinton's budget enhances his legacy of tax increases with $130 billion in new user fees on taxes on everybody and everything, including that tree, Mr. Speaker.

Mr. Speaker, with the President's mid-session budget report issued just last week reporting that the tax burden as a percentage of the economy will reach an historic peacetime high of 20.5 percent and remain above 20 percent for as far as the eye can see, this House should resoundingly vote down President Clinton's tax increases right now, today, and shed the light on this President who cannot seem to take enough of Americans' hard-earned money.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I really think that some of my Republican colleagues are very embarrassed because of the sham bill that is coming to the floor. The person who brought it to the floor readily admitted to everybody he is opposed to it. I am opposed to it. The President is opposed to it. So what is it doing here? It is just another way to try to embarrass the President.

Yesterday my colleague from New York introduced this bill which includes an assortment of revenue raisers, but it omits the programs from the President's budget. Under normal circumstances, Mr. Speaker, this bill would have been referred to six different committees for the consideration and, after research and hearings, possibly brought to the House floor for a vote.

But, Mr. Speaker, that did not happen on this bill. That did not happen because the gentleman from New York (Mr. SOLOMON) really does not want this bill to pass, and neither do I. In fact, my Republican colleagues want this half-a-bill to lose, and lose badly. Why? In order to deflect attention away from their heartless budget cuts.

My Republican colleagues are so embarrassed by their own budget that they needed to create an even worse one to hide behind for the evening news. My Republican colleagues do not want to stand behind their budget cuts because, and we have heard the litany of cuts, of the increases that the gentleman from New York (Mr. SOLOMON) talked about, their budget cuts Medicaid, their budget cuts their very own welfare-to-work program, their budget cuts Head Start, their budget cuts veterans' health care once again, and it cuts Superfund cleanups, it cuts children's health care and it cuts school lunches.

We do not talk about that. We just talk about what the President talked about but did not bring to the floor.

Mr. Speaker, these are very serious cuts. These are very serious cuts in the programs that the people of the United States of America really want. I can understand why my Republican colleagues are embarrassed by their budget, but today's bill is irresponsibility at its highest.

I would like to make something perfectly clear. President Clinton does not want this bill. In fact, this bill is such a perversion that President Clinton opposes this bill and quite truthfully, I would tell him to veto it if it were to pass.

I have just received a letter from the acting director of the Office of Management and Budget. The last paragraph, it says, "H.R. 3989," that is the bill we are talking about, "does not reflect the policies of the President's budget, and the Administration opposes its enactment. We regret that diversionary measures such as this one are being presented for consideration at a time when so much more important work remains for the Congress to complete." Signed Jack Lew, acting director, Office of Management and Budget.

Mr. Speaker, my Republican colleagues are so opposed to revenue raises, I wonder how they will bring themselves to support the Republican budget which itself contains $10 billion in user fees. That is right, Mr. Speaker, the Kasich budget imposes $10 billion in user fees on the same American people that the gentleman from New York is so concerned about.

In fact, Mr. Speaker, any budget that meets the requirements of last year's balanced budget agreement must contain provisions to pay for each program expansion.

Mr. Speaker, this bill is ridiculous. It is a sham. When the other side is talking about we have only got so much time to go, why do they bring these things to the floor? For one reason, to try to embarrass the President. This is a political action at its very best. It is being introduced to divert attention away from the Republican budget, not to be passed into law.

I for one give the American people a lot more credit than that. I urge my colleagues to give them more respect. I urge my colleagues to vote against this mockery of a bill, and I am sure the American people will see the diversion for what it really is, pure politics.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 5, 1998.

Hon. JOE MOAKLEY,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: Thank you for requesting the Administration's views on H.R. 3989, The User Fee Act of 1998. The President is serious about his commitment to fiscal discipline, and he has proven his commitment by reducing the deficit from $290 billion in 1992 to the first surplus in 29 years. Many Members of Congress have also shown their commitment to fiscal discipline by voting to approve comprehensive deficit reduction bills in 1993 and 1997.

H.R. 3989, however, does not represent serious fiscal discipline. It is instead a cynical diversion from the substantive debate about important budget issues, including the merits of user fees. The Administration's user fee proposal is based on the idea that user fees bring good business practices to the Federal Government by ensuring that the beneficiaries of Government services—not the general taxpayer—pay for them. H.R. 3989 in many cases breaks this link by raising fees without regard to resources for related services.

H.R. 3989 does not reflect the policies in the President's budget, and the Administration opposes its enactment. We regret that diversionary measures such as this one are being presented for consideration at a time when so much important work remains for the Congress to complete.

Sincerely,

JACOB J. LEW,
Acting Director.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, the Republicans this morning are doing a rather silly exercise, I think. It is duplicitous, I guess, in its best light. They are trying to take out the user fees and revenue raisers for a separate vote, all except those which they have originated and left in. In other words, they are being selective. They will harm children, health care for the frail elderly, food for the poor. Their own user fees will pay for flood insurance and some homebuyers and air travelers, health insurance for civil servants. But not health insurance for people on Medicare, not health insurance for the poor, not health insurance for children.

It is the same duplicitousness that we heard yesterday, the right-wing religious wackos who were talking about praying. Many of them made a claim to be Christians. What kind of a Christian would harm small children? What kind of a Christian would deny health care to the indigent? What kind of a Christian would deny housing to the poor? I do not know if that is ever mentioned.

For the people on the Republican side whose plan is to destroy programs for the poor and to build their budget on the backs of the poor and then try to convince the American people they are Christians is a lie, it is duplicitous, and it is wrong.

□ 0930

So as it is this morning, we are wasting our time and the public's time with political posturing for a bankrupt program. Why are we not spending the time this morning to talk about managed care reform? Why not the Norwood bill which 90 Republicans have joined which would give the American public what they want, and that is protection from the unscrupulous insurance companies who are making huge profits by denying managed care to the people paying for it?

Where are the Republicans when it comes to protecting what 80 or 90 percent of the American people want? They are hiding. They are scared. They do not know what to do. They cannot organize to get the kinds of programs that we need.

What about early buying at no cost to the government for those seniors who retire early and will be without Medicare or without health insurance? Why are the Republicans not bringing that part of the President's program to the floor so we can vote on it? Because they do not dare. Because they know that the American public wants programs that will win.

Tobacco legislation; why are the Republicans burying tobacco legislation while we prattle about this silly bill which nobody wants? This is to distract the people from the fact that the Republican cuts in their own budget are so severe that program after program will be destroyed.

The Speaker's desire to see Medicare wither on the vine is being helped by this plan to destroy all assistance to the people who, through no reason of their own, need assistance for a job, for housing, to feed their children. Those will be dismantled, as the Republicans would like to do.

The Kasich budget does not provide the money to fight fraud and abuse. There is about $20 billion in improper payments under the Medicare program. Instead of providing us the funds to monitor that and save them money and cut those bills; 265 million is what it would take for the Medicare program to be able to save a good portion of that 20 billion; instead of cutting the error rate, we are cutting the budgets to the law enforcement people who could save that money.

This Republican budget is pro-fraud. It is on the side of the criminals. That is who the Republicans are coddling with this. Quality will suffer. Nursing homes will go uninspected. So that those of us who are retiring and may want to go to New York or California and seek succor in a nursing home may find them dirty and poorly managed and of low quality because the Republicans are cutting the budget for the people who inspect those and ensure that our parents and our retiring colleagues who will need care in their senior years will not get it.

The bills will be paid slower. Medicare beneficiaries will be unable to get questions answered about the new proposals the Republicans are sending out in the mail.

So that as we see a small amount of money being denied as a way to obfuscate the bankruptcy of the Republican budget, the problems of this country increase, and the leadership on the Republican side continues to do nothing about it.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. HEFLEY). What is the gentleman's inquiry?

Mr. SOLOMON. Mr. Speaker, in my opening remarks about President Clinton I tried to not be disparaging, and I just want to inquire is it appropriate in this House for a Member to accuse other Members, even without mentioning a name, of being religious wackos?

I am looking at a list of Democrats who are good, sincere Democrats that voted for that bill and participated in the debate and there are names like: BAESLER, BARCIA, BERRY, BISHOP, CLEMENT, CONDIT, CRAMER, and it goes on and on and on, and I just do not think that is appropriate or proper, and I hope we can get this debate on a little higher plain.

Is that appropriate or not?

The SPEAKER pro tempore. Members should avoid personalities in debate directed against other Members.

Mr. MOAKLEY. Mr. Speaker, I yield 10 seconds to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I am sure that if any wacko in the House would like to raise to a point of personal privilege that the Speaker would be glad to recognize him for that purpose.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, I think we should take ourselves out of the fish bowl and think like everyone else. We talk about user fees, service fees, excise taxes, sales taxes, income taxes, estate taxes, capital gains taxes, property taxes, marriage taxes, school taxes, fuel taxes, aviation taxes, old taxes, new taxes, surtaxes and retroactive taxes, so it is no wonder the American people are, in fact, taxed off. How many ways can we tax our country, Congress?

Let us look at the local level, how screwed up this whole situation is:

If someone fixes up their home, they pay more taxes. If they let it go to hell, they get a tax break.

Now let us look at the Federal level:

If someone is single, divorced or they abandon their kids, they get a tax break. If they are married and live responsibly, they pay $1,400 a year more and get hit over the head for being a good citizen.

As my colleagues know, this is unbelievable to me.

Now, to make it even worse, the American people are looking back and reading the headlines today and saying, "With our money Uncle Sam now wants to give more MFN to China and another $10 billion, an additional $10 billion in foreign aid to Russia even though the Russian top financial officer says they stole the last American aid."

Beam me up here. I think it is time to make a common-sense statement to the Congress and the people of the country.

An America that rewards even Communists at the expense of mom and dad is an America that may seem to some to be politically correct but, to me, I submit is downright stupid.

Now I am not voting for anybody's budget. There are more taxes in both budgets than I am for.

I think it is time to dramatize this. I want to see some reasonable trade policy in the country. I want to see a budget that starts rewarding good citizens and stops penalizing achievement.

Mr. Speaker, I think we are all screwed up. So I am opposing the Republican budget. I am opposing the Democrat budget. And in God's name I am asking when will we get a commonsense budget that the American people could all identify with, know where the money goes, why it is going and has a trail that we could monitor and audit?

I think it is very simple, so I am going to support this. I am against the taxes in the President's budget, but I am also going to oppose the taxes and user fees in the Republican budget.

With that, I yield back any common sense left in Congress.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. RANGEL), the ranking minority member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, all of us are going to miss my friend from New York and the chairman of the Committee on Rules. He is leaving this august body with his charm and his wisdom; certainly he is going to leave a vacuum. But I hope he does not put out the legislative lights before he leaves because since we have had a Republican majority the rules of the game as to how we legislate have dramatically changed.

I can understand why the gentleman from New York (Mr. SOLOMON) keeps yielding to the Democrats: Because hardly any Republican is willing to stand up to defend this thing that has come out of the Committee on Rules.

But I would like to say this, that there used to be a time in the olden, Democratic days where we had standing committees with chairmen and we had senior Republicans. We used to have something, and I forgot the name of it, but I think it was hearings? Yes, hearings. And we used to have witnesses and experts, and they used to testify.

And then along came the gentleman from Georgia (Mr. GINGRICH) and he says, "You don't need that. You only need one committee, the Committee on Rules. As a matter of fact, we don't need that. All you have to do is have a meeting in the Speaker's office, go upstairs in the middle of the night, find the most complex tax matters that you want, and forget the eight committees that have jurisdiction because, after all, no committees are meeting unless it is to attack the President of the United States. And then have the chairman of the committee introduce a bill in the middle of the night on a Wednesday and make certain that it comes on the floor when nobody is going to be awake in order to do it."

The only way that they can do this thing, the only way, the new Republican legislative way, they can do this thing is, first, get a budget, and the budget has to make certain that the first thing to do is get a great tax cut for the wealthy people of the United States. Once that is done, then the rest of it is easy.

What is the rest of it? The rest of it is that we will take $101 billion from the committees of jurisdiction. We will not tell them where its coming from. We will let them have the blood on the floor. But we will say, we will say that it should come from health, it should come from education. And, for God's sake, make certain that we do not miss the American veterans. Hit them, and if we miss them, make certain we hit them twice.

Now the gentleman from New York (Mr. SOLOMON) has indicated, what a modest man, that the tax laws are complicated. Well, it does not take a profile in courage to come to the floor and say that. As a matter of fact, here is the gentleman from New York's list of complicated tax laws. Did he ask the experts in tax laws on the Republican side to take a look at this?

Oh, my chairman is not here, Mr. ARCHER.

Are there any senior Republicans on the Joint Committee on Taxation?

Yes, they are talking.

There are two of them there. There are two Members.

Are we going to have hearings on this, Mr. SOLOMON?

Oh, no, this will not go to hearings.

Why?

It is too complex for the Joint Committee on Taxation to have hearings on it.

The wisdom in legislation is confined now to two areas; one to Speaker, and, God knows, any chairman knows that: Do not have hearings on anything that the Speaker does not want to have hearings on. And the second thing is the Committee on Rules.

I really believe that the gentleman from New York (Mr. SOLOMON) was not selected just because of his good looks and his wisdom but because of his name. The wisdom of Solomon shall prevail on the budget and on the taxes, and he will tell us estate taxes, real estate taxes, financial property, Social Security, woe, woe, woe, this heavy tax system. He figured it all out, my brothers and sisters, my Democrats and Republicans:

Go home, worry not. There is no legislation, there is no hearings, but, God knows, the Social Security of the United States, that, too, shall rest in the wisdom of Solomon on the Committee on Rules after this is over.

Mr. SOLOMON. Mr. Speaker, will the gentleman, my best friend, yield?

Mr. RANGEL. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, first of all, this bill, everything in it was before the gentleman's committee. He held hearings on it. He personally spoke on it. I have read his remarks.

Secondly, this did not come out of the Committee on Rules. Now wait a minute now. This came directly to the floor under unanimous consent agreed to by the gentleman from New York's minority leadership.

Mr. RANGEL. Mr. Speaker, I thank the gentleman from New York (Mr. SOLOMON) because, if this did not come out of the Committee on Rules, what in God's name are we doing here in the first place?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, the reason we did not go to the Committee on Rules is because we knew it was just a dilatory tactic, and we did not want to waste another hour on the rule so I gave the gentleman unanimous consent.

Mr. RANGEL. And so now we have really reached the epic in legislation without Members.

I made a mistake. I really thought it was just the Speaker and the Committee on Rules. It is just the Speaker and the Speaker, as a matter of fact. All that must be done is to tell the gentleman from New York (Mr. SOLOMON) "For God's sake don't let the members of the Committee on Rules see this. Just come to the floor. Put your name on it. They'll think it was a legitimate process, and we'll have some debate."

Oh, no. Listen. First of all, we all know this: that these are recommendations made by the President of the United States.

□ 0945

In the olden days, it was the Committee on Ways and Means that would really legislate and bring it to the floor because of the Constitution, which says that all revenue raisers would emanate from the House of Representatives, and not the Speaker's office and not the office of the gentleman from New York (Mr. SOLOMON).

Second, it does not surprise me that this is the way they would like to deal with the President's budget as it relates to paying for services because, God knows, we will never have hearings in talking about what is in the President's budget.

But I understand it all. They are in the majority, and the further away they can get from substantive legislation, the better they can enjoy the comfort that the President's budget and the surpluses have brought to us.

I am so glad to see that the distinguished chairman of the Committee on

Ways and Means, the man who possesses more knowledge on taxes than any Member in the House, has come to the floor, and I hope he is yielded to to explain this tax plan.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just cannot believe what I just heard, because the gentleman would indicate that this Congress never held hearings on the President's budget. I think we held numerous hearings.

Mr. Speaker, I yield 4½ minutes to the gentleman from Texas (Mr. ARCHER), one of the finest, most-respected Members of this body, the chairman of the Committee on Ways and Means, to maybe enlighten us on this.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I remember over the years when we were in the minority and we had a Republican President in the White House, the Democrat leadership over and over again brought the Republican budget to the floor so we could have a chance to vote on it. Now I see that the leadership on the other side of the aisle does not seem to want us to have an opportunity to vote on the President's proposals, which we are going to give the House an opportunity to do today.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, the chairman is exactly right. We did. But he is not bringing the President's budget to floor, he is only bringing one piece of it. He is bringing the user fees, not the programs. This is not a fair presentation of the President's budget.

Mr. ARCHER. Mr. Speaker, reclaiming my time, I would say to the gentleman that this could well be the first step, but it is an important first step because no additional spending can occur unless these taxes and fees are approved.

Today the House of Representatives has a chance to stand with the taxpayers who want lower taxes, or with the Washington politicians who want higher taxes. It seems to me our choice is simple. The budget that President Clinton submitted to the Congress is a died-in-the-wool, regular old-fashioned, tried-and-true, liberal tax-and-spend scheme.

Today we will be able to vote on 77 of the President's proposed tax hikes and user fees. In total, they raise taxes and fees by more than $51 billion. Think about it, $51 billion. If one believes in big government and providing the means to make the government bigger, then I would say Members should vote for this bill and vote for the President's plan. If one believes in more spending, then vote today for this and vote for the President's plan.

But if one is like I am, and believes that the government is too big and spends too much, then join me in opposing the unnecessary presidential tax hikes. His budget raises taxes on people who are trying to save, especially women and widows who depend on life insurance policies to make ends meet. It penalizes small businesses that are struggling to get by, and it punishes companies that create jobs. It works against our ability to compete overseas in the global marketplace, which is an absolute essential to improving the standard of living of the American workers.

In an era of surpluses as far as we can see, why on earth is President Clinton proposing all these tax hikes? It is because the President still believes that a big government that spends more and does more is the best answer to the people's problems.

I remember the comments of Thomas Jefferson when he was in Paris during the writing of the Constitution, and he wrote to his friend, Madison, and he said, "Europeans are bred to desire a government that is energetic, that can be felt. Godsend that our Nation never have a government it can feel." But apparently the President wants more government that the people can feel.

I stand with Thomas Jefferson. President Clinton obviously believes that a big government that spends more and does more is the best answer to people's problems, a government that is energetic, a government the people can feel. Not so Thomas Jefferson, and not so I.

Mr. Speaker, I would say to my friends, if ever there was a reason for the Congress to be a different party than the President, this is it. If we are not here to stop the President from raising taxes again, who will be? We need to stop President Clinton before he taxes again. Join with me. Show you are on the side of overtaxed workers of America and vote "no" on Clinton's tax hikes.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I am a bit puzzled by this debate. If I listened correctly to the other side, they are saying that all of the fees in this resolution are unwarranted.

Now, I guess I would be puzzled that they are saying that with regard to bank examination fees. Are they saying that the depositors who are getting miserable rates of interest and paying exorbitant credit card fees to the bank should also pay for the Federal regulation of the banks, or are they saying there should be no Federal regulation of the banks, like we tried with the savings and loan industry during the Reagan era?

There is a fee for the registration of pesticides. Are they saying that the American people, average taxpayers, should pay for the evaluation of and the registration of the safety of pesticides, or are they saying we should have a pesticide industry that is totally unregulated by the Federal Government, creating and applying whatever it wants, wherever it wants, however it wants, and putting it in our water supply?

I do not believe even the Republicans want to repeal those fees, nor do they believe average working Americans should pay fees for the profits of the pesticide industry or should pay fees for the profits of the banking industry.

But even beyond that, I am extraordinarily puzzled by the inclusion of one of the most onerous fees to come out of Congress and the administration, in my opinion, in the last five years, and that is the fee for those of us who live in the West. Any time we want to drive on, park on, or recreate in our federally owned forests and BLM lands, we have to pay a fee.

Now, the gentleman from New York is always fond of calling us to our consistency and talking about our past votes. I would like to know how the gentleman from New York voted on the two bills that created this fee, both passed by a Republican majority.

H.R. 3019, the balanced budget down payment act, April 25, 1996, I believe the gentleman voted for it, although he would say perhaps he opposed that part. And I believe again the gentleman in all probability voted for H.R. 3610, the Interior appropriations conference report, which I opposed.

Both of those bills created this onerous fee. They came from the proposal of the honorable gentleman from Ohio (Mr. REGULA) in this House of Representatives. This is an incredibly onerous fee on the people of the western United States, created by a Republican Congress, passed by a Republican Congress, never having been authorized by the committee on which I sit. That is an outrageous fee. So let us have some consistency around here.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to just say to the previous speaker, boy, do I agree with him. We are going to defeat this bill that has got that fee in there.

Mr. Speaker, I yield 3 minutes to the very distinguished Member from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding me time, and I welcome the remarks of my friend from Oregon, to the extent that he stands opposed to user fees in the parks. I very much appreciate that. Knowing his reputation for more and more spending and more and more government control, I am very grateful that he joins with me and others to share that concern about fees.

Now, it is very interesting that we take a look at this.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield on that mischaracterization of my record? The gentleman will not yield?

PARLIAMENTARY INQUIRY

Mr. HAYWORTH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HEFLEY). The gentleman will state it.

Mr. HAYWORTH. Mr. Speaker, is it proper for a Member to come to the well while one Member is addressing the House? He could also ask from back there.

The SPEAKER pro tempore. The gentleman from Arizona may decline to yield.

Mr. HAYWORTH. I thank the Speaker. We will try to restore some order.

Mr. Speaker, perhaps the reason why we see such vociferous protests is because, even in good conscience, my friends on the left cannot abide the fear and smear they are offering this morning.

Now, some of my friends on the left wonder aloud, why this is brought to the floor? Let me attempt to inform them. You see, friends, and Mr. Speaker, it is because words mean something. When the President of the United States came and spoke from the podium behind me here, he offered a budgetary plan that really, in terms of oratory, was a wonderfully crafted speech with all the poll data and all of the driven rhetorical phrases to offer empathy and concern for the American people.

But, you see, we are compelled to go beyond words to check the costs. And in the words of the chairman of the Committee on Appropriations, my friend from Louisiana, our President promised everything but stronger shoelaces in that State of the Union message. So if he is going to promise, he has got to follow through with a price tag.

Now my dear friend, the ranking member of the committee on which I sit, the Committee on Ways and Means, lamented what he claimed was an absence of hearings. I would direct his attention to an important date, not only in the Hayworth household, but also in this august body, February 25; not only our wedding anniversary at home, but the day we invited the administration in to defend the budget plan of the President.

I recall distinctly the fact that many of our colleagues on the left joined with us. Indeed our colleagues on the left, Mr. Speaker, were most vociferous in objecting to the revenue raisers that would have to come with the President's budget. So I would remind my friend of February 25.

It is just very interesting to take a look at the reality of what the President offered, almost $52 billion in new taxes.

Mr. MOAKLEY. Mr. Speaker I yield one minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, about eight hours ago in the middle of the night we debated the Republican budget resolution when nobody was around. I think people in Hawaii watched it, but every place else Americans were probably sleeping. The reason we debated it then is because they do not want to get up and defend it. They do not want to defend the $10 billion in user fees.

In my district they want to double insurance premiums on middle class homeowners, just like they wanted to in 1995 and 1996. They want to raise the user fees for the intercostal waterway, where working men and women move barges and product along the Gulf Coast, by 500 percent. That is a pretty big increase.

What is going on here? The process is broken. The Republican leadership in the House has failed in the budget. It is two months after we were supposed to have come up with a budget. We have ceded the process to the Committee on Transportation and Infrastructure. The gentleman who just spoke in the well speaks about big budget Democrats.

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They were rushing to vote to spend $22 billion over the balanced budget agreement and take out of the pockets of the veterans 2 weeks ago. The process is broken. The Republican leadership has failed the House once again.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the very distinguished gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, very briefly, this debate is important, because the White House spins the President's budget as a glorious solution of how government can solve problems by spending money. Nobody has talked about where the money comes from. That is the purpose of this debate and vote. Everything in this bill is the President's budget proposal for tax and fee increases.

I think it is important that we look at where the money comes from because it comes out of the pockets of working families in this country. In the President's budget, it takes $129 billion out of those pockets.

I thank the gentleman for yielding to me.

Mr. MOAKLEY. Mr. Speaker, I yield 1¼ minutes to the gentleman from Florida (Mr. BOYD).

Mr. BOYD. Mr. Speaker, I guess I just have not been here long enough to be callous to this sort of shenanigans that is going on this morning. But I have to say that I was shocked when I turned on the television and saw that my Committee on Rules chairman, yes, my Committee on Rules chairman, because he is the Committee on Rules chairman of the United States House of Representatives, was bringing to the floor a bill under his name that nobody would vote for, including myself.

With leadership comes a certain amount of responsibility, and I do not understand why, last night, we debated after midnight a piece of legislation, a budget resolution brought to this floor that did not include the highway spending bill that we passed just 2 weeks ago. Now we have to find additional cuts.

Mr. Speaker, also, we were not allowed to work on the Blue Dog budget. I am a Blue Dog, and I vote with the Republican majority on many occasions when I think they are right. But absolutely they are wrong on this case. They did not allow a reasonable Blue Dog budget to be brought to the floor of this House, but today we are bringing this piece of legislation, and I think it is wrong.

I wish my friend, the gentleman from New York (Mr. SOLOMON), who was born and raised in Florida, well in his retirement; and I know he has a very, very tough job running the floor of this House. I happened to chair the Rules committee in the Florida House, and I think he has failed on this account.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, we are supposed to be talking about the budget this morning. The Republicans are afraid to bring it up and talk about it. They ran into a problem. They were taking $10 billion from Medicare. That was not working. They were afraid, so, instead, they decided to take it out of Function 600 and aim it at welfare reform. They were frantic. So they stabbed in the dark, grabbed for Function 600, but what they have done is to stab in the back welfare reform.

The National Conference of State Legislatures says this: This budget, the Republican budget abrogates an agreement reached between State Legislators, governors, and Congress in 1996 regarding welfare reform.

The National Governors Association, Governors Carper, Engler, Miller, Beasley, Chiles, Leavitt, O'Bannon, Romer, Ridge and Thompson say this about it: We urge you in the strongest terms possible to uphold the historic welfare agreement reached in 1996 and reject any cuts in TANF, Medicaid, or other welfare-related program as part of the budget resolution.

Mr. MOAKLEY. Mr. Speaker, I yield the remaining time, which I believe is 4¼ minutes, to the gentleman from California (Mr. MILLER), my final speaker.

Mr. MILLER of California. Mr. Speaker, it is very clear what is going on here this morning. The Republican budget process has failed. They cannot reach agreement among themselves, and they have now been forced to cut tens of billions of dollars out of programs serving the most vulnerable people in the United States.

They have chosen in their budget to protect every special interest in the country. They have chosen to protect the chemical companies, the drug companies, the western irrigator water users, the grazers, the oil companies, the timber companies, and the mining companies.

The President thought it might be a better idea that the mining companies in this country pay the American people something, something for the use of their lands. They chose, rather, to cut nutrition programs.

The President thought it made sense that the big timber companies that cost the taxpayers millions of dollars to take the timber off of the public lands pay a little something. They chose, rather, to cut Medicaid.

The President thought it made sense that the oil companies that have been underpaying the taxpayers billions of dollars and admitting to it every day in court, he thought we ought to recover some of that money for the taxpayers. They chose instead to go after Medicaid. They chose instead to go after child nutrition. They chose instead to go after Title I. That is what is going on here, ladies and gentlemen. They have decided to protect the special interests.

The President thought maybe the concessionaires that have made millions of dollars running the concessions in the national parks ought to pay the taxpayers some fair rent for that right. The Republicans have chosen not to do that. They have chosen not to do that. They have chosen, instead, to cut education programs. They have chosen, instead, to cut veterans programs.

That is what their budget is. This is an effort to camouflage the vote that they will have to take later today on their budget that cuts billions of dollars, billions of dollars to the most vulnerable people in this country.

This is not about fees. This is not about the President's budget. This is about trying to get some cover for the Republicans who they have broken the arms to vote for a budget that is essentially bankrupt, a budget where they refuse to put in hard numbers, a budget where they change it in the middle of the night, a budget that is debated here at midnight, covered up by a bill that was never sent to the committee, never sent to the Committee on Rules, and was decided late last night to be brought to this floor.

Why have they done that? Why have they done that? Because, in their budget, they continue to protect the users of the FDA, the drug companies, and the chemical companies, the mining companies, people who are taking billions of dollars away from the taxpayers of this country, off resources owned by you, the American people. They pay no rents for billions of dollars in gold, billions of dollars in platinum, billions of dollars in silver.

The President thought maybe, just maybe, we ought to run the government like a business, and we are entitled to some rent. But the Republicans have chosen, instead, to say, why do we not go after Chapter 1, trying to help disadvantaged kids?

Republicans have said, instead, why do we not go after the income security in this country and have ways and means? Where are they going to take it out of? Unemployment, Medicaid, Social Security. We will leave it up to the Committee on Ways and Means.

This is about choices. This is about choices to be made.

Later today, the Republicans will have the glory of not only voting for the user fees in this bill but voting for all of their cuts also on the vulnerable populations in this country.

This bill ought to be rejected. It is a sham. It is a cheap attempt to camouflage, because the Republicans know they have a very difficult vote coming up this afternoon for their Members. They have been meeting around the clock trying to get enough people together so they could pass their budget. Maybe they have achieved that. Maybe that is why we are on the floor.

But what they do know, they need some diversion so Members can go home and say that somehow they engaged in some great scheme to protect the American people from fees.

These fees are about fees on special interests and people who are extracting wealth from the resources owned by the taxpayers. The fees on the Forest Service were put there by the Republicans last year when they decided every Tom, Dick, and Harry who wants to go out with his family and use the forest is going to have to pay, but not the timber companies. They have chosen the special interests.

The President chose to try to protect the people and make sure that those people who are using America's resources should pay something for that.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the question was raised by a number of the Committee on Ways and Means Members, the gentleman from New York (Mr. RANGEL) and the gentleman from California (Mr. STARK) and others, about why did we bring this bill to the floor.

We bring it to the floor for two reasons. One is that the President of the United States, no matter who he is, cannot bring a budget or any portion of it to the floor of this House. It has to be brought by a Member of Congress representing a committee, and the Democrats have failed to do that.

We are attempting to show the difference between we Republicans, who are absolutely, with every fiber in our body, opposed to raising taxes and taking more money out of the pockets of the people, and as opposed to the Democrat view, as represented by President Clinton with more and more and more taxes and fees. That is exactly what this bill does.

The President is proposing $130 billion in new taxes, not to mention $150 billion in new spending. By focusing this debate on this issue this morning before we go to final passage, it is going to show the difference in division of our two parties. That is obvious to the American people.

I know that there is going to be a motion to recommit, and we will just have to wait and see what that is. But I would just hope that we would defeat the motion to recommit at the appropriate time and then defeat this bill.

Let us send a resounding message to the President that the American people, as represented by this Congress, overwhelmingly oppose tax increases and fee increases.

Mr. BLUMENAUER. Mr. Speaker, I am increasingly disappointed that Members of the House are presented on an ongoing basis with false legislative choices that distort problems rather than seek to solve them. H.R. 3989 is the latest example of this approach to policymaking, where serious policy questions are demoted to merely political ones. This vote is meaningless when devoid of the larger context of a budget resolution, and everyone here knows that. I refuse to participate in this legislative charade, and I urge my colleagues to do the same. Join me in voting "present" on H.R. 3989. The sooner we stop the pointless political gambits, the sooner we can deal with the people's business.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired. Pursuant to the order of the House of Thursday, June 4, 1998, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. HEFLEY). Is the gentleman opposed to the bill?

Mr. MOAKLEY. Mr. Speaker, I am opposed to the bill, as everyone in the House is.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MOAKLEY moves to recommit the bill, H.R. 3989, to the Committee on Ways and Means to report back forthwith with an amendment:

Strike all after the enacting clause and insert the following:

"It is the sense of the House of Representatives that the following user fees should be enacted as soon as possible:

(1) HOUSING.—

(A) Increase cost to Federal Housing Administration borrowers by ending rebates after mortgage repayment.

(B) Increase National Flood Insurance premiums.

(C) Increase Federal Housing Administration premiums to cover the cost of the multifamily mortgage program.

(2) TRANSPORTATION.—

(A) Establish airport takeoff/landing slot charges.

(B) Increase Federal Inland Waterway System fees to fully recover the costs of operations, maintenance, and new construction.

(3) VETERANS.—

Extend for one year the loan fee for Veterans' Affairs housing loans.

(4) FEDERAL RETIREMENT.—

Raise Federal Employees Health Benefit premiums."

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY) for 5 minutes on his motion.

Mr. MOAKLEY. Mr. Speaker, my motion to recommit is very simple. Instead of voting on the revenue provisions contained in the President's budget, let us take a vote on the user fees contained in the Kasich budget. We have heard our friends over there saying they are opposed to these fees. Well, let us see.

The Kasich budget contains almost $10.5 billion in user fees, fees on FHA homeowners, fees on airlines, fees on veterans housing loans, fees on inland water users, fees on Federal employees health benefits. There are fees on individuals who participate in the National Flood Insurance Program and, Mr. Speaker, as well as fees on the multifamily mortgage program at the FHA. All of these fees are contained in the Kasich budget.

One thing I have noticed this morning is there has been a lot of talk about revenue provisions that were ripped out of the President's budget. But, Mr. Speaker, the President's budget is not going to be voted on later this morning, the Kasich budget is.

Mr. Speaker, we should not be wasting Members' time by voting on parts of a budget proposal that the House is not even going to consider. The bill proposed by the gentleman from New York (Mr. SOLOMON) is objected to by the President and probably everybody else in the House. Instead, let us take a test vote on the user fees in the Kasich budget, $10.5 billion worth.

I find that ironic that the Republicans are beating their chests about the revenue raises in a bill that is not even going to be considered and strangely silent on the revenue raises that are included in the bill that will be voted on in a matter of hours.

Mr. Speaker, where is the righteous defense of the American taxpayers from the intrusive reach of the Federal Government contained in the Kasich budget? Where is the outrage over the $10.5 billion in user fees being imposed by the Kasich budget on homeowners and veterans?

I suppose it is just too much to expect consistency from my Republican colleagues on this. The desperate urge to score political points is just too strong. My motion to recommit, simply stated, substitutes the Kasich user fee for those proposed by the gentleman from New York (Mr. SOLOMON).

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Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I rise in strong support of the motion to recommit. I also rise in opposition to the Republican budget.

Mr. Speaker, as my friend, the gentleman from Tennessee (Mr. JOHN TANNER) pointed out last night, the new Republican majority in 4 years has truly achieved the level of arrogance that it took the Democratic Party 40 years to have in this body. It did not even allow what is the most important vote of the year, the conservative Democratic alternative to be offered.

If Members have followed this session, they will know that every Tuesday has been spent commending this or condemning that, resolutions that have no effect whatsoever. One week out of every month we have not even been in session. Yet, we cannot find the time to debate and have an open amendment process for the most important thing, which is the budget of the United States, so those of us who would rather spend money getting soldiers off of food stamps can, say, maybe take it from things we do not think are as important, like foreign aid, like the $3 billion that a relatively wealthy Nation called Israel will get of our money, but we cannot find the money to get soldiers off of food stamps.

We will not even be given the opportunity to do so because the budget process, first under the Democrats and now under the Republicans, we cannot even offer an amendment on it. That is wrong.

This is still a democracy, Mr. Speaker. The Speaker may do what he wants to keep that from happening, but every one of us represents the same number of people. Every one of us was elected, and every one of us deserves the opportunity to try to set some priorities for this Nation, and not be handed a load of garbage by one side or the other and say vote on it, take it or leave it.

So I am going to vote against the Democratic budget, I am going to vote against the Republican budget, and I am going to hope for once that we will stick together and provide for this Nation an American budget.

But the only way we can do that is to first vote down the Republican budget, vote down the Democratic budget, vote for the motion to recommit, and let us try to get back to what the Founding Fathers truly had in mind, which is making this body a deliberative body of free expression, where the majority rules and not the lobbyists.

The SPEAKER pro tempore (Mr. HEFLEY). Does the gentleman from New York (Mr. SOLOMON) rise in opposition to the motion to recommit?

Mr. SOLOMON. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, the Moakley recommittal would prevent this House from casting a resounding vote against the President's tax and fee increases.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. GINGRICH), the Speaker of the House, a man who personifies the Republican vision of no more tax increases.

Mr. GINGRICH. Mr. Speaker, let me say, first of all, that I was delighted to watch the impassioned pleas of my liberal friends for higher taxes. There was an intensity, a passion, an emotional commitment to higher taxes that I believe is sincere.

These are friends who voted for the 1993 tax increase, passed only with Democratic votes. These are friends for whom higher taxes is a legitimate moral cause, because the American people, in their judgment, are not smart enough to solve their own problems, and only bigger bureaucracy, more power in Washington, less take-home pay, will lead to the liberal utopia they believe in.

But I have to say to my good friends, I just checked two of the last three speakers on the gentleman's side. They voted against the welfare reform bill. It is not fair to get up here and protect the welfare reform bill we wrote, that we passed, working with our Governors, my good friend, John Engler of Michigan, who was in on Tuesday, when we chatted about what we can get done; my good friend, George Pataki, Governor of New York, with whom I have been talking about what we can get done; my dear friend, Tommy Thompson, Governor of Wisconsin, who was the original leader in the welfare reform movement, talking about what we can get done.

We have found that we on our side are the people who actually worked with Governors to write the welfare reform bill. So to have liberals who always vote for tax increases jump up in defense of a welfare reform plan they opposed, and cite Republican Governors to the Republican majority, is a wonderful piece of oratory, but it is not historically very accurate.

Let us talk about why we brought this vote up today. This is, frankly, a very important point. I would urge every Democrat, every Democrat who wants higher spending——

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I was just wondering, because I read in the paper this morning that those are the same Republican Governors who will be writing a letter against the budget and are concerned about the money coming out of TANF, the welfare reform proposal I opposed.

Mr. GINGRICH. Let me say to my good friend that very often people around the country, when they read the newspaper version of reality, respond to it. But in a recent conference call with the very Governors the gentleman was talking about, they are quite satisfied with where we are going with welfare reform, and I think they will be quite happy with it.

Mr. MILLER of California. They accept the cuts in TANF?

Mr. GINGRICH. I appreciate the gentleman allowing me to clarify that inaccurate report.

Now that the gentleman knows they are not going to be worried about what we are doing, let us go to the heart of why we have raised this particular motion. I think this is a very important issue.

The President sent up $51.9 billion in higher taxes and fees, not counting the tobacco taxes. We took out all the tobacco taxes he sent up, so this is just a straightforward issue on everything else he wanted to raise, $51.9 billion. Later on this year the President is going to come to the Congress and say, I need higher spending. I know I agreed to the budget deal, I know it was a 5-year deal, but I need higher spending.

So I would urge every Democrat, if they want the President to get higher spending later on this fall, they need to vote no on this motion. They need to say, we want $51 billion in higher taxes. We are for bigger government and more taxes.

But if every Democrat votes with us against $51 billion in higher taxes, then I do not think President Clinton has a leg to stand on in coming to a negotiation later and saying, well, I am really for a balanced budget, but by the way, I need more government, I need more programs.

There are 77 tax hikes and user fees in this particular package, 77 tax hikes and user fees. Why? Because President Clinton is calling for 85 new spending programs, including 39 new entitlement programs.

Mr. Speaker, liberals who had the courage in 1993 to raise taxes may well want to vote with the President for higher taxes and bigger government. So I would urge all of my Democratic colleagues who truly want bigger government and higher taxes, vote no on this.

But for those who want to go home and join us and say the Federal Government is too big, it wastes too much money, we can find 1 percent waste, fraud, and error, we can find 1 percent mismanagement, we can find 1 percent unnecessary programs out of an entire Federal Government of $9 trillion, we can find 1 percent, vote with us.

Those who have a better idea, as our good friend, the gentleman from Mississippi (Mr. TAYLOR) suggested he did, then they get to vote against the President. They do not have to vote with us. But do not vote with us to kill these tax increases, and then come back later and say you really want the money, you just did not want to tell the American people.

We are opposed to tax increases. We think the Federal Government is too big, it wastes too much, it has too much power in Washington. We believe taxes are too high and take-home pay is too low.

I am very proud and very confident that the people who brought us welfare reform, the people who brought us a balanced budget, the people who brought us tax cuts, are in fact capable of finding 1 percent waste.

I urge our colleagues, vote no on their motion to recommit, and stop the Clinton tax increases from further burdening the American people.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which the vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 0, nays 416, answered "present" 1, not voting 17, as follows:

[Roll No. 206]

NAYS—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)

Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Blumenauer

NOT VOTING—17

Buyer
Cooksey
Furse
Gejdenson
Gonzalez
Harman
Houghton
Johnson, E. B.
Kennedy (MA)
Lewis (GA)
McDade
Mollohan
Pelosi
Reyes
Ros-Lehtinen
Schumer
Sessions

☐ 1042

Messrs. BROWN of California, ROTHMAN, LEWIS of Kentucky, WATT of North Carolina, LARGENT, GUTKNECHT, HYDE, LANTOS and WATKINS changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. HEFNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HEFNER. Mr. Speaker, for those of us who sat up last night and watched the interesting debate and slept late this morning on this, is this a sense of the Congress or is this a bill?

☐ 1045

The SPEAKER pro tempore (Mr. HEFLEY). We are prepared for the question on final passage of the bill.

Mr. HEFNER. I thank the Chair very much.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HAYWORTH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 0, nays 421, answered "present" 1, not voting 12, as follows:

[Roll No. 207]

NOES—421

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Blumenauer

NOT VOTING—12

Furse
Gejdenson
Gonzalez
Houghton
Johnson, E. B.
Kennedy (MA)
Largent
Lewis (GA)
McDade
Mollohan
Ros-Lehtinen
Schumer

☐ 1104

Mr. RIGGS changed his vote from "aye" to "no."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to House Resolution 455 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution, House Concurrent Resolution 284.

☐ 1105

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003, with Mr. HEFLEY (Chairman pro tempore) in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on the legislative day of Thursday, June 4, 1998, all time for general debate had expired.

Pursuant to House Resolution 455, the concurrent resolution is considered read for amendment under the 5-minute rule. The amendment in the nature of a substitute printed in part 1 of House Report 105–565 is considered as an original concurrent resolution for the purpose of amendment under the 5-minute rule and is considered read.

The text of the amendment in the nature of a substitute is as follows:

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999.

The Congress declares that the concurrent resolution on the budget for fiscal year 1998 is hereby revised and replaced and that this is the concurrent resolution on the budget for fiscal year 1999 and that the appropriate budgetary levels for fiscal years 2000 through 2003 are hereby set forth.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1998: $1,292,400,000,000.
Fiscal year 1999: $1,318,000,000,000.
Fiscal year 2000: $1,331,300,000,000.
Fiscal year 2001: $1,358,100,000,000.
Fiscal year 2002: $1,407,800,000,000.
Fiscal year 2003: $1,452,600,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1998: $0.
Fiscal year 1999: −$4,000,000,000.
Fiscal year 2000: −$10,000,000,000.
Fiscal year 2001: −$21,000,000,000.
Fiscal year 2002: −$28,100,000,000.
Fiscal year 2003: −$37,800,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1998: $1,359,500,000,000.
Fiscal year 1999: $1,408,900,000,000.
Fiscal year 2000: $1,443,700,000,000.
Fiscal year 2001: $1,477,500,000,000.
Fiscal year 2002: $1,502,800,000,000.
Fiscal year 2003: $1,571,200,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1998: $1,343,100,000,000.
Fiscal year 1999: $1,401,000,000,000.
Fiscal year 2000: $1,435,900,000,000.
Fiscal year 2001: $1,463,700,000,000.
Fiscal year 2002: $1,473,300,000,000.
Fiscal year 2003: $1,540,700,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1998: $50,700,000,000.
Fiscal year 1999: $83,000,000,000.
Fiscal year 2000: $104,600,000,000.
Fiscal year 2001: $105,600,000,000.
Fiscal year 2002: $65,500,000,000.
Fiscal year 2003: $88,100,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1998: $5,436,900,000,000.
Fiscal year 1999: $5,597,000,000,000.
Fiscal year 2000: $5,777,200,000,000.
Fiscal year 2001: $5,957,200,000,000.
Fiscal year 2002: $6,102,400,000,000.
Fiscal year 2003: $6,269,400,000,000.

SEC. 3. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and budget outlays for fiscal years 1998 through 2003 for each major functional category are:

(1) National Defense (050):

Fiscal year 1998:
(A) New budget authority, $267,400,000,000.
(B) Outlays, $268,100,000,000.
Fiscal year 1999:
(A) New budget authority, $270,500,000,000.
(B) Outlays, $265,500,000,000.
Fiscal year 2000:
(A) New budget authority, $274,300,000,000.
(B) Outlays, $267,900,000,000.
Fiscal year 2001:
(A) New budget authority, $280,800,000,000.
(B) Outlays, $269,600,000,000.
Fiscal year 2002:
(A) New budget authority, $288,600,000,000.
(B) Outlays, $272,100,000,000.
Fiscal year 2003:
(A) New budget authority, $296,800,000,000.
(B) Outlays, $279,800,000,000.

(2) International Affairs (150):

Fiscal year 1998:
(A) New budget authority, $15,200,000,000.
(B) Outlays, $14,100,000,000.
Fiscal year 1999:
(A) New budget authority, $14,200,000,000.
(B) Outlays, $13,800,000,000.
Fiscal year 2000:
(A) New budget authority, $12,100,000,000.
(B) Outlays, $13,700,000,000.
Fiscal year 2001:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $12,900,000,000.
Fiscal year 2002:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $11,900,000,000.
Fiscal year 2003:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $11,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1998:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $17,700,000,000.
Fiscal year 1999:
(A) New budget authority, $17,900,000,000.
(B) Outlays, $17,800,000,000.
Fiscal year 2000:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $17,800,000,000.
Fiscal year 2001:
(A) New budget authority, $17,800,000,000.
(B) Outlays, $17,600,000,000.
Fiscal year 2002:
(A) New budget authority, $17,800,000,000.
(B) Outlays, $17,700,000,000.
Fiscal year 2003:
(A) New budget authority, $17,800,000,000.
(B) Outlays, $17,700,000,000.

(4) Energy (270):

Fiscal year 1998:
(A) New budget authority, $500,000,000.
(B) Outlays, $1,000,000,000.
Fiscal year 1999:
(A) New budget authority, $600,000,000.
(B) Outlays, $300,000,000.
Fiscal year 2000:
(A) New budget authority, −$300,000,000.
(B) Outlays, −$200,000,000.
Fiscal year 2001:
(A) New budget authority, −$1,300,000,000.
(B) Outlays, −$1,800,000,000.
Fiscal year 2002:
(A) New budget authority, −$6,100,000,000.
(B) Outlays, −$6,600,000,000.
Fiscal year 2003:
(A) New budget authority, −$700,000,000.
(B) Outlays, −$1,500,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1998:
(A) New budget authority, $24,200,000,000.
(B) Outlays, $23,000,000,000.
Fiscal year 1999:
(A) New budget authority, $22,600,000,000.
(B) Outlays, $22,800,000,000.
Fiscal year 2000:
(A) New budget authority, $21,000,000,000.
(B) Outlays, $22,400,000,000.
Fiscal year 2001:
(A) New budget authority, $20,500,000,000.
(B) Outlays, $21,600,000,000.
Fiscal year 2002:
(A) New budget authority, $20,500,000,000.
(B) Outlays, $20,800,000,000.
Fiscal year 2003:
(A) New budget authority, $20,500,000,000.
(B) Outlays, $20,500,000,000.

(6) Agriculture (350):

Fiscal year 1998:
(A) New budget authority, $11,800,000,000.
(B) Outlays, $10,800,000,000.
Fiscal year 1999:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $10,500,000,000.
Fiscal year 2000:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $10,100,000,000.
Fiscal year 2001:
(A) New budget authority, $10,600,000,000.
(B) Outlays, $9,000,000,000.
Fiscal year 2002:
(A) New budget authority, $10,400,000,000.
(B) Outlays, $8,800,000,000.
Fiscal year 2003:
(A) New budget authority, $10,700,000,000.
(B) Outlays, $9,100,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1998:
(A) New budget authority, $7,300,000,000.
(B) Outlays, $700,000,000.
Fiscal year 1999:
(A) New budget authority, $4,400,000,000.
(B) Outlays, $2,800,000,000.
Fiscal year 2000:
(A) New budget authority, $14,900,000,000.
(B) Outlays, $9,800,000,000.
Fiscal year 2001:
(A) New budget authority, $14,500,000,000.
(B) Outlays, $10,900,000,000.
Fiscal year 2002:
(A) New budget authority, $14,800,000,000.
(B) Outlays, $11,400,000,000.
Fiscal year 2003:
(A) New budget authority, $14,200,000,000.
(B) Outlays, $11,000,000,000.

(8) Transportation (400):

Fiscal year 1998:
(A) New budget authority, $46,000,000,000.
(B) Outlays, $42,500,000,000.
Fiscal year 1999:
(A) New budget authority, $44,300,000,000.
(B) Outlays, $42,100,000,000.
Fiscal year 2000:
(A) New budget authority, $43,600,000,000.
(B) Outlays, $41,600,000,000.
Fiscal year 2001:
(A) New budget authority, $43,600,000,000.
(B) Outlays, $41,300,000,000.
Fiscal year 2002:
(A) New budget authority, $43,100,000,000.
(B) Outlays, $40,200,000,000.

Fiscal year 2003:

(A) New budget authority, $43,700,000,000.

(B) Outlays, $40,600,000,000.

(9) Community and Regional Development (450):

Fiscal year 1998:

(A) New budget authority, $8,700,000,000.

(B) Outlays, $11,200,000,000.

Fiscal year 1999:

(A) New budget authority, $8,700,000,000.

(B) Outlays, $10,600,000,000.

Fiscal year 2000:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $9,100,000,000.

Fiscal year 2001:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $8,200,000,000.

Fiscal year 2002:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $7,400,000,000.

Fiscal year 2003:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $6,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1998:

(A) New budget authority, $61,300,000,000.

(B) Outlays, $56,100,000,000.

Fiscal year 1999:

(A) New budget authority, $61,400,000,000.

(B) Outlays, $60,200,000,000.

Fiscal year 2000:

(A) New budget authority, $62,300,000,000.

(B) Outlays, $61,300,000,000.

Fiscal year 2001:

(A) New budget authority, $63,300,000,000.

(B) Outlays, $62,000,000,000.

Fiscal year 2002:

(A) New budget authority, $63,200,000,000.

(B) Outlays, $61,800,000,000.

Fiscal year 2003:

(A) New budget authority, $65,600,000,000.

(B) Outlays, $63,900,000,000.

(11) Health (550):

Fiscal year 1998:

(A) New budget authority, $136,200,000,000.

(B) Outlays, $132,000,000,000.

Fiscal year 1999:

(A) New budget authority, $143,800,000,000.

(B) Outlays, $142,300,000,000.

Fiscal year 2000:

(A) New budget authority, $149,900,000,000.

(B) Outlays, $149,500,000,000.

Fiscal year 2001:

(A) New budget authority, $155,900,000,000.

(B) Outlays, $155,600,000,000.

Fiscal year 2002:

(A) New budget authority, $162,800,000,000.

(B) Outlays, $163,600,000,000.

Fiscal year 2003:

(A) New budget authority, $171,200,000,000.

(B) Outlays, $172,000,000,000.

(12) Medicare (570):

Fiscal year 1998:

(A) New budget authority, $199,200,000,000.

(B) Outlays, $199,700,000,000.

Fiscal year 1999:

(A) New budget authority, $210,400,000,000.

(B) Outlays, $211,000,000,000.

Fiscal year 2000:

(A) New budget authority, $221,900,000,000.

(B) Outlays, $221,200,000,000.

Fiscal year 2001:

(A) New budget authority, $239,500,000,000.

(B) Outlays, $242,400,000,000.

Fiscal year 2002:

(A) New budget authority, $251,300,000,000.

(B) Outlays, $248,900,000,000.

Fiscal year 2003:

(A) New budget authority, $273,500,000,000.

(B) Outlays, $273,700,000,000.

(13) Income Security (600):

Fiscal year 1998:

(A) New budget authority, $229,500,000,000.

(B) Outlays, $234,700,000,000.

Fiscal year 1999:

(A) New budget authority, $243,100,000,000.

(B) Outlays, $247,400,000,000.

Fiscal year 2000:

(A) New budget authority, $255,300,000,000.

(B) Outlays, $257,000,000,000.

Fiscal year 2001:

(A) New budget authority, $265,200,000,000.

(B) Outlays, $264,800,000,000.

Fiscal year 2002:

(A) New budget authority, $274,900,000,000.

(B) Outlays, $271,500,000,000.

Fiscal year 2003:

(A) New budget authority, $284,300,000,000.

(B) Outlays, $280,400,000,000.

(14) Social Security (650):

Fiscal year 1998:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $12,200,000,000.

Fiscal year 1999:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $12,800,000,000.

Fiscal year 2000:

(A) New budget authority, $13,100,000,000.

(B) Outlays, $13,200,000,000.

Fiscal year 2001:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $12,600,000,000.

Fiscal year 2002:

(A) New budget authority, $14,500,000,000.

(B) Outlays, $14,500,000,000.

Fiscal year 2003:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $15,300,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 1998:

(A) New budget authority, $42,600,000,000.

(B) Outlays, $42,500,000,000.

Fiscal year 1999:

(A) New budget authority, $42,400,000,000.

(B) Outlays, $42,900,000,000.

Fiscal year 2000:

(A) New budget authority, $43,000,000,000.

(B) Outlays, $43,300,000,000.

Fiscal year 2001:

(A) New budget authority, $43,500,000,000.

(B) Outlays, $43,700,000,000.

Fiscal year 2002:

(A) New budget authority, $43,900,000,000.

(B) Outlays, $44,200,000,000.

Fiscal year 2003:

(A) New budget authority, $44,800,000,000.

(B) Outlays, $45,200,000,000.

(16) Administration of Justice (750):

Fiscal year 1998:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $22,500,000,000.

Fiscal year 1999:

(A) New budget authority, $25,000,000,000.

(B) Outlays, $24,000,000,000.

Fiscal year 2000:

(A) New budget authority, $23,300,000,000.

(B) Outlays, $24,100,000,000.

Fiscal year 2001:

(A) New budget authority, $22,700,000,000.

(B) Outlays, $23,900,000,000.

Fiscal year 2002:

(A) New budget authority, $22,600,000,000.

(B) Outlays, $23,400,000,000.

Fiscal year 2003:

(A) New budget authority, $22,500,000,000.

(B) Outlays, $22,600,000,000.

(17) General Government (800):

Fiscal year 1998:

(A) New budget authority, $14,500,000,000.

(B) Outlays, $14,300,000,000.

Fiscal year 1999:

(A) New budget authority, $14,800,000,000.

(B) Outlays, $14,200,000,000.

Fiscal year 2000:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $13,900,000,000.

Fiscal year 2001:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $13,500,000,000.

Fiscal year 2002:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $13,300,000,000.

Fiscal year 2003:

(A) New budget authority, $13,300,000,000.

(B) Outlays, $13,100,000,000.

(18) Net Interest (900):

Fiscal year 1998:

(A) New budget authority, $290,700,000,000.

(B) Outlays, $290,700,000,000.

Fiscal year 1999:

(A) New budget authority, $296,800,000,000.

(B) Outlays, $296,800,000,000.

Fiscal year 2000:

(A) New budget authority, $297,200,000,000.

(B) Outlays, $297,200,000,000.

Fiscal year 2001:

(A) New budget authority, $296,800,000,000.

(B) Outlays, $296,800,000,000.

Fiscal year 2002:

(A) New budget authority, $296,600,000,000.

(B) Outlays, $296,600,000,000.

Fiscal year 2003:

(A) New budget authority, $298,500,000,000.

(B) Outlays, $298,500,000,000.

(19) Allowances (920):

Fiscal year 1998:

(A) New budget authority, −$14,000,000,000.

(B) Outlays, −$14,000,000,000.

Fiscal year 1999:

(A) New budget authority, −$500,000,000.

(B) Outlays, −$500,000,000.

Fiscal year 2000:

(A) New budget authority, −$2,100,000,000.

(B) Outlays, −$900,000,000.

Fiscal year 2001:

(A) New budget authority, −$3,200,000,000.

(B) Outlays, −$2,900,000,000.

Fiscal year 2002:

(A) New budget authority, −$3,200,000,000.

(B) Outlays, −$3,200,000,000.

Fiscal year 2003:

(A) New budget authority, −$3,300,000,000.

(B) Outlays, −$3,200,000,000.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1998:

(A) New budget authority, −$36,700,000,000.

(B) Outlays, −$36,700,000,000.

Fiscal year 1999:

(A) New budget authority, −$36,300,000,000.

(B) Outlays, −$36,300,000,000.

Fiscal year 2000:

(A) New budget authority, −$36,100,000,000.

(B) Outlays, −$36,100,000,000.

Fiscal year 2001:

(A) New budget authority, −$38,000,000,000.

(B) Outlays, −$38,000,000,000.

Fiscal year 2002:

(A) New budget authority, −$45,000,000,000.

(B) Outlays, −$45,000,000,000.

Fiscal year 2003:

(A) New budget authority, −$35,900,000,000.

(B) Outlays, −$35,900,000,000.

SEC. 4. RECONCILIATION.

(a) SUBMISSIONS.—Not later than June 26, 1998, the House committees named in subsection (b) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(b) INSTRUCTIONS TO HOUSE COMMITTEES.—

(1) COMMITTEE ON AGRICULTURE.—The House Committee on Agriculture shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $30,400,000,000 in outlays for fiscal year 1999 and $157,400,000,000 in outlays in fiscal years 1999 through 2003.

(2) COMMITTEE ON BANKING AND FINANCIAL SERVICES.—The House Committee on Banking and Financial Services shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: −$8,200,000,000 in outlays for fiscal year 1999 and −$35,100,000,000 in outlays in fiscal years 1999 through 2003.

(3) COMMITTEE ON COMMERCE.—The House Committee on Commerce shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $417,900,000,000 in outlays for fiscal year 1999 and $2,437,900,000,000 in outlays in fiscal years 1999 through 2003.

(4) COMMITTEE ON EDUCATION AND THE WORKFORCE.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $18,700,000,000 in outlays for fiscal year 1999 and $100,400,000,000 in outlays in fiscal years 1999 through 2003.

(5) COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT.—The House Committee on Government Reform and Oversight shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $71,600,000,000 in outlays for fiscal year 1999 and $384,000,000,000 in outlays in fiscal years 1999 through 2003.

(6) COMMITTEE ON THE JUDICIARY.—The House Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $5,200,000,000 in outlays for fiscal year 1999 and $26,500,000,000 in outlays in fiscal years 1999 through 2003.

(7) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The House Committee on Transportation and Infrastructure shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $16,200,000,000 in outlays for fiscal year 1999 and $78,900,000,000 in outlays in fiscal years 1999 through 2003.

(8) COMMITTEE ON VETERANS' AFFAIRS.—The House Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee does not exceed: $23,800,000,000 in outlays for fiscal year 1999 and $125,000,000,000 in outlays in fiscal years 1999 through 2003.

(9) COMMITTEE ON WAYS AND MEANS.—(A) The House Committee on Ways and Means shall report changes in laws within its jurisdiction such that the total level of direct spending for that committee does not exceed: $411,100,000,000 in outlays for fiscal year 1999 and $2,374,800,000,000 in outlays in fiscal years 1999 through 2003.

(B) The House Committee on Ways and Means shall report changes in laws within its jurisdiction such that the total level of revenues for that committee is not less than: $1,278,500,000,000 in revenues for fiscal year 1999 and $6,637,700,000,000 in revenues in fiscal years 1999 through 2003.

SEC. 5. BUDGETARY TREATMENT OF COMPENSATION AND PAY FOR FEDERAL EMPLOYEES.

In the House, for purposes of enforcing the Congressional Budget Act of 1974, any bill or joint resolution, or amendment thereto or conference report thereon, establishing on a prospective basis compensation or pay for any office or position in the Government at a specified level, the appropriation for which is provided through annual discretionary appropriations, shall not be considered as providing new entitlement authority or new budget authority.

SEC. 6. SENSE OF CONGRESS ON SOCIAL SECURITY.

It is the sense of Congress that the Secretary of the Treasury, in consultation with the trustees of the social security trust funds, should consider issuing marketable interest-bearing securities to the trust funds for fiscal years beginning after September 30, 1998.

SEC. 7. SENSE OF CONGRESS ON THE ASSETS FOR INDEPENDENCE ACT.

(a) FINDINGS.—The Congress finds that—

(1) 33 percent of all American households have no or negative financial assets and 60 percent of African-American households have no or negative financial assets;

(2) 47 percent of all children in America live in households with no financial assets, including 40 percent of Caucasian children and 75 percent of African-American children;

(3) in order to provide low-income families with more tools for empowerment in lieu of traditional income support and to assist them in becoming more involved in planning their future, new public-private relationships that encourage asset-building should be undertaken;

(4) individual development account programs are successfully demonstrating the ability to assist low-income families in building assets while partnering with community organizations and States in more than 40 public and private experiments nationwide; and

(5) Federal support for a trial demonstration program would greatly assist the creative efforts of existing individual development account experiments.

(b) SENSE OF CONGRESS.—It is the sense of Congress that legislation should be considered to encourage low-income individuals and families to accumulate assets through contributions to individual development accounts as a means of achieving economic self-sufficiency.

SEC. 8. SENSE OF CONGRESS ON A DEMONSTRATION PROJECT ON CLINICAL CANCER TRIALS.

It is the sense of Congress that legislation should be considered that provides medicare coverage for beneficiaries' participation in clinical cancer trials.

SEC. 9. SENSE OF CONGRESS ON THE INTERIM PAYMENT SYSTEM FOR HOME HEALTH BENEFITS UNDER MEDICARE.

It is the sense of Congress that—

(1) there is concern that the interim payment system for home health service has adversely affected some home health care agencies;

(2) the Administration should ensure that the implementation of the interim payment system does not adversely affect the availability of home health services for medicare beneficiaries;

(3) Congress should carefully examine the Adminstration's implementation of the home health payment system and make any necessary changes to ensure that the needs of medicare beneficiaries are being met; and

(4) the Health Care Financing Administration should quickly implement the prospective payment system that was enacted into law last year.

SEC. 10. SENSE OF CONGRESS ON SPECIAL EDUCATION.

(a) FINDINGS.—The Congress finds that—

(1) Federal courts have found that children with disabilities are guaranteed an equal opportunity to an education under the Fourteenth Amendment to the Constitution;

(2) Congress responded to these court decisions by enacting the Individuals with Disabilities Education Act (IDEA) to ensure free and appropriate public education for children with disabilities;

(3) IDEA authorizes the Federal Government to provide 40 percent of the average per pupil expenditure for children with disabilities;

(4) the Federal Government has not fully funded IDEA at its authorized levels; and

(5) if the Federal Government fully funds IDEA, then local school districts will have the flexibility to invest in new technology, hire additional teachers, and purchase books and supplies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Federal Government should fully fund programs authorized under IDEA and that such funding is of the highest priority among Federal education programs.

SEC. 11. SENSE OF CONGRESS ON BUDGETARY RULES AND TAX CUTS.

(a) FINDINGS.—The Congress finds that—

(1) in 1990, pay-as-you-go (PAYGO) requirements were enacted to prevent Congress and the President from increasing the deficit;

(2) under PAYGO requirements, tax legislation must be offset by legislation increasing revenues or reducing entitlement spending;

(3) these requirements prevent Congress from offsetting tax cuts with discretionary savings or budget surpluses;

(4) the Balanced Budget Act of 1997 will produce the first surplus in the unified budget in 29 years;

(5) under current trends, the Federal Government could run an on-budget surplus (which excludes social security and the postal service) as early as fiscal year 1999; and

(6) while these requirements were useful during a period of chronic deficit spending, they now limit the ability of Congress to allow taxpayers to retain more of their own money.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the reconciliation bill to be considered pursuant to the reconciliation instructions in section 4—

(1) should permit discretionary savings to be used to offset tax cuts; and

(2) may make on-budget surpluses available to offset tax cuts.

SEC. 12. SENSE OF CONGRESS ON TAX RELIEF.

It is the sense of Congress that the revenue levels set forth in this resolution are predicated on—

(1) eliminating the marriage penalty over an appropriate period of time; and

(2) providing tax relief targeted at relieving the tax burden on families, estates, and wages, as well as incentives to stimulate job creation and economic growth.

The CHAIRMAN pro tempore. No amendment to the amendment in the nature of a substitute is in order except the amendments printed in part 2 of that report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment number 1 printed in part 2 of House Report 105–565.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part 2 amendment No. 1 in the nature of a substitute offered by Mr. NEUMANN:

Strike all after the resolving clause and insert the following:

TITLE I—LEVELS AND AMOUNTS

SECTION 101. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999.

The Congress declares that this is the concurrent resolution on the budget for fiscal year 1999 and that the appropriate budgetary levels for fiscal years 2000 through 2003 are hereby set forth.

SEC. 102. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1999, 2000, 2001, 2002, and 2003:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1999: $1,304,000,000,000.

Fiscal year 2000: $1,314,300,000,000.

Fiscal year 2001: $1,348,100,000,000.

Fiscal year 2002: $1,399,900,000,000.

Fiscal year 2003: $1,452,300,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1999: −$18,000,000,000.

Fiscal year 2000: −$27,000,000,000.

Fiscal year 2001: −$31,000,000,000.

Fiscal year 2002: −$36,000,000,000.

Fiscal year 2003: −$38,000,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1999: $1,385,200,000,000.

Fiscal year 2000: $1,409,100,000,000.

Fiscal year 2001: $1,448,000,000,000.

Fiscal year 2002: $1,426,000,000,000.

Fiscal year 2003: $1,545,600,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1999: $1,377,700,000,000.

Fiscal year 2000: $1,401,700,000,000.

Fiscal year 2001: $1,433,800,000,000.

Fiscal year 2002: $1,443,400,000,000.

Fiscal year 2003: $1,513,100,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1999: $73,700,000,000.

Fiscal year 2000: $87,400,000,000.

Fiscal year 2001: $85,700,000,000.

Fiscal year 2002: $43,500,000,000.

Fiscal year 2003: $60,800,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1999: $5,596,800,000,000.

Fiscal year 2000: $5,777,100,000,000.

Fiscal year 2001: $5,957,100,000,000.

Fiscal year 2002: $6,102,300,000,000.

Fiscal year 2003: $6,269,300,000,000.

SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and budget outlays for fiscal years 1999 through 2003 for each major functional category are:

(1) National Defense (050):

Fiscal year 1999:

(A) New budget authority, $278,100,000,000.

(B) Outlays, $273,000,000,000.

Fiscal year 2000:

(A) New budget authority, $283,600,000,000.

(B) Outlays, $277,000,000,000.

Fiscal year 2001:

(A) New budget authority, $301,000,000,000.

(B) Outlays, $289,000,000,000.

Fiscal year 2002:

(A) New budget authority, $315,000,000,000.

(B) Outlays, $297,000,000,000.

Fiscal year 2003:

(A) New budget authority, $324,600,000,000.

(B) Outlays, $306,000,000,000.

(2) International Affairs (150):

Fiscal year 1999:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $13,100,000,000.

Fiscal year 2000:

(A) New budget authority, $11,000,000,000.

(B) Outlays, $12,400,000,000.

Fiscal year 2001:

(A) New budget authority, $11,600,000,000.

(B) Outlays, $12,200,000,000.

Fiscal year 2002:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $11,600,000,000.

Fiscal year 2003:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $11,100,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1999:

(A) New budget authority, $16,900,000,000.

(B) Outlays, $16,800,000,000.

Fiscal year 2000:

(A) New budget authority, $16,100,000,000.

(B) Outlays, $16,200,000,000.

Fiscal year 2001:

(A) New budget authority, $16,200,000,000.

(B) Outlays, $16,000,000,000.

Fiscal year 2002:

(A) New budget authority, $16,100,000,000.

(B) Outlays, $16,000,000,000.

Fiscal year 2003:

(A) New budget authority, $16,000,000,000.

(B) Outlays, $15,900,000,000.

(4) Energy (270):

Fiscal year 1999:

(A) New budget authority, −$1,400,000,000.

(B) Outlays, −$700,000,000.

Fiscal year 2000:

(A) New budget authority, −$1,900,000,000.

(B) Outlays, −$1,300,000,000.

Fiscal year 2001:

(A) New budget authority, −$2,500,000,000.

(B) Outlays, −$3,500,000,000.

Fiscal year 2002:

(A) New budget authority, −$6,100,000,000.

(B) Outlays, −$6,600,000,000.

Fiscal year 2003:

(A) New budget authority, −$1,400,000,000.

(B) Outlays, −$3,100,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1999:

(A) New budget authority, $19,800,000,000.

(B) Outlays, $20,000,000,000.

Fiscal year 2000:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $18,900,000,000.

Fiscal year 2001:

(A) New budget authority, $17,300,000,000.

(B) Outlays, $18,200,000,000.

Fiscal year 2002:

(A) New budget authority, $16,800,000,000.

(B) Outlays, $17,000,000,000.

Fiscal year 2003:

(A) New budget authority, $17,200,000,000.

(B) Outlays, $17,200,000,000.

(6) Agriculture (350):

Fiscal year 1999:

(A) New budget authority, $11,200,000,000.

(B) Outlays, $9,600,000,000.

Fiscal year 2000:

(A) New budget authority, $10,200,000,000.

(B) Outlays, $8,800,000,000.

Fiscal year 2001:

(A) New budget authority, $10,000,000,000.

(B) Outlays, $8,500,000,000.

Fiscal year 2002:

(A) New budget authority, $9,600,000,000.

(B) Outlays, $8,100,000,000.

Fiscal year 2003:

(A) New budget authority, $9,400,000,000.

(B) Outlays, $8,000,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1999:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $2,500,000,000.

Fiscal year 2000:

(A) New budget authority, $8,700,000,000.

(B) Outlays, $5,700,000,000.

Fiscal year 2001:

(A) New budget authority, $8,700,000,000.

(B) Outlays, $6,500,000,000.

Fiscal year 2002:

(A) New budget authority, $9,100,000,000.

(B) Outlays, $7,000,000,000.

Fiscal year 2003:

(A) New budget authority, $10,300,000,000.

(B) Outlays, $8,000,000,000.

(8) Transportation (400):

Fiscal year 1999:

(A) New budget authority, $45,700,000,000.

(B) Outlays, $43,400,000,000.

Fiscal year 2000:

(A) New budget authority, $48,300,000,000.

(B) Outlays, $46,100,000,000.

Fiscal year 2001:

(A) New budget authority, $50,600,000,000.

(B) Outlays, $47,900,000,000.

Fiscal year 2002:

(A) New budget authority, $51,900,000,000.

(B) Outlays, $48,400,000,000.

Fiscal year 2003:

(A) New budget authority, $53,900,000,000.

(B) Outlays, $50,100,000,000.

(9) Community and Regional Development (450):

Fiscal year 1999:

(A) New budget authority, $8,700,000,000.

(B) Outlays, $10,600,000,000.

Fiscal year 2000:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $9,100,000,000.

Fiscal year 2001:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $8,200,000,000.

Fiscal year 2002:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $7,400,000,000.

Fiscal year 2003:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $6,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1999:

(A) New budget authority, $60,000,000.

(B) Outlays, $58,800,000,000.

Fiscal year 2000:

(A) New budget authority, $60,200,000,000.

(B) Outlays, $59,200,000,000.

Fiscal year 2001:

(A) New budget authority, $60,600,000,000.

(B) Outlays, $59,400,000,000.

Fiscal year 2002:
(A) New budget authority, $61,500,000,000.
(B) Outlays, $60,100,000,000.
Fiscal year 2003:
(A) New budget authority, $65,700,000,000.
(B) Outlays, $64,000,000,000.
(11) Health (550):
Fiscal year 1999:
(A) New budget authority, $139,200,000,000.
(B) Outlays, $137,700,000,000.
Fiscal year 2000:
(A) New budget authority, $141,800,000,000.
(B) Outlays, $141,400,000,000.
Fiscal year 2001:
(A) New budget authority, $144,500,000,000.
(B) Outlays, $144,200,000,000.
Fiscal year 2002:
(A) New budget authority, $146,500,000,000.
(B) Outlays, $147,200,000,000.
Fiscal year 2003:
(A) New budget authority, $151,700,000,000.
(B) Outlays, $152,400,000,000.
(12) Medicare (570):
Fiscal year 1999:
(A) New budget authority, $209,600,000,000.
(B) Outlays, $210,100,000,000.
Fiscal year 2000:
(A) New budget authority, $220,500,000,000.
(B) Outlays, $219,800,000,000.
Fiscal year 2001:
(A) New budget authority, $237,500,000,000.
(B) Outlays, $240,400,000,000.
Fiscal year 2002:
(A) New budget authority, $248,700,000,000.
(B) Outlays, $246,300,000,000.
Fiscal year 2003:
(A) New budget authority, $270,200,000,000.
(B) Outlays, $270,400,000,000.
(13) Income Security (600):
Fiscal year 1999:
(A) New budget authority, $236,700,000,000.
(B) Outlays, $240,400,000,000.
Fiscal year 2000:
(A) New budget authority, $245,700,000,000.
(B) Outlays, $247,700,000,000.
Fiscal year 2001:
(A) New budget authority, $254,200,000,000.
(B) Outlays, $254,000,000,000.
Fiscal year 2002:
(A) New budget authority, $214,600,000,000.
(B) Outlays, $259,000,000,000.
Fiscal year 2003:
(A) New budget authority, $271,900,000,000.
(B) Outlays, $268,300,000,000.
(14) Social Security (650):
Fiscal year 1999:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $12,800,000,000.
Fiscal year 2000:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $13,200,000,000.
Fiscal year 2001:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $12,600,000,000.
Fiscal year 2002:
(A) New budget authority, $14,500,000,000.
(B) Outlays, $14,500,000,000.
Fiscal year 2003:
(A) New budget authority, $15,300,000,000.
(B) Outlays, $15,300,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 1999:
(A) New budget authority, $42,400,000,000.
(B) Outlays, $42,900,000,000.
Fiscal year 2000:
(A) New budget authority, $43,000,000,000.
(B) Outlays, $43,300,000,000.
Fiscal year 2001:
(A) New budget authority, $43,500,000,000.
(B) Outlays, $43,700,000,000.
Fiscal year 2002:
(A) New budget authority, $43,900,000,000.
(B) Outlays, $44,200,000,000.
Fiscal year 2003:
(A) New budget authority, $44,800,000,000.
(B) Outlays, $45,200,000,000.
(16) Administration of Justice (750):
Fiscal year 1999:
(A) New budget authority, $24,800,000,000.
(B) Outlays, $23,800,000,000.
Fiscal year 2000:
(A) New budget authority, $22,700,000,000.
(B) Outlays, $23,500,000,000.
Fiscal year 2001:
(A) New budget authority, $22,300,000,000.
(B) Outlays, $23,500,000,000.
Fiscal year 2002:
(A) New budget authority, $21,700,000,000.
(B) Outlays, $22,500,000,000.
Fiscal year 2003:
(A) New budget authority, $21,500,000,000.
(B) Outlays, $21,600,000,000.
(17) General Government (800):
Fiscal year 1999:
(A) New budget authority, $14,400,000,000.
(B) Outlays, $13,800,000,000.
Fiscal year 2000:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $13,400,000,000.
Fiscal year 2001:
(A) New budget authority, $12,900,000,000.
(B) Outlays, $12,800,000,000.
Fiscal year 2002:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $11,900,000,000.
Fiscal year 2003:
(A) New budget authority, $11,800,000,000.
(B) Outlays, $11,600,000,000.
(18) Net Interest (900):
Fiscal year 1999:
(A) New budget authority, $244,000,000,000.
(B) Outlays, $244,000,000,000.
Fiscal year 2000:
(A) New budget authority, $238,000,000,000.
(B) Outlays, $238,000,000,000.
Fiscal year 2001:
(A) New budget authority, $230,800,000,000.
(B) Outlays, $230,800,000,000.
Fiscal year 2002:
(A) New budget authority, $223,500,000,000.
(B) Outlays, $223,500,000,000.
Fiscal year 2003:
(A) New budget authority, $217,400,000,000.
(B) Outlays, $217,400,000,000.
(19) Allowances (920):
Fiscal year 1999:
(A) New budget authority, −$3,700,000,000.
(B) Outlays, −$3,700,000,000.
Fiscal year 2000:
(A) New budget authority, −$4,600,000,000.
(B) Outlays, −$4,600,000,000.
Fiscal year 2001:
(A) New budget authority, −$9,100,000,000.
(B) Outlays, −$,100,000,000.
Fiscal year 2002:
(A) New budget authority, −$9,200,000,000.
(B) Outlays, −$9,200,000,000.
Fiscal year 2003:
(A) New budget authority, −$6,000,000,000.
(B) Outlays, −$6,000,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1999:
(A) New budget authority, −$44,000,000,000.
(B) Outlays, −$44,000,000,000.
Fiscal year 2000:
(A) New budget authority, −$44,400,000,000.
(B) Outlays, −$44,400,000,000.
Fiscal year 2001:
(A) New budget authority, −$46,900,000,000.
(B) Outlays, −$46,900,000,000.
Fiscal year 2002:
(A) New budget authority, −$54,600,000,000.
(B) Outlays, −$54,600,000,000.
Fiscal year 2003:
(A) New budget authority, −$46,300,000,000.
(B) Outlays, −$46,300,000,000.

TITLE II—SENSE OF HOUSE PROVISIONS

SEC. 201. SENSE OF THE HOUSE REGARDING SOCIAL SECURITY.

(a) FINDINGS.—The House finds the following:

(1) The social security program currently collects more in taxes than it pays out in benefits to our country's senior citizens.

(2) Taxes collected exclusively for the social security program should not be spent on any other program.

(3) Social security benefits are expected to consistently exceed social security payroll taxes starting in 2013.

(4) Congress should avoid increasing taxes, increasing borrowing, raising the retirement age, or cutting social security cost-of-living adjustments to pay social security benefits.

(5) Negotiable treasury bonds are safe, real assets that can be sold for cash when income to the social security trust funds is not sufficient to pay benefits for seniors in 2013.

(b) SENSE OF THE HOUSE.—It is the sense of the House that—

(1) the amount by which social security payroll taxes exceed social security benefits paid shall be invested in negotiable treasury bonds issued by the United States Government and should not be counted as surplus dollars; and

(2) such negotiable Treasury bonds should be redeemable at any time at the purchase price.

SEC. 202. SENSE OF THE HOUSE REGARDING TAX RELIEF.

(a) FINDINGS.—The House finds that this concurrent resolution dedicates $150,000,000,000 over 5 years to reduce the tax burden on American families.

(b) SENSE OF THE HOUSE.—It is the sense of the House that these funds should be used to—

(1) provide across-the-board tax relief by expanding the 15 percent tax bracket by 15 percent for married individuals (whether filing a joint or separate return), heads of households, and unmarried individuals;

(2) eliminate the marriage penalty by making the joint income threshold exactly double that of the individual income threshold in all tax brackets and by making the standard deduction for joint filers exactly double that of individual filers;

(3) restore the 12-month holding period on capital gains; and

(4) eliminate the "death tax".

SEC. 203. SENSE OF THE HOUSE REGARDING THE BUDGET SURPLUS.

(a) FINDINGS.—The House finds the following:

(1) The Congressional Budget Office in its Spring projections has underestimated the revenues collected by the Federal Government for the last 3 years.

(2) The United States is experiencing remarkable economic growth with no signs of an economic slowdown because the Federal Government is borrowing less from the private sector.

(3) Revenues to the Federal Government are growing at an annual rate far greater than projected by the Congressional Budget Office in March 1998.

(4) The Federal Government will likely receive significantly more revenues in fiscal years 1999 through 2003 than projected by the Congressional Budget Office in March 1998.

(5) Revenues received above and beyond those projected by the Congressional Budget Office in March 1998 should not be spent to create more ineffective Washington programs.

(6) Additional revenues come from American families who are forced to give far too

much of their hard-earned income to the Federal Government.

(7) Working Americans deserve to keep more of their income instead of sending it to Washington, D.C., for Congress to spend.

(8) Congress irresponsibly spent more than it received over the last 30 years, creating $5,500,000,000,000 Federal debt.

(9) The Congress and the President have a basic moral and ethical responsibility to future generations to repay the Federal debt, including money borrowed from the social security trust funds.

(b) SENSE OF THE HOUSE.—It is the sense of the House that—

(1) any additional revenues collected by the Federal Government above and beyond the Congressional Budget Office March 1998 projections for fiscal years 1999 through 2003 should be divided equally and used to reduce taxes on American families and to pay off the $5,500,000,000,000 Federal debt, prioritizing social security;

(2) such tax reductions should be enacted in the following order—

(A) expand education individual retirement accounts;

(B) index capital gains to the rate of inflation;

(C) immediate 100 percent deduction for health insurance premiums for employees and self-employed;

(D) eliminate social security earnings limit;

(E) repeal 1993 tax increase on social security benefits;

(F) repeal the alternative minimum tax for individuals and corporations; and

(G) permanently extend the research and development tax credit; and

(3) efforts to repay the Federal debt should begin by replacing the nonnegotiable Treasury bonds, in the social security trust fund with marketable Treasury bills redeemable at any time for the purchase price.

SEC. 204. SENSE OF THE HOUSE REGARDING TAXES AND DISCRETIONARY SPENDING.

(a) FINDINGS.—The House finds the following:

(1) American taxpayers pay too much in taxes to support a Federal Government which is too large.

(2) Taxpayers should benefit from any changes in law which reduce Federal Government spending.

(3) Current law prohibits savings from reduced discretionary spending from being passed along to the American people through a reduction in their tax burden.

(b) SENSE OF THE HOUSE.—It is the sense of the House that budget laws should be changed to allow discretionary spending reductions to be dedicated to tax relief.

SEC. 205. SENSE OF THE HOUSE REGARDING PUTTING SOCIAL SECURITY FIRST.

(a) FINDINGS.—The House finds the following:

(1) The President has encouraged the Congress to put social security first by not spending expected unified budget surpluses, though the Congressional Budget Office estimates that the President's budget for fiscal year 1999 does spend unified budget surpluses.

(2) The Congress currently has no method for dedicating savings from amendments to appropriation bills for the purpose of putting social security first.

(b) SENSE OF THE HOUSE.—It is the sense of the House that the Congress should establish a procedure that would allow amendments to appropriation bills to dedicate all budget savings to the President's plan to put social security first.

SEC. 206. SENSE OF THE HOUSE REGARDING EDUCATION.

(a) FINDINGS.—The House finds the following:

(1) Children in the United States should be the best students in the world.

(2) Quality education for our children will ensure the United States can compete effectively in the global marketplace.

(3) Today's students must learn the knowledge and skills which will lead the world in the next century.

(4) Involving parents in the education of their children increases children's success at school.

(5) Recent studies by the National Institute of Child Health and Human Development show that increased parental involvement in children's lives leads to fewer teen pregnancies, less drug use, lower crime rates, and improved learning.

(6) Education is, and should remain, primarily a State and local responsibility.

(7) It is important to let community members offer suggestions to improve academic achievement within local schools.

(8) The Federal role in education has failed to produce the desired results.

(9) Federal regulations and paperwork consume too much of teachers' and administrators' time and energy, as well as taxpayer dollars which could be used to improve education.

(10) Creating a national testing program would increase the Federal burden on local schools.

(11) State, local, and private schools deserve flexibility which will allow them to meet the educational needs of children.

(12) Increasing the role of parents, teachers, and local community members will improve local schools.

(13) There is not a significant relationship between Federal education spending and academic achievement.

(b) SENSE OF THE HOUSE.—It is the sense of the House that—

(1) the Department of Education, States, and local educational agencies should spend at least 95 percent of Federal education tax dollars in our children's classrooms;

(2) the Goals 2000 program should be terminated, and funds should be given directly to States and local school districts;

(3) the Congress should enact legislation to prevent the development and administration of a national testing program; and

(4) the Department of Education should limit its role in education to functions which cannot be performed by State or local school officials.

SEC. 207. SENSE OF THE HOUSE REGARDING SCHOOL CHOICE FOR THE CHILDREN OF THE DISTRICT OF COLUMBIA.

(a) FINDINGS.—The House finds the following:

(1) Children in our Nation's capital deserve to have the best education available.

(2) Many parents in the District of Columbia would prefer to send their children to the school of their choice, whether public, private, religious, or home.

(3) Allowing parents to evaluate and choose the proper school for their children gives them an invested interest in helping their children succeed.

(4) Giving children an opportunity to attend the school which best meets their needs will best prepare them for the future.

(5) Letting parents choose a school which reflects the moral or religious beliefs of their children will enhance the children's character and learning experience.

(b) SENSE OF THE HOUSE.—It is the sense of the House that there should be a Federal pilot program to provide low-income children in the District of Columbia with the opportunity to attend the public, private, religious, or home school of their parents' choice.

SEC. 208. SENSE OF THE HOUSE REGARDING PARTIAL-BIRTH ABORTIONS.

(a) FINDINGS.—The House finds the following:

(1) Partial-birth abortions allow a child to be delivered until only its head remains in the birth canal.

(2) Partial-birth abortions involve piercing the child's skull and removing its brain.

(3) A large majority of Americans object to partially delivering a child and then killing it.

(4) Both Houses of Congress have consistently supported legislation to ban partial-birth abortions.

(b) SENSE OF THE HOUSE.—It is the sense of the House that partial-birth abortions should be banned in the United States unless such a procedure is needed to save the life of the mother.

SEC. 209. SENSE OF THE HOUSE REGARDING FEDERAL GOVERNMENT-SPONSORED PROMOTION OF ABORTION.

(a) FINDINGS.—The House finds the following:

(1) Title X of the Public Health Service Act was enacted to help reduce the unplanned pregnancy rate, especially among teenagers.

(2) Title X has not only failed to reduce the teenage pregnancy rate, out-of-wedlock births, and sexually transmitted diseases, it has made these problems worse.

(3) Taxpayer-funded title X family planning clinics are currently required to counsel pregnant girls and women about all of their "pregnancy management options", including abortion.

(4) Title X clinics also require clinic staff, following such "counseling," to refer girls and women who want an abortion to clinics that perform them.

(5) Many of these abortion clinics are operated by the same organizations that operate title X clinics.

(6) The United States Government through title X is using taxpayer dollars to subsidize activities destructive to human life.

(b) SENSE OF THE HOUSE.—It is the sense of the House that taxpayer dollars should not be used to subsidize abortion or organizations that promote or perform abortions.

SEC. 210. SENSE OF THE HOUSE REGARDING TITLE X FUNDING.

(a) FINDINGS.—The House finds the following:

(1) The title X of the Public Health Service Act family planning program provides contraceptives, treatment for sexually transmitted diseases, and sexual counseling to minors without parental consent or notification.

(2) Almost 1,500,000 American minors receive title X family planning services each year.

(b) SENSE OF THE HOUSE.—It is the sense of the House that organizations or businesses which receive funds through Federal programs should obtain parental consent or confirmation of parental notification before contraceptives are provided to a minor.

SEC. 211. SENSE OF THE HOUSE REGARDING INTERNATIONAL POPULATION CONTROL PROGRAMS.

(a) FINDINGS.—The House finds the following:

(1) There is international consensus that under no circumstances should abortion be promoted as a method of family planning.

(2) The United States provides the largest percentage of population control assistance among donor nations.

(3) The activities of private organizations supported by United States taxpayers are a reflection of United States priorities in developing countries, and United States funds allow these organizations to expand their programs and influence.

(4) The United Nations Population Fund (UNFPA) recently signed a 4-year, $20,000,000 contract with the People's Republic of China (PRC) which persists in coercing its people to obtain abortions and undergo involuntary sterilizations.

(b) SENSE OF THE HOUSE.—It is the sense of the House that—

(1) United States taxpayers should not be forced to support international family planning programs;

(2) if the Congress is unwilling to stop supporting international family planning programs with taxpayer dollars, the Congress should limit such support to organizations that certify they will not perform, or lobby for the legalization of, abortions in other countries; and

(3) United States taxpayers should not be forced to support the United Nations Populations Fund (UNFPA) if it is conducting activities in the People's Republic of China (PRC) and the PRC's population control program continues to utilize coercive abortion.

SEC. 212. SENSE OF THE HOUSE REGARDING HUMAN EMBRYO RESEARCH.

(a) FINDINGS.—The House finds the following:

(1) Human life is a precious resource which should not be created or destroyed simply for scientific experiments.

(2) A human embryo is a human being that must be accorded the moral status of a person from the time of fertilization.

(b) SENSE OF THE HOUSE.—It is the sense of the House that Congress should prohibit the use of taxpayer dollars for the creation of human embryos for research purposes and research in which human embryos are knowingly destroyed.

SEC. 213. SENSE OF THE HOUSE REGARDING HUMAN CLONING.

(a) FINDINGS.—The House finds the following:

(1) Scientists around the world are actively participating in experiments which attempt to clone animals.

(2) Several of these experiments have succeeded in creating genetic clones of animals.

(3) The technology used in such experiments could be used to create genetically identical human beings;

(4) It is unethical and immoral to experiment with the creation of human life.

(b) SENSE OF THE HOUSE.—It is the sense of the House that any research on the cloning of humans should by prohibited by Federal law.

SEC. 214. SENSE OF THE HOUSE REGARDING TRADITIONAL MARRIAGES.

(a) FINDINGS.—The House finds the following:

(1) Traditional marriages consist of one man and one woman.

(2) Strong families are the cornerstone of our society and our country.

(3) Children benefit from strong families.

(4) The Congress passed and the President signed into law legislation defining marriage as the union between one man and one woman for purposes of Federal programs.

(b) SENSE OF THE HOUSE.—It is the sense of the House that future legislation and regulations should recognize the importance of the traditional family in the United States.

SEC. 215. SENSE OF THE HOUSE REGARDING THE NATIONAL ENDOWMENT FOR THE ARTS.

(a) FINDINGS.—The House finds the following:

(1) The Federal Government's involvement in funding for the arts has become increasingly controversial.

(2) Millions of United States taxpayers have been forced to support both artists and organizations to which they object.

(3) The National Endowment for the Arts, despite congressional instructions to avoid controversial subject matters, continues to subsidize offensive art.

(4) More than 99 percent of funding for the arts is obtained from private sources.

(b) SENSE OF THE HOUSE.—It is the sense of the House that funding for the National Endowment for the Arts should be eliminated.

SEC. 216. SENSE OF THE HOUSE REGARDING FOREIGN AID.

(a) FINDINGS.—The House finds the following:

(1) The nation of Israel has been a reliable and dependable ally to the United States.

(2) The United States' support for Israel is vital to achieving peace in the Middle East.

(b) SENSE OF THE HOUSE.—It is the sense of the House that aid to Israel should not be reduced.

SEC. 217. SENSE OF THE HOUSE REGARDING RELIGIOUS PERSECUTION.

(a) FINDINGS.—The House finds the following:

(1) One of the most basic human rights is the right to religious freedom.

(2) The United States has a strong history of protecting individuals' right to religious liberty and encouraging other countries to do the same.

(3) Recent reports indicate that several countries continue to persecute individuals based on their religious beliefs.

(b) SENSE OF THE HOUSE.—It is the sense of the House that the United States should encourage other countries to protect religious freedom and allow their citizens to practice the faith that they choose without retribution.

Amend the title so as to read: "A concurrent resolution establishing the congressional budget for the United States Government for fiscal year 1999 and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 455, the gentleman from Wisconsin (Mr. NEUMANN) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. NEUMANN).

Mr. NEUMANN. Mr. Chairman, I yield 6 minutes to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, the Conservative Action Team, or CATs, was founded to get this Congress back on track with the agenda the American people sent us to achieve in 1994. Today we bring before this House a budget that does exactly that. In fact the CATs budget proposal which the gentleman from Wisconsin (Mr. NEUMANN) and the gentleman from Texas (Mr. SAM JOHNSON) and others in CATs have worked so hard on is the only conservative budget before this House today. It is the only budget to hold the line on government spending to at or below inflation. It is the only budget that returns $150 billion in tax relief to all Americans, to families and to small businesses. It is the only budget which preserves and protects Social Security by putting real assets into the trust fund, and the only budget that strengthens our national defense.

The American people want us to hold the line on spending. In a recent poll conducted by Kellyanne Fitzpatrick, 90 percent of Americans believe that we should hold the rate of growth of government to inflation or below the rate of inflation. The CATs budget, as this chart shows, is the only budget that holds spending below the rate of inflation, the only balanced budget that reflects that priority of 90 percent of Americans.

The CATs budget saves $280 billion in spending off of the projected levels of spending. Many in Washington call that a cut. However, when you are increasing by 2.6 percent, although it is below the rate of inflation, only in Washington would that be referred to as a cut.

The CATs budget is the only budget to cut taxes. We have $150 billion in tax cuts. It is the only budget that will cut it by that amount. President Clinton in his budget raises taxes by $120 billion. This Congress in the last vote rejected that budget overwhelmingly. The Committee on the Budget cuts taxes by $100 billion. But the CATs budget would provide $150 billion in tax cuts, relief for all Americans, including total elimination of the marriage penalty, an across-the-board tax cut for all Americans by increasing the 15 percent bracket, a cut in capital gains, and elimination of the death taxes.

If the economy continues to grow, the CATs budget will be able to have $480 billion in tax cuts, allowing us full deductibility of health insurance, indexing of capital gains, repealing of the alternative minimum tax, providing for educational savings accounts, and repealing President Clinton's tax increase on Social Security.

The way we do this is by designating 50 percent of any additional revenue collected beyond that projected so that if the economy continues to grow, 50 percent of that extra revenue will go to tax cuts, 50 percent will go to pay off the $5.5 trillion national debt.

The CATs budget addresses the moral imperative of protecting Social Security. One of Washington's dirty little secrets is that Social Security tax surpluses are being set aside and saved for future generations. In reality, for 20 years they have been spent on government programs. The CATs budget puts real assets into the Social Security trust fund by purchasing negotiable Treasury bonds. We put $275 billion in real assets into Social Security.

National security is also a priority in the CATs budget. We make our national defense a priority, because today we read about China being given national security secrets so that they can develop nuclear weapons that will hit every State in the union. India and Pakistan are becoming nuclear powers. Saddam Hussein has been able to thumb his nose at President Clinton who cannot re-create the Gulf War to stop him because we have cut our defenses too much. In fact, President Clinton's defense budget request, $270 billion for next year, represents a 1.1 percent decrease in real terms for defense spending. This is a 39 percent drop from the spending levels of the 1980s. As a result, we hear about jet fighters not able to fly because their parts are being cannibalized, about soldiers training without bullets because there are no supplies, about men and women in our armed forces being sent out on active duty twice as long as during the Cold War because there are not enough ships in our Navy, not enough divisions in our Army, not enough battalions in our Marines and not enough air wings in our Air Force. So critical is this problem that it is now questionable whether we are able to meet our global responsibilities or counter hostile powers in an increasingly unstable and dangerous world. The CATs budget increases defense spending by 56 percent over the budget agreement. This is the amount equal to inflation and would allow America to continue to be the preeminent superpower.

Mr. Chairman, while all of us are pleased with the committee's budget, specifically its commitment to eliminate the marriage penalty, we can do more and we must do more. The CATs budget demonstrates that this is very possible. We make government smaller, we provide overdue tax relief for Americans, we protect Social Security, and we increase spending on national defense.

I urge all of my colleagues and certainly all of my colleagues who wish to call themselves a conservative, vote for the Conservative Action Team budget so that we can put this Congress back on track the way the American people want us to go in this year, 1998. I commend the members of the CATs team who worked on this budget.

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Mr. SPRATT. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I have not had the opportunity to read the Neumann substitute, but I have read the Kasich resolution, and I have read the report that accompanied that resolution, dated May 12, which amplified where the cuts he was proposing might come from.

I would like to pose some questions to the gentleman from Wisconsin (Mr. NEUMANN), the sponsor of this substitute, which I will allow him to answer on his time because I do not have enough myself to grant him, but here are the questions:

I am concerned, interested, curious to know if the gentleman's substitute corrects what I view as some serious faults, defects, shortcomings, inequities in the Kasich resolution. Does he correct these problems or in his zeal for a bigger tax cut does he actually make them worse?

First issue raised on the floor last night: The Kasich resolution delivers America's veterans a double whammy. They have already suffered a $10 to $17 billion extinguishment of their disability rights when in the transportation bill we wiped out their rights to smoking-related disability benefits. And, Mr. Chairman, I will yield at the end, and I will give the gentleman from Wisconsin a list of these things so he can respond to it because it is a rather lengthy list.

The Kasich resolution, despite the fact that the transportation bill has already extinguished those benefits, the Kasich resolution has reconciliation directions in it to the Committee on Veterans' Affairs which calls on the Committee on Veterans' Affairs to cut veterans' benefits by another $10 billion. I would like to know if the gentleman's resolution does the same thing or does he correct this gross inequity?

Another point: The gentleman from Ohio (Mr. KASICH) in a last-minute move shifted $10 billion in cuts from Medicare over to the account known as income security, and we all know where that cut is coming out of. It is coming out of the welfare block grant, the so-called TANF block grant.

The gentleman's governor, Governor Tommy Thompson, wrote a stinging letter yesterday with nine other governors calling that deduction, $10 billion out of the TANF block grant, a breach of the agreement that the Governors made with the Federal Government when they signed off on welfare reform. He and Governor Tom Ridge and Governor Tom Carper and Governor John Engler, 10 governors altogether, have written opposition to that in a stinging letter. Does the gentleman from Wisconsin correct this problem?

Now just a minute ago, another point, the House voted overwhelmingly to denounce the President of the United States for including user fees of various kinds in his budget. As a matter of fact, if my colleagues read the Kasich budget closely, they will find that the gentleman from Ohio (Mr. KASICH) has seven new user fees in his budget. These user fees altogether cost $11 billion. Here is a list of them. I will let my colleague look at them, $11 billion in user fees.

In light of the resolution we just adopted, in light of the motion to recommit, the resolution that we just defeated, does the gentleman include these fees in his budget also, or does he plan to exclude those fees since the House has overwhelmingly said it disapproves of them?

Another point: The Kasich budget cuts energy. It is hard to tell where those cuts are coming from. He wants to abolish the Energy Department. But one of the things he wants to do, according to the May 12 report, is sell at least three power marketing administrations: Southwest and Southeast. And these power marketing administrations have a one-time return to the government of about $3 billion.

Since the gentleman is seeking an additional $50 billion in cuts, does he want to sell not just three power marketing administrations but five or six or all of them? Does he want to sell Bonneville? TVA?

The Kasich resolution also cuts law enforcement, incredibly cuts law enforcement. Here we are seeing a reduction in violent crime persistently over the last 3 to 4 years, and the Kasich budget would cut law enforcement by $8 billion. This would whack the FBI; it would whack the Drug Enforcement Administration. It would mean the end of community policing, a very popular program that has put 80,000 police on the streets of America.

Crimes rates are coming down. Does my colleague want to pull a bunch on crime? Is he going to take $8 billion out of the crime program?

Medicaid. Last year one of the greatest things we did in the balanced budget agreement was balance the budget but show that we could still promote a few priorities, and one of those priorities was children's health care. We created the children's health insurance plan at a cost of about $16 billion.

But the Kasich budget comes along and whacks Medicaid by $12 billion, whacks the health account by that amount. Does that mean we are not going to have a children's health insurance plan? Does the gentleman correct that? Does he provide for children's health insurance? Does the gentleman also want the acute care under Medicaid to be block granted, as Mr. KASICH would, or has he corrected that in his resolution?

There is a gaping hole, in addition, in the Kasich resolution, a black hole, because he does not specify where the increases in the highway spending bill which this House and the Senate have already enacted $48.8 billion in budget authority, $23.3 billion in outlays over the next 5 years. We do not know how that is going to be accommodated. What gets bumped? Displaced? Does the gentleman's resolution clarify this black hole or does he only deepen it? In his zest to go for a $50 billion tax cut, do we now have a $75 billion black hole instead of a $25 billion black hole?

And what about cuts in the environment? That was a protected priority. We listed the amount of money we were spending on environment each year in the balanced budget agreement. Mr. KASICH cuts the environment and natural resources by $4.6 billion. Does the gentleman restore that, or do we also take that out?

And what about education? That was a protected priority. The gentleman from Ohio (Mr. KASICH) would cut education and training, would cut education by $5 billion. One of the truly cockamamie ideas, if my colleagues will, in this May 12 document was the notion of taking title I, one of the most successful programs we have got, a program which takes 95 percent of its money and puts it in the classroom, a program that helps individual kids keep pace with other kids in their peer group, would take that program and convert it from a school grant to a student grant, voucherize the title I program. Would the gentleman do that, or does he correct that particular deficiency?

And basically what I would like to know, the gentleman from Ohio (Mr. KASICH) would in effect add about 6 percent of additional cuts to discretionary spending, nondefense discretionary spending, meaning that overall it would be cut by about 18 percent by the year 2003. Since the gentleman is going for an additional $50 billion in tax cuts, will that be a 30 percent cut in discretionary spending? A 35 percent cut in discretionary spending? Or has the gentleman somehow figured out a way to mitigate cuts that I do not believe will ever be made?

So the bottom line in my request to the gentleman from Wisconsin (Mr. NEUMANN) is does his resolution improve or correct these problems, these discrepancies, in the Kasich resolution, or does he worsen them?

Mr. NEUMANN. Mr. Chairman, I yield myself 30 seconds to respond briefly.

The gentleman from South Carolina (Mr. SPRATT) leveled 8 attacks against the Kasich budget and somehow implied they are about the Neumann budget. First of all, they are not. Let me respond to all eight:

False, false, false, false, false, false, false and false.

And let me respond specifically to the first one as it goes to veterans. The Kasich plan, as written, has $6.5 billion more for veterans benefits in the spending category than what was called for in last year's budget agreement that passed through the House and was signed into law.

Mr. Chairman, I yield 3 minutes to my good friend, the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Chairman, if my colleagues believe their constituents are overtaxed, then they ought to vote for this budget. This budget is the only one that we will debate that puts taxpayers first and stops wasting their money in Washington.

Each year the average American works until May of each year just to pay their taxes. If we add State, local and Federal taxes together, and the average family of four pays almost 40 percent of their income in taxes, that is more than we pay for food, clothing and housing combined.

The American people deserve to have that corrected, and this budget does that.

This conservative action team budget will return to the American people more than $150 billion in their tax money providing across-the-board tax relief, eliminating the marriage penalty, eliminating the estate or death tax and restoring a 12-month holding period on capital gains. The American people need real reform from the crushing burden of taxes, and this budget provides it.

Now we have been talking about defense. This is the only budget that increases our Nation's defense spending by $56 billion in order to just keep up with inflation. No other budget does it.

Recent events in India and Pakistan remind us what history has taught us. Americans cannot ensure economic security for our families unless we have real security in our defense of the Nation. In order to provide security we have got to invest in our Nation's defense. A strong defense is the only way America can remain the No. 1 leader in the world, and this budget is the only one that just barely maintains the defense at just inflation level. It is our duty, in fact it is our primary function, I believe, in this Congress to ensure the security of these United States. Let us do it. It is imperative to our survival. This budget plan returns the most money to hard-working American families, helps preserve the Social Security and shores up our national defense.

As my colleagues know, Americans want, need and deserve tax relief. This is an all American budget and deserves my colleagues' votes.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, I rise in opposition to the Neumann CAT budget and the Kasich Republican budget and in support of the bipartisan Balanced Budget Act of 1997 which is incorporated in the Spratt substitute.

Last year we worked together, Democrats and Republicans. We produced a balanced budget and a surplus this year, the growth in our economy. Since 1993 we brought the deficits down from $300 billion to now we have a $40 billion plus surplus.

The Republican Kasich budget is a partisan blowup of that agreement. It would return us to large deficits and/or irresponsible, extreme budget cuts.

My Republican friends claim this is just a 1 percent cut in the budget, yet when we look at what they are trying to fund, the hundred billion dollars tax cut, the transportation bill that has already been passed, other spending that the Republicans would increase and the fact that 2 out of every $3 in the Federal budget are exempt from any of these cuts, then most programs are looking at cuts of up to 30 percent and higher. We do not have to guess about that. We have Mr. KASICH's list, which shows us how we need to cut the budget in order to achieve the Kasich budget.

Let me just give my colleagues a sampling of some of the cuts that would be required:

Eliminate the Department of Commerce, and yet at this time when we are trying to increase U.S. products in foreign markets; eliminate the Department of Energy when we are trying to become more energy self-sufficient, and some of us still remember the gasoline lines; jeopardize title I funding for our disabled children, our most vulnerable in our population; cut the Environmental Protection Agency by 15 percent. These are on Mr. KASICH's list. It is not a 1 percent cut.

The welfare-to-work program is jeopardized. Two years ago we successfully worked a partnership with our States and returned the administration of welfare to our States in welfare-to-work, in partnership with the Federal Government helping provide the dollars so people could get off of welfare to work. This budget reneges on that commitment. It is welfare to nowhere if this budget became law.

To our veterans: Look at the budget document. They take $10 billion out and they do not fund it. We are not meeting our commitments to our veterans today. We should be doing more, not less. The Kasich budget would take $10 billion more unaccountable.

The elimination of the Corporation for Public Broadcasting. We have already had that battle here. It has not been agreed to, but yet it is on the Kasich list.

Cops on the beat. I have Democrat and Republican county execs in the Baltimore area applauding our efforts to put more cops on the beat. The Kasich budget would decimate that program, a $6 billion cut in law enforcement, jeopardizing the progress that we have already made in this area.

And the list goes on and on.

This is not a 1 percent cut. If the budget became law, it would destroy many of the programs that are so important. We would be returning to Republican extremism that led to the shutdown of our government.

□ 1130

Do not take my word for it. We have the comments of the Republican leaders in the other body. Chairman DOMENICI said the budget would make a mockery of the process. Chairman STEVENS said Congress could not function under the plan. These are our Republican leaders in the other body.

Fortunately, we have an alternative. We have the Spratt substitute. I urge my colleagues to vote for the Spratt substitute.

Mr. NEUMANN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, since my colleagues from the other side seem to have aimed their attacks against the Kasich budget, rather than against our plan, I assume that means they are basically in support of our plan.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Ohio (Mr. KASICH), the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Chairman, any way they want to try to cook it, they can cook it. But the fact is, think about this for a second, Federal spending is going to go from $7.8 trillion over the last five years to $9.1 trillion over the next five years, and we are arguing that we ought to be able to find a penny out of a dollar from this government.

The American family had a chance to vote on whether the Federal Government can live with $9 trillion, rather than $9.1 trillion. We could help the families to get more, and not cave in to the Washington culture, and not cave in to all the special interest groups that want to keep taking from families.

Then, you know, you actually have to vote against mine. And I am not surprised that the people who for many years have supported running America from the top down, taking more and more money from families to give to government, would oppose this. But it is patently absurd when you even watch the news at night, "The Fleecing of America," to think that we could not squeeze one penny out of a dollar out of this inefficient government.

Let me further say to my colleague who just spoke and some of them who spoke, the President has a budget that increases taxes by $130 billion and increases spending by $150 billion, and they love that plan. They love it, because when the President's man came up to the Committee on the Budget, they supported him.

The fact is, if you think that this biggest, most bloated institution on the face of the Earth can save one penny on a dollar and live with only $9 trillion in spending over the next five years, so we can take those savings and help the family and eliminate the marriage penalty, vote for my resolution. If you cannot, frankly, you are living in the past.

Mr. SPRATT. Mr. Chairman, I yield two minutes to the gentleman from Minnesota (Mr. MINGE).

Mr. MINGE. Mr. Chairman, we have had a great deal of rhetoric this year about the optimistic surplus forecasts for the Federal budget. It is truly a great day if we can say that there is a surplus. But the truth of the matter is that we do not have a surplus, we still have a deficit; we are still in an era of deficit spending.

Why is this? The chart that is right to my right here indicates what is happening. The red line shows the surplus in the Social Security trust account each year. It continues to grow because the baby-boom generation is paying in record amounts for Social Security.

At the same time, that lower line shows the rhetoric, the expectation that we actually have some sort of a surplus in the budget, down here, as much as $4, $5, $8 billion.

The truth of the matter is, this line shows what is actually happening. That is the deficit that we are running.

What does this mean? It means that the attractive, the appealing, and to a certain extent the deceptive promises that we can have new programs, that we can cut taxes, that this will be painless, that somehow the political system will accept these sacrifices that are necessary to achieve these ends, all of this is illusive.

We have worked through the political process here in Congress. We know what the constraints are. We know what our colleagues will accept. Some say we will cut defense; others say we will cut agriculture; others say we will cut education; some say we will just cut waste, fraud and abuse.

But the fact of the matter is, we have to live with the political reality that exists in this Nation, and the fact of the matter is that if we are going to stop deficit spending, if we are going to stop relying on the Social Security Trust Fund to finance other programs of the Federal Government, we are going to have to make some very, very tough decisions.

We are going to have to decide, is it more important to have tax cuts, which all of us want, now, or to defer the gratification? We are going to have to decide, are we going to expand and inaugurate new programs, which almost all of us would like to have, or are we going to defer the gratification?

I submit, Mr. Chairman, that what we need to do is face up to the hard, cold reality that exists. We are still under these budgets borrowing from Social Security, and we are not addressing the very important task of actually bringing our budget into balance.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 3½ minutes to the gentleman from South Carolina (Mr. SPENCE), the distinguished chairman of the Committee on National Security.

Mr. SPENCE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in support of the Neumann substitute, mainly because it is the only budget we are considering today which increases defense spending. Really, it does not increase defense spending; it just barely keeps up with inflation. I want to repeat that. It barely keeps up with inflation. We need more than that.

We are here debating all these various budget proposals, discussing cutting things and increasing things and all the rest, and the very top priority of our government, any Federal Government, protecting our people, the security of our Nation, is the only thing that is left out. We have our priorities mixed up.

Let me remind Members of something. If you are not aware of it, people need to be reminded: We are at this very minute, not tomorrow, not in the future, at this very minute we are faced with devastating threats from all over this world, and we are unprepared to defend against these threats which threaten our people, our constituents, our troops stationed throughout the world, our allies all over the world. At this very minute we are faced with these threats.

We are faced with threats from China, ICBM's, intercontinental ballistic missiles, with nuclear warheads. We cannot defend against one of them. Even one launched accidentally from somewhere in the world, we cannot defend against it. It would destroy millions of lives in this country and puts the very survival of our Nation at risk, and we cannot defend against it.

In this day and time we have the proliferation of weapons of mass destruction throughout the world. They can be put together in laboratories in inexpensive and low-tech ways. They can be used as warheads on short range missiles or cruise missiles. Cruise missiles can be launched from various platforms, bringing everyone within range of weapons of mass destruction, chemical, biological, bacteriological weapons. Can you imagine what it is like to defend against these? We do not have a defense against them.

Can you conceive of what these things mean to the lives of our people and the very survival of our nation?

Can you conceive of losing 1–3 million people in Washington, DC if 200 pounds of anthrax is released in the air above us?

We have cut our military too much—this is already the 14th consecutive year of budget deductions. Spending for defense has been cut 33%—all other spending, however, has increased.

We have done to our own military what no foreign power has been able to do—tear down the greatest defense of freedom to the extent that it cannot properly defend this country.

I will say this, and I mean what I am saying, and I want people to listen to it: The people who put this Kasich budget together that puts our country at risk are guilty of dereliction of duty.

Mr. SPRATT. Mr. Chairman, I yield one minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, the Republican budget claims to cut $100 billion below last year, and this amendment would add $50 billion to it. Yet I have in my hand a sheet of requests from Members to the Committee on Appropriations asking us to add 7,000 items totaling $353 billion above the President's request.

In energy and water, for instance, there are at least 120 Members of the Republican Caucus who have written us asking us for spending above the President's request. In transportation, at least 40 Members on that side of the aisle are asking us to spend money above the President's request. Yet in the generic, they pretend they are going to cut $100 billion here today.

I have just one question, Mr. Chairman. Is that kind of hypocrisy learned, or does it come naturally?

Mr. NEUMANN. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I come here to support the Conservative Action Team's budget. Let me say, first of all, there are perhaps three reasons why all Members should consider it. First of all, it has the lowest increase relative to inflation of all the budgets. Second of all, for those folks who want higher defense spending, this budget has it. The third reason is it has a lockbox, a lockbox dealing with the Social Security Trust Fund. As I understand it, it is the only one that has the lockbox, which means any savings in this budget are going right back to the Social Security Trust Fund.

Of course, lastly, for those of us concerned about user fees and taxes, this budget has the most amount of reduction in user fees and taxes. For all of those reasons, I urge my colleagues to support the Conservative Action Team.

We have had a lot of rhetoric on this side, but this budget in fact brings it down home. So you have less taxes, higher defense spending, and, at the same time, a lockbox for Social Security.

Mr. Chairman, the debt is going up in this country. Every year the debt is going up. Yet we talk about a balanced budget. How can the debt go up if we are balancing the budget? Because we are not. We are taking funds from the Social Security Trust Fund, and that is not right. A lockbox and the Conservative Action Team will stop that.

Mr. Chairman. I want to compliment my colleague from Ohio, Chairman KASICH, for his tremendous efforts in bringing his FY '99 budget to the floor today.

While I agree with him that we need to continue placing restraints on spending and provide additional tax relief, I find that the alternative offered by Representatives NEUMANN, MCINTOSH, and JOHNSON, the conservative action team (CAT substitute) is a better way to achieve these goals.

Thomas Jefferson stated: "The same prudence which in private life would forbid our paying our own money for unexplained projects, forbids it in the dispensation of the public money."

The CAT's budget continues to honor our pledge to reduce Government spending without increasing taxes.

This budget alternative chooses family over big Government spending programs.

If Government were forced to pay its bills in the same manner as the citizens who finance it, the bill collectors would be knocking down our doors.

The CAT's budget offers us the opportunity to continue what we started last year by holding down spending and cutting taxes. Together, these two components will ensure that our Nation's economy will continue to experience the growth it is currently enjoying well into the next century.

There is one area of the budget that has me particularly perplexed. That is the way in which we use our Social Security trust fund to pay for other programs. The CAT's substitute doesn't just offer rhetoric when it comes to saving the Social Security trust fund, it provides the necessary safeguards to achieve that goal.

The trust fund is projected to be running a surplus of $100 billion for FY '99, I would hope that we will stop using this fund to mask our Nation's deficit. Instead, let's use a portion of the surplus to replenish the money borrowed from the Social Security trust fund and as the CAT's budget does, let's create a Social Security "lock box" that would prevent any future raiding of the fund.

The Social Security trust fund's surplus shouldn't be used to fund other programs. And it should not be used to mask our Nation's debt.

Mr. Chairman, I am firmly convinced that our Nation's future is tied to the restoration of traditional family values. The Neumann budget addresses this by standing up for human life, increasing the role of the family in education, by cutting taxes, and by increasing our defense budget to keep up with inflation.

There is one additional area that I would like to mention. I want to echo Chairman KASICH's remarks when he stated at the Budget Committee markup that he hoped the appropriators could give the NIH an even bigger boost than the budget recommended. I want to thank him and I appreciate all the excellent efforts of the House Budget Committee members to increase the NIH funding. I respectfully urge them to recede to the Senate Budget resolution on NIH funding for FY '99 when they go to conference. Only progress through health research will truly reduce the costs of programs such as Medicare and Medicaid.

I would be remiss if I didn't mention my commitment to ensuring that our Nation's veterans also receive the necessary funding so that we fulfill the pledge we made to them.

To sum it up, the Neumann budget taxes less, spends less, places restraints on Government growth, provides for a strong defense, restores family values, and dedicates the surpluses to reducing taxes, preserving Social Security and repaying the debt.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the gentleman, we keep the surplus intact to save Social Security, and we do not have $11 billion in user fees, as the Kasich resolution does.

Mr. Chairman, I yield two minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I rise in opposition to the Neumann amendment and to the Kasich budget resolution. We would like to talk about the budget resolution offered by the gentleman from Ohio (Mr. KASICH).

As has been pointed out already today, without any disagreement to the contrary, there is approximately $25 billion in the Kasich budget that is unaccounted for because it has already been spent to pay for the transportation bill. This is the same grave omission that caused many Democrats and Republicans to vote against the transportation bill when it left the House, because it threatened to spend the surplus. That is the grave sin we commit here today. The budget resolution offered by the gentleman from Ohio (Mr. KASICH) takes us down the road of spending the surplus.

Now, the argument has been made this amounts to a 1-percent cut in spending. There has also been an admission that we are going to spare defense and Medicare. There has been absolutely no response to the very specific points made about how deep the cuts will have to be made in Medicaid, education and other important core functions because of the way the budget resolution has been written.

This is not a day for speeches. This is our day to put a very detailed plan on the floor of the House, and those details are not forthcoming. There is a reason why Republican and Democratic governors are opposing this budget resolution, because those details are missing and because the best work we do here when we are balancing the budget is working with the States. We are ignoring them.

□ 1145

One of the important lessons we should have learned from 1995 is that we are not just talking about numbers here today. We are talking about people's lives, and we are failing to address the impacts these cuts could have on the lives of the people we represent at home.

One thing is perfectly clear, whether this budget resolution passes or not, and that is, it is going to leave us rudderless. We have chosen not to work with the Senate, not to work with the President. As a result, this budget resolution becomes irrelevant.

What is the price we are going to pay for that? The price we are going to pay is, as the pressure begins to rise to spend money and to cut taxes, we are going to do it without regard to protecting the surplus which we should be using to pay off this massive Federal debt and prepare Social Security for the future. We have an opportunity to protect that surplus. We are going to blow it, and that is why we need to defeat the budget resolution.

Mr. NEUMANN. Mr. Chairman, could I inquire of the Chair, please, the remaining time.

The CHAIRMAN pro tempore (Mr. HEFLEY). The gentleman from Wisconsin (Mr. NEUMANN) has 15½ minutes remaining, and the gentleman from South Carolina (Mr. SPRATT) has 15 minutes remaining.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 2 minutes to the distinguished gentleman from Florida (Mr. YOUNG), chairman of the Subcommittee on National Security of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, for those of us who recognize the constitutional responsibility of the Congress, to protect ourselves against things like India's nuclear capability, Pakistan's nuclear capability, China's ability, not only with nuclear but the ability to deliver a nuclear weapon or weapon of mass destruction, we say to them today, and they will be hearing from most of us who have that specific responsibility, the Neumann substitute is the only proposal before us today that even helps us keep our head level with the water. It does not get us out of the water where we ought to be.

Just yesterday my subcommittee completed the markup on the defense appropriations committee. As we went through that markup, I was convinced more and more of this one thought, that when we talk about national defense, if we have enough national defense, if we have what we need and do not have to use it, that is good. That is deterrence. But if we do not have enough, that is bad. That is disaster.

I can tell my colleagues that the President's budget does not provide enough, and the only measure before us today is the Neumann substitute because it does give us enough to at least try to keep level with inflation.

We cannot do more with less. I do not care how good we are, we cannot do more with less. We have had more deployments in the last 5 years, other than war, than any other President. It has cost us a lot of money. We are wearing out our troops. We are wearing out our equipment. We are cutting down the size of the force but extending their deployments more and more. We just cannot continue to do more with less.

The Neumann substitute gives us the opportunity to have more, to do more things that we need to do. In 2 minutes it is difficult to talk about this entire problem. Today, the size of our active duty force has been cut by 36 percent in the last 10 years. Army overseas deployments are up 300 percent from the rates that we sustained during the Cold War.

For the Navy today, on any given day 57 percent of our ships are at sea on deployment. In 1992 the figure was only 37 percent. The list goes on and on.

If we have enough, that is good. If we do not have enough, that is disaster.

Mr. Chairman, this member of Congress takes a back seat to no one when it comes to casting the tough votes to balance our federal budget and reduce the size of our federal government. However, this member of Congress also knows that each and every member of this House takes an oath of office to uphold the Constitution of the United States.

One of the principle responsibilities given Congress under our Constitution is to provide for our common defense, to raise and support armies and to maintain a navy. Today I am here to tell you that we are on the verge of abrogating this constitutional responsibility because we are on the verge of returning to a hollow military.

As the Chairman of the Appropriations Subcommittee on National Security, I visit on a regular basis with officers and enlisted personnel from all branches of the service. From four star flag officers to new recruits, there is widespread concern that we are overextending our troops and wearing out our equipment to the point that our readiness could soon be compromised.

For 13 years in a row, our national security budget has declined in terms of what we can buy for each dollar we spend. During that time, real spending on our national security has declined by 40 percent.

The budget President Clinton has sent Congress for our national security in Fiscal Year 1999, which is reflected in the budget resolution reported to this House by the Budget Committee, provides for the lowest level of spending in constant dollars in more than 40 years. And over the next five years, the President's budget reduces spending on our national security by $54 billion.

Already there are 700,000 fewer troops in the field, in the air, and at sea than there were 10 years ago. This is a 36 percent cut in our active duty forces.

Not only are the number of uniformed personnel falling, but so is their morale. Every service chief tells us that they are finding it difficult to retain the best and brightest of our officers and enlisted men and women. The reasons are many. Military pay is not keeping pace with pay in the private sector and as a result I am ashamed to say that we have members of our all volunteer force who need food stamps to try and make ends meet for their families. Base housing is aging to the point where some is virtually uninhabitable.

And we are asking our troops, during a time of peace, to deploy more often and for longer periods of time than at any other peaceful period in our nation's history. Since taking office in 1992, President Clinton has sent our troops on more overseas deployments than any other president. Many of these deployments are for reasons of questionable national importance.

Army overseas deployments are up 300 percent from those rates sustained during the Cold War. This year, on any given day one of every three Army soldiers is deployed abroad.

For the Navy today, on any given day 57 percent of its ships are at sea. This is 25 percent higher than 1992.

For the Air Force, the number of Air Force personnel deployed away from home today is four times higher than in 1989—yet the Air Force is one-third smaller.

For too many years now, we have been asking our men and women in uniform to do more with less. Well guess what—the Secretary of Defense estimates the President's five year budget proposal, which further shrinks our nation's defense, will require a reduction in end strength of 54,000 active duty personnel and 49,000 reservists. So while this President continues to deploy our troops on more missions around the world, he continues to shrink the size of our forces, and jeopardizes our overall readiness.

Is it any wonder that pilot retention in the Air Force is down significantly. Just a few years ago, the re-enlistment rate for pilots was 75 percent. Today it is 36 percent, well below the Air Force's target of 58 percent.

Both the Navy and Air Force tell me that they are well below their reenlistment targets for first term sailors and airmen. The Air Force is 18 percent below its re-enlistment goal and the Navy 7 percent. The Navy Times newspaper recently reported that 75 percent of the sailors surveyed plan on leaving the service as early as possible.

Not only are we wearing out our troops and their families, but we are wearing out our equipment. Mission capable rates for our Air Force and Navy aircraft have fallen every year since 1991. There are increasing shortages of spare parts and cannibalization of existing aircraft is on the rise. Remember the hangar queens of the Carter Administration? Well they're back in the Clinton Administration and the situation will only become worse.

Last year my committee had to add $600 million to the President's budget to pay for the additional need for spare parts. Still, the Commander in Chief for the Pacific region tells me cannibalization rates have doubled in just the past two years.

Stop to consider that our principal Air Force fighter aircraft were designed in the early 1970's. The President's budget calls for the procurement of only two fighters this year. This would be the lowest number in the history of the Air Force.

Stop to consider that the average age of the Army's medium truck fleet is 25 years old. More than half of those trucks qualify for antique plates. Under the President's budget, this fleet will not be replaced for another 30 years.

Stop to consider that under the President's budget, the Navy proposes to build only six new ships next year. This is far below the 10 ships per year that would be required to sustain the current fleet of 326 ships.

Since Desert Storm, we have cut our active-duty Army from 18 divisions to 10, our combat tactical aircraft by 40 percent, our bomber fleet by 59 percent, and our combat ships by 35 percent.

Don't just take my word for it. Listen to our service chiefs.

The Commandant of the Marine Corps told me he is $500 million, or half a billion dollars, short of what he needs in the 1999 budget for equipment procurement alone. He said the cumulative effect of year after year of these shortages will be devastating to the Corps.

The Chief of Staff of the Army told me just a few weeks ago that under the current budget scenarios the Army could go under.

A frustrated Navy Commander told a newspaper reporter that his F–14 squadron was a hazard to operations because the unit has only averaged two mission capable aircraft instead of the usual 14.

And Secretary Cohen, who is President Clinton's top civilian adviser on national defense matters, just testified before Congress saying with regard to readiness that "We are starting to see signs of some erosion, certainly on the edges of things."

Mr. Chairman, this past weekend, my wife Beverly and I had the honor of participating in commissioning ceremonies for U.S.S. *Pearl Harbor* (LSD 52). More than 1,500 Pearl Harbor survivors came from all over the nation to be a part of these ceremonies.

As I told all those veterans gathered there in San Diego, as well as the first crew to bring U.S.S. *Pearl Harbor* to life, we can never repay our debt of gratitude to those who have served our nation in uniform and to those who have paid the ultimate price. We can however, dedicate ourselves to ensuring that in their honor and memory we do all within our power as members of Congress to maintain the strongest, most ready national defense.

Mr. Chairman, I close with this thought. When dealing with national defense, to have it and not need it is good. That is deterrence. But to need it and not have it is a disaster.

Every one of us in this Congress today should decide it's time to stop the decline in our commitment to a strong national defense and begin the steady progress to modernize our force, boost the morale of our troops, and prepare for whatever threat may present itself to our nation and our national interests in the coming century. That is our sworn constitutional responsibility.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Chairman, I thank our leader who is leading this debate for us.

Mr. Chairman, two years ago I watched this kind of debate on my television set at home in Michigan. Last night, as I went home and watched the very end of the debate again on my television in my little apartment, I had deja vu all over again, as they say.

What I saw was a replay of the 104th Congress talking about the potential for dramatic cuts and threats to Medicare, education, the environment, and a focus on providing tax breaks for the wealthy and trying and essentially to blow up a balanced budget agreement that we came to in historic fashion just a year ago. It was extremely disheartening.

My constituents asked me to come here during this session to do away with that. They do not want the days of possible government shutdowns or threats to those things that affect their lives every day.

Last year we passed a historic balanced budget agreement. I rise today to support that by rejecting the Neumann substitute, the Kasich budget, and supporting the Spratt budget that allows us to continue the balanced budget that we agreed to in a bipartisan way, truly protect Social Security, and stand up for those things that affect our families every day.

We need to focus on those priorities that people care about in the context of balancing the budget. I can assure my colleagues that the only way we truly effect Social Security protection and preserve it is through the Spratt budget.

Mr. Chairman, I urge a "no" vote on this amendment and a "yes" vote on the Spratt amendment.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 2 minutes to the distinguished gentleman from California (Mr. HUNTER), chairman of the Subcommittee on Military Procurement.

Mr. HUNTER. Mr. Chairman, let me add my strong support to that of the gentleman from Florida (Mr. YOUNG) and the gentleman from South Carolina (Mr. SPENCE), and on behalf, I think, of the men and women who wear the uniform of the United States in all the services, for the Neumann budget.

We asked the service leaders to tell us what they needed, what they were short this last year. They were pretty gutsy. Even though their commander in chief, I am sure, was not happy, they came forward and said, "This is the list of things that we need," and they gave us a list of things like ammunition, spare parts, components for systems that cannot fly now. All of those things added up to $58 billion.

The Neumann substitute stops the slight in national defense. It does not give us a lot of things, no new systems, but at least allows us to have enough ammunition so we can carry out the two-war scenario.

If we really care about the mothers and fathers of this country, the best service we can give to them is to make sure that their youngsters come home alive in the time of a conflict. The Neumann substitute is the only vehicle we have here that keeps, as the gentleman from Florida (Mr. YOUNG) said, the head of our military above the water. Please vote for the Neumann substitute.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes and 40 seconds to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, these are some mighty strange cats. They offer the opportunity to fatten up the fat cats, and they offer a little cat chow for everybody else. They call it conservative, but when it comes to conserving our resources and seeing that every penny of the budget surplus that was achieved this year in historic terms is allocated to reducing the debt and protecting Social Security, they say no way.

They do not give our public schools very much to meow about either, because they really do not believe in any Federal commitment to public education. What a change it was to go from this Congress home to Texas and to see the enthusiasm for learning of young people, the determination of our professional educators, and the involvement of parents to see their young people graduate this spring. How incredibly contradictory at the very time we are celebrating learning and the struggle of American families that these Republicans in one budget called one thing and one called another do the same thing, and that is, to rip the heart out of American public education.

I had a blue ribbon school winner, the kind of principal who is there turning a gang-infested area around into a success story for young people. I asked her about this Kasich budget to rip out Title I and in her words, she said "We would die without those Federal funds." That is what is at stake here, not just some rhetoric about who can be more conservative than someone else.

In my community we are turning the corner on crime. It has not hurt a bit to have 200 new officers on our streets to help deal with the problem of juvenile violence. These folks say forget that, we want to cut what is there now, not help to do more about juvenile violence.

They say they can do it with just a penny across the board. Well, they could not find one penny, one $400 hammer out of the Defense Department bureaucracy to cut. Not a penny do they cut there. They say they have got to have more money in order to succeed.

Mr. Chairman, they say there is more than one way to skin a cat, but I maintain that, under either of these Republican budgets, it is only the American people that are going to get skinned.

Mr. NEUMANN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just like to make a point that when the cats are making their case, they are never going to dog it.

Then I would like to correct a couple of the minor misstatements. The budget that we are currently considering that I have presented here puts more money aside for Social Security than any other budget that has been considered in Washington, D.C. this year. It is offensive for anyone to get on this floor and somehow say this budget is not the best budget for Social Security, because anybody who looks at the numbers will realize that there is more money for Social Security in this budget than anything else under consideration here.

Education. Education has got inflationary increases in spending. We do not increase the role of Federal Government; we leave that to the parents, families and communities.

Mr. Chairman, it is my privilege to yield 2 minutes to my good friend, the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Chairman, let me first of all say I am disheartened by what I just heard. The misstatement of fact is inappropriate for this body.

Should the size of this government grow? That is the question we need to ask. Should this government get bigger? There is only one budget that says no, we will grow it right with inflation and not let it get bigger, and that is this budget.

Is there any budget that truly puts teeth in protecting Social Security? There is only one. It is Nuemann. We put it in negotiable bonds. It is not paper anymore. It is truly bonds.

Do we really save Social Security? You bet. Is the money that goes into the trust fund really put into something that matters, not just more paperwork that we can flip around with the transportation bill and use?

We heard the gentleman from Texas (Mr. DOGGETT) talk about education. This budget, the Neumann budget, sends the money to the classrooms. It sends 95 percent of the education dollars to the local classrooms and lets them do it: the teachers, the principals, the local school board. So that is another reason that it is better than any proposal.

Number five, it cuts taxes. You bet. It eliminates the marriage penalty. It expands the 15-percent tax bracket, which happens to be where most people are in this country. It eliminates the death tax on the farmers and the ranchers and those that can least afford to pay it.

Finally, yes, it reduces the holding period on capital gains, because for once we now can prove that lowering that actually generates more revenue for the country.

Finally, it dedicates 50 percent of everything that comes in above excess revenues for reduction in the debt.

It is unfortunate that we hear rhetoric that does not match the facts. It is unfortunate that this body is abused in that manner. I am sorry that we have to hear that. But if the American public does not want this government to grow any larger, then they should, in fact, insist on the Neumann budget. It does what the American people ask.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, this is a bad budget. It is a bad amendment to a bad budget. We Democrats are grateful that our Republican colleagues would bring up something like this, because it makes clear the differences between the parties: cuts in education, cuts for senior citizens, cuts in health, cuts for the environment, cuts for the protection of natural resources, cuts for things that are important to the little people of this country. That is what is in the budget that comes from over here, and that is what is in the substitute.

It is only 51 days that we are late bringing this up. I can understand my Republican colleagues were probably ashamed to put this kind of travesty before this body. It is, however, something which makes very clear the difference between the two parties. It shows where our Republican friends are coming from.

They are not interested in maintaining the agreement which we had last time on the budget, which has helped give us perhaps the greatest level of prosperity which we have had. They are not interested in preserving programs which are helpful and of value to the little people of this country. They want to cut the things which are investments in the future of this country, like education, protection of our natural resources, and things of this kind.

We have not worked very hard this session. I think, perhaps, given the way this budget reflects the behavior of my Republican colleagues, that is probably a very good thing.

There are a lot of things that we could be doing which would be helping the people. We could deal with the managed care problem. We could address the problem in Superfund. But, no, we are out here today cutting programs which are important to the people.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 1 minute to the gentleman from Illinois (Mr. WELLER).

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Mr. WELLER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, one fact is very clear today. Two out of three are not bad. The gentleman from South Carolina (Mr. SPRATT) offers a budget alternative that increases spending and increases taxes. The gentleman from Wisconsin (Mr. NEUMANN) and the gentleman from Ohio (Mr. KASICH) offer budgets which spend less and tax less. Clearly the budget of the gentleman from Wisconsin (Mr. NEUMANN) is the budget which is best for Social Security.

Mr. Chairman, let us remember what the number one goal of this year should be. That is to eliminate the marriage tax penalty, because the most fundamental question we should be answering is, is it right, is it fair, that 21 million married working couples pay on the average $1,400 more just because they are married? That is wrong. The Neumann budget and the Kasich budget make their centerpiece the elimination of the marriage tax penalty.

We have two opportunities out of three votes today to eliminate the marriage tax penalty. Let us vote aye on Neumann, let us vote aye on Kasich. Mr. Chairman, they both deserve bipartisan support.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I am not here to speak about the CATS' meow. Mr. Chairman, here we go again. To placate the extremists, the Republican leadership has brought to the floor a budget which is so extreme that the Republican Senate Committee on the Budget chairman has called it a mockery. Republican Governors say that this Republican budget violates the agreements that were made with the States. The chairman of the Committee on Appropriations in the Senate says that Congress cannot function with this Republican budget.

Mr. Chairman, budgets are not just about numbers, budgets are about values. Budgets are about priorities, and they are about who we are as a Nation.

Let us take a look at the Republican values, as illustrated in the Kasich budget, the Republican budget. The budget fails to preserve Social Security. It would cut health services to seniors, to pregnant women and children who cannot afford health insurance. It would cut an additional $10 billion out of veterans' health care services, and it shortchanges our future by killing investments in child care and in education. I ask the Members, are these the kinds of values that we are about in the United States of America?

This budget eliminates the investment in improving the quality of early childhood education, to help children start school ready to learn. It eliminates child care assistance to the working poor, so they can leave welfare, go to work, and be able to know that their kids are safe. I ask Americans, does this budget reflect their values?

It eliminates Title I funds to help our most disadvantaged children catch up to their peers in school. Does this really reflect our values? It eliminates funds to help teachers update their curriculum, to teach our youngsters to the highest standards. It eliminates funds to modernize schools, and to put computers in every classroom. I ask the Members, does this budget reflect American values?

The budget eliminates funds to increase the number of qualified teachers in the early grades. Mr. Chairman, this does not reflect our values.

The Republican budget walks away from the needs of children, it walks away from the needs of American families, it walks away from American values. We ought to oppose it. The papers in the last few days have characterized this as budget baloney, budget theatrics, budget mockery. Let us defeat the Kasich budget. It is wrong for the values of the United States of America.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 2 minutes to my good friend, the gentleman from Indiana (Mr. JOHN HOSTETTLER).

Mr. HOSTETTLER. Mr. Chairman, I rise in strong support of the Neumann CATs budget, in that it maintains a commitment to our national defense. The United States Constitution declares, "We, the people of the United States, in order to provide for the common defense, do ordain and establish this Constitution."

The Neumann CATs budget merely maintains defense spending at the rate of inflation. It does not even increase defense spending, when we put into account inflation. This budget does what liberal Democrat Congresses have not done in the past. It merely maintains inflation.

If Members agree with the leader of that party who, in his formative years, in a December 3, 1969 letter to a Colonel Holmes said that he "loathes the military," Members will vote against the Neumann CATs budget. If Members believe that we should maintain our commitment to the military, if they love the men and women in uniform and they believe that we should maintain the rate of inflation and they do not loathe the United States military, I suggest Members vote for the Neumann budget and support our men and women in uniform.

Mr. SPRATT. Mr. Chairman, I yield 3½ minutes to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Chairman, I yield to nobody on my support for the military. On military construction, we have had hundreds of calls for add-ons to the military construction budget, but our allocation is so low we are not able to do it. There were calls from Republicans and Democrats.

We rewrite history around here pretty regularly. I remember when Ronald Reagan was President, a group of us went up to Camp David and we were talking about budgets. I said, Mr. President, what is going to happen to us if the economy does not operate like you think and we get down to the point where we have these tremendous deficits? God bless his heart, he said, we will just have to face that when we get to it. The gentleman from Texas (Mr. CHARLIE STENHOLM) was there.

Our distinguished chairman of the Committee on the Budget, my good friend, the gentleman from Ohio (Mr. JOHN KASICH) and the gentleman from Georgia (Mr. NEWT GINGRICH), the Speaker, this morning, talked about, and the gentleman with the belt last night, talking about we can only cut one penny, one penny.

Mr. NEUMANN. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Wisconsin.

Mr. NEUMANN. Mr. Chairman, that gentleman referred to was the gentleman from Minnesota (Mr. GUTKNECHT), my good friend.

Mr. HEFNER. He wears that big a belt?

Mr. NEUMANN. Nine feet.

Mr. HEFNER. He said we can cut one penny, but they do not cut 1 percent. We have two-thirds of the budget that is untouchable. Members know that. We have been around here a long while.

The Speaker asked this morning if Members cannot find 1 percent, but that is not 1 percent they are going to find. In 1993, and one of the gentlemen last night, and I will not call names, he got up and said that was a disaster, that the only thing that got this economy moving again was when we elected the new Republicans. That is not true. In 1993, without one single Republican vote in the House or the Senate, we passed a package that got this economy moving, with interest rates down, low unemployment. Members can talk whatever they like about it, but something made it happen. That is the only thing we did, and that is what made it happen to make this possible for us to even have a surplus to talk about.

But at that time, let me just quote what some of the folks in the Republican Party said about that package that we passed. In fact, when it passed, a woman that voted for it, they stood on that side and said, "Bye-bye, bye-bye, you are going to lose because of that." So they go out and spread the stuff that we had raised taxes on low-income people, which we did not.

Mr. Chairman, we raised taxes on 2 percent of the wealthiest people in this country, and Ronald Reagan said 50 percent of Social Security, that was to be taxed. We raised that, but we also raised the threshold of what people could make before there was a tax, so there was no tax on working people.

Here is what some of the Republicans said when we passed that package. The gentleman from Georgia (Mr. NEWT GINGRICH) said, "The tax increase will kill jobs and lead to a recession, and the recession will force people off of work and onto unemployment," and the deficit will actually increase.

Our distinguished chairman of the Committee on the Budget said, "We're going to find out whether we have higher deficits, we're going to find out whether we have a slower economy, we're going to find out what's going to happen to interest rates, and it's our bet that this is a job killer." And the unemployment rate is lower than it has been in decades.

Here is something else our chairman said. "It's like a snake bite. The venom is going to be injected into the body of this economy, in our judgment, and it's going to spread throughout the body and it's going to begin to kill the jobs that Americans now have."

I maintain that the Republican budget will do exactly that.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 2 minutes to my good friend, the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I rise in strong support of the Neumann budget, because it sets the right priorities.

But before I begin my remarks, let me just comment on the mystifying debate on this floor which continues to use the word cut, cut, cut, cut. There is not a single cut in this budget. This budget grows spending. It grows it from $1.705 billion in the first year to $1,894 billion in the last year. Over the last 5 years we have grown spending by $7.8 trillion. In the next we are going to grow it by $8.9 trillion. There is no cut.

This debate raises the fundamental question, should government grow at 2 to 3 times the rate of the growth in salaries of the American people? Because make no mistake about it, that is what that side wants. Government has an insatiable appetite for more money and more spending, and that is what they want.

What does that mean to the American people? For the last 8 years, the average American has seen his or her salary go up 3.4 percent, a 3.4 percent increase in their compensation. But government, government has grown at almost double that rate. Domestic discretionary spending in 1991 went up by 6.9 percent, in 1992 by 9.6 percent, in 1993 by 6.64 percent, in 1994 by 6.1 percent, in 1995 by 4.6 percent.

Over the period, while Americans have seen their wages go up only 3.4 percent, government has grown at double that rate, 5.2 percent in domestic discretionary spending. But what has happened in mandatory spending? Means-tested entitlements have grown at three times the rate of the growth in the income of the average American family. Total mandatory spending is growing at double the rate, 5.3 percent versus 3.4 percent.

This budget sets the right priorities for Americans. While defense spending is declining, it makes up that. Defense spending has gone down during this time period by 11.6 percent. We must set the right priorities and protect defense spending, and reduce the rate of growth in discretionary spending.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, as we continue to talk about the budget, and I have listened intently, it seems to me that we have some strange priorities in this country. I hear us talking about how well the economy is doing. We are continuing to grow and expand, and then at the same time, I hear us talk about taking away entitlement opportunities for the needy, taking away programs for those who are not a part of the expanding economy; talking about retrenching public housing.

Under this budget, there is a possibility that 1 million low-income families could lose public housing vouchers and certificates over the next 5 years. If this is the budget of priority for the American people, then I certainly hope it can be realigned, changed, and re-altered. Let us come with a budget that helps all of the people of America, as opposed to only those who are most affluent and at the top.

Mr. Chairman, it is my understanding that budgets are not only instruments and tools of management; but they are also indicators of direction and priorities. If this is indeed the case, then I have some grave concerns and reservations about the budget resolution which has been put before us by the majority in this House.

At a time when we are experiencing vast economic expansion and growth, the majority resolution seeks to place deep cuts in programs designed to assist the needy and working class in this country. The resolution cuts Medicare by $10.1 billion, and Medicaid—the program that provides health care for the poor by $12 billion over five years. In addition, the Republican resolution cuts funding for education and child care, and eliminates direct federal funding to school districts by repealing Title I grants and other non-defense discretionary programs by $45 billion over a five year period.

The Republican budget turns its back on seniors, children and Social Security, and focuses on cuts, and more cuts to those who need help the most. While at the same time it rewards the rich and more affluent with private retirement accounts at the expense of Social Security, and provides $101 billion in new tax cuts. Under this proposal, 1 million households could lose federal housing vouchers and certificates by the year 2003.

The Democratic alternative on the other hand preserves Social Security, Medicare, Medicaid, and Education. It invests in the future of our children. The Democratic alternative is good for working families, senior citizens, children, and for the average person. It strengthens America. I urge that we oppose the Republican budget resolution and support the democratic alternative. It is better for all America.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 30 seconds to my good friend, the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, very briefly, each one of these bars represents how much money has been spent by the Federal Government for each one of these years, 1994 through 2003.

In 1994 we started out at $1.4 trillion. We are ending up in the committee's budget at $1.9 trillion. What happens? I am going to draw a line here. The budget of the gentleman from Wisconsin (Mr. MARK NEUMANN) suggests that we stay with inflation, and we actually reduce very slightly the spending over the next 5 years. The Democrat or the Spratt budget actually suggests that we increase spending. It is important to know that we have to live within inflation.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, Senator DOMENICI has called it a mockery, and Senator STEVENS has asked us where will we get the $45 billion in discretionary cuts. My Republican colleagues, many in the Committee on the Budget, have all said these cuts are not desirable or attainable.

I say to my friends in Memphis, in Cummings and Winchester and Goodland, and at Idlewilde Elementary who are graduating today, I apologize for not being there, but I assure the Members my Republican colleagues who raised this budget resolution issue last night, at 11:30 last night, is the reason I am not home.

With schools crumbling around our Nation, our Republican colleagues and, I might add, even some of my Democratic colleagues are to blame as well, but we have to point the finger where the finger ought to be pointed. Republican friends of mine in the Congress, despite the fact that a Democratic President balanced the budget, lowered interest rates, lowered inflation, and lowered unemployment, instead of working together to save Social Security, to preserve those initiatives, which many of my colleagues, I look at the gentleman from California (Mr. DUKE CUNNINGHAM), who serves so ably, he will move on from this Congress one day and benefit from Medicaid and Social Security. Let us preserve that first.

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I say to the gentleman from Michigan (Mr. HOEKSTRA) who said that we spend too much here in Washington on education, 95 percent of the funding and policy decisions in education in America are made at the local level. Let us do more at the Federal level to rebuild our schools, hire teachers, develop after-school programs, and prepare the next generation of Americans.

Mr. NEUMANN. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS of Oklahoma. Mr. Chairman, I rise to support a budget that will provide America's families with $150 billion in tax cuts and also take a big whack out of our national debt. I also rise today to support a budget that will make national defense once again a national priority by taking less of families' hard-earned income and paychecks, taking a bite out of our national debt and strengthening our national defense.

The Neumann budget will strengthen our families, our economy, and our Nation. I appeal to my colleagues to support this legislation because America's families deserve nothing less.

Mr. Chairman, I rise today to support a budget that will provide America's families with $150 billion in tax cuts and also take a big whack out of the national debt. I also rise today to support a budget that will make national defense, once again, a national priority. That legislation is the substitute budget offered by my friend from Wisconsin, Rep. MARK NEUMANN, and I urge my colleagues to support this measure.

Mr. Chairman, last year, the average income for a family in which both parents worked was $55,000 a year. Of that money, roughly half of that family's income went to pay federal, state and local taxes. My friends, how can we expect a family to take care of themselves and their children when the government takes half of what they earn? It just doesn't make any sense.

That's why I support the Neumann substitute budget, because it would provide America's families with $150 billion in tax relief, so families can keep more of their hard-earned paychecks. The Neumann budget would also eliminate the so-called marriage penalty, which is basically a tax increase couples must pay once they become married.

But that's not all. The Neumann budget realizes that we can't give our kids a $5.5 trillion national debt and expect them to have a better future. So it calls for 50 percent of any remaining budget surplus to go toward reducing the national debt, so we can give our kids a clean financial slate for the future.

The Neumann budget also seeks to increase defense spending by an additional $56 billion over last year's budget. With threats to our national security in Iraq and all across the world, we cannot afford to be lax in the maintenance of our military. The Neumann budget gives our troops the resources they need to be successful in any mission they might undertake.

By taking less of families' hard-earned paychecks, taking a bite out of the national debt and strengthening our national defense, the Neumann budget will strengthen our families, our economy and our nation. I appeal to my colleagues to support this legislation, because the families of America deserve nothing less.

Mr. SPRATT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from South Carolina (Mr. SPRATT), the ranking member, very much for yielding me this time, and I rise to vigorously oppose this budget which destroys our commitment to the families of America and the children of America.

Mr. SPRATT. Mr. Chairman, I reserve the balance of my time.

Mr. NEUMANN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to set this discussion in proper perspective today. Recently one of the polling companies from here in Washington, D.C., asked 2,000 American adults, "Do you think the United States Government should increase faster than the rate of inflation, faster than the family budget; at the same rate as the family budget; or slower than the family budget?" It was a 90-to-3 answer. Ninety percent of Americans believe that the United States Government should not increase faster than the family budget or faster than the rate of inflation.

So we decided we were going to put together a proposal that met the wishes and the demands of the American people. This black line on this chart that I have here shows inflation. That is how fast the family budgets are going up across America.

The farthest column, that shows how fast the CAT's budget is increasing spending out here in the government. And I would point out that it is the only proposal that we are considering, the President's, the Senate, the House, the Democrat alternative, it is the only proposal that we are considering out here today that allows government spending to go up at a slower rate than the rate of inflation.

Mr. Chairman, 90 percent of the American people believe that the Federal Government should not increase its spending faster than the family budget, and this is the only opportunity we have today to keep that and to meet that wish.

The House budget, the Kasich budget, if we take Social Security out of the picture, it also meets that. With Social Security in the picture, it goes up slightly faster than the rate of inflation but it is the second closest to meeting the wishes of the American people.

I have heard a lot of rhetoric about preserving Social Security. Baloney. The only budget out here that puts more money aside for Social Security is the budget we are about to vote on. The CAT's budget puts $275 billion aside to preserve and protect Social Security.

I believe every senior citizen in the United States of America has a right to get up tomorrow morning knowing that their Social Security is safe and secure. So in the CAT's budget we put more money aside for Social Security than any other budget being considered.

So let us cut through the rhetoric out here and let us get down to the facts of what is actually being considered. The CAT's budget puts aside $275 billion for Social Security; the House budget, $223 billion; the Senate proposal, $149 billion; and the President's proposal just under $100 billion.

So if Members are serious about preserving Social Security for our senior citizens in this country, the CAT's budget is the right vote.

What about the tax burden on American workers? The tax burden is too high. A generation ago 25 cents out of every dollar that workers earned went to taxes. Today that number is 37 cents out of every dollar they earned. Let us translate that into what it means. It means that American workers have to take second and third jobs in order to pay that extra tax burden from this government. That is wrong.

That is why the CAT's budget proposes $150 billion in additional tax reductions. Eliminate the marriage tax penalty. Across-the-board tax cuts. And, shoot, the inheritance tax, we have already paid taxes on it once. I believe every American in this country after working hard should have the opportunity to pass their inheritance on to their children, not to the United States Government. That is why we have proposed extensive tax relief.

How are we able to set aside money for Social Security and provide additional tax relief? That really goes back to the first chart, and again this first chart shows it emphatically. This is the only budget that holds spending increases in this government at or below the rate of inflation. These others that are going up faster than the rate of inflation will say good-bye to the tax cuts, will say good-bye to that money that is supposed to be set aside for Social Security, because every nickel over the rate of inflation, that is money that should be set aside to preserve and protect Social Security and reduce the tax burden on our American families.

Let me close with what I believe the priorities of this Nation are, because we have been hearing about these priorities and where we place our priorities in this country. I believe our priorities should be to defend our Nation. I believe it is the number one role of this government, to make sure that this Nation is safe and secure for our children.

I think our responsibility is to return the control of education back to the parents and the teachers and the community. Control of education should not be out here at the United States Government. And just for the record, this budget allows inflationary increases in education.

Preserve Social Security and reduce the tax burden. Those are the priorities of the CAT's budget.

Mr. SPRATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the Neumann substitute is an amendment and its main failing is that it fails to amend, correct, fix the many defects that are in the Kasich budget. In fact, it worsens them.

At the outset I read a long bill of particulars to ask the gentleman from Wisconsin (Mr. NEUMANN) if any of these problems in the Kasich budget had been cured or corrected in his substitute, and I have yet to hear an answer.

He wants to go 50 percent further with spending reduction beyond Mr. KASICH. In income security, where the Kasich resolution would take $10 billion out of TANF, we already have a letter from the gentleman's governor, the governor of Wisconsin, a stinging rebuke saying this is a repudiation of the governors' agreement with respect to welfare reform. Presumably the gentleman from Wisconsin (Mr. NEUMANN) would go further, $15 billion out of the TANF block grant.

Law enforcement, Kasich cuts law enforcement by $8 billion. If the gentleman from Wisconsin wants to go 50 percent further, presumably he will take $12 billion out of law enforcement.

Section 8 housing, which has just been raised by the gentleman from Illinois (Mr. DAVIS), the Kasich budget claims to provide the outlays to renew 1 million section 8 contracts. Presumably the gentleman from Wisconsin would put 1.5 billion people out of housing. Kasich is bad enough. Neumann is worse. It is ultrabad. Vote it down.

The CHAIRMAN pro tempore (Mr. HEFLEY). The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. NEUMANN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 262, not voting 13, as follows:

[Roll No. 208]

AYES—158

Aderholt
Archer
Armey
Bachus
Baker
Barr
Bartlett
Barton
Bateman
Bliley
Blunt
Boehner
Bonilla
Brady (TX)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Ewing
Foley
Fowler
Fox
Gallegly
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kingston
Klug
Knollenberg
LaHood
Largent
Lewis (CA)
Lewis (KY)
Livingston
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Radanovich
Redmond
Riggs
Riley
Rogan
Rohrabacher
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shimkus
Shuster
Smith (MI)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Wicker
Young (AK)
Young (FL)

NOES—262

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci

Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Buyer
Campbell
Canady
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fossella
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers
Rothman
Roukema
Roybal-Allard
Rush
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Smith, Linda
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tauscher
Tauzin
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (FL)
Wexler
Weygand
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—13

Ballenger
Furse
Gejdenson
Gonzalez
Johnson, E.B.
Kennedy (MA)
Lewis (GA)
Linder
McDade
Mollohan
Ros-Lehtinen
Sabo
Tanner

☐ 1242

Mr. NEY changed his vote from "aye" to "no."

Mr. PACKARD, and Mr. BARR of Georgia changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HEFLEY). It is now in order to consider amendment No. 2 printed in part 2 of House Report 105–565.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part 2 amendment No. 2 in the nature of a substitute offered by Mr. SPRATT of South Carolina:

Strike out all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999.

The Congress declares that this is the concurrent resolution on the budget for fiscal year 1999 and that the appropriate budgetary levels for fiscal years 2000 through 2003 are hereby set forth.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1999, 2000, 2001, 2002, and 2003:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1999: $1,321,200,000,000.
Fiscal year 2000: $1,341,200,000,000.
Fiscal year 2001: $1,379,200,000,000.
Fiscal year 2002: $1,436,200,000,000.
Fiscal year 2003: $1,491,000,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1999: −$900,000,000.
Fiscal year 2000: −$200,000,000.
Fiscal year 2001: $100,000,000.
Fiscal year 2002: $300,000,000.
Fiscal year 2003: $700,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1999: $1,420,200,000,000.
Fiscal year 2000: $1,463,600,000,000.
Fiscal year 2001: $1,503,800,000,000.
Fiscal year 2002: $1,537,200,000,000.
Fiscal year 2003: $1,611,200,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1999: $1,403,700,000,000.
Fiscal year 2000: $1,445,600,000,000.
Fiscal year 2001: $1,484,100,000,000.
Fiscal year 2002: $1,501,100,000,000.
Fiscal year 2003: $1,578,300,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1999: $82,500,000,000.
Fiscal year 2000: $104,400,000,000.
Fiscal year 2001: $104,900,000,000.
Fiscal year 2002: $64,900,000,000.
Fiscal year 2003: $87,300,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1999: $5,582,500,000,000.
Fiscal year 2000: $5,756,600,000,000.
Fiscal year 2001: $5,926,600,000,000.
Fiscal year 2002: $6,059,000,000,000.
Fiscal year 2003: $6,211,100,000,000.

SEC. 3. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and budget outlays for fiscal years 1999 through 2003 for each major functional category are:

(1) National Defense (050):
Fiscal year 1999:
(A) New budget authority, $270,500,000,000.
(B) Outlays, $265,500,000,000.
Fiscal year 2000:
(A) New budget authority, $274,300,000,000.
(B) Outlays, $268,000,000,000.
Fiscal year 2001:
(A) New budget authority, $280,800,000,000.
(B) Outlays, $269,700,000,000.
Fiscal year 2002:
(A) New budget authority, $288,600,000,000.
(B) Outlays, $272,100,000,000.
Fiscal year 2003:
(A) New budget authority, $296,800,000,000.
(B) Outlays, $279,800,000,000.

(2) International Affairs (150):
Fiscal year 1999:
(A) New budget authority, $14,600,000,000.
(B) Outlays, $14,200,000,000.
Fiscal year 2000:
(A) New budget authority, $14,300,000,000.
(B) Outlays, $14,800,000,000.
Fiscal year 2001:
(A) New budget authority, $15,100,000,000.
(B) Outlays, $14,500,000,000.
Fiscal year 2002:
(A) New budget authority, $15,200,000,000.
(B) Outlays, $14,400,000,000.
Fiscal year 2003:
(A) New budget authority, $15,200,000,000.
(B) Outlays, $14,500,000,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1999:
(A) New budget authority, $18,200,000,000.
(B) Outlays, $17,900,000,000.
Fiscal year 2000:
(A) New budget authority, $17,800,000,000.
(B) Outlays, $17,800,000,000.
Fiscal year 2001:
(A) New budget authority, $17,600,000,000.
(B) Outlays, $17,600,000,000.
Fiscal year 2002:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $17,700,000,000.
Fiscal year 2003:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $17,700,000,000.

(4) Energy (270):
Fiscal year 1999:
(A) New budget authority, $600,000,000.
(B) Outlays, $700,000,000.
Fiscal year 2000:
(A) New budget authority, $100,000,000.
(B) Outlays, $0.
Fiscal year 2001:
(A) New budget authority, −$100,000,000.
(B) Outlays, −$600,000,000.
Fiscal year 2002:
(A) New budget authority, −$200,000,000.
(B) Outlays, −$1,000,000,000.
Fiscal year 2003:
(A) New budget authority, −$100,000,000.
(B) Outlays, −$1,000,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 1999:

(A) New budget authority, $23,200,000,000.

(B) Outlays, $23,300,000,000.

Fiscal year 2000:

(A) New budget authority, $23,000,000,000.

(B) Outlays, $23,400,000,000.

Fiscal year 2001:

(A) New budget authority, $22,800,000,000.

(B) Outlays, $23,200,000,000.

Fiscal year 2002:

(A) New budget authority, $22,700,000,000.

(B) Outlays, $22,700,000,000.

Fiscal year 2003:

(A) New budget authority, $22,700,000,000.

(B) Outlays, $22,700,000,000.

(6) Agriculture (350):

Fiscal year 1999:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $10,600,000,000.

Fiscal year 2000:

(A) New budget authority, $11,900,000,000.

(B) Outlays, $10,300,000,000.

Fiscal year 2001:

(A) New budget authority, $10,800,000,000.

(B) Outlays, $9,100,000,000.

Fiscal year 2002:

(A) New budget authority, $10,700,000,000.

(B) Outlays, $9,000,000,000.

Fiscal year 2003:

(A) New budget authority, $10,900,000,000.

(B) Outlays, $9,300,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1999:

(A) New budget authority, $4,100,000,000.

(B) Outlays, $3,000,000,000.

Fiscal year 2000:

(A) New budget authority, $14,600,000,000.

(B) Outlays, $9,800,000,000.

Fiscal year 2001:

(A) New budget authority, $14,900,000,000.

(B) Outlays, $10,800,000,000.

Fiscal year 2002:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $11,600,000,000.

Fiscal year 2003:

(A) New budget authority, $14,600,000,000.

(B) Outlays, $11,500,000,000.

(8) Transportation (400):

Fiscal year 1999:

(A) New budget authority, $51,100,000,000.

(B) Outlays, $42,500,000,000.

Fiscal year 2000:

(A) New budget authority, $52,100,000,000.

(B) Outlays, $44,700,000,000.

Fiscal year 2001:

(A) New budget authority, $53,500,000,000.

(B) Outlays, $46,400,000,000.

Fiscal year 2002:

(A) New budget authority, $54,200,000,000.

(B) Outlays, $46,700,000,000.

Fiscal year 2003:

(A) New budget authority, $56,200,000,000.

(B) Outlays, $48,900,000,000.

(9) Community and Regional Development (450):

Fiscal year 1999:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $10,900,000,000.

Fiscal year 2000:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $9,700,000,000.

Fiscal year 2001:

(A) New budget authority, $7,500,000,000.

(B) Outlays, $8,900,000,000.

Fiscal year 2002:

(A) New budget authority, $7,400,000,000.

(B) Outlays, $8,100,000,000.

Fiscal year 2003:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $8,100,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1999:

(A) New budget authority, $63,900,000,000.

(B) Outlays, $61,100,000,000.

Fiscal year 2000:

(A) New budget authority, $64,100,000,000.

(B) Outlays, $63,400,000,000.

Fiscal year 2001:

(A) New budget authority, $65,500,000,000.

(B) Outlays, $64,800,000,000.

Fiscal year 2002:

(A) New budget authority, $66,100,000,000.

(B) Outlays, $64,900,000,000.

Fiscal year 2003:

(A) New budget authority, $69,700,000,000.

(B) Outlays, $68,700,000,000.

(11) Health (550):

Fiscal year 1999:

(A) New budget authority, $145,700,000,000.

(B) Outlays, $143,600,000,000.

Fiscal year 2000:

(A) New budget authority, $151,900,000,000.

(B) Outlays, $151,900,000,000.

Fiscal year 2001:

(A) New budget authority, $159,500,000,000.

(B) Outlays, $159,500,000,000.

Fiscal year 2002:

(A) New budget authority, $166,600,000,000.

(B) Outlays, $167,600,000,000.

Fiscal year 2003:

(A) New budget authority, $177,600,000,000.

(B) Outlays, $178,600,000,000.

(12) Medicare (570):

Fiscal year 1999:

(A) New budget authority, $209,800,000,000.

(B) Outlays, $210,400,000,000.

Fiscal year 2000:

(A) New budget authority, $221,510,000,000.

(B) Outlays, $220,900,000,000.

Fiscal year 2001:

(A) New budget authority, $239,200,000,000.

(B) Outlays, $242,000,000,000.

Fiscal year 2002:

(A) New budget authority, $251,000,000,000.

(B) Outlays, $248,600,000,000.

Fiscal year 2003:

(A) New budget authority, $273,200,000,000.

(B) Outlays, $273,400,000,000.

(13) Income Security (600):

Fiscal year 1999:

(A) New budget authority, $246,000,000,000.

(B) Outlays, $247,700,000,000.

Fiscal year 2000:

(A) New budget authority, $259,300,000,000.

(B) Outlays, $258,300,000,000.

Fiscal year 2001:

(A) New budget authority, $270,200,000,000.

(B) Outlays, $268,600,000,000.

Fiscal year 2002:

(A) New budget authority, $280,700,000,000.

(B) Outlays, $278,000,000,000.

Fiscal year 2003:

(A) New budget authority, $291,400,000,000.

(B) Outlays, $288,900,000,000.

(14) Social Security (650):

Fiscal year 1999:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $12,800,000,000.

Fiscal year 2000:

(A) New budget authority, $13,100,000,000.

(B) Outlays, $13,100,000,000.

Fiscal year 2001:

(A) New budget authority, $12,500,000,000.

(B) Outlays, $12,500,000,000.

Fiscal year 2002:

(A) New budget authority, $14,500,000,000.

(B) Outlays, $14,500,000,000.

Fiscal year 2003:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $15,300,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 1999:

(A) New budget authority, $43,100,000,000.

(B) Outlays, $43,600,000,000.

Fiscal year 2000:

(A) New budget authority, $44,300,000,000.

(B) Outlays, $44,600,000,000.

Fiscal year 2001:

(A) New budget authority, $45,700,000,000.

(B) Outlays, $46,000,000,000.

Fiscal year 2002:

(A) New budget authority, $47,100,000,000.

(B) Outlays, $47,400,000,000.

Fiscal year 2003:

(A) New budget authority, $49,400,000,000.

(B) Outlays, $49,800,000,000.

(16) Administration of Justice (750):

Fiscal year 1999:

(A) New budget authority, $25,400,000,000.

(B) Outlays, $24,600,000,000.

Fiscal year 2000:

(A) New budget authority, $24,400,000,000.

(B) Outlays, $24,900,000,000.

Fiscal year 2001:

(A) New budget authority, $24,500,000,000.

(B) Outlays, $25,100,000,000.

Fiscal year 2002:

(A) New budget authority, $24,700,000,000.

(B) Outlays, $24,500,000,000.

Fiscal year 2003:

(A) New budget authority, $25,600,000,000.

(B) Outlays, $24,600,000,000.

(17) General Government (800):

Fiscal year 1999:

(A) New budget authority, $14,100,000,000.

(B) Outlays, $13,400,000,000.

Fiscal year 2000:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $13,600,000,000.

Fiscal year 2001:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $13,500,000,000.

Fiscal year 2002:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,400,000,000.

Fiscal year 2003:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,400,000,000.

(18) Net Interest (900):

Fiscal year 1999:

(A) New budget authority, $296,700,000,000.

(B) Outlays, $296,700,000,000.

Fiscal year 2000:

(A) New budget authority, $297,000,000,000.

(B) Outlays, $297,000,000,000.

Fiscal year 2001:

(A) New budget authority, $296,400,000,000.

(B) Outlays, $296,400,000,000.

Fiscal year 2002:

(A) New budget authority, $296,100,000,000.

(B) Outlays, $296,100,000,000.

Fiscal year 2003:

(A) New budget authority, $297,800,000,000.

(B) Outlays, $297,800,000,000.

(19) Allowances (920):

Fiscal year 1999:

(A) New budget authority, −$2,600,000,000.

(B) Outlays, −$600,000,000.

Fiscal year 2000:

(A) New budget authority, −$1,800,000,000.

(B) Outlays, −$1,100,000,000.

Fiscal year 2001:

(A) New budget authority, −$2,700,000,000.

(B) Outlays, −$600,000,000.

Fiscal year 2002:

(A) New budget authority, −$3,300,000,000.

(B) Outlays, −$3,900,000,000.

Fiscal year 2003:

(A) New budget authority, −$800,000.

(B) Outlays, $1,000,000,000.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1999:

(A) New budget authority, −$37,700,000,000.

(B) Outlays, −$37,700,000,000.

Fiscal year 2000:

(A) New budget authority, −$39,500,000,000.

(B) Outlays, −$39,500,000,000.

Fiscal year 2001:

(A) New budget authority, −$43,400,000,000.

(B) Outlays, −$43,300,000,000.

Fiscal year 2002:

(A) New budget authority, −$51,300,000,000.

(B) Outlays, −$51,300,000,000.

Fiscal year 2003:

(A) New budget authority, −$42,700,000,000.

(B) Outlays, −$42,700,000,000.

SEC. 4. RECONCILIATION.

(a) Submissions.—Not later than 30 days after the date of adoption of this resolution, the House committees named in subsection (b) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(b) Instructions to House Committees.—

(1) Committee on Agriculture.—The House Committee on Agriculture shall report changes in laws within its jurisdiction that provide direct spending to decrease outlays by $0 for fiscal year 1999 and decrease outlays by $40,000,000 for fiscal years 1999 through 2003.

(2) Committee on Banking and Financial Services.—The House Committee on Banking and Financial Services shall report changes in laws within its jurisdiction that provide direct spending to decrease outlays by $212,000,000 for fiscal year 1999 and decrease outlays by $1,045,000,000 for fiscal years 1999 through 2003.

(3) Committee on Commerce.—The House Committee on Commerce shall report changes in laws within its jurisdiction that provide direct spending to decrease outlays by $707,000,000 for fiscal year 1999 and decrease outlays by $2,765,000,000 for fiscal years 1999 through 2003.

(4) Committee on Education and the Workforce.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction that that provide direct spending to decrease outlays by $86,000,000 for fiscal year 1999 and increase outlays by $3,443,000,000 for fiscal years 1999 through 2003.

(5) Committee on Resources.—The House Committee on Resources shall report changes in laws within its jurisdiction that that provide direct spending to decrease outlays by $3,000,000 for fiscal year 1999 and decrease outlays by $381,000,000 for fiscal years 1999 through 2003.

(6) Committee on Ways and Means.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction that provide direct spending to decrease outlays by $437,000,000 for fiscal year 1999 and decrease outlays by $892,000,000 for fiscal years 1999 through 2003.

SEC. 5. BUDGETARY TREATMENT OF COMPENSATION AND PAY FOR FEDERAL EMPLOYEES.

In the House, for purposes of enforcing the Congressional Budget Act of 1974, any bill or joint resolution, or amendment thereto or conference report thereon, establishing on a prospective basis compensation or pay for any office or position in the Government at a specified level, the appropriation for which is provided through annual discretionary appropriations, shall not be considered as providing new entitlement authority or new budget authority.

SEC. 6. SENSE OF CONGRESS ON TOTAL BUDGET SURPLUSES AND SOCIAL SECURITY.

It is the sense of Congress that:

(1) The total budget surplus should be reserved until the Congress and the President enact comprehensive measures providing for the long-term solvency of Social Security, while preserving its core protections for present and future generations of American families.

(2) There should be established within the Treasury a "Save Social Security First Reserve Fund" to be used to save budget surpluses until a reform measure is enacted to ensure the long-term solvency of the Old-Age, Survivors, and Disability Insurance Trust Funds. The Secretary of the Treasury should pay into the account at the end of each fiscal year an amount equal to the surplus, if any, in the total budget of the United States Government for that fiscal year. Balances in that account should be invested in Treasury securities and interest earnings should be credited to the account.

SEC. 7. RESERVE FUND FOR POTENTIAL TOBACCO LEGISLATION.

(a) In General.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to promote smoking prevention and cessation, curbs cigarette smoking among teenagers, makes payments to the States to mitigate the costs incurred of treating smoking-related illnesses, provides support to tobacco farmers, makes payments to other claimants against tobacco companies, or funds Federal medical research, within such a committee's jurisdiction, if such a committee or the committee of conference on such legislation reports such legislation, and if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed legislation) the deficits in this resolution for—

(1) fiscal year 1999; and

(2) the period of fiscal years 1999 through 2003.

(b) Revised Allocations.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the House of Representatives may file with the House appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(c) Federal Hospital Insurance Trust Fund (Medicare Part A Trust Fund).—Congress intends that any tobacco proceeds not used for increased funding under subsection (a) should be deposited in the Federal Hospital Insurance Trust Fund (established under section 1817 of the Social Security Act).

SEC. 8. SENSE OF CONGRESS ON THE ASSETS FOR INDEPENDENCE ACT.

(a) Findings.—The Congress finds that—

(1) 33 percent of all American households have no or negative financial assets and 60 percent of African-American households have no or negative financial assets;

(2) 46.9 percent of all children in America live in households with no financial assets, including 40 percent of Caucasian children and 75 percent of African-American children;

(3) in order to provide low-income families with more tools for empowerment in lieu of traditional income support and to assist them in becoming more involved in planning their future, new public-private relationships that encourage asset-building should be undertaken;

(4) individual development account programs are successfully demonstrating the ability to assist low-income families in building assets while partnering with community organizations and States in more than 40 public and private experiments nationwide; and

(5) Federal support for a trial demonstration program would greatly assist the creative efforts of existing individual development account experiments.

(b) Sense of Congress.—It is the sense of Congress that, in carrying out its reconciliation instructions pursuant to this concurrent resolution, the Committee on Ways and Means should include the text of H.R. 2849 (the Assets for Independence Act) in its submission to the House Committee on the Budget.

SEC. 9. SENSE OF CONGRESS ON A DEMONSTRATION PROJECT ON CLINICAL CANCER TRIALS.

It is the sense of Congress that the committees of jurisdiction should consider legislation this session that would establish a 3-year demonstration project providing medicare coverage for beneficiaries' participation in clinical cancer trials.

SEC. 10. SENSE OF CONGRESS ON THE INTERIM PAYMENT SYSTEM FOR HOME HEALTH BENEFITS UNDER MEDICARE.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the interim payment system for home health service has adversely affected some home health care agencies and medicare beneficiaries;

(2) if home health care is threatened and further reduced, health care costs to Federal and State governments, as well as families, may rise to cover more expensive post-hospital and long-term care;

(3) the committees of jurisdiction should initiate a revision of the interim payment system, paying particular attention to providing a more gradual reduction in home health care costs and additional time for home health care agencies to adjust to lower rates and reimbursements;

(4) due to the critical nature of this issue, Congress should enact an equitable and fair revision of the interim payment system before the adjournment of the 105th Congress; and

(5) the Health Care Financing Administration should fully implement by October 1, 1999, the prospective payment system that was enacted into law last year.

SEC. 11. SENSE OF CONGRESS ON TAX RELIEF.

It is the sense of Congress that the committees of jurisdiction should accommodate high priority tax relief of approximately $30,000,000,000 over 5 years within legislation that fully offsets revenues lost by closing or restricting unwarranted tax benefits. Such tax relief should—

(1) accommodate the revenue effects of improving rights for medical patients and providers in managed care health plans;

(2) expand tax credits to alleviate the costs of child care for families;

(3) reduce financing costs for primary and secondary public school modernization;

(4) extend long-supported and previously renewed tax benefits that will soon expire such as the Work Opportunity and Research and Experimentation credits; and

(5) mitigate tax code "marriage penalties" in a manner at least equal in scope to the 1995 tax relief provision of H.R. 2491.

Amend the title so as to read: "A concurrent resolution establishing the congressional budget for the United States Government for fiscal year 1999 and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003.".

☐ 1245

The CHAIRMAN pro tempore (Mr. HEFLEY). Pursuant to House Resolution 455, the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Chairman, when I finally got a good look at this Republican budget, it reminded me of a country song that I once heard entitled My Daddy Took a Back-Hoe and Built Me a Sand-Castle of Sludge.

Mr. Chairman, what a mess. After a long wait, with lots of noise, lots of rumbling and too much slip-sliding around the details, my colleagues across the aisle have come up with a budget that just will not stand up. I think we would all be lucky if a big wave just came along and washed it all out to sea.

Fortunately, the distinguished gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget, has developed a budget plan that is both solid and sensible. I want to congratulate him on his work. The Democratic budget is a responsible budget, it shows fiscal restraint, and it harnesses this Nation's potential to help move this country forward.

The Democratic budget invests in education. It includes funding to modernize our schools, to reduce class size, to improve discipline and to help our students excel.

From Head Start to Pell grants, this budget says that the strength of our Nation tomorrow depends on the education we give our children today.

In addition to education, the Democratic budget invests in better health care. It expands Medicare, it protects Medicaid, it funds medical research and moves to establish a Patients' Bill of Rights so that doctors and patients and nurses can make medical decisions and not insurance companies.

The Democratic budget protects the environment. On this I want to pay particular compliment to my friend from South Carolina and the Democrats on the Committee on the Budget, because they provide vital resources to clean up our rivers and our lakes, to get rid of toxic waste sites and to preserve our great natural inheritance for generations to come.

The Democratic budget proposal protects Social Security. It sets aside the budget surplus until we can reach a bipartisan plan to fund it for the long term. Our parents, Mr. Chairman, should not have to worry about their retirement and neither should their children.

The Democratic budget also offers working families $30 billion in tax relief. It cuts the marriage penalty, it expands the child care tax credit, it helps small businesses, and it makes health care more affordable.

All in all, it is a good budget. It is a balanced budget. It is a budget that invests in people and creates opportunity. It stands, I sadly say here this afternoon, in stark contrast to the Republican budget.

The budget was due on the 15th of April. We have waited, patiently, and we have waited. This budget that they submitted is the latest budget in the history of the United States Congress. What did they finally come up with? They came up with the same old bilge that Americans have rejected time and time again.

The Republican budget begins to dismantle Social Security, it slashes Medicaid, it cheats education, it bulldozes the environment, it squanders the surplus. Even Senator DOMENICI, excuse me for mentioning the other body, Mr. Chairman, distinguished gentleman from New Mexico, a Republican, he called the Republican House budget, and I quote, a mockery.

This budget that they have proposed moves us backward. That is the wrong direction. We cannot afford to backslide. We need better schools. We need a cleaner environment and more affordable health care, not the same old slash-and-burn tactics of the Contract on America.

The Democratic budget plan builds on our current successes, it keeps the budget in balance, it helps working families, and it invests in the future of this great country.

I urge my colleagues to support the Spratt budget and oppose the Republican budget.

Mr. NUSSLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. HOUGHTON), my colleague on the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Chairman, I will make this very brief. I am going to have to vote against the Spratt substitute budget since it suggests a variety of policy changes that I do not think are appropriate. But I will support the Kasich budget. I feel we need to keep the process moving.

Having said that, in all honesty, I do this with a great reluctance. Let me tell my colleagues why in three reasons.

First of all, the premise of long-term tax cuts partially paid for by short-term expense reductions violates the pay-go principles that we so hard fought for several years ago. This is like taking out a 30-day note to pay for your dream house which you hope to live in for the rest of your life. It does not make any sense at all.

Secondly, I worry about putting expense numbers on a piece of paper which are important, impact the future but which are totally unrealistic. This does not represent profiles in courage.

Thirdly, I have lived long enough that a tree does not grow to heaven. We are enjoying a strong economy, maybe even a bubble economy. I do not think we should do anything to do something untoward at this particular time, so we really understand what we are going through now.

So one can ask, why do I feel and why am I going to vote for this budget at all? I feel it is important for the body to send a document, imperfect as it may be, to conference with the Senate. I stand behind the process. I want to keep it moving. However, as a parting shot, if the numbers come back to us after the conference as they are set out before us now, I am going to vote the other way.

Mr. SPRATT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Spratt substitute.

Let's be honest: the Republican budget resolution is a political document that fails even the most basic test of mathematics and fiscal reality. Its authors know it, I know it, we all know it. Even their party's most respected budget expert in the Senate, Senator DOMENICI, called this GOP budget "a mockery."

The National Conference on State Legislators, the National League of Cities, and many Governors—of both parties—have also expressed their opposition to the resolution.

Instead of keeping faith with last year's Balanced Budget Agreement, the Republican leadership's budget requires cuts in domestic programs that are so draconian that its authors don't even have the courage to tell the American people what they are. What we do know is that $100 billion dollars—in addition to the reductions adopted last year—would have to be cut from Medicare, Medicaid, education, environment, veterans and other domestic programs over the next five years.

As has been the case time and time again, these budget cuts will hurt low- and moderate-income working—and tax-paying—families the hardest. If this budget is adopted, it also will force us to turn a blind eye to serious national problems such as crumbling and overcrowded schools.

Because of the restrictive rule governing this debate, the only responsible budget plan before us is this substitute offered by the gentleman from South Carolina, Mr. SPRATT. This resolution keeps faith with last year's bipartisan budget agreement, includes $30 billion in carefully targeted tax cuts, and will provide funding to fix school buildings, provide affordable child care, hire 75,000 new teachers, and boost investments in medical research. It also protects Americans' retirement income by reserving all budget surpluses for Social Security until a long-term plan for preserving Social Security is adopted.

For the sake of our children, our veterans, and the future of our Nation, I urge support of the Spratt substitute and opposition to the underlying bill.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in support of the Spratt substitute because I think the gentleman from South Carolina, with his years of experience in the budget process, has put together a substitute that makes sense and does not repeat failures of the past, such as in 1981 when we made promises to cut taxes, to increase defense spending, and to cut discretionary spending to pay for those things, which of course, never happened.

When I look at the budget resolution that is before us today, I see that same thing happening. I see it in a particular area of great interest to me, and an area that I have put a great deal of time into, and that area is the marriage penalty, something that affects millions of families. I do think our budget should move in that direction, to help the working families of America.

I have worked for years to fix the marriage penalty. In fact, I called for the CBO report which is now the definitive study and which we can look to to help us get where we want to go. I am the leading Democrat on a bill to reinstate the two-earner deduction which is I think the best way we should go, and it has the bipartisan support of 182 cosponsors.

But when I look at the budget resolution before us today, I see a suggestion that we address the marriage penalty with a $100 billion solution. That is the top of the mark. We may like that solution, we would like to address the marriage penalty, but to pay for it by cutting other programs, I wonder if that will ever happen. I think same of us have seen some polling, and perhaps this is an issue that has become very popular. I say that because back in 1995, the majority had an opportunity to fix the marriage penalty, tried to fix it in a very small way and in a very intricate way that was very, very difficult to administer.

I stand here today saying to the chairman of the Committee on the Budget that his efforts have always been good in the past, but that right now I see him not doing what he should do to help American families. He says he is going to fix the marriage penalty. I do not know from where he is going to get the $100 billion. I hope this question, of the marriage penalty, goes to the Committee on Ways and Means and that the Committee gets back to resolving it in the way we should, in a fair way that does not penalize others while getting rid of the penalty for some. Fixing the marriage penalty is a good idea, but we should do it with some common sense.

Mr. SPRATT. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Mr. Chairman, I rise in strong support of the Spratt substitute.

Mr. Chairman, every year since I began serving in this body, I have sponsored a Constitutional amendment to balance the federal budget. This year's balanced budget reflects that hard work which allowed us to achieve that goal. I am proud of the way Members of Congress and the Administration worked together last year to responsibly improve the efficiency of government programs and cut taxes. It is these values that should govern our future budgets.

Unfortunately, the budget document before us today does not adhere to these principles. This resolution includes $101 billion in unspecified cuts. It repudiates last year's bipartisan agreement, and conjures memories of 1995, when the same House leadership shut the government down twice with an equally illogical budget proposal. This budget threatens the solvency of Social Security, and makes deep cuts to non-discretionary domestic spending. The American people deserve better than this, Mr. Speaker. This budget is not a blueprint to govern.

This budget does not adequately protect the surplus. Earlier this year, the President stated that the surplus should be used to guarantee the future of Social Security. There is no doubt that the Social Security Trust Fund has long-range financing problems. Insolvency of the Disability Insurance portion of Social Security is projected to occur in 2015, with the retirement survivors account reaching insolvency in 2031. That is why the budget surplus should be reserved until a bipartisan Social Security Commission, the President and Congress can address the long term requirements of the system. This resolution, however, already falls short of funding current programs and it depends too much on unspecified future cuts to offset proposed tax cuts. This irresponsibility will siphon off the surplus before it can be used to protect Social Security.

The resolution also cuts another $45 billion from discretionary spending over five years—well beyond the tight limits imposed by the Balanced Budget Agreement. We have heard many people today claim that this is just a 1% across the board cut, which seems very minor. The truth is far more disturbing. In this proposal, three-fifths of the budget is exempt from any cuts. That means all of these cuts will come from 40% of the total federal budget, which hardly qualifies as an "across the board cut." Under this plan, non-defense discretionary programs will suffer a 19% loss in purchasing power by 2003. While this document does not contain cuts to specific programs, Republicans have made some of their cuts known in an earlier budget document. The Economic Development Administration, Legal Services Corporation, AmeriCorps, and the Airport Improvement Program are all targets for cuts under this resolution.

The Economic Development Administration has offered assistance to many disadvantaged communities in my congressional district. Working with the Southwestern Illinois Development Agency, the EDA has helped communities attract employers and create jobs in areas where unemployment is well above the national and state average, areas that have been affected by the closing of coal mines and the migration of industrial plants which employed thousands of people. This is not a program that benefits bureaucrats, it helps real people find jobs and improve their communities.

The Legal Services Corporation is another good example of a federal program that is effectively being administered at the local level. The creators of the LSC recognized that decisions about how legal services should be allocated are best made not by officials in Washington, but at a local level, by the people who understand the problems that face their communities.

Today, the LSC provides funds to operate programs in approximately 1,100 communities nationwide, providing services to more than a million clients per year, benefitting approximately five million individuals, the majority of them children living in poverty. Family law makes up one-third of all of the cases handled by LSC programs each year. In 1995, legal services programs handled over 9,300 cases involving abused and neglected women and children.

AmeriCorps is another valuable program enabling estimated 50,000 students to earn funds for college while performing community service in tasks ranging from assisting teachers to working on environmental clean-up. There are two highly successful AmeriCorps sites in my congressional district. The program in Belleville, Illinois places 34 participants in the disadvantaged Abraham Lincoln and Franklin neighborhoods to clean up damage from the flood of 1993, and offer conflict management training. The 24 participants in the AmeriCorps program in East St. Louis have developed a successful tutoring program in schools where resources are scarce.

The Airport Improvement Program is another critical federal initiative that is jeopardized by this budget. With airline passenger traffic expected to continue to grow, we need to ensure that airports across the country are equipped to handle future capacity. MidAmerica Airport in my district was recently opened to address the congestion program in the St. Louis and MetroEast community. This airport was completed in part through the Airport Improvement Program. Without the development of MidAmerica Airport, the region would face considerable capacity limits in the near future. The AIP is a critical component of safe and efficient air travel.

In addition to these severe cuts, the assumptions addressing transportation spending in this resolution are nothing short of fantasy. On May 22, the House and Senate overwhelmingly passed a six-year transportation bill including funding for highways, highway safety, and mass transit. The budget resolution before us today falls short of paying for this legislation by over $20 billion! Mr. Speaker, it is completely ludicrous that this budget does not include funding to pay for this legislation which has already passed overwhelmingly in Congress.

Congress realized this funding is vital because our infrastructure is crumbling around us. In my home state of Illinois, for example, a quarter of all the bridges are structurally deficient. Forty-three percent of roads in Illinois are in poor or mediocre condition. Driving on these roads costs Illinois motorist $1 billion a year in extra vehicle operating costs. That is $144 per driver. These statistics are shameful.

As we enter the next millennium, we cannot allow our nation's infrastructure to languish in the past.

In my district in Southwestern Illinois projects funded in TEA21 are critical to meet the transportation needs of many communities. For example, the MetroLink light rail system provides a vital transportation link for commuters and travelers in the St. Louis-MetroEast area. MetroLink, whose ridership has surpassed all expectations, has had an enormous impact on the environment, transportation efficiency and economic development in my district and the entire St. Louis metropolitan region.

This budget also fails to identify ways we may improve the use of our resources. In his budget for this year, the President included funding to modernize and improve our public schools. I strongly believe this program should be included in the House budget resolution. It provides incentives to communities to invest in local school facilities through the use of leveraged bonds. The program targets the 100 poorest school districts in the nation, while providing money for the state's to use on poor districts within their jurisdiction.

Often we dedicate our resources to the disadvantaged schools in large urban areas, overlooking the many needy schools in rural areas. My congressional district in Southern Illinois has many schools which would benefit from this program. Many of the schools in my area are dilapidated and over 50 years old. When the school buildings are warm, safe, and comfortable, children are free to concentrate on learning. That is something that will benefit us all.

This resolution does not save the surplus, it does not adequately protect Social Security, it does not allow vital programs to continue, it does not pay for programs already passed into law, and it does not recognize ways in which government can improve its service to people. I cannot support a resolution that violates the Balanced Budget Agreement and threatens the solvency of Social Security. That is why I will support the Spratt Amendment to save Social Security and honor the Balanced Budget Agreement, and why I cannot support the Kasich budget plan.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in support of the Spratt amendment. I would much preferred to have been supporting the Blue Dog budget, but as we know that was not to be.

Let me make certain that all of my colleagues understand what the Spratt budget does and does not do. The reason I can support it, it stays within the balanced budget agreement of last year. It does not spend any more money than what we agreed to last year, nor does it raise any more taxes than what we agreed to last year. No matter how many other people say it differently, they should know that is not true.

In addition, the Spratt budget is honest with the BESTEA, ISTEA, the TEA 21 bill by fully funding the additional amounts needed for highways and transit. If we look carefully at what the gentleman from South Carolina has done, we will see that in all aspects he is totally honest in the manner in which he pays for those additional spending proposals that he calls for, within the confines of the balanced budget agreement.

I think that that is so important for us today, because I have listened to the previous debate regarding the so-called CATs bill, and I am reminded of Yogi Berra. That was deja vu all over again. Anybody that believed that that would have worked as was proposed has got to be smoking something.

This bill that is before us in the amendment today will keep us on the track of the economy that we are now on. It lives within the agreement that we made last year. It certainly deserves our support.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to thank the gentleman for his leadership on the Committee on the Budget. On fiscal matters generally, I think in my own view, he is probably the most credible spokesperson in this House in either party on these issues. I am pleased to associate myself with his remarks.

Mr. STENHOLM. I thank the gentleman for that and I commend the gentleman from South Carolina (Mr. SPRATT). He has done a great job in putting forth a budget that all of us, hopefully a few on the other side of the aisle, can be supportive of.

If you agree that we set the country on the right track with the balanced budget agreement, if you agree that our economy is moving in the right direction, if you agree that we have the lowest unemployment in 25 years, if you agree that we have the lowest inflation, then let us stay with that game plan. Let us not change it. Let us not go for a budget like the gentleman from Ohio (Mr. KASICH) puts out here today that is back end loaded, that promises spending cuts but only in 2002 and 2003.

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Mr. NUSSLE. I yield 2 minutes to the gentleman from Florida (Mr. Miller), my colleague on the Committee on the Budget.

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for the time to discuss this, the budget from the Democrats today.

Last night we debated the budget that was presented by the gentleman from Ohio (Mr. KASICH) of the Committee on the Budget, and one of the earlier speakers on the other side said the two budgets stand in stark contrast to each other, and I would have to agree with my colleague, the gentleman from Michigan (Mr. BONIOR), on that issue because this is a contrast that shows a vision of whether we believe in more government or less government, whether we believe in more taxes or less taxes and whether we want to keep more power in Washington or if we want to shift power back to the States and individuals. And that is exactly what this is.

Fortunately, the Spratt budget, I have to admit, is a lot better than President Clinton's budget; so that is one good thing I can say about it, because it does not have as many new programs and as much new taxes, but it does have more taxes, and it does create many new programs, and that is the problem of creating more government here in Washington.

This is my sixth year on the Committee on the Budget, and the past 3, under the chairmanship of the gentleman from Ohio (Mr. KASICH), we have had tremendous success. We are now at a stage where we are going to have a surplus in our budget this fiscal year ending September 30 in the total amount of money coming in, the total amount of money going out. We are going to have a surplus for the first time since 1969, and that is because of the budget leadership provided by the Republicans since we took control of this House in 1995. We have cut taxes. We have had significant entitlement reforms such as welfare reform and Medicare reforms, and these reforms will save money in the long term because we are going to save the Medicare program from bankruptcy.

But the thing is it is better for the people in the programs, it is better for the senior citizens in this country under the Medicare program because now they are going to have choices and more options than they have had in the past.

Now what the Spratt budget does, it wants to expand the Medicare program while the Medicare commission is meeting right now and coming up with recommendations. Why not wait? Why do my colleagues want to expand more government and especially with a program that is in the process of going bankrupt?

In the past 3 budgets we have made a significant accomplishment in the area of discretionary spending, especially domestic discretionary. We have gotten rid of over 300 programs in the Federal Government, and actually in 1995 in the 104th Congress we actually had a reduction in discretionary domestic spending. That is a real accomplishment.

We need to stick with the budget presented by the Committee on the Budget, move forward and reduce the size and scope of the government, and I urge defeat of the Spratt amendment.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, our colleagues should vote for this budget, everybody on both sides of the aisle, for 3 reasons.

First, it is a honest budget. No games playing. What we see is what we get.

Secondly, it is a responsible budget. It keeps us on the road to fiscal responsibility, it maintains a budget surplus, it does not get us into the kind of partisan political gamesmanship that ultimately resulted in $300 billion deficits and a $5.4 trillion Federal debt. It keeps the momentum going towards fiscal responsibility that was reflected in the Bipartisan Balanced Budget Agreement just a few months ago.

And thirdly and perhaps most importantly, it is doable. We pass this budget, and we get into conference with the Senate, and we can agree to a budget within a matter of weeks. We will get this budget enacted, and then we will get our appropriations bills enacted.

And then we do not have to worry about the government shutting down. We do not have to worry about this Congress being embarrassed at our lack of inaction or lack of ability to work together in a constructive way.

I want my colleagues to think about this:

The Republican chairman of the Senate Budget Committee called the budget that is the alternative, the Republican budget that is the alternative to this that we are offering, "a mockery". Senator STEVENS, the Republican chairman of the Appropriations Committee, called the majority's budget, a budget that would result in "Congress not being able to function". Why? Because it has got things in it that my colleagues cannot go home and justify to their constituents.

Mr. Chairman, I dare anybody that has Federal employees in their congressional district to go out and explain why they voted to cut the Federal employees health benefits plan down to a 50 percent required contribution on the part of employees. Go ahead and explain it, justify it.

My colleagues should not do this to themselves. Vote for the Spratt budget.

Mr. NUSSLE. Mr. Chairman, I yield myself 2 minutes.

The gentleman from Virginia (Mr. MORAN), who just spoke, said do not worry, do not worry, this is a doable budget, do not worry, this is a doable budget.

Do my colleagues know why it is a doable budget, know why the Spratt substitute is a doable budget? Because it does nothing. It basically is a status quo, do nothing budget. It does nothing to suggest that the government is already too big and spends still too much. It does nothing to the number of programs that need to be consolidated. It does nothing with regard to suggesting to families and individuals and farmers and small business people that they pay enough in taxes. It does nothing for some of the waste that has been rooted out through a number of hearings, everything from $800 outhouses in the Delaware Water Gap National Recreation Area to $584,000 homes built for park employees in Yosemite National Park to 26, and here is a do nothing, here is a let us keep the status quo: 26,000 people in 4 States receiving food stamps who are dead.

So, yes, let us do nothing, let us keep the status quo, let us vote for a budget that basically says we cannot do better than that. We cannot find a penny on the dollar. We cannot say to the American people that what they earn and what they make and what they save is more important than what happens out here in Washington, D.C. on a daily regular basis. That is do nothing.

Mr. Chairman, we do not have to worry because we have got the IRS. We can take their money out here. We do not have to worry, as the gentleman says from Virginia. Well, okay, I guess they do not want to worry.

I guess most of us on this side, and the reason why the Republicans put this budget together, was because we are worried. We are worried about the future for our kids, we are worried about the future for Social Security, we are worried about the future for health care, we want to make sure that the welfare reforms continue to progress in a responsible and a positive way, we want to make sure our kids get a decent education, controlled at home.

We are worried; that is why you need to vote for the Republican budget.

Mr. SPRATT. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. MORAN) to respond.

Mr. MORAN of Virginia. Mr. Chairman, let me respond to the gentleman. I am worried. I am worried that we will not maintain this momentum of fiscal responsibility.

Does the gentleman imply that the Senate is not worried about fiscal responsibility? The Spratt budget is very much like the Senate budget. That is why I suggest it is a doable budget. It is very much like the President's budget.

And would the gentleman not agree that the balanced budget agreement of just a few months ago reflected our concerns, was a responsible instrument? The Spratt budget is virtually the same as the balanced budget agreement. It continues the balanced budget agreement, it continues our commit to fiscal responsibility. That is why it is doable, and that is why the Republican budget is not doable, because it departs from the balanced budget agreement that we agreed to just a few months ago.

That was my point, and I think it is a very valid one, and the Senate happens to agree with us. That is why I want my colleagues to vote for this budget.

Mr. NUSSLE. Mr. Chairman, I yield myself 30 seconds to respond.

Basically what he is saying is, "You don't have to worry. Just keep going. Nothing needs to be changed. There's nothing wrong with what happens in Washington. There isn't one program that wastes money. There isn't one bureaucracy that needs to be changed. There isn't one program that needs to be reformed. There isn't one thing that needs to be done other than what we did last year to continue, just maintain the status quo."

That is what the gentleman is saying.

Oh, last year's agreement was so good, we do not have to change a thing.

Well, go ahead and vote for that, and, as far as the Senate comment, do not make me answer whether or not we can do better than the Senate. We usually do as a body, and we will continue with this budget as well.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise in support of the Democratic budget plan. This is really the best budget that we have seen for several years although it certainly does not have everything that any of us would like to see in a budget, but it has some things that most of us would like to see. The Republican budget lacks details, is mean-spirited because it still takes from the middle class and the poor, and it adds to the silver plate for the rich. The Democratic plan, however, gives $10 billion in tax cuts through entitlement initiatives, and it does not allow Republican cuts in health care, welfare to work, education, environmental protections, infrastructure, veterans and other programs critical to the health of our Nation.

We are in one of the most prosperous periods, yet in the midst of our celebration of our wealth we are ignoring and passing by a sizeable part of our American family. One-third of our population have less buying power than 20 years ago. Our schools and our cities, countryside and housing are in shambles, yet this House majority acts as if the majority of people in this country are millionaires.

The Democratic budget is a coalition budget which accommodates the values of a broader group of fellow Americans. I urge my colleagues to support the Spratt amendment.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Chairman, the New York Times calls it budget bologna. The Washington Post dubs it budget theatrics. Even the Senate Budget Chairman PETE DOMENICI, our longtime Republican leader there, calls it a mockery.

But no matter what it is labeled, the budget offered by the Republican leadership even at this late date is another example of their inability to conduct the Nation's business.

As we have heard today, there is little appetite for a budget, even among many Republicans in this House and certainly in the Senate, that would wipe out the Energy and Commerce Departments, privatize the Corporation for Public Broadcasting, eliminate the Legal Services Corporation and AmeriCorps, the national service program, and abolish a tax break for low income couples without children.

Although the outrage from the American public has forced retreat on some of these proposals, the latest offering from the Republican leadership continues to be unrealistic and radical. It deviates from last year's balanced budget plan so much so that Office of Management and Budget Director Frank Raines calls it a rank repudiation of the balanced budget agreement on which we shook hands just 1 year ago. This new plan makes deep cuts of $101 billion in domestic programs to pay for 101 billion in new tax breaks that primarily help upper income people, and it contradicts legislation that the House just passed to increase transportation spending by $22 billion by calling for a cut in highways and mass transit of $5 billion over 5 years.

This is patently ridiculous on its face.

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In many ways, this budget is similar to what House Republicans proposed in 1995. As you may remember, President Clinton refused to buckle under to pressures from the House leaders to sign a radical budget, and Republicans shut down the Federal Government twice before relenting. It is possible that that scenario could be repeated, if Speaker GINGRICH and the Republican leadership continue to play politics with this Federal budget and this process.

Last year we had a bipartisan agreement on spending that would keep our Nation's books balanced. We agreed on funding levels that would not put our Nation's neediest senior citizens at risk, and would boost our commitment to transportation, education, health care and the environment. If the Republican leadership walks away from this bipartisan agreement in an attempt to gain political points in this election year, they face a risky confrontation with those of us in Congress who demand that the government meet its needs with an honest budget blueprint.

The Spratt substitute is just that blueprint. It puts Social Security first, it protects Medicaid and Medicare, it allocates money so we can enact the Patient's Bill of Rights that will give Americans in HMOs the kind of care they deserve.

Instead of cutting funds for veterans, the environment and our police, it increases funding for drug enforcement, law enforcement, clean water and national parks. Instead of cutting education and highway funding, it calls for the hiring of 75,000 teachers to reduce class size, and fully funds the bill we passed here a few weeks ago to rebuild the nation's infrastructure.

Let us not repeat the debacle of 1995. Let us approve an honest plan, that keeps our budget balanced and does not put our vibrant economy at risk. We saw today how solid our employment statistics are, with low inflation. We ought not to be experimenting, creating an atmosphere in which we could once again balloon the deficit because we do not have the discipline that the Kasich budget would break.

Let us support the Spratt amendment. Let us reject this political charade. Let us stay the course and keep America moving in the direction that it has been moving under the Clinton Administration.

Mr. SPRATT. Mr. Chairman, I yield two minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, first I want to commend the gentleman from South Carolina (Mr. SPRATT) for all of his work and effort in bringing to this Congress for a vote today a budget that is not only responsible, but also meets the priorities and the needs of the American people. It meets the needs of our families in the areas of education and health care.

That is a dramatic contrast to the budget that is being served up by the Republican majority. There they failed to set out priorities in education, they failed to set out priorities in health care, and one of the areas where they not only failed to set out priorities, but in fact provide substantial reductions and threats, is to our national environment and the programs provided to protect the environment of this Nation.

With an excessive $5 billion cut in the area of natural resources, they threaten programs to improve our water quality, to take care of the refuges, to take care of the recreational areas, the national parks and wilderness areas of this country that are visited by millions of Americans every year. They slashed the programs to acquire additional lands. Each and every year we do this, those lands become more expensive and harder to acquire to protect for the use of the American people.

We see that they have refused to provide monies to those agencies that are essential to protecting the revenues that the American people are entitled to for the use of their lands, revenues from mining companies that pay us no rent as they take billions of dollars of gold and platinum off of the public lands, the hundreds of millions of dollars and billions of dollars that the oil companies are underpaying the American taxpayers for the use of those lands as they take off billions of dollars in oil and gas resources from those lands.

The Republicans' answer is to slash the budget of those agencies that have oversight of that. Rather than charge those companies a fair rent, a fair charge for the use of the public resources, they would rather cut nutrition, they would rather cut health care, they would rather threaten Medicaid and Medicare, rather than making people pay their fair share.

The problem with all of this is it threatens the very resources that tens of millions of people in this country will be using this summer, our national parks, refuges and national forests. This budget is devastating to those environmental programs.

Mr. NUSSLE. Mr. Chairman, I yield three minutes to my friend, the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, last night when we closed debate on the rule, I was trying to figure out over the weekend an analogy which would demonstrate what this debate is really all about.

There are really two debates going on here. One is inside the Beltway, and one is outside the Beltway. Inside the Beltway we hear people saying we cannot tighten that Federal budget belt one notch.

Let me demonstrate. What I had my staff do was go out and get three belts. We put them together. What we have here is a nine foot belt. Every foot on this belt represents $1 trillion worth of Federal spending over the next five years. That is $9 trillion. That is a nine foot belt. I do not think anybody in this House could actually wear this belt.

All we are asking in the Kasich budget is for our friends on the appropriations committees to tighten this belt one notch, one inch out of a nine foot belt. Yet we hear from some of our friends here inside the Beltway that that cannot be done, that nine feet is not enough, that there is no waste, there is no fat, there is nothing left in the Federal budget that can be trimmed so that we can tighten this belt even one notch.

Now, inside the Beltway, I think to a lot of people on that side of the aisle, that debate makes sense. But I will tell you what, outside the Beltway in that great middle part of America, the places you call "fly-over country," out there I think most Americans would look at this belt and they would think of this analogy, and they would say to me things like, "You mean only one notch?"

But the great news is, if we can get our friends on the appropriations committees to tighten that belt just one notch, guess what? We can eliminate the marriage penalty tax. Every year over 21 million American families pay a penalty of almost $1,400 per family just because they are married.

My wife and I celebrate our wedding anniversary this week. We have been married 26 years now. I believe she still loves me, but I wish the IRS would stop tempting her to leave me. That is what happens to 21 million American couples. Every year they pay a penalty just for being married.

All we are asking here today is if we can possibly get our friends on the appropriations committees and our friends over in the other body to tighten this budget belt just one notch, so that we can eliminate the marriage penalty tax, so that my wife will not be tempted to leave me, and a lot of other spouses, not only of Members in this body, people all over the United States.

Let us eliminate the marriage penalty tax, let us protect Social Security, let us start paying down some of that debt, and let us eliminate some of the fat, the waste, the fraud and the abuse in the Federal budget so we can do the right thing, not only for American families but for future generations of Americans as well.

Mr. Chairman, I support the Kasich plan. I respect the gentleman from South Carolina (Mr. SPRATT) and the budget plan they are offering. I think the only plan that can pass is the one offered by Mr. KASICH and the Committee on the Budget.

Mr. NUSSLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. DAVIS) for the purpose of a colloquy with the gentleman from Ohio (Mr. KASICH), the chairman of the Committee on the Budget.

Mr. DAVIS of Virginia. Mr. Chairman, I rise to engage in a colloquy with the chairman of the Committee on the Budget, the gentleman from Ohio (Mr. KASICH).

Mr. Chairman, as you are well aware, H. Con. Res. 284 as passed out of your committee includes a budget savings allocation of $1.6 billion to the Committee on Government Reform and Oversight. This allocation would directly impact Federal workers and retirees.

While the current budget resolution does not detail specific program reduction recommendations, an earlier version specified that reductions should come from the Federal Employees Health Benefit Program, the FEHBP, and through increased retirement contributions past the current expenditure dates. It cannot help but be implicitly perceived as continuing to endorse such reduction in Federal retiree benefits, and, I might add, current employee benefits.

Mr. Chairman, it is my understanding based on our earlier conversations that the Committee on the Budget will hold harmless the Committee on Government Reform and Oversight in the event the committee does not respond to its savings direction included in this budget resolution.

Could the gentleman comment and clarify this situation?

Mr. KASICH. Mr. Chairman, if the gentleman will yield, the gentleman from Virginia is correct. Despite the fact that the budget resolution draft does not include specific assumptions, the Committee on Government Reform and Oversight is reconciled for savings of about $1.6 billion. It is not our intent under this resolution that these savings be achieved by reducing benefits in the FEHBP or any of these other payer benefits of Civil Service or Postal Service employees or retirees.

The Committee on Government Reform and Oversight, notwithstanding these instructions, will not be held accountable for these reconciliation savings in the event the committee is unable to achieve its instructed savings.

Let me further say we would not go around the committee to the Committee on Rules in order to get that done. We will make sure we work with the Senate to make sure that $1.6 billion does not come out of those programs. But we will figure out a way in which to be able to make our marker without having to do this.

I also know that the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. WOLF) are deeply concerned that when we get about the penny on the dollar, we be very cautious and compassionate about the way we do it, which is exactly how we will proceed. I understand the concerns of the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. WOLF), and want to make it clear that we will be very sensitive.

I also want to say to the gentleman from Virginia, it is our intent out of that one penny on a dollar to be able to get ourselves in a position of where we can make government more effective and more efficient and squeeze out an awful lot of the waste and duplication in order to get this job done.

Mr. DAVIS of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman. I would just simply add that Federal employees are the greatest asset we have in this government. We need to properly compensate and incentivize this. I am comforted by the remarks of the chairman.

Mr. SPRATT. Mr. Chairman, I yield three minutes to the gentleman from Missouri (Mr. GEPHARDT) the minority leader.

Mr. GEPHARDT. Mr. Chairman, this budget is our common sense vision, our road map for a new century and a new economy. Our budget rejects the misguided and extreme policies and priorities of this Republican slash-and-burn budget and comes up with a moderate and responsible alternative.

The Republican leadership has put forward a budget that is so unfair and unwise that it is already dead on arrival. It is unacceptable, not only to many Democrats, but also to many Republicans as well.

I have been amused to hear the answers to questions about the budget. There is so little specificity because no one seems able to put the specificity behind the budget that it needs. So we hear, "Well, that problem will be handled in conference." Translated, that means we are going to have the Domenici budget, I suppose, because everything is going to get settled in conference.

This Republican budget is expired milk poured into new cartons. It is more of the same fiscal radicalism based on the same irresponsible cuts which the American people specifically rejected in the election of 1996. Do not be fooled. This budget that we are voting on in the next few minutes is the same budget that we had in 1995 from the Contract on America.

The Republican path steers us into a dead end, where American families fend for themselves and are at the mercy of the global marketplace. They want to withdraw from our commitments to education, to health care and the environment, key areas critical to the future of our country and the prosperity of our people.

Democrats are united behind a different vision, the vision contained in the Democratic alternative. We want to build upon the economic success that we currently enjoy, a success that owes a lot to the Democratic budget of 1993, a budget that we passed without one Republican vote in the House or in the Senate. If it were up to the Republicans in Congress, we would not have made the wise and prudent fiscal choices that have brought about the strongest economy that we have seen in decades in this country.

☐ 1330

We have more work that still needs to be done. Democrats want to meet the challenges presented to us by the changing economy and workplace. Government must play a limited, but critical role in ensuring that the growth we currently enjoy continues and its benefits are widely shared by all working families.

While Republicans talk about protecting Americans and their retirement, their budget threatens the safety and integrity of Social Security. The Democratic budget ensures that any surplus will be used to protect the foundation of retirement security for all Americans.

While Republicans talk a lot about the breakdown of the American family, the Democratic budget does something to actually address the problem. The Democratic budget makes a commitment to an act, the Patients Bill of Rights Act, so that families will receive the health care they need and pay for.

Our budget makes the investments in child care, which will enable Americans to balance the needs of their families with their demands from work.

The Democratic budget makes the smart investments in education that we desperately need to modernize and upgrade our public schools so our kids receive the knowledge and the skills they need to compete in a world marketplace.

While the Republicans profess to care about preserving the environment, their budget makes drastic cuts in environmental protection. Democrats are fighting to safeguard our natural heritage by increasing the funding of toxic waste cleanups and expanding parks and open spaces.

The Kasich budget has been repudiated by moderate Republicans. It has been renounced by the gentleman from Delaware (Mr. CASTLE). It has been ridiculed by PETE DOMENICI, and it should be rejected by this Congress.

I urge my colleagues to support the Spratt substitute, the only honest and responsible budget alternative that has been before us.

Mr. NUSSLE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I wanted to make something clear. I have some concerns about this resolution, especially with regard to the provisions which I believe single out Federal employees and retirees for unnecessary and unfair reductions.

I am encouraged by the statement of the gentleman from Ohio (Mr. KASICH) to the gentleman from Virginia (Mr. DAVIS) that the $1.6 billion in savings from the Committee on Government Reform and Oversight will not mean benefit reductions in the Federal employees health benefits program or any other pay or benefits of civil service or Postal Service employees or retirees.

With that assurance, I will vote for the resolution to move the process forward, but it does not mean that I will vote for it when it comes back in the conference report. I will weigh it then.

One other thing, if I could just get the gentleman's attention. I would urge the gentleman from Ohio that when he looks at the final agreement to remember the poorest and the most vulnerable in our country.

In the Bible, there are 244 references to the poor; 172 in the Old Testament, 72 in the New Testament. The oppressed are mentioned 45 times. I must tell the gentleman, in this whole body, both sides, that the passage of the highway bill, which was laden with pork barrel spending projects, was very troubling to me, especially the full court press lobbying efforts and the hiring of certain lobbyists to get certain projects in that bill.

I just wanted to say that the way the Congress, I believe, has pursued the recent highway bill, which funds $216 billion over the next 6 years for surface transportation, while transportation funding is necessary, I believe that the Congress got greedy, and we have effectively blown the budget caps and all that for a lot of special pork barrel projects.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. KASICH).

Mr. KASICH. Mr. Chairman, I would say to the gentleman, I think he knows I started a fight against corporate welfare in this House, which I fight every day. That is because I made the argument that we just cannot take from one group. We cannot reform welfare for the poor without reforming welfare for the rich.

The fact of the matter is government is a final safety net for people who do not have anything. Where I come from, it is a sin not to help people who need help. But I also say it is always a sin to continue to help people who need to learn to help themselves.

I would say to the gentleman that we want to be very sensitive to this and not pick, as one person once said, on the weak clients in our society without having the guts to stand up and take on some of the special interests. As the gentleman knows, I share his concern in a number of areas, and I have worked hard, worked hard to try to ameliorate some of those rough edges and keep at it.

Mr. WOLF. Well, I appreciate the gentleman's comments. Next week, I will send the gentleman a letter on this issue that I would like to share. I know probably no one will read it, and many will think it is too preachy, but it will be a letter to the entire Republican caucus on this issue, which includes the passage of the unfortunate highway bill.

Mr. NUSSLE. Mr. Chairman, I yield 3 minutes to my friend, the gentleman from Florida (Mr. SHAW), my colleague on the Committee on Ways and Means.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding this time to me. There is much concern in this House on both sides of the aisle with every budget that comes before us. It is a document. It is a political document which can become troublesome, particularly during election times.

However, it is the responsibility of us to pass a budget. It is our responsibility to read these budgets and to come up with the best particular budget that we can.

In reading over the Kasich budget, there was concern and there is concern that has been expressed in this House as to what is going to happen to TANF. That is welfare. It was this Republican Congress that passed welfare reform. We did it in cooperation with the governors in this country, in partnership with the governors of this country. We gave our word to the governors that we were going to hold the funding for 5 years, and that is exactly what we are going to do.

I chair the subcommittee that has jurisdiction over TANF, and I will give my word now to each Member in this Congress that we are not going to cut TANF this year. The final budget that comes out of Congress will exactly back us up on that particular matter. We have given our word. We keep our word.

Let us get on with this. Let us vote down the Spratt budget and vote up the Kasich budget.

Mr. NUSSLE. Mr. Chairman, how much time remains for both sides, and who has the right to close?

The CHAIRMAN pro tempore (Mr. NEY). The gentleman from Iowa (Mr. NUSSLE) has 14 minutes remaining. The gentleman from South Carolina (Mr. SPRATT) has 8½ minutes remaining. The gentleman from Iowa (Mr. NUSSLE) has the right to close.

Mr. NUSSLE. Mr. Chairman, I yield 3 minutes to my friend, the gentleman from Ohio (Mr. KASICH), the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Chairman, let us just go back for a second and think about what we are talking about here. Over the last 5 years, the Federal Government has spent $7.8 trillion. Over the next 5 years, we are scheduled to grow from $7.8 trillion to $9 trillion.

The American family would say, frankly, if we sat down with them and said, do we need to go from $7.8 trillion to $9.1 trillion, they probably would not serve us dinner that night.

We are not even asking to make any difficult or serious reduction in government. All we are suggesting is, instead of the government going from $7.8 trillion to $9.1 trillion, they go to $9 trillion.

We save a penny on the dollar. You cannot run away from it. You cannot escape it. You cannot hide from it. It is designed to save one penny on each dollar of Federal spending.

We take those savings, and do you know what we do with them, Mr. Chairman? We help the American family. We say that we want to get rid of this marriage penalty. We also want to work with the small business community to make it easier for them to thrive, because, you know, in some ways, the small business community is synonymous with the health of the American people.

So our approach here today is to try to trim some of the excess out of government, to make government more efficient and more effective. We do not see a reason why we need 150 separate job training programs and 340 programs in housing, including 103 that are inactive.

We do not see a reason why we should have an $800,000 outhouse in the Delaware Water Gap or to spend $584,000 per home in Yosemite. We certainly do not see a reason to spend $34 million to do closed captioning of the Jerry Springer Show and Bay Watch.

I mean, the fact is, in an institution that is the largest institution on the face of this globe, it is the one major institution on the face of this globe that has not undergone any downsizing.

What we have to ask ourselves today is can we begin to change the culture of Washington. Any time there has got to be some kind of a change, people jump up and say do not affect me. But we have got a choice. If we cannot affect the culture of Washington, if we cannot save a penny on a dollar, then we are telling the American family the government is more important than they are. That is not a message that any of us want to communicate out of this Chamber.

The fact is we all know intuitively, and of course we know by solid example, that, in fact, we can live under this heavy yoke of only $9 trillion in spending to be able to help our families.

In terms of the President's budget, folks, look, $150 billion in new spending and $130 billion in new taxes. He essentially is trying to reinvent the era of big government. In the Spratt budget, there are no tax cuts. They want to have more tax increases and blow through the spending caps and wreck the discipline that Alan Greenspan told us would hurt this economy.

The bottom line is it is a reasonable proposal. Do you know what I wish? Do you know who I wish was here today to vote on this? All the people outside of this Beltway who go to work for a living and struggle every day to make ends meet.

Members are sitting in their offices, and they are thinking about this vote, and ask yourself, can we save a penny on a dollar and communicate to our constituents that mom and dad and the kids are the most important thing going on in this society today?

In light of all the incidents that we have seen over the last couple of months, I think the answer is unquestionably yes. We just resist some of the culture. We just resist some of the people that are trying to trap us in this city, resist some of the people who say that America should be run from the top down.

Let us transfer power, money, and influence from this city back to the people so they are in charge in their communities to develop local solutions to local problems, strengthen the family, and strengthen the community, and build America from the bottom up.

Mr. NUSSLE. Mr. Chairman, I yield myself 2 minutes just to point out something. It is interesting, as we actually look through the Spratt proposal, and this is probably something that would surprise many people because of all of the rhetoric that we have heard here today. But interestingly enough, the Democrats cut Medicare.

They cut Medicare from the Republican budget; in fact, $600 million the first year, $300 million the second year, $400 million a third year, $300 million the fifth year. They cut Medicare.

These are the same folks who were down here in the well just a moment ago talking about how important health care was to them, and, yet, they are running around cutting Medicare. It is one thing to claim that you are cutting, and it is another thing to claim that you are actually being responsible.

I am sure there is a logical explanation for all of these Medicare cuts. I am sure they are going to claim it has something to do with fraud or waste or something like that. If that is what it is, of course I am amazed to find out all the Democrats can find within a Medicare budget is only $600 million worth of fraud.

But it just points out that sometimes the rhetoric that we hear on the floor does not meet the reality of the words and figures that are on the pages. There are things like that that make it very frustrating.

Mr. Chairman, I am happy to yield to my friend, the gentleman from Ohio (Mr. KASICH).

Mr. KASICH. Mr. Chairman, I want to say to the gentleman, it is important that we have talked about the Clinton budget, but, frankly, we need to talk about what we are all about, why we took charge in 1995, what we came here to do as a majority party, joined with some of our friends on the other side of the aisle. We came to make the budget, government budget smaller and the family budget bigger.

□ 1345

In order to do that, we are going to create a mechanism in this House that will create the reforms, the commonsense reforms, that the American people really want.

I would say to my Republican colleagues, we do not want to forget the reason why the people sent us here. It was to reduce government. It was to reduce regulation. It was to return power, money, and influence to the people. It was to make government more effective. It was to make government more efficient. It was to reject the notion that big government can solve our problems.

Do Members want to know something? That is what the people in the neighborhoods are saying today, give me a chance to get up to bat. Give me a chance to have some of my power back. Give me a chance to have some of my money back, and make the Federal Government more effective and more efficient, and stop having to take too much from me. Make it work.

I would say to the gentleman, this is the incentive we need to get this done. I want to suggest to the gentleman, we can change the culture. We can respond to what the people want and we can improve our country.

Mr. NUSSLE. Mr. Chairman, I yield 3 minutes to my friend and colleague, the gentleman from Texas (Mr. ARCHER), the chairman of the Committee on Ways and Means, who will engage in a colloquy with the chairman of the Committee on the Budget.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for yielding time to me for the purposes of a colloquy that I might have with the chairman of the Committee on the Budget, to just put in the RECORD precisely what this budget document intends and what it will permit in the writing of a tax bill, to give relief in the amount of $101 billion that is provided in the budget document.

Mr. Chairman, I think there has been some degree of misunderstanding about this. It is my understanding, and I would like for this to be confirmed by the chairman, it is my understanding that, number one, this budget is designed to reduce the record tax burden on the American people. That is, we reduce that burden, and that we will have a balanced bill which will include a number of different items.

Certainly we should take action against the marriage penalty, reduce the complexity of the capital gains, pay down the debt, save Social Security, pass additional middle-income tax relief measures, create incentives for growth, savings, and job creation, so that as we have done in the past, we will put forward a bill of comprehensive tax relief in a balanced way.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Ohio.

Mr. KASICH. Let me just say to the gentleman, Mr. Chairman, I would like to underscore with an exclamation point everything that he has said. That is precisely what our agenda is.

Frankly, I would like to say to the gentleman that I share his great frustration with a lot of the government estimators in this town who we have used for a long period of time to make sure we stay on a path, but frankly, who have been wildly inaccurate in terms of their projections of what was going to happen to this economy.

One interesting thing I would say to the chairman, the chairman of the Fed, Mr. Greenspan, came to the Committee on the Budget and made an argument at one point that if we zeroed out the capital gains tax it would not cost the government a dime.

What we have seen is by reducing the capital gains rate, it has generated more revenues, like most of us thought it would, the same way that when we repeal a luxury tax, we begin selling boats again in this country.

So I say to the gentleman, we are in sync. Both of us have a commitment to get to the same place: to empower people, be pro-growth, give people a fair shot, limit the growth of government, expand the personal power through tax relief.

I really look forward to the day, and it is coming soon, when we are going to have surpluses even in that general fund, where the gentleman from Texas (Chairman ARCHER) is going to be able to return those big high revenues that float into this city right back into the American people's pockets, rather than let people in this town have any incentive to think about spending them.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for his comments.

Mr. NUSSLE. Mr. Chairman, I reserve the balance of my time to close.

Mr. SPRATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I began this debate by saying that the Kasich resolution is not realistic. I could not have given more graphic proof for my argument than what has just happened before our very eyes here in the House of Representatives, right here in the well of the House. We have seen this budget come unraveled, piece by piece. First of all, we started this morning.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I would just like to ask the gentleman from South Carolina, did we not hear in the last few minutes the highway bill of $21 billion has not been accommodated in the budget?

Mr. SPRATT. The gentleman is correct.

Mr. GEPHARDT. The user fees have been renounced at about $8 billion to $10 billion?

Mr. SPRATT. This morning we passed a resolution renouncing the fees, but the Kasich bill has $8 to $10 billion in new user fees, $7 in all, in it. Presumably they are not going to repudiate their principle and impose user fees of their own when they have denounced the President for doing it.

Mr. GEPHARDT. Can I ask the gentleman if the agriculture research money we voted for last night was there?

Mr. SPRATT. Absolutely not. We passed a bill, it costs $2 billion, and it is not accommodated in this budget.

Mr. GEPHARDT. Can I ask the gentleman about the veterans' expenses, which was included in the transportation bill?

Mr. SPRATT. When we passed the highway bill we repealed some veteran benefits, and in return, to palliate, we added $1.6 billion to the Montgomery G.I. bill. It is not in this bill. Instead, this bill still has a remnant that is out of date. It calls on the Committee on Veterans' Affairs to reconcile another $10 billion. They take a double whammy, a double hit.

Mr. GEPHARDT. Did I not hear, can I ask the gentleman, that Federal employee cuts were restored in the last few minutes?

Mr. SPRATT. Right here a few minutes ago the gentleman saw them restore it. It validates what I have said. These cuts are not realistic. They will not happen. They undid them right here on the House floor.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, I wanted to ask the gentleman quickly about the back and forth on TANF. Does not the budget resolution say that there shall be a $10 billion reduction in Function 600?

Mr. SPRATT. It does indeed, and I do not know where it will come, except for TANF. This is another example of the budget resolution saying it will, and then Members getting up here and saying it will not, and then voting for a document that says it will; such contradictory statements.

Mr. GEPHARDT. If the gentleman will further yield, Mr. Chairman, I will say that Senator DOMENICI called this budget a mockery. That is what has happened today on the floor with this budget.

Mr. SPRATT. We say it has a $50 black hole, and it is getting bigger by the minute.

Mr. Chairman, less than a year ago the House approved the balanced budget agreement of 1997. It was a good agreement, a bipartisan agreement. It built on the Clinton budget of 1993, which wiped out the deficit, and paved the road for surpluses as far as the eye can see.

Our resolution, the Spratt resolution, the Democratic resolution, sticks by that agreement. The spending totals, the revenue totals, all of our numbers are in sync with the balanced budget agreement. We save the surpluses because we want to save Social Security. We spare Medicare from further cuts. In fact, we broaden its coverage, because we believe in Medicare.

We protect Medicaid because we believe in Medicaid, and particularly the children's health insurance program, because we are proud of that achievement in the balanced budget agreement last year. We think it would be unconscionable to tell children and their parents that they have coverage at last, only to jerk it away from them the next year.

We fund key initiatives in education, in child care, and call for $30 billion in tax relief, tilted towards working families.

There is one thing of particular fiscal importance in this bill, in this resolution. On September 30, when we close the books on fiscal 1998, the Federal Government will show a surplus for the first time in 30 years, a surplus of $40 to $60 billion. That surplus was hard-earned, and we think we should husband it.

Sure, we proposed some initiatives in education and child care because these are the things we believe in, but we offer offsets to pay for these initiatives. We do not take a single dollar out of the surplus. We say, instead, that the surplus should be saved, held in a reserve fund, as it were, to save Social Security for the long run.

Over the last several years this government has enjoyed a surge of revenues, but until we know that surge is permanent and recurring, until we have taken the next step, the giant steps necessary to ensure the solvency of Medicare and Social Security for the long run, we are wary of cutting back revenues deeply and drawing down this surplus.

In the balanced budget agreement, we have provided for tax relief. We think there is room for more. We think the tax code is full of deductions, credits, exemptions, and preferences that could stand a scrub. We recommend that the Committee on Ways and Means search the code for $30 billion in unwarranted tax benefits, call them what we will, and redistribute the tax burden just a bit more in favor of working families.

Surely we can do this much to help hard-working families. Surely we can do this much to help hard-working families afford the cost of child care and to mitigate the so-called marital tax penalty.

We ourselves have scrubbed spending to come up with $10 billion in cuts over the next 5 years. This is a small sum, but we think the money can do more good if it is used to help school districts, reduce the pupil-teacher ratio in grades 1 through 3, or if it is used to fund the early learning fund.

Here are a few of the other things we propose: broadening the coverage of Medicare so those between 55 and 65 can buy into it. Here are a few of the things we propose in the context of a balanced budget: improving the child care tax credit so it applies to families with incomes up to $60,000, so that families of four with incomes of $35,000 or less will have no tax liability if they take full use of the credit, passing a patient's Bill of Rights.

So our budget sounds some new themes, but they are all fully offset and paid for. At bottom, this is a balanced budget agreement which the House passed overwhelmingly last year. If Members ask me to tell them in a sentence what this substitute does, I will tell them. It restores the budget to reality. It restores funds that the Kasich resolution takes.

If they ask me in a sentence to tell them what this budget does, I will tell them, it restores this budget to reality. The gentleman from Ohio (Mr. KASICH) presents this budget as a 1 percent cut in spending, but since the largest accounts in the budget, Social Security and defense and debt service, are not cut, they are increased, the accounts that are cut take heavy hits.

The remaining cuts are far, far greater than 1 percent. By our calculation, the Kasich budget will cut domestic discretionary spending by at least 6 percent, on top of the 12 percent in cuts already dictated by the balanced budget agreement, and still being administered. Bob Reischauer, whom we respect on both sides of the aisle, has pointed out that really about half of discretionary spending is not subject to cuts. It is essential administrative functions of the government, the FBI.

This means that to achieve the cuts the gentleman from Ohio (Mr. KASICH) is talking about, the cuts will have to go as deep as 36 percent. As one Member, the gentleman from Delaware (Mr. CASTLE) on the other side of the aisle, said, this will mean deep cuts in some programs and the extinction of others.

Which programs are in the crosshairs? Law enforcement gets cut $8 billion, education nearly $5 billion, the environment $5 billion. It goes on and on and on.

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Our resolution is not a duplicate of the resolution that passed the other body, but we are close enough to bridge the differences in a concurrent resolution. We give Members a responsible choice. We stick close to the bipartisan Balanced Budget Agreement and we cut the clearest path to a concurrent resolution.

There are many reasons this resolution should be the budget resolution this House passes, but if Members voted for the Balanced Budget Agreement, if they want to see a budget resolution become a concurrent resolution, if they want to save the surplus for Social Security, if they want to protect Medicare and Medicaid, they should vote for this and reject the Kasich budget.

Mr. NUSSLE. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia (Mr. GINGRICH), the Speaker of the House.

Mr. GINGRICH. Mr. Chairman, let me say that I think that this is in some ways as historic a vote as the votes of the last three or four years. It did not start out this way this year. We had a budget agreement that was going to last for five years. I commend the gentleman from South Carolina (Mr. SPRATT) who helped with that last year. It was an historic bipartisan agreement.

But then Washington just could not allow things to go on in a normal implementation. The President, for good and legitimate reasons, sent up a budget that had much higher spending. It had higher taxes. We just voted a while ago and this entire House, I believe unanimously with the exception of one Member, voted against all the tax increases the President sent up.

But it was clear to us, and I want to commend the gentleman from Ohio (Chairman KASICH), because he from a very early point sensed what was happening. The pressures in this city for more spending, for higher taxes, the pressures in this city to avoid reforming the system, the pressures to say the bureaucracy is perfect, we cannot find any money, we cannot change anything, just give us more of the American people's money, let us have more power in Washington, those pressures were building.

I am told that today, and I do not know if they have done it, but I am told that today the Federal Communications Commission may vote a tax, something which in all of American history has never occurred. A constitutional abrogation of power to a group of bureaucrats, appointed figures, who will tax every telephone line in America. Because in this city if we do not tame it, if we do not get it under control, if we do not fight for the taxpayers, this city grows every day and it takes more money and more power and it says, "Come to Washington and beg the bureaucrats to get your own money back."

The gentleman from Ohio (Mr. KASICH) came to us and said, "You know, we ought to make a big effort to establish the principle that we are going to be for lower taxes and lower spending, That Washington is not tamed yet."

Some might say why would we listen to the gentleman? The fact is, and it is one of the great stories that is not covered very much in this city because it makes this city so comfortable, that 3 years of our effort is working.

We passed welfare reform and my good friends on the left got up and opposed it. We passed it three times. It was vetoed twice. Guess what? Welfare reform is working and in 49 States welfare rolls are lower. In New York City welfare roles are the lowest they have been since 1967 because reforms are working.

Then we said let us cut domestic discretionary spending. And let me say that the Committee on Appropriations led by the gentleman from Louisiana (Chairman LIVINGSTON) was brilliant. And while everybody on the left yelled and screamed, we cut out $103 billion, we closed down over 300 small programs and we saved the American people money.

And then we said let us get to a balanced budget. And I remember how the people on the left and the news media laughed at the gentleman from Ohio (Mr. KASICH) when he said let us get to a balanced budget. And then we said let us get to it by 2002 and we were told, oh, that is too soon.

Then we said let us get to it and cut taxes. Let us save enough money by reforming enough government to cut taxes and balance the budget, and we were told that was impossible. Guess what we did? We passed a balanced budget with smaller government and lower taxes, and what was the result? We cut capital gains tax and, as we predicted, we raised more revenue because more people cashed in their capital gains, and in April alone there was $12 billion more from capital gains that came into this city at a lower tax rate, which I would argue means we ought to go to a 15 percent capital gains rate and get even more money. So my liberal friends could actually get more money out of the rich with lower capital gains because we have real proof, but their ideology would not permit that.

Then we said what if we were to balance the budget and lower interest rates? Guess what happened? We balanced the budget and the Federal Reserve has kept interest rates low. What is the result? Chrysler last month sold more cars than in any month in its history. Why? Because interest rates are lower, the economy is growing, taxes have been cut, people are at work. We have the lowest unemployment rate. We have the lowest interest rate. We have cut taxes. We are balancing the budget, not in 2002, we are balancing the budget in 1998, four years ahead of schedule.

Now, one would think with that kind of track record we could come to our friends and we could say to them why do we not work together? Oh, reform the bureaucracy? The unions would not like that. Shrink government in Washington? The liberals would not like that. Return power to the American people? The ideologues would not like that. Reduce the number of lawsuits? The trial lawyers would not want that.

So here is the choice: Is this budget perfect? No, this is a human budget written in a human institution by people working their hearts out. Will it be improved in conference? I suspect it will, because we will meet with our good friends in the Senate who were our partners in welfare reform, which is working; in cutting taxes, which is working; in saving spending, which is working; in lowering interest rates, which is working; and in balancing the budget, which is working. And with our partners, we will write a budget.

We will bring it back to the House and hopefully a few Democrats will have the courage to vote for all the things that are working. Then we will work with the President, and by this September we will get an agreement, I think at the latest in early October, and it will be good for America.

But if Members vote "no" on the Kasich budget, they are voting against the team that reformed welfare. They are voting against the team that cut taxes. They are voting against the team that balanced the budget. They are voting against the team that brought domestic discretionary spending under control, and I think that is wrong.

Let me say one other thing. We need, over time, not only lower taxes and a smaller government in Washington, but contradictory as it will sound to some, we need a stronger defense. We need a stronger defense with a reformed Pentagon. We need to have as much courage at saying yes, our young men and women deserve good equipment; there ought to be enough of them to do everything the President wants without wearing them out; and they ought to have the best training in the world. We should have enough procurement.

Mr. Chairman, we are going to revisit that issue over the next six months. The lesson of Pakistan, the lesson of India is a lesson that the world is dangerous and America has to be strong. The lesson of Bosnia and Kosovo and Iraq and the Middle East and North Korea is that the world is dangerous and the United States has to be strong.

But as we approach defense spending, we are going to be for stronger spending with less bureaucracy, with more accountability. And I believe we can get to that, and I believe in the end the President will work with us to get to a bipartisan consensus that America has to have a big enough defense, with modern enough weapons, with good enough training to be able to lead the entire world.

So I would simply say to my friends, the Democrats, their leadership has to offer a liberal budget. It is okay. They were not with us on welfare reform and it was okay. They were not with us on tax cuts and it was okay. So do not flinch. The same principles that have worked for 3½ years, that have given us the lowest interest rates, the lowest unemployment, the best take-home pay, those principles are going to work again.

Defeat the liberal budget and then help us pass a good workmanlike budget. Let us get to conference and continue to improve it, and let us keep moving this country forward in the right way.

Mr. BENTSEN. Mr. Chairman, I rise in defense of fiscal responsibility and in support of the Democratic Budget Resolution. The Congress has traveled a long road to restore fiscal discipline to the budget process. This process started in 1990 when the Congress passed the first of three deficit reduction packages and continued in 1993 and 1997. The Democratic Budget Resolution builds on that last agreement that we worked so hard to achieve.

The Balanced Budget Agreement of 1997, reached just nine months ago, made some very tough cuts. We agreed then to cut spending by $300 billion over five years and $1 trillion over 10 years. We cut $115 billion from Medicare, $13 billion from Medicaid, and $172 billion from other programs. At the same time, we met our national security needs and made critical investments in education, children's health care, and environmental protection in order to keep our economy strong and address challenges facing our families. It also provided for $95 billion in tax cuts over five years, including education tax initiatives to help families afford college costs, a child tax credit, and reductions in the capital gains and estate taxes.

Building on the Balanced Budget Agreement of 1997 is still the responsible course of action. The Spratt substitute does just that. It is an honest blueprint for the nation's fiscal policy, which conforms with the spending levels set in Balanced Budget Act of 1997.

As I said very early this morning, the Republican budget resolution diverges from the path of fiscal responsibility and does not acknowledge reality. It underscores the Republicans inability to govern, hence their desire to debate their resolution at a time when most of the country is asleep.

The Democratic Budget Resolution does not play games. It does not hide draconian spending cuts in blue smoke and mirrors. It is not built on a pithy slogan that is misleading and inaccurate.

It is built on making crucial investments in education, medical research, health care for children, environmental protection and other vital programs, This budget resolution spells out how to pay for these investments and a $30 billion dollar marriage penalty tax cut. Most importantly, this budget resolution saves future surpluses to shore up the solvency of the Social Security Trust Fund.

Our budget resolution recognizes the fact that we have a $5.4 trillion debt and that we spend $250 billion on interest annually. Today, 3.1 percent of GDP goes toward paying the interest on our debt. Under the Democratic Budget Resolution, interest payments on the debt will fall to 2.1 percent of GDP in the year 2003. According to the GAO, if we spend the surpluses as the Republican Budget Resolution does, the debt will rise by $890 billion dollars over the next 15 years.

If we abandon fiscal discipline, CBO projects that federal debt will exceed 100 percent of GDP by 2040. That is about twice as high as the current ratio and is a level previously reached only at the end of World War II. Maintaining the status quo without spending the surpluses would save us nearly one trillion dollars over 15 years.

These facts fly in the face of the math that the Majority has been peddling. Three quarters of the budget is exempt from cuts including interest payments, federal military and civilian retirement, Social Security, defense spending and other portions of the budget. Promising a tax cut is unaffordable, disingenuous and will result in long term structural budget deficits.

In fact, $100 billion tax cut requires an 18.9 percent real cut in non-defense discretionary spending. The Balanced Budget Agreement of 1997 already requires similar cuts. The Majority's cuts on top of last year's cuts are just unrealistic. As a result, tax cuts will be enacted first, spending cuts that should come later will never materialize, and in effect, the surpluses will have been wasted.

Included in our $5.4 trillion debt is $600 billion of Treasury bonds owned by the Social Security trust fund that will have to be retired after 2013. The Democratic budget resolution pays down the debt, which in turn reduces interest and principal costs to ultimately strengthen the Social Security Trust Fund.

If we squander the surplus without beginning to retire the national debt to a more manageable level, in the long run, we may have to borrow more to pay off bonds as they come due, including to Social Security, and we will be shortchanging the American people. Without maintaining a course of fiscal discipline, the Congress' hard work since 1990 will be compromised. Federal budget surpluses will be short lived and we will return to deficit spending.

Given the impending retirement boom, that's not the direction in which we want to move. I urge my colleagues to support the Spratt substitute.

Ms. PELOSI. Mr. Chairman, I rise in support of the Alternative Budget proposal offered by my colleague Representative SPRATT. This Democratic budget alternative is faithful to the fiscally responsible, bipartisan Balanced Budget Act passed by the House last year. This alternative budget does not make drastic new cuts in Medicaid, Temporary Assistance for Needy Families, the Earned Income Tax Credit, education and other vital priorities, as the Republican Budget Resolution does. The Democratic alternative does not focus new cuts on working families, the poor, the young and the old, as the Republican Budget Resolution does.

The Democratic alternative offered by Representative SPRATT respects the agreement this House reached with the Senate last year, and it addresses critical priorities in our nation. The Democratic alternative dedicates the budget surplus to Social Security to protect our seniors; it funds additional public school teachers and school construction initiatives for our young people. These are widely supported programs, and they answer the crucial needs of seniors and young people. The Democratic alternative is responsible and invests in our future. I urge my colleagues to support the Democratic alternative budget proposal.

Mr. POMEROY. Mr. Chairman, I rise in opposition to the Kasich budget and in strong support of the substitute amendment offered by the Ranking Member of the Budget Committee, Mr. SPRATT.

When the Chairman of the Senate Budget Committee called the House Republican budget "a mockery" he not only described the substance of the Kasich budget but also the procedure by which it is being considered. Today the House is considering the budget resolution 51 days after the April 15 statutory deadline—the most delinquent budget process in 16 years. The appropriations committees of the House and Senate have long since dismissed the budget resolution as irrelevant and are already busily marking up legislation for the coming fiscal year. Against that backdrop, a reasonable person might conclude that the Budget Committee would propose a resolution that stood a reasonable chance of being expeditiously adopted.

Sadly, this is not the case. By radically departing from last year's bipartisan budget accord, the House Republican leadership has managed to totally isolate itself not just from the President and the Democrats in Congress but also from their Senate counterparts and even many House Republicans. Indeed, some of the harshest criticism of this budget has come not from Democrats but from Republicans. In addition to Senator DOMENICI's comments, Senator STEVENS said that under the cuts proposed in the Kasich budget, "I don't think Congress could function." A group of House Republicans wrote that the cuts proposed in the Kasich budget are "neither desirable nor attainable."

Fortunately, there is a constructive alternative. Like the budget passed by the Senate last month, the Spratt budget keeps faith with the bipartisan Balanced Budget Act of 1997. The Spratt budget adheres to the discretionary budget caps, offsets tax cuts within the revenue code and pays for priority initiatives with reductions in entitlement programs. Most importantly, by continuing to steer the path of fiscal responsibility. The Spratt alternative fully safeguards the budget surplus until Congress and the President enact legislation to ensure the long term future of Social Security.

I say to my colleagues—especially on the other side of the aisle—who wish to build upon the work of the 1997 budget agreement, to reserve the surplus for Social Security, and to support a budget that can be reconciled with the Senate and adopted, I urge you to support the Spratt alternative.

Mr. DAVIS of Illinois. Mr. Chairman, I rise to support the Spratt Amendment because it is a rational approach to meeting the needs of our society. For example, it provides for 75,000 new teachers, it allows people under 65 to buy into Medicare, $1.2 billion for child care and early childhood education, $600 million for Medicaid, including an outreach program for children and provides an option to cover all legal immigrant children.

It provides for a patient Bill of Rights Act and tax credits for businesses that provide child care services to their employees. It saves all the budget surpluses for five years until a comprehensive Social Security Financial Plan is agreed upon.

The Spratt Amendment is honest, responsible and addresses the needs of the American People.

Mr. POSHARD. Mr. Chairman, I rise today in support of Mr. SPRATT's substitute to the misguided Republican budget resolution. Unlike the Republican proposal, the Spratt substitute meets the requirements of last year's balanced budget agreement without calling for the deep and drastic cuts to critical programs, both mandatory and discretionary, that the majority has included in its plan.

The Spratt substitute ensures that the needs of America's children and working men and women will continue to be met, by providing for billions more in education and training funding than the Republican proposal. In addition, the Spratt budget provides health care funding that will protect maternal and child health, enable the continuation of important research at the National Institutes of Health and the Centers for Disease Control, and provide grants under the Ryan White AIDS program. Mr. Spratt's plan calls for law enforcement spending that will help keep drugs off our streets and out of our communities, and that will fund important crime reduction initiatives. And the substitute provides increased funding for programs that will protect our precious environment and natural resources.

Furthermore, the Spratt substitute includes several major initiatives that will benefit our nation's children. The proposal provides funding which would allow the hiring of 75,000 new teachers to reduce classroom size, sets aside substantial funds for child care and early learning, and includes a Medicaid outreach program for children. There is no more important task than ensuring that the health and education needs of our children are met, and I am pleased that the Spratt budget recognizes this priority.

I urge my colleagues to join me in support of the Spratt substitute. it is not a perfect proposal, but it is one which will enable us to move on with the budget process. This substitute, because of its close similarities to the Senate budget resolution, its the best vehicle with which to reach an agreement with the other body that will allow our respective appropriations subcommittees to continue their difficult tasks with a framework to guide them. Let us adopt this substitute, keeping within the boundaries of last year's balanced budget agreement and ensuring that our children, our working families, and our most vulnerable citizens are protected rather than abandoned.

The CHAIRMAN pro tempore (Mr. NEY). All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from South Carolina (Mr. SPRATT).

The question was taken: and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 257, not voting 13, as follows:

[Roll No. 209]

AYES—164

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McNulty
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Sánchez
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—257

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meeks (NY)
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Rush
Ryun
Salmon
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas

Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Ballenger
Bilbray
Furse
Gonzalez
Johnson, E. B.
Kennedy (MA)
Lewis (GA)
McDade
Meek (FL)
Mollohan
Ros-Lehtinen
Sabo
Tanner

☐ 1427

Mr. DAVIS of Florida, and Mr. RUSH changed their vote from "aye" to "no."

Mr. WISE, and Mr. KENNEDY of Rhode Island changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. NEY). The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

Mr. BERRY. Mr. Chairman, it is with great regret that I rise today to oppose the Republican budget resolution and the Democratic substitute. Unfortunately, both of these proposals stray from last year's historic balanced budget agreement, and neither of them does enough to reduce our national debt and ensure Social Security's solvency.

The Republican proposal is fiscally irresponsible and economically unfeasible. Rather than following the guidelines of last year's Balanced Budget Agreement, as did the Senate budget resolution, the House Republicans have chosen to cut discretionary funding to such programs as veterans health, long-term care for the elderly, and anti-crime initiatives by over $45 billion. These cuts, according to Senate Republicans including Budget Committee Chairman DOMENICI, are unwise and would devastate many important programs for our nation's senior citizens. These cuts, according to Senate Republicans, could derail the budget process. Some—Republicans and Democrats—suggest that they could lead to another government shutdown.

Furthermore, the House Republican budget does not preserve the projected surplus for Social Security. Instead, it actually changes budget rules to allow the surplus to be spent on new programs, including tax cuts. Given our nation's $5.3 billion in debt (as of May 31, 1998), not allowing the surplus to be spent on paying off our debt is harmful to our economy and to our taxpayers.

The Democratic budget alternative, while it is much more fiscally prudent and sensible, still does not do enough to fit the guidelines of last year's Balanced Budget Agreement. In my view, its new spending should be devoted to deficit reduction.

The one budget proposal that would have met all these objectives—the Blue Dog budget proposal—was not allowed to be considered on the House Floor. Due to concerns that this budget resolution might garner enough votes to defeat other proposals, the House Committee on Rules would not allow this legislation to be brought to the floor.

Mr. Speaker, the Blue Dog Budget Resolution would have been good for this Congress, and good for all Americans. I am proud to support it, and disappointed that the will of Congress was not heard on this important issue.

Outlined below are the specifics of the Blue Dog budget resolution:

GENERAL PROVISIONS

Saves 100% of the projected unified budget surplus ($24 billion in FY 99 and $225 billion over five years) for Social Security, and recommends that the unified budget surplus be reserved to fund the costs of Social Security reform legislation.

Reaffirms the principle that budget discipline should be maintained until the budget is balanced without relying on the annual surplus in the Social Security trust fund to mask an on-budget deficit.

Maintains discretionary spending at the levels included in the bipartisan budget agreement. Provides increases in functions for education, veterans, health care, research and other functions that were designated as priority functions in the bipartisan budget agreement. Allows for consideration of tax cuts if they are offset with mandatory spending cuts or increases in other revenues. Does not change budget rules to allow tax cuts to be offset by reductions in discretionary spending.

Identifies mandatory offsets that were not included in the transportation conference report that Congress could use to fund new mandatory investments or deficit reduction.

Incorporates the changes in spending from the TEA–21 Conference Report and conference report on S. 1150, the Agriculture Research, Extension and Education Conference Report, as estimated by CBO, in order to provide a credible budget blueprint that reflects the realities of Congressional action.

Does not reopen Medicare, Medicaid, federal retirement and other mandatory programs for additional reductions.

Does not count on revenues from tobacco legislation that may not materialize, but preserves the flexibility of Congress to consider tobacco legislation that provides funding for programs related to the tobacco settlement.

SOCIAL SECURITY

The Blue Dog budget saves 100% of the unified budget surplus for Social Security. The resolution contains a strong statement that Congress and the President should strive to truly balance the budget, without using the surplus from the Social Security Trust Fund. The resolution also states that Congress should use any accumulated or projected unified budget surplus to pay for the transition costs of Social Security reform.

TAX CUTS

The Senate Budget Resolution contained a tax cut reserve which would allow—but not require—Congress to enact additional mandatory savings and/or revenue increases for the purpose of tax cuts. The Blue Dog alternative would clarify that Congress could also use additional savings for debt reduction.

MANDATORY INVESTMENTS RESERVE

The Senate budget resolution included a transportation spending reserve that identified a variety of spending cuts that could be used to pay for increased spending on highways and mass transit. The highway conference report used most of the offsets identified in the Senate resolution, but there were a few offsets identified in the Senate resolution that were not used in the highway conference. The Blue Dog alternative would change the transportation spending reserve into a mandatory spending reserve that would allow—but not require—Congress to use the unused offsets that Senator DOMENICI identified for transportation (approximately $3.5 billion) for new mandatory investments. As with the tax cut reserve, the alternative would not spell out which, if any, initiatives Congress should fund with this reserve. The Senate Budget Resolution, with which we concur, identified the following area as key investments: child care, children's health education and research.

BUDGETARY IMPACT OF THE TRANSPORTATION AND AGRICULTURE RESEARCH CONFERENCE AGREEMENTS

The Blue Dog resolution incorporates the changes in spending from the TEA–21 Conference Report and conference report on S. 1150, the Agriculture Research, Extension and Education Conference Report, as estimated by CBO. The Blue Dog substitute does not endorse or reject the spending levels of the transportation bill, but incorporates the costs of legislation already enacted by Congress into the budget resolution in order to provide a credible budget blueprint. Likewise, including the budgetary impact of the agriculture research conference report is not an endorsement of the specific policies therein, but simply reflects the budgetary impact of the anticipated passage of that bill by increasing the allocation to Function 350, Agriculture and reducing the allocation for Function 600, Income Security to that would result from the enactment of S. 1150.

DISCRETIONARY BUDGET PRIORITIES

The discretionary allocations in the substitute are virtually identical to the Senate-passed resolution, with slight modifications within the discretionary spending limits established by the budget agreement. In response to the cut in spending for Veterans benefits in the TEA–21 conference report, the Blue Dog substitute increases the allocation for spending on discretionary programs in function 700, Veterans Benefits and Compensation, to allow spending on veterans health care to keep up with inflation. The Blue Dog resolution also contains higher discretionary spending in Medicare than the Senate-passed resolution by eliminating proposed fees on hospitals that are in the Senate resolution and has higher funding for discretionary programs in function 350, Agriculture and Rural Development.

These increases in discretionary allocations are offset by reducing the allocations for function 250, Science, Space and Technology and function 300, Natural Resources and the Environment below the allocations in the Senate-passed resolution.

The Senate-passed resolution increased discretionary spending in both of these functions substantially above the allocations in the Balanced Budget Agreement; even with the reductions the Blue Dog substitute still provides more funding in these functions than the budget agreement.

TOBACCO RESERVE

The Blue Dog substitute modifies the tobacco revenue reserve from the Domenici resolution to allow for consideration of tobacco legislation that used revenues from a tobacco settlement to fund programs related to the tobacco settlement. The Blue Dog resolution would not make any assumptions about the passage of tobacco legislation. The resolution would simply include language to establish a reserve fund that would allow the budget allocations to be adjusted if Congress considers deficit neutral tobacco legislation that uses the revenues from the tobacco settlement to extend the solvency of the Medicare trust fund and address tobacco-related issues, such as providing assistance for tobacco farmers and communities, creating smoking cessation and prevention programs, curbing teenage smoking, assisting States with the costs of treating tobacco-related illnesses, providing health care for veterans with tobacco related illnesses and funding federal medical research.

MEDICARE

The Blue Dog substitute includes a Sense of Congress provision encouraging the Ways and Means Committee to consider budget-neutral Medicare provisions that would address regional disparities in Medicare reimbursements and to examine the concerns of the home health care and hospital industries regarding implementation of Medicare policies.

CPI ACCURACY

The Blue Dog resolution does not include any proposals regarding CPI, but would contain a Sense of Congress provision encouraging BLS to continue to improve the accuracy of the CPI, particularly with regard to the remaining upper-level substitution bias.

Mr. Speaker, the Blue Dog proposal I have outlined today would have been the sensible middle ground in the budget debate. The legislation had bipartisan support—and its passage would have put an end to the partisan rhetoric and demagoging that we have heard on this issue today.

The American people want a budget—they do not want endless arguments and political posturing. The Blue Dog budget would have provided Congress with a reasonable compromise. It is indeed unfortunate that the Republican majority did not allow its consideration today.

Mr. VISCLOSKY. Mr. Chairman, I rise today to express my deep and serious concerns about the budget resolution brought to the floor today by the Republican Leadership.

First, let me say that I have nothing but respect for my colleague from Ohio, Mr. KASICH, and the work he has done during his tenure as Chairman of the Budget Committee. However, I believe the budget resolution produced by his committee follows a misguided set of priorities and would move our country in the wrong direction.

I am particularly concerned about the large tax cuts called for in this resolution. The measure provides for more than $100 billion in tax cuts over the next five years. I feel that the best tax cut for the American family is a balanced federal budget. Balancing the budget—and keeping it balanced—leads to lower interest rates, more job creation, and strong economic growth. With projections showing the federal budget will be balanced for the first time in almost 30 years, we should not risk returning to the era of deficit spending by enacting massive tax cuts at this time.

I am also concerned about plans to pay for these tax cuts by cutting more than $45 billion in discretionary spending. While I am tremendously pleased that we have finally managed to balance the budget, and I voted for the spending cuts enacted last year, we must realize that discretionary spending has already absorbed crippling cuts. In 1962, discretionary spending accounted for more than two-thirds of all federal spending. Today, discretionary spending accounts for about one-third of the federal budget, while mandatory spending takes up just under two-thirds of the budget.

The budget resolution asks us to continue this trend by cutting more than can be reasonably expected from discretionary spending programs, while doing virtually nothing to reform the entitlement programs that have grown so fast over the past thirty years.

Therefore, I believe we should resist calls to enact massive tax cuts and focus instead on balancing the federal budget and keeping it balanced. The spending cuts contained in last year's balanced budget agreement kept us squarely on the path to fiscal responsibility, which was begun in 1993. We will be far better off if we do nothing, and stick to that agreement, than if we follow the recommendations contained in the budget resolution we are considering today. And if, as projected, this year's budget should produce a surplus, I am committed to the following three priorities:

First, we should take steps to reform and provide for the long-term fiscal health of Social Security, Medicare, and other federal retirement programs without increasing the payroll tax.

Second, I believe it is absolutely imperative that we begin paying down the massive federal debt. Since 1980, the gross federal debt has grown more than five times in size to nearly $5.5 trillion. Today, the debt is two-thirds the size of our nation's Gross Domestic Product, and interest payments on the debt consume 15 cents of every dollar in federal spending.

Think about how much better off we would be if this money did not have to be spent on interest payments. For every $1 billion in debt we retire, we would save $55 million each year in interest payments. Most economists say that reducing the debt, and thereby shrinking interest payments, would reduce interest rates, increase savings rates, keep the tax burden down, and make more money available in both the public and private sectors to fuel continued economic growth.

Finally, we should be investing more in this country's economic infrastructure—such as roads, inland waterways, sewage treatment plants, and airports—in order to make American workers and businesses more productive and profitable.

Improving roads, updating sewer systems, modernizing airports, and making sure our communications system is ready for the 21st century enhances our international competitiveness and helps American workers remain the most productive in the world.

Despite the obvious benefits, many infrastructure projects are not receiving adequate funds or are simply being ignored. For instance, a 1995 Department of Transportation study found that nearly one-third of the roads in this country are in poor or mediocre condition. The Department of Defense estimates that it will be at least 12 years before adequate housing can be built for every soldier in the U.S. armed forces. The Environmental Protection Agency estimates the federal government will need to invest more than $275 billion to meet the nation's water and sewer system needs over the next 20 years.

Mr. Speaker, we have a moral responsibility to provide a solid and fiscally secure future for the generations that will follow us. The Republican budget resolution fails to provide a bright future for our children and grandchildren, and I urge my colleagues to oppose it.

Mr. BROWN of California. Mr. Chairman, as I stand here, I can't decide whether people should be laughing or crying. Is it low farce or dark tragedy to spend time doing the people's business debating a budget that virtually everyone knows is already dead? Today we debate the Budget Committee Majority's sorry, no account, buy today-pay tomorrow, credit card budget. In doing so, most Members on both sides of the aisle have been made reluctant participants in the spectacle of arguing over a corpse.

The Republican leadership seems to have concluded that since we have brought the budget deficit under control it is time to engage in the same sort of shenanigans that got us that deficit in the first place. And why not? Budget deficits have been very, very good to the Republican majority.

Mr. Clinton and Mr. GORE have brought us a smaller government and our booming economy and the 1993 budget agreement have led to a balanced budget. As a result, the Republicans don't have much reason for being. They have become the one trick pony of American politics whose sole excuse for political existence is to rail against irresponsible government excess. It is hard to show excess if there isn't a deficit, so Mr. KASICH's budget promises tax cuts today and pays for them with unspecified, politically unpalatable spending reductions somewhere out in the future. His budget would again put us on a path for deficits. I guess the Republican leadership believes that they can slip this by Americans with a lot of arm waving and thin promises of big tax cuts. I think that our citizens are smarter than that.

If this budget were ever to become the official congressional position, and I don't believe there is anyone in this room or in the other body who thinks for a minute that it will, it would require that we make radical cuts in transportation, housing, education and research programs. These are the very programs that improve the quality of life in this country today and promise a brighter life tomorrow. These are the same programs we have been cutting and freezing and cutting again for ten years as we wrestled with the deficit.

In Mr. KASICH's leaked plan his $100 billion in savings comes from dredging up such tired old turkeys as eliminating the Departments of Commerce and Energy and selling the Power Marketing Administrations—proposals that have been debated and repudiated time and again. Over five years, the Kasich plan would also have us terminate the advanced technology program and manufacturing extension programs at the National Institute of Standards and Technology, cut NASA by one billion dollars, cut energy research by four billion dollars and freeze the National Science Foundation.

Mr. KASICH would cut funding for education and training programs by $4.4 billion over five years. In housing, the Republicans would freeze Section 8 funding leading to a cumulative $18.5 billion shortfall in funding for these contracts through 2003. Flood insurance contributions would be cut by $1.7 billion leading to higher premiums for those living in flood plains and FHA would be cut by $2.2 billion over five years.

The Kasich plan not only fails to provide for Transportation spending increases this House just endorsed in the Transportation Equity Act, but actually cuts budget authority for these programs by $23.3 billion compared to the 1997 budget agreement. The image of this House embracing a massive transportation increase before the recess, with Members rushing home to brag about their pork, and then repudiating that policy by voting for this budget when we come back from recess reinforces the old adage that a week is a long time in politics. It makes me wonder if there shouldn't be a media warning for C–SPAN viewers that they could suffer whiplash from watching this body too closely.

We have been told that the reaction to Mr. KASICH's plan was so negative in his own party that it has been withdrawn. Now, instead of a plan of savings, the House is offered a lame line about giving Appropriators and Authorizers the freedom to find the savings on their own. Our Appropriations Chairman apparently took the Budget Committee at its word about having freedom. He has already issued his 302b guidance to subcommittees based on last year's budget agreement rather than the Kasich proposal. I guess we know what the Appropriators think of the viability of this budget. Perhaps their view was shaped in part by the public comments of the Chairman of the Budget Committee in the other body, a self-described friend of Mr. KASICH, who has generously described the House Republican proposal as a "mockery."

The Appropriations know what the rest of us know: this budget is an irresponsible package that supporters try to make palatable by coyly repeating that they are simply asking for a cut of one cent on every dollar of federal spending. Mr. KASICH and his friends are not such doe-eyed innocents as all that. They know that 70% of Federal spending is off the table when it comes to talk of cuts. That means the $100 billion necessary to reach the tax cut goal will have to be concentrated in just a handful of programs and those programs have been the target of cut after cut during the last ten years. There is a consensus, represented by last year's budget agreement, that investment programs such as education, transportation and research cannot bear further deep cuts. If there were the votes to do that, Mr. KASICH wouldn't have been beaten into withdrawing his plan. But he was and he has and for good reason. Instead of a plan, we have a dust storm of platitudes. Well, platitudes won't cover the tab for $100 billion in tax cuts.

Over the years there has been a lot of talk, especially from the other side of the aisle, about truth in budgeting. If truth in budgeting is more than a slogan, this House should unite in a bipartisan rejection of the Budget Committee proposal. Defeat the Kasich budget, embrace the Spratt alternative and give this House a shred of credibility as we embark upon the appropriations process and enter into budget conference with the Senate.

Ms. ESHOO. Mr. Chairman, I rise in strong opposition to H. Con. Res. 284, the fiscal year 1999 budget resolution. Last summer, the Congress and the President worked together to reach agreement on a balanced budget for the first time in 30 years. This resolution breaks that agreement. I cannot support this resolution, House Democrats will not support this resolution, and the President will not support this resolution. Even the Republican Chairman of the Senate Budget Committee said this resolution is a "mockery."

Ths resolution includes drastic cuts in nondefense discretionary spending. Even more outrageous than the magnitude of these cuts is the fact that the resolution does not specify which programs will be cut or by how much. However, the list of suggested cuts distributed by the Budget Committee clearly reveals the intentions of the Republican leadership.

The cuts are so broad and so sweeping that almost every American would feel the impact of this budget resolution. This budget resolution will gut environmental protections, law enforcement, low income housing, and health care for uninsured children. And it does nothing to protect Social Security. I'd like to list just a few examples of just how extreme this resolution really is. The budget resolution:

Eliminates Americorps;

Cuts the federal commitment to Mass Transit programs, which we just increased under the ISTEA reauthorization;

Freezes future spending on law enforcement, at the same time that Republicans argue that there is a lack of commitment to fight the war on drugs;

Ends the federal commitment under Title I which assists low-income areas meet their education needs;

Ends the work of the Legal Services Corporation;

Ends federal support of the Corporation for Public Broadcasting;

Ends federal land acquisition programs;

Reduces the Children's Health Insurance Program, which was part of last year's Balanced Budget Act, by 40 percent; and

Increases premiums for health insurance for all government employees.

Why are all these cuts necessary? Not to secure the future of Social Security. Not to protect the solvency of Medicare. Not to make the needed investment in our children's education. The cuts are "needed" so we can have another tax cut.

This is not a serious budget resolution. It is a empty political gesture and I urge my colleagues to reject it.

Mr. DIXON. Mr. Chairman, I rise today in opposition to H. Con. Res. 284, the fiscal year 1999 Budget Resolution. This measure would have a chilling effect on mandatory and nondefense discretionary spending, and its proposed $101 billion tax cut is a poorly timed move as we enjoy a stronger economy and budget surplus resulting from last year's Balanced Budget Act.

Although I am strongly opposed to with H. Con. Res. 284, I want to make clear that I support efforts to address the inequities in our tax code caused by the so-called "marriage penalty." I look forward to being in a position to support legislation that ends the current situation which requires some two-income married couples to pay more in taxes when filing jointly than they would pay if not married.

This is not that legislation.

H. Con. Res. 284 calls for $101 billion in spending cuts over five years. These reductions are separate and above those enacted in last year's budget agreement, with every dollar of these additional cuts coming from nondefense spending and all of the savings targeted for tax cuts. Of the spending cuts proposed $56 billion would be slashed from entitlement programs like Medicare and Medicaid and $45 billion from nondefense discretionary programs.

The $12 billion Medicaid cut will exacerbate the negative effects of last year's $10 billion cut in the program. The state of California is still struggling to provide health care to the poor and indigent, especially the many uninsured and Medicaid patients in Los Angeles County. These cuts could jeopardize the health service delivery reforms that the County has struggled to make under its current Medicaid waiver.

The resolution's Medicare cuts may also jeopardize the Health Care Financing Administration's (HCFA) ability to effectively administer the program, particularly since Medicare's administrative budget is already insufficient to meet the Agency's new responsibilities under the Balanced Budget Act.

With respect to the discretionary cuts, the proposed reductions include $290 million from important programs like the National Health Service Corps, the Agency for Health Care Policy and Research, and health professions' education. The GOP budget cuts $4.4 billion from crucial education programs like the Title I program for disadvantaged children, and recommends a voucher program which will only serve to undermine our public educational system.

The GOP budget resolution reneges on last year's budget agreement. While not perfect, the 1997 budget bill was the product of months of very difficult negotiations between the White House and congressional leaders. We must say no to these new cuts which will harm the most vulnerable of our citizens and threaten our current budget surplus by voting down the Kasich bill.

Mr. HILLEARY. Mr. Chairman, I rise in support of this budget. However, although this budget makes no recommendation on the funding of the Tennessee Valley Authority's (TVA) non-power programs, I believe that this Congress should carefully review two important new government studies of these programs.

TVA's non-power functions cover dam safety, reservoir management, water quality, and natural resource management, recreation, commercial navigation, environmental cleanup and other programs. Last year, Congress appropriated $70 million along with the Appropriations Committee issuing report language claiming that TVA ratepayers should be expected to fund the non-power programs beginning in fiscal year 1999.

Recently, however, both the General Accounting Office (GAO) and the Office of Management and Budget (OMB) have issued reports within the past month reviewing the nature of TVA's non-power programs. Both of these reports conclude that TVA is performing services that are clearly federal responsibilities.

In many cases, these are services currently performed by the Corps of Engineers elsewhere in the country and paid for out of the federal treasury.

It is simply not fair to the taxpayers of the Tennessee Valley region to ask them to pay for items that are clearly federal stewardship responsibilities in their own area through higher power rates, while at the same time taxing the people of the Tennessee Valley to pay for these same services that the federal government provides everywhere else in the country.

The OMB report concludes that "In the Administration's view, the no-power programs that TVA now operates are essential for prudent stewardship of the resources TVA manages." The report further states that TVA programs continue to be important to the Tennessee Valley region and the country."

It is my hope that in the interest of fairness and equity, this Congress will continue to appropriate funds for the federal stewardship responsibilities performed by TVA just as this Congress accepts and appropriates funds for these same responsibilities elsewhere in the United States.

Mr. WELDON of Florida. Mr. Chairman, I rise in support of this budget which will move this nation in the right direction. It provides important tax relief for my constituents, including eliminating the marriage penalty which makes married couples pay higher taxes just because they are married. The marriage penalty is morally wrong and I am pleased that we are moving forward to eliminate this unfair tax.

This budget provides tax relief while funding programs that are very important to the 15th District of Florida. In particular, I am pleased that the budget provides stable funding for NASA, by funding NASA at least as high as the president's budget. On page 164 of the budget, it states that the budget, "Assumes the administration's funding levels for NASA." This will guarantee stable funding for the Space Shuttle, Space Station and other critical NASA programs important to my constituents who work at Kennedy Space Center (KCS). I thank the Chairman for hearing my request on behalf of my constituents and responding positively.

Mr. PALLONE. Mr. Chairman, I, like most Members of the House, strongly oppose the Republican Leadership's budget, because it betrays the values of working American families on several fronts. We have heard of the painful cuts to seniors' and children's programs. But just as devastating are the cuts in environmental protection, in particular the cleanup of our nation's 1,300 toxic waste sites—known as Superfund sites.

As a representative from New Jersey, which has 117 of these 1,300 sites—more than any other state, I am offended by this blatant disregard for the health and safety of those families that are forced to live every day with the threat of a Superfund site in their midst.

One in every four Americans, including 10 million children below the age of 12, now live within 4 miles of a Superfund site. These sites can pose serious health and environmental risks to surrounding communities—and particularly children. Fifty percent of the Superfund sites assessed by the Agency for Toxic Substances and Disease Registry in fiscal years 1993 through 1996 were classified as definite public health hazards, and another 30 percent were of indeterminate hazard.

Already this year, cleanup work at up to 171 of these Superfund sites around the country has been delayed due to the Republicans' refusal to provide the funding necessary to expedite cleanups. This includes cleanups at sites in 44 of the 50 states—and three sites in my district alone.

And now with the Kasich budget and its $5 billion cut in environmental spending, the Republicans are asking 1 in every 4 Americans to hold on—and live with that nearby Superfund site just a little bit longer. The Republicans are telling 1 in every 4 Americans, including 10 million American children, that cleaning up these toxic sites is simply a luxury we can't afford, something that the federal budget simply does not have room for.

Democrats want to speed up the cleanups of these public health threats. We want to fund the Superfund program at a level at which two-thirds of all toxic waste sites in the country will be cleaned up by the year 2001.

I urge my colleagues, on behalf of 1 in every 4 Americans, to vote for a healthy environment for our children and against the Republican Leadership's budget.

Mr. STARK. Mr. Chairman, this week, the House considers the Republican Leadership's Budget Resolution for FY '99 (H. Con. Res. 284). The Budget Committee approved a resolution on May 20, 1998 by a margin of 22–16 with every Democratic Member opposing the measure.

While I could not have come to this floor to support the Committee-passed resolution, what is before the House today is even worse than the product that the Republicans voted out of Committee.

Today's Budget resolution is a cruel and direct attack on the least advantaged Americans. It shows the majority party's true colors. They are willing to make our children pay the price for their politics in three significant ways:

The government infrastructure that benefits the common good and each individual family—our schools, our environment, our park systems, our crime fighting programs—is cut to the bone.

Programs providing a safety net for the neediest families with children are gutted. A $10 billion cut in the Budget category 600 translates into a 25% cut in budget authority for Temporary Assistance for Needy Families.

The proposal to spend $100 billion today on tax breaks for the wealthy to please voters at November's polls instead of investing it for Medicare and Social Security solvency will only devastate our future federal budgets—and our children will pay the price.

My colleagues on the other side of the aisle say that it is not the role of government to help the downtrodden, the disabled, the children who happened to be born into families without means.

But is it the role of government to hurt them? That's just what this resolution would do.

This budget must be viewed in the context of the economy. We know that this era of prosperity has passed many Americans by. Although we have had a long period of economic recovery, our economy has not been that robust until the last year or two. In fact, during the first three years of the recovery (1991 to 1993), 80% of Americans experienced declines in income.

As the economy grew more robust during the Clinton administration, workers experienced some income gains but, in spite of these more recent gains, the gap between the rich and the poor continues to widen. Improvements in wages were just not enough to erase 20 years of falling and stagnating wages.

Census Bureau data analyzed by the Center on Budget and Policy Priorities dramatically demonstrates this growing income inequality in 48 out of 50 states:

Between the late 1970s and the mid-1990s, the incomes of upper-income families with children increased in every state. On average, incomes of the richest fifth of families increased by 30%, or nearly $27,000, after adjusting for inflation. In sharp contrast, incomes of the poorest families with children decreased in 44 states in this period. The decline in the real incomes of the poorest families with children averaged 21 percent, or $2,500.

In the U.S. as a whole, Census data shows that the poorest 20% of families with children had an average family income of $9,250 in the mid-1990s, while the average income of families in the top 20% of income distribution was $117,500, or 13 times as large.

The income gap is not just between rich and poor. The gap has also increased between middle class and high income families between the late 1970s and the mid-1990s. By the mid-1990s, there were 40 states where the gap between the highest income 20 percent of families and the middle 20 percent of families with children was larger than it had been for any state during the 1970s.

This data is clear: economic prosperity has not been broadly shared in America. The poverty rate for children has not declined. More than one in five children lives in poverty. Although children represent one-fourth of the population, they comprise nearly 40% of the people living in poverty.

Nor has the pain of budget choices been broadly shared. Under this Budget plan, the young and the poor bear the pain, and the rich share the gain.

The Leadership's Budget cuts domestic spending by $101 billion over the next five years—a 19% reduction below the amount needed to keep up with inflation by the year 2003.

This is a huge cut below the already tight spending levels approved in last year's budget agreement. And, since the Republican budget does not include funding for the highway bill, the actual cuts would be even deeper.

More than 40% of the cuts fall on low-income families, even though these programs make up only 23% of all mandatory spending.

The Republican budget cuts Medicaid and children's health by $12 billion, and cuts education by $5.7 billion over five years.

The most insidious cut of all is the cut in the budget category 600. This category includes the Temporary Assistance for Needy Families program (TANF).

The TANF block grant replaced AFDC, the JOBS program, and Emergency Assistance.

Cutting TANF reduces the funds states have to spend on providing basic supports for children. It also reduces state funds to pay for caseworkers to assist families making the transition from welfare to work. It reduces the funds to assure needy families with children obtain the education, training and employment assistance they need to help them become self-sufficient and avoid long-term welfare dependence.

If the TANF block grant budget authority is cut from $16.4 billion to $12.4 billion each year to achieve $2 billion in outlay savings, as CBO estimates, and all the cuts came from TANF assistance: Benefits for all TANF families could be reduced by about 25% which would require the "average" welfare family of 3 to live on about $275 a month; benefits for about one-quarter of TANF families could be eliminated ending assistance for approximately 1.5 million children; and basic education and job skills training needed for parents to become employable could be reduced or eliminated for up to 2.9 million parents trying to get back to work.

States would have $10.2 billion less over 5 years to make the promote job preparation to get families off of public assistance, to prevent and reduce the incidence of out-of-wedlock pregnancies, and to provide child care for needy children.

In spite of our budget surplus and beyond our targets agreed to in the Balanced Budget Act, this resolution cuts to the quick every way our government works to make life better for Americans.

Why? So we can give $100 billion in tax cuts and still have a balanced budget?

The Chairman of Ways and Means has floated various tax cuts but they all disproportionately help the upper bracket folks: estate tax relief, deeper capital gains cuts, exclusions for interest and dividends, reductions in the alternative minimum tax and marriage penalty relief. Even the accelerated deductions for health insurance provide more relief for those in the upper brackets than for taxpayers with lower wages.

The tax cuts are unfair and unwise when we know we must address solvency issues in both Medicare and Social Security.

In keeping with our vote today on school prayer, I hope I can reach the hearts and minds of my colleagues with a story about Moses.

About 3000 years ago, Moses interpreted the Pharaoh's dream of 7 fat cattle and 7 starving cattle as a prediction that Egypt would have 7 years of feast, and then 7 years of famine. Like a wise ruler, the Pharaoh saved some of the surplus of the 7 good years, so that the people of Egypt could survive the 7 years of famine.

That was a pretty big gamble the Pharaoh took, relying on someone else's interpretation of a dream.

He could have made everyone happy for 7 years and seen his approval ratings reach deity levels. He could have abolished the tax code and built and built a few extra pyramids for his best friends. Instead of the 3 pyramids of Egypt, he could have had 4 or 5. He could have built a dozen sphinxes.

But no, he was wise, and saved for a possible disaster—and the disaster came.

We don't need Moses to analyze the demographics in America.

We know that our current surpluses are temporary and will turn to deficits. We know that Medicare and Social Security will either have to be cut or taxes raised in the next 10 years. We also know that we can make the problem infinitely easier to solve if we save today's surpluses for tomorrow's shortfalls.

God doesn't have to give us a dream for us to figure out the right policy here.

If we don't pass a budget that saves for future needs, our children will wonder if we were so dumb that we could not to see the obvious coming—or just too foolish not to prepare for it.

Mr. Chairman, I cannot support this budget that guts safety net programs for our children so that it can give tax breaks to the wealthy. I urge my colleagues to reject it as well.

Mr. WAXMAN. Mr. Chairman, this budget resolution is an outrage. If it were not for the seriousness of the subject, this proposal would be laughable. Surely no responsible legislator on either side of the aisle can vote for this resolution.

Let's look at just one of the worst things this budget proposes to do: destroy the Medicaid program and cripple the child health program written with such fanfare only last year.

This budget slashes those programs by $12 billion dollars over the next five years. That's actually $2 billion more than the Balanced Budget Act took from Medicaid. And every one of the Members in this House—certainly every one on the Commerce Committee—remembers how difficult and painful those cuts were.

Now this budget says let's do it again.

How do they think that can be accomplished? Well, the May 12 document suggested block granting the acute care part of the program; that's the code word for taking away the entitlement to services that elderly and disabled people, pregnant women and kids, rely on to get decent medical care and nursing home services.

And nobody should be fooled into thinking the long term care part of the program would be spared. The actual budget proposal takes more than twice as much money out of Medicaid as the May 12 document assumed—so it is obvious that all the protections in all parts of the program—including nursing home care—are on the chopping block.

Some people must have some pretty short memories around here. Maybe they've forgotten that when you do this to Medicaid, you are saying to widows that there's no Federal protections to keep spouses from being impoverished when their husband or wife goes into a nursing home. That you are saying to people in nursing homes that the Federal Government washes its hands of any responsibility for decent quality, staffing and services in nursing homes.

Maybe they've forgotten that it means saying to low-income Medicare beneficiaries that they won't be able to rely on help from Medicaid for services like prescription drugs or help with their cost sharing and premiums. Why the May 12 document says specifically that it would "grant Governors the flexibility to determine how best to address provisions for beneficiaries with overlapping benefits." That's shorthand for saying there's no more Federal guarantee that poor Medicare beneficiaries will get any extra help.

Or should we assume that Mr. KASICH and his majority at the Budget Committee think States will just cut services for kids instead?

Is that the policy they want us to endorse?

Let's see, what else could they have in mind. Do they mean to slash the DSH program so there's nothing left? Or just let people be pushed in managed care plans with a totally inadequate capitation rate? That's certainly an effective way to undermine any quality care in those settings.

All this is made more outrageous because we already slashed this program last year. We've already seen such a dramatic slowing of the growth in the numbers of people covered by Medicaid that it's virtually flat.

We've got a surplus, for heaven sakes. But the philosophy behind this budget seems to be, well let's cut taxes anyway, and let poor people bear the brunt of paying for it. Because in this budget, it's programs for poor people that take the massively disproportionate share of the cuts.

This is idiocy. It's mean spirited, it's indefensible. If you vote for this budget, you might as well just say flat out to poor widows and poor kids in your district and all over the country—forget any guarantee of decent medical care. Forget any protections in Medicaid.

There's lots of other reasons to vote against this budget. But what it does to Medicaid is reason enough. Vote no.

Mr. VENTO. Mr. Chairman, I rise today in strong opposition to the GOP Budget Resolution reported out of the Rules Committee. In this Resolution the GOP Majority has turned its back on the commitment and coherent budget agreement Congress crafted last year. The GOP reneges and risks our recent success toward balancing the budget and maintaining investment in areas of critical need to our nation and people. Instead, the GOP Majority has opted to put forth a measure which will force massive cuts in areas important to our nation's future such as health care, child care, education and the environment. This is not governing. This Republican budget clearly demonstrates irresponsibility, abandons the promise to save Social Security first, kills important investments in our children's future and clearly neglects the American people.

The Majority Budget Resolution will cut an additional $101 billion below last year's budget agreement in people's programs. Although the Republican rhetoric attempts to characterize such cuts as simply being 1 cent out of every dollar over the next 5 years, the reality is much more alarming than their rhetoric would lead Americans to believe. It takes billions from people's programs, Medicaid, TANF, education, veterans medical benefits, crime fighting efforts and natural resources. Furthermore, the GOP Budget does not add up. At a time when our country is in its greatest period of economic growth, when the budget deficit is on the way to elimination due to the major work done by the Democratic Majority in Congress and President Clinton in 1993—without a single GOP vote—and a surplus of $40 billion is projected this year 1998, congress should be seizing this opportunity. We should offer a 1999 budget which invests in working families and provides the tools and resources that increase the ability of all people to thrive in our nation's booming economy and has a paramount focus on insuring Social Security and Medicare's long-term viability. Instead, we have a GOP budget that miserably fails this test and our country.

The proposals contained in this Budget Resolution continue the Republican's war against health care. Last year, congress set our Medicare reductions of $115 billion for five years. Initial provisions in this year's GOP Budget proposal sought more than $22 billion in yet new cuts to Medicare and Medicaid on top of what is already set out in law. The Republicans planed to use these new cuts to finance a tax cut for America's wealthiest taxpayers. Only after intense criticism from within their own party and Democrats, the GOP Leadership opted to drop the Medicare cuts, but not the cuts which savage Medicaid. And the new children's health care program. This change relays a negative message to the elderly and the low income families and the disabled who were promised and deserve quality health care.

The Republican Budget cuts $5 billion from natural resources and environmental protection programs. this is money that could be used for the Environmental Protection Agency, Superfund, our National Parks, National Forests and Wildlife Refuges, protecting endangered species and funding important environmental cleanup. Protecting the environment and preserving the earth's natural resources should be a top priority in congress. A close look at this budget leads to the conclusion that the GOP Majority is indifferent to its stewardship responsibilities to this nation and land.

Last year's Balanced Budget Agreement explicitly assumed full funding for all Section 8 Housing expiring contracts through 2002. However, this year's budget fails to maintain the number of households who currently receive assistance by refusing to allocate funding for existing Section 8 contracts as they expire. This simply is a broken promise. Failure to renew expiring contracts will not only reduce the number of assisted households, it could force currently assisted tenants to face sharp rent increases, displacement or eviction.

In response to the concerns of the growing number of people whose Section 8 housing contracts that are scheduled to expire, the Republicans included no outlays for that purpose in their Budget, virtually making the budget authority unusable. Furthermore, according to the Congressional Budget Office, a freeze in renewing Section 8 contracts would ultimately mean one million households would lose federal housing vouchers and certificates by 2003. Today, rental housing assistance provides Section 8 tenant-based and project-based programs to over 3 million households. Forty-six percent of this total are working class families with children and 32% are elderly. This will force needy persons into the streets and into homelessness.

In addition, the Republican plan slashes education programs by $5.7 billion over the next 5 years. It eliminates direct federal funding to school district by repealing Title I grants and suggests that such programs be made into some sort of vouchers. These grants are essential in providing supplementary education and related services in low-achieving children attending schools with relatively high concentrations of pupils from low-income families. These additional cuts deprive our elementary and secondary schools of much needed resources that could be used for more teachers in our classrooms and internet access for all schools.

Furthermore, the Republican budget freezes every program it does not cut, specifically veterans' medical care, law enforcement, Superfund and Head Start. This adds up to real cuts when even a lowered inflation rate will depreciate the level support provided in this Budget blueprint. The reality is that 40% of these cuts impact hard working, low-income families that deserve our help and encouragement not the shabby treatment accorded in this GOP budget blueprint.

Moreover, just last night the Republicans dropped a special provision allowing Congress to use the anticipated budget surpluses on a convoluted, untested proposal offered by the Speaker: "private retirement accounts." Such accounts are a unilateral, premature, partisan maneuver that is intended to superimpose this idea in place of a bipartisan agreement to truly strengthen and save Social Security first.

Deciding now to use the surpluses for tax incentive private accounts before addressing Social Security's long-term problems would siphon off resources that will be needed to maintain the solvency of the Social Security Trust Fund. Budget surpluses should be reserved until a Social Security Commission, the President, and the Congress address the long-term requirements of Social Security. This represents just another step in the Republican agenda to eliminate the Social Security Insurance program and squander away the projected budget surplus upon half baked schemes. While abandoning the specifics it is still the intent of this budget to tax expend the dollars, so one bad idea may just be replaced with another and have a similar impact of disregarding the commitment to save Social Security first.

Overall, this budget fails to meet the needs of the American people. The Republicans are a majority in Congress; it is their responsibility to put forward a plan that can actually be implemented and to govern. Because the Republican plan cuts so deeply and unfairly, and because it deviates so markedly from last year's bipartisan budget agreement, it hopefully stands little chance of being implemented. Attempts to implement it will ensure confrontation with the GOP Senate, Presidential opposition and a strong no vote from most Democrats.

After forty five days late without a budget proposal, the nation has a right to expect the GOP Congress to step forward with a sound budget plan—a budget that is not just another political, partisan scheme loaded with the tax break promises for special interest groups, more punitive, punishing cuts on the working poor and undercutting retirement, health and education programs so vital to our constituents' and nation's future. It seems that this GOP led Congress would blow a free lunch after they were handed a working model crafted by the gutsy votes of 1993 Clinton/Democrat Congress. That proposal has changed the economic path from deficits as far as the eye can see to an economic path based upon sound economics and a surplus this year and hopefully in to the future.

Here we go again. After last year's tax breaks and budget deal the GOP majority reneges in the name of an election issue. The Republicans attempt to break the 1997 Budget agreement and attempt to make a virtue of tax breaks for the special interests and breaking faith with Social Security and Medicare. Make no mistake about it this will break the budget. This is the same old GOP tax break siren song that the band plays when the GOP is asked why the numbers didn't add up—Play it again, Sam!

Mr. COYNE. Mr. Chairman, I rise today in opposition to H. Con. Res. 284, the budget resolution offered by the Chairman of the House Budget Committee. I believe that this budget plan is seriously flawed.

Thr proposed budget resolution would cut $101 billion in federal programs over the next 5 years in order to finance a tax cut of comparable magnitude. I am concerned that spending cuts of such size—in the wake of the budget cuts of recent years—would have a powerful negative impact on my district that would not in any way be justified by the benefits that the proposed tax cut could provide. I am especially concerned about the impact that this level of program cuts would have on the most vulnerable members of our society—children, seniors, the sick, and the poor. Our top priority must be to—at least—maintain the existing federal safety net for those individuals who desperately need it.

Moreover, it is my understanding that while the report on the budget resolution recommends that some or all of the spending cuts be used to eliminate the marriage penalty, the bill does not do that, nor would it take $101 billion in savings to do so. While the Budget Committee report on H. Con. Res. 284 is rather vague, it seems likely that much of the savings from the $101 billion in proposed spending cuts would be used for the kinds of tax cuts for the rich that usually characterize Republican tax legislation. In fact, H. Con. Res. 284 would not actually eliminate the marriage penalty in the tax code. The report only urges the Ways and Means Committee to use the savings produced by the resolution to eliminate the marriage penalty. The Committee—and Congress—would in no way be bound to do so.

I want to make it completely clear that I support efforts to address the marriage penalty in the tax code—I am a cosponsor of legislation that would make just such a change—but that the proposed level of spending cuts are not necessary to address the marriage penalty.

Nor do I believe that we should pay for tax cuts for the rich by cutting important federal education programs, infrastructure programs, environmental protection programs, research programs, anti-poverty programs, and health care programs. Some of the cuts assumed by this budget resolution would harm the most needy members of our society and rapidly reduce the quality of life in many of our communities. Other assumed cuts—like those eliminating critical investments in federal research, education, and infrastructure programs—would in the long run prove to be counterproductive;

such federal programs are necessary in order to maximize our nation's future economic growth. Moreover, many of the program cuts and eliminations assumed in this budget resolution have been considered and rejected repeatedly by Congress in previous years. If the Members consider the implications of this budget carefully, I am certain that a majority of them will reject it.

I have a number of other serious concerns about this budget resolution. It is back-loaded—all the painful cuts would take place in the out-years after the November elections. It would change the pay-as-you-go provisions of the Budget Act that have helped to impose the necessary fiscal discipline on Congress. And, finally, it contains none of the President's important initiatives on education, child care, health care, and the environment.

In short, this bill has a number of major flaws. The bill does too little to preserve Social Security. The spending cuts in this budget resolution are excessive and unwise. Many of the specific spending cuts that are assumed in the resolution have been rejected before. And, finally, while Congress should address the marriage penalty, it could do so without the level of spending and tax cuts proposed in this budget resolution. For these and the other reasons described above, I oppose this bill. I urge my colleagues to join me in defeating this unwise, irresponsible legislation.

Mr. OWENS. Mr. Chairman, it is highly likely that there will be a budget surplus of no less than 50 billion dollars for the coming budget year. For the first time in many decades there will be a window of opportunity to make meaningful federal investments in education. Unfortunately, the federal share of the overall expenditures for education is merely seven percent at present. This budget surplus offers an opportunity to bolster our national security by increasing the pool of brainpower to operate our increasingly complex society. I propose that the new budget surplus be divided in accordance with clear national priorities. One fourth of the surplus should be set aside for social security; one fourth should be used to give tax relief to families earning less than 50,000 dollars a year; one fourth should be allocated for direct emergency funding for school construction; and one fourth should be invested in other education priorities such as smaller class sizes, education technology, books, equipment, etc. This represents a worthy budget deal which should immediately be placed on the table for discussion and debate. We need an open debate on the best use for the surplus. What American voters should fear is a closed door, smoke-filled room deal in October with only representatives of the Republican controlled Appropriations Committees (House and Senate) and the White House present. A multibillion dollar deal is going to be made. Let this deal be done in the sunshine. Let's do a deal for the children of America.

DO THE BUDGET DEAL NOW

Start acting real
Right now do a democratic deal
Do this magic surplus deal
Upfront right away
Chase infected cynics
Off the political highway
Make humane rules
Build safe schools
Start acting real
Right now do the deal
Sunshine is now okay
Act fast in the light of day
Invest it the people's way
Stop pushing the no touch lie
In four pieces cut the pie
Start acting real
Right now do the deal
Vote for children's justice fast
Make up for the stupid past
The budget is on even keel
Upfront right away
Do this magic surplus deal.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOEHNER) having assumed the chair, Mr. NEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003, pursuant to House Resolution 455, he reported the concurrent resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 216, nays 204, answered "present" 1, not voting 13, as follows:

[Roll No. 210]

YEAS—216

Aderholt
Archer
Armey
Bachus
Baker
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella

Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—1

Souder

NOT VOTING—13

Ballenger
Furse
Gonzalez
Johnson, E. B.
Kennedy (MA)
LaFalce
Lewis (GA)
McDade
Mollohan
Paul
Ros-Lehtinen
Sabo
Tanner

☐ 1446

Mr. HILL changed his vote from "nay" to "yea."

So the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEWIS of Georgia. Mr. Speaker, had I been present for rollcall vote 210, I would have voted "no."

GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. BOEHNER). Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, last night I was unavoidably absent and missed Rollcall Votes 203 and 204. Had I been present I would have voted yes on Rollcall Vote 203 and yes on Rollcall Vote 204, a conference report for a bill authorizing agricultural research and extension programs and restoring food stamps benefits to certain legal immigrants.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1054

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 1054.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from South Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I ask consent to speak out of order to inquire of the distinguished majority leader the schedule for today, the remainder of the week and next week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the distinguished majority leader from Texas to give us a little information on where we are headed here, this weekend and next week.

Mr. ARMEY. Mr. Speaker, I am pleased to announce that we have concluded legislative business for the week. The House will next meet on Tuesday, June 9, at 12:30 p.m. for morning hour and at 2 o'clock p.m. for legislative business. On Tuesday we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices this afternoon. After suspensions, the House will take up H.R. 2709, the Iran Missile Proliferation Sanctions Act under a closed rule. Members should note that we do not expect any recorded votes before 5 o'clock p.m. on Tuesday, June 9.

On Wednesday, June 10, the House will meet at 9 o'clock a.m. and recess immediately for a joint meeting to receive the President of South Korea. Following the joint meeting on Wednesday and on Thursday, June 11, the House will consider the following legislation:

H.R. 3150, the Bankruptcy Reform Act of 1998 and H.R. 3494, the Child Protection Sexual Predator Punishment Act of 1998. Mr. Speaker, there is also a chance that we may consider H.R. 2888, the Inside Sales Act. The House will also continue consideration of H.R. 2183, the Bipartisan Campaign Integrity Act of 1997.

Mr. Speaker, we hope to conclude legislative business for the week on Thursday, June 11, and I thank the gentleman for yielding me the time.

Mr. BONIOR. Mr. Speaker, I would ask of my friend from Texas, and I thank him for his information for next week, and I would just note to the gentleman from Texas that also on the schedule for this week I noted that he had campaign finance on the schedule for next week. It was supposed to be on the schedule for this week, and of course we did not get to debate campaign finance. And in addition to that I note that the Committee on Rules has reported out the second rule making in order hundreds of nongermane amendments, and we are concerned on this side of the aisle that it appears that there is going to be or is in progress right now a filibuster by the majority on this piece of legislation.

And my question to my friend from Texas is are we going to do campaign finance next week?

Mr. ARMEY. Mr. Speaker, if the gentleman will yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for his inquiry, and if I may say to the gentleman, I too appreciate and share his disappointment about our having not gotten back to this subject this week, and let me assure the gentleman that it is my intention that we will be able to spend time on that, and it is my intention to move forward as expeditiously as we can. We had such a broad-based expression of interest on the part of so many Members with so many different points of view on this matter that the Committee on Rules did in fact act as inclusively as possible, and that clearly, as said, as the gentleman has identified, is a job that is going to take a great deal of floor time, and if I may assure the gentleman it is my commitment to get that floor time, make it available and to have this debate on an orderly continuing basis until we complete the work.

Mr. BONIOR. I would say to my friend from Texas, having served on the Committee on Rules for 14 years, that the gentleman from Michigan is well aware of how not to bring a bill up, and how to bring a bill up and never get to a bill, and how to bring a bill up and never get to the bill, and try and get to the bill and talk it to death. And it appears in this case that all three techniques are in play. I am very concerned that we may not reach a conclusion on this bill, and I want to assure my friend from Texas and my colleagues on the other side of the aisle, those who are in fact not interested in this bill are getting and reaching a conclusion on this bill that we are going to do all that we can to make sure that the debate is orderly, timely, that we come to some closure on the bill, and we have been very disappointed so far this session in the progress or lack of on this legislation. It was not brought up, it was brought up under a procedure several months ago that I think most folks who follow this bill considered, and if my colleague will pardon the strong language, a sham, and now we are in a process of a very inclusive and open procedure, as my friend has mentioned, but one which will, in fact, if pursued to its ultimate, lead to no conclusion at all, and this again will not have happened.

So it is with great concern that I rise to express my concern and disapproval of how this has been handled so far, and I hope that we have an orderly, fair debate so all sides can be heard, that we can reach a conclusion and come to closure on the important questions surrounding the issue of campaign finance reform.

Mrs. MALONEY of New York. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentlewoman from New York.

Mrs. MALONEY of New York. I rise really in support of Mr. BONIOR's statement and would like to add to it that it has been indeed a very long time since that historic handshake of the Speaker in New Hampshire, where there was a promise to bring campaign finance reform before this body. Again we were promised that it would be brought before this body in May. We were told that it would be brought before this body in June. We are now in the second week of June, and it seems to be a continuing case of promises, promises, promises, yet never a reality.

And I would like to ask the gentleman, to underscore the question that Mr. Bonior asked, is this a new form of filibuster? Or are we going to have debate and a vote in this body, specifically where we have a vote before July 4th of this year so we can get it to the House, so it can get to the President's desk?

Mr. BONIOR. I yield to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. I thank the gentleman from Michigan for continuing to yield, and I want to thank both the gentleman from Michigan and the gentlewoman from New York for this affirmation of commitment. It is not often I find myself with a shared sense of commitment with the gentleman from Michigan, the gentlewoman from New York.

Let me say it is my intense purpose to work with the legislative schedule in such a manner as to make all the time that I can find available for the purpose of carrying on this important debate, with ample notice for all parties at each point of resumption, to consistently and completely and comprehensively cover this subject, have all the votes and move it forward.

And I do not know how I can emphasize in more emphatic terms my conviction to get this done, and I appreciate so much the gentleman from Michigan and the gentlewoman from New York's willingness to work with me towards that end.

Mr. BONIOR. Mr. Speaker, I yield to my friend from Texas (Mr. DOGGETT).

Mr. DOGGETT. I am greatly encouraged by the gentleman's comments in this regard and would just want to be sure I understood them correctly.

As you know, the Committee on Rules, in addition to any germane amendments that Members might have, has approved the consideration here on the floor by special rule of 259 nongermane or irrelevant amendments, which I think is more nongermane amendments than they have accrued on all of the bills that have been considered while the gentleman has been majority leader.

Is it the gentleman's intent then when we begin consideration of this bill next week to work through to the end rather than to start stop, start stop, start stop, as we have done today in an effort to kill the bill?

Mr. ARMEY. I appreciate the gentleman's observation of the sequencing of events. I am afraid I have to disagree with the gentleman's characterizations of the motive. Nevertheless, so many of those amendments that were offered, so many of the substitutes that were offered, come from the gentleman from Texas' side of the aisle, germane or nongermane. The Committee on Rules was very generous and accommodating to all Members of the Congress. We have before us a very large task, and I will and do have a high priority of returning to that work as frequently and for as extended periods of time as I can manage in coordination with the other legislative business before this body. It is a priority of mine, and I will emphasize that in every planning session I have, and I certainly appreciate again the willingness of the gentleman from Texas to work with me on this, and I am looking forward to everybody feeling confident that they were treated fairly under the rule, they were included, and they do have their opportunity to present their ideas and enter this debate.

□ 1500

Mr. DOGGETT. I thank the gentleman very much. Does the gentleman believe then, as the gentlewoman from New York asked, that we can see this work completed before July 4?

Mr. ARMEY. Mr. Speaker, if the gentleman would yield further, I would hope so. I cannot guarantee. As the gentleman from Texas knows, it is very difficult to guarantee anything in terms of a date certain time-line and so forth. But let me just say to the gentleman, if I can say it in perhaps the most colorful way that is allowable within the rules of discourse under debate, it is my intent to have this done, completed, thoroughly giving everybody their opportunity, and out of my life by July 4, if at all possible.

Mr. BONIOR. Mr. Speaker, I would ask one other question to my friend. Does the gentleman expect late nights next week, and, if he does, will there be accommodations for the White House event that is scheduled for Thursday evening?

Mr. ARMEY. Again, I thank the gentleman. If the gentleman would yield further, we would try to hold it to no more than moderately late evenings, but the White House event of which you speak, of course, is something that we will accommodate to the maximum of our ability in the schedule.

Mr. BONIOR. I thank the gentleman.

Mr. ARMEY. Since the gentleman from Michigan (Mr. BONIOR) has the time, I wonder if the gentleman from Michigan would be willing to yield time to the gentleman from Arizona (Mr. STUMP) for an announcement that I think of great interest to this body.

Mr. BONIOR. I yield to my friend the gentleman from Arizona (Mr. STUMP).

ANNOUNCEMENT OF DEATH OF BOB HOPE

Mr. STUMP. Mr. Speaker, I have the sad responsibility to tell you this afternoon that Bob Hope has passed away. For those people in uniform, from the early days of World War II through the Gulf War, no man or woman in uniform ever had a better friend than Bob Hope.

Bob Hope always said he would never stop entertaining. He said that as long as he was able, "I am not retiring until they carry me away," he said, "and I will have a few routines on the way to the Big Dipper."

We will all miss him very much. As you know, we honored him just recently. For the first time in the history of this country, we made an honorary veteran. That took place in the rotunda of the Capitol. We are all going to miss him.

Mr. BONIOR. I would add these comments to my friend from Arizona, that we are all saddened by his passing. He has provided so much joy and happiness to our planet, and to our servicemen and women in particular. He was a great American, a great world figure, and we thank him for the memories.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1766 AND H. CON. RES. 240

Mr. DOGGETT. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor from H.R. 1766 and H. Con. Res. 240.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRIBUTE TO PAGE CLASS OF 1998

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. KOLBE. Mr. Speaker, I rise today as we do traditionally on the last day that our pages are with us, to recognize them, to talk about the program and the contributions that they make to the House of Representatives and to all of us individually.

The gentlewoman from Florida (Mrs. FOWLER), the Chairman of the Page Board, wanted very much to have been here to do this herself, but she had to catch a plane from Baltimore and so has left us. But, Mr. Speaker, I will include at this point in the RECORD the remarks of the gentlewoman from Florida (Mrs. FOWLER) and the list of all the pages who have served us this year.

Mrs. FOWLER. Mr. Speaker, I rise today as Chairman of the House Page Board to give my heartfelt thank you to all of the wonderful and talented students who have been involved over the last year in the House's Page Program.

I know the hard work and, at times, late hours involved in being a page. But I can assure you that it is good practice as you embark college and eventually a career. This program is designed to give you a rich experience as to how our democratic government works. As you leave these marble buildings I hope that you will take with you a deeper understanding of what it means to be an American.

After spending so many hours here in this honored chamber, you must know that you have played a role in history. Your name may not be up on the voting display or your words may not be printed in the Congressional Record, but you helped to make what this Congress accomplished this year possible. You should feel proud of your achievement and I hope that your service here will inspire you to further success in life. We wish you the best of luck and thank you for your service to our country.

Mr. Speaker, at this time I will include for the Congressional Record, the names of the pages that we salute today:

Joshua Allen, Dominic Alpuche, Chad Appel, Thom Backes, Sarah Beckett, Charlie Bond, Andrew Brehm, Brian Callanan, Keegan Callanan, Marianne Certain, Sarah Clark, Michael Conlon, Leia Cooper, Jason Dore, Richard Downe, Jamie Etherton, Robert Evans, Nathaniel Finn, Julie Fishman, Rebecca Fowler, Stephanie Ginebra, Brock Grunhurd, Lexi Harlow, Ashley Heher, Kristyn Hemingway, and Robin Hill.

Jill Hogue, Shyanne Hughes, Monique Jackson, Michelle Jenkins, Amanda King, Emilie Klein, Jacob Kosoff, Rodney Lake, Ryan Lane, Jennifer Lewis-Pike, Abbigail Look, Matthew McClellan, Danae McElroy, Jeremy Milne, Adam Morehouse, Anna Nichols, Jerry Paradise III, Janet Patton, Beth Pezik, Amy Phillips, Kevin Powell, Kristin Quinlan, Elizabeth Quinn, Abigail Racster, and Tracy Raeder.

Ambar Renova, Leslie Robertson, Glenn Schatz, Gina Schilmoeller, Erica Schmitt, Mike Shapiro, Kathleen Sherwin, Timothy Skidmore, Lauren Stafford, Brigit Swanson, Erin Vanderveldt, Meaghann Weniger, Adam Wiggins, Brian Woody, and Erik Yassenoff.

Mr. KOLBE. Mr. Speaker, there are a number of Members who wish to speak on this, and I want to accommodate them all. I would like to begin with the other member of the Page Board who is with me today, the gentleman from Michigan (Mr. Kildee).

Mr. KILDEE. Mr. Speaker, about 15 years ago Tip O'Neill appointed me to the Page Board, and that appointment has been one of the most rewarding responsibilities I have had in the Congress of the United States.

We have had great pages in those years, in my 22 years in the Congress, very great pages, and this year's page group is among the very, very best I have known.

There is a program in this country called Close-Up, which is a very, very good program, but no one has seen the Congress as close up as have our pages. They have seen us at our best and at our worst; they have seen democracy in action; they have seen our national leaders; they have seen world leaders. They have enriched us, and I hope that they have been enriched by their experience here.

About a month ago they had an auction to raise some money, and among the things auctioned off was to have lunch with myself. I was the winner of that auction, because I had lunch today with Andy Brehm, Brian Callanan and Keegan Callanan, and I look at people like them, who are representative of all of the pages, and I really have hope for our future.

About sixty years ago Franklin Roosevelt spoke these words, which I think are as true today as they were then. He said, "There is a strange cycle in human events. To some generations, much is given; of other generations, much is expected."

This generation of Americans has a rendezvous with destiny, and, knowing you, I know that you will meet the challenges of that rendezvous. Thank you and God bless you.

Mr. KOLBE. Mr. Speaker, I thank my colleague and friend and fellow member of the Page Board for his remarks. He has been one of the stalwart individuals who has helped to make this page program work so well, and we thank him for his kind remarks.

There are few Members of this body that are better friends of the pages, few Members that take more time to stop by and say hello and thank them and do things for them and even take them on to his boat on the Potomac, than my good friend and colleague from California, Duke Cunningham. I would like to yield to him at this time.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding. You know, a critter is something that is usually cuddly. They know what a critter is. It is something that is underfoot all the time. Sometimes you swish it away, sometimes you pat it on the head for doing a good job, and critters do whatever critters do. So I aptly named this class "the critters."

We were fortunate enough to have a sunny day and we took 70 of these critters out on the Potomac. I want to tell you, I bought 20 pizzas, 12 bags of chips, 12 bags of pretzels, 15 cases of soda pop, two Price Club bags of nuts, and they were gone before we got to Mount Vernon. They are also hungry critters, as most kids are.

But we do not thank these kids enough. Sometimes they go about, they do their work. And if you have children and you want to talk about responsibility, when they left the boat, I said to a guy when I was up above driving the boat, I said, "Is it clean down below?" One of the critters looked at me and said, "Duke, we are pages," like that is expected.

That is the way that they carry on their daily basis. They do not do it because they have to or that it is expected. It is because they are professionals, they are loving critters, and God bless every one of you. If any of us can ever be the wind in your sails, please give us a call. Thank you.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from California for his remarks. It is because of individuals like him that the program for the pages is more than just a job, it becomes a real life experience, where they get to know real people that work here in our Congress and our government, and I thank Duke Cunningham for making that very possible for us.

I would like to yield to the gentleman from Virginia, who also is, like myself, a former page, and knows something about this program, though from a slightly earlier day.

Mr. DAVIS of Virginia. Mr. Speaker, it was many years ago. I remember my last day as a page. I was here for four years. In those days you could stay for the full time limit. I will add, in all these years on Capitol Hill, I have never been on Duke Cunningham's boat, so you are way ahead of me.

We have had a great outstanding group of young men and women who participated in the page program this last year, and I do not think everybody appreciates sometimes the dedication, the focus, the long, long hours and the flexibility that you have had to share, and hopefully the lessons that you have learned from that and the discipline that you have had to incur will stay with you and enable you to be successful in whatever you do.

But the average person sees you running around, doing errands on the floor, and does not recognize that you are getting up very early in the morning to attend school, and putting in a full day and sometimes a full night of work, and then going back to school the next day, and the rigors that it entails.

I know during this time you have witnessed some of the great debates, and some of the not-so-great debates, that go on here on a daily basis. I just hope you take the experience, the knowledge and the history that you have been part of with you, to be able to share it with others. And maybe some of you will, like the gentleman from Arizona (Mr. Kolbe) and myself, enter the public arena some day. But whatever you do, we hope you will be successful and hope to keep running into you throughout the years.

God bless all of you, and thank you for your efforts.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from Virginia for his kind comments about our pages and for his service here as a page, as well as a Member of Congress. I am sure he has had an opportunity to explain to the pages that he was always perfect when he was here and never engaged in any kind of antics. I know that certainly was the case for myself when I was here.

Mr. Speaker, I would like to yield to my friend and colleague, the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the former page from Arizona for yielding.

Mr. Speaker, I was never a page, but I had the opportunity, as I have told page classes in the past, as President of the Maryland Senate, to run the page program in the Maryland Senate for four years. It was, like the page program we have here, an extraordinary, unique education for a very select group of young people, a group of young people who had an experience, as you have had, like a very, very, very small percentage of their age group have.

We talk about the future being up to you. The gentleman from Michigan (DALE KILDEE), who has done so much for the page program over the years, talked about Franklin Roosevelt's observation about some generations being given much, and some generations having much expected of them.

In my opinion, all generations through the ages of pages ought to have a lot expected of them, and we expect a lot of you. We expect a lot of you because you are outstanding members of your generation. Unlike some other outstanding members of your generation, you have had an experience that they will not have. You have had the opportunity to be present firsthand in the body that is looked to throughout the world by the billions of people who live on our planet as the center of democracy, as the center of a successful effort for people to come together and peacefully resolve differences.

During the course of your being a page here and your very outstanding service to not just us as individual Members of Congress but to this institution and to the people of America, you have had the opportunity to see some pretty animated debate. You have seen some of us get, I would say, angry at some times at one another. DUKE CUNNINGHAM has gotten angry from time to time, and I have gotten angry from time to time. But then you saw a DUKE CUNNINGHAM and a STENY HOYER come together as friends, honored by their neighbors in being elected to this House, knowing full well that we are all Americans, and though we are animated in debate, it is really that on which we agree that is most important. You have had that opportunity.

□ 1515

There is a lot of cynicism in America among some people about their Democratic institutions, and that is not helpful in a democracy. We need to have citizens have confidence in their democracy, in their institutions of government, and particularly in this House and the Senate just down the hall, because that is the way we resolve our differences and make progress as a democracy, a model for the world.

You, with your special knowledge, can educate your generation to the substance of what their democracy is all about as represented here in the people's House. I am always pleased.

I thank my friend, the gentleman from California, and my friend, the gentleman from Arizona, for allowing me to participate in this farewell. But it is not farewell. Obviously the gentleman from Virginia (Mr. DAVIS) is here, the gentleman from Arizona (Mr. KOLBE) is here, and you may be here for years to come in various capacities.

But thank you. Thank you for taking the time to expend the effort to learn, to participate, to contribute to making this House and this country a better place. You are richer for it. We are richer for your service. I hope that you will go back to your respective communities and your families and your schools and talk to your friends, educate them further, and make our democracy better. Congratulations to all of you. Godspeed.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his remarks.

Mr. Speaker, I yield to the gentleman from California (Mr. CUNNINGHAM) who has had one more thought and has to catch a plane.

Mr. CUNNINGHAM. Mr. Speaker, as usual, I forget something, and I will be brief. But I would ask three things of you kids, critters.

First of all, when there is a page reunion, come back, and make it a positive thing to do that, whatever it takes, because you have made lasting friends. I think that is important.

Secondly, each and every one of you is going to go back home. You are used to going to Georgetown. You are used to going on the Metro. You are used to going down here to the little soup and salad place all together, all on your own.

The first time you go out the door, your mom and dad are going to say "Where are you going?" and you say "I am going out, mom and dad." They say "Not so fast." Break them in easy.

If I have ever seen a problem, it is with pages going back that have had their independence here and freedom, and all of a sudden going back home and to the reality of parenthood. Break in your parents easy.

The third thing is come see us in the offices. Call us and send us letters. God bless.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from California (Mr. CUNNINGHAM) very much.

Mr. Speaker, I yield to my friend and colleague, the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I thank the gentleman from Arizona for yielding to me.

Mr. Speaker, I just wanted to take a moment, I have delayed my departure back to my district, to congratulate each of our pages this afternoon.

I just wanted to say briefly that the pages have had a great experience and a rare opportunity, and it is very similar to what we have as Members of Congress, a tremendous experience being elected to represent our individual districts. It is a rare opportunity that very few individuals ever get to experience. So you, too, have had that privilege, that honor, and you have served us very well.

Sometimes the pages are taken for granted. They get here, and they hit the ground running, and they are called on immediately to perform. Right up to their last hour of service this afternoon, they have been called on and performed so well. Again, it is, though, an incredible and rare experience, and we are so proud of the way that this class has conducted itself.

I am a little bit of a history nut, as some of you know, and my interest in the Capitol and the history of this Chamber. Today, as you leave on June 4, you will be part of the history of an incredible body.

I think you have had the opportunity to see, too, what very few individuals ever get to see up close; and that is that, in fact, this government does work and, in fact, it is truly representative of this Nation. Just like each of you have come from different families and different districts and different backgrounds and different party affiliations, but you have come together and been a part of the history and this process. So it is a tremendous and unique opportunity.

As Daniel Webster said up there, if you look, he said that you perform when you come here. If you perform a service, it is something worthy to be remembered. Certainly your service has been in the same light as asked by one of our great Americans who served in Congress with such distinguished history. You have been, again, a tremendous credit to us.

I thank you personally, and I now extend the thanks of all of my colleagues on both sides of the aisle. We wish you Godspeed and the very best in your future careers. Thank you.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I am very pleased to yield to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding to me, and I thank him for assembling and having given me the opportunity for me to join in words of appreciation.

First, I am appreciative of the fact that you wanted to come; that you were talented enough to be selected for this unique opportunity. Not only were you talented or willing to come, but you so ably and so joyfully served in your capacity.

You did a variety of things. I know some of them were less exciting. Never did we see it on your face. Always with a sense of expectancy, always with a sense of your purpose. Your presence suggested that you had all the confidence.

I feel, as you go forth, that you bring us hope. Those of us who serve in Congress, sometimes we become a little cynical because we are not quite sure if what we do and all of the discussions we have are making that much sense. In fact, sometimes we know we are not making sense.

But one of the things we feel is that, of all the things we do, if we can give hope to young people, young people can share part of their life and inspire us to be all the things that we can be for this country, we know this country has embraced that.

So I thank you for being with us, but thank you for who you are and, more importantly, I thank you for what I think you will become.

All of you are very special, but one of you comes from my district. So, Monique Jackson, I expect great things. You one day may be in here in Congress yourself. So thank you very much.

Mr. KOLBE. Mr. Speaker, I thank the gentlewoman for her kind comments and good words.

Mr. Speaker, if I might ask my colleagues and the pages to indulge me for just 1 minute for a couple of comments of my own as we close here.

Mr. Speaker, let me also add my words of thanks to the pages for the service that they have given us. This is a program that goes back a long ways, almost 200 years ago, when an individual was appointed to serve as a runner here in the Congress.

Through the years, the program has sputtered on and off, but it has generally been with us. It has kind of been more formalized in this century. Of course, for the last 20 years it has been a much more organized and formal program.

But even though the program has changed dramatically through the years, when I was here as a page it was boys only, when I was here as a page it was 4 years of high school that you could be here for, the program has changed a lot but many things about it are still very much the same.

What is the same about it is the kind of good work you do for us, the kind of help you give us to make our lives just a little bit easier. It is like the grease on the wheel that just makes it turn a little bit easier. We sometimes take it for granted and forget about it, but you make our lives just better and easier for us.

I hope it is the same for you, that you take something back from this program, as I think you should and you will. I know for me there were many things I took back from it, good friends, and I know from the exchanges of phone numbers and addresses and, of course, now E-mail. We did not have that either when I was here as a page.

You are all going to be staying in touch and you will be coming back. But I have taken many good friends. Two of them are here on the floor of the House of Representatives that were in my class. Donn Anderson used to be the Clerk of the House of Representatives, and Ron Lasch, our majority person here on the floor, assistant on the floor, both of them were in my class. They have stayed and given an incredible amount of service to this body and to their country through the years.

You have an opportunity to do that as well. When I left here, people would ask me, "What is it you really learned about politicians and Senators and Congressmen from your experience as a page?" I thought about it, and I said, "Well, you know, I guess the most important thing I learned is that they put their pants on one leg at a time like everyone else." We may laugh at that, but it is true.

You learn the very best and you learn the worst about politicians here. You see them at their very best. You see them at their very worst. That is true of any experience you are going to have in life where you are close up with people. You will see the human frailties, but you will also see the good things that will come out about people. I hope you will remember the good things, and you will use the good things to build on that.

This week I flew across this country of ours to attend the funeral of my sponsor, Barry Goldwater. He was a great mentor to me. I learned a lot from Barry Goldwater. But I think what I learned most was some very simple values that he gave of integrity, of honesty, of patriotism.

When you go away from this experience, I hope that above anything else that you get out of this, it will be some of those simple values that you can use in life no matter what you do.

Whether you return to the Congress as a Member, as a staff person, whether you serve in government as he served for so many years, there are values that go beyond any particular job. There are values of patriotism, of honor, of integrity. You have a great opportunity to make a lot from this.

We wish you Godspeed and we look forward to seeing each and every one of you come back. I thank each and every one of you.

ADJOURNMENT TO TUESDAY, JUNE 9, 1998

Mr. MICA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Tuesday, June 9, 1998, for morning hour debates.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Florida?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, JUNE 10, 1998

Mr. MICA. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, June 9, 1998, it adjourn to meet at 9 a.m. on Wednesday, June 10.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON WEDNESDAY, JUNE 10, 1998, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING HIS EXCELLENCY KIM DAE-JUNG, PRESIDENT OF THE REPUBLIC OF KOREA

Mr. MICA. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday, June 10, 1998, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting his excellency Kim Dae-Jung, President of the Republic of Korea.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MICA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1530

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). The Chair will now entertain one-minute requests.

TRIBUTE TO BILL POWELL, A MIDDLE GEORGIA LEGEND

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, I rise today to pay tribute to a middle Georgia legend, Bill Powell, who will close out 40-plus years of service during tonight's 6:00 newscast on WMAZ TV in Macon, Georgia.

Upon his arrival in Macon on WMAZ radio in 1958, Bill quickly became one of the community's most popular radio personalities, and it was only natural when Bill leaped into television weather at WMAZ in 1982 that he soon became one of central Georgia's best and most popular television personalities.

Bill has given of his time to speak to local schools and community organizations concerning various weather topics. He has served with distinction on a number of boards within central Georgia, such as the Museum of Aviation, the Middle Georgia Air Force Association, and the South Side Lions Club.

As Bill retires, he will take his sense of humor and fun-loving personality, but will leave a legacy of community service that will be difficult to surpass.

Congratulations, Bill, on a job well done. As you told your listeners for so many years, keep on keeping on. God bless you, Bill.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

APPOINTMENT OF COMMISSION TO INVESTIGATE THE PROBLEM OF RISING PRESCRIPTION DRUG PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Mr. Speaker, recently I introduced legislation to create a commission that will report to the Congress on the problem of rising prescription drug prices. The commission will do much needed research into how we can change public policy to ensure the affordability of prescription drugs.

Prescription drugs are the highest out-of-pocket expenses for three out of four elderly patients. Recent price increases for generic pharmaceuticals have been as severe as 4,000 percent. One thousand tablets of Chlorapropamide, a medication that is necessary to sustain life for diabetics, has gone from $19.45 to $306.66 this year.

All other segments of the health care industry have contributed greatly to bringing down health care costs. Since 1980, the cost of pharmaceuticals have risen over 2½ times the rate of inflation. Everyone is affected by these increases through insurance costs, government reimbursements, not just the uninsured.

Considering the Federal Government's and taxpayers' rather large public investment in the pharmaceutical industry through the form of tax incentives, tax write-offs, and grants, some discipline in making responsible pricing decisions should be expected.

The industry had over $6 billion in annual deductions for promotional activity before the FDA recently decided to relax direct marketing restrictions. This commission will lay a foundation on which to build policy that keeps prescription drugs reasonably priced.

The commission will look into why American consumers are paying much more than those in other countries, why increases are out of line with inflation of other goods. It is time for the Congress to act responsibly and ensure that corporate greed does not get in the way of our seniors having affordable health care.

This legislation is fair and evenhanded, and something our senior citizens and the public deserve. I encourage Members to support this bill.

EXCHANGE OF SPECIAL ORDER TIME

Mr. MICA. Mr. Speaker, I ask unanimous consent to take the special order time of the gentleman from California (Mr. RIGGS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMERICA'S RELATIONSHIP WITH MEXICO IN THE WAR AGAINST DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House again this afternoon to talk about the subject of the problem of illegal narcotics, and in particular this afternoon, to address the problem relating to our relations with Mexico and Mexico's effort in our war on drugs.

As Members may recall, the Clinton administration certified Mexico recently as cooperating in our war on drugs. I really want to call to the House's attention the current situation with Mexico, which is reaching disastrous proportions. Just today there is information that our United States agents are warned of Mexican retaliation as a result of their participation in a sting operation in Mexico.

I have followed this effort of the United States to take action in Mexico in a money laundering and illegal narcotics operation within the confines of Mexico. I pulled up some of the headlines, which are quite revealing.

This one is the week of May 20. It says, "Reno Lauds Mexico for Help with Probe. Customs Targeting Drug Money Bankers."

In this sting operation the Attorney General said, "Law enforcement officials in Mexico have promised to cooperate in a massive U.S. Customs Service money laundering investigation aimed at Mexico banks."

Then we see another headline a few days later, "Mexico Promises Probe of Bankers Indicted for Laundering." This is the headline on May 20; again, cooperation.

Then we find a sudden turn of events, that in fact Mexico is not cooperating. The headlines from the Washington Post on May 23 say "Zedillo," the Mexican President, "Blasts U.S. Undercover Drug Sting." He condemned the use of U.S. agents in that operation.

Then we saw an apology in another headline, "Clinton Regrets Keeping Sting Secret."

Then we find out that the sting was not secret, that in fact the Mexicans knew about it and were told about it in advance. The Wall Street Journal reports, "Bank Bust Stings U.S.-Mexico Relations."

The latest in today's newspaper, as I said when I began, is "U.S. Agents Warned of Mexican Retaliation."

Mr. Speaker, this is the country we certified as cooperating. This is the country that the Attorney General praised for cooperating in this sting.

This is what is reported in today's paper: "The United States Drug Enforcement Administration has pulled its agents out of Tijuana, and the Justice Department is warning American lawmen on both sides of the 2,000-mile long Mexican border to protect themselves more than ever. The new threat they face is not violence from narcotics traffickers, but hostility from their law enforcement counterparts in the Mexican Federal judicial police."

This is an incredible state of affairs. Here we have incredible amounts of drugs coming in from Mexico. Nearly 50 percent of all the hard drugs in the United States reaching our cities and our streets, our communities and our schools and our children, is coming in from Mexico, and a policy totally in disarray.

This is a matter that requires the investigation and oversight of this Congress, the attention of this administration, and should be investigated to its fullest, to find out what is really going on between the United States and Mexico in the war on drugs.

Are our agents now under attack? Are our agents going to be expelled? What is this administration doing about the country that we have helped, we have loaned money to, we have made a trading partner, and then now they are condemning us and not cooperating in this effort to bring corruption, to bring drug trafficking, to a halt on both sides of the border?

KOSOVA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, for the last several weeks the world has watched in horror as innocent civilians, men, women, and children, have been slaughtered in the province of Kosova in Europe. Forty thousand people are now fleeing their homes, are now refugees.

Kosova is a province of 2 million people, 90 percent of whom are ethnic Albanian, controlled totally and dominated by the Serbs, living under tremendous oppression. Serbian President Slobodan Milosevic uncorked ethnic cleansing in Bosnia, and here it is happening again in Kosova.

The people of Kosova, the Albanians, have no rights. They have no political rights, no civil rights, no economic rights. They are truly a people under oppression. Unemployment is 80 percent. They have tried for years peaceful resistance. It has not worked. Now their plight is worse than ever. The tens of thousands of Serb troops in Kosova have fired the opening shots, Mr. Speaker, in a renewed campaign of ethnic cleansing.

I have warned for years that Kosova was a powderkeg. Unless the U.S. and the international community intervene now to ward off a catastrophe, Milosevic will carry out there what he did in Bosnia, a horrific campaign of ethnic cleansing and genocide. Two hundred thousand people died in Bosnia. It could be worse in Kosova if we let it happen.

Thankfully, President Clinton reaffirmed last week during his meeting with Abraham Rugova, President of the Republic of Kosova, that the U.S. would not permit what happened in Bosnia to recur in Kosova. President Clinton was right.

But the time, Mr. Speaker, has come to put our money where our mouth is. The ethnic cleansing has begun. The burning of villages has begun. The expulsion of tens of thousands of ethnic Albanians has begun. The halting of humanitarian convoys has begun. All of this is how it started in Bosnia. The United States must now act.

In December, 1992, President Bush warned Serb strongman Milosevic that if he vastly increased the military repression in Kosova, the U.S. would respond in kind. This threat, known as the Christmas warning, formed the basis of U.S. foreign policy in the region. President Clinton reiterated the Christmas warning when he entered office. Time and time again State Department officials have noted that U.S. policy has not changed.

Today I say the Christmas warning has been triggered. To live up to our pledge to the people of Kosova and maintain our credibility in the region by meeting this solemnly pledged commitment, it is time we act.

Here is what we must do. We must strike with NATO air strikes. Today Serbian tanks and artillery are leveling villages, setting houses ablaze, and slaughtering innocent civilians. We should now utilize our assets in the region by destroying these weapons of war in the field and as they sit in their staging compounds.

We must declare a no-fly zone over Kosova. Serbian attack helicopters have been used against innocent civilians. This must stop. Furthermore, fighter aircraft have been moved into Kosova. American aircraft in the region must halt any of these flights.

We must reimpose the investment ban on Serbia. Milosevic's only access to hard currency has been through international investment. Unless serious progress is made to resolve the Kosova crisis, no additional international investment should be permitted. The outer wall of sanctions on Serbia ought to be maintained, and we ought to reimpose the inner wall of sanctions.

We ought to utilize the war crimes tribunal. Milosevic and his henchmen should be fully accountable for their actions in Kosova, and should be prosecuted for any war crimes they commit. We need to get international monitors back in Kosova. In July of 1993 Milosevic spelled OSCE monitors from Kosova. Now more than ever they must return so they can report to the world on the brutality now being committed, and to prevent further acts of atrocity from being committed.

On Wednesday, the Washington Post ran an editorial which I believe accurately captured the Kosova crisis, and what U.S. policy should be in response. The editorial said, "Sanctions are in any case mostly beside the point. Only the credible threat of force and the use of force, if necessary, can deter Mr. Milosevic. The U.S. can intervene now, as it has said it would, or, as in Bosnia, it can be forced to intervene later, after much damage has been done and any solution is far more difficult."

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Mr. Speaker, along with 25 of my colleagues, I am sending a letter to the President making these recommendations. Two months ago we requested a meeting with the President to discuss Kosova. Today we look forward to hearing from the White House when that meeting will be scheduled.

The genocide and ethnic cleansing in Kosova must stop and only we and NATO can stop it. The time for diplomatic niceties is over. We must act now.

Mr. Speaker, I submit the following for the Record:

[From The Washington Post, June 3, 1998]

EMPTY THREATS

The Clinton administration has said time and again that it won't permit Serb leader Slobodan Milosevic to extend his brutal ethnic-cleansing tactics to the independence-minded province of Kosovo. Now Mr. Milosevic's troops are conducting precisely such atrocities in Kosovo, and the administration's response so far: more talk.

Kosovo is part of Serbia, which in turn is part of what's left of Yugoslavia. But only 10 percent of Kosovo's 2 million people are ethnic Serbs; 90 percent are ethnic Albanians. For a quarter of a century, the province enjoyed considerable autonomy, but Mr. Milosevic revoked that in 1989 to fuel his nationalist rise to power. Ever since, and under the lash of Serb repression, a Kosovo independence movement has gained strength. The movement has been largely nonviolent. But recently, as ethnic Albanians have become convinced that the West has abandoned them, an armed resistance has rapidly gained support.

U.S. policy on all this has been pretty clear—at least in words. The United States doesn't support Kosovo independence, but it does support legitimate aspirations for more autonomy. It favors peaceful dialogue and opposes armed conflict. President Bush warned in 1992 that the United States would use force if necessary to block ethnic cleansing in Kosovo. The Clinton administration embraced that warning in 1993. And as recently as three months ago, Secretary of State Madeleine Albright said the United States would not "stand by and watch the Serbian authorities do in Kosovo what they can no longer get away with doing in Bosnia."

But that's just what Serbian authorities are doing right now. In a wide swath of borderland along Albania, Serb police and soldiers have been destroying villages, killing civilians and turning thousands of men, women and children into refugees. An Austrian defense attache who spent two days touring the isolated region said, "All the signs are that the Serbs are going on with ethnic cleansing in the Kosovo area."

U.S. policy in the past three months has been a confusing mixture of sanctions threatened, imposed and withdrawn. Such sanctions are in any case mostly beside the point; only the credible threat of force, and the use of force if necessary, can deter Mr. Milosevic. The United States can intervene now, as it has said it would. Or, as in Bosnia, it can be forced to intervene later, after much damage has been done and any solution is far more difficult.

THE IMPORTANCE OF THE E-RATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, here in this Chamber we just finished bidding farewell to our pages, young men and women from around the country who had an opportunity to expand their horizons serving in our Nation's Capital, really being in touch literally around the world. And it is a marvelous experience that they have. We are all pleased that they were able to accommodate it.

But the fact is that we have it in our power today to extend that same rich experience, being connected around the world, to every young person in America, and through our library systems extend it to every American, and the magic of the Internet will provide that worldwide connection.

Today, I call upon the Federal Communications Commission to reject the calls we are hearing from some to delay funding the E-Rate program, to do the right thing by America's schoolchildren and library patrons by providing full funding for the E-Rate.

The Federal Communications Commission is within days of making a decision that can bring the power of the Internet to all of these constituencies. If some telecommunications companies have their way, unfortunately, the Commission would back down in the face of a last-minute campaign of threats and innuendo in an effort to discredit the E-Rate. As a result of this campaign, the full importance of the E-Rate and its potential impact on consumer phone rates really has failed to be heard.

Mr. Speaker, the E-Rate is not a new tax imposed by Congress on an unsuspecting populace. In fact, the E-Rate program was included in the Telecommunications Act of 1996, which was passed by a Republican Congress with overwhelming bipartisan support.

As part of that act, added by again a bipartisan initiative that included Senator ROCKEFELLER and Senator OLYMPIA SNOWE, it built upon the Universal Service Fund established in 1934 that was used to help provide access to poor and rural areas for telephone service to provide an extension of the E-Rate on the same basis.

The Telecommunications Act of 1996 extended universal service beyond residential customers to include our schools and libraries, and expanded that service available for universal service beyond simply the plain old telephone service and added access to the Internet. To suggest that this obligation is new seems ludicrous, since the telephone companies have been paying for universal service since 1934.

With these facts in hand, I cannot condone the action on the part of some companies who are adding customer surcharges of up to 5 percent and blaming the E-Rate for increased costs. The Telecommunications Act of 1996 contemplated full payment of the E-Rate by the other cost savings that would be passed on to the telecommunications industry. In fact, the latest research indicates that they have already received far more than the $2.4 billion that is contemplated.

In my community, Buckman Grade School was the third grade school in the world to have its own web site. It was able to do that by its cadre of dedicated parents with bake sales, spaghetti dinners, but access to the Internet should not be dependent upon bake sales.

We have 30,000 applications now pending from schools and libraries all over the country to give this Internet access. The E-Rate is good for business, it is good for United States global competitiveness, it is important for our central cities and our rural areas. Our schools and libraries are trying to educate tomorrow's leaders with decade-old technological tools far too often.

The E-Rate has a potential of putting all of our young people on the same par with the interns that we just celebrated. It must be supported. Our future depends upon it. I call upon all of my congressional colleagues to raise their voice to the FCC to make sure that the E-Rate is fully funded.

AMERICAN LEADERSHIP NECESSARY TO END SIEGE OF KOSOVA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. KELLY) is recognized for 5 minutes.

Mrs. KELLY. Mr. Speaker, President Clinton recently pledged to Dr. Ibrahim Rugova, President of the Republic of Kosova, that the U.S. would not allow another Bosnia to occur in Kosova. Sadly, another Bosnia has already begun.

Serbian strongman Slobodan Milosevic is now using the same ethnic cleansing tactics in Kosova that he used in Bosnia, which resulted in 200,000 deaths, 2 million homeless, and billions of dollars in damage to the infrastructure and economy of Bosnia.

The grim specter of Bosnia can now be seen in Kosova and along its border with Albania as tens of thousands of refugees are streaming across the border. Does that not sound all too familiar?

Refugees tell horror stories of villages that have been attacked by the Serbs and emptied of all Albanian residents. Innocent civilians have been massacred. At least 10 villages have been completely razed and thousands have been made homeless in this latest crackdown by the Milosevic regime.

These events of recent days were preceded by a massive series of Serbian offensives that have killed more than 200 people since the new wave of aggression began in late February. With further cruelty, Belgrade has restricted the supply of humanitarian assistance to defenseless men, women and children, much of it provided by the United States through Mercy Corps International and other international NGOs.

The Serbs have cut telephone lines to the region. They have set up roadblocks to seal off the area. They have prevented international journalists and human rights observers access to the villages. Milosevic is enforcing his own brand of Serbian apartheid on the 90 percent Albanian majority in Kosova.

Incredibly, this terrorism by the Serbs has occurred at the very moment President Rugova and strongman Milosevic have been engaged in weekly meetings arranged by Ambassador Holbrooke to negotiate a so-called peaceful settlement to the Kosova crisis.

Mr. Speaker, the killing in Kosova must stop. I have been to the region to see the situation for myself and I have met with President Rugova to hear firsthand a report on the current intolerable circumstances.

President Clinton must bring greater U.S. efforts to bring the massacre to a standstill as a first step toward resolving this bloody conflict that threatens to destabilize the entire region. The U.S., because of their indecisive leadership and weak demands, are seen as ineffective here even by our allies.

The Contact Group of nations has failed to impress Milosevic with the seriousness of its demands, which tragically have been stated without the muscle to back them up and consequently have been totally ignored.

Mr. Speaker, the only strong leadership that is going to come must come from the presidency. We must have U.S. leadership that will force the Milosevic regime to end its siege of Kosova and we must stop the killing now. Humanity cannot allow another Bosnia to occur in Kosova.

A BROKEN BALANCED BUDGET DEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I offer to the family of Bob Hope the sympathy of this House and my personal sympathy in recognition of all that he has done to contribute to this country and as well to contribute to the many veterans who have benefited from his service.

Let me also applaud the pages that will be leaving this House at this time and thank them so very much for all that they have contributed, and wish them very well and will add my request that they come back and visit us again.

Mr. Speaker, today we had an unfortunate experience in this House, and the experience was such that I thought it was appropriate to bring it to the attention of the American people.

Mr. ARMEY. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Texas.

ANNOUNCEMENT BY MAJORITY LEADER

Mr. ARMEY. Mr. Speaker, I appreciate the gentlewoman from Texas yielding for a moment so that I may make an important announcement.

Mr. Speaker, earlier today I made an announcement that was erroneous regarding a report that Bob Hope had passed away. I want to apologize to Bob Hope, his family, and the entire Nation for the erroneous announcement made on the House floor today.

The floor announcement was based on a story which briefly appeared on an Associated Press Internet news page this afternoon. They have since removed the story.

Again, Mr. Speaker, I regret this announcement and I look forward to many more happy memories from a wonderful entertainer and a distinguished American.

Again, I thank the gentlewoman for yielding.

Ms. JACKSON-LEE. Mr. Speaker, reclaiming my time, with that I will gleefully acknowledge that I do not have to offer sympathy to the family of Bob Hope and I am joyful about that.

I do want to provide this very important assessment of where we are today and where we are going. And I do that because as the final vote was cast on the Kasich Republican budget, I heard applause throughout this Chamber. And tragically, I think, those who are not engaged in this debate were misguided and misdirected.

Mr. Speaker, this is a sad day for America. It is the busting of a deal, the balanced budget deal that we made in 1997, when many of us from both sides of the aisle said that it is a good thing that we bring down the deficit, it is a good thing that we pay off the debt, it is a good thing we tighten our belts.

But for those who applauded, the reason why they may not be knowledgeable is because they will not feel the pain until the year 2003. The young people that we just congratulated as pages, senior citizens who will just become 62 or 65, veterans who have come to me in my office and said their whole health care package has been reordered because of the balanced budget, in the year 2003, they will really feel the pain.

For this budget that was passed today we have the words of the chairman of the Senate Committee on the Budget, these are his quotes, and I refer to Senator DOMENICI who said, "This budget is a mockery." The Senate appropriations subcommittee chairman, Senator STEVENS, dismissed it and said, "I do not know where we are going to get $45 billion in cuts."

Mr. Speaker, this budget cuts veterans, food stamps, and title 20 another $10 billion. It cuts the help we give in foster care and child care that many of our States rely upon. This budget cuts Medicaid so that we force people into a system of no health care.

I wonder how many people realize that in the scheme of the number of systems of good health care in the world, that we in America, the United States of America, do not even fall in the top 10. The country that has the greatest ability of invention and research in medical care and health devices, we do not even serve our people as well as European nations and Third World nations, and yet we are going to cut Medicaid $12 billion.

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What does that do? I am not on Medicaid. It does not bother me, some may say. What it does do, it burdens your local public health systems. And for those of you who have HMOs who are squeezing you every day, you see how it feels when there are throngs of people forced into no health care. That is what happened today.

In addition, might I say that we have not fixed Social Security. We have cut food stamps, crop insurance, agricultural research that was already passed in a bill, just recently passed today, but we will be looking to try and fund those, and yet they have been cut $25 billion.

Some Members always say that it does not bother me, it does not impact me. But when the least of ours are not able to receive the services that they need, it does impact those of us who care. The balanced budget that we passed in 1997 took into consideration the great effort we have made to move people from welfare to work. But yet this budget we passed today imposes another $10 billion in temporary assistance to needy families. Might I say, it is families that we are talking about, men and women and children that we are cutting another $10 billion.

Oh, the economy is doing well, never been probably as active and as productive as we can see it today in 1998, but there are years to come. There are economic cycles. We have all been through them, the bust in California, the oil bust in Houston, the automobile bust in Michigan, the various cycles of problems that we have had. This is what you are going to face when people come in need to the Federal Government to help the States.

You will have in the year 2003 an enormous cut where services that are needed, Medicare and Medicaid and services dealing with welfare to work and transportation issues, the money will not be there. That is what was voted on today.

Lastly, let me say, Mr. Speaker, we all talk about child care. In my community we have 5,000 slots for Head Start. We need 20,000. Yet this House has cut Head Start and it has cut job training.

Mr. Speaker, I would simply say that it would be a good day. It is Friday. But it is a tragic day. Those who applauded, I hope that sound rings in their ears as America cries out as this budget was passed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). Members are reminded to refrain from individual references to Members of the other body.

E-RATE AND INFORMATION TECHNOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FORD) is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, the FCC is on the verge of halting the collection of money for a new program to help wire schools and libraries to the internet thru the e-rate provisions of the universal service fund.

Let me begin with a few facts:

1. The Universal Service Fund is older than Social Security. Yes Mr. Speaker it is older than our most venerated entitlement program.

2. The 1996 Telecommunications Act extended the generations old Universal Service program to include schools and libraries. This is a matter of law.

3. Long distance phone rates are at their lowest point ever.

4. Access charge reductions to phone companies—part of the "deal" that resulted in the 1996 Telecom Act—have totalled $2.4 billion over the last 11 months—well above the $2 billion estimated demand for discounts in the Schools and Libraries Corporation.

5. The Schools & Libraries Corporations has 14 employees, smaller than the vast majority of Congressional staffs.

Now: through all the myths, propaganda, and nonsense that is being spread about the E-rate and Schools and Libraries Corporation—myths these facts are meant to dispel, one central fact is being neglected: Connecting schools and libraries to the Internet will benefit our children. It will benefit the children of my district and children across this nation.

That is why we are here: period.

I began with that simple proposition. Mr. Speaker, because we are getting bogged down in a debate that is becoming increasingly virulent, malicious, and frankly, political.

We are not debating the educational interests of our children, we are cowtowing to the selfish objectives of vocal interest groups.

But, Mr. Speaker, if politics is to stop at the schoolhouse door, then we ought to consider the needs of our students, the future taxpayers of America.

Mr. Speaker: Only 27% of classrooms currently have an internet connnection—in lower income areas, only 13%.

With this level of connectivity how can we expect our nation to meet our current and future labor force needs:

The Commerce Department reports that 200,000 to 400,000 jobs requiring computer software skills are currently going unfilled because of a worker shortage.

The Bureau of Labor Statistics recently predicted a 70% growth in computer and technology-related jobs by 2005.

From 1996 to 2005, more than 1.3 million new computer scientists, engineers, and systems analysts will be needed in the U.S. to fill vacant jobs. On average, this amounts to a need of more than 136,000 workers every year.

Just recently the Education & Workforce committee heard compelling testimony about this very subject. There is tremendous concern in communities across America that our schools may not have the tools needed to prepare students to work in an information intensive economy.

Still, the economy grows by leaps and bounds in large part because of the role of information technology on productivity.

In Tennessee, information technology has had a dramatic impact in the workplace: from transportation to medical services, information technology has created exciting new job opportunities for citizens across the state.

Over 400,000 Tennesseans are employed in high-tech industries.

The average wage for a high-tech worker in my state is estimated to be over $36,000 per year.

High tech exports from the state total over 2.1 billion dollars per year.

The growing importance of information technology to Tennessee and to the nation means that our students need the tools to compete and win in the 21st century.

In school districts around the state educators are working hard to provide students with the educational resources that they need.

The passage of the 1996 Telecommunications Act and the establishing of the Schools and Libraries Corporation provided a means for the Memphis city schools district to accelerate the implementation of the district wide Networking Solution.

When Networking Solutions was presented to the Memphis Board of Education the presentation culminated several years of research and planning to develop 'a network solution that would allow the District Technology Plan, Realizing Vision 2000 Through Technology to become a reality.

The plan would create a fast, reliable, and manageable environment that provides for an integrated solution for voice, data, and video. The scope of the Networking Solution project includes several major components: school workstation cabling and wiring, school infrastructure, the district wide fiber networking service fees, the Administration Building server, and the Teaching and Learning Academy server.

Developed in concert with IBM, the district has implemented a network pilot project that gives the Memphis students and teachers a wide range of opportunities, such as: providing students with access to virtual instructional libraries; the ability to transit and receive live, 2-way TV quality video, audio for Distance Learning, Video Conferencing, Video Broadcast, E-mail and Intranet Capability.

Memphis City Schools staff have worked closely with the Council of Great City Schools, the State Department of Education, and IBM to complete applications for the e-rate discounts in order to implement the Networking Solution district wide.

The first application was filed by the state on behalf of Memphis City Schools and other Tennessee districts as part of a statewide consortium.

Now under the e-rate plan, the average discount percentage for Memphis is 80%. 80% Mr. Speaker!! That figure alone indicates the degree of need that prevails in my district. That need is not only characterized by a technology deficit, but by a basic infrastructure deficit that borders on the criminal.

Just before the Memorial Day recess, two dozen public schools in my district were forced onto a half day schedule. Why? Because 24 schools in my district Mr. Speaker are without air conditioning!

Mr. Speaker we in Congress would never dream of conducting our business in anything other than first class comfort. We wouldn't dream of giving our staffs less than the most cutting edge technology to conduct "the people's business".

Yet we ask American children to learn in thrive in sweltering, crumbling school buildings. We pay no end of lip service to our commitment to the education of our children but we can't find one dime in a trillion dollar federal budget for school construction and infrastructure improvements!!

And now, to add insult to injury, we are having a serious conversation in the United States Congress—in the people's house—about depriving our children of yet another educational opportunity.

How long Mr. Speaker, before we act like adults in this body and behave in responsible fashion toward our children.

Mr. Speaker, I am the youngest member of Congress and perhaps a bit impatient. But I sincerely hope I don't have to spend my time in this body convincing my colleagues on both sides of the aisle to act like adults.

If we allow the positive benefits of the e-rate, schools and libraries corporation to be nullified because of malicious, malevolent, mean-spirited, selfish politics, then shame on the phone companies, shame on this house, and pity the American people.

Our performance on the Transportation bill before the recess bears witness to our enthusiasm for public works and believe me Mr. Speaker I have nothing against good roads.

However, while we are happy to pave over every available acre in order to improve our transportation system we remain unwilling to invest in our public schools—from the internet to air conditioners.

This Congress cares more about pavement than it does about people. The fact that we are forced to come to the floor on a Friday afternoon, when we should be at home at public school graduations, is clear evidence of that.

Mr. Speaker, it is high time we get our priorities in line or we will continue to see declining test scores and inadequate academic achievement.

Providing our students access to the tools of the 21st century should not be the subject of controversy—it should be the subject of enthusiastic engagement. So I encourage all my colleagues—ask yourselves this simple question: What is best for the children of your district. Will the e-rate get us there—in your hearts you know that this is true, now let's have the courage to act on that belief.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE NAVAJO TRIBE OF INDIANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Mexico (Mr. REDMOND) is recognized for 60 minutes as the designee of the majority leader.

Mr. REDMOND. Mr. Speaker, 1998 is the 130th anniversary of the treaty between the United States of America and the Navajo Nation. In tribute to the Navajo people and the great Nation of the United States, I am going to be presenting the treaty today in its entirety.

The treaty reads as follows:

Treaty between the United States of America and the Navajo tribe of Indians, concluded June 1, 1868; ratification advised July 25, 1868; proclaimed to the people of the United States and the people of the Navajo Nation, August 12, 1865.

Andrew Jackson, President of the United States of America, to all and singular to whom these presents shall come, greeting:

Whereas a treaty was made in and concluded at Fort Sumner in the territory of New Mexico on the first day of June in the year of our Lord 1868 by and between Lieutenant General W. T. Sherman and Samuel F. Tappan, commissioners, on the part of the United States and Barboncito, Armijo and other chiefs and headmen of the Navajo tribe of Indians, on the part of said Indians, and duly authorized thereto by them, which treaty is in the words and figures as following to wit:

Article I. From this day forward all war between the parties of this agreement shall cease forever. The Government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace, and they now pledge their honor to keep it.

If bad men among the whites, or among other people subject to the authority of the United States shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States and also to reimburse the injured persons for the loss sustained.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black or Indian, subject to the authority of the United States and at peace therewith, the Navajo Tribe agree that they will, upon proof made to their agent and on notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws; and in case they willfully refuse to do so, the person injured shall be reimbursed for his loss from the annuities or other monies due or to become due them under this treaty or any others that may be made with the United States. And the President may prescribe such rules and regulations for ascertaining damages under this article as in his judgment may be proper; but no such damage shall be adjusted and paid until examined and passed upon by the Commissioner of Indian Affairs, and no one sustaining loss while violating, or because of his violating, the provisions of this treaty or the laws of the United States, shall be reimbursed therefor.

Article II. The United States agrees that the following district of country to wit: bounded on the north by the 37th degree of north latitude, south by an east and west line passing through the site of old Fort Defiance in Canyon Bonito, east by the parallel of longitude which, if prolonged south, would pass through old Fort Lyon, or the Ojo-de-oso, Bear Spring, and west by a parallel of longitude of about 109 degrees 300 minutes west of Greenwich, provided it embraces the outlet of Canon-de-chilly, which canyon is to be all included in this reservation, shall be, and the same hereby, set apart for the use and occupation of the Navajo Tribe of Indians, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them, and the United States agrees that no persons except those herein so authorized to do, and except such officers, soldiers, agents and employees of the Government, or the Indians, as may be authorized to enter upon Indian reservations in discharge of duties imposed by law, or the order of the President, shall ever be permitted to pass over, settle upon, or reside in, the territory described in this article.

Article III. The United States agrees to cause to be built at some point within said reservation where timber and water may be convenient the following buildings: a warehouse, not to cost exceeding $2500, agency buildings for the residents of the agent, not to cost exceeding $3000, and a carpenter shop and blacksmith shop, not to cost exceeding $1000 each, and a schoolhouse and a chapel, so soon as a sufficient number of children can be induced to attend school, which shall not cost to exceed $5,000.

Article IV. The United States agrees that the agent for the Navajo shall make his home in the agency building that he shall reside among them and shall keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint by or against the Indians as may be presented for investigation, as also for the faithful discharge of other duties enjoined by law. In all cases of depredation on person or property, he shall cause the evidence to be taken in writing and forwarded, together with his finding, to the Commissioner of Indian Affairs, whose decision shall be binding upon the parties of this treaty.

Article V. If an individual belonging to or legally incorporated with it, being the head of a family, shall desire to commence farming, he shall be given the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation, not exceeding 160 acres in extent, which tract, when so selected, certified and recorded in the land-book as herein described, shall cease to be held in common, but the same may be occupied and held in the exclusive possession of the person selecting it, and of his family so long as they may continue to cultivate it.

Any person over 18 years of age not being the head of a family may in like manner select, and cause to be certified to him or her for purposes of cultivation, a quantity of land not exceeding 80 acres in extent, and thereupon be entitled to the exclusive possession of the same as above described.

For each tract of land so selected, a certificate containing the description thereof and the name of the person selecting it, with a certificate endorsed thereon that the same has been recorded, shall be delivered to the party entitled to it by the agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the Navajo land-book.

The President may at any time order a survey of the reservation and, when so surveyed, Congress shall provide for protecting the rights of said settlers in their improvements, and may fix the character of title held by each.

The United States may pass such laws on the subject of alienation and descent of property between the Indians and their descendants as may be thought proper.

Article VI. In order to ensure the civilization of the Indians entering into this treaty, the necessity of education is admitted, especially if such of them as may be settled on said agricultural parts of this reservation, and they therefore pledge themselves to compel their children, male and female, between the ages of 6 and 16 years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly complied with; and the United States agrees that for every 30 children between said ages who can be induced or compelled to attend school, a house shall be provided and a teacher competent to teach the elementary branches of an English education shall be furnished who will reside among the said Indians and faithfully discharge his or her duties as a teacher, the provisions of this article to continue for not less than 10 years.

Article VII. When the head of a family shall have selected lands and received his certificate as above directed, the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, not exceeding in value $100, and for each succeeding year he shall continue to farm for a period of 2 years, he shall be entitled to receive seeds and implements to the value of $25.

Article VIII. In lieu of all sums of money or annuities or other annuities provided to be paid to the Indians herein named under any treaty or treaties heretofore made, the United States agrees to deliver at the agency house on the reservation herein named, on the first day of September of each year for ten years the following articles to wit:

Such articles of clothing, goods, or raw materials in lieu thereof, as the agent may make his estimate for, not exceeding in value $5 per Indian, each Indian being encouraged to manufacture their own clothing, blankets, et cetera; to be furnished with no article which they can manufacture themselves. And, in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent each year to forward to him a full and exact census of the Indians, on which the estimate from year to year can be based. And in addition to the articles herein named, the sum of $10 for each person entitled to the beneficial effects of this treaty shall be annually appropriated for a period of 10 years, for each person who engages in farming or mechanical pursuits, to be used by the Commissioner of Indian Affairs in the purchase of such articles as from time to time the conditions and necessities of the Indians may indicate to be proper; and if within the 10 years at any time it shall appear that the amount of money needed for clothing, under the article, can be appropriated to better uses for the Indians named herein, the Commissioner of Indian Affairs may change the appropriation to other purposes, but in no event shall the amount of this appropriation be withdrawn or discontinued for the period named, provided they remain at peace. And the President shall annually detail an officer of the Army to be present and attest the delivery of all the goods herein named to the Indians, and he shall inspect and report on the quantity and quality of the goods and the manner of their delivery.

Article IX. In consideration of the advantages and benefits conferred by this treaty, and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all rights to occupy any territory outside their reservation, as herein defined, but retain the rights to hunt on any unoccupied lands contiguous to their reservation, so long as the said Indians, further expressly agree:

1st. That they will make no opposition to the construction of any railroad now being built or hereafter to be built across the continent.

2nd. That they will not interfere with the peaceful construction of any railroad not passing over their reservation as herein defined.

3rd. That they will not attack any persons at home or traveling, nor molest or disturb any wagon-trains, coaches, mules, or cattle belonging to the people of the United States, or to persons friendly therewith.

4th. That they will never capture or carry off from the settlements women or children.

5th. They will never kill or scalp white men, nor attempt to do them harm.

6th. They will not in future oppose the construction of railroads, wagonroads, mail stations, or other works of utility or necessity which may be ordered or permitted by the laws of the United States; but should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head-man of the tribe.

7th. They will make no opposition to the military posts or roads now established, or that may be established, not in violation of treaties heretofore made or hereafter to be made with any of the Indian tribes.

Article X. No future treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force against said Indians unless agreed to and executed by at least three-fourths of all adult male Indians occupying or interested in the same; and no cession by the tribe shall be understood or construed in such a manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him as provided in article (5) of this treaty.

Article XI. The Navajos also hereby agree that at any time after the signing of these presents they will proceed in such manner as may be required of them by the agent, or by the officer charged with their removal, to the reservation herein provided for, the United States paying for their subsistence en route, and providing a reasonable amount of transportation for the sick and feeble.

Article XII. It is further agreed by and between the parties to this agreement that the sum of $150,000 appropriated or to be appropriated shall be disbursed as follows, subject to any condition provided in the law to wit:

1st. The actual cost of the removal of the tribe from the Bosque Redondo reservation to the reservation say $50,000.

2nd. The purchase of 15,000 sheep and goats at a cost not to exceed $30,000.

3rd. The purchase of 500 beef cattle and 1 million pounds of corn, to be collected and held at the military post nearest the reservation, subject to the order of the agent, for the relief of the needy during the coming winter.

4th. The balance, if any, of the appropriation to be invested for the maintenance of the Indian spending their removal, in such manner as the agent who is with them may determine.

5th. The removal of this tribe to be made under the supreme control and the direction of the military commander of the Territory of New Mexico, and when completed, the management of the Tribe to revert to the proper agent.

Article XIII. The tribe herein named, by their representatives, parties to this treaty, agree to make the reservation herein described their permanent home, and they will not as a tribe make any permanent settlement elsewhere, reserving the rights to hunt on the lands adjoining the said reservation formerly called theirs, subject to the modifications named in this treaty and the orders of the commander of the department in which said reservation may be for the time being; and it is further agreed and understood by the parties to this treaty, that if any Navajo Indian or Indians shall leave the reservation herein described to settle elsewhere, he or they forfeit all the rights, privileges, and annuities conferred by the terms of this treaty; and it is further agreed by the parties to this treaty, that they will do all they can to induce Indians now away from reservations set apart for the exclusive use and occupation of the Indians, leading a nomadic life, or engaged in war against the people of the United States, to abandon such a life and settle permanently in one of the territorial reservations set apart for the exclusive use and the occupation of the Indians.

In testimony of all which said parties have hereunto, on this the 1st day of June, 1868, at Fort Sumner, in the Territory of New Mexico, set their hands and seals.

Delgado, Inoetenito, Juan, Francisco, Guero, Herrero, Torivio, Narbano, Gugadore, Juan Martin, Desdendado, Cabason, Grande and Cabares Colorados.

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Mr. Speaker, I thank you for allowing me the time to read this historic treaty on its anniversary 130 years later. It is my concern that the government of the United States keep the intent of this treaty as it was originally signed by the Navajos to provide for those elements of education and for the preservation of their territorial lands.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. TANNER (at the request of Mr. GEPHARDT) for today after 11:15 a.m. on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. FORD, for 5 minutes, today.

(The following Members (at the request of Mr. MICA) to revise and extend their remarks and include extraneous material:)

Mr. CHAMBLISS, for 5 minutes, today.

Mr. JONES, for 5 minutes, on June 9.

Mr. MICA, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ENGEL) and to include extraneous matter:)

Mr. SERRANO.
Mr. PASCRELL.
Mr. MCGOVERN.
Mr. ORTIZ.
Mr. CLEMENT.
Mr. SHERMAN.
Mr. MENENDEZ.
Mr. LANTOS.
Mr. NEAL of Massachusetts.
Mr. PAYNE.
Mr. HALL of Ohio.
Mr. BONIOR.
Mr. VISCLOSKY.
Mr. LEWIS of Georgia.
Mr. REYES.
Mr. OBEY.

(The following Members (at the request of Mr. MICA) and to include extraneous matter:)

Mr. DICKEY.
Mr. GILMAN.
Mr. SMITH of Michigan.
Mr. FORBES.
Mrs. ROUKEMA.
Mr. HYDE.
Mr. THOMAS.
Mr. PORTMAN.
Mr. BOEHNER.
Mr. HOBSON.
Mrs. NORTHUP.
Mr. DELAY.
Mr. ROHRABACHER.

(The following Members (at the request of Mr. REDMOND) and to include extraneous matter:)

Mr. ISTOOK.
Mr. BOYD.
Mr. ENGEL.
Mr. FORD.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 824. An act to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the "Howard T. Markey National Courts Building."

ADJOURNMENT

Mr. REDMOND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 26 minutes p.m.), under its previous order, the House adjourned until Tuesday, June 9, 1998, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9451. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Azoxystrobin; Pesticide Tolerances for Emergency Exemptions [OPP-300664; FRL-5793-6] (RIN: 2070-AB78) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9452. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clopyralid; Extension of Tolerance for Emergency Exemptions [OPP-300657; FRL-5789-8] (RIN: 2070-AB78) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9453. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fenbuconazole; Pesticide Tolerances for Emergency Exemptions [OPP-300662; FRL 5791-5] (RIN: 2070-AB78) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9454. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Polyvinyl Chloride; Tolerance Exemption [OPP-300656; FRL-5789-7] (RIN: 2070-AB78) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9455. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to impose fees for certain programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture.

9456. A letter from the the Acting Comptroller General, the General Accounting Office, transmitting a review of the President's second special impoundment message for fiscal year 1998, pursuant to 2 U.S.C. 685; (H. Doc. No. 105—265); to the Committee on Appropriations and ordered to be printed.

9457. A letter from the Administrator, Panama Canal Commission, transmitting a report entitled, "FINANCIAL AUDIT: Panama Canal Commission's financial statements for fiscal year 1997," pursuant to 31 U.S.C. 9106(a); to the Committee on National Security.

9458. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting notification of a delay in the report on the allocation of core logistics activities among Department of Defense facilities and private sector facilities, pursuant to Public Law 105—85; to the Committee on National Security.

9459. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement;

Waiver of Domestic Source Restricitions [DFARS Case 97-D321] received May 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9460. A letter from the Secretary of Defense, transmitting the certification that the current Future Years Defense Program fully funds the support costs associated with the Family of Medium Tactical Wheeled Vehicles program; to the Committee on National Security.

9461. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Manufactured Home Construction and Safety Standards: Metal Roofing; Interpretative Bulletin I-2-98 [Docket No. FR-4271-N-01] (RIN: 2502-AH05) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9462. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Eighty-Fourth Annual Report of the Board of Governors of the Federal Reserve System covering operations during calendar year 1997, pursuant to 12 U.S.C. 247; to the Committee on Banking and Financial Services.

9463. A letter from the Acting Assistant Secretary for Force Management Policy, Department of Defense, transmitting the Department of Defense Education Activity (DoDEA) Accountability Report and the Accountability Profiles for the Department of Defense Dependents Schools, pursuant to 20 U.S.C. 924; to the Committee on Education and the Workforce.

9464. A letter from the Commissioner, Office of Educational Research and Improvement, Department of Education, transmitting the annual statistical report of the National Center for Educational Statistics (NCES), "The Condition of Education," pursuant to 20 U.S.C. 1221e-1(d)(1); to the Committee on Education and the Workforce.

9465. A letter from the Secretary of Health and Human Services, transmitting the sixth Biennial Report of the Director of the National Institutes of Health, pursuant to 42 U.S.C. 283; to the Committee on Commerce.

9466. A letter from the General Counsel, Department of Commerce, transmitting a draft of proposed legislation to reauthorize the U.S. Automotive Parts Advisory Committee through December 31, 2003; to the Committee on Commerce.

9467. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products: Test Procedure for Water Heaters [Docket No. EE-RM-94-230] (RIN: 1904-AA52) received May 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9468. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices [Docket No. NHTSA-98-3870; Notice 7] (RIN: 2127-AG81) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9469. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages [Docket No. NHTSA-98-3773] (RIN: 2127-AF91) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9470. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Gasoline Volatility Requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area [SIPTRAX No. PA110-4068a; FRL-6102-4] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9471. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Knox County Portion of the Tennessee SIP Regarding Volatile Organic Compounds (VOCs) and Process Particulate Emissions [TN-184-1(9812)a; TN-199-1-(9813)a; .FRL-6104-1] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9472. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Texas; Revisions to 30 TAC Chapter 115 for Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems [TX95-1-7379a FRL-6104-2] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9473. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries [AD-FRL-6106-4] (RIN: 2060-A100) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9474. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills [AD-FRL-6106-8] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9475. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN82-2; FRL-6013-5] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9476. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Colorado's Petition to Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 1998, 1999, and 2000 [FRL-6106-6] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9477. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Glyphosate; Extension of Tolerance for Emergency Exemptions [OPP-300652; FRL 5788-4] (RIN: 2070-AB78) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9478. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment [ET Docket No. 97-94] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9479. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pima, Arizona) [MM Docket No. 97-228 RM-9163] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9480. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Coon Valley and Westby, Wisconsin and Lanesboro, Minnesota) [MM Docket No. 97-169 RM-9121 RM-9170] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9481. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (McMillan and Sault Ste. Marie, Michigan) [MM Docket No. 97-222 RM-9180 RM-9214] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9482. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands [Docket No. RM86-2-000] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9483. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Access Authorization Fee Schedule for Licensee Personnel (RIN: 3150-AF90) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9484. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Requirements for Shipping Packages Used to Transport Vitrified High-Level Waste (RIN: 3150-AF59) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9485. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees (RIN: 3150-AF64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9486. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

9487. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of Treasury, transmitting the Department's final rule—Burmese Sanctions Regulations [31 CFR Part 537] received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9488. A letter from the Secretary of Defense, transmitting a report on the proposed obligation to implement the Cooperative Threat Reduction (CTR) Program, pursuant to Public Law 105—56; to the Committee on International Relations.

9489. A letter from the Secretary of the Interior, transmitting the semiannual report of the Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9490. A letter from the Attorney General of the United States, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997, through March 31, 1998, and the Management Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9491. A letter from the Chief Executive Officer, Corporation For National Service, transmitting the report from the Acting Inspector General covering the activities of his office for the period of October 1, 1997—March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9492. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Determinations and documentation Management controls [FAR Subpart 9.104, 9.105 DEAR Subpart 970.09] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9493. A letter from the Administrator, General Services Administration, transmitting the eighteenth annual report on final audit action by the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9494. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on activities of the Inspector General for the period of October 1, 1997, through March 31, 1998, and the Management Response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9495. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Sea Grant Industry Fellows Program [Docket No. 980427105–8105–01] (RIN: 0648–ZA41) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9496. A letter from the Secretary of Commerce, transmitting the annual report entitled the "Northeast Multispecies Harvest Capacity and Impact of Northeast Fishing Capacity Reduction," pursuant to Public Law 99—177; to the Committee on Resources.

9497. A letter from the Executive Director, American Chemical Society, transmitting the Society's annual report for the calendar year 1997 and the comprehensive report to the Board of Directors of the American Chemical Society on the examination of their books and records for the year ending December 31, 1997, pursuant to 36 U.S.C. 1101(2) and 1103; to the Committee on the Judiciary.

9498. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Adjustment of Status for Certain Nationals of Nicaragua and Cuba [INS No. 1893–97; AG Order No. 2154–98] (RIN: 1115–AF04) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9499. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Procedures for the Detention and Release of Criminal Aliens by the Immigration and Naturalization Service and for Custody Redeterminations by the Executive Office for Immigration Review [INS No. 1855–97; AG Order No. 2152–98] (RIN: 1115–AE88) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9500. A letter from the Secretary of Housing and Urban Development, transmitting the 1995 Annual Report to Congress on the State of Fair Housing in America, the racial and ethnic composition of participants in HUD programs and the enforcement efforts of the Fair Housing Initiatives Program; to the Committee on the Judiciary.

9501. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 340B and SAAB 2000 Series Airplanes [Docket No. 97–NM–134–AD; Amendment 39–10551; AD 98–11–26] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801 (a) (1) (A); to the Committee on Transportation and Infrastructure.

9502. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–311 and -315 Series Airplanes [Docket No. 98–NM–60–AD; Amendment 39–1550; AD 98–11–25] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9503. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Porterville, CA [Airspace Docket No. 98–AWP–2] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9504. A letter from the General Counsel, Department of Transportation, transmitting Safety Zone: Macy's Fourth of July Fireworks, East River, New York [CGD01–98–014] (RIN: 2115–AA97) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9505. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials Ticketing Program [Notice No. 98–5] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9506. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Allison Engine Company AE 3007A and AE 3007C Series Turbofan Engines [Docket No. 97–ANE–60–AD; Amendment 39–10557, AD 98–11–32] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9507. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes [Docket No. 97–NM–43–AD; Amendment 39–10548; AD 98–11–23] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9508. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe Avro 146–RJ Series Airplanes [Docket No. 98–NM–43–AD; Amendment 39–10553; AD 98–11–28] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9509. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–46–AD; Amendment 39–10552; AD 98–11–27] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9510. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes and Model Avro 146–RJ Series Airplanes [Docket No. 98–NM–52–AD; Amendment 39–10554; AD 98–11–29] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9511. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320–111 Series Airplanes [Docket No. 98–NM–22–AD; Amendment 39–10410; AD 98–12–05] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9512. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–102, -103, and -301 Series Airplanes [Docket No. 96–NM–58–AD; Amendment 39–10546; AD 98–11–21 (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9513. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3–60 Series Airplanes [Docket No. 98–NM–32–AD; Amendment 39–10547; AD 98–11–22] (RIN: 2120–AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9514. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Cedar City, UT [Airspace Docket No. 97–ANM–21] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9515. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Cortez, CO [Airspace Docket No. 98–ANM–02] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9516. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ [Airspace Docket No. 98–AWP–14] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9517. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes [Docket No. 97–CE–100–

AD; Amendment 39-10556; AD 98-11-31] (RIN: 2120-AA64) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9518. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials: Formal Interpretation of Regulations [Notice No. 98-6] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9519. A letter from the Administrator, Environmental Protection Agency, transmitting the 1996 National Water Quality Inventory Report, pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Transportation and Infrastructure.

9520. A letter from the Acting Deputy Director, National Institute of Standards and Technology, Departmen of Commerce, transmitting the Department's final rule—Procedures for the Evaluation of Energy—Related Inventions; Removal of Regulations [Docket No. 970822201-7202-00] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9521. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Veterans Education: Increase in Rates Payable for Cooperative Training Under the Montgomery GI Bill—Active Duty (RIN: 2900-AJ10) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9522. A communication from the President of the United States, transmitting the President's proclamation and memorandum describing the actions taken and the reasons concerning wheat gluten, pursuant to Trade Act of 1974; to the Committee on Ways and Means.

9523. A letter from the Secretary of Health and Human Services, transmitting the annual report on the operation of the Temporary Assistance for Needy Families (TANF) Contingency Fund, pursuant to Public Law 104—193 Public Law 105—89; to the Committee on Ways and Means.

9524. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Organization and Procedures; Application of Circuit Court Law (RIN: 0960-AE74) received May 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9525. A letter from the Chairman, U.S. International Trade Commission, transmitting the 49th report on the operation of the U.S. trade agreements program during 1997, pursuant to 19 U.S.C. 2213(b); to the Committee on Ways and Means.

9526. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to grant the government of the District of Columbia control over local revenues; jointly to the Committees on Government Reform and Oversight and the Budget.

9527. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to achieve administrative improvements in the Medicare program, and for other purposes; jointly to the Committees on Ways and Means and Commerce.

9528. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to establish a program of grants to facilitate the development of health insurance purchasing cooperatives, and for other purposes; jointly to the Committees on Commerce, Education and the Workforce, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2411. A bill to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission; with an amendment (Rept. 105-568). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. Report entitled "Abuse of Power: The Hardrock Bonding Rule." (Rept. 105-569). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 3849. A bill to amend the Communications Act of 1934 to establish a national policy against Federal and State regulation of Internet access and online services, and to exercise congressional jurisdiction over interstate and foreign commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce conducted over the Internet, and for other purposes; with an amendment (Rept. 105-570 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

[Omitted from the Record of June 4, 1998]

Pursuant to clause 5 of rule X the Committees on Commerce, Transportation and Infrastructure, and Government Reform and Oversight discharged from further consideration. H.R. 1778 referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on June 5, 1998]

Pursuant to clause 5 of rule X the Committee on Agriculture discharged from further consideration. H.R. 3035 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3849. Referral to the Committees on Ways and Means, the Judiciary, and Rules extended for a period ending not later than June 19, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. OBEY (for himself and Mr. MATSUI):

H.R. 3998. A bill to direct the Secretary of Health and Human Services to make payments to each State for the operation of a comprehensive health insurance plan ensuring health insurance coverage for individuals and families in the State, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FATTAH:

H.R. 3999. A bill to designate the United States Postal Service building located at 5209 Greene Street, Philadelphia, Pennsylvania, as the "David P. Richardson, Jr., Post Office Building"; to the Committee on Government Reform and Oversight.

H.R. 4000. A bill to designate the United States Postal Service building located at 400 Edgmont Avenue, Chester, Pennsylvania, as the "THOMAS P. Foglietta Post Office Building"; to the Committee on Government Reform and Oversight.

H.R. 4001. A bill to designate the United States Postal Service building located at 2601 North 16th Street, Philadelphia, Pennsylvania, as the "Roxanne H. Jones Post Office Building"; to the Committee on Government Reform and Oversight.

H.R. 4002. A bill to designate the United States Postal Service building located at 5300 West Jefferson Street, Philadelphia, Pennsylvania, as the "Freeman Hankins Post Office Building"; to the Committee on Government Reform and Oversight.

H.R. 4003. A bill to designate the United States Postal Service building located at 2037 Chestnut Street, Philadelphia, Pennsylvania, as the "Max Weiner Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. HAYWORTH:

H.R. 4004. A bill to authorize the Secretary of the Interior to provide assistance to the Casa Malpais National Historic Landmark in Springerville, Arizona, and to establish the Lower East Side Tenement National Historic Site, and for other purposes; to the Committee on Resources.

By Mr. LEACH (for himself, Mr. BEREUTER, Mr. CASTLE, Mr. BACHUS, Mrs. ROUKEMA, Mr. BAKER, Mr. LAFALCE, Mr. KANJORSKI, Mr. HINCHEY, Ms. WATERS, and Ms. VELÁZQUEZ):

H.R. 4005. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. OBERSTAR):

H.R. 4006. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, or euthanasia, of any individual; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York (for herself, Mr. HORN, Mr. BURTON of Indiana, Mr. WAXMAN, Mr. KUCINICH, Mr. GOSS, Mr. DICKS, and Mr. CONYERS):

H.R. 4007. A bill to amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on Intelligence (Permanent Select), and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARCIA of Michigan:

H.R. 4008. A bill to amend title XXVII of the Public Health Service Act to permit the exception from the guaranteed issue requirement for coverage offered only through associations to be applied separately to parts of the small group market based upon size of employers; to the Committee on Commerce.

By Mr. MALONEY of Connecticut (for himself, Mr. STUPAK, Mr. RAMSTAD, Ms. HOOLEY of Oregon, Mrs. MCCARTHY of New York, Mr. LAMPSON, Ms. STABENOW, Mr. ETHERIDGE, and Mr. BERRY):

H.R. 4009. A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REDMOND:

H.R. 4010. A bill to provide that certain Federal property be made available to States for State use before being made available to other entities, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, International Relations, Small Business, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN:

H.R. 4011. A bill to amend the Immigration and Nationality Act to eliminate the diversity immigrant program; to the Committee on the Judiciary.

By Mr. STEARNS:

H.R. 4012. A bill to guarantee honesty in budgeting; to the Committee on the Budget, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP:

H.R. 4013. A bill to authorize the Secretary of Agriculture to convey certain administrative sites and to use the proceeds for the acquisition of office sites and the acquisition, construction, or improvement of offices and administrative support buildings for the Conconino National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest in the State of Arizona; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself, Mr. HANSEN, Mr. COX of California, and Mr. BARR of Georgia):

H.R. 4014. A bill to require that new signs installed on Park Service Lands on or adjacent to the George Washington Memorial Parkway in Northern Virginia, Maryland, the District of Columbia, or elsewhere, directing motorists to Ronald Reagan National Airport must comply with the will of Congress, the President, and the American people by prominently including the full name, "Ronald Reagan National Airport," and for other purposes; to the Committee on Resources.

By Mr. FORD (for himself, Ms. CARSON, Mr. HOLDEN, Ms. STABENOW, Mr. FROST, Mr. DIAZ-BALART, and Mr. SANDLIN):

H. Con. Res. 287. Concurrent resolution expressing the sense of the Congress that the President should take certain actions to address violence in schools in the United States; to the Committee on Education and the Workforce.

By Mr. GILMAN (for himself, Mr. ACKERMAN, Mr. LANTOS, Mr. ROHRABACHER, Mr. FALEOMAVAEGA, Mr. PAYNE, Mr. ROYCE, and Mr. KIM):

H. Res. 459. A resolution commemorating 50 years of relations between the United States and the Republic of Korea; to the Committee on International Relations.

By Mr. WEYGAND:

H. Res. 460. A resolution recognizing the 20th anniversary of the founding of the Vietnam Veterans of America; to the Committee on Veterans' Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

330. The SPEAKER presented a memorial of the House of Representatives of the State of Hawaii, relative to House Concurrent Resolution No. 43 memorializing that Congress is urged to require that the importation of all agricultural products into Hawaii have a designation of country or origin and a certification of inspection based on United States Department of Agriculture standards to verify that each imported product has passed all U.S. health and agricultural requirements; to the Committee on Agriculture.

331. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 65 memorializing the federal Health Care Financing Administration, and the Congress and the President of the United States to preserve the state plan to implement the Healthy Families Program in its current approved form; to the Committee on Commerce.

332. Also, a memorial of the Legislature of the State of Nevada, relative to Resolution 98–1 memorializing that Congress is urged to enact legislation terminating the Interior Columbia Basin Ecosystem Management Project with no record of decision being approved for the project and to refrain from any further appropriation of money to federal agencies for the project; to the Committee on Resources.

333. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution Number 66 memorializing that the Legislature of the State of California supports the granting of an official apology and restitution to World War II Japanese Latin American internees pursuant to federal law; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SCHUMER introduced a bill (H.R. 4015) for the relief of Kerantha Poole-Christian; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. PETERSON of Minnesota.

H.R. 8: Mr. MCKEON and Mr. PACKARD.

H.R. 350: Mr. STRICKLAND.

H.R. 371: Ms. CARSON.

H.R. 953: Ms. STABENOW and Ms. CARSON.

H.R. 979: Mr. HILL, Ms. VELÁZQUEZ, and Mr. WOLF.

H.R. 1289: Mr. MALONEY of Connecticut.

H.R. 1401: Ms. MCCARTHY of Missouri and Mr. JEFFERSON.

H.R. 1450: Mr. WAXMAN.

H.R. 1628: Mr. FOX of Pennsylvania and Mr. DAN SCHAEFER of Colorado.

H.R. 1883: Mr. BENTSEN.

H.R. 1891: Mr. HUTCHINSON.

H.R. 2023: Mr. NADLER.

H.R. 2173: Mr. HUNTER.

H.R. 2174: Mr. PETERSON of Minnesota, Mr. PRICE of North Carolina, Mr. WEXLER, Mr. NADLER, and Mr. YATES.

H.R. 2281: Mrs. BONO and Mr. PAXON.

H.R. 2327: Mr. DOOLEY of California.

H.R. 2409: Mr. BLUNT, Mr. PAPPAS, Mr. GILMAN, and Mrs. JOHNSON of Connecticut.

H.R. 2456: Mr. BOSWELL.

H.R. 2485: Mr. BLUNT.

H.R. 2588: Mrs. CAPPS.

H.R. 2695: Mr. HILLIARD.

H.R. 2789: Mr. RUSH, Mr. CLAY, Mr. GONZALEZ, and Mr. MCGOVERN.

H.R. 2849: Mr. RUSH, Mr. LAMPSON, Ms. WATERS, Mr. OBERSTAR, Mrs. LOWEY, and Mr. BALDACCI.

H.R. 2914: Mr. HEFNER.

H.R. 2951: Mr. JENKINS.

H.R. 2955: Mr. KING of New York, Mr. ALLEN, Mr. YATES, and Mr. BOEHLERT.

H.R. 3081: Mrs. KELLY and Mr. JACKSON.

H.R. 3176: Mr. BRYANT.

H.R. 3205: Mr. ROMERO-BARCELÓ.

H.R. 3240: Mr. DELAHUNT and Ms. STABENOW.

H.R. 3247: Mr. KUCINICH, Mrs. EMERSON, and Mr. FORBES.

H.R. 3259: Ms. WOOLSEY and Ms. HOOLEY of Oregon.

H.R. 3267: Mrs. BONO.

H.R. 3290: Mr. LAFALCE, Mr. ANDREWS, Mr. FOX of Pennsylvania, Mr. MCHUGH, Mr. LUCAS of Oklahoma, Mr. PALLONE, and Ms. FURSE.

H.R. 3292: Mrs. THURMAN.

H.R. 3547: Mr. FRANK of Massachusetts.

H.R. 3567: Mrs. THURMAN, Mr. MCHALE, Mr. ROTHMAN, and Mr. COSTELLO.

H.R. 3629: Mr. SCARBOROUGH, Mr. TIAHRT, Mr. SALMON, Mr. COOKSEY, and Mr. SMITH of New Jersey.

H.R. 3632: Mr. NETHERCUTT, Ms. ROS-LEHTINEN, Mr. MANZULLO, Mr. HOEKSTRA, Mr. PRICE of North Carolina, Mr. GILMAN, Mr. SHAYS, Mr. FARR of California, and Mr. SHIMKUS.

H.R. 3651: Mrs. KELLY, Mr. SANDLIN, and Mr. STOKES.

H.R. 3662: Mr. YATES, Mr. LATOURETTE, Mr. ROYCE, Mr. BEREUTER, Mr. BARRETT of Wisconsin, Mr. KANJORSKI, and Mr. ENGEL.

H.R. 3684: Mr. GILLMOR.

H.R. 3688: Mr. JEFFERSON.

H.R. 3731: Mr. BLILEY, Mr. DOYLE, Mr. JENKINS, Mr. SHIMKUS, Mr. FAWELL, Mr. MCCOLLUM, Mr. BOEHLERT, Mr. BERMAN, Mr. WOLF, Ms. DUNN of Washington, Mr. ENGLISH of Pennsylvania, Mr. FROST, Mr. GEJDENSON, Mr. LIVINGSTON, Mr. WELDON of Florida, Mr. GOODLATTE, Mr. MCNULTY, Mr. STOKES, Mr. SHAYS, Mr. KOLBE, Mr. BARR of Georgia, Mr. MANZULLO, Mr. KING of New York, and Mr. DAN SCHAEFER of Colorado.

H.R. 3788: Mr. CHRISTENSEN and Mr. POMEROY.

H.R. 3789: Mr. SENSENBRENNER.

H.R. 3802: Mr. TORRES and Ms. RIVERS.

H.R. 3807: Mr. BOEHNER, Mr. GOODLING, Mr. BOB SCHAFFER, of Colorado, Mr. SUNUNU, and Mr. YOUNG of Alaska.

H.R. 3820: Ms. WATERS.

H.R. 3821: Mrs. MYRICK, Mrs. NORTHUP, Mr. SOUDER, Ms. CARSON, and Mr. GOODLATTE.

H.R. 3858: Ms. GRANGER and Mr. WATTS of Oklahoma.

H.R. 3870: Mr. ENSIGN, Mr. DICKEY, Mr. PITTS, Mr. NORWOOD, Mr. PAUL, Mr. COOK, Mr. WELLER, Mr. SHIMKUS, Mr. ALLEN, and Mr. WATKINS.

H.R. 3875: Mr. MARTINEZ and Mr. FILNER.

H.R. 3881: Mr. DAVIS of Florida.

H.R. 3892: Mr. STUMP and Mr. NORWOOD.

H.R. 3918: Ms. WOOLSEY, Mr. TOWNS, Mr. TORRES, and Mr. LUTHER.

H.R. 3949: Mr. HUTCHINSON, Mrs. CUBIN, and Mr. STENHOLM.

H.R. 3966: Mr. BOSWELL.

H.R. 3975: Mr. WATTS of Oklahoma and Mr. OXLEY.

H.R. 3980: Mr. SMITH of New Jersey, Mr. FOSSELLA, and Ms. CARSON.

H.R. 3995: Mr. RANGEL.

H. Con. Res. 203: Mr. DAN SCHAEFER of Colorado, and Mrs. LINDA SMITH of Washington.

H. Con. Res. 258: Mr. RUSH, Mr. TORRES, and Mr. GREENWOOD.

H. Con. Res. 278: Mr. HALL of Texas and Mr. BOB SCHAFFER.

H. Con. Res. 281: Mrs. MORELLA.

H. Res. 37: Mr. MENENDEZ and Ms. CARSON.

H. Res. 444: Ms. CARSON and Mr. FROST.

H. Res. 451: Mr. WELLER, Mr. SHIMKUS, Mr. FAWELL, Mr. JACKSON, Mr. LIPINSKI, Mr. COSTELLO, Mr. LAHOOD, Mr. POSHARD, Mr. PORTER, Mr. BLAGOJEVICH, Mr. GUTIERREZ, Mr. HASTERT, Mr. EWING, Mr. EVANS, Mr. MANZULLO, and Mr. RUSH.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1054: Mr. SPRATT.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. YATES on House Resolution 141: Owen B. Pickett, David E. Skaggs, Danny K. Davis, Bill Luther.

SENATE—*Friday, June 5, 1998*

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, so often we come to You listing out our urgent petitions. With loving kindness and faithfulness, You guide and provide. You bless us beyond our expectations and give us what we need on time and in time. Today, Lord, our prayer is for a much better memory of how You have heard and answered our petitions in the past. Now, we really need the gift of a grateful heart.

We commit this day to count our blessings. We thank You for the gift of life, for our relationship with You, for Your grace and forgiveness, for our families and friends, for the privilege of work to do well, for problems and perplexities that force us to trust You more, and for the assurance that You can use even the dark threads of difficulties in weaving the tapestry of our lives. Knowing how You delight in blessing thankful people, we thank You in advance for Your strength and care today. Lord, thank You, not just for what You do, but for who You are, blessed God and loving Father. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator SMITH of New Hampshire, is recognized.

SCHEDULE

Mr. SMITH of New Hampshire. Mr. President, on behalf of the majority leader, I would like to announce that today there will be a period for morning business until the hour of 10:30 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation, with several amendments still pending. It is hoped that short time agreements can be reached on those amendments so that remaining amendments to this important bill may be offered and debated.

As a reminder to all Members, a cloture motion was filed by the minority leader to the tobacco committee substitute. Under rule XXII, Senators have until 1 p.m. today to file first-degree amendments to the modified tobacco committee substitute. The leader has also announced that there will be no rollcall votes during today's session. Therefore, the cloture vote and any votes offered with respect to the tobacco bill today will be postponed to occur at a later date. As always, Members will be notified of the voting schedule next week as it becomes available.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for morning business, with Senators permitted to speak therein for up to 5 minutes.

The Senator from New Hampshire is recognized for 30 minutes.

(The remarks of Mr. SMITH of New Hampshire pertaining to the introduction of S. 2135 and S.J. Res. 49 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. Under the order, the Senator from Georgia is recognized for 10 minutes.

THE NEED FOR MANAGED CARE REFORM: A TRAGEDY IN GEORGIA

Mr. CLELAND. Mr. President, the distinguished Senator from New Hampshire has spoken eloquently about young people and the lives of young people and how we ought to be concerned on their behalf. I would like to spend a moment of the Senate's time speaking about a young boy in my State, James Adams, of Fairburn, GA, who is now 5 years old. Because of the rules of his parents' HMO, what happened to him in March of 1993, when he was only 6 months old, has changed his life forever.

The Senator from New Hampshire was speaking of right and wrong about young people. What happened to James Adams of Fairburn, GA, was not right.

James was suffering from a fever of over 100 degrees. Like 160 million other Americans, his parents were enrolled in a managed health care plan. James' mother took him to his HMO plan pediatrician, who diagnosed only a respiratory ailment and post-nasal drip. He prescribed only saline drops, vaporizer use, and Tylenol every four hours. James' mother was told not to worry, that high fevers in young children do not necessarily mean serious illness.

Later that night, his temperature was still rising and he was in great discomfort. James' worried mother called her HMO directly. The nurse on duty recommended bathing James in cold water. A pediatrician then placed a follow-up call, advising the parents to bring James to an HMO-participating hospital—42 miles away.

On the way to the hospital, as his parents' car sped past multiple other hospitals in Atlanta not covered by the Adams' HMO, James suffered full cardiac and respiratory arrest, and lost consciousness. His parents decided they simply couldn't wait to get him to the HMO hospital—James needed care immediately. His parents pulled into the closest hospital they could find—still 6 miles from their target destination. Upon his arrival at that hospital, doctors were able to restore his pulse and breathing. But the circulation to his hands and feet was cut off, and never returned.

James suffered irreparable damage to his extremities. Both his hands and feet had to be amputated. The delay of care caused by driving almost an hour to an affiliated hospital had taken its toll.

Today, James is doing really well. He was able to get to a hospital just in time enough to save his life, and has worked hard ever since to rehabilitate himself. I am confident he will be able to lead a full and productive life. But could things have turned out better for James? Probably so.

The question I have is, if S. 1890, the Patients Bill of Rights had been in effect, could it have helped James Adams and his family? The answer: probably so.

First, the Patients Bill of Rights would have covered access to and payment for emergency services. That is, regardless of what the outcome looked like at the time, since James' parents reasonably believed that emergency care was needed, they would have been able to get it, accessibly, in time. I believe that an individual should be assured that if they have an emergency, those services will be covered by their plan. This bill states that individuals must have access to emergency care, without prior authorization, in any situation that a "prudent lay person" would regard as an emergency.

Second, the Adams family's HMO could not have restricted their choice in service provider. They would have been able to have their own doctor—a regular doctor—convenient to where they live, and covered by their HMO plan.

Third, the Adams' HMO would have been more clearly liable. Luckily, the lawsuit against the HMO that James'

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

family went through was successful, but under current law such an outcome is far from guaranteed. The Patients Bill of Rights includes a provision for health plans that make medical decisions which result in harm to the patient, just as doctors and hospitals are held accountable today.

In addition, the Patients Bill of Rights would mandate a fair and timely appeal process both within the plan and to an independent external body when health plans deny care. It would also provide for access to medical specialists, continued care when a plan or provider is terminated and protection for providers who advocate on behalf of their patients.

Most important, the Patients Bill of Rights would help restore some of the confidence consumers have lost in their health care plans. It would ensure that Americans receive the care they were promised when they enrolled in their plan, and that they paid for with their monthly premiums.

I believe it is imperative that as lawmakers, we work with health professionals, insurance providers and the American people, to create the most efficient, accessible and responsive health care system possible. To that end I am cosponsoring S. 1890, the Patients' Bill of Rights Act of 1998, which would reform the delivery of managed care. We have a responsibility to ensure that the best health care system in the world remains accessible and affordable to all Americans. Though managed care has changed the nature of the health care industry by providing a more coordinated approach to medical care which reduces costs and waste, many beneficiaries believe, with cause, that their quality of care has been diminished.

As the debate over health care reform continues, I will continue to fight to refocus our health care system on patients—like James Adams—and away from the bottom line.

The ultimate goal of any health care provider, including managed care providers, should be to provide the best possible care for the patient. Anything less is unacceptable. Although the financial aspects are important, we cannot let patient care be sacrificed just because of a bottom line issue. I believe that Congress must take swift action to address the issue of managed care reform and I believe that the Patients' Bill of Rights Act of 1998 is a significant step in that direction.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank my colleague from Georgia. Not that there are not other Senators who are connected to people back in their States, but the Senator from Georgia, I think, among us, stands out as a Senator who is really connected to people he represents. When he uses the word "fight," I think he will be fighting very hard for people and I think we will have really a historically significant debate on this legislation.

This is a very personal issue for people we are talking about, I say to my colleague, their health and the health of their children. So I thank the Senator from Georgia for his very strong words.

BOBBY KENNEDY AND EQUAL OPPORTUNITY

Mr. WELLSTONE. Mr. President, on June 6, 1968, at 1:44 a.m., Bobby Kennedy passed away. I would like to speak about Senator Kennedy. First of all, I just recommend for people in Minnesota and our country a wonderful documentary that will be shown this week on TV on the Discovery Channel, "Robert F. Kennedy, A Memoir." This was done by Jack Newfield and Charlie Stewart. My wife Sheila and I had a chance to see 2 hours of this, a preview. It is very powerful.

I thought what I would do is read from a book which just came out, written by one of Bobby Kennedy's children, Maxwell Taylor Kennedy. The title of it is "Make Gentle The Life Of The World." This is an excerpt from one of Bobby Kennedy's speeches:

> Let us dedicate ourselves to what the Greeks wrote so many years ago, "to tame the savageness of man and make gentle the life of the world." Thus the title, "Make Gentle The Life Of The World."

Let me just say at the beginning, before quoting from some of Bobby Kennedy's speeches, that I believe—this is just my opinion—that the Senator who really most lives this tradition, of course in a very personal way, but in terms of his just unbelievable advocacy for people and the kind of courage and power, the effectiveness of his advocacy for people, of course, is Senator TED KENNEDY.

Behind me is the desk of President John Kennedy, which is Senator EDWARD KENNEDY's desk. I can't think of any Senator who better represents the words I am now about to quote.

Bobby Kennedy gave a speech. I believe it was at the University of Kansas. He wanted to talk to students and young people. He wanted to talk about the way in which we measure ourselves as a people. It is one of my favorite speeches, and I quote a part of it:

> Yet, the gross national product does not allow for the health of our children—

In other words, do we measure how we are doing as a country just by the economic indicators.

> Yet, the gross national product does not allow for the health of our children, the quality of their education or the joy of their play. It does not include the beauty of our poetry or the strength of our marriages, the intelligence of our public debate or the integrity of our public officials. It measures neither our wit nor our courage, neither our wisdom nor our learning, neither our compassion nor our devotion to our country. It measures everything, in short, except that which makes life worthwhile. And it can tell us everything about America, except why we are proud that we are Americans.

Mr. President, another speech that Senator Kennedy gave is relevant to our times:

> There are millions of Americans living in hidden places whose faces and names we never know, but I've seen children starving in Mississippi, idling their lives away in the ghetto, living without hope or future amid the despair on Indian reservations with no jobs and little help. I've seen proud men in the hills of Appalachia who wish only to work in dignity, but the mines are closed and the jobs are gone and no one, neither industry nor labor nor Government, has cared enough to help. Those conditions will change, those children will live only if we dissent. So I dissent, and I know you do, too.

Interesting words about crime:

> Thus, the fight against crime is, in the last analysis, the same as the fight for equal opportunity, or the battle against hunger and deprivation, or the struggle to prevent the pollution of our air and water. It is the fight to preserve the quality of community which is at the root of our greatness, a fight to preserve confidence in ourselves and our fellow citizens, a battle for the quality of our lives.

About the importance of work:

> We need jobs, dignified employment at decent pay.

What many today call living-wage jobs.

> The kind of employment that lets a man—

And I add, and I am sure Senator Kennedy would add, a woman——

> say to his community, to his family, to his country and, most important, to himself [or herself], "I helped to build this country; I'm a participant in this great public venture; I am a man"—

And, I add, "I am a woman."

The importance of work—

Community:

> Today, we can make this a nation where young people do not see the false peace of drugs. Together, we can make this a nation where old people are not shunted off, where regardless of the color of his skin or the place of birth of his father, every citizen will have an equal chance at dignity and decency. Together, Americans are the most decent, generous and compassionate people in the world. Divided, they are collections of islands—islands of blacks afraid of islands of whites; islands of northerners bitterly opposed to islands of southerners, islands of workers warring with islands of businessmen.

Government:

> Governments can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warm-hearted in a different scale. Better the occasional faults of a government living in the spirit of charity than the consistent emissions of a government frozen in the ice of its own indifference.

Courage—I think the pages will especially like this:

> It is from numberless, diverse acts of courage and belief that human history is shaped. Each time a man stands up—

Or a woman stands up—

> for an ideal or acts to improve the lot of others or strikes out against injustice, he sends forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

These are really beautiful words.

Mr. President, I had an opportunity about a year ago to travel just to a few communities Senator Kennedy visited. I started out in the delta, Mississippi, and actually just this past Friday, a week ago, I went back to Tunica in the delta, just by myself, mainly to teach classes. I went back because there was a marvelous teacher, Mr. Robert Hall, who said a year ago at a community meeting, "I wish you could come back around graduation time, because only about 50 percent or just a little bit more of our students graduate, and our students need to have more hope."

In Tunica, the public high school is all African-American, and the private schools are all white. So I came back. I landed, and a man named Mr. Young picked me up at the airport. He said, "Before you go to the high school, you will be addressing the third and fourth graders." I say to the Chair, I thought to myself, addressing the third and fourth graders the last day of school, like a policy address? It didn't sound like this was going to work very well.

I went to the elementary school, and the third and fourth graders were all sitting in the auditorium. A principal, a young man, introduced me, and we were high on the stage. I told the principal, "I think I will not stay on the stage." I went out to where the students were.

This one young girl helped me out so much, because we were talking about education and school and why you like school. She said, "I like it because a good education will help me be all I want to be in my life." Then 40 hands went up at one time. That is a teacher's dream, and these children had all sorts of dreams—doctors, lawyers, psychiatrists, professional wrestlers, boxers, football players—you name it—teachers, on and on and on. I thought to myself, this is what it is about. The only problem is that for too many children, that is the way they start out, and then this just gets taken away from them. The same spark isn't there later on by the time they get to high school.

I then went to East L.A. and to Watts and went to public housing projects in Chicago and inner-city Baltimore and Letcher County, KY, and inner-city Minneapolis, Phillips neighborhood, rural Minnesota. The point is there are heroines, and heroines are doing great work. That is my point.

The other point is, everywhere I went, I really believe—and these are my words, I summarize it—what part of the people were saying with a lot of dignity was, "What happened to our national vow of equal opportunity for every child? We don't have it in our communities." And the jobs—where are the jobs with decent wages? That is what we want to be able to do. Just think about Robert Kennedy's words, about the importance of work. That is what people are saying today. "We want to have jobs at decent wages so that we can earn a decent living and we can give our children the care we know they need and deserve."

Really, Mr. President, as I think about that travel—and travel in any community—this is the focus: On jobs and education, health care, earning a decent living, being able to do well for your children. That is the focus.

Different people think about Senator Kennedy's career, Bobby Kennedy, and what he stood for, and different people in different ways, to try to use that inspiring example to do good work. I want to just raise one question before the Senate today, as I feel that this is very connected to Senator Kennedy's life and what he tried to do for our country. And this is the question. I pose this question for my colleagues and the people in the country: How can it be that in the United States of America today—not June of 1968—June of 1998, how can it be the richest, most affluent country in the world, at the peak of our economic performance—we are all writing about how well the economy is doing—how can it be that we are still being told that we cannot provide a good education for every child, that we cannot provide good health care for all of our citizens, that people still cannot find jobs at decent wages that they can support their families on, that we cannot at least reach the goal of making sure that every child who comes to kindergarten is ready to learn? She knows how to spell her name; she knows colors and shapes and sizes; she knows the alphabet; she has been read to widely; and she or he is ready to learn. And we are still being told we can't reach those goals as a nation?

And how can it be that in our peak economic performance today, one out of four children under the age of 3 are growing up poor in America—under the age of 3; and one out of every two children of color under the age of 3 are growing up poor in our country? How can this be? How can it be that we have a set of social arrangements that allow children to be the most poverty-stricken group in America? That is a betrayal of our heritage. The impoverishment of so many children is our national disgrace.

I just feel—and I am just speaking for myself—as I think back about Robert Kennedy's life, he would surely say today that this is not acceptable and that we can do better. He would probably say, "We can do betta." And I think those words are very important.

One final point, if my colleague would indulge me.

I had a chance to speak at a baccalaureate at Swarthmore College this last weekend. And I was saying to the students—a lot of people have given up on politics. A lot of people, it is not that they don't care about the issues, they care deeply, they care desperately, but they don't think there is much of a connection between their concerns and our concerns. They read all about money in politics, and they just do not think it is that important.

A friend of mine was telling me he was teaching a seminar class on electoral politics, and he was talking about Presidential races and some of his involvement in the past, and students said, "Well, that's when elections mattered." Elections do matter. All of us in public service, I think, believe that, even if we have different viewpoints.

I said to the students—and I want to conclude this way, in just talking with young people, not at young people—that I read—and certainly this was the case in Swarthmore College—an incredibly high percentage of students in our colleges and universities are involved in community service, and also high school students. It is not true that young people do not care about community, do not want to serve our country. There is a tremendous amount of good work being done. The problem is that I think many young people say community service is good and politics is unsavory.

I just say today, on the floor of the Senate, to the young people: We need you to be mentors and tutors. We need your community service. We need you to volunteer at battered women's shelters. If my wife Sheila was here, she would say, "Mention that, PAUL." We need you to be advocates for children. We need you to help other children. We need you to do community work. When you go on to college and universities and get degrees, and you are lawyers and businesspeople, we need you to take some of your skills and give it to the community. We need you to do that. But we also need you to care about public policy. We need you to care about good public policy, and we need you to make sure that our Nation does better.

Mr. President, I want to say today—since I wanted to take a few minutes to speak about Robert Kennedy and his life, the meaning of that life, to me and I think to many Americans—I think that the final point that I would want to make—feels right to me, at least—is to say, especially to younger people, the future is not going to belong to those who are content with the present. The future is not going to belong to cynics; it is not going to belong to people who stand on the sidelines; it is not going to belong to people who view politics as a spectator sport.

The future is going to belong to people who have passion and people who are willing to make a personal commitment to making our country better. And the future is going to belong—these are not Bobby Kennedy's words; these are Eleanor Roosevelt's words—"The future is going to belong to people who believe in the beauty of their dreams."

Bobby Kennedy had many beautiful dreams. His life was cut short, and he was not able to realize all those dreams. But his dreams and his hope and his work for our country is as important to our Nation today as it ever was while he was alive.

I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. I ask unanimous consent to address the Senate for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

TORNADO IN SPENCER, SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I returned Wednesday night from my second tour of what is left of the small community of Spencer, SD, which was devastated, as many know, by a tornado this past Saturday night. Many of you may have seen the media reports and the pictures of the utter destruction in Spencer.

After touring the site for the second time on Wednesday, I can honestly say the pictures simply do not do the site justice, and it is almost impossible to fathom the indiscriminate totality of the destruction.

This tornado, which hit this small town, has been classified as an F4 on the Fujita rating scale of the National Weather Service. The rating means winds have been estimated between 207 to 260 miles an hour.

As I toured the remains of this small town, the wind literally blew the bark off the trees—what trees still remained standing.

To the community of Spencer, the rating means that the tornado was powerful enough to destroy 80 to 90 percent of their town.

The grain elevator, service station, post office, and library were all destroyed, as were all four churches, an antique store, the fire hall, and water tower. The town had no sewer, water or power.

All that is left of Spencer's 120-foot tall water tower is the crumpled metal on the side of the street with the word "Spencer" written upside down now. A tan car hung suspended 5 feet off the ground in the tower's mangled legs.

The grain spilled from the Spencer Grain Company elevator out onto a field. Spiky tops of tree trunks stuck up out of the ground, their branches stripped of leaves—and furniture, bedding, miscellaneous items stuck in the tree tops of what trees did remain.

Most tragically, the tornado was powerful enough to injure, out of the 300-some in the community, 150 people—almost half the population—and to take the lives of 6.

The victims were Bev Bintliff, Elizabeth Burnham, Mildred Pugh, Gloria Satterlee, Ron Selken, and Irene Yost.

Bev Bintliff was 68, a Spencer native. She and her husband, Robert, moved back to Spencer after living in Oklahoma for a number of years. She worked for several local businesses before becoming the city's finance officer. Her husband is a painter. And they also operated a music shop in the nearby community of Mitchell.

Elizabeth Burnham was 85, lived in Spencer most of her life. She was a widow, and lived alone in her home. She is survived by two daughters.

Mildred Pugh, 93, a widow, moved from her home of 60 years in Spencer to an apartment in the mid-1980s. She was born on the family homestead northeast of Spencer and lived in the area all of her life. Her husband was a rural mail carrier, and she was a homemaker. Friends say that she loved her garden and she loved to deer hunt with her husband. Mildred had lived through other disasters. She survived floods, cyclones, famine, the Depression, wars, but could not survive this tornado. She is survived by a great-nephew, a grandson, and two granddaughters, and a sister.

Ron D. Selken, 62, has been described as a quiet man who enjoyed spending time with his family. Selken was born in 1936. He attended Hawthorne Elementary in Sioux Falls. He served in the Korean War. He worked as a laborer at Gage Bros. Concrete in Sioux Falls until becoming disabled because of back problems. In his spare time, Selken liked to work on his cars, watch sports and fish.

He recently became a grandfather for the third time and tragically did not get to hold his new granddaughter who was born May 2. On my first trip to the tornado site last Sunday, I met Ron's daughter, Kris Roelfs, of Sibley, Iowa. I have to say, it was a very touching meeting and I felt inadequate that I could only give her my heartfelt condolences. Her father had moved to Spencer about eight years ago from Sioux Falls. In addition to his daughter, Kris, Ron Selken is survived by another daughter, Vicky Selken of Sioux Falls, a son, Kelley of Lake Benton, MN. Three grandchildren, two brothers and four sisters.

Gloria Satterlee, was in her mid 70's and was an organist and pianist at the Nazarene Church where her husband, Ward Sr. has been pastor for the tiny congregation. Reverend Ward Satterlee was hospitalized at Queen of Peace Hospital in Mitchell with broken ribs and cuts but on my second visit to the tornado site yesterday, I had the chance to speak briefly with Ward as he explained his predicament to Vice President GORE.

The Satterlees celebrated their 50th anniversary last year and had lived in Spencer for more than 20 years. Mrs. Satterlee was a homemaker who was interested in music and caring for elderly people. In addition to her husband she is survived by two children one in Kansas and one in northern Minnesota.

Irene Yost, in her mid 70's was retired and living in a downtown apartment complex in Spencer. She had been ailing and had just been getting back on her feet when it happened. She was a lifelong resident of Spencer, and once owned a business establishment in the community, worked as a telephone operator and in a Salem factory and operated a Bingo Gas Station for a number of years.

While we mourn the tragic loss of these people and pray for their families, we are grateful for those who survived. Many descriptions of the terror the residents felt last Saturday night and of different individual's determination to survive have been shared with me personally over the past few days or have been shared with the public through the news media.

Linda Morehead's first thought was, "Oh God don't let it be a tornado." As the tornado hit, Linda tried to open her basement door, but it stuck. She finally got it open and made it down one step when the wall between her dining room and the staircase fell and her roof blew off. She said that the roof flew off like a frisbee then it was all over and that she was down in a pit with stuff all around me like a hill.

Linda was trapped in her home after the storm because her left leg became pinned under cement and a radiator. Her leg was broken in two places and a chunk of flesh was ripped off when the cement was removed by rescue workers. Morehead's arms and shoulders were covered with bruises and cuts, but her face was untouched. As rain and marble-sized hail began to fall while she was trapped she covered her face with a nearby pair of sweatpants. In spite of the pain she continues to suffer and the long road ahead to recovery, Linda recognizes her good fortune to have survived and remembers moments when she didn't think she was going to live through it.

Linda has mixed emotions as she said "I am angry because everything you own is gone. Everything Mom and Dad worked for all their life is gone. I get so angry. And then I'm thankful the kids are all right.

Late Sunday afternoon Linda was still finding debris in her hair—rocks, pine needles, glass, wood splinters.

Tammy Kreutzfeldt remembers that she and her family all screamed as the pressure built and the roof of their house blew off. She and her family looked up and could see the tornado and the sky from their basement. Tammy had cuts on her head inflicted from falling bricks as she huddled with friends and family members in the basement of her home during the tornado.

Lucille and Jimmy Mone, 89 and 95 years old respectively, crawled over glass to safety. Jimmy who had been blown right out of bed crawled with Lucille on their hands and knees through shards of glass from blown out windows and broken pictures to their downstairs where they stayed until the storm had passed. Again, these two amazingly strong fighters recognized their good fortune as they looked back on their minutes of terror and acknowledged that, "We're still alive and that's the important thing."

Arnold Eldeen was driving Saturday night when he spotted the tornado that demolished much of his hometown. He raced home and arrived about 15 minutes after the tornado hit. While Arnold had been able to call his two sons before the tornado hit Spencer, it took almost three hours for him to find them to ensure they were both alive—thankfully, his sons had been able to make it out of Spencer before the tornado ravaged the community.

Amanda Stevens, 85, was in a corner of her basement when the tornado struck and she prayed that she would not be pulled out of her basement. The tornado ripped the roof off her home, but miraculously the ceramic tile remained in place which she tediously laid on the walls 27 years ago as she and her now-deceased husband built their home.

On Sunday, South Dakota's Governor William Janklow acted expeditiously to request a disaster declaration for the Spencer area from President Clinton. I was extremely pleased that the President acted swiftly and responded positively on Monday with a declaration for McCook County. While the declaration opens up a lot of assistance to help the victims start rebuilding their lives, the assistance certainly won't make anyone whole.

I was also pleased that on Monday, Vice President GORE and FEMA Director James Lee Witt both announced they would tour the tornado ravaged area. I was pleased to join them on their tour Wednesday. I truly believe their visit helped lift the spirits of many of the victims.

South Dakota has been hit by many devastating acts of Mother Nature in recent years. While the natural disasters South Dakota has faced in the recent past have all been different, two things are consistent in the wake of every disaster my state has experienced:

First, the victims of the disaster always have a positive spirit and are determined to survive and rebuild their lives. Having met with residents of Spencer twice in the past 6 days, I have been moved by their resilence and their ability to remain focused on the future, after an act of Mother Nature wiped away the town they called home and a lifetime of personal possessions in a matter of minutes. The victims have shown a quiet determination to rebuild their lives and I commend them for their attitude. It can't be easy and I am committed to doing what I can to help each and every resident of Spencer move forward with their lives.

I am always impressed and heartened by the selfless giving of concerned individuals coming to the aid of their fellow South Dakotans. South Dakotans have made it through tough times before and I think South Dakotans rush to reach out to our neighbors in need because we all realize that the next disaster could hit us.

The response was tremendous. The tornado hit Spencer at approximately 8:45 pm on Saturday night. By 10 pm 300 emergency rescue workers and medical personnel were on the scene.

Volunteers came from almost every city in the region to assist and help ease the shock from Kimball to Stickney to Dell Rapids. As a stream of ambulances entered city limits packed with volunteers, water, and blankets, other ambulances screamed out, loaded with wounded en route to hospitals in Mitchell and Sioux Falls.

Members of the National Guard and the State Highway Patrol were also on the scene immediately to assist victims.

While almost all families had their homes destroyed, very few victims have had to seek shelter provided by the Red Cross of FEMA because family and friends in the area have opened their homes to the victims.

Within a day of the devastating tornado in Spencer, businesses and individuals from across South Dakota provided tornado victims with financial and moral support to help them rebuild their lives. I have been extremely touched—though I must say not surprised—by the many examples of generosity and compassion exhibited by individuals all over our state.

The community is working together to assist victims, including collecting items needed by tornado victims. The Chapter of the American Red Cross has set up a fund. The United Methodist Church in Huron will give their entire offering of the next weekend to assist the victims. A television telethon raised over $500,000 in a matter of hours. Some 8,000 volunteers—more, frankly, than could be efficiently utilized—showed up at the Spencer city limits to volunteer. Many other communities around the State have set up funds for the disaster victims. The South Dakota Community Foundation, which grants money to worthy causes, announced it will give $1,000 to every Spencer resident.

Two nights ago, KELO TV conducted an impromptu telethon to collect funds for the victims. The effort collected over $500,000 in a matter of hours.

Perhaps most impressive, in response to a request by Governor Janklow for volunteers to come to Spencer yesterday morning, again an estimated 8,000 people showed up to volunteer in this small town. Governor Janklow originally asked for 1,000 volunteers.

The leaders of Spencer, South Dakota have continued their commitment and loyalty to their community. all throughout the disaster. Mayor Rocky Kirby, owner of the destroyed grain elevator, has spent day and night dealing with not only his own personal loss of his business but working with Governor Janklow and FEMA officials to get their town back together.

City Council member Donna Ruden stayed up the entire first night putting together a map of the community with the names and locations of all citizens to assist Governor Janklow, the National Guard, and the cleanup crews. As an employee of the Security State Bank, which was also destroyed with only the vault left standing, opened her home immediately as a make-shift bank, a meeting place for citizens and their insurance companies and a place to stop and share their accounts of the storm. She placed a sign on her front door, "please come in".

The Red Cross and Salvation Army have done a remarkable job and I would be remiss if I did not recognize these people.

In closing, Mr. President, I just want to again commend the victims for their resilience and positive spirit in the wake of this tragedy. I also want to assure them that in the coming weeks as the tv cameras and media leave and they are left to the day-to-day effort of rebuilding their lives, I will not forget about them. I am committed to working with individuals and with the different federal agencies offering assistance to ensure aid comes when people need it and with as few bureaucratic strings attached as possible.

Again, my thoughts and prayers are with the families of those who lost their lives in this tragedy and my best wishes to all of the survivors during the next few critically important weeks as they take steps to rebuild their lives.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I commend our colleague, the Senator from South Dakota, Senator JOHNSON, for drawing the attention of this body to the extraordinary tragedy in South Dakota. I think all of us were stunned to see those photos of this town, the town of Spencer, which was just wiped out. It really is stunning to see the complete devastation of that small town.

I remember seeing the press reports and seeing the pictures and being reminded of the devastation we suffered in North Dakota last year with the 500-year flood, on top of the worst winter in history, the most powerful winter storm in 50 years, and in the middle of all that, the fires that destroyed much of downtown Grand Forks, ND.

Our hearts go out to the people of South Dakota. Our hearts go out to the people who have suffered this extraordinary tragedy, to those who lost their lives, to those whose lives have been disrupted forever. And I think it is important for them to know that those in this body on both sides of the aisle will reach out and will help. We certainly saw that in our tragedy, and we will never forget the assistance of our colleagues. We want our friends in the South Dakota delegation to know that we are prepared to help and to reach out and to be of assistance, just as they were of help to us in our disaster. So we want to say to our colleague, Senator JOHNSON, when you are back home talking to the people who have suffered, they can count on this Federal Government to reach out and be there to help in their time of need, just as they were there to help others when they were afflicted.

I also want to say to Senator DASCHLE, the other Senator from South Dakota, obviously, those of us in the Dakotas have a special bond. We will do everything we can to help as you go through this difficult process of rebuilding.

Mr. COVERDELL. Mr. President, it is interesting how each of our States has experienced disasters in the last several years—you a 500-year flood, we a 500-year flood, and now this devastating tornado. In April, we have had four natural disasters in Georgia: a flood, an early freeze wiping out the entire first peach crop, and three separate tornadoes. No matter how many times you experience it, the power of it is just mind-boggling. I remember years and years ago, on the eve of my high school graduation in Lee's Summit, MO, being hit by one of these tornadoes that leveled 700 homes to the foundation. I have never seen anything like it. It was like a bomb hit.

You are right. All of our colleagues have been so responsive, and it makes an enormous difference when you are faced with that kind of situation when neighbors and friends across the country are there to help. So I appreciate the remarks of the Senator from South Dakota and the Senator from North Dakota.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business is closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1415.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to Amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to Amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Lott (for Coverdell) modified amendment No. 2451 (to amendment No. 2437), to stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, we are returning to the tobacco legislation, by previous order, and specifically to the amendment that I introduced last evening along with Senator CRAIG of Idaho and Senator ABRAHAM of Michigan, which is now commonly called the drug amendment.

To put this in context, Mr. President, the point that we are making is that you cannot talk about teen addiction and be silent on the No. 1 teen addiction problem, which is drug abuse. So the purpose of this amendment is to make certain that any legislation being considered by this Chamber about teen addiction and teen problems must also include a title to deal with the raging epidemic in our country—teenage drug abuse.

Mr. President, in the last 6½ years, teenage drug abuse has increased by 135 percent. Well, what does that mean? Does that mean that 10 more youngsters are using drugs than were 6 years ago? No. It means that almost 2 million teenagers are using drugs today that were not 6½ years ago.

This is a massive problem and it is a consequence, unfortunately, of altered Federal policy. We decided early in this administration that the battle against drug abuse would be altered, changed, downsized. The drug office was virtually closed, interdiction facilities were drastically reduced, the Coast Guard was diminished in the Caribbean, and we quit talking about the problem. Simultaneously, we entered into new trade agreements with Mexico, which enormously increased the amount of travel between the two countries, upwards to 4 million vehicles now. So that interdiction apparatus was down and the transportation across the border was up, and we quit talking about the problem. Well, consequently, massive amounts of new drugs came into the country, and because they were coming in such quantities, the price fell. So we had a product that was everywhere, inexpensive, and very, very dangerous.

You can go into any school in the Nation and ask students and they can tell you the name of all these designer drugs; they can tell you exactly where to buy them, and in most cases, it doesn't take over 30 minutes. As I have said, the price plummeted 50, 60, 70 percent. Dropped interdiction, increased border crossings, flooded the market with drugs, the price falls, and the targets are kids, age 8 to 14 years of age. What happened? It doubled and almost tripled drug abuse among teenagers.

Today, in high schools across the country, one in four are using drugs regularly. In junior high, it is 1 in 10. We now have almost 2 million more kids caught up in this lethal snare, drug abuse. To be specific about the numbers, in 1979 at the peak of the last epidemic, 14.1 percent of the entire teenage population ages 12 to 17 was using drugs regularly. The Nation said we can't tolerate this. And from the President to the sheriff, the whole Nation began to fight this epidemic. And what happened?

By 1992, we had reduced drug use among this population by two-thirds. Instead of 3.3 million teenagers using drugs, we drove it down to 1 million. This is very important because it demonstrates that we can correct this problem. There are some in our society, and very powerful people, who would like Americans to believe you can't do anything about this. That is an utter absurdity. We have proven, and very recently, that you can attack this problem and make a difference. But in 1992, as I said a moment ago, we quit talking about the problem. And so today, 2 million-plus are back using drugs regularly. It is a very, very disturbing situation. It just sort of snuck up on us.

A lot of our parents are not talking to their children about this problem, which is very unfortunate, because we know that if parents are talking to their children about this issue, the odds of the children using drugs are cut in half. It is cut in half. But if you went into a classroom, and there are 100 students out there, and say, "How many of you talk to your parents about this problem?" you would be lucky if 10 held up their hands. There is just not that interplay, which explains a little bit here this recent survey. It is most interesting. Forty-three percent of parents believe their teens could find marijuana easily. Sixty percent of the teenagers said it is easy to find. Thirty-three percent of the parents thought their children viewed marijuana as harmful. But only 18 percent of the kids thought it was harmful. It is just a complete disconnect going on here. Forty-five percent of parents felt teens had a friend who smoked marijuana. But if you ask the kids, 71 percent know somebody smoking marijuana. It is just a total disconnect.

So one of the purposes and reasons of this amendment is to assert Federal policy, bold Federal policy that attacks this drug epidemic at every level—at the border, in our communities, in our law enforcement agencies—everybody. It substantially increases funding for interdiction and for education, and it attacks it at every level. If this is put into play, within 24 months there will not be a poll that has 21 percent thinking their teenage children knew someone who experimented with marijuana while 44 percent of the teens said they actually had. This disconnect will be ended in America, and you will begin to drive the numbers of teenagers using drugs down. But not if we bring a major bill about teenage addiction to the Senate and before the American public and never mention drugs and just totally be silent on it as if that is not a problem.

Teenage drug abuse is the No. 1 teenage problem. It is No. 1. Myself, my colleague from Idaho, and my colleague from Michigan felt this almost is damaging if it is so much focused on teenage smoking, which is a problem, but it is a fourth problem. The first one is teenage drugs. So you would almost be saying, "Look, we are accomplishing something here," and looking completely away from the fact that we are in the midst today in this country of one of the most singular alarming epidemics we have ever faced: teenage drug abuse.

I am going to yield, because I see the Senator from North Dakota is prepared to talk here in a minute on the bill.

But one of the saddest things about this whole teenage drug abuse epidemic is that in the last epidemic, in the 1960s and 1970s, most of those teenagers were 16 to 20 in age. Now they are 8 to 14. The cartels have focused. We talked about tobacco focusing on teenagers. It is an unconscionable policy. But the narcotic cartels are totally focused on a young teenage market 8 to 14, as vulnerable a market as could be.

We will pay an unbelievable price—and are—if we do not attack this problem forcefully with the Nation's will, and boldly; not deja vu, just another day. We have to turn this thing around.

Mr. President, I am going to yield to my colleague from North Dakota.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I am going to speak on a number of subjects this morning. I am going to talk about a Web site contest that I sponsored in North Dakota on this question of tobacco. I am going to talk about the marriage penalty debate that we have ongoing. Then I am going to file a cloture motion on behalf of the leader.

First of all, I want to say to my colleague from Georgia that there are some of us who agree that dealing with drugs as part of this legislation makes some sense. We hope we are able to work together and see if we can't find a formula that works so it can be included here. We know there are others who do not think it is appropriate to include it here, and we respect their views. But some of us do believe it is appropriate to deal with the question of other drugs in this bill. Hopefully, we can find a way to be successful at the end of the day. There is no question that it is a serious problem, just as tobacco is a serious problem that imposes enormous health and financial costs on society. Illegal drug use is also creating enormous difficulties.

When we are in Washington, my wife and I live eight blocks from the Capitol. From the steps of the Capitol, we can look right down the street that leads to the house we live in here in Washington. In 1991, my wife was abducted at gunpoint by a crack addict. I tell you, I will never forget the trauma it caused our family. It is an epidemic in many parts of our country. I am proud to say it is not an epidemic in North Dakota, but even there we have a problem.

I think all of us who are serious about improving the lives of people we represent want to address this problem in this bill if we possibly can. So I thank the Senator from Georgia for the effort he has made.

Mr. President, I sponsored a Web site contest for kids from my State on the question of tobacco use. I asked them to create electronic pages, or electronic posters, to help spread the word that tobacco use causes problems. We just had an outpouring of kids from around the State who entered the contest. One of the winners was Justin Grueneich of Ellendale, ND. His Web site said, "Smoke Is No Joke." He is right. His Web site was packed with statistics and information.

One of the things that impressed us was, we found there was more information there than we have heard on the Senate floor. He actually found facts that we haven't heard in the debate on the Senate floor.

So Justin did a superb job.

Another person who did excellent work was Anne Erickson, a senior at Cavalier High School. She was very creative. Her graphic design was great, and her messages were right on target. She wrote, "To smoke or not to smoke, there is no question." She also posted that in addition to being unhealthy, smoking was also unattractive.

As we know, the tobacco industry has tried to present smoking as cool and attractive and sophisticated. She wasn't buying it.

So thank you, Anne, for seeing through those advertising gimmicks by the industry.

Six fifth graders from Dakota School in Minot joined forces and created a Web site they called "The Healthiest Web Site in North Dakota."

Congratulations to Cierra Bails, Christina Leyrer, Mikey Perron, Jr., Nicole Rogers, Jessica Sarty, and Nicki Taylor for their excellent work.

These fifth graders designed a colorful and informative Web page that included links to North Dakota facts and laws on tobacco. They did really a great job in reminding kids that buying tobacco is illegal and it is unhealthy.

Now, younger students also entered the contest and published electronic posters on the Internet. I brought some of them here to the floor to share with my colleagues today. These are from third graders at North Hill Elementary School in Minot, ND. These are very young children, some as young as 7 years old. This one was done by Annie Kirchofner. It has a very simple message. Fruit is healthy, yes to grapes and apples, no to cigarettes. That is Annie Kirchofner.

Devin Blowers doesn't think that smoking is cool. He says, "Smoking is bad for you. Be cool. Don't smoke." And then he has down here this alligator figure. I guess this is his alternative to Joe Camel, and he has sunglasses on the top of his head here and he says "Yuk" to tobacco.

That is pretty good for 7- and 8-year-old kids. They certainly have the message.

Courtney Sluke, another third grader, produced this poster: "Do not smoke." She is saying to her friend, "Hey, you should not smoke." Again, a third grade student from Minot, ND.

The next was Nicole Belgarde. She had a very interesting message. She says, "Don't always take the advice off T.V." That is a pretty good message. She realizes. Here is the television and it is sending the message that "Smoking is cool." And a fellow youngster is picking up that message saying "Smoking is cool" and she is countering it saying, "No, smoking is not cool."

Alex Deck gets right to the point. He says, "Smoking is bad." He has the universal symbol here, the crossing out of the cigarette, and he has this little figure who is chanting "Smoking is bad."

Bryan Moe, he also was able to get right to the heart of it. He says, "Don't smoke cause you might die." He put the victim right in his deathbed. He was on top of this. And he has X's for his eyes. Pretty tough message. If you smoke, you die. That poor victim is right on his deathbed.

The first place winner—the first place winner is Amanda Roise. She shows that price does matter. I really like very much what she did.

Now, remember, these are 7- or 8-year-old children who designed these. And these are electronic posters. It is just amazing; these kids posted them on the Internet after we had a call statewide: Send us your ideas. And really we got a tremendous response from all around the State.

Her theme is, "Don't waste your money on cigarettes." And here they have a price of $2.95 and a customer saying, "I don't have enough." And here is a sign "Don't do drug." She ran out of room so she put the "S" down here. "Don't do drugs." And it is a store, obviously, and one of my favorites is she has excellent coloring, wonderful coloring. These are Cheerios boxes, and I like to eat my Cheerios every morning, so I thought this was especially good. Amanda Roise, the first place winner in our contest for electronic posters.

Congratulations to all of the winners and all of the contestants. We are going to be having fun with this when we go back home presenting the awards to not only these very young children but older ones as well who participated in this web site contest. Gee, we have had so much fun with this. I can tell you, we had a number of distinguished judges make the determinations, and my thanks to them as well.

Mr. President, I wanted to direct my main remarks this morning to the question of the marriage penalty because that has become an important part of the debate here as to what alternative we ought to pursue in addressing the marriage penalty. I thought it might be helpful to discuss for a moment what the marriage penalty is, who is really being hurt by it, and what we could do to address it in some rational way.

Let's put up the first chart that shows the question of who really is facing the marriage penalty. This is according to the Congressional Budget Office, and it shows that 51 percent of noncorporate filers in this country are singles. So, of course, they don't face the marriage penalty. Of all the noncorporate filers, 51 percent are single people. They don't have a problem with the marriage penalty. And 3.5 percent are joint returns that are unaffected by the so-called marriage penalty, so we don't need to focus on them.

Then when you look at the rest, what you find is that 24.5 percent, in fact, face the marriage penalty; that is, they pay more taxes because they are married than if they were filing separately. Interestingly enough, 21 percent get a bonus by being married; that is, they pay less by being married than they would pay if they filed separately as single individuals.

I want to indicate that the Democratic alternative to the Gramm amendment focuses its relief on those taxpayers who are actually being penalized. That seems to make sense. Unfortunately, Senator GRAMM's offering deals not only with those who are actually being penalized but he also gives relief to those who are getting a bonus. I am not quite sure what logic there is to that, but that is, in fact, what the amendment of the Senator from Texas would do, and as a result there are insufficient resources to help those who are really hurt by the marriage penalty. What sense that makes escapes this Senator.

What we have done is instead of diluting the relief that would go to couples paying a marriage penalty, we focus on those who are paying the marriage penalty. It seems to me that tax fairness would require that married couples with equal incomes ought to be taxed equally. That seems to be a basic kind of concept, one that makes common sense.

The Democratic alternative recognizes, as did the Congress in 1981 when it enacted the Kemp-Roth tax cuts, that to eliminate or reduce the marriage penalty, it is necessary to draw a distinction between one-earner and two-earner couples. As in 1981, the most efficient way to provide relief to couples who are incurring a marriage penalty is to allow a percentage of the earned income of the spouse with the lower earnings to be, in effect, free from income tax. Because the alternative offered by the Democrats is targeted on low- and moderate-income couples, we can make this two-earner deduction more generous than the one that was enacted in 1981. At that time, they provided the 10-percent deduction. Our alternative, when fully phased in, will provide a 20-percent deduction from the lower earner's income. This represents a much more potent assault on the marriage penalty than either the 1981 provision or the proposal offered by the Senator from Texas.

Let me direct my attention for a moment to the proposal of the Senator from Texas. His proposal is a one-size-fits-all approach that scatters the modest relief that it provides to all joint filers, whether they actually incur a marriage penalty or not. He gives it to those who have a bonus from being married instead of focusing on those who actually are penalized by being married. As a result, he gives much less help to those who actually are paying a penalty. Again, the logic of his approach I do not think holds up under scrutiny.

In fairness, there is marriage penalty relief in the Gramm proposal, but there is also a considerable tax cut for people who are already getting a marriage bonus. I just do not think that makes sense. The Senator from Texas would spend about half of the revenue he is all too willing to take away from health research and public health efforts in order to spend the money on tax relief for people who already enjoy an advantage under the system and, in the process, shortchanges the couples who are actually being penalized.

The next chart demonstrates the weakness of the Gramm approach in comparison to what we are offering. This looks at the alternative that we are proposing on the Democratic side to cut the marriage tax penalty more than the Gramm proposal does for most families. This would be in 2002, when fully phased in. The first example is for a couple earning $35,000 a year, split, with one member of the couple getting $20,000 a year of income and the other, $15,000 a year of income. The Gramm amendment would provide a tax deduction of $1,650. Our proposal would provide a deduction of $3,000—far more generous, because it makes much more sense, in order to provide actual relief to those who are being penalized by the marriage penalty.

The second alternative is a couple earning $50,000, evenly split between the two. Again, the Gramm amendment, the one-size-fits-all approach, gives a deduction of $1,650. That doesn't really make much sense because, again, he is conferring benefits not only on those who are being penalized by the marriage penalty but he is conferring benefits on those who are already getting a bonus, those who are being given favorable treatment. He treats them all alike. Those who are helped, those who are hurt—he treats them all alike. We say you ought to focus the resources you have on those who are hurt, so we say a $5,000 tax deduction for that couple who has $50,000 a year of income, evenly split between the two.

By the way, this is precisely the situation in which the largest marriage penalties occur, yet Senator Gramm treats them the same way as the others. And, in addition, he is giving that same benefit to couples who are actually advantaged by being married because of their tax circumstances under the current Tax Code. Again, the Gramm approach just does not stand up under much scrutiny.

I think if we analyze what has happened here, the fact is that we know who the taxpayers are who face a marriage penalty and we know that some penalties are harsher than others. Why should we opt for an approach that treats everybody the same, especially when it is substantially more expensive than a tailored approach that responds to the marriage penalty in a proportional way on a couple-by-couple basis?

Senator GRAMM calls our approach a figleaf. I think moderate-income families who are struggling on two incomes would welcome our figleaf when they compare it with the pine needle the Senator from Texas would provide. The fact is, ours is far more generous to those who are actually experiencing a marriage penalty. If we are going to call it marriage penalty relief, we ought to target it to those who are actually facing a marriage penalty.

I think it is also important to say that when the Senator from Texas asserts that this bill which is moving through Congress is regressive and imposes a harsh penalty on those who are at the lowest end of the income continuum in this country, that there is another side to the story that he is not telling. The fact is, smoking is a huge tax on low-income Americans. An average pack-a-day smoker will spend more than $25,000 on cigarettes over his lifetime. An average pack-a-day smoker will have an additional $20,000 in medical costs over his or her lifetime. And the average low-income American, both smokers and nonsmokers, will pay his or her share of the $4.7 trillion in costs that smoking will impose on society over the next 25 years. That is something that has been left out completely by the discussion of the Senator from Texas.

He talks a lot about tax increases, but he does not mention the hidden tax that is being imposed on members of this society every year: $130 billion that this industry is imposing in costs on society—$60 billion in health costs, $60 billion in lost productivity, and $10 billion in other costs. The fact is, low-income workers' payroll taxes are paying for about $18 billion a year in Medicare costs; low-income workers' income taxes are paying for about $12 billion a year in Medicaid costs. Those are hidden taxes that low-income people are paying each and every year because of the costs being imposed by the tobacco industry in this society. The fact is, low-income workers are also paying higher health insurance costs and getting lower wages as a result of the costs to our health care system of smoking.

Again, let me stress the bottom line: $4.7 trillion in costs being imposed on this society over the next 25 years. The biggest tax cut that we could give low-income Americans is to reduce that cost. The McCain bill will cut smoking by about a third. That would produce savings of about $1.6 trillion for this society from the $4.7 trillion price tag imposed on us by the tobacco industry. That is the smart way of helping low-income Americans. Obviously, when we couple that with the proposal of the Democrats to focus on the marriage penalty, not to be giving the same treatment to those whether they are hurt or helped by the current tax system, we have a potent combination.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis by the Congressional Budget Office describing what causes the marriage penalty and what causes the marriage bonus, so people might see how it comes about, the situations in which people are adversely affected by the marriage penalty, and how others benefit by being married and actually pay less taxes than they would pay if they were filing as singles.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3.—FACTORS DETERMINING WHETHER COUPLES FACE MARRIAGE PENALTIES OR BONUSES, 1996

Tax parameter or feature	Conditions leading to marriage penalty	Conditions leading to marriage bonus
Personal Exemptions ($2,550 for all individuals, regardless of marital status)	None	One spouse cannot use full single exemption but other spouse would have positive taxable income if taxed as an individual.
Standard Deduction ($4,000 for singles, $6,700 for couples)	Combined use of two single deductions exceeds value of married deduction	One spouse cannot use full single deduction but other spouse would have positive taxable income if taxed as an individual.
Tax Brackets (Lower brackets for singles are 60 percent as wide as those for couples; top bracket starts at same income for all).	Spouses have more nearly equal incomes; as married couple, more of combined income taxed at higher rate; high earners have more income subject to top tax rate.	Spouses have unequal incomes; as singles, income of higher-earning spouse taxed at higher rate.
Earned Income Tax Credit (Parameters same regardless of filing status)	Low-earning parent married to spouse whose income causes loss of some or all of earned income tax credit.	Low-earning childless person married to parent with no or very low earnings.
Phaseout of Personal Exemptions (Starting income for singles equals two-thirds of that for couples).	Spouses have more nearly equal incomes; as married couple, more of total income falls in phaseout range.	Spouses have unequal incomes; as singles, more income of higher-earning spouse subject to phaseout.
Limitation on Itemized Deductions (Starting point same regardless of filing status).	Spouses have more nearly equal incomes; as married couple, more of total income falls in limitation range.	None.
Other Fixed Dollar Limitations (For example, income limit for individual retirement accounts, thresholds for taxation of Social Security).	Either marriage does not increase limit or increase is less than spouse adds to measure subject to limit.	Marriage increases limit and one spouse adds less to measure subject to limit than the increase in limit.

Source: Congressional Budget Office.

CLOTURE MOTION

Mr. CONRAD. Mr. President, on behalf of the Democratic leader, I would like to close by sending this cloture motion to the desk.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute for S. 1415, the tobacco legislation.

John Kerry, Bob Kerrey, Kent Conrad, Harry Reid, Paul Wellstone, Dick Durbin, Patty Murray, Richard Bryan, Tom Harkin, Carl Levin, Joe Biden, J. Lieberman, John Glenn, Jeff Bingaman, Ron Wyden, and Max Baucus.

Mr. CONRAD. I thank my colleague from Georgia for his indulgence and his patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I suspect this most recent cloture motion has the potential of engendering some controversy. It puts into rather tenuous circumstances the amendment we are discussing, because if we cannot vote—if cloture were secured, this amendment would not be in order, along with a number of other very core components of the debate about this very contentious legislation. So I hope that is being thought through very carefully by all parties concerned, that this is a very significant piece of legislation that has an enormous effect on our country and there are some very important amendments that cloture could arbitrarily remove from the debate.

I will leave that to the leadership and another day.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, returning to my amendment for a few minutes—I see Senator GRAHAM has been waiting—I will take a couple of minutes and then yield the floor. But I want to reiterate the importance of this amendment that puts teenage drug addiction in the mix.

I have said repeatedly throughout the debate that I think it is unconscionable policy to be talking to the country about teenage addiction and skip the No. 1 problem of teenage addiction, which is drug abuse. It almost is an extension of the silence that we have witnessed over the last several years about this problem. This Senator does not intend to allow that silence to occur here. In other words, the idea being we will pass a bill that deals with teenage smoking and somehow will have comfortably addressed teenage addiction problems is the wrong message. It certainly should be part of the message that we are dealing with teenage smoking, but we cannot—I repeat—cannot ignore the teenage drug issue which is, of course, related to smoking.

I point out here, someone who smokes marijuana regularly may have many of the same respiratory problems that tobacco smokers have. These kids may have daily cough and phlegm, symptoms of chronic bronchitis and more frequent chest colds. Continuing to smoke marijuana can lead to abnormal functioning of lung tissue injured or destroyed by marijuana smoke. Regardless of the THC content, the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than among tobacco smokers. This may be due to marijuana users inhaling more deeply and holding the smoke in the lungs.

A very large component of teenage drug abuse is directly related to the smoking of the most prominent drug abused by teenagers, which is marijuana. When they smoke marijuana, the effects and damage are far greater.

Again, I reiterate, as I will repeatedly, you cannot talk about teenage addiction without the two. You have to talk about teenage smoking of tobacco, but you cannot be silent on the smoking of marijuana or the other drug-related abuses.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I look forward at the appropriate time to discuss the amendment of the Senator from Georgia because I agree with his premise that there is a relationship between tobacco smoking and the use of drugs. I have spent a great deal of my time in public office trying to increase our ability to deal with illicit use of drugs, both in terms of effective enforcement at all levels of government and those things that will reduce the likelihood of persons desiring to use drugs.

Let me say the most fundamental relationship between the tobacco issue that we debate today and the amendment of the Senator from Georgia is that virtually no one starts with the use of illicit drugs. Tobacco is the gateway to the use of illicit drugs. So our ability, by effective legislation or otherwise, to substantially reduce the number of persons who commence the process of experimentation, use and then addiction to tobacco will make one of, if not the most, fundamental contributions to the reduction of the use of illicit hard drugs. That is an issue that we will have an opportunity to discuss in more detail later.

My concern today is a series of ads that are being run, ads that are being run either under the specific sponsorship of the tobacco industry or by organizations which we know are supported by the tobacco industry.

Typical of these ads is one in which there is a lady, a waitress who is looking into a television camera and is stating how much her cost of smoking will increase if legislation such as that proposed by the Senate Commerce Committee were to become the law.

There are other ads that make the same point through other appealing messages. There is a fundamental error in those ads. There is a fundamental deception. There is the latest example of the manipulation for which this industry has become so well known. What is that error? What is that fraud? What is that manipulation? It is the assumption that the status quo is an option. It is the assumption that we can roll back the events of the last several years and go back to 1970 and everything will be as it was then; that that lady in the ad will not be threatened with the possibility of higher prices for her cigarettes.

The fact is that the status quo is not an option. There are two basic options that are before us as we continue this debate, and I think that it is important that we reassert what our real alternatives are.

Our alternatives are either comprehensive, and I believe as Senator CHAFEE and Senator HARKIN and I have believed for many months, that it also must be bipartisan, health-oriented national legislation. That is one alternative.

The other alternative is not the status quo. The other alternative is a continuation of the pattern of State-by-State litigation, a pattern which has already increased the price of cigarettes in America between 17 to 20 cents per pack to pay for the settlements that have been reached thus far in only four States—Mississippi, Florida, Texas and Minnesota.

It is projected that if the increase in cigarettes that will be a result of the other 46 States successfully pursuing litigation against the tobacco industry is at the same per capita level as these first four States, Mr. President, that the cost per pack will go up by an additional dollar or to a level higher than that which is being proposed by the Senate Commerce Committee.

So the option that we have is not one of whether there is going to be an increase in the price of cigarettes; the question is whether it will come through a comprehensive, bipartisan, health-oriented national legislation, or whether it will come by a series of State-by-State litigations augmented by the kinds of litigations that are now being brought by Blue Cross-Blue Shield as an example of insurance carrier litigation, being brought by labor unions on behalf of their members and, Mr. President, I believe eventually will be brought by the Federal Government to secure its appropriate compensation for the additional cost that it has paid for tobacco-related illnesses through programs such as Medicare, the Veterans' Administration, CHAMPUS—the health care program for military personnel and their dependents—and a variety of other programs in which the Federal Government is either the total or a substantial contributor to their financing.

The choice is either we do this through comprehensive, bipartisan, health-oriented national legislation, or it occurs on a State-by-State, litigation-by-litigation basis.

My personal feeling is that by every criteria that we have used to assess what is the public interest, that the public interest would be better served by a comprehensive, bipartisan, health-oriented national legislation.

What are some of those interests? Our most fundamental interest, the issue that has brought us here today and for the last several days and will for several more to come, has been our concern over teenage smoking. We know that every day 3,000 American youth, under the age of 18, commence the process that will eventually lead to the regular use of tobacco. We know that of that 3,000, that a third—1,000—will become so addicted to tobacco that they will die, that they will die prematurely of a tobacco-related affliction.

That is the fundamental objective of this legislation, to reduce this unnecessary carnage of America's youth and adult population because of the continuation of a youthful introduction to tobacco.

Which of the two approaches is most likely to achieve the objective of reducing youth smoking? We know some things, Mr. President, as to what is the effective combination of initiatives. We know that the most effective plan will be a broad-based, comprehensive public health-oriented plan. It will include items such as the funding of smoking cessation programs and the funding of education programs on the consequences of the use of tobacco. It will include limitations on marketing and promotion. It will include penalties against the industry and individual companies which fail to meet national standards for the reduction of teenage smoking. It will include, and probably most significantly, a substantial increase in the price of cigarettes, because it is that increase in price that will have the greatest deterrent effect on the use of cigarettes.

The Centers for Disease Control has estimated that in the initial stages of an increase in price, that for every 10-percent increase in price, there is a 7-percent reduction in use. Those relationships begin to change as you reach higher levels of price increases. But the legislation that the Senator from Arizona has presented to us is projected to have, by the price alone, a reduction in teenage use of in the range of 40 to 50 percent.

It is also important, Mr. President, that that price be instituted on a shock basis. If the price increase is gradual, incremental, drop by drop, then it is more likely to be absorbed, become the norm, and set the foundation for acceptance of the next increase. But if that price increase is dramatic—is imposed quickly—it will have the greatest affect in terms of achieving our objective of reducing teenage smoking.

It is obvious that on all of those counts, comprehensive, bipartisan, public health-oriented national legislation will better achieve our objective of reducing teenage smoking than will the pattern of State-by-State, litigant by litigant courtroom action that will be the alternative to a national, comprehensive, bipartisan public health-oriented resolution of this issue.

On the standard of enforcement, much is made in these ads that the tobacco industry is promoting that there will be a burgeoning of black-market sales if there is a substantial increase in the price. The fact is that by a legislative settlement—which among other things will provide the funds for those areas of enhanced enforcement that may be necessary, a national settlement that can contain provisions for strengthening our enforcement, a national settlement that will result in less variation State to State in terms of the price of cigarettes, and therefore less likelihood of black-market sales domestically within the United States—that a national legislative settlement will reduce the potential of black-market activities to a substantially greater degree than the alternative of State-by-State litigation.

We also know that, on the issue of tobacco farmers, there is great recognition of the necessity to provide some transition. That transition is contained in every serious piece of legislation that has been introduced in the national Congress.

There will be a debate over which of those alternatives is preferred, but the fact that it is a recognized part of a national, comprehensive, bipartisan health-oriented tobacco resolution is unanimously agreed to. But, Mr. President, that has not been included in the State-by-State settlements, and will not likely be included. Only a relatively small number of States are directly affected by the issue of tobacco farmers and, therefore, could not be expected to include, in their settlements with the tobacco industry, funding for tobacco farmers.

If there is going to be a transition, it has to be done at the national level, not at a State-by-State level. So the interest of that constituency and that important part of this overall complex issue will be much better served by national legislation than they will be by a State-by-State settlement.

Finally, having a rational distribution of the funds, yes, this is going to raise a substantial amount of money. It may raise more money on the State-by-State basis, it may impose higher costs on the industry, and eventually on the users of this product than national legislation, but in either event there will be a substantial amount of funds raised by either national legislation or by State-by-State litigation. But it is at the national level that we will have a better likelihood of being able to allocate the funds to important programs, such as research in our national health institutes so that we will learn more about the consequences of past tobacco use and an effective means of avoiding such use in the future.

It is less likely that the States will be equitably treated through a series of State-by-State matters as opposed to doing it on a national basis. There will not be the funds likely to be available for effective counteradvertising, which will require a national program just as the national program that the Federal Government is now underwriting as it relates to advertising against the use of illicit drugs.

So, Mr. President, based on our principal objective, which is the reduction of youth smoking, and other important subissues of this current effort, including appropriate use of the funds, enforcement against black marketing, the effect on tobacco farmers, it is much more likely that we will achieve our objectives through a national legislative settlement than what is the real alternative, which is for us to do nothing and then allow the course of action which is already in place, State-by-State, private, soon to be, I hope, Federal litigation against the tobacco industries to be the alternative.

So, Mr. President, as we conclude this week's debate, I hope as we return next week we will be prepared to focus on what the real options are and get the business of America done and stop the carnage of American children that is resulting every hour we delay in this effort to mitigate the carnage of American youth that occurs as they take up the use of tobacco.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Mr. Jason Westin of my staff be allowed floor privileges for the remainder of the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Would the Senator yield for a question? I compliment the Senator on his outstanding statement and thank him for all of his diligence and hard work on the whole issue of cutting down on teen smoking. I know the Senator from Florida has made that one of his key principles, which is in this bill. Really, the essence of this bill is to cut down on teen smoking. I appreciate all of the work he has done, and with Senator CHAFEE and with me on this.

I know Senator CHAFEE will be speaking next. We hope to engage in some colloquy here on the Senate floor to talk about some of the issues that have come up that are extraneous—important issues, but extraneous to the bill.

I just want to basically ask the Senator from Florida—before I know Senator CHAFEE will make his opening statement—about that aspect, about the other issues that seem to be coming up on this bill and whether or not we could address those later on and just keep the focus on the main issue here.

Mr. GRAHAM. Senator, I agree with your statement. We have one principal objective with this legislation, and that is to reduce teenage smoking, to reduce this unconscionable level of death and damage that is inflicted upon our young people by their early addiction to tobacco.

There are other issues that are being suggested—from reforming the tax law to an enhanced enforcement effort against illicit drugs—which are all important issues, and many of us have supported and advocated and led the charge on those issues on other days and in other forums.

Our concern is—and I will not impugn the motives of any of the advocates of those other provisions—that some outside, and maybe a few inside, this Chamber would be pleased at the objection of these "tantalizing but extraneous issues" because they would see them as a means of delay, obfuscation, and, eventually, defeat of comprehensive national legislation.

What stuns me is that they don't also see what the alternative is. The alternative is not that defeat here will mean the American public will throw up its hands and say, "I guess we have to accept the fact that 125 American young people will take up smoking every hour of every day of the 365 days of the year." That will not be the alternative. The alternative will be that the American public, having disdained of our ability to deal with this problem, will go to their States, will go to their labor unions, will urge their insurance carriers to enter the fray, as they have in other States, and we will have a 50-State shootout in the courts on this issue.

We will move toward our objective, but not nearly as effectively as if we accept the responsibility and the opportunity to probably make the greatest contribution to the enhancement of public health of Americans that has occurred in this century by the adoption of this legislation.

Mr. HARKIN. I thank the Senator.

Mr. CHAFEE. Mr. President, over the past several days it seems to me that the Senate debate on the tobacco bill has taken a very unfortunate turn. It is a turn away from what I strongly believe are the purposes and objectives of the legislation. I want to remind my colleagues that the very name of the bill that we are dealing with is the National Tobacco Policy and Youth Smoking Reduction Act. I want to accent the "Youth Smoking Reduction Act" portion of the title.

Now, the purpose of this tobacco legislation is to fundamentally change the way tobacco products are marketed and sold in this country. Clearly, there is an epidemic sweeping the Nation. That is the rapid growth of teenage smoking and tobacco use. The Centers for Disease Control, as has been said many times on the floor, estimates that every day 3,000 young American children, teenagers, take up smoking and that one-third of these 3,000 will die prematurely because of smoking-related diseases.

Thus, if you multiply that out, it is a million children a year, a million young American children under the age of 18, who join the ranks of adult smokers, and more than 300,000 of them will die prematurely. Over a 25-year period, that amounts to 8 million Americans dying early because of smoking. That is more Americans than were lost in all the major wars that our Nation has been involved with.

As has been pointed out all so frequently, tobacco use is the largest preventable cause of death in America today. In other words, if we want to look where can we do something about preventing deaths in our country, and should we tackle alcohol or should we tackle accidents or should we deal with illegal drugs or automobile accidents—yes, all of those are important, but none of them compares with the reduction in fatalities that would occur if we could eliminate smoking among the young people.

The statistics are chilling. Tobacco-related deaths are four times the number of Americans who die every year from alcohol-related deaths. Tobacco-related deaths kill 9 times the number who die from accidental deaths and 44 times the number of Americans who die from illegal drugs. In America alone, 419,000 deaths occur as a result of tobacco-related illnesses, diseases. Nearly half a million every year in our country die from tobacco-related diseases.

So, obviously, the way to prevent and discourage young people from taking up tobacco is in the beginning and doing all we can to encourage adults to cease smoking.

Some of the amendments before us would take us far afield from that purpose. In other words, the objective of the exercise is to reduce teenage smoking, prevent it if possible, and to encourage adults to give up smoking. But these amendments we have before the Senate now go far afield from that.

Let me begin with the drug amendment currently pending. This amendment would take $3 billion annually out of this bill to combat illegal drugs, which means we will have $3 billion less per year available for the war on tobacco. Now, we already have a war on drugs, and we are spending billions of dollars every year to combat the serious problems of illegal drugs. This may be a meritorious amendment. Maybe we should spent $3 billion more fighting drugs. But this isn't the place to do it. If there is an antidrug amendment to be brought up, bring it up as a freestanding amendment. See if the money is there somewhere to fund this initiative. If it is all that important, let's find the money for it. But it doesn't belong in this bill.

Now, the next one, Mr. President, the marriage penalty tax relief proposal. Now, maybe that is a good proposal, but it has no place in this legislation. Correcting a bias in the Tax Code may make sense, but not on this bill. As the fiscal year 1999 budget process advances, we will have a chance to consider the marriage penalty. Indeed, the Senate budget resolution which we adopted here has $30 billion provided for tax cuts. That is the place where marriage penalties should go if it is that important. The budget resolution reported from the House Budget Committee calls for $100 billion in tax cuts. There is ample opportunity to do something about tax cuts and the marriage penalty.

Now, I know one of the arguments for doing a tax cut in this bill is, it is enunciated they want to return some of the money that will be paid in the form of higher cigarette prices paid by smokers. It is said that the great majority of smokers are in the low-income or the middle-income group and that we ought to do something for them. Somehow that has a twist to it that isn't really sensible. I reject the argument that these individuals somehow need to be reimbursed. The fact is, because of the smoking of individuals in America, we all are paying vastly higher taxes than we ever would otherwise. We are paying higher Medicare costs, we are paying higher Medicaid costs, we are paying higher private health insurance premiums, because smokers insist on smoking, and they are the ones in whom, unfortunately, so many smoking-related illnesses occur.

The fact of the matter is, smoking is a hidden tax on all taxpayers. The direct medical costs of treating smoking-related illnesses exceed $60 billion a year. We are all paying that—higher premiums on our health insurance, as I mentioned before. The current Federal excise tax on cigarettes does not begin to approach offsetting these additional costs. Thus, in my judgment, it is perfectly proper that smokers pay more than they are currently paying in taxes on cigarettes.

Now, let me conclude by making a simple point. Here, the original McCain bill provided an increase in revenues of $65 billion. How is that money to be spent?

It was to be spent with $26 billion going to the States. This is over 5 years—$26 billion to the States. NIH is to get $14 billion plus. In other words, cessation and prevention programs were to receive $14 billion. Agriculture, $10 billion over 5 years. This is the total; it comes to $65 billion.

But now what is happening, Mr. President, is a whole series of things have been added on. Yes, the States stay at $26 billion. In comes illegal drugs, $15 billion, and marriage penalty, $15 billion. Veterans—we adopted that already—is at $3 billion, agriculture at $18 billion, public health at $14 billion, and NIH at $14 billion. In other words, the spending equalling the revenue—the revenue being $65 billion over 5 years, and suddenly it is up to $105 billion. Obviously, the traffic can't bear that. That is not what the taxes are going to produce. So something has to give.

Mr. President, I remember this: There is a strong constituency for the States. Oh, yes, they want their money. The marriage penalty is very enticing and veterans has already been adopted. In agriculture, there is a strong constituency. What is going to fall out is the NIH and the public health programs.

Mr. President, I think that is terribly unfortunate. And we see here what is going to lose. When we talk about health-related programs, we are talking not only about NIH, which is a separate thing, but there are cessation, prevention/education, counteradvertising, antismuggling, and youth access restrictions. Those are the things that are so important if we are truly concerned with reducing smoking amongst our young people, as the very name of this legislation provides. These are the things that will go out if we adopt these other proposals, attractive though they may be, for marriage penalty and antidrug activities.

Mr. President, the point is there won't be resources for these programs that are so important. So I don't think that is where we want to be at the end of the day. I don't think we want to end up with these programs losing out because we have adopted the others. If the others are all that important—the antidrug provisions, illegal drugs, the marriage penalty relief—there will be a chance at another time to address those. But in this legislation let's stick with the objective, which is to reduce teenage smoking, prevent it from occurring in the beginning, and do all we can to encourage those who are smokers to give up that unfortunate habit.

So for these reasons, I urge my colleagues to reject the antidrug and the tax cut amendments. They are not about tobacco; they should not be in this bill.

I thank the Chair.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, first, I listened with great interest to the comments of the Senator from Rhode Island about these two amendments. I urge him to think about the end game and not just look at this vote or this amendment at this time. Like everybody else around here, people are assuming that if we have a bad bill at this point—which we do—or if we add an amendment here or there, that is going to become law. Somebody needs to think about how do we get to an end result that will achieve the things we want.

If there ever is a bill, it will have a teenage smoking cessation campaign and it will have a drug abuse cessation campaign. It is very appropriate that we tie these two together. It will have additional help for health programs that have been affected by smoking. NIH, obviously, would be a major beneficiary, and it should be. We need research on the health problems caused by smoking. Medicaid and Medicare—that would be the end result. Somebody better think about how do you ever get an end result. If we don't add something on marriage penalty, tax relief, and on drugs, there won't be a bill. There will not be a bill.

I want to remind everybody how we got to this point. First of all, Senator MCCAIN, the manager of the bill, chairman of the Commerce Committee, had hearings; his committee met. They reported the bill out. I think it was 19 or 20–1. Republicans and Democrats voted for it. All of them had to sort of hold their noses, knowing there were too many things in here that were the wrong thing to do, and they had gone too far. They had some problems, but they got it done. It was a Republican chairman and every Republican but one voted to report it out of that committee.

I want the record to show, once again, that I am the guy that called up this legislation for it to be considered. But I am here to say that at this point it looks to me like it is over because of the games that are being played. Now, efforts were being made this very morning to work out a reasonable compromise on the tax cut proposal by Senator GRAMM. We were going to have to have a good debate and a vote on this drug-related amendment. There were going to have to be additional votes on the attorneys' fees issue. There is going to have to be votes on the substitutes, if offered, by Senators HATCH, GRAMM and DOMENICI. At that point, perhaps cloture could begin. That is not what has been happening.

Yesterday, Senator DASCHLE filed a cloture motion and, frankly, I did not appreciate the way that was being done. We are not ready for cloture on this. We have some other issues that have to be considered before cloture would ever be invoked. And now, for the information of all Senators, the junior Senator from North Dakota, Senator CONRAD, has filed a cloture motion on the pending committee amendment to the tobacco bill. Now, who else is going to file a cloture? We have a good man back here in the cloakroom, Tiny; maybe he can file cloture on this bill. Is everybody going to wander in and file a cloture? Do we want two cloture votes on Tuesday, or one every day, or do we want a bill?

Frankly, Mr. President, I am offended by this. I consider it a breach of the good faith that we have worked in within this Chamber. I was not notified this was going to happen until 5 minutes after 11. I never had a discussion with my counterpart on the other side, and then Senator CONRAD files his cloture motion at about 11:20. I resent it. I don't appreciate it. It is counterproductive and it is killing this bill. So I truly regret this action by our minority colleagues.

As all Senators know, rule XXII, the cloture rule, is one of the most rigid of our rules, as far as imposing an arbitrary schedule for the consideration of a bill. Amendments and even dictating the convening time of the Senate with respect to the time of a cloture rollcall vote are locked in under this rule. The bill before us would require eight cloture motions—that is an important point—to be invoked and each of the eight cloture items to be disposed of with up to 30 hours of debate on each.

They are as follows: cloture on the Commerce Committee amendment; cloture on the bill, S. 1415; cloture on the motion to proceed to a House revenue bill; cloture on the substitute amendment to insert the Senate text into the House revenue bill; cloture on passage of the House revenue bill; cloture on the motion to insist on the Senate amendment required to send the bill to conference; cloture on the motion to request a conference with the House on disagreeing amendments; and cloture on the appointment of conferees.

I am not the only guy in the Senate who knows where all these cloture motions can be filed. Of course, that is assuming you get cloture, which then would require 30 hours and hundreds of amendments. This is a very complex, very important piece of legislation, no matter what your viewpoint is, for or against. Everybody has to acknowledge that it has many moving parts, is very complex, and there are many opportunities for amendments to be offered and for mischief to be caused. It could take forever or, in fact, never, as far as this bill being completed, unless we have some modicum of cooperation on both sides of the aisle and some effort to be fair to Senators that do have amendments that they think should be offered.

So I am disappointed. But if this is the way we are going to proceed, if it is going to be done this way, then I will join the ranks of those that are going to use every procedural parliamentary tool to work against this legislation, and we can just go ahead and admit that it was a good thought.

We tried our best. It didn't work. I think that is unfortunate. But the way that this is set up now, that is exactly where we are.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. CHAFEE). The minority leader.

Mr. DASCHLE. Mr. President, I am disappointed that the majority leader has taken the floor to criticize what has occurred this morning. I notified the majority leader last night of our intention to file cloture again. We have been on the bill 42 hours, 39 minutes as of 11:53. Eight days we have been here debating. We have sought some cooperation from our colleagues on the other side in terms of reaching some agreement on how we can proceed on amendments. We have attempted to do that. We were getting nowhere. It was only after we filed cloture last night that we were able to get a vote finally on the Durbin amendment.

The majority leader talks about fairness being the criterion by which we judge a Senator's right to offer an amendment. In the name of fairness, we need to offer Senators their opportunity to come to the floor to offer amendments. I wish we would use the same standard. Let's use the same standard for the tobacco bill as we used for the Coverdell bill, as we used for all other bills that we have had before the Senate this year. We were arguing fairness when Senators were denied the opportunity to offer amendments. In fact, somebody said, "Can you believe they are offering a tax amendment on the Coverdell bill?" We said, "Well, this is a tax bill." But we were accused of destroying what harmony there may have been to reach some agreement. And Senators on this side of the aisle were precluded from offering amendments on the Coverdell bill even though it was a tax bill, because they said this is an education bill. Do you remember that debate? Because it was "an education bill," we were not supposed to offer tax amendments. But it was a tax bill.

Now we have the tobacco legislation, and our colleagues on the other side of the aisle are saying we want to offer a tax amendment. We are saying this is a tobacco bill. They say it doesn't matter. We are going to offer this tobacco amendment, and you are not being fair unless you ensure that we have a right to offer tax amendments.

I am just asking, let's play fair. Let's use the same standard. That isn't too much to ask. Once we have agreed on what that standard is, let's accommodate Senators on both sides who have amendments they wish to offer. We have a tax amendment. We don't understand why it would be that difficult for us to come to some agreement about having a vote on two competing ideas on the same exact issue. Let's have our debate. Let's lay the amendments down. Let's have a vote back to back on the amendments, and let's move on. We will have an amendment to the amendment that has now been offered by the distinguished Senator from Georgia. We laud him for many of the things that are incorporated in his amendment. There are some concerns that we have. If we can't work through those, we will certainly have an alternative there as well.

But it seems to me that we have a double standard here, Mr. President. When it was in circumstances in the past, we had one set of rules. Now, with circumstances with this bill, there is another set of rules. Let's play by the same rules. Let's work together and see if we can't find some resolution of this problem. I think that can be done, but we have a ways to go.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I listened with interest and great attention to the words spoken by the majority leader. He used the phrase, "Let's keep in mind the end game." I go back to what my colleague from Florida, Senator GRAHAM, and Senator CHAFEE just spoke about before the two leaders took the floor. What is the "end game"? It is right here. This is the end game. The number of high school students smoking is going up at a precipitous rate, higher than ever. The end game of this bill is to cut down on teenage smoking. That is the end game.

The majority leader says if there is no marriage penalty tax in there and no illegal drug money, then there is going to be no bill. I hope I still have some rational reasoning power. I have to ask, Why? Why is that? The majority leader didn't expound on why that would be. You mean to say that we are holding these teenagers being addicted every day—3,000 teenagers every day being addicted to tobacco—hostage to the marriage penalty tax provision or illegal drug money? Holding them hostage? Yet, the majority leader says there will be no bill unless we have this. I don't understand that. The committee-reported bill didn't have them in it. The committee-reported bill that was reported out by a huge vote under the leadership of Senator MCCAIN didn't have that in it.

And the majority leader went on to say—I don't understand where he is getting his figures—that we are going to have money for research, we will have money for cutting down teenage smoking. I don't know where he is going to get the money. Look, I am using the same chart that Senator CHAFEE used just a minute ago. Here is the original McCain bill: $65 billion over 5 years for public health, NIH, health research, States, and agriculture. Add it up—$65 billion. If we keep the States at $26 billion, we keep agriculture, we add in illegal drugs, the Coverdell amendment, the marriage penalty, and veterans, we are up to $65 billion, and we have no money for NIH and no money for public health, period.

Does the majority leader mean to say that he is going to bring another bill on the floor to magically find some money floating around someplace for NIH research and for public health for cutting down on teen smoking? I am sorry. The facts are simple.

If you put in the $15 billion on the illegal drugs, the $15 billion on the marriage penalty, the veterans' $3 billion, agriculture $18 billion, you can forget about public health and NIH. There is no money left, unless, of course, the majority leader is going to come back on the floor with a provision to raise the price of tobacco to even more than $1.10 a pack. Maybe the majority leader would like to raise the price of cigarettes to $1.50 a pack or $2 a pack. That might get you the money. But with the $1.10 a pack you have in there now, you are not going to have the money, period.

So I just do not understand what the majority leader can possibly be talking about and where he could possibly be finding all of this money that he is going to have.

The majority leader said he was offended. Enough happens around here to offend each and every one of us every single day of the year, I suppose. But I have learned after 13 years here—14, I guess—that you can't be too offended too much by what goes on around here.

I guess you have to look at the reality of the situation, and the reality is very simple. There are those in this body who do not want a tobacco bill, period. They do not want the tobacco companies to have to shell out this money. They don't want to have a bill that will provide for an increase in the price of cigarettes per pack. That is legitimate. That is their viewpoint. They are welcome to it. They can defend it all they want. Maybe they have good reasons they can defend it. But that is the reality of the situation.

For example, the Senator from Texas, I believe, propounded the amendment on the marriage penalty tax, doing away with that. I believe—I think I am correct—that he even said if this amendment was adopted he would still vote against the bill.

So what kind of games are being played around here? I don't take offense at that; I just simply point it out for the reality of the situation. The reality is that we have a battle going on on this Senate floor, a big battle, and it is a battle between those who want to stop 3,000 kids a day from starting to smoke, 1,000 who will die from it, and those who say business as usual; the tobacco companies, that is OK; let them go ahead; it is a legal product.

We don't have to do anything to them. And if we just add all these amendments on, it is going to fall of its own weight.

That is the game being played around here. It's a game that is played all the time. That is just sort of the way the Senate operates. What I guess we have to do is continually point out what is in fact being done.

Now, let's talk about at least illegal drugs. We all want to stop illegal drugs. I have been here 13 years, 14 now. It seems like every year we have a bill to do something about illegal drugs: We are going to beef up the Border Patrol; we are going to raise the penalties; we are going to have mandatory sentencing. Year after year after year we go after illegal drugs because it makes nice headlines and we know that 100 percent of the American people are against it so it is kind of an easy thing. It makes you feel good. You can hit at illegal drugs. It gets popular support. It gets in the newspapers. That's all well and good.

But, Mr. President, what are we talking about? When you are talking about death and illness to the youth of America, illegal drugs doesn't hold a candle to tobacco. And here are the figures. I welcome anyone to dispute the findings by the Centers for Disease Control and Prevention. If someone would like to take the Senate floor and dispute this, please let me see the data you have. But the data we have from the Centers for Disease Control and Prevention says, "Tobacco kills more Americans than alcohol, car accidents, suicides, AIDS, homicides, illegal drugs and fires combined" every year. Here is tobacco over here: 418,000 deaths in 1 year. Here is illegal drugs, 9,463. What's important? Year after year we come here going after illegal drugs, and we let the biggest killer and destruction of youth in America go by—tobacco. Let it go by every year. And we are about to do the same right here by loading on all these amendments.

Now, the marriage penalty needs addressing. I think I would agree with others who have said it before, yes, it needs to be addressed. Yes, it is an unfair tax. But we are going to have a tax bill later this year. It is not going to take effect until next year anyway. Address it at that time.

Illegal drugs, we can address that at another time. Keep our eye on what the majority leader said, "the end game." Is the end game of this bill to go after homicides or illegal drugs? No. It is go after tobacco. That is the end game. And the end game is to make sure that we have the money to fight it.

That is what this is all about. It is not just about getting tobacco companies to put a lot of money into the Federal Government. If that is all that was happening, I would be opposed to it. What it is about is saying to the tobacco companies you have for years through your advertising, through covering up the health risks, you have for years hooked a whole generation of

Americans on tobacco. You know that it is carcinogenic. You know that nicotine is addictive. You know that it causes emphysema and cancer and heart disease. And yet through your slick advertising year after year you hook more young Americans.

We know what the tobacco companies have known for years, that smoking begins early, that by age 18, 89 percent of all adult smokers have started smoking. We know that. Tobacco companies know that. Oh, they have said for years, no, no, we advertise for brand selection, to get people off of one brand and onto another. Hogwash. They know that if they can hook someone when they are young, they have them later on.

As I have said many times, Joe Camel never appealed to me. Joe Camel does not appeal to someone my age. Neither do all these slick advertisements of young people on the beach and having a lot of fun and they are all looking healthy and they are out there. They don't appeal to older people. The Marlboro gear that you can get with your coupons, that doesn't appeal to older people. They are after young people. How many older people do you see wearing the Joe Camel beach togs. You don't see that. How many older people do you see wearing Marlboro gear. You see teenagers wearing it but not older people.

The tobacco companies systematically for years have been targeting young people because they knew if they got them hooked young, they got them later on.

What we are saying today is no, tobacco companies, don't dump a lot of money into the Federal Government so we can take care of the marriage penalty, illegal drugs, this and that. We are saying, we are telling you that you are going to have to pay money in so that we can put the money out for public health, to help take care of those people you hooked years ago, to bring money in so we can put it into NIH on research, so we can put money into the Centers for Disease Control and Prevention on research on how to cut down on smoking, how to keep kids from smoking, have smoking cessation programs and prevention programs in all of our schools.

That is what we are after right here. NIH Health Research. End game: NIH health research, smoking cessation programs, smoking prevention and education in our schools, counter advertising, which we know is very effective and which the tobacco companies probably dread more than anything else, antismuggling, and youth access restrictions.

This is the comprehensive bill that we are talking about. You add in the add-ons that are now before us and all of this is gone. Every single one of these is gone because you don't have the money for them unless again can someone please get on the floor and tell me where are we going to find the money if in fact we adopt all of these extraneous provisions.

So that is what the end game is about. It is saying to the tobacco companies it is time for you to cough up, cough up enough money to take care of those you have addicted through your advertising and that you did not warn about the health aspects even though you knew what the health aspects were going to be. It is time for you to cough up enough money for research in heart disease and lung cancer and emphysema and all the illnesses that tobacco plagues us with. It is time for you to cough up enough money so we can go out to our schools and we can have prevention programs and education programs for our kids. It is time for you, tobacco companies, to cough up enough money so we can have counter advertising, not the slick ads that tell you how good smoking is but ads that really tell you how death and illness will occur if you do in fact take up smoking.

That is what this money is all about. It is not about the marriage penalty or illegal drugs or anything else. It is about taking care of the youth of America who have been hooked on tobacco. For the life of me, I don't understand why it is the majority leader can say that if these add-ons are not adopted, the tobacco bill is dead. I would like to see a vote out on the Senate floor. I think we ought to vote on the amendment by the Senator from Texas on the marriage penalty. Let's vote it up or down. Let's vote on all these amendments. Let's just vote on them. And then let's have a final vote on this bill and see where we come down. Let's cut out the games. Let's cut out all this game playing.

I bet the tobacco industry CEO's today, Mr. President, are slapping each other on the back and they are laughing all the way to the bank, gleefully watching us hack away at the programs designed to prevent young people from smoking and to help those smokers quit who have already taken it up.

They must be really happy watching us go through all of this when they know that tobacco is the biggest killer of youth.

This is the end game right here. This is the end game. I have used this chart before on the floor. Two young, attractive women coming in to buy cigarettes. Which one is 16? You don't know. You don't know which one is 16. Melissa and Amy—it turns out Melissa is 16 and Amy is 25.

We want to keep Melissa from taking up tobacco, and if Amy has taken it up, we want her to quit. That is what the end game here is all about. It is not about marriage penalty or anything else. To those who say it is, to those who say, as the majority leader said, that if we don't have these extraneous measures on here the bill is going to die, I say, come out and explain to the American people why it is we had a bill reported from the Commerce Committee under the leadership of Senator McCAIN that came out with one dissenting vote, out of committee, and we cannot have a vote on that bill here on the Senate floor; why it is we are going to have all these extraneous measures, and they have to be adopted, according to the majority leader, or the bill will not pass? These were not in the committee bill, and it passed out of committee with only one dissenting vote.

So, I don't know what the majority leader is talking about, unless what the majority leader is talking about is that he really wants this bill killed, that he wants no tobacco bill, that he wants to load it down with a number of amendments that will surely mean the end of any tobacco legislation this year.

I hope that is not the case. As I said, I do not know what the majority leader had in mind. All he said was if these amendments are not adopted, the bill is dead. I don't know what he means by that. Hopefully, in the coming days, he will explain himself further in that regard.

Mr. President, our charge is clear and simple here. Our charge is only one—cut teen smoking. We know what does it. The Senator from Florida, Senator GRAHAM, spoke about it. It has to be a comprehensive bill encompassing a rapid and significant increase in the price of tobacco; and, second, smoking cessation and education programs, research, and counteradvertising. If you do all of those, you will cut teen smoking. You can save those lives. You will save a lot of illness in America. That is what we have to be about.

Senator CHAFEE and Senator GRAHAM and I have worked very hard on this legislation in a bipartisan manner going back several months. I think we can still, hopefully, have a good bipartisan bill come out. The committee bill was bipartisan. I am sorry to see that we have gotten now into this partisan wrangling over the marriage penalty, or motions, cloture motions and things like that. I think our leader, Senator DASCHLE, had it right. We ought to have one set of rules and we ought to abide by those rules. Whatever those rules are for one bill, we ought to attach them to the other bill.

I think the best course of action for us here is to vote on these amendments, move on, and vote on final passage. Let's exercise the Senate's will. We have been on the bill long enough. Hopefully, we can finish it next week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I rise to join my colleagues Senator COVERDELL and Senator CRAIG in offering the

Drug Free Neighborhoods Act as an amendment to the tobacco bill.

I fervently believe that we must do everything we can to reduce teenage smoking. But we are not here to deal with one issue a year. We are here to deal with the priorities of our constituents and our country. So I think we also must address the serious problem of teenage drug use in America today as well.

In my view it is crucial, given our continuing struggle in the war on drugs, that we send an unwavering and unambiguous message to all Americans, and to our children in particular, that the use and sale of illegal drugs is dangerous, wrong, and will not be tolerated.

As the father of three young children, I am deeply disturbed by recent trends in drug use. Indeed, since 1992 Washington has been losing important ground in the war on drugs. Let me cite just a few of the alarming statistics:

First of all, over the past five years, the average number of Federal drug defendants prosecuted has dropped by almost 1500 cases from the 1992 level. And the average number of drug convictions has gone down by a similar amount since 1993.

The drug interdiction budget was cut by 39 percent from 1992 to 1996 and drug surveillance flights were cut in half.

The impact on our kids has been serious. In the last six years, the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half.

Incredibly, 54 percent of the Class of 97 had used an illicit drug by graduation.

For 10th graders during that same time, drug use has doubled.

And—perhaps worst of all—nearly 20 percent of our 8th graders use illegal drugs.

Faced with this bad news, this year the Administration finally submitted a comprehensive long range National Drug Strategy to Congress.

Unfortunately, it took them nearly five years to take this step. And, as the numbers show, our children have been paying the price.

That is why today we are offering the Drug Free Neighborhoods amendment. This amendment addresses the alarming trends in drug use among teenagers. Let me describe briefly what this amendment entails:

First, it provides additional resources for drug interdiction programs in the U.S. Customs Service, the Coast Guard, and the Department of Defense. It would double the interdiction budget for each of these departments.

Second, this amendment provides additional resources to combat drugs that reach our schools and neighborhoods. For example, it authorizes $50 million per year for the Drug Free Communities Act. It also promotes drug free schools by allowing federal funds to be used for voluntary random drug testing programs—and to provide school choice for K-12 students who are victims of drug-related school violence.

Third, the amendment increases disincentives for teens to use illegal drugs through the Drug Free Student Loans Act. This act would deny student loans to those convicted of drug possession. In addition, the amendment's Drug Free Teen Drivers Act, would provide grants to States that enact and enforce laws to crack down on teen drivers who use drugs.

Finally, this amendment would ban taxpayer funding for needle exchange programs. In my judgment, Washington must constantly reinforce the message to our kids that drugs are dangerous, and drug use is unacceptable.

Federal funding of needle programs sends the wrong message. And the statistics gathered from programs in Vancouver, Montreal, Zurich and Manhattan all clearly show that these programs significantly increase drug use. Every program studied has shown a significant increase in the use of narcotics among those receiving free needles—every study.

Mr. President, we owe it to the thousands upon thousands of families struggling to protect their children from the scourges of drugs and drug violence to stay tough on the criminals who prey on their neighborhoods.

Washington has to renew the war on drugs. We must provide needed resources, and we must reinforce the message that drugs aren't acceptable and that drug dealers belong in prison—for a long time.

Our kids deserve no less.

Mr. President, let me close by just commenting briefly on the majority leader's earlier remarks. There are, obviously, a lot of issues that are on this floor. I don't want to attempt to address every one of them. But I think the point the majority leader is trying to make, as he outlined some of his thinking as to the final version this legislation might take, is a very important point for us to remember, which is that the tax dollars we are talking about here are not coming from tobacco companies. They are coming from taxpayers. They are coming from citizens. They are coming from people, for the most part, in lower-income categories. So I think we do have a responsibility to determine, if we are going to increase taxes on working families in this country, exactly how those resources ought to be spent.

The notion that we cannot, in any sense, change any of the formula for the expenditure of those resources or we are somehow undermining this legislation, I think is an incorrect conclusion. This bill, like every other bill we have, is about priorities. In offering the amendment that we are offering, that the majority leader spoke to in his comments, we are trying to establish as a priority of this Congress that we will do more in the battle against illegal drugs.

There may be some Members—I am not sure in which States—but there may be some Members in some States where illegal drug use is not a significant problem in their communities, where they are not hearing from their constituents about this, where this is not a serious problem. Maybe that is the case. I do not know. I cannot speak for other States, but I can speak for my State, and when I go around my State I hear families in virtually every corner of Michigan talking about the problems, the threat to their kids, of drugs.

If we are going to tax the families of this country to the tune of billions of dollars a year—not the tobacco companies but the families—billions of dollars a year, and the notion we are not going to do anything about illegal drugs, that this is somehow inappropriate on this legislation, that the majority leader is wrong to come to the floor and say there needs to be a drug component here—I don't know what State that represents, but it doesn't represent mine.

I think the majority leader is right on target, and I think this amendment is a critical part of this legislation. I think it makes sense for us to do this now. We are not going to have many more opportunities to do this, and I think we will be sending a terrible message to the people of this country and our kids if we pass this legislation and say we are worried about tobacco and we are worried about smoking, but drugs can wait for another day. In my State, that won't sell. Maybe it will in other places. The majority leader is right, Senator COVERDELL is right, Senator CRAIG is right, and I am happy to join them.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Georgia.

Mr. COVERDELL. Mr. President, first, I associate myself with the remarks of the Senator from Michigan. I think his comments on the appropriate nature of this amendment as it relates to teenage drug abuse is absolutely correct.

I was taken aback by the suggestion by a couple of our colleagues that somehow teenage addiction to drugs was something that ought to be left for another day. I suggest my colleagues need to ask Americans what they think the most important teenage problem is today. When you ask American families, not CDC or some think tank, but you ask American families what they think the No. 1 teenage problem is, it is drug abuse—No. 1, and there is not even a close 2.

The Senator from Iowa has a chart from CDC that shows the numbers of deaths. Of course, that is over a lifetime of the entire population. It shows substantial more deaths related to tobacco than to drug abuse on an annual basis. I don't dispute the numbers, but I do dispute the point he is trying to make. He is trying to say that tobacco is the most significant problem, and I guess just measured against deaths, he is correct. But I wonder if he would be interested in looking at America's prison population, the millions of Americans in prison today. There is just one little kernel, one nugget that would be of interest to him, and that is that 80 percent—80—8 out of 10 prisoners in America are in prison on a drug-related charge, direct or indirect—80 percent of the prison population.

Drugs are fueling havoc in our cities, in our States and communities because they fuel crime and they fuel violent crime, disconnected mindless crime. We all know that the nature of criminal activity, particularly among our juveniles, is becoming more violent. We have had a lot of discussions about it. It is drug driven. The fact that we are talking about addiction and silent on the most pressing problem facing teenagers, in my judgment, isn't even debatable; it is unconscionable.

The Senator from Michigan alluded to it when he said we will be sending the wrong message, it will be sending a message, "Well, we've gotten to the most prominent, most difficult problem for teenagers because we have passed a program dealing with teenage smoking."

Teenage smoking is up. It is up about 40 percent, and it needs attention. Drug abuse among teenagers is up 135 percent and escalating as we stand here, fueling not only enormous personal disruption, family disruption, but community disruption as it expands itself into criminal behavior.

Not long ago, I was at a youth detention center in my State. It was a female center. There were about 20 young people aged 12 to 16. They were in this detention center for prostitution, assault and battery, auto theft, attempted murder, and the root of every one of the crimes was drugs. The real reason they were there was drugs. You can walk into any school, I venture to say in any State, and you ask the children what the No. 1 problem is—alcohol, cigarettes, drugs? Ninety-five percent, drugs.

If we are going to talk about addiction of teenagers, we have to talk about the combined problem. Yes, tobacco. It is not healthy for them to use tobacco products, and we want to direct our guns at that. But the most important problem, Mr. President, for teenagers is drugs. It is almost an extension of the message coming out of this city for the last 6 months: We don't want to talk about drugs; we will shut the drug czar's office; we will cut the interdiction in half. And we are surprised because suddenly we are in an epidemic of teenage drug abuse? The message was silence. To let a teenage addiction bill come through this Senate and be silent on drugs is unconscionable.

I, along with my colleagues, Senator CRAIG of Idaho and Senator ABRAHAM of Michigan, are not going to allow that to happen. We are going to talk about teenage addiction, yes; we are going to talk about tobacco, but we are going to put drugs in the mix because it is the No. 1 problem.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NINTH ANNIVERSARY OF THE MASSACRE OF PRODEMOCRACY DEMONSTRATORS ON TIANANMEN SQUARE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 244 submitted earlier today by Senators COLLINS, LOTT, HUTCHISON, and ABRAHAM.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 244) expressing the sense of the Senate on the ninth anniversary of the massacre of prodemocracy demonstrators on Tiananmen Square by military forces acting under orders from the Government of the People's Republic of China.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. COLLINS. Mr. President, yesterday was the ninth anniversary of the massacre of hundreds of prodemocracy students on Tiananmen Square in Beijing by troops acting under the orders of the Communist Government of China. In memory of the brave students who suffered and died there for speaking out peacefully against political repression, and in memory of those who are imprisoned still, last night I attempted to introduce this resolution expressing the sense of the Senate that our Government should remain committed to honoring the memory of these victims of oppression and also that supporting China's peaceful transition to democracy should be a principal goal of our foreign policy.

I know that such sentiments are shared by all Members of this body. After all, who could possibly object to honoring the Chinese student martyrs to democracy on the ninth anniversary of their massacre? After all, our most cherished political ideals are those of inalienable rights and democratic self-rule. Unfortunately, however, we were unable to get the resolution cleared last night on the Democratic side. This objection prevented the Senate from making any statement in memory of the victims of Tiananmen Square on the ninth anniversary of their murder.

I am pleased, however, to report today that the cold light of morning has helped bring some perspective to this issue and that the objection to my resolution has now been withdrawn. I am very grateful for the cooperation of the Democratic leader in resolving the issue on his side.

I spoke at some length last night about the purpose of this resolution, so I will not repeat those remarks now. Let me merely say that it is deeply gratifying to see all of us join together in expressing our heartfelt commitment to democracy and human rights in China and in honoring the memory of those slain in the pursuit of these ideals. It may be 24 hours late, Mr. President, but history will not find the U.S. Senate to have been voiceless in remembrance of the victims in the Tiananmen Square massacre of June 4, 1989.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 244) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 244), with its preamble, reads as follows:

S. RES. 244

Whereas in the spring of 1989, thousands of students demonstrated in Tiananmen Square in Beijing in favor of greater democracy, civil liberties, and freedom of expression in the People's Republic of China (PRC);

Whereas these students' protests against political repression in their homeland were conducted peacefully and posed no threat to their fellow Chinese citizens;

Whereas on the evening of June 4, 1989, these students were brutally attacked by infantry and armored vehicles of the People's Liberation Army (PLA) acting under orders from the highest political and military leadership of the PRC;

Whereas hundreds of these students were killed by the PLA in Tiananmen Square on June 4, 1989 for offenses no more serious than that of seeking peacefully to assert their most basic human, civil, and political rights;

Whereas many of the leaders of the student demonstrations thus attacked were subsequently imprisoned, sought out for arrest, or otherwise persecuted by the Government of the PRC;

Whereas during or shortly after the brutal assault of June 4, 1989, at least 2,500 persons were arrested for so-called "counter-revolutionary offenses" across China and dozens of persons were executed;

Whereas the Chinese government has never expressed grief for its actions on June 4, 1989, still imprisons at least 150 persons in connection with the Tiananmen Square demonstrations, and has continued to deny its citizens basic internationally-recognized human, civil, and political rights;

Whereas the Government of the PRC, as detailed in successive annual reports on human rights by the United States Department of State, still routinely and systematically violates the rights of its citizens, including their rights to freedom of speech, assembly, worship, and peaceful dissent; and

Whereas the Tiananmen Square Massacre has become indelibly etched into the political consciousness of our times as a symbol both of the impossibility of forever denying a determined people the right to control their own destiny and of the oppressiveness and brutality of governments that seek to do so: Now, therefore, be it

Resolved, That, in the interest of expressing support for the observance of human, civil, and political rights in China and around the world, it is the sense of the Senate that—

(1) the United States Government should remain committed to honoring the memory and spirit of the brave citizens of China who suffered and died in Tiananmen Square on June 4, 1989 for attempting to assert their internationally-recognized rights; and

(2) supporting the peaceful transition to democratic governance and the observance of internationally-recognized human, civil, and political rights and the rule of law in China should be a principal goal of United States foreign policy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Ms. COLLINS. Thank you, Mr. President.

I thank the distinguished senior Senator from West Virginia for allowing me to precede him.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the state of things at this point?

The PRESIDING OFFICER. We are in a period of morning business, with Senators permitted to speak for up to 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent, in view of the fact that my statement may require more than 10 minutes—it may not—that I may use as much time as I may consume, with the understanding that I will not use more than 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, I wonder if the Presiding Officer might entertain a consent request that I be allowed to follow Senator BYRD.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

"POLITICAL CORRECTNESS"—ENOUGH IS ENOUGH

Mr. BYRD. Mr. President, it seems that concern with so-called "political correctness" has been elevated to a near religion in recent years.

I thought it might be well to speak on this subject this afternoon when we are not overly busy with other matters. I am sure it is a subject on which not everyone will agree with me. But that doesn't necessarily concern me. I feel that I have something to say, and I am going to say it at this point.

It seems, I say, that concern with so-called "political correctness" has been elevated to a near religion in recent years. Well, I have long been puzzled by the doctrine, if it may be termed as such, the doctrine of political correctness. When it comes to benefits of this overtly patronizing assault on thought patterns and contemporary speech, I have to admit that I guess I just don't get it.

It has always seemed to me that one of the intrinsically valuable things about America is its "melting pot" aspect. I heard about the melting pot when I was a boy, and there have been many, many, many valuable aspects of the melting-pot policy.

The phenomenon of American life and culture has been its uncanny ability to absorb a reasonable number of people from all around the globe of different races, religions, nationalities, abilities and talents, and inspire them to embrace the ideals of freedom, and work toward the common good of the Republic, without destroying their individuality.

But today's trendy, misguided urge to vigorously emphasize in contemporary thought, and speech, not the value and worth of individual difference, but merely the inoffensive security of "sameness" seems to be going against the time-honored grain that has facilitated the successful achievement of a richly diverse, yet united nation.

The gross, linguistic overreaching for the goal of being perfectly politically correct that goes on in most public discussions, both written and spoken, is not only insultingly gratuitous, but, at times sublimely ridiculous as well. It is as if everyone who writes or speaks in the public arena today is making a concerted and rather forced effort to banish from the face of the Earth the obvious differences in gender, race, religion and genetic codes inherent in all human beings through the clumsy device of disavowing verbally all dissimilarities. And the results are often either humorous or downright sad.

In order to avoid offending anyone in anyway we have come up with such linguistic acrobatics as Chair or Chairperson to replace chairman.

When I think of the Chair there in the front of the Chamber, I think of the position. I address the Chair. I am thinking of the position. But the person who is in the chair is not a chair. He is not a piece of wood; he is not a piece of furniture; he is the chairman.

Well, one may say what if it is not a "he," what if it is a lady? Then I would say "Madam Chairman." I would still refer to the person as the chairman. That has been the case for centuries—eons of time. And here in this latter part of the 20th century we have decided we have to change all that. So, I don't think of the distinguished Senator from Ohio, who presently presides over the Senate in a very dignified and efficient way—I don't think of him as a piece of wood. If I would refer to him personally, I would not call him "the Chair." I would just as soon that nobody referred to me as a piece of wood, as a "chair." I was the chairman of the Appropriations Committee. If we want to address the Chair, that is the position. I have no problem with that. But don't refer to me as "the Chair." I may object to it.

I see letters that come to my office with reference to the "chair." And I have told my staff, when you respond to such a letter, you should use the word "chairman." Don't use the word "chair." I am not going to get in that parade and go down that road, falling into that pothole of "political correctness."

So, we have come up with other linguistic acrobatics, in order to replace any reference to skin color other than white; and Native American to replace American Indian. Well, I am a native American. I was born in North Carolina. If I am not a native American, of what country am I a native? I am a native American. I have no problem with referring to the Indians as "original" Americans. But when they are referred to as "Native" Americans, I think that is demeaning to the Indians. I am a native American. But I don't pretend to be an original American—the American Indian.

Some day, in the misty future when political correctness is dead and gone, (may that day come with all speed) our descendants may remark on the peculiarity of such terms as "Chairperson." Did it mean that the poor unfortunate soul possessed a body like a chair? Could it refer to the quality of one's intellect? Or maybe it was related somehow to one's lack of mobility—perhaps akin to the popular expression, "couch potato."

Gender neutrality, which is an absolute fetish in our country at this time, produces a plethora of strange choices for its adherents. What, for example, to be gender-neutrally correct, do we call a man-hole cover? How do we neutralize the very necessary "his" and "her" designations on restrooms? And whatever do we do to purge such common expressions as "man-alive," "he's a macho-man," "he's a ladies man," and "man overboard" from the population at large?

If one stops to think about such things, it becomes absolutely ridiculous. It is laughable, indeed.

This insane preoccupation has even been carried so far as to apply to the good Lord and his words as related in Holy Scripture, as some "new age" Bibles have done.

I don't want any ,of them in my house. They won't find a resting place in my house. That kind of Bible will find its way to the wastebasket if it ever gets to me or to anybody in my family. We will stick with the King James version.

Personally, I think enough is enough when it comes to political correctness. I think we should all stop this unhealthy preoccupation and consider what effect it has had on the content of public dialogue in general. Far from erasing differences from the public mind, I think political correctness in all of its suspect forms has tended to overly accentuate them. In order not to risk offending anyone, we spend so much time focusing on race, gender, country of origin or whatever aspects of an individual we have to tiptoe around, that we then tend to ignore all of the other truly valuable and important aspects of that individual, such as brainpower, level of achievement, talent or quality of character. In other words, our anxious efforts not to emphasize such surface differences as race and gender have, in my view, paradoxically, had precisely the opposite effect.

On a more subtle level, political correctness has encouraged us to become much less honest with one another and with ourselves and, as a result, much less willing and able to come to grips with the troubling problems which beset our land. In our obsequious efforts not to offend anybody, we in public life thereby mentally partition our population into groups by race or by gender or by some other category, obscuring the inarguable fact that we are all citizens of the United States of America, that our fates hang together, and that public debate should, in the best of all worlds, be about what is good for the country, not what may appease this group or that group or this individual. That is one reason why I absolutely abhor hyphenated-American designations. They separate and divide us into arbitrary categories which are based for the most part solely on what the eye can readily see. And we find the same problem in our textbooks in the schools.

How can we help the entire population of our land, the men, the women, the blacks, the Hispanics, the white or the Asian populations, if we submerge honest and forthright discussions of what is best for the Nation in favor of pandering to the sensibilities of this group or that group? The answer is we can't. And the real answer is we don't want to. It is far easier to observe the customary taboos and the popular, awkward, and thoroughly phony norms of political correctness than to actually grapple with real problems in a meaningful and substantive way.

Personally, Mr. President, I hope that "political correctness" will soon go the way of high-button shoes or the lace-up corset. It is shop-worn window dressing far, far too constraining for a fast-moving, difficult age, crying out for courageous leaders, frank discussion, and innovative solutions.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I believe we are in morning business.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. I ask unanimous consent to speak for as much time as I may consume in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

KIDS AND SMOKING

Mr. DORGAN. Mr. President, we have been debating the tobacco bill in the U.S. Senate and will continue to debate that piece of legislation into next week and perhaps even beyond. I will begin a discussion on the subject of kids and smoking, and I will read into the RECORD pieces of information from the tobacco industry itself. Then, at the conclusion, I will ask the question and have all Americans ask the question: Were the tobacco companies and was the tobacco industry in America targeting our children as customers for their tobacco products?

If the answer is yes, then the question is not any longer whether there should be tobacco legislation; the question will be exactly what kind of legislation must we pass and how quickly can we enact it.

Let me begin with a few quotes. These are quotes from the tobacco industry that have been unearthed in various lawsuits and discovery proceedings.

Brown & Williamson, a 1972 company document:

> It's a well-known fact that teenagers like sweet products. Honey might be considered.

Talking about the potential of adding honey to cigarettes to make them more appealing to teenagers.

RJR tobacco company, 1973:

> Comic-strip-type copy might get a much higher readership among younger people than any other type of copy.

Talking about advertising, clearly a strategy that says—how do we advertise to kids? This from the RJR tobacco company.

Brown & Williamson, 1973:

> Kool—The brand Kool—has shown little or no growth in share of users in the 26-and-up age group. Growth is from 16- to 25-year-olds . . . at the present rate, a smoker in the 16- to 25-year-age group will soon be three times as important to Kool as a prospect in any other broad-age category.

Is this a company interested in getting kids addicted to cigarettes? Sure sounds like it to me.

Philip Morris, 1974:

> We are not sure that anything can be done to halt a major exodus if one gets going among the young. This group—now speaking of the young, according to Philip Morris—follows the crowd, and we don't pretend to know what gets them going for one thing or another . . . Certainly Philip Morris should continue efforts for Marlboro in the youth market . . .

R. J. Reynolds, 1974:

> They represent tomorrow's cigarette business . . . As this 14- to 24-age group matures, they will account for a key share of the total cigarette volume—for at least the next 25 years.

In a 1975 report, a Philip Morris researcher writes:

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . age 15 to 19 years old . . . my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15- to 17-year-olds.

That is a 1975 report from a researcher in Philip Morris. These are internal company documents:

> To ensure increased and longer-term growth for Camel filter—This according to a 1975 RJR memo—the brand must increase penetration among the 14- to 24 age group which has a new set of more liberal values and which represent tomorrow's cigarette business.

RJR Nabisco, 1975, talking about increasing penetration among 14- to 24-year-olds.

R. J. Reynolds, 1976:

> Evidence is now available to indicate the 14- to 18-year-old group is an increasing segment of the smoking population. RJR-T must soon establish a successful new brand in this market if our position in the industry is to be maintained . . .

Fourteen to 18-year-old kids. This is a tobacco document that says, "We have to go after this to maintain our position."

1978, Lorillard cigarette company:

> The base of our business is the high-school student.

Philip Morris, 1979, writes:

> Marlboro dominates in the 17 and younger category, capturing over 50 percent of this market.

What a cause for celebration at Philip Morris in 1979!

> Marlboro dominates the 17-and-younger category, capturing over 50 percent of this market.

Marlboro Red, 1981, a Philip Morris researcher writes:

> . . . the overwhelming majority of smokers first begin to smoke while in their teens. At least part of the success of our Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older.

Does this sound like a set of documents—and I am going to go on at some length to talk about these documents from the industry—does it sound like a set of documents from an industry without morals, without values? From an industry that sees 14-year-olds with dollar signs painted on their baseball cap?

Is that a company or an industry without values? I think so.

The Tobacco Institute, 1983. It says:

> [Brown & Williamson] will not support a youth smoking program which discourages young people from smoking.

Well, there it is, I guess. They know who their customers are, and they target their customers. They try to addict these kids to cigarettes. And then they say, "We will not support a youth smoking program discouraging young people from smoking."

"Strategies and Opportunities," by R.J. Reynolds, 1984:

> Younger adult smokers have been the critical factor in the growth and decline of every major brand and company over the last 50 years. They will continue to be just as important to brands [and] companies in the future for two simple reasons: The renewal of the market stems almost entirely from 18-year-old smokers. No more than 5 percent of smokers start after age 24. . . . Younger adult smokers are the only source of replacement smokers. . . . If younger adults turn away from smoking, the industry must decline, just as a population which does not give birth will eventually dwindle.

That is according to a strategies memo from R.J. Reynolds.

R.J. Reynolds, 1986, Camels.

> [Camel advertising will create] the perception that Camel smokers are non-conformist, self-confident, and project a cool attitude, which is admired by their peers. . . . Aspiration to be perceived as cool [and] a member of the in-group is one of the strongest influences affecting the behavior of [young adults].

Well, those are just some, and the list is long.

After reading what has been unearthed from the bowels of the records of the tobacco industry about their attempts to addict our children to cigarettes, starting with a single sentence by one cigarette company that says "the base of our business is the high school student," does anyone doubt that we have a tobacco industry who, for years in this country, has decided that their customers must be children? Because when you reach age 30—just as one of the researchers suggested, and wonder what will further enrich your life that you are now missing, you will not conclude that smoking is the activity you have missed. No adult that I know says, at age 30, "Gosh, if I could just start smoking, I would further enrich my life." The only opportunity for new customers for the industry is to addict a child.

That brings me to the point of the legislation on the floor of the Senate. Some say this is punitive. Some say, "What's all the fuss about?" Well, fuss is about a country that says to the tobacco industry:

Tobacco is a legal product, but for adults, and it is amoral to try to addict our children, and we want to stop it. We want to say to the industry, "We will not allow you to continue to profit by trying to addict America's children to nicotine. We will simply not allow it. And if you don't like it, tough luck. And if you lose money, too bad. But you cannot continue with impunity in this country to try to addict America's kids to cigarettes.'"

There have been a lot of claims about this legislation. I want to talk about a couple of those claims. We know from statistics that America is full of a lot of wonderful people. I do not know anyone that I am acquainted with who would want to live elsewhere. It is not that the rest of the world isn't wonderful—this is just a great place. And we are blessed to be able to live here in this time.

But there are challenges. Among those challenges is that every day 3,000 additional kids in our country start to smoke, and 1,000 kids will die because they started to smoke today. Today, and every day, when those 3,000 take their first cigarette, they consign—one-third—all with names, all with families, all with potential careers and dreams and hopes and aspirations—one-third will be consigned to die because they took up a habit that can kill you. And 300,000 to 400,000 people a year die in this country from smoking and smoking-related causes.

Smoking rates among high school students—10th and 12th graders—have increased for the last 6 years in a row. In my State of North Dakota, according to statistics 39 percent of high school kids under age 18 smoke.

We can do something to stop this, and that is the genesis of the tobacco legislation. Senator MCCAIN, from the Commerce Committee, the committee on which I serve, passed a piece of legislation to the floor of the Senate. I voted for it. Senator CONRAD, my colleague from North Dakota, has done exceptional work in this area working with Senator MCCAIN.

Incidentally, Senator CONRAD produced his own piece of legislation with a task force.

But we are attempting, on the floor of the Senate, to pass a piece of legislation that tells the tobacco industry: "You cannot addict America's children. We won't allow it."

In this debate, we are describing the record of the industry, because some still deny that the industry is targeting our kids. I do not think they can deny it any longer with any credibility. I think unearthing all of these memos, strategies, and words of the industry itself, saying—"We're going after your kids"—I think that destroys any credibility anybody had who says that the tobacco industry isn't targeting America's kids.

What does this legislation do? The legislation will increase the cost of a pack of cigarettes. The legislation on the floor will increase it by $1.10 a pack over 5 years.

What is going to happen with this money? Let me describe how the money will be used. First of all, the largest share of the money, 40 percent, will be returned to the States to compensate the States for the costs they have incurred as a result of tobacco-related illnesses—for example—the substantial increase to health costs, Medicaid, and others. The substantial increased costs that the States have incurred as a result of tobacco-related causes will be reimbursed by this price increase of tobacco.

The medical costs of smoking are estimated to be somewhere around $50 billion a year annually. Lost economic productivity, as a result of the medical conditions caused by smoking, is somewhere around $47 billion a year. The States incur medical costs of about $4 billion just caring for smokers. This legislation will reimburse them and their taxpayers for that range of costs that I have just described, somewhere close to $100 billion.

Twenty-two percent of the funding—aside from funding I have just described that will go to States—will be devoted to public health programs. Half will be dedicated to educate children about the dangers of smoking, to fund programs to reduce youth smoking, and a counteradvertising program to offset the extensive marketing efforts of the industry.

Rather than create the big bureaucracies that the tobacco industry claims would happen, what will happen is, these funds will be used by the States to try to develop efforts and coordinate advertising and other smoking cessation programs that we are convinced will work to teach and to persuade America's kids not to begin smoking.

Twenty-two percent of the funding will go to health and medical research largely through the National Institutes of Health (NIH). Frankly, I cannot think of anything we do in this country that has more impact, value and importance to every American than investments in health research.

What is happening at the National Institutes of Health is really quite remarkable. From breathtaking changes and breakthroughs in health coverage to health remedies which attempt to deal with disease and problems. And what we are trying to do is to increase the amount of investment and research for health care at the National Institutes of Health. That makes a great deal of sense to me.

So we are talking about a range of things—offsetting the costs the States have, smoking cessation programs, counteradvertising programs, prohibition on the industry's advertising, substantial investments in the National Institutes of Health, and a range of other things—that I think will be very beneficial. It will also allow someone 20 years from now to say that these companies were unable to devote advertising and unable to devote efforts to try to addict 14-year-olds. First, because you cannot advertise to them, and second, because we are going to counteradvertise, and we are going to have smoking cessation programs and other efforts to try to prevent you from addicting America's children to cigarettes.

There is in this piece of legislation some assistance for farmers, as well, because tobacco farmers will be impacted by this legislation, and we should be mindful of the problems caused for tobacco and to tobacco farmers as a result of this piece of legislation. Senator FORD has crafted an amendment that I think goes a long way in addressing the issue that will affect tobacco farmers from this legislation. We will be talking about that, I think, next week.

We have liability issues that are dealt with in this piece of legislation. I mentioned advertising restrictions. We had a problem affecting veterans that I think has been solved thanks to the work of Senator ROCKEFELLER from West Virginia and Senator WARNER, as well as the Senator from Arizona, Senator McCAIN.

Those are the issues that I think are very important to our country with respect to the tobacco bill. My hope is that in the coming days, whether it be 3 or 5 days or a week and a half, that we will pass in the Senate a piece of legislation that all of us can be proud of.

I defy anybody, I defy one person of any political persuasion or of any philosophical bent, I defy one person to stand up on the floor of the Senate and defend this sort of behavior: Page after page after page of evidence that this industry knew that the teenagers of this country were their target audience and deliberately tried to addict children to smoking. I defy anybody to read this evidence and then tell me that is not the case. If you believe, as I do, that this industry has seen dollar signs on the heads of America's kids, and you believe that is wrong, then we must believe, together, that we have a responsibility to pass legislation of this type.

I am not saying every word is sacrosanct. There are plenty of ideas here to add to this that perhaps can improve it. I say at the end of the day we had better pass a piece of legislation that acknowledges the bankruptcy, the moral bankruptcy approach we have seen when we unearthed the information from the bowels of the tobacco industry.

COMPANY MERGERS

Mr. DORGAN. Mr. President, I spoke 2 weeks ago on a subject that I care deeply about. I want to just make a couple of additional points about it, and that is this orgy of mergers that is occurring in America today. You can't wake up and take a look at the business section of any newspaper in the country without seeing another big megamerger announcement.

I come from, I believe, the Jeffersonian side of my party and share very deeply the notion that the broad-based political freedoms in this country are nurtured by broad-based economic freedom. Broad-based economic freedom comes from dotting the landscape all across this country with individual entrepreneurs, businesses, broadly based and owned businesses all across this country. That represents the free enterprise system, people having dreams and hopes and starting a business and nurturing this business.

It doesn't mean to say that big is always bad or that small is always beautiful. It is just to say this country works best, our free enterprise system works best and the market system works best when this is not dominated by enterprises that choke competition. We have decided in law a long, long while ago those that are choking down competition and trying to clog the arteries of the marketplace are violating the law. There is precious little enforcement these days. Antitrust activities are kind of out of favor. But we are seeing an alarming growth of mergers in this country.

As I start, let me again say not every merger is bad. I am not here to say that. There are times when the mergers of a couple companies make sense. But what is happening now is a wave of mergers that ought to be alarming to this country. Former Senator Hart, Phil Hart from the State of Michigan, did a lot of work on this issue. There is a building named after him here on Capitol Hill. He is probably the last person in Congress to talk much about merger activity and antitrust enforcement. It is not sexy and it does not win any friends. But it does lose friends.

Let me describe what happens. This chart shows merger completions in the last 15 years. Take a look at the exponential growth of mergers. This merger mania means you have fewer enterprises. They are buying each other, merging, some hostile takeovers, and two become one. It is like getting married. You have two people that court each other; you have two companies that court each other and they get married. You read it in the paper, but you don't even know they are dating. Sometimes it is a forced marriage as the case with hostile takeovers.

Here on this chart are all the marriages going on in corporate America—two become one. The railroad industry—we used to have a lot of railroads. Now we have a very few railroads. They tell us what they are going to haul and how they are going to haul it. If you don't like it, tough luck. The airline industry—we used to have a lot of airlines in this country. Now we have a few. They have retreated into regional hubs and dominate the hub and say here is where we will fly and here is what it will cost. If you don't like it, go buy a jet. The telecommunications industry—you talk about what is happening in telecommunications. All of these big telecommunications companies are looking around for suitors to find out who they can romance and who they can add to their collection. Pretty soon, ten companies become five and five become one. We have Baby Bells—they are not so baby anymore. Now they are getting married. So there are fewer Baby Bells because they are combining.

Let me just go through a couple of other charts to describe this circumstance. Here we have the value of merger activity in this country. In 1998, $1.7 trillion. It is moving up exponentially. Those who say that we believe in the free enterprise system, those who say that the market system is critically important to the success of this country ought to be concerned about this.

Let me show a chart briefly with respect to the largest mergers. I showed this 2 weeks ago and it has since changed because we had a chemical company and a pharmaceutical company that started dating and then they decided to announce they were getting married—Monsanto and American Home Products. On this chart are the 25 largest corporate U.S. mergers through June 2, 1998. Seventy billion, CitiCorp wants to join with Travelers Group. Fifty-nine billion, BankAmerica wants to join with National Bank.

While I am speaking about it, the banks, they of course, are a go-go industry with respect to mergers. Last year, there were 599 bank mergers. The biggest banks are merging as quickly as you can open your paper these days. About 75 percent of the domestic banking assets are held by 100 of the largest banks. The Federal Reserve Board has a policy. In fact, if you are big enough, they call it "too big to fail." If you are big enough, you are never going to be allowed to fail because the consequences of the failure would be too detrimental to the country. There used to be 11 too-big-to-fail banks. Eleven is now 21 because all the big banks are getting bigger. So the next merger you see with one of those banks, there is no risk to them. They can't fail. The American taxpayer has to pay the risk of a merger that turns sour.

Small community banks especially understand this problem. Let me talk about the testimony of the president of the Independent Bankers Association of America. He says "The evidence shows that increased concentration in banking has not benefited bank customers." He adds that "larger banks charge higher fees, bank mergers have an adverse effect on consumer deposit prices, and small business lending receives a short shrift in a world of ever-larger banks."

Banks are just one area. I just stop to say that if you take a look at this list, it is banks, railroads, telecommunications companies, defense companies. Frankly, I think it is alarming. I think Congress ought to pay some attention to this.

I represent a lot of farmers. Family farmers aren't merging. They are out there fueling up a tractor, trying to plow in seeds, hoping to get a crop. But when they market, they market back up through the neck of the bottle. If they market meat, if they are raising a cow and are going to market the meat from the cow. In 1980 the big four packing plants had 36 percent of the market. In 1994, the big four meatpacking plants in this country had 82 percent of the market. This means that if you are a farmer trying to market up through the neck of that bottle, the products of meat—in this case perhaps pork or beef—you are discovering that you are marketing up towards a monopoly. On the top they tell you what they will pay you for it. The same is true for the grain farmer.

My point is it doesn't matter whether you are on Main Street or running a family farm. If you are operating in an economy in which big interests are clogging the marketplace arteries, you have to be concerned that this system doesn't work for you. Congress has a responsibility and there are laws on the books that would require us to look carefully and closely at merger proposals to see, is this in the best interests of the country or will this injure the marketplace? Will this injure the free enterprise system? In some cases, maybe not; in some cases, maybe it will. In those cases, Congress has a responsibility to act.

We had a circumstance with respect to airlines. For example, not too many years ago we had a whole raft of merger proposals go to the Department of Transportation. The then-Secretary of Transportation never met a merger she didn't love. It didn't matter what it was. "Just bring them up, and we'll try to merge them. We say amen, and we stamp 'Approved.'" The result is that we have had fewer airlines that retreated into regional monopolies. I think whether it is railroads, airlines, meatpacking plants, banks, or telecommunications companies, this country functions best and our market system and free enterprise system functions best when you have robust, aggressive competition. I worry very much that those who are supposed to be minding the store are paying precious little attention to some of these issues.

Finally, let me say an encouraging word about one person who is paying some attention, and that is Joel Klein over in the Justice Department. I will not talk about any of the specific cases before them, because I am not interested in doing that. But he is someone who heads the Antitrust Division. I hope this Congress provides substantial resources so that he has the capability and the people over there to investigate these mergers to determine whether they are in the best interest of the country or whether they violate the law with respect to antitrust. I want those who are supposed to be the referees with respect to the market system to make sure that competition abounds and the market system works. I want Mr. Klein, head of the Antitrust Division at Justice, to have the resources necessary to do that, and I hope my colleagues agree with me.

I am going to speak at greater length at another time. I apologize to the Senator from Arizona. He has been waiting. I wanted to make the point on mergers. I hope my colleagues on both the Republican and Democratic sides who have an interest in this issue and an interest in making certain that those mergers that are fine proceed unimpeded, but those that restrict and constrict and impede the market system ought to be looked at with a fine-tooth comb to determine whether they ought to be approved or rejected. I will have more to say on this at some point later.

With that, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent that Jim Savage of my staff be accorded floor privileges during my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TOBACCO LEGISLATION

Mr. KYL. Mr. President, I want to discuss today the matter pending before us, S. 1415, the tobacco legislation. It is, as we have been told by many people, one of the most expensive, complex, far-reaching legislative proposals ever considered by the U.S. Senate. The stated goal of the proposal is, of course, nonpartisan and universally recognized—the reduction of teenage smoking. We all agree on that.

What a parent wants is for his or her children to grow up healthy and strong. No parent really desires that their children become addicted to tobacco use. The issue is, what is the best way of achieving that goal, to go about discouraging teen smoking and highlighting the dangerous health risks associated with tobacco while also preserving individual adult liberties.

At the Federal level, I think we should also remind ourselves that underage smoking is, at this time, illegal in all 50 States by State law. I think that as the Senate considers this legislation, we should keep some fundamental principles in mind and they should be part of any legislation we should eventually adopt.

Specifically, I think our legislation should include the following components:

One, we should ensure that teen smoking is reduced. There are a variety of mechanisms for doing that, including making vending machines inaccessible to children, conducting an advertising campaign specifically directed toward children's tobacco use. I think we should ensure that any tobacco tax increase does not create a black market. It is very difficult to know the magic point at which you have raised the price enough to discourage its use without having, however, raised it so much that you create a black market. I think it is probably very difficult to do that, as testimony before the Senate Judiciary Committee has confirmed.

I think we need to ensure that proceeds raised by any tax increase are primarily used for health-related purposes, such as Medicare, research for NIH, reimbursement to the States for their Medicaid expenses, particularly associated with tobacco illnesses, and increasing the self-employed health care tax deduction to 100 percent. In that regard, incidentally, if there are excess moneys left over from a tax, I think we should return it to the people. We could do that, among other ways, by significantly reducing the marriage penalty which is currently built into the Tax Code, that proposal already having been made by Senator GRAMM.

I think another principle that should be embodied in this legislation is to ensure that proceeds not be used to create new, or expand existing, non-health-care-related Federal programs. One of the worst things this body could do is to impose a huge new tax ostensibly relating to tobacco use and curing its effects but, in fact, generating money to serve totally unrelated purposes, as some of our colleagues suggest. That would be wrong.

I think another principle that should be embodied in any legislation we adopt is that attorneys involved in the litigation regarding tobacco not reap windfall profits at the expense of these education and smoking prevention programs, particularly when they are established for kids.

Finally, I think we should ensure that no provisions are included that are virtually certain to later be adjudged to violate the first amendment's protection to speech or other constitutional provisions.

Mr. President, the rest of the time I would like to address the link between tobacco use and drug use, especially by children, because while there has been much legitimate concern expressed about the dangers of teenage smoking—and about that, as I said, I think there is no disagreement—I think there has been insufficient attention paid to children's use of drugs and abuse of drugs and the Federal Government's responsibility to deal with that problem as well. There is an even greater danger of drug addiction, and the relationship between tobacco and drugs makes it clear that, in dealing with one, we can and should deal with the other. I think our outrage should have some perspective here, and if it does, we should all agree that drug use among children is much more dangerous than tobacco use, as bad as it is.

Now, I noted the connection between the two. Ironically, it appears to work both ways. For example, we have known for some time that cigarette smoking is often a precursor to drug addiction. So, obviously, this is another reason to deal with the problem of youth tobacco use. For example, a survey by the Substance Abuse and Mental Health Administration reported that almost 75 percent of teens surveyed had tried cigarettes before marijuana. Moreover, a 1996 national health survey on drug abuse showed that current smokers are more likely to be heavy drinkers and illicit drug users.

Equally disturbing is the apparent innovation by youth in combining tobacco and drugs. For example, some teens are now smoking cigarettes after they smoke marijuana in order to enhance their high. I learned last night that the reason for this is that apparently the methanol in some cigarettes physiologically allows greater absorption of the THC in marijuana and therefore does prolong or enhance the high. Others hollow out cigars and replace the tobacco with marijuana in order to maintain a better high. This behavior illustrates the undeniable connection between tobacco and drugs. For this reason, I support linking our effort to reduce teen smoking with that expanded antidrug effort.

I believe we have to keep in mind recent polls which show that the parents of this country are much more concerned about drug use than tobacco use. Their No. 1 fear is their children will become involved in illegal drug use. By contrast, in the May 1998 survey published by The Polling Company, a very recent survey, parental concern about juvenile tobacco use ranks No. 6 on the list. Only 3 percent of the parents cited that, whereas with respect to the No. 1 concern, drug use, 39 percent of the parents mentioned that as their primary concern with respect to their children.

According to Centers for Disease Control research, recently speaking to the New York Times, some kids maintain an illegal drug high by using tobacco, the same point that I had made earlier. And, obviously, what this means is for these kids illegal drugs are the gateway to tobacco use, and not the reverse, as I indicated earlier.

Drugs should be taken at least as seriously as tobacco. The two are undeniably linked. In dealing with one, we should deal with the other. I believe, therefore, that our effort to reduce teen smoking has to be tied to a renewed Federal commitment to reduce marijuana, cocaine, heroin, and methamphetamine use among both youth and adults. Incidentally, if we do that by a comparable amount, we will be reflecting the purpose of the Ashcroft proposal that has been presented to the Senate.

Let us look at some of the disturbing statistics. Prior to 1992, illegal drug use by high school seniors had fallen sharply, from 30 percent in 1985 to 14 percent in 1992. This is a very important statistic, because today people say we are losing the war on drugs, we can't win it, and therefore we ought to give up. Obviously, if we had said the same thing about tobacco use, we wouldn't be engaged in this important effort today to try to reduce tobacco use. But the people who say we have lost the war on drugs are wrong because of the statistic that I just cited. Once this country became engaged in the war on drugs, particularly trying to reduce the use of drugs in schools, the use by schoolkids of drugs dropped dramatically. It was cut in half.

Again, remember the statistics I am talking about. When we began this effort in about 1985, remember we created a drug czar's office, and Bill Bennett and others went out and campaigned fervently against drug use by kids. From 1985 to 1992, illegal drug use by high school seniors fell from 30 percent to 14 percent. So we were clearly making progress. We had made substantial progress. We were doing good.

What happened after 1992? The process reversed. And, frankly, the reason for that is inattention, and in some cases downright hostility to the effort by the Clinton administration, and only recently reversed by the appointment of Gen. Barry McCaffrey as the drug czar. I think we can see that once we began to reassert our effort, we have begun to just barely see a little bit of progress.

During the first Clinton administration, illegal drug use among high school students doubled. Heroin use for 8th and 12th graders has more than doubled in the last 5 years. By 1996, one in four high school seniors and sophomores reported using drugs in the previous 30 days; 15 percent of 8th graders reported using drugs in the previous 30 days.

So the point of these statistics is that once we became engaged in the war on drugs, we dramatically reduced their use by kids. We cut it in half. What happened when we stopped? It went right back to where it had been.

Equally disturbing about our inattention to this problem over the last 5 years is the fact that, as a result, drug users are getting younger and younger. A survey last year by the Center for Addiction and Substance Abuse at Columbia University showed that 500,000 eighth graders began using marijuana in sixth and seventh grades. As we all know, there are more victims, incidentally, in this drug use than just the user because, of course, drugs are linked to crime. According to the Bureau of Justice Statistics, 36 percent of convicted jail inmates said that they were using drugs at the time of their offense in 1996. That was compared to 27 percent in 1989.

So by a third we found more drug use among those people committing crimes. Moreover, 16 percent of convicted jail inmates said they had committed their offense to get money for drugs. We believe the statistics are much higher. But at least it is astonishing that that number would admit that they committed their crimes in order to get drugs. We know one in four property and drug offenders had committed their crimes to get money for drugs. And in a place like Arizona, where you have such high property crime rates, we know the strong connection between the two. In my hometown of Phoenix, for example, we lead the country in another kind of theft—postal theft by addicts in order to get money.

According to the postal inspector, 90 percent of these thefts are committed by meth addicts. It is their preferred method of maintaining their high.

I also note, Mr. President, that in reminding ourselves of the connection between drug use and crime, to make the point that drug use is not a victimless crime, we should also think of the individual drug user and his or her family.

I recently held a field hearing in Phoenix primarily on the subject of methamphetamine use and the costs to society of having to clean up the meth laboratories and the environmental concerns and the dangers to people as a result of these toxic substances in their midst. But one of the witnesses was a young woman named Heather, a student, who told us about her beginning the use of drugs, starting with a free offer of drugs when she was in grade school, and working on up through the use of harder and harder drugs until, by her own words, she was a "mess" by the time she was in high school. She noted the fact that she wasn't the only person who was affected by her drug use. Her friends, her family, and, in particular, her mother were deeply affected by what she went through and what they had to bear as a result of her drug use. Fortunately, she was one of the ones who decided to try to kick the habit, and, after several difficult tries, appears now to be on a path of recovery and abstinence and of getting her life turned around.

But it is a terrible, terrible struggle for anyone, but certainly including kids who have become addicted to drugs, to try to get off of the drugs and turn their life around. In the context of the tobacco debate, I just ask everyone to think about this for a minute. We all get used to doing certain things that we know aren't good for us. It is hard to change our habits. We all, most of us at least when you get to our age, would like to lose a little more weight. We don't like the fact that gravity has its inevitable impact on our bodies, and we begin to not quite look like we did when we were 20 years old. We would like to eat a little less and have more self-discipline about our weight. It is hard to do. We would like to discipline ourselves to do other things. It is hard to do. We get to tobacco use, and we know it really becomes hard because there are physiological addictive qualities to nicotine that makes us crave tobacco. For many people, it is very, very hard to stop using tobacco as a result of that addictive quality. But as hard as that is, it is orders of magnitude more difficult for hard drug users and even soft drug users to stop their behavior to get over their addiction. It is much, much harder.

When you hear the story of a young woman like Heather and what she has gone through and how difficult it was for her, I think it makes it crystal clear to us that as we are focused on tobacco and because of the connection between tobacco and drugs it is also very important for us to take this opportunity at this time to also recommit ourselves to fight this war on drugs for the sake of the people who are becoming addicted to drugs every day, for the sake of their friends and the sake of their families, as well as the rest of us in society who end up bearing the costs of their addiction.

Because of the seriousness of this increase in drug use by our youth, I am very troubled that the goal of the administration in its 1998 National Drug Control Strategy is not more ambitious. What is its goal? Its goal is to get us back, a couple of years after the turn of the century, to where we were when President Clinton took office. That is not only not very ambitious, but I think we could say it does not even begin to express the degree of commitment that we ought to be making.

For the sake of the kids who at least are of junior high age today, we have to do better than that. That is why I am an original cosponsor of the Gramm-Domenici-Kyl Teenage Health Preservation Act. Let me just tell you a little bit about what the Teenage Health Preservation Act will do and why we think it is so important to be included within this tobacco legislation.

Because of the link between underage tobacco use, illegal drugs, and crime, as I indicated earlier, we have established several important provisions in this legislation that I think get to each of those problems.

First, we would establish a $5 billion antismoking, antidrug advertising campaign. We know that kids watch a lot of television. We know that they are susceptible to advertising. We know that there can be some very effective, good advertising telling them why they should not take on drugs or tobacco use. We would establish a five-member commission, with members nominated by the President, confirmed by the Senate, responsible for developing a comprehensive antidrug and antismoking advertising campaign. This $5 billion over 5 years would be funded out of the National Teenage Health Security Trust Fund established under the legislation.

We also establish some antidrug and antismoking provisions and penalties, increasing, for example, by 50 percent the drug interdiction budgets of the Customs Service, Coast Guard, and the Department of Defense for activities along the U.S.-Mexican border and the Caribbean region; doubling the number of Border Patrol agents to achieve a level of 15,000 over the next 5 years; increasing the law enforcement budgets of the DEA and FBI by 25 percent; adopting the McCain antismuggling language which directs the Treasury Department to require the placement of a unique serial number on each pack of cigarettes to assist in determining the location and date of production. It would impose penalties of not less than 10 years of imprisonment for any adult who sells drugs to a minor, and a second offense would be life in prison.

We would establish a Federal penalty of not less than 20 years for any person convicted of smuggling illegal drugs into the United States and, again, for a second offense, a penalty of life imprisonment. We would impose a fine of up to $100,000 and a term of imprisonment of up to 5 years for smuggling cigarettes into the United States. Those who would knowingly sell smuggled cigarettes to teenagers would face up to a year in prison and up to a $10,000 fine.

Mr. President, let me just note, some of these fines may sound very drastic, but if we are going to get serious about this problem we have to do some very different kinds of things. I don't think it is too much to say that a fine up to $10,000 and up to a year in prison is too much for people who are smuggling cigarettes and selling them to teenagers, if we are really serious about this problem.

We would suspend Federal student loan eligibility for teenagers who use drugs or purchase cigarettes. The penalty for drug convictions would be a year's suspension of eligibility for Federal student loans, and a second offense would be a permanent loss of eligibility for student loans. For teen cigarette purchase, it would be a warning the first time around, a 6-months suspension of eligibility for the second offense, and a year's suspension for the third offense. So there would be important penalties attached to all of these.

We would establish a Teenage Health Security block grant program to the States. The distribution of the funds is linked to State adoption of sanctions for teenage tobacco use. The States themselves need to do more to enforce their already existing laws against youth smoking.

We would adopt the McCain requirement that warning statements on cigarette packages take up not less than 25 percent of the upper space on the pack on the front and back of each package. Importantly, as I said before, vending machine sale of cigarettes would be restricted to areas that are not accessible to children or teenagers.

The payment that would be called for here, we think, should be capped at a per-pack amount that is estimated to be below the trigger point of significantly increased black market activity. After financing the tax reductions—in other words, the self-employed health insurance deduction that we talked about earlier—all of the remaining amounts would be deposited in a new National Teenage Health Security Trust Fund. We think the total amount of the tax that would be required in this case would be on the order of 75 cents per pack.

We think that full deductibility of health insurance and smoking cessation programs is called for, and therefore under this legislation we would provide for an accelerated phase-in of a 100-percent deductibility of health care insurance for the self-employed, to be effective January 1, 1999. We would allow all workers not covered by an employer-provided insurance to deduct fully the cost of health insurance. This is the Roth proposal on the above-the-line deduction, so to speak.

In addition, low-income working taxpayers who are eligible for the earned-income tax credit could take advantage of the health insurance deduction. Specifically, the cost of health insurance premiums would be excluded from their modified adjusted gross income for purposes of the earned-income tax credit. This would not apply to an individual covered by employer-provided health insurance or by Medicaid. The cost of an FDA-approved smoking cessation program would be deductible and treated as an above-the-line deduction as well.

I mentioned the National Teenage Health Security Trust Fund in this proposal. It would finance all the programs and initiatives which are created by the legislation. The Department of the Treasury would establish an accounting mechanism necessary to ensure that the trust fund deposits and outlays are credited properly, and all expenditures from the fund would be outside the spending caps, but all would have to be appropriated on an annual basis. There would be no new entitlement or mandatory spending programs.

No distributions or expenditures from the fund would be permitted for any purpose other than a specific authorization provided in the Teenage Health Preservation Act. Any moneys remaining in the Trust Fund after the annual appropriations process has concluded would be transferred to Medicare.

I mention the increased funds for the National Institutes of Health. This legislation would earmark an additional $5 billion over the next 5 years from the trust fund to the NIH in addition to—in addition to—the $15.5 billion increases over 5 years already provided in our budget resolution of this year.

With regard to the State settlements with tobacco companies, we would guarantee the right of tobacco companies and the individual States to enter into legally binding—within the border of each State—settlement agreements, including limiting liability if that is what the States negotiated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KYL. Mr. President, I ask unanimous consent for 3 additional minutes to conclude my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Thank you. I will conclude with this brief description.

The windfall profits tax on lawyers' fees that I mentioned earlier would provide, for States where there have been tobacco settlements reached, lawyer fees above $1,000 per hour but below $1,500 an hour would be subject to a surtax of 20 percent, and fees in excess of $1,500 an hour would be subject to a surtax of 40 percent.

Bear in mind the level of fees I am talking about. While a good lawyer today might charge up to $200, $250 an hour—you know, the really superstars, maybe even $300 or $400 an hour—we are talking about $1,500 an hour here before this would kick in. But, amazingly, there are some lawyers who are getting far more than that in these tobacco settlements.

There are some other provisions in here, but I will not go into the details in the interests of time. Also pending before us right now is the Coverdell-Craig-Abraham Drug Free Neighborhoods Act. I also strongly support that legislation. That legislation has been adequately described by Senator COVERDELL a little bit earlier this afternoon. It has the drug-free teen drivers provision, the drug-free schools provision, which is very important. It emphasizes drug-free workplaces. I think it is very important for us to recognize that we are not going to be able to have drug-free workplaces if it is possible for people in this country to use drugs legally. Finally, there are key provisions for drug-free communities support.

I might just note, too, a couple of the very specific provisions of the bill that I particularly like. It bans free needles for drug addicts and has a very important money laundering provision and a registration of convicted drug dealers.

These are some important things that we can be doing to enhance the tobacco legislation before us to apply to the drug problem that also faces our youth today.

We can't let this opportunity slip to address the national drug problem at the same time that we are addressing the important tobacco issue. Underage smoking is a serious problem, but smoking doesn't result in the crimes against the person and property that illegal drug use does. We have to focus at least as much attention on the problem of illegal drug use as on the problem of underage smoking. It is important to remember, Mr. President, that underage smoking represents only 2 percent of all smoking occurring in the United States. Teenage drug addiction is a critical and growing problem within this country.

Thank you, Mr. President.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, will the Senator from West Virginia be speaking in morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business with speakers allowed to speak up to 10 minutes.

Mr. ROCKEFELLER. I thank the Presiding Officer.

VETERANS AND HIGHWAY TECHNICAL CORRECTIONS BILL

Mr. ROCKEFELLER. Mr. President, I will address two subjects, primarily veterans and the highway technical corrections bill. But in this morning's Congressional Daily, the majority leader, when referring to the question of the matter of the treatment of disabled veterans who have been addicted to smoking and have become disabled because of that, said, "Where was ROCKEFELLER when we passed this bill?" And that is a quote.

The majority leader has publicly questioned my record on the issue of veterans' smoking-related disability rights, and I really thought I had a duty to set the record straight.

The Clinton administration has met with me on several occasions on the veterans smoking issue. I told the Director of OMB and I told the Secretary of Veterans' Affairs at least a year ago that I would vigorously oppose their proposal to deny veterans' disability rights. I have maintained that exact position all along.

When the Senate considered this year's Republican budget resolution in March, I offered an amendment to strike the budget language which would have transferred the smoking disability rights issue to the Transportation Appropriations Subcommittee and assumed denial of smoking-related disability rights—assumed denial of those rights. My amendment was defeated, frankly, fairly much along party lines.

When the ISTEA bill was brought to the floor by the committee, there were no provisions at all in that highway bill which would have denied veterans disability rights. I support, therefore, highways and I supported the ISTEA bill. I voted for it.

But in the course of the highway bill conference, language was inserted to deny smoking-related disability rights in the deep of the night, with no consultation—nothing. Of course, as we know now, even this midnight raid was not done correctly and requires major corrections, and I refer to the highway technical corrections bill. Since the conference report was not amendable, there was nothing that I could do about that. There was no opportunity to reverse at that point the injustice that was being done. I could not offer an amendment. It was called a conference report.

The corrections bill on TEA 21 provides for the first time, therefore, the opportunity to fully protect highways and veterans. We no longer need to make a choice of one over the other. Highways will remain fully authorized. They will not lose a dime. Veterans' disability rights will be preserved.

The Republican leader asked where was ROCKEFELLER? I am pleased to respond that I have been busy protecting the rights of disabled American veterans. That is where I have been.

Further, Mr. President, I rise to urge the Republican leader to bring up H.R. 3978, the highway corrections bill, for immediate floor consideration in the Senate. Our failure to have this corrections bill considered immediately will have a devastating impact on veterans' disability rights.

As I indicated yesterday to my colleagues, when H.R. 3978 is considered, I plan to offer an amendment—and nothing will stop me from offering an amendment if that bill comes up, and I will object to other bills coming up in order to force that bill to come up if I am able to so exercise my due parliamentary rights —I plan to offer an amendment to strike the veterans' disability compensation offset from the underlying conference report on H.R. 2400. I have asked for a very limited time agreement of 30 minutes equally divided—15 minutes for each side does not seem to me unreasonable—and then a vote.

As the Presiding Officer is very well aware, adoption of my amendment will have the effect of preserving current law; that is, it will preserve existing disability rights for veterans, the status quo. It will simply preserve what already exists—nothing new—what already exists, and will fully preserve each and every highway project that was included in the ISTEA bill. That is such an important point to make.

Some people think we are talking about removing billions of dollars from highways. We are not. Not one dime will be lost to highways. All of that money is going to have to be appropriated by the Appropriations Committee in any event. Let me repeat that: Every highway project in ISTEA, now TEA 21, will remain fully authorized after my amendment is adopted, if adopted. They will be in law, so to speak.

The highways will be in law. If the leadership permits the TEA bill to stand as is by failing to raise the corrections bill, veterans' disability rights will be eliminated and the current law will be changed. Smoking will be considered an act of "willful misconduct" in the military, and we will be cutting smoking-related disability benefits for veterans who became ill on active duty and those who became ill due to exposure to Agent Orange and those who became ill due to exposure to ionizing radiation. This goes far beyond the intended scope of even the conferees, I have confidence in that.

Mr. President, roads and bridges are, obviously, very important to the State of West Virginia, which is only 4 percent flat. I support highways. I support highway funding. Not a single project in West Virginia or in any other State—I repeat and repeat again—will be affected in any way by the amendment which I will put forward if given a chance.

This amendment is a proveteran amendment. It is simply whether we are going to deny disabled American veterans the rights they now have under the law. There has been a great injustice done to America's veterans, and this corrections bill is an opportunity to remedy that injustice.

Existing law requires the payment of disability compensation to veterans who can prove in a very complicated process that they became addicted to tobacco while in military service, if that addiction continued without interruption and resulted in an illness and in a disability. Addiction is the illness; addiction is the issue. The conference report on the highway bill rescinded—that is, cut—this compensation to disabled veterans for tobacco-related illnesses resulting from nicotine addiction that began in service.

This cut in veterans' disability compensation generated $17 billion in what only can be called the most extraordinary paper savings that I have come across in my 13 years in the Senate, and these paper savings were literally stolen from veterans and used to partially fund an unprecedented increase in the ISTEA fund.

Of course, anyone familiar with these claims for compensation for tobacco-related illnesses, and there will be few who are, knows that OMB's cost estimate is just a guess. They just guessed, and they sort of guessed in a way that they could pay for a lot of the other President's program ideas. I didn't appreciate that, but that is the game they decided they were going to play, and so that is what they did. They tried to talk me out of my objections to it, and they could not. That is my administration, not the Presiding Officer's. The so-called savings we are spending on highways are just that, they are paper savings.

Since 1993, the Veterans' Administration has only received less than 8,000 claims—the Presiding Officer will be interested in this; since 1993, there have been only 8,000 claims for these tobacco-related disability illnesses—and has granted only 200 to 300—200 to 300. So 27 million veterans and only 200 to 300 disability claims for smoking-related illnesses granted by the Veterans' Administration.

In arriving at its $17 billion estimate, the administration, for some unexplained reason, estimated that 500,000 veterans would apply for tobacco-related claims every year, Mr. President. It is absurd; it is ridiculous. It is a shell game. It was intended to pay for some of their other programs. And in the process, they wanted to cut off disability claims for veterans who are owed them. It is make-believe.

The amendment that I offer would maintain current law as is by reversing the highway bill's raid on veterans.

My amendment strikes no highway project. My amendment merely preserves VA's disability compensation for tobacco-related conditions as is.

I am sure we will hear a good deal of doomsday projections about the effect of this amendment. Again, here are the facts. The amendment does not otherwise affect the highway bill or the projects that it authorized. They remain the same. They are unaffected. My amendment will not bring down the highway bill, will not create a sequester. I can read you law on that. But I will spare the Presiding Officer that. But those who say that, "Oh, this will cause a sequester and a cut in Medicare, Social Security," the Presiding Officer and others will hear that argument—that argument is wrong. That argument is wrong. Those are the contentions of those who would deny disability benefits to veterans.

When we argued this issue 2 months ago, when my amendment to the budget resolution was debated, I warned my colleagues that veterans would be justifiably outraged by this raid on their disability compensation program, and they are.

America's veterans perceive that Congress has turned its back on the Government's responsibility and promise to care for its veterans and on the role it played in fostering their addiction to tobacco—that is well known to the Presiding Officer and all other Members—distribution of free cigarettes in C-rations and K-rations; reduced prices; and they delayed the warning that appeared on tobacco in the military cigarettes until 5 years after it had been done at the civilian level.

Mr. President, we have spent weeks talking about addiction to tobacco and how powerful that addiction is and how that addiction has been fostered. Why is it when it comes to the issue of veterans and tobacco, it is viewed solely as a matter of personal choice? Why is it that this administration and this Congress believe that veterans should have had greater knowledge about tobacco's addictive properties when they began smoking than the general public did?

Veterans believe in doing their share and carrying their weight. They always have; they always will. But the Congress is not asking for cuts in all accounts this year, oh, no. In fact, we are not even demanding that others, such as Social Security disability recipients, lose smoking-related compensation. Again, only veterans are singled out for this treatment.

There has been a lot of talk about veterans and smoking in the last few months. So I want to make sure that my colleagues are not confused. The amendment that was adopted on Tuesday to direct a portion of the proceeds from the tobacco bill to VA health care in the tobacco bill, by voice vote, is only for health care. The tobacco-related amendment does not deal with disability benefits, compensation; only with health care, not compensation, benefits for tobacco-related illnesses. That is a major point.

Those of my colleagues who will seek refuge in the tobacco legislation need to reconsider. And, in fact, in some sadness I am not even sure there will be tobacco legislation. I hope otherwise. But one cannot be confident at this point.

In any event, some will say—and I close on this point—that the corrections bill puts in $1.6 billion for other veterans programs. And indeed it does. But our friends in the veterans community speak with one voice on this issue. And I agree. They cannot support the increase in benefits to one set of veterans to be paid by the cutting of important benefits to another set of veterans.

Veterans across this Nation reject this attempt to buy them off. That is why I urge support of my amendment. It is a simple choice. Again, the choice is not highways versus veterans. Highways are fully protected. Veterans are not. Please choose veterans.

I thank the Presiding Officer and I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed in morning business for the next 25 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO LEGISLATION AND THE COVERDELL-CRAIG AMENDMENT

Mr. DEWINE. Mr. President, I rise this afternoon to support the Coverdell-Craig amendment. As the Chair knows, and Members know, the Coverdell-Craig amendment was offered yesterday to the underlying McCain tobacco bill. I congratulate my colleague from Georgia and my colleague from Idaho for this very worthwhile amendment.

Let me first, though, begin by saying, again, what I have said numerous times on the Senate floor in the last few weeks, and that is I support the underlying McCain bill.

It represents a unique and critical opportunity to change attitudes and to save young lives from the debilitating effects of smoking. All of us know, Mr. President, all too well, that youth smoking is a component of an even larger and more dangerous reality, the tragedy of youth drug use.

If we had to talk about the health problems in this country today, particularly if we want to talk about the preventable health problems in this country, we would talk about illicit drug use, we would talk about smoking, and we would talk about abuse of alcohol. Those three are clearly the three biggest, the things that will ultimately kill tens of thousands of Americans. They prey on our young.

So I think it makes sense, as we struggle in this Senate to come up with a comprehensive bill that deals with our tobacco problem in this country, that we also use this as an opportunity to deal with another problem, and certainly a related problem, and that is the use of illicit drugs. So I congratulate my friends and colleagues from Georgia and Idaho, Senator COVERDELL, Senator CRAIG, for this very good amendment.

I think we need to use this unique opportunity to address youth smoking. But we also need to take it one step further and address youth drug use. Doing so would make this even more effective, this current bill, the McCain bill, even more effective in changing the young lives for the better.

Mr. President, drug trafficking remains a tragic reality of life in this country today. Let me share some facts with my colleagues.

Fact: Recent reports suggest that heroin trafficking from Mexico has dramatically increased.

Fact No. 2: The Caribbean is fast becoming once again a major illegal drug transit route.

Fact: While drug production and trafficking have been on the rise, our resources we, as a country, have dedicated for drug interdiction have dramatically declined.

In 1987, approximately 27 percent of the entire national drug control budget was dedicated to interdiction. During that period of time, the United States did, in fact, make a dent in the trafficking of narcotics. Cocaine seizures, for example, were significantly up.

However, Mr. President, starting in the early 1990s, the percentage of drug control funds devoted to interdiction has declined dramatically. In fact, by 1995, only 10 percent of the national drug budget was dedicated to interdiction—a very significant drop. By 1998, the percentage still remained at 10 percent. Looking at it another way, in 1992, over $2 billion was dedicated to interdiction purposes. But by 1995, only $1.2 billion was set aside for this specific matter.

Mr. President, let me be very clear. I strongly support—strongly support—increased funding to deal with the demand side of the drug situation that is finding ways to persuade Americans, particularly young Americans, that doing drugs is wrong, that it destroys lives, and destroys families, schools, and communities.

In a sense, Mr. President, we could argue that in the end reducing demand is the only real effective way to ultimately overcome the threat of drugs in this country today. As long as there is a demand for drugs, there will always be a supply. That is why education as well as drug treatment remains central long-term goals.

The amendment offered by the Senator from Georgia and the Senator from Idaho recognizes the need to invest in demand-reduction efforts, as well as the need to invest in interdiction efforts. However, reducing the demand for drugs is not going to be achieved overnight. It will take years, if not generations, to change minds and attitudes regarding the use or abuse of drugs.

I believe one way to reduce demand is to have an effective interdiction policy, one that will put a serious dent into the flow of drugs into this country. We must find ways to raise the cost of narcotics trafficking, making it far more difficult for drug lords to bring these drugs to our Nation and making the cost of drugs on the streets—whether that be the streets of New York, Los Angeles or Cleveland—making the cost of those drugs go up. Just like the underlying bill, we can impact demand by raising the street value of drugs, and we can do that by going after the supply routes.

There is an inverse relationship between the cost and consumption. I believe that is true with drugs. I believe that is also true with cigarettes. That is the basic principle of the McCain bill. I think it is logical to extend that principle, as my colleagues have done, Senator COVERDELL and Senator CRAIG, in this amendment.

As I mentioned, I do want to make it very, very clear: Drug interdiction, which I am talking about this afternoon, is only one of the things that we have to do. We have to have good domestic law enforcement. We have to deal with the problem of treatment. Treatment does work. It is tough but it can, in fact, work. We can save lives. We have to continue to invest in treatment. Education prevention—that works, as well, as long as we are consistent. As long as we do something consistently through a child's life, it works. So we need to focus on that, as well.

Let me turn now to what I was talking about a moment ago, that is the need to increase our emphasis on drug interdiction. As I mentioned before, the Caribbean is becoming more and more the transit route of choice for drug traffickers. I made two visits to this transit zone in the Caribbean in the last several months. During my last visit, I learned that our agents in the Bahamas have seized more cocaine in the first 3 months of 1998 than in the past previous 3 years combined. With sufficient funding, interdiction efforts can make a huge difference. Clearly, drastic funding reductions have drastic consequences when it comes to results.

I had the chance on these visits to meet with the soldiers on the front lines, or sailors on the front lines of our war on drugs. I witnessed our strategy in action. I sat down with the experts, both military and civilian, the people who are actually on the front line, the people who are charged with carrying out the monitoring, the detection, and the interdiction of drugs. Given what I have learned during these visits and the conclusions I have reached, the amendment by the Senators from Georgia and Idaho could not have come at a better time. There is a dire need for a renewed commitment, a rededication of resources toward drug interdiction.

With energy and with adequate resources, our drug interdiction efforts can be improved. We cannot ask those tasked to implement our drug interdiction strategy to conduct their missions without the proper level of resources to do the job. One reason why is simple: This drug interdiction puts the lives of these law enforcement officers in danger. That is the nature of the business. We have to ensure that they have the best equipment, the best resources and the best intelligence so that they can carry out this mission, not only so they can be effective, but so they can do it in as safe a way as humanly possible. The men and women charged with interdicting drugs face a ruthless enemy who will go to great lengths to protect their cartel. We are dealing with millions and millions of dollars.

When I visited the Caribbean last month, I saw videos of drug traffickers in "go-fast" boats—that is what they are called, go-fast boats—that are made almost exclusively for the only purpose of bringing drugs up from Colombia, bringing up drugs from that part of the world. I saw videos of the go-fast boats literally running over Customs vessels in the shallow waters south of Florida during a nighttime interdiction pursuit. I believe we owe it to these law enforcement officers to ensure they have the proper equipment and manpower to do the job they were asked to perform. After all, it is unfortunate reality that the drug cartels don't have a budget process or a bureaucracy to slow them down. These drug cartels, these drug lords, are constantly adjusting to their environment and updating their equipment.

What kind of resources are we talking about? What kind of resources do I believe we are lacking? Let me use the U.S. Customs Service operating in south Florida as just one example. In 1986, Customs had 77 vessels and 124 maritime officers. Today, they are now down to 30 vessels and 23 officers. Funding for the Maritime Enforcement Program is down from $13.25 million—that was the figure in 1992—to $5.2 billion. So we have gone from $13.25 million in 1992 to $5.2 million in 1997.

Further, Customs no longer has a 7-day, 24-hour operation. To make matters worse, Customs not only lacks basic resources, they also lack 1990s technology. A Colombian go-fast boat can go between 80 and 90 miles per hour, while the few Customs go-fast boats that are available only top about 70 miles per hour. So not only does Customs lack resources in general, they lack the state-of-the-art equipment needed to match those of the drug lords.

On my most recent trip, I visited the Joint Inter-Agency Task Force located in Key West, FL. This is the primary hub for detection, monitoring, and interdiction efforts. During these visits, I saw firsthand that our government agencies there—and there are many—have tremendous monitoring and detection capability, and they are doing a good job. They can detect when a small, drug-carrying aircraft is leaving Colombia and making the journey across the Caribbean.

Unfortunately, however, while we may have the capability to detect and monitor drug trafficking in the Caribbean airspace, we do not have adequate resources and capabilities for the end game—the actual seizing of illegal drugs in transit. And the drug lords know this. For example, I was informed that of the total drug air events in the Bahamas from April of 1997 until April 1998, our U.S. agents state that there was only an 8-percent success rate of stopping drug air flights that have been detected—8 percent. That means approximately 92 percent got away. And though cocaine seizures are up, their concern is the higher amounts seized represent probably a fraction of the total amount of drugs coming through the area.

While in Key West, I was also briefed on specific interdiction efforts in the eastern Pacific. I was surprised to find out that in the Eastern Pacific, off the coast of Mexico and Central America, up this region that is cut off on the map, the coast is virtually, literally clear for drug lords to do their business. Mr. President, this is simply not acceptable.

The U.S. Government—and I am talking about us—is not effectively dealing with this increasingly large threat in the Eastern Pacific. We have virtually no presence because of the lack of funding. I was briefed about an operation called Caper Focus, which would have focused on interdiction efforts in the area. We would have had a number of surface assets and aircraft to patrol the waters and interdict. This operation, unfortunately, was canceled before it started because of a Department of Defense decision to send the needed surface assets elsewhere. To date, this issue has not been resolved, and the coastal waters in the Eastern Pacific are open for drug business.

Mr. President, our men and women who work on interdiction matters on a daily basis are committed to success, but they are not getting the support that they really need from us. Because of limited resources, we are selectively spending resources—a little bit here and a little bit there, a little bit at a time, and in different places. This, of course, has tremendous negative consequences.

With more limited resources, we could seal off one or two of the so-called "drug corridors," but the reality is that drug routes are constantly in flux, as the traffickers always seek to exploit the chinks in the armor of law enforcement. This phenomenon has been compared to the squeezing of a balloon—squeezing it at one end and it pops out on the other. That is the problem we have constantly run into in this antidrug effort. When we step up efforts in one area, like squeezing a balloon on one end, the traffickers just move to another area.

Let me give my colleagues an example of this. On one of my recent trips I saw that, in particular, Haiti has become an attractive rest-stop on the cocaine highway. Haiti is strategically located about halfway between the source country—Colombia—and the destination country—right here in the United States. Haitian law enforcement, though slowly getting better, is really unequipped to put a dent in the drug trade. What's more, their coast guard fleet, while it is improving and we are working with it, consists of a handful of boats. And as it is the poorest country in the hemisphere, by far, Haiti is extremely vulnerable to the kind of bribery and corruption that the drug trade needs in order to flourish. It is not surprising that the level of drugs moving through Haiti has dramatically increased.

According to a U.S. Government interagency assessment on cocaine movement, in 1996, between 5 and 8 percent of the cocaine coming into the U.S. passed through Haiti. By the third quarter of 1997, the percentage jumped 12 percent, and then it increased to 19 percent by the end of that year.

Mr. President, accordingly, because of that, we responded to this crisis with a military operation called Operation Frontier Lance. Operation Frontier Lance utilized Coast Guard cutters, speedboats, and helicopters to detect and capture drug dealers on a 24-hour per day basis. Incidentally, Mr. President, this operation was modeled after another successful interdiction effort off the coast of Puerto Rico, called Operation Frontier Shield. However, unfortunately, funding for Frontier Lance ran out and the operation just ceased. In fact, it ceased on Monday of this week. I had the opportunity to be on one of the cutters that was off the coast of Haiti and talk to the men and women who were so proud of the tremendous job they were doing. This potential roadblock on the cocaine highway is no more. Again, it ceased to exist this past Monday. The reality also is that Coast Guard funding has been slashed in the past several years. I think this is a mistake.

It is my hope that by passing the Coverdell-Craig amendment, we can jump start Operation Frontier Lance, and other similar programs. We need to get back into the game.

Now, Mr. President, our first and best resource in this antidrug effort, of course, is people. We are lacking in personnel in areas where we need it the most. Of the more than 100 U.S. drug enforcement agents authorized to be in the Caribbean, I was surprised to find only one agent in Haiti last March when I visited. Since my March visit, the DEA has agreed to add six more agents; that is clearly the direction in which we ought to go. But we also need additional manpower, men and women, to go to the Dominican Republic, and other areas of the Caribbean as well.

Mr. President, as I mentioned earlier, one of the major problems regarding our current interdiction efforts is that we are using scarce resources sparingly. The drug traffickers know that if we place resources in one or two selective places, they will just switch their routes and go elsewhere. A more logical approach, more funding permitting, would be to have more manpower and resources at different key places at the same time; or, in other words, "squeeze the balloon" at different ends—all at the same time. I believe that we can do that by passing the Coverdell-Craig amendment. That is why I support this timely amendment.

Mr. President, I believe it is time to rededicate ourselves to an effective interdiction strategy. A lot of good work is now going on. But we can do a lot more and we can do better. I have had the opportunity to see our efforts firsthand. We are competing with an enemy that has increased its resources to do the job, while we tragically have cut our resources by more than half. Having said that, I also believe that we must have a clear idea what we should expect with increased funding. In short, we need to ascertain from the relevant agencies, whether it be from the Navy, Coast Guard, Customs, DEA, FBI, or whatever the agency may be, what we can expect to accomplish with more resources, and we have to look to them to tell us what they think they can do. I believe it is our obligation to give them those resources and to give them the direction. My point is that we need to make sure that the Government agencies have the necessary amount of money and that they indeed strictly use the funds for counter-narcotics efforts.

Again, I want to commend my friend from Georgia, Senator COVERDELL, as well as Senator CRAIG, for their efforts in this regard, their efforts in combating the drug threat both within and beyond our borders. I look forward to working with them and other colleagues on this important, new initiative.

In conclusion, let me just say again how important I believe it is that we pass the McCain bill. It has been a struggle. No one should have expected it not to be a struggle. This is a big bill. It is comprehensive legislation. It is tough sledding. We knew that when we started. But we should not be discouraged. The stakes, I think, are very high. What are the stakes? The stakes are whether or not we are going to seize this historic opportunity to pass legislation that will, in fact, have a significant impact on reducing the number of young people who start smoking every day. The consequence of this legislation will affect not only young people today, it is going to impact our society for years and years to come. So we should continue, we should push on, and we should get the job done.

The amendment that I am speaking about this afternoon—I am sure we will be back on it again next week—which was brought to the floor by Senator COVERDELL, is an amendment that I believe will improve the McCain bill. It will improve it by taking some of the resources from the bill and using it in the antidrug effort, using it on drug interdiction, which I believe is so urgently needed. With some additional resources, I am convinced that the men and women who I have had the chance in the last several years to meet with, to see, that are on the front lines, along our borders—and I have had the chance to visit our borders—as well as in the Caribbean and other areas, I believe they can get the job done.

I believe that they can impact the drug trade. They can only do it though if we are willing to give them the resources and give them the backing to allow them to do that job.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DRUG COURT WEEK

Mr. CAMPBELL. Mr. President, I begin my statement today thanking the various individuals and organizations that support the drug court programs. I have always been a strong supporter of drug court, and wish to express my pleasure with the "National Drug Court Week" events that are scheduled in Washington, DC this week. Recognizing the importance of practitioners who work on drug courts and the significant contributions that drug courts have made, and continue to make, in reducing drug use and crime in our communities is extremely important. I believe in the success of the drug courts and wish to acknowledge the dedicated efforts of drug court professionals.

Drug Courts are revolutionizing the criminal justice system. The strategy behind drug courts departs from traditional criminal justice practice by placing nonviolent drug abusing offenders into intensive court supervised drug treatment instead of prison. Some drug courts target first time offenders, while others concentrate on habitual offenders. They all aim to reduce drug abuse and crime.

Drug court programs have expanded from the original 12 in 1994 to around 400 today. Drug courts provide comprehensive judicial monitoring, drug testing and supervision, treatment and rehabilitative services, and sanctions and incentives for drug using offenders. The success of the drug court system is well documented. More than 70% of drug court clients have successfully completed the program or remain as active participants. Additionally, the cost of drug court programs are significantly less than the cost of incarceration and traditional court systems.

In my home state of Colorado the drug court movement is growing. Started in 1994, the Denver Drug Court assigns defendants to one of three tracks. Tracks 1 and 2 are community supervision and treatment tracks. Track 3 is a serious offender incarceration track. These tracks establish the different type of programs that are offered to various offenders.

Approximately 75% of all drug cases are appropriate for the community supervision track. At any given time, approximately 1500 cases are under court supervision. An analysis of post-conviction progress reviews of offenders under Track 1 or Track 2 demonstrates that 67% of those individuals complied with the Drug Court Program and did not use any illegal substances. Since the graduation of the first class in July 1995, the Drug Court has successfully graduated over 500 individuals. Of the 100 graduates who have been out of the Drug Court for one year or longer, only 10% have been rearrested for a felony offense.

Last year, General McCaffrey and I had the opportunity to observe the Denver Drug Court. Through this experience I was able to see first hand the judicial procedures surrounding drug courts. I was impressed with Denver's Drug Court procedures, and believe in the success they will yield.

I am pleased with the success of the Denver Drug Court program and support the growing programs within Colorado. I believe the success of drug courts is well documented and strong Congressional support should be given to the rehabilitation of future drug offenders. Traditional incarceration has yielded little gains for our drug offenders. Costs are too high and the rehabilitation rate is minimal. The drug courts of America are an excellent way to make strides forward in our fight against drugs. I commend the National Association of Drug Court Professionals (NADCP) in their planning and sponsoring of "National Drug Court Week" events here in Washington. The recognition of this excellent program and promotion of its initiatives is well deserved.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 4, 1998, the Federal debt stood at $5,496,567,867,122.10 (Five trillion, four hundred ninety-six billion, five hundred sixty-seven million, eight hundred sixty-seven thousand, one hundred twenty-two dollars and ten cents).

One year ago, June 4, 1997, the Federal debt stood at $5,358,712,000,000 (Five trillion, three hundred fifty-eight billion, seven hundred twelve million).

Five years ago, June 4, 1993, the Federal debt stood at $4,301,348,000,000 (Four trillion, three hundred one billion, three hundred forty-eight million).

Twenty-five years ago, June 4, 1973, the Federal debt stood at $452,029,000,000 (Four hundred fifty-two billion, twenty-nine million) which reflects a debt increase of more than $5 trillion —$5,044,538,867,122.10 (Five trillion, forty-four billion, five hundred thirty-eight million, eight hundred sixty-seven thousand, one hundred twenty-two dollars and ten cents) during the past 25 years.

DEATH OF SENATOR BARRY GOLDWATER

Mr. MURKOWSKI. Mr. President, I rise today to speak of the passing of our former colleague, Senator Barry Goldwater—one of the giants of twentieth century American politics.

There is no doubt that Barry Goldwater was a transformational political thinker whose courage and conviction never wavered despite enduring a defeat in 1964. For in that defeat were sown the seeds of the Republican revolution that ultimately brought Ronald Reagan to the Presidency in 1980 and Republicans to control of Congress 14 years later.

Senator Goldwater was a man who never minced words. He was honest, open and forthright. After his 1964 Presidential hopes were completely vanquished, he observed "When you've lost an election by that much, it isn't the case of whether you made the wrong speech or wore the wrong necktie. It was just the wrong time." In fact, Barry Goldwater was far ahead of his time and had the opportunity to see his beliefs vindicated when Ronald Reagan was elected President.

Barry Goldwater did not base his political views on focus groups or poll results. He had core beliefs and was not willing to bend them for temporary political advantage. He warned of the dangers of big government and the welfare state precisely at the time that Lyndon Johnson was constructing the largest expansion of government since the Depression. He preached a strategy of winning the cold war through a policy of peace through strength while the conventional wisdom argued for peaceful coexistence with a de-emphasis on military strength.

When the American Presidency was in crisis in 1974 after the Supreme Court had ruled against President Nixon's claims of Executive Privilege, Senator Goldwater joined several Congressional colleagues in a visit to the White House to give counsel to the President. Although he had long supported President Nixon throughout the ordeal of Watergate, most observers believe that his words were decisive in persuading the President that the case was hopeless and for the good of the Nation he must resign.

Mr. President, there are certain quotations that live on decades and centuries after a man has died, yet they capture the spirit of the time and the man. Two centuries ago, when America was heading into revolution, that spirit was best captured in the words of Patrick Henry: "Give me liberty or give me death." The words of Barry Goldwater spoken 34 years ago at the Republican convention best sum up the spirit, clarity and wisdom that he will forever be remembered for: "Extremism in the defense of liberty is no vice, and moderation in the pursuit of justice is no virtue."

We will all miss this decent and honest man who made such a difference for America.

GOVERNMENT PICKING WINNERS AND LOSERS

Mr. ABRAHAM. Mr. President, I am compelled to rise today to comment once again on what I consider to be the troubling path that the Federal Government has taken with respect to this nation's high-tech industry. It has come to my attention that on Monday, the Federal Trade Commission will vote on whether to bring an antitrust action against Intel Corp.

In November of last year I warned the Senate Judiciary Committee during a hearing on the Department of Justice's investigation of Microsoft of the slippery slope of more government regulation of, and intrusion into, America's high-technology sector. Monday's proposed vote makes clear to me that we are well into our slide. We are now witnessing a revolution in antitrust action in which it appears the Federal Government seeks to influence the very terms on which intellectual property is shared within an industry. We already have an entire field of laws that deal with this Mr. President. They are called "patents," and to the extent that there are deficiencies in patent law, this Congress is attempting to address those concerns through legislation.

We do not need the Federal Trade Commission's help in this endeavor. Let me make clear, I do believe in appropriate antitrust enforcement. In this industry, however, overzealous pursuit of alleged antitrust violations sends a chilling signal to one of this nation's most prized industries: Success is illegal, violators will be punished.

It is extremely important to keep in mind that our antitrust regulation is intended to protect consumers. I believe our central concern in looking at antitrust as it relates to the high-tech industry should be to ensure that consumers continue to see prices go down as the quality and variety of products go up.

American consumers are presented with a vast number of choices in the high-tech marketplace. One need only walk into one of the thousands of computer and software stores in America to find an enormous, even bewildering selection of hardware for every imaginable need. The overwhelming evidence indicates that competitiveness is alive and well in the high-tech industry—indeed, virtually the only monopolies that exist today are those that have been created by government.

Mr. President, it is time for Washington to get out of the business of picking winners and losers in the free market, and I am deeply concerned about the FTC's actions to this effect. I intend to closely monitor this matter, and I encourage my colleagues to join with me in expressing their concerns about the increasing amount of government intrusion into this sector of the economy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agriculture research programs, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3433. An act to amend the Social Security Act to established a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 285. Concurrent resolution expressing the sense of Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

At 3:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 284. Concurrent resolution revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal year 2000, 2001, 2002, and 2003.

MEASURES REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 285. Concurrent resolution expresssing the sense of Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China; to the Committee on Foreign Relations.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3433: An act to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabiliites meaningful opportunities to return to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1275. A bill to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes (Rept. No. 105-201).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1693. A bill to renew, reform, reinvigorate, and protect the National Park System (Rept. No. 105-202).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1460. A bill to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes (Rept. No. 105-203).

By Mr. BENNETT, from the Committee on Appropriations, without amendment:

S. 2137. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105-204).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2069. A bill to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment (Rept. No. 105-205).

By Mr. DOMENICI, from the Committee on Appropriations, without amendment:

S. 2138. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105-206).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1279. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes (Rept. No. 105-207).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S. 2135. A bill to amend title 42, United States Code, to protect human life; to the Committee on the Judiciary.

By Mr. GORTON:

S. 2136. A bill to provide for the exchange of certain land in the State of Washington; to the Committee on Energy and Natural Resources.

By Mr. BENNETT:

S. 2137. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes: from the Committee on Appropriations; placed on the calendar.

By Mr. DOMENICI:

S. 2138. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. THURMOND:

S. 2139. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel YESTERDAYS DREAM; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 2140. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project; to the Committee on Energy and Natural Resources.

S. 2141. A bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Governmental Affairs.

S. 2142. A bill to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S.J. Res. 49. A joint resolution proposing a constitutional amendment to protect human life; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. LOTT, Mr. HUTCHINSON, and Mr. ABRAHAM):

S. Res. 244. A resolution expressing the sense of the Senate on the ninth anniversary of the massacre of pro-democracy demonstrators on Tiananmen Square by military forces acting under orders from the Government of the People's Republic of China; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S. 2135. A bill to amend title 42, United States Code, to protect human life; to the Committee on the Judiciary.

LEGISLATION TO PROTECT HUMAN LIFE

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S.J. Res. 49. A joint resolution proposing a constitutional amendment to protect human life; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT TO PROTECT HUMAN LIFE

Mr. SMITH of New Hampshire. Mr. President, our Nation's founding document, the Declaration of Independence, ultimately proclaimed that the right to life comes from God and that it is unalienable. Life itself, the declaration held, is the fundamental right without which the rights of liberty and the pursuit of happiness have no meaning. As the author of the declaration, Thomas Jefferson, wrote, "The care of human life and not its destruction . . . is the first and only object of good government."

It is important and I think proper to note that without that basic right of life, there is no liberty, there is no opportunity to pursue happiness in any way, shape, or form.

One hundred ninety-seven years after that Declaration of Independence, in 1973, the U.S. Supreme Court violated this most sacred principle of the declaration. In Roe versus Wade, the Supreme Court held that the entire class of unborn children—from fertilization to birth—have no right to life and may be destroyed at will. As we know, the statistics are pretty dramatic. Thirty-five million children since Roe versus Wade were denied the opportunity to be born. Without getting into the reasons or the explanations or the rationale, the result is that 35 million children were denied that right.

In subsequent cases, the Court has zealously guarded the right to abortion that the Court created. The Court has repeatedly rejected all meaningful attempts by the States to protect the unalienable right to life of unborn children since that decision in 1973.

Mr. President, those of us who support the pro-life cause must never lose sight of our ultimate goal. Our objective is very simple. It is not complicated. It is to keep the promise of the Declaration of Independence. There is only one way to do that, Mr. President, and that is to overturn Roe versus Wade and restore to unborn children their God-given right to life, a God-given right that our Constitution, I believe, and certainly the declaration, gave them. And the Court took it away—a court, by the way, that is sworn to uphold the Constitution.

In order to keep that hope alive in the Senate today, Mr. President, I am introducing two legislative proposals, and I am pleased and honored that the distinguished Senator from North Carolina, Mr. HELMS, and the distinguished Senator from Missouri, Mr. ASHCROFT, are joining me as original cosponsors of both measures.

Senator HELMS for many, many years—long before my time in the Senate—had the courage to stand here on the Senate floor day after day, week after week, taking insult after insult but supporting the lives of unborn children. I believe history will judge Senator HELMS very prominently in this regard. And Senator ASHCROFT, with less time in the Senate, is certainly a strong proponent and advocate of the right to life of unborn children.

Let me talk specifically about the bills—first, a bill, the Human Life Act of 1998. The human life bill sets forth the findings of Congress that "the right to life is the paramount and most fundamental right of a person" and that "the life of each human being begins at fertilization." Based on these findings, and in the exercise of the power of Congress under section 5 of the 14th amendment, my bill establishes that the word "person," as used in the Constitution, applies to all human beings, including unborn children, because, Mr. President, an unborn child is a human being.

I have never been able to understand the rationale, as many times as it has been debated here on the floor, how one can say that an unborn child is not a human being. Remember, if it is a human being, it deserves the right of protection under the Constitution of the United States.

As one Senator, I will freely admit that when fertilization occurred, I was created. There was a sequence of time that occurred after that caused me to be here today, standing on the floor of the U.S. Senate. If it had been interrupted at any stage from that moment of fertilization until today, I wouldn't be here.

The effect of this legislative determination that the unborn child is a human being and, therefore, a "person" would be to place unborn children under constitutional shield of due process and equal protection clauses of the 14th amendment. Thus, the right to life of every unborn person would be protected to the same extent that the right to life of all born persons is guaranteed by our Constitution.

Mr. President, today we have seen in this day and this age a number of violent acts: School shootings, violence of children upon children, of children upon parents, terrible violence. I think we have a cultural problem. Most Americans would not deny that.

I think it is fair to say that we need to set an example as adults—those who are supposedly leaders of our country not only here in the Senate, or in the White House, or in the Congress, but also at the head of our communities, our families, whatever else. Whatever the role we may play as parents, as citizens, or husbands, or wives. I think we have a role to set an example. I would ask here on the floor of the Senate my colleagues: Are we setting an example for young people to follow when, at the will of any individual at any time after fertilization occurs, we say or we tolerate that that unborn child's life may be ended? It is an innocent life. It is a life who can't speak here on the floor of U.S. Senate. No child who is unborn has the opportunity to stand up on the floor and say, "I'd like to live; I'd like to have the opportunity to raise a family, to be a leader, to be a preacher, be a Senator, be a doctor, to cure cancer, to be a teacher, be a good mom, a good dad. I would like to have that opportunity." I think they would say if they could speak that they do not have that opportunity.

I think of those 35 million children, I say to my colleagues, since 1973 whose lives have been ended. How many of those children may have lived to find that cure for cancer or may have lived to have made a difference in a life—perhaps one of those lives of those children who took the lives of others? Perhaps one of these children who died may have been a counselor, may have been somebody on the spot who may have made a difference. We will never know, because those 35 million lives are gone—never had the opportunity to be happy, never had the opportunity to be successful, never had the opportunity to live—gone. And we did it. We did it because of that Supreme Court decision. It is wrong.

I am reminded of Abraham Lincoln—a totally different issue but very similar in terms of its scope. Abraham Lincoln didn't take polls when he stood up in the United States of America in the 1860s and said: Slavery is wrong. It is wrong to enslave an American, or any individual, because of the color of their skin. And he spoke out against it. He spoke out eloquently against it, and he didn't take polls. He didn't stand up at a press conference and say to his aide, "I am going to examine the feelings of my constituents on this. Would you please take a poll and find out whether the majority of the American people favor slavery or oppose slavery?"

I am reminded of what Lincoln said. I don't have the exact quote in front of me. I am going to paraphrase it from memory. He said: They tell me not to oppose slavery in the slave States, because they have left the country, so it is not our concern. They tell me not to oppose slavery in the free States, because we don't need to because they are free. They tell me not to oppose slavery from the pulpit, because it is not religion. And they tell me not to oppose slavery in politics, because it causes too much of a fuss.

Substitute abortion for slavery in each of those four examples and you have the same situation. If we can't oppose it in any of the 50 States, if we can't oppose it in politics, if we can't oppose it in religion, where does that leave the unborn children who will never have the opportunity to stand up here and debate this issue?

The right to life of every unborn person should be protected to the same extent as the right to life of all born persons. How can anybody in America, any Christian in the Judeo-Christian culture of America, not believe that?

I know the insults. I have been the victim of them. I know the taunts. I know the recriminations that come from standing up here and making these comments. But it is nothing—nothing—compared to what those unborn children endure because they have been denied after they have been created by God himself. Man denies them the right to life, that life.

I am reminded of Gianna Jesson, a young woman, perhaps 23 or 24 now, who was aborted. She was aborted. I saw her sing "Amazing Grace" in front of 1,000 people a couple of years ago in which she said "I am thankful to my God to be where I am today, and I forgive my mother." Well, I say that is powerful, Mr. President. I have never seen anything to equal it. Not from the lips of any politician or any pastor have I ever seen testimony stronger or more powerful than that young woman crippled by abortion standing up before 1,000 people and singing "Amazing Grace." There was not a dry eye in the place. That woman deserved the right to live. So did every one of those other 35 million children who have been denied.

There is only one way to stop this. We can preach about it. We can talk about it. We can debate it in politics. We can sing, or be quiet and be silent. But there is only way to stop it. We have to change the Court. The Supreme Court is wrong. In 1857, the Supreme Court said in the Dred Scott decision that a slave could not sue in federal court because he was property and not human. Chief Justice Roger Taney made that decision. The Supreme Court is not omnipotent. Roger Taney was wrong in that decision. He was wrong. And *Roe* v. *Wade* was wrong. And we need to change it.

My bill provides that nothing—nothing—in it "shall prohibit a law allowing justification to be shown for only those medical procedures required to prevent the death of either the pregnant woman or her unborn offspring as long as such a law requires every reasonable effort be made to preserve the lives of both of them."

I am also introducing a joint resolution that would submit the human life amendment to the States for ratification as part of the Constitution of the United States. Specifically and more directly, I am introducing an amendment to the Constitution of the United States to protect the lives of unborn children. It has been done before. It has been introduced before, and it has gone nowhere. It doesn't mean that it should not be introduced again and again and again and again until somehow, someway the message is received in this country that we have to protect the lives of these innocent children.

Let me explain why I am proposing a human life amendment in addition to the human life bill. If the human life bill were to be enacted into law and its constitutionality upheld by the Supreme Court, it could be weakened or repealed by some Congress of the future. But a human life amendment to the Constitution could not be altered or repealed except by another constitutional amendment. Thus, my human life amendment would provide more durable protection to the fundamental right to life of unborn children.

Like the human life bill, the human life amendment restores the word "person" in the Constitution to its original and natural meaning by making clear that it includes all human beings—all human beings—born and unborn.

I have witnessed the birth of three of my children. It is a privilege that I am glad I had. I will tell you something. There is no difference between the 15 or 20 minutes before the child was born, when it was in the womb and I could not see it, and 15 or 20 minutes after the child was born when I saw my daughter and my two sons for the first time. There is no difference. Why is it right and proper under the law to kill that child 20 minutes or 20 days or 20 months before that wonderful time when the child comes into the world? Why is it right to do that and wrong to do it 20 minutes or 20 months or 20 years after? It is wrong in both cases. It is wrong in both cases.

So the human life amendment includes the same language as the bill regarding medical procedures required to prevent the death of either the pregnant woman or her unborn offspring.

I introduce these two legislative proposals and I realize as I stand here today that there is not sufficient support in the Congress to restore legal protection of the right to life of unborn children in this country, but I believe ultimately we will prevail. When the abolitionists stood in this Chamber in the 1820s and the 1830s and the 1840s and they said that slavery was wrong, they did not prevail either, but ultimately they did because they were right. And we are right. It is wrong to take the lives of unborn children, and someday, someway, somehow, the American people are going to come to realize this, and they are going to throw everybody out of here who will not support the changing of that court. That is what they are going to do.

One of our Nation's greatest Presidents, in my estimation, Ronald Reagan, had the same confidence that the right-to-life cause someday will prevail. He believed it deep into his being. I can remember meeting personally with President Reagan and discussing this issue with him. I know how deeply he felt about it, and I also know the attacks he had, but I would ask my colleagues who somehow are a bit timid to stand up; when this issue comes up, they hide, many of them. They are worried about the political repercussions. Well, those repercussions of politics are not as bad as what Gianna Jesson went through when she was aborted. Here is what Reagan said 14 years ago in a book called "Abortion and the Conscience of the Nation."

> Despite the formidable obstacles before us, we must not lose heart. This is not the first time our country has been divided by a Supreme Court decision that denied the value of certain human lives.

This is a reference to what I talked about earlier.

> The Dred Scott decision of 1857 was not overturned in a day, or a year, or even a decade. At first, only a minority of Americans recognized and deplored the moral crisis brought about by denying the full humanity of our black brothers and sisters; but that minority persisted in their vision and finally prevailed. They did it by appealing to the hearts and to the minds of their countrymen, to the truth of human dignity under God. From their example, we know that respect for the sacred value of human life is too deeply ingrained in the hearts of our people to remain forever suppressed.

Mr. President, I close by addressing my colleagues in the Senate. Each one of us, every one of us, started out in life as an unborn child. We were once, all of us, very small human beings living in our mother's wombs. As President Reagan wrote, "Abortion concerns not just the unborn child, it concerns every one of us," because we would not be here if our parents had made that awful decision.

The English poet, John Donne said, "Any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee."

"It tolls for thee."

My colleagues, regardless of where you have stood on abortion in the past, regardless of the acrimonious debate, regardless of the hard feelings, regardless of the political pressures, the contributions, the political attacks, I urge you to search your conscience and to search your soul and ask yourself, is it right, is it really right to kill an unborn child?

I am not interested in hearing about all of the social conditions of the person who is having the child. That is another issue. I am not asking you to comment about the plight of that child when it is born. That is another issue. I am asking you to think, reach down in your souls like you would have if you stood on this floor in 1840 talking about slavery, if you were an abolitionist. I am asking you to search your soul and I am asking you to say, Is it right; is it right? And if it is not right, then you have an obligation to support this amendment and to help me to right a wrong.

I am pledging here today in this Chamber that as long as I am a Senator, and as long as I am alive, I am going to work for the passage of this amendment. I have two cosponsors this morning. That is all I have. But I know there are more people who agree with me in both political parties. Frankly, I am going to be talking to them, every one of them. It is not an in-your-face situation. This is an in-your-heart situation—not the face, the heart. Is it right or is it wrong? If you can look me in the eye and tell me it is right to take the life of an unborn, innocent child, then I will not bother you anymore. But if you don't tell me that, then I am going to keep on bothering you and try to get your support.

I hope you will decide to join me in cosponsoring both of these measures and place the lives of the unborn children of our Nation once again under the protection of our great Constitution. The only way to do that, in my opinion, is through the amendment.

Mr. ASHCROFT. Mr. President, in America today, a great debate—a great division—exists over the issue of abortion. For some, abortion is about the so-called "right to choose." For others, it is ultimately about control. For me, it is about something completely different. It is about life.

Abortion is, at its core, about the destruction of an innocent human life; a life that is unique in the history of the world—formed and shaped in the image of God; a life that has never been and will never be again.

"Abortion," said the late Mother Teresa, "is the great destroyer." And so it is. More than thirty-five million lives have been lost in the terrible years since Roe versus Wade became the law of the land. It is a tragedy unmatched in modern times. For mother, for father, for child, abortion is never a real resolution. It is but a temporary answer that inflicts a permanent pain. It is a wound that does not heal; a wound, alas, that cannot heal.

Senator SMITH and I come to the floor this morning to stand against abortion and to stand for life. For we believe that the Fifth and Fourteenth Amendments to the United States Constitution protect every person's "life." The protection designed by James Madison and adopted by the People is universal in scope. Its protection is unequivocal. It admits of no exception. "No Person shall . . . be deprived of life."

As this is the Constitution's "plain meaning," I believe our proposed Human Life Act is a legitimate exercise of Congressional power under Section Five of the Fourteenth Amendment. However, while I support a statutory approach, I would, as I said before Senator East's Judiciary Subcommittee in 1981, go farther. For I also believe it necessary to amend the United States Constitution to restore its original meaning.

Mr. President, the Supreme Court's efforts to create an abortion jurisprudence from whole cloth demonstrate the difficulty of deviating from the view that life begins at conception. Every judicial effort to establish a time when constitutional protections magically kick in has been undermined by medical reality.

Earlier this year, I held a Constitution Subcommittee hearing to mark a profoundly sad occasion—the 25th anniversary of Roe versus Wade. At that hearing, we heard testimony about the relentless progress of medical technology in pushing forward the date of viability.

More recently, we have learned how judges in striking down bans on partial birth abortions have undermined birth as a clear line for when the constitutional protection for life begins—effectively legalizing infanticide.

Clearly, the Supreme Court, unguided by any constitutional text, has written themselves into a position that is legally, medically and morally incoherent. The experience of the past twenty-five years confirms the desperate need for the legislation and the proposed amendment we introduce today.

In thinking about this morning, I was reminded of my first run for Congress. I supported a Human Life Amendment in 1972—fully a year before Roe versus Wade was handed down. In 1981, as Missouri Attorney General, I argued before the United States Supreme Court on behalf of the unborn in Planned Parenthood versus Ashcroft. As Governor, I signed the pro-life law which became the basis for the Webster decision. And so, like Senator SMITH and Senator HELMS, I am not a newcomer to this debate.

But I stand before the Senate this morning not to discuss my past, but to talk about our future—about the kind of America we want to have in the next century.

Abortion makes a statement not only about the life of the unborn child, it makes a statement about the life it leaves behind. Sadly, it sends a message that life is expendable: life that is too young, too old, ailing, or tenuous. It says, "You are worthless." It says, "You are not important."

To all who might hear my voice, I say, "That is not the kind of statement America wants to make." It is not the message American wants to send. It is not the kind of America we want to be. Recall Deuteronomy, "I have set before thee this day, life and death, blessing and cursing; therefore, choose life that both thou and thy seed may live." That both thou and thy seed may live, Mr. President. For an America that can be again—America the beautiful.

By Mr. GORTON:

S. 2136. A bill to provide for the exchange of certain land in the State of Washington; to the Committee on Energy and Natural Resources.

I-90 LAND EXCHANGE LEGISLATION

● Mr. GORTON. Mr. President, in 1984, I spoke in this Chamber to champion passage of a bill that would dramatically expand the Alpine Lakes Wilderness Area. The bill became law, and the wilderness area now boasts more than 390,000 acres of alpine and subalpine forests, 450 miles of trails, more than 500 lakes and countless peaks and pinnacles. It offers year-round opportunities for hikers, campers, skiers, fishermen, or those who simply want time away from urban life. It is arguably one of Washington's favorite recreational sites.

Today, I introduce legislation that would dramatically enhance the value of this recreational and environmental jewel—a bill to complete the I-90 Land Exchange between the Forest Service and Plum Creek Timber Company. The land exchange would bring up to 60,000 acres of forest land adjacent to the wilderness area into public ownership, creating a stretch of publicly owned forest from the southern border of the wilderness area to I-90.

Plum Creek would trade up to 60,000 acres of its land on the I-90 corridor of the Central Cascades for up to 40,000 acres of Forest Service land in three different forests. The benefits of the exchange are immense. It will place into public hands some of the last large blocks of privately owned old growth forest and increase publicly owned spotted owl habitat by 22,000 acres. It will bring into public ownership 14 miles of Pacific Crest Trail. It would eliminate much of the complicated checkerboard land ownership pattern, under which public and private entities each owns every other square mile of land. And it will fulfill a long-sought priority of Washington's environmental community—the public acquisition of prized sites such as Silver Creek, Scatter Creek, and Thorp Mountain.

There is a long history of controversy surrounding these lands. Although the land exchange has been under consideration in one form or another for more than a decade, this is the closest it has ever come to completion.

Conservationists began pushing for a resolution to the checkerboard ownership pattern back in the late 1970's. In 1986, the Forest Service and Plum Creek considered an exchange in the Silver Creek basin, the heart of the land exchange package under consideration today.

In 1988, with the support of local environmental groups and Plum Creek, a legislative proposal to complete the exchange was brought to Congress. When the bill was not considered, the Forest Service and Plum Creek launched an attempt to complete the exchange administratively. However, the listing of the spotted owl put the project on hold.

Since that time, some parcels have been acquired using the Land and Water Conservation Fund, but with such limited federal resources and such a vast amount of land, an exchange has proven to be the only way to bring a final resolution to the Central Cascades' checkerboard.

In fact, the Conference Report that accompanied the 1996 fiscal year appropriation for the Forest Service stated:

> The managers continue to encourage strongly the use of land exchanges as a way in which to protect important recreational or environmentally significant lands, in lieu of the Federal Government acquiring lands. The managers believe that land exchanges represent a more cost-effective way in which to do business and encourage the Forest Service to give high priority to those exchanges either nearing completion, or where land management decisions are made particularly difficult due to checkerboard ownership.

In August of 1995, Plum Creek and the Forest Service went back to the drawing board, and agreed to initiate the I–90 exchange. By mid-June of 1996, when Plum Creek signed a 420,000 acre Habitat Conservation Plan, Plum Creek and Secretary Glickman entered into a two year agreement to finish the exchange. Plum Creek agreed to withhold harvest on most of the exchangeable lands worth approximately $200 million during the two-year period, and although that deadline has now passed, Plum Creek agreed to extend it through the end of this year.

But we're still running out of time. If we fail, we will lose this opportunity to maximize the public benefits of this exchange. Neither Plum Creek nor the Forest Service has the financial resources to continue endlessly this process. No one can reasonably expect Plum Creek to have the patience to continue on with this arduous and difficult process indefinitely.

If the I–90 Land Exchange is not completed by year's end, the exchange will begin to fall apart under the weight of an endless appeals process and litigation battles that could go well into the next century. And it's not reasonable to expect Plum Creek to sustain operations on the exchangeable lands through the indefinite and uncertain appeals process.

To put it bluntly, if the exchange is appealed, this current opportunity will be lost forever and we won't have another chance to acquire such a large block of some of Washington's premier forest land.

That's why I am introducing this bill. We need to keep all options open for finishing the land exchange on time. I understand that both Plum Creek and the Forest Service are still committed to the administrative process, and that's important. With the introduction of this bill and companion legislation in the House by Congressman DOC HASTINGS, we now have two options for finishing this land exchange on time and getting the most value out of the trade.

Ultimately, public support or public opposition will determine the outcome of the exchange, regardless of how it is completed. Passing a bill though Congress and earning the President's signature demands public support.

The building blocks are in place. In March, Washington State Governor Gary Locke wrote to President Clinton urging completion of the exchange by the end of the year. The State Legislature unanimously passed a resolution in support of the exchange. Recreational enthusiasts see the long-term value of bringing these lands into public ownership. Environmentalists recognize the value of blocking up these lands to create a habitat corridor for wildlife and to protect some of the last large blocks of privately owned old growth forest. And major newspapers have endorsed it.

Earlier this spring, the Seattle P–I described the dire consequences if this land swap was not completed this year. The PI editorial stated: "None of the land exchanges is apt to satisfy everyone involved. But if the lands are not consolidated, however imperfectly, it will be next to impossible to preserve them effectively for salmon or wildlife habitat. And that's a real lose-lose."

Under the administrative process, however, it only takes one voice of opposition to file an appeal and kill the proposal for good.

The lands package outlined in this bill is not final as discussions and negotiations continue back in Washington state. I appreciate that all parties are at the table working towards a lands package that everyone can support, and I know from experience that these discussions take time and patience.

Mr. President, let me emphasize once more that the legislation I am introducing today is only a placeholder. It represents a starting point—albeit an excellent one—to achieve a consensus-based end product. I encourage the parties now at the table to continue their efforts and to expedite the completion of this large and vital exchange.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLOSE LAND TRADE OR EVERYONE LOSES

The parties to the Plum Creek timberland swap need to conclude their negotiations and get on with the next such trade.

The company, the Forest Service and environmentalists have spent more than two years negotiating a land swap in the Cascades that involves 100,000 acres now scattered in unmanageable public and private checkerboard ownership. The Sierra Club in particular gets high marks for taking a leadership role in making a priority of consolidation of checkerboard forest lands in this state.

But company officials now say that if the deal isn't closed by the end of the year, it's off. They have 20 percent of their harvestable timber base in this state tied up in the swap.

They also say they may go to Congress to get the deal immunized from lawsuits. That could poison environmental groups' enthusiasm for such trades in the future.

Conservationists and other groups are accusing the firm of high-handed tactics. They also complain that the deal doesn't give them all they want.

Not many such deals do. But this one leaves nearly everybody who wants something from Plum Creek better off than if the deal falls through and the company makes good on its threat to start logging the stands conservationists want to preserve.

If the deal doesn't go through, the company plans to build logging roads in 53 different areas. If it does, that number will be reduced to eight.

None of the land exchanges is apt to satisfy everyone involved. But if the lands are not consolidated, however imperfectly, it will be next to impossible to preserve them effectively for salmon or wildlife habitat.

And that's a real lose-lose.●

By Mr. THURMOND:

S. 2139. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Yesterdays Dream*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL "YESTERDAYS DREAM"

Mr. THURMOND. Mr. President, I rise today to introduce a bill to direct that the vessel, *Yesterdays Dream*, official number 680266, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. sections 12106 and 12108.

This vessel was purchased in 1984 by Duncan MacRae of Columbia, SC, for a pleasure boat. In attempting to establish a charter service, he discovered that the boat could not be used in a chartering business because the vessel was foreign built. For this reason, the boat did not meet the requirements for coastwise trading privileges in the United States. When Mr. MacRae bought his boat, he was unaware that it could not be legally used for its intended purpose.

Therefore, Mr. MacRae is seeking a waiver of the existing law because he wishes to use the vessel for charters. If he is granted this waiver, he intends to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow *Yesterdays Dream* to engage in the coastwise trade and fisheries of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel YESTERDAYS DREAM, United States official number 680266.

By Mr. CAMPBELL:

S. 2140. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver water reuse project; to the Committee on Energy and Natural Resources.

DENVER WATER REUSE WATER AUTHORIZATION

Mr. CAMPBELL. Mr. President, I take the time today to introduce a bill that will help millions of water consumers throughout my state. The Denver Water Department has developed a unique plan to re-use non-potable water for irrigation and industrial uses. This bill would simply authorize the Denver Water Department to access federal funds to assist in the implementation of this plan. The Mayor of Denver has fully endorsed this legislation. I am delighted to assist the Mayor and the great City of Denver.

Denver Water Department serves over a million customers and is the largest water supplier in the Rocky Mountain region. Due to uncertain water supplies in the semi-arid west, it is critical to make wise use of every drop of water. With this in mind, over the past several years Denver Water has developed a plan to treat and reuse some of its water supply for uses not involving human ingestion, such as irrigation and industrial purposes. In this manner, Denver will stretch its water supply without the cost and potential environmental disruption of building new reservoirs. It will also ease the demand on fresh drinking-quality water supplies.

The Denver Nonpotable Reuse Project will treat secondary wastewater, that is water which has already been used once in Denver's system. It is an environmentally and economically viable method for extending and conserving our limited water supplies. The water quality will meet all Colorado and federal standards. The water will still be clean and odorless, but since it will be used for irrigation and industrial uses around the Denver International Airport and the Rocky Mountain Wildlife Refuge, the additional expense to treat it for drinking will be avoided.

The nonpotable project is constructed in three phases and ultimately will result in an additional useable water supply of 15,000 acre feet. The use of the nonpotable water for irrigation and industrial customers will free potable water supplies for up to 30,000 homes.

Construction will include a treatment plant and a distribution system that is separate from the potable water system. Phase I will serve customers in the vicinity of the reuse plant, including a Public Service Company power plant, other industrial users and other public areas. Phase II will add irrigation for parks and golf courses in the former Stapleton Airport and the recently closed Lowry Air Force Base redevelopment areas. The Rocky Mountain Arsenal, which is being converted to a national wildlife refuge, will also use the reuse water to maintain lake levels on-site and to provide water for wildlife habitats. Phase III will service existing parks as well as new development of a commercial corridor leading to the Denver International Airport. With the construction of Phase II, the irrigation, heating and cooling, and car washing facilities at Denver International Airport will convert to reuse water, where a dual distribution system has already been installed.

This plan would benefit many Coloradans, and would help relieve many of the water burdens faced in the Denver region. Again, I'd like to thank Mayor Webb for his support, and I am hopeful this bill can be quickly passed and put into effect.

I ask unanimous consent that a copy of the Mayor's letter and the bill be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENVER WATER REUSE PROJECT.

(a) IN GENERAL.—The Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 (42 U.S.C. 390h–13, 390h–14, 390h–15) as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 (43 U.S.C. 390h–12p) the following:

"SEC. 1631. DENVER WATER REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, may participate in the design, planning, and construction of the Denver Water Reuse project to reclaim and reuse water in the service area of the Denver Water Department of the city and county of Denver, Colorado.

"(b) COST SHARE.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of the project described in subsection (a).".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended—

(A) by redesignating the items relating to sections 1631, 1632, and 1633 as items relating to sections 1632, 1633, and 1634, respectively, and

(B) by inserting after the item relating to section 1630 the following:

"Sec. 1631. Denver Water Reuse Project.".

(2) Section 1632(a) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking "1630" and inserting "1631".

(3) Section 1633(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking "section 1633" and inserting "section 1634".

(4) Section 1634 of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking "section 1632" and inserting "section 1633".

CITY AND COUNTY OF DENVER,
Denver, CO, May 15, 1998.

HON. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CAMPBELL: Please accept this letter as a statement of my support of the Denver Water Nonpotable Reuse Project. Your willingness to sponsor this worthwhile legislation adding the Denver project to the Title XVI authorized list is appreciated by the City and County of Denver. Nonpotable reuse has been identified as a critical element in the Denver Water Department's recent Integrated Resource Plan. Coupled with conservation and system refinements, it forms the core of the water supply needs for the Denver system for the next 20 years.

As you are well aware, the water resources in Colorado are limited and valuable. Reuse conserves potable water sources. This project will help to fulfill Denver's obligations under water decrees that provide for the importation of water from the Colorado River Basin. Those obligations require Denver to exercise reasonable steps which, in view of legal limitations and economic feasibility, provide for the reuse of imports so as to reduce or minimize Denver's demands on Colorado River sources.

Yours truly,

WELLINGTON E. WEBB,
Mayor.

By Mr. CAMPBELL:

S. 2141. A bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Governmental Affairs.

HONESTY IN SWEEPSTAKES ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the Honesty in Sweepstakes Act of 1998.

Every day millions of senior citizens and other innocent consumers receive sweepstakes announcements that boldly announce that they have just won millions of dollars or some other prize, perhaps a luxury cruise, when in fact they have not. Millions of Americans also receive cashier's check look-alikes, made out to their name, and written for thousands of dollars, as a ploy to get them to purchase some product or service. But upon close scrutiny, these cashier's check look-alikes are actually worthless.

These two tactics are some of the most pervasive deceptive direct mail marketing ploys being used today. These slick direct mail marketing ploys prey directly upon the better elements of the American character: optimism, good nature, trust, and natural tendency to accept things at face value.

The recent increase of news reports detailing how American consumers are being deliberately misled into believing that they have just won a huge prize, only to find out later that they were taken advantage of, clearly shows that the problem is getting worse. All across our country, families' home mail boxes are being stuffed with increasingly deceptive direct mail marketing ploys, and senior citizens are particulary vulnerable to these deceptive tactics.

Something needs to be done to restore honesty in sweepstakes.

This legislation has two key provisions. The first ensures accuracy and honesty in direct mail sales promotions that use sweepstakes or other games of chance to entice consumers to buy their products or services. The second provision promotes honest forthrightness when cashier's check look-alikes are used in direct mail sales promotions. Together, this legislation's two key provisions will benefit American consumers, the U.S. Postal Service, and the direct mail marketing industry.

First, my bill will protect American consumers from deceptive marketing practices. It will accomplish this by requiring that direct mail marketers provide consumers with honest, up-front and clear disclosure of what is being sent to their mail boxes. These new disclosure standards will enable consumers to quicky separate mail that is truly important from mail that is deceptively designed to look important by masquerading as something that it is not.

Second, the bill helps the Postal Service do its job better. This bill will strengthen the Postal Service's efforts by enabling it to halt the delivery of deceptive mass mailings. This legislation will reassure the American people that the Postal Service is on their side, and not on the side of those who would use the Postal Service to deliver deceptive marketing ploys.

Finally, this legislation will benefit the direct mail marketing industry as a whole. It will enhance the public image of the majority of direct mail marketers that are honest by compelling companies that use deceptive marketing practices, and whose activities taint the entire industry, to either clean up their act or get out. For many years, direct mail marketers have successfully sold their products without resorting to deception. Let's return to those days.

The Honesty in Sweepstakes Act is built on a solid foundation of precedents. The key principle for the sweepstakes portion of this legislation is based on the way in which lotteries clearly disclose important information, like the total chances of winning. As for achieving the same goal for the printed materials used in direct mail marketing, this honesty is achieved through requiring the disclosure to be printed on top and in easy to read font sizes. It is also similar to food labeling, letting you know what is inside the product. The cashier's check look-alike portion of this bill is founded on precedent in current law that allows the Postal Service to dispose of, or otherwise refuse to deliver, government look-alike materials. My bill simply expands this current statutory provision to include cashier's check look-alikes.

This bill addresses deceptive sweepstakes in two important ways. First, it requires an announcement to be clearly printed on the face of the envelope to state that "This is a sweepstakes. You have not automatically won." This announcement must be clearly printed in a large 16 point font, or in an even larger font in some circumstances, so that it is crystal clear and easy for everyone to read. Many of our nation's seniors will especially benefit from this large font size requirement. Second, this bill requires that important information be printed clearly on the top of the first page of enclosed material, including the chances of winning the big prize being promoted and that no purchase is necessary to participate. For cashier check look-alikes, this bill calls for a 16 point font notice that "This is not a check. This has no cash value." The days of deceptive marketers burying all of the important information and other disclaimers in fine print are numbered.

Enforcement is triggered by the consumers themselves. When people receive sweepstakes and cashier's check look-alikes that do not meet the honesty guidelines laid out in this bill, they should contact the Post Office and register a complaint. These consumer complaints can then trigger a postal investigation of the materials in question. If the Postal Service finds that the materials do not live up to the Honesty in Sweepstakes guidelines, the Postal Service can then dispose of the mail accordingly, either by disposing of it or returning it to the sender. As a result, marketers who are not complying with the Honesty in Sweepstakes standards will then take a loss on the production and postage costs associated with that mailing. Needless to say, the company will quickly learn its lesson and produce marketing materials that are more forthright and honest.

I have consulted with the Attorneys General of both my home state of Colorado, and of the state of Florida, which is in the forefront of the effort to fight deceptive sweepstakes practices. These two offices expressed support for both this bill's goals and new approach. The Attorneys General were also glad to hear that this bill contains a clause stating that nothing in this bill will preempt state law. This important clause gives each of our respective states the freedom to enact its own additional guidelines as it sees fit. I appreciate the helpful feedback and support these two states' Attorneys General have shown.

For too long, too many of our senior citizens and other innocent consumers have been victimized by deceptive sweepstakes and cashier's check look-alikes. This bill will end this practice, and I urge my colleagues to support its passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE REQUIRED ON MAILINGS USING GAMES OF CHANCE.

(a) SHORT TITLE.—This Act may be cited as the "Honesty in Sweepstakes Act of 1998".

(b) NOTICE REQUIRED.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following:

"(j)(1) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any game of chance of winning anything of value (including any sweepstakes) shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

"(A) bears on the envelope the following notice: "This is a game of chance (or sweepstakes, if applicable). You have not automatically won.", or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) bears on the top of the first page of enclosed printed matter the following notice: 'This is a game of chance (or sweepstakes, if applicable). You may not have automatically won. Your chances of winning are (insert applicable mathematical probability). No purchase is required either to win a prize or enhance your chances of winning a prize.', or a notice to the same effect in words which the Postal Service may prescribe.

"(2) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any matter resembling a negotiable instrument shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter bears on the face of the negotiable instrument in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe the following notice: 'This is not a check (or negotiable instrument). This has no cash value.', or a notice to the same effect in words which the Postal Service may prescribe.

"(3) The notices described under paragraphs (1) and (2) shall be printed in a font which is the larger of—

"(A) 80 percent or more of the size of the largest font otherwise used in the matter; or

"(B) a 16-point font.

"(4) Nothing in this subsection shall preempt any State law that regulates advertising or sales of goods and services associated with any game of chance.".

By Mr. CAMPBELL:

S. 2142. A bill to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes; to the Committee on Energy and Natural Resources.

VALLECITO RESERVOIR TRANSFER LEGISLATION

Mr. CAMPBELL. Mr. President, today I introduce a bill that will allow the Bureau of Reclamation to transfer the title to the Vallecito Reservoir in southwestern Colorado to the Pine River Irrigation District. This transfer has been developed after close consultation and extensive meetings with the Pine River Irrigation District, the Bureau of Reclamation, the U.S. Forest Service and the Southern Ute Indian Tribe.

This bill contributes toward my ongoing goal of developing local cooperation and control of public resources, while addressing the concerns of managing site-specific resources, recreation, and environmental protection. It fits with my long-held belief that we need to downsize the role of the Federal Government, while allowing the State and local entities which are most affected to manage valuable resources.

For the past twenty-five years, the District has managed the Vallecito Reservoir for the Bureau of Reclamation. This bill will allow the District, which has developed extensive expertise and knowledge, to purchase the reservoir which they manage. The concerns of the public are addressed through provisions which require certain conditions be met before the title can be transferred. Once the transfer is complete the Pine River District will continue to manage the reservoir in compliance with State and Federal law.

This bill is a companion bill to H.R. 3715 introduced in the House of Representatives by our colleague Congressman SCOTT MCINNIS. The House already has held a hearing on this legislation. Therefore, I am hopeful that the Senate can move rapidly to complete this transfer.

ADDITIONAL COSPONSORS

S. 834

At the request of Mr. HARKIN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 834, a bill to amend the Public Health Service Act to ensure adequate research and education regarding the drug DES.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1309

At the request of Mr. KERRY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1309, a bill to provide for the health, education, and welfare of children under 6 years of age.

S. 1325

At the request of Mr. FRIST, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1325, a bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes.

S. 1392

At the request of Mr. BROWNBACK, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1392, a bill to provide for offsetting tax cuts whenever there is an elimination of a discretionary spending program.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1481

At the request of Mr. DEWINE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 1481, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide for continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1903

At the request of Mr. THOMAS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. ABRAHAM, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Maine [Ms. SNOWE], the Senator from Florida [Mr. MACK] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of Senate Concurrent Resolution 101, a concurrent resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

SENATE RESOLUTION 244—EXPRESSING THE SENSE OF THE SENATE ON THE NINTH ANNIVERSARY OF PRO-DEMOCRACY DEMONSTRATORS ON TIANANMEN SQUARE

Ms. COLLINS (for herself, Mr. LOTT, Mr. HUTCHINSON, and Mr. ABRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 244

Whereas in the spring of 1989, thousands of students demonstrated in Tiananmen Square in Beijing in favor of greater democracy, civil liberties, and freedom of expression in the People's Republic of China (PRC);

Whereas these students' protests against political repression in their homeland were conducted peacefully and posed no threat to their fellow Chinese citizens;

Whereas on the evening of June 4, 1989, these students were brutally attacked by infantry and armored vehicles of the People's Liberation Army (PLA) acting under orders from the highest political and military leadership of the PRC;

Whereas hundreds of these students were killed by the PLA in Tiananmen Square on June 4, 1989 for offenses no more serious than that of seeking peacefully to assert their most basic human, civil, and political rights;

Whereas many of the leaders of the student demonstrations thus attacked were subsequently imprisoned, sought out for arrest, or otherwise persecuted by the Government of the PRC;

Whereas during or shortly after the brutal assault of June 4, 1989, at least 2,500 persons were arrested for so-called "counter-revolutionary offenses" across China and dozens of persons were executed;

Whereas the Chinese government has never expressed grief for its actions on June 4, 1989, still imprisons at least 150 persons in connection with the Tiananmen Square demonstrations, and has continued to deny its citizens basic internationally-recognized human, civil, and political rights;

Whereas the Government of the PRC, as detailed in successive annual reports on human rights by the United States Department of State, still routinely and systematically violates the rights of its citizens, including their rights to freedom of speech, assembly, worship, and peaceful dissent; and

Whereas the Tiananmen Square Massacre has become indelibly etched into the political consciousness of our times as a symbol both of the impossibility of forever denying a determined people the right to control their own destiny and of the oppressiveness and brutality of governments that seek to do so: Now, therefore, be it

Resolved, That, in the interest of expressing support for the observance of human, civil, and political rights in China and around the world, it is the sense of the Senate that—

(1) the United States Government should remain committed to honoring the memory and spirit of the brave citizens of China who suffered and died in Tiananmen Square on June 4, 1989 for attempting to assert their internationally-recognized rights; and

(2) supporting the peaceful transition to democratic governance and the observance of internationally-recognized human, civil, and political rights and the rule of law in China should be a principal goal of United States foreign policy.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

WELLSTONE AMENDMENT NO. 2458

(Ordered to lie on the table.)

Mr. Wellstone submitted an amendment intended to be proposed by him to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the appropriate place in title XI, insert the following:

SEC. ____. SALE, DISTRIBUTION, AND ADVERTISING OF TOBACCO PRODUCTS IN FOREIGN COUNTRIES.

(a) Amendment to Chapter VIII.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"SEC. 804. SALE, DISTRIBUTION, AND ADVERTISING OF TOBACCO PRODUCTS IN FOREIGN COUNTRIES.

"(a) Regulations.—Not later than 2 years after the date of the enactment of this section, the Secretary shall promulgate regulations to—

"(1) prohibit domestic concerns from—

"(A) selling or distributing tobacco products in a foreign country to children; or

"(B) advertising or promoting tobacco products in a foreign country in a manner that appeals to children;

"(2) require domestic concerns to ensure that any person under the control of a domestic concern does not engage in conduct that would be prohibited under this section if engaged in by the domestic concern; and

"(3) require domestic concerns to take all feasible measures to ensure that tobacco products bearing a brand name controlled or used by a domestic concern are not sold, distributed, advertised, or promoted in a manner that would be prohibited under this section if engaged in by a domestic concern.

"(b) Interpretation.—For purposes of this section, advertising or promoting tobacco products in a manner that would not be lawful under this Act if it occurred in the United States shall be deemed to be advertising or promotion that appeals to children.

"(c) Definition.—The term 'domestic concern' means—

"(1) any individual who is a citizen, national, or resident of the United States; and

"(2) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.".

(b) Enforcement.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 331) is amended by adding at the end the following:

"(bb) The violation of any requirement under section 804.".

SESSIONS (AND OTHERS) AMENDMENT NO. 2459

(Ordered to lie on the table.)

Mr. SESSIONS (for himself, Mr. Jeffords, Mr. Enzi, and Mr. Faircloth) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

Beginning on page 435, strike line 12 and all that follows through line 4 on page 442, and insert the following:

SEC. 1413. NATIONAL TOBACCO COMPENSATION PROGRAM.

(a) Administration by Secretary.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall administer the Voluntary National Tobacco Compensation Program (referred to in this section as the "Program") established under this section.

(b) Voluntary Payments by Industry.—

(1) Certain tobacco product manufacturers.—The amount of the voluntary contributions described in this subsection for each year during which the Program is in existence shall equal, in the aggregate, $8,000,000,000, to be apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) Contributions in future years.—If contributions under paragraph (1) result in amounts in the fund exceeding $25,000,000,000 in any fiscal year, any such excess amount shall be made available to the States as provided for in section 452.

(3) No contribution from other tobacco product manufacturers.—No other tobacco product manufacturer may make contributions under this subsection unless such manufacturer is the successor or assign of one or more of the manufacturers described in paragraph (1).

(4) Commencement of program.—The Program shall commence operations on the date on which at least 1 manufacturer has paid the full share of its contribution under this subsection. The Program shall only be available to those manufacturers that have contributed their full shares under this subsection.

(c) Responsibility of Secretary.—The Secretary shall administer the Program pursuant to the guidelines established by the National Tobacco Compensation Commission established under subsection (d).

(d) National Tobacco Compensation Commission.—

(1) Establishment.—There is hereby established a commission to be known as the "National Tobacco Compensation Commission" (referred to in this subsection as the "Commission").

(2) Composition.—The Commission shall be composed of 7 members, of which—

(A) 1 member shall be appointed by the President;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 1 member shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(3) Time for appointment, terms and vacancies.—The members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act. A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) Compensation and expenses.—Members of the Commission may not receive compensation for service on the Commission. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for reasonable travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission, notwithstanding the limitations contained in sections 5701 through 5733 of such title 5.

(5) Establishment of program.—Not later than 90 days after the expiration of the period described in paragraph (3), the Commission, in consultation with the Secretary and the Congress, shall establish a Voluntary National Tobacco Compensation Program to provide compensation to claimants who have a total disability or terminal disease, as classified under the list developed under subsection (e)(2), that is directly attributable to the use of a tobacco product in accordance with subsection (e)(3). Such program shall, subject to the payment of contributions

under subsection (b), continue in operation for the 25-year period beginning on the date of enactment of this Act, or until the provisions of this title are repealed, whichever occurs first. Congress may at any time act to reauthorize and extend the Program established under this section.

(6) Duties.—The Commission shall—

(A) annually meet and review the most recent scientific developments and research relating to tobacco use and update the comprehensive list described in subsection (e)(2);

(B) develop rules and procedures for the administration of the program established under this section;

(C) develop procedures for paying compensation to claimants under this section, including procedures to provide for the payment of such claims over more than 1 year if sufficient funds are not available under subsection (b) for the year in which the claim is made;

(D) develop procedures for the submission of conflicts to binding arbitration;

(E) procedures for waiving the compensation limitations described in subsection (e) in cases of extraordinary circumstances;

(F) procedures for the conduct of internal reviews under subsection (e)(8)(A);

(G) carry out any other activities determined appropriate by the Commission; and

(H) at its discretion based on the remaining funds make a determination as to the availability of the Program for individuals with a partial disability that is directly attributable to the use of a tobacco product in accordance with subsection (e)(3), while assuring that claimants suffering from a total disability or terminal disease that is directly attributable to the use of a tobacco product have a priority when applying for compensation under the Program.

(7) Report.—

(A) In general.—Not later than 180 days after the expiration of the period described in paragraph (3), the Commission shall prepare a report that describes the establishment, guidelines and operations of the Program, that recommends adjustments in the contribution levels under subsection (b), that provides the list of illnesses described in subsection (e)(3), and that provides the procedures described in subsection (e)(5).

(B) Submission.—The report described in subparagraph (A) shall be submitted to the—

(i) President and the Secretary;

(ii) Majority and Minority Leaders of the Senate;

(iii) Committees on Commerce, Labor and Human Resources, Finance, and Judiciary of the Senate;

(iv) Speaker and Minority Leader of the House of Representatives; and

(v) Committees on Commerce, Judiciary, and Ways and Means of the House of Representatives.

(8) Information.—Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request by the Commission, such information as the Commission determines to be necessary to carry out its functions under this section.

(9) Use of services and facilities.—The Commission may utilize the services and facilities of any Federal agency without reimbursement, may accept voluntary services notwithstanding section 1342 of title 31, United States Code, and may enter into contracts with any public or private person or entity for reports or research in furtherance of the work of the Commission.

(10) Termination.—The Commission shall terminate on the date that is 5 years after the date on which the final report of the Commission is submitted under paragraph (7). Congress may at any time act to reauthorize and extend the Commission established under this subsection.

(11) Authorization of Appropriations.—Subject to the limitation described in subsection (e), there is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years during which the Commission is in operation, from the National Tobacco Settlement Trust Fund to carry out this section.

(e) Procedure.—The Commission, in developing the National Tobacco Compensation Program under subsection (d), shall establish—

(1) procedures under which an individual with a disease described in subsection (d)(5) may file a one-time administrative claim per separate and distinct disease with the Secretary seeking compensation for any and all diseases and conditions appearing on the comprehensive list described in paragraph (2);

(2) procedures to ensure that such claims are submitted on a form to be developed by the Commission that shall contain—

(A) the name and address of the individual;

(B) a description of the disease or condition for which the individual is seeking compensation; and

(C) any other supporting documentation that is determined appropriate by the Commission or the Secretary;

(3) in consultation with the Centers for Disease Control and Prevention, the Department of Health and Human Services, and appropriate committees of Congress, a comprehensive list of diseases and conditions which constitute total disability or are terminal for purposes of paying claims brought under this section on an equitable basis, taking into consideration age and tobacco product use history, including tobacco use in conjunction with exposure to asbestos and black lung disease;

(4) procedures to require that a claimant provide supporting documentation that such claimant has a compensable disease that is directly attributable to the use of tobacco, including documentation pertaining to the claimants tobacco use history and exposure to asbestos or black lung disease;

(5) procedures, in order to make a determination with respect to a claim under paragraph (2), or to make a determination with respect to the amount of compensation for which a claimant is eligible, for the requesting from a claimant of additional information relating to the disease or condition involved;

(6) procedures for the implementation of a schedule to pay claims in a manner that ensure the full payment of claims;

(7) streamlined procedures so as to ensure that a claimant is not required to be represented by an attorney;

(8) procedures to provide for the resolution of disputes regarding determinations of the Secretary concerning the eligibility of the claimant for compensation, or the amount of compensation to be paid, under which the claimant may—

(A) obtain an internal review of the determination of the Secretary;

(B) after a review under subparagraph (A), submit the dispute to arbitration as described in subsection (d)(6)(D) under procedures to be established by the Commission; and

(C) after an arbitration hearing under subparagraph (B), file a civil action against the manufacturer involved;

(9) procedures to provide for the collection of voluntary contributions under subsection (b); and

(10) procedures to ensure that the liability of manufacturers for claims under this section are separate based on the illnesses involved and the nature of the tobacco product involved.

(f) No Judicial Action.—Except as provided in subsection (e)(8)(C), upon the contribution of funds as provided for under subsection (b), an individual may not commence a tobacco claim in any Federal or State court against a tobacco product manufacturer who makes such a contribution.

(g) Administration and Attorneys Fees.—

(1) In general.—The procedures developed under subsection (e) shall ensure that amounts paid from the Program in connection with administrative costs do not exceed an amount equal to 10 percent of the amounts available under the program is each fiscal year.

(2) Attorneys fees.—

(A) In general.—Procedures developed under subsection (e) shall provide that, whenever the Secretary renders a determination favorable to a claimant under the Program and that claimant was represented by an attorney, the Secretary may determine and allow as part of its determination a reasonable fee for such representation, not in excess of 10 percent of the total of the benefits to which the claimant is entitled by reason of such determination. In case of any such determination, no fee may be payable or certified for payment for such representation except as provided in this paragraph.

(B) Limitation.—Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings to which subparagraph (A) applies, any amount in excess of that permitted under such subparagraph (A) shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than 1 year, or both.

(h) Time for Payment.—The Secretary shall take steps to ensure that, to the maximum extent practicable, claimants receive compensation in accordance with this section not later than 90 days after the date on which the claim involved is filed.

(i) Limitation With Respect to Prisoners.—No individual incarcerated in a Federal, State or local prison or jail may file a claim with the Program under this section.

(j) Applicability.—This section shall apply as provided for under subsection (b)(4). The provisions of section 1412 shall apply only if the voluntary contributions are not made in any year or are less than the amount described in subsection (b) in any year.

(k) Effective Date.—The Secretary shall implement the compensation program under this section not later than 90 days after the date on which the report of the Commission is submitted under subsection (d)(7).

FEINSTEIN AMENDMENT NO. 2460

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 1415, supra; as follows:

In section 451(a), strike paragraph (3) and insert the following:

(3) Distribution to states.—From the amounts in the State Litigation Settlement Account for a fiscal year, the Secretary of

the Treasury shall make available to each State the applicable percentage of such amount in accordance with the following table which shall represent the share of each State of the total number of individuals in the United States under 18 years of age (as determined by the United States Census Bureau in its data table compilation entitled "Population Estimates for States and Outlying Areas: July 1, 1996):

State	Applicable Percentage
Alabama	1.559
Alaska	0.2670
Arizona	1.666
Arkansas	0.955
California	12.841
Colorado	1.445
Connecticut	1.156
Delaware	0.255
District of Columbia	0.159
Florida	4.957
Georgia	2.828
Hawaii	0.444
Idaho	0.505
Illinois	4.571
Indiana	2.170
Iowa	1.042
Kansas	0.995
Kentucky	1.403
Louisiana	1.786
Maine	0.434
Maryland	1.863
Massachusetts	2.059
Michigan	3.674
Minnesota	1.806
Mississippi	1.110
Missouri	2.019
Montana	0.337
Nebraska	0.640
Nevada	0.604
New Hampshire	0.428
New Jersey	2.878
New Mexico	0.726
New York	6.576
North Carolina	2.656
North Dakota	0.244
Ohio	4.124
Oklahoma	1.276
Oregon	1.170
Pennsylvania	4.192
Rhode Island	0.341
South Carolina	1.358
South Dakota	0.296
Tennessee	1.915
Texas	7.896
Utah	0.983
Vermont	0.212
Virginia	2.363
Washington	2.081
West Virginia	0.611
Wisconsin	1.945
Wyoming	1.456

DOMENICI AMENDMENTS NOS. 2461–2462

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2461

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, section 401(e) is null and void.

AMENDMENT NO. 2462

Strike section 401(e).

COATS AMENDMENTS NOS. 2463–2467

(Ordered to lie on the table.)

Mr. COATS submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2463

Beginning on page 385, strike line 10 and all that follows through line 20 on page 386.

AMENDMENT NO. 2464

On page 127, after line 24, add the following:

(h) MILITARY BASE EXCLUSIONS.—Nothing in this section shall be construed to provide authority to the Secretary or to a State to establish a retail licensing program for, or conduct inspections of the sale of tobacco on, Federal military bases.

AMENDMENT NO. 2465

At the appropriate place in title I, insert the following:

SEC. . PROHIBITION ON DIVERSION OF FDA RESOURCES.

Notwithstanding any other provision of this Act, or an amendment made by this Act, the Secretary shall ensure that the tobacco-related authority provided to the Food and Drug Administration under this Act and the amendments made by this Act will not result in the diversion of resources from the Center for Biologics Evaluation and Research, the Center for Drug Evaluation and Research, the Center for Devices and Radiological Health, the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, the National Center for Toxicological Research, or from any of the other activities of such Administration, including the review, approval process and other activities required with respect to drugs, devices, cosmetics, and foods.

AMENDMENT NO. 2466

At the appropriate place in title IV, insert the following:

SEC. . CENTER FOR TOBACCO PRODUCT REGULATION.

(a) ESTABLISHMENT.—The Secretary may establish within the Food and Drug Administration a Center for Tobacco Product Regulation (referred to in this section as the "Center").

(b) JURISDICTION.—The Center shall have sole jurisdiction to regulate tobacco products under chapter IX of the Federal Food, Drug and Cosmetic Act.

AMENDMENT NO. 2467

On page 23, after line 22, add the following:

(20) NONPROFIT PRIVATE ENTITY.—The terms "nonprofit private entity" or "private nonprofit entity" include faith-based organizations, and the provisions of section 1981F shall apply with respect to such organizations. With respect to amendments made by this Act, the terms "nonprofit private entity" or "private nonprofit entity" shall have the meaning given in this paragraph.

On page 147, between lines 5 and 6, insert the following:

"SEC. 1981F. CHARITABLE CHOICE.

"(a) FAITH-BASED ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subpart, the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subpart shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subpart, on the basis that the organization has a faith-based character.

"(b) EXCLUSIONS.—As used in subsection (a), the term 'program' means activities carried out under this subpart.

"(c) FAITH-BASED CHARACTER AND INDEPENDENCE.—

"(1) IN GENERAL.—A faith-based organization that provides assistance under a program described in subsection (a) shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its faith-based beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a faith-based organization—

"(A) to alter its form of internal governance; or

"(B) to remove faith-based art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

"(d) EMPLOYMENT PRACTICES.—The exemption of a faith-based organization provided under section 702 or 703(e)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1, 2000e–2(e)(2)) regarding employment practices shall not be affected by the faith-based organization's provision of assistance under, or receipt of funds from, programs described in subsection (a).

"(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

"(1) IN GENERAL.—If an individual described in paragraph (3) has an objection to the faith-based character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (a), the appropriate Federal, State, or local governmental entity shall provide to such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection, assistance that—

"(A) is from an alternative organization that is accessible to the individual; and

"(B) has a value that is not less than the value of the assistance that the individual would have received from such organization.

"(2) NOTICE.—The appropriate Federal, State, or local governmental entity shall ensure that notice is provided to individuals described in paragraph (3) of the right of such individuals to make the objection described in paragraph (1).

"(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives or applies for assistance under a program described in subsection (a).

"(f) NONDISCRIMINATION AGAINST BENEFICIARIES.—A faith-based organization shall not discriminate against an individual described in subsection (e)(3) in regard to—

"(1) rendering assistance funded under any program described in subsection (a) on the basis of religion, a faith-based belief, or refusal to hold a faith-based belief; or

"(2) rendering assistance funded through a grant or contract under such program on the basis of refusal to actively participate in a faith-based practice.

"(g) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any faith-based organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

"(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

"(h) COMPLIANCE.—A party alleging that the rights of the party under this section have been violated by a State or local government may bring a civil action pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) against the official or government agency that has allegedly committed such violation. A party alleging that the rights of the party under this section have been violated by the Federal Government may bring a civil action for appropriate relief in an appropriate Federal district court against the official or government agency that has allegedly committed such violation.

"(i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided through a grant or contract to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

"(j) EFFECT ON STATE AND LOCAL LAWS.—

"(1) IN GENERAL.—If a State or local government contributes State or local funds to carry out a program described in subsection (a), the government may—

"(A) segregate the State or local funds from the Federal funds provided to carry out the program; or

"(B) commingle the State or local funds with the Federal funds.

"(2) SEGREGATED FUNDS.—If the State or local government segregates the State or local funds, the provisions of State law relating to the expenditure of public funds in or by sectarian institutions shall apply only to the segregated State or local funds.

"(3) COMMINGLED FUNDS.—If the State or local government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds, and the provisions of State law described in paragraph (2) shall not apply to the commingled funds.

"(k) TREATMENT OF INTERMEDIATE CONTRACTORS.—If a nongovernmental organization (referred to in this subsection as an 'intermediate organization'), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

CHAFEE (AND STEVENS) AMENDMENT NO. 2468

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 130, after line 25, add the following:

"(3) For each of the first 5 fiscal years following the date of enactment of this part, a percentage of the amount available for any fiscal year under subsection (a) shall be made available to the Secretary to make grants under section 1981F.".

On page 147, between lines 5 and 6, insert the following:

"SEC. 1981F. GRANTS TO MINORITY MEDICAL SCHOOLS FOR ENDOWMENTS; PUBLIC HEALTH PROGRAMS REGARDING TOBACCO PRODUCTS.

"(a) IN GENERAL.—From the amount made available under section 1981(b)(3) for the fiscal year, the Secretary shall make grants to schools specified in subsection (b) for the purpose of establishing at the schools endowments each of whose income is used exclusively to carry out—

"(1) public health programs; and

"(2) programs of biomedical research on diseases for which the consumption of tobacco products is a principal causal factor.

"(b) RELEVANT SCHOOLS.—

"(1) IN GENERAL.—The schools referred to in subsection (a) are the following medical schools (schools of medicine or osteopathic medicine) and nursing school that are located in a State or the District of Columbia:

"(A) The 4 medical schools in the United States whose enrollment for academic year 1998 of Black individuals constituted a higher percentage of such individuals than other medical schools in the United States.

"(B) The 4 medical schools in the United States whose enrollment for academic year 1998 of Hispanic individuals constituted a higher percentage of such individuals than other medical schools in the United States.

"(C) The medical school in the United States whose enrollment for academic year 1998 of Native American individuals constituted a higher percentage of such individuals than other medical schools in the United States.

"(D) The school of nursing in the United States whose enrollment for academic year 1998 of Alaska Natives constituted a higher percentage of such individuals than other schools of nursing in the United States.

"(2) PAYMENTS TO DIFFERENT SCHOOLS.—The Secretary may modify the requirements of paragraph (1) only for purposes of ensuring that 10 different schools receive grants under this section.

"(c) DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), of the funds made available for grants under this section for a fiscal year each school described in subsection (b) shall receive $5,000,000.

"(2) PRO RATA REDUCTIONS.—If the funds made available for grants under this section for a fiscal year are not sufficient to pay each school described in subsection (b) the amount described in paragraph (1), the Secretary shall pay each such school an amount equal to the pro rata share of the amount made available.

"(d) ACCOUNTABILITY.—Any school that receives a grant under this section shall file an annual report with the Department of Education and the Department of Health and Human Services on the use of the funds received by the school under a grant made under this section.".

CHAFEE (AND OTHERS) AMENDMENT NO. 2469

(Ordered to lie on the table.)

Mr. CHAFEE (for himself, Mr. HARKIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

In section 402, strike subsection (b), and insert the following:

(b) ANNUAL BASE PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3), the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) For year 1—$14,400,000,000.

(2) For year 2—$21,600,000,000.

(3) For year 3, and each subsequent year, an amount equal to the amount of the annual base payment for the preceding year, prior to any adjustment as provided for in section 403, increased by the greater of 3 percent or the annual increase in the CPI.

For purposes of this subsection, the CPI for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor. If any increase determined under this subsection is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

Strike section 403 and insert the following:

SEC. 403. VOLUME ADJUSTMENT.

Beginning with calendar year 2000, the applicable base amount shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this subsection, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this section, the term "actual volume" means the number of adjusted units as defined in section 402(d)(3)(A).

ENZI AMENDMENTS NOS. 2470–2471

(Ordered to lie on the table.)

Mr. ENZI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2470

Strike subtitle B of title IV, and insert the following:

Subtitle B—Use of Funds

SEC. 451. USE OF FUNDS.

Notwithstanding any other provision of this Act, amounts contained in the National Tobacco Settlement Trust Fund in a fiscal year shall be made available as follows:

(1) 50 percent of such amounts shall be transferred in such fiscal year to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i).

(2) 25 percent of such amounts shall be transferred in such fiscal year to the States through the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) 25 percent of such amounts shall be provided to the States in such fiscal year through block grants for the development and administration of programs to restrict youth access to tobacco products and illegal drugs as provided for in regulations promulgated by the Secretary.

AMENDMENT NO. 2471

At the end of the amendment, add the following:

SEC. ___. LIMITATIONS ON EXPENDITURES AND OBLIGATIONS.

Notwithstanding any other provision of this Act—

(1) any expenditure required by this Act shall be made from the National Tobacco Trust Fund;

(2) the Federal Government shall only be obligated to make expenditures as authorized by this Act, including any payment to any person or government, as provided in advance in appropriations Acts;

(3) amounts appropriated to make expenditures authorized by this Act in a fiscal year may not exceed the amounts deposited in the National Tobacco Trust Fund in the preceding fiscal year; and

(4) amounts provided in a fiscal year authorized by this Act shall be reduced on a pro rata basis in that fiscal year to offset any excess in those amounts over amounts deposited in the National Tobacco Trust Fund in the preceding fiscal year.

COATS AMENDMENT NO. 2472

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the appropriate place in title XIV, insert the following:

SEC. . LIMIT ON ATTORNEYS' FEES.

(a) FEE ARRANGEMENTS.—Subsection (f) shall apply to attorneys' fees provided for or in connection with action of the type described in subsection (c) under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation);

(6) retainer agreements; or

(7) other arrangement providing for the payment of attorneys' fees.

(b) REQUIREMENTS.—No award of attorneys' fees under any action to which this Act applies shall be made under this Act until the attorneys involved have—

(1) provided to the Congress a detailed time accounting with respect to the work performed in relation to the legal action involved; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee arrangements entered into, or fee arrangements made, with respect to the legal action involved.

(c) APPLICATION.—This section shall apply to fees paid or to be paid, under any arrangement described in subsection (a), to attorneys—

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco compares to recover tobacco-related medicaid expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9); or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9).

(d) REPORT.—

(1) IN GENERAL.—Each attorney whose fees for services already rendered are subject to subsection (a) shall, within 60 days of the date of the enactment of this Act, submit to Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(2) FUTURE ACTION.—Each attorney whose fees for services rendered in the future are subject to subsection (a) shall, within 60 days of the completion of the attorney's services, submit to Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(e) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(f) GENERAL LIMITATION.—Notwithstanding any other provision of law, for each hour spent productively and at risk, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in any action to which this section applies, any attorneys' fees or expenses paid to attorneys for matters described in subsection (c) shall not exceed $ per hour.

(g) EFFECTIVE DATE AND USE OF FUNDS.—

(1) EFFECTIVE DATE.—This section shall take effect on the date on which the Secretary makes use of amounts appropriated under section 1161.

(2) USE OF FUNDS.—Any funds remaining in the National Tobacco Trust Fund as a result of the implementation of this section shall be used as provided for in section 1161.

HOLLINGS AMENDMENTS NOS. 2473–2475

(Ordered to lie on the table.)

Mr. HOLLINGS submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2473

On page 58, strike lines 8 through line 23, and insert the following:

"(3) SECRETARY MAY NOT BAN CLASS OF PRODUCT OR ELIMINATE NICOTINE CONTENT WITHOUT CONGRESSIONAL AUTHORITY.—The Secretary may not, under this Act or any other provision of law, issue a regulation establishing a performance standard (or take other action)—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products; or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero.

If the Secretary determines that such action should be taken, the Secretary shall so notify the Congress, with an explanation of the reasons therfor, and a request for legislative authority explicitly modifying, repealing, or overriding the preceding sentence."

AMENDMENT NO. 2474

On page 216, strike lines 11 through 18, and insert the following:

This title shall not apply to any State that, by law, provides that it shall not apply to that State.

AMENDMENT NO. 2475

After section 1134, insert the following:

SEC. 1135. IMPORTATION OF TOBACCO PRODUCTS.

(a) FINDINGS.—The Congress finds that—

(1) if the price of cigarettes increases, there may be an increasing incentive to import tobacco leaf of substandard quality;

(2) the importation of substandard tobacco leaf could cause increased health problems, and possibly expose United States-grown tobacco leaf to infestation from abroad; and

(3) imported tobacco leaf must be reviewed in a uniform and consistent fashion to ensure the quality and uniform treatment of imports of tobacco leaf.

(b) REQUIREMENTS.—

(1) IN GENERAL.—No tobacco leaf not a product of the United States may be introduced into interstate commerce in the United States unless it is—

(A) imported through the Port of Omaha, Nebraska;

(B) held in customs custody for not less than 6 years; and

(C) entered under single-entry bond.

(2) AUTOMATED ENTRY.—Tobacco leaf not a product of the United States is not eligible for automated entry under the laws and procedures of the United States relating to the importation of such products.

(3) SUSPENSION OF DRAWBACK FOR DRASTIC REDUCTION IN TOBACCO COMPANIES' PURCHASE OF TOBACCO LEAF.—If for any marketing year the aggregate volume of tobacco leaf that United States tobacco product manufacturers purchase under the tobacco marketing program conducted by the Secretary of Agriculture under sections 320A and 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314g and 1314h) (or under the law of any State or compact of States) is less than 85 percent of the aggregate volume of tobacco leaf the manufacturers purchased in the preceding marketing year, no drawback shall be allowed with respect to the duties paid on imported tobacco leaf and related products for a period of 24 months beginning on the first day of such marketing year.

SNOWE AMENDMENTS NOS. 2476–2477

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2476

On page 408, between lines 5 and 6, insert the following:

Subtitle A—Provisions Relating to the Protocol and Liability".

On page 444, after line 14, insert the following:

Subtitle B—Codification of Marketing and Advertising Restrictions

SEC. 1421. FINDINGS.

To demonstrate the need for restrictions on the marketing and advertising of tobacco products, and to demonstrate that the restrictions contained in this subtitle are constitutional and meet the requirements of the *Central Hudson* case that the asserted governmental interest is substantial, directly advances the governmental interest, and is no more extensive than is necessary to serve that governmental interest, Congress makes the following findings:

(1) The sale of tobacco to minors is illegal in the United States. Therefore, forms of marketing and advertising that appeal to children must be restricted accordingly.

(2) Substantial restrictions on tobacco marketing and advertising are necessary to protect the public health, reduce the illegal sale and purchase of tobacco products by minors, and reduce the cost of tobacco-related illnesses on Federal and State health care programs.

(3) As recognized in *New York v. Ferber*, protecting the physical and psychological well-being of children is a compelling, not merely a substantial, interest of the government.

(4) The cost of tobacco on public health care programs is substantial as evidenced by a 1995 study by Columbia University that found that the estimated cost of tobacco on the medicare and medicaid programs was $25,500,000,000 and $8,200,000,000 respectively. Therefore, reducing these costs, which absorb substantial public resources, by reducing the utilization of tobacco would serve a substantial government interest.

(5) According to the 1994 Surgeon General's Report, nearly 90 percent of all adults who have ever been regular smokers began smoking at or before the age of 18, and, according to a Robert Wood Johnson Foundation Survey, the average smoker begins smoking at age 13 and is hooked by age 14½. Therefore, reducing the attractiveness of tobacco to children will reduce the likelihood that a child ever tries tobacco, and ensure that the long-term costs of tobacco-related illnesses will be averted.

(6) Marketing and advertising plays a significant role in attracting teens to tobacco and determining the brands that they use. According to the Centers for Disease Control and Prevention, 86 percent of children who buy their own cigarettes choose one of the 3 most heavily advertised brands (Marlboro (60 percent), Camel (13.3 percent), or Newport (12.7 percent)). In contrast, most adult smokers opt for generic or "value category" cigarette brands that rely on little, if any, image advertising.

(7) Tobacco industry documents and memorandums make clear that the industry considers children a key market, studied the smoking habits of children, and developed products and marketing campaigns that are directly intended to attract children to the purchase and use of their products.

(8) According to a 1995 study by The Journal of the National Cancer Institute, tobacco marketing has a greater influence in spurring children to take up smoking than exposure to parents or peers who smoke, and must be restricted accordingly.

(9) Children are more sensitive to tobacco advertising than adults, as evidenced by a 1996 study in the Journal of Marketing that found that children are 3 time more sensitive than adults to cigarette advertising.

(10) Tobacco advertising in magazines and periodicals influences the decision of children to use tobacco, as cited in the proceedings of the Food and Drug Administration and its supporting documents. In addition, children who report seeing cigarette advertising in magazines are more likely to experiment with tobacco.

(11) Cartoon images in advertising greatly enhance the appeal of tobacco to children, as evidenced by the "Joe Camel" marketing campaign. According to the Centers for Disease Control and Prevention, when advertising for the "Joe Camel" campaign rose from $27,000,000 to $43,000,000 between 1989 and 1993, Camel's market share among youth increased by more than 50 percent while it's share among adults was unchanged. Therefore, because cartoon advertising has been demonstrated to be a direct appeal to minors and not adults, such images should be banned.

(12) Children as young as 3 to 6 years of age can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(13) Human and animal images in tobacco advertising, and the themes that these images portray, have a profound impact on children, as evidenced by the "Marlboro Man" and the "Marlboro Horses". The image of independence and freedom conveyed by these images has led to Marlboro cigarettes capturing nearly 60 percent of the youth market even though the brand accounts for only 12.7 percent of cigarette advertising overall. Therefore, images portraying human and animal images should be restricted to adult-only venues.

(14) Event sponsorships by tobacco companies increase the likelihood that children will use tobacco as these events connect the product to individuals and activities that are admired and respected by children.

(15) According to a report in the American Journal of Public Health, the observation of tobacco marketing in stores is a significant predictor of a child's likelihood of experimenting with tobacco, increasing the probability by 38 percent. Therefore, in-store marketing should be restricted accordingly.

(16) Tobacco promotions greatly enhance the likelihood that children will use tobacco products, as evidenced by a November 1996 study in the American Journal of Public Health. This study found that a child who was simply aware of tobacco promotions was twice as likely to use tobacco as a child who was not. In addition, it found that a child who is aware of tobacco promotion, has knowledge of an adolescent friend with promotional items, and participates in a promotional activity is 9.3 times more likely to use tobacco.

(17) A 1998 study of teenagers in the Journal of the American Medical Association showed that tobacco industry promotional activities influenced previously non-susceptible non-smokers to become susceptible or to experiment with smoking.

(18) Restrictions on the number and placement of point-of-sale advertisements in stores and other outlets that are permissible for children to enter are necessary to reduce the appeal of tobacco products to children, while ensuring that consumers who can legally purchase these products are able to receive useful information.

(19) As demonstrated in the Food and Drug Administration rule, billboards and other forms of outdoor advertising that are located near schools and playgrounds can affect the decision of children to use tobacco products. Therefore, bans on these forms of advertising near these facilities, and within distances that are frequently traveled by children to access these facilities, would be a narrowly-tailored method of fulfilling the government interest, while still allowing information to be provided in this format to consumers who can legally purchase these products at other locations that are less-frequently viewed by children.

(20) Through advertisements during, and sponsorship of, sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(21) Because children are influenced by the images, habits, and mannerisms depicted by actresses and actors in movies and other forms of print and film media, tobacco companies should not be permitted to receive payments for the inclusion of logos, symbols, or mottoes in these types of venues if they will be viewed by children under the age of 18 without the supervision of a parent or guardian.

(22) Because children are influenced by the behavior of musical and other live entertainers whom they admire, payments by tobacco companies to live entertainers or their agents should be restricted at events in which individuals under the age of 18 are permitted to attend, and a substantial number of these individuals would reasonably be expected to attend.

(23) To ensure that advertising and marketing efforts are not deceptive or misleading, descriptors such as "light" and "low tar" should be accompanied by a disclaimer that the product is not less hazardous than any other tobacco product.

(24) Restrictions on the placement of advertisements in buses, subways, and other forms of public transportation that are reasonably expected to be utilized by a significant number of children on a daily basis will ensure that children are not exposed to such advertising for an extended period of time during a commute, and will reduce the susceptibility of children to tobacco advertising accordingly.

SEC. 1422. ADVERTISING PROVISIONS.

(a) IN GENERAL.—A tobacco product may not be sold or distributed in the United States—

(1) if its advertising or labeling (including the package)—

(A) contains a cartoon character;

(B) except as provided in subsection (b), contains a human image or animal image;

(C) appears in an enclosed stadia during events that are conducted with a reasonable expectation that 5 percent or more of the attendees will be under the age of 18 years;

(D) appears within 5000 feet of any elementary or secondary school, playground, or public park containing playground equipment;

(E) appears in public transportation, including buses, subways, and trains, that is reasonably expected to be utilized by 5 percent or more of passengers under the age of 18 years on an average daily basis; or

(F) contains words such as "light" or "low tar" and is not accompanied by a disclaimer that words such as "light" or "low tar" describing the product do not render the product less hazardous than any other tobacco product, in addition to such other requirements as the Secretary may impose;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors,

or any other indicia of the tobacco product that would be readily identifiable, and therefore appealing, to individuals under the age of 18 years is contained in a movie, program, or video game that an individual under the age of 18 years is able to attend or utilize without the accompaniment or consent of a parent or adult age 18 years or older for which a direct or indirect payment has been made to ensure its placement; or

(3) if a direct or indirect payment has been made by any manufacturer, distributor, or retailer to any entity for the purpose of promoting the image or use of a tobacco product through print or film media that is recognizable, and therefore appealing, to individuals under the age of 18 years and at which individuals under the age of 18 years are permitted to attend without the accompaniment or consent of a parent or adult age 18 years or older, or through a live performance by an entertainment artist where individuals under the age of 18 years are permitted to attend without the accompaniment of a parent or adult age 18 years or older, and would reasonably expect that 5 percent or more of the audience will be under the age of 18 years.

(b) EXCEPTION.—The prohibition contained in subsection (a)(1)(B) shall not apply to a tobacco product advertisement that appears in an adult-only facility, or in any publication which the manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2,000,000 persons under the age of 18 years as measured by competent and reliable survey evidence.

SEC. 1423. POINT-OF-SALE RESTRICTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no manufacturer, distributor, or retailer shall engage in point-of-sale advertising of any tobacco product in any retail establishment (other than an establishment that sells only tobacco products) in which an individual under the age of 18 is present, or permitted to enter, at any time.

(b) EXCEPTION.—

(1) IN GENERAL.—A retailer may place 1 point-of-sale advertisement in or at each such location for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) DISPLAY AREA.—The display area of any point-of-sale advertisement permitted under paragraph (1) (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) LIMITATION.—A point-of-sale advertisement permitted under paragraph (1) shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO AND VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be distributed at the time of sale of a tobacco product to individuals over the age of 18 years, but no such format may be played or shown in or at any location where tobacco products are offered for sale and individuals under the age of 18 years are permitted.

(d) DEFINITION.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1424. STATUTORY ADVERTISING RESTRICTIONS.

(a) AUTHORITY OF SECRETARY.—The provisions of this subtitle shall in no way affect the authority of the Secretary to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—The provisions of this subtitle shall in no way affect the authority of the Federal Trade Commission to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AMENDMENT NO. 2477

On page 408, between lines 5 and 6, insert the following:

Subtitle A—Provisions Relating to the
Protocol and Liability".

On page 444, after line 14, insert the following:

Subtitle B—Codification of Marketing and
Advertising Restrictions

SEC. 1421. FINDINGS.

To demonstrate the need for restrictions on the marketing and advertising of tobacco products, and to demonstrate that the restrictions contained in this subtitle are constitutional and meet the requirements of the *Central Hudson* case that the asserted governmental interest is substantial, directly advances the governmental interest, and is no more extensive than is necessary to serve that governmental interest, Congress makes the following findings:

(1) The sale of tobacco to minors is illegal in the United States. Therefore, forms of marketing and advertising that appeal to children must be restricted accordingly.

(2) Substantial restrictions on tobacco marketing and advertising are necessary to protect the public health, reduce the illegal sale and purchase of tobacco products by minors, and reduce the cost of tobacco-related illnesses on Federal and State health care programs.

(3) As recognized in *New York v. Ferber*, protecting the physical and psychological well-being of children is a compelling, not merely a substantial, interest of the government.

(4) The cost of tobacco on public health care programs is substantial as evidenced by a 1995 study by Columbia University that found that the estimated cost of tobacco on the medicare and medicaid programs was $25,500,000,000 and $8,200,000,000 respectively. Therefore, reducing these costs, which absorb substantial public resources, by reducing the utilization of tobacco would serve a substantial government interest.

(5) According to the 1994 Surgeon General's Report, nearly 90 percent of all adults who have ever been regular smokers began smoking at or before the age of 18, and, according to a Robert Wood Johnson Foundation Survey, the average smoker begins smoking at age 13 and is hooked by age 14½. Therefore, reducing the attractiveness of tobacco to children will reduce the likelihood that a child ever tries tobacco, and ensure that the long-term costs of tobacco-related illnesses will be averted.

(6) Marketing and advertising plays a significant role in attracting teens to tobacco and determining the brands that they use. According to the Centers for Disease Control and Prevention, 86 percent of children who buy their own cigarettes choose one of the 3 most heavily advertised brands (Marlboro (60 percent), Camel (13.3 percent), or Newport (12.7 percent)). In contrast, most adult smokers opt for generic or "value category" cigarette brands that rely on little, if any, image advertising.

(7) Tobacco industry documents and memorandums make clear that the industry considers children a key market, studied the smoking habits of children, and developed products and marketing campaigns that are directly intended to attract children to the purchase and use of their products.

(8) According to a 1995 study by The Journal of the National Cancer Institute, tobacco marketing has a greater influence in spurring children to take up smoking than exposure to parents or peers who smoke, and must be restricted accordingly.

(9) Children are more sensitive to tobacco advertising than adults, as evidenced by a 1996 study in the Journal of Marketing that found that children are 3 time more sensitive than adults to cigarette advertising.

(10) Tobacco advertising in magazines and periodicals influences the decision of children to use tobacco, as cited in the proceedings of the Food and Drug Administration and its supporting documents. In addition, children who report seeing cigarette advertising in magazines are more likely to experiment with tobacco.

(11) Cartoon images in advertising greatly enhance the appeal of tobacco to children, as evidenced by the "Joe Camel" marketing campaign. According to the Centers for Disease Control and Prevention, when advertising for the "Joe Camel" campaign rose from $27,000,000 to $43,000,000 between 1989 and 1993, Camel's market share among youth increased by more than 50 percent while it's share among adults was unchanged. Therefore, because cartoon advertising has been demonstrated to be a direct appeal to minors and not adults, such images should be banned.

(12) Children as young as 3 to 6 years of age can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(13) Human and animal images in tobacco advertising, and the themes that these images portray, have a profound impact on children, as evidenced by the "Marlboro Man" and the "Marlboro Horses". The image of independence and freedom conveyed by these images has led to Marlboro cigarettes capturing nearly 60 percent of the youth market even though the brand accounts for only 12.7 percent of cigarette advertising overall. Therefore, images portraying human and animal images should be restricted to adult-only venues.

(14) Event sponsorships by tobacco companies increase the likelihood that children will use tobacco as these events connect the product to individuals and activities that are admired and respected by children.

(15) According to a report in the American Journal of Public Health, the observation of tobacco marketing in stores is a significant predictor of a child's likelihood of experimenting with tobacco, increasing the probability by 38 percent. Therefore, in-store marketing should be restricted accordingly.

(16) Tobacco promotions greatly enhance the likelihood that children will use tobacco products, as evidenced by a November 1996 study in the American Journal of Public Health. This study found that a child who was simply aware of tobacco promotions was twice as likely to use tobacco as a child who was not. In addition, it found that a child who is aware of tobacco promotion, has knowledge of an adolescent friend with promotional items, and participates in a promotional activity is 9.3 time more likely to use tobacco.

(17) A 1998 study of teenagers in the Journal of the American Medical Association showed that tobacco industry promotional activities influenced previously non-susceptible non-smokers to become susceptible or to experiment with smoking.

(18) Restrictions on the number and placement of point-of-sale advertisements in stores and other outlets that are permissible for children to enter are necessary to reduce the appeal of tobacco products to children, while ensuring that consumers who can legally purchase these products are able to receive useful information.

(19) As demonstrated in the Food and Drug Administration rule, billboards and other forms of outdoor advertising that are located near schools and playgrounds can affect the decision of children to use tobacco products. Therefore, bans on these forms of advertising near these facilities, and within distances that are frequently traveled by children to access these facilities, would be a narrowly-tailored method of fulfilling the government interest, while still allowing information to be provided in this format to consumers who can legally purchase these products at other locations that are less-frequently viewed by children.

(20) Through advertisements during, and sponsorship of, sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(21) Because children are influenced by the images, habits, and mannerisms depicted by actresses and actors in movies and other forms of print and film media, tobacco companies should not be permitted to receive payments for the inclusion of logos, symbols, or mottoes in these types of venues if they will be viewed by children under the age of 18 without the supervision of a parent or guardian.

(22) Because children are influenced by the behavior of musical and other live entertainers whom they admire, payments by tobacco companies to live entertainers or their agents should be restricted at events in which individuals under the age of 18 are permitted to attend, and a substantial number of these individuals would reasonably be expected to attend.

(23) To ensure that advertising and marketing efforts are not deceptive or misleading, descriptors such as "light" and "low tar" should be accompanied by a disclaimer that the product is not less hazardous than any other tobacco product.

(24) Restrictions on the placement of advertisements in buses, subways, and other forms of public transportation that are reasonably expected to be utilized by a significant number of children on a daily basis will ensure that children are not exposed to such advertising for an extended period of time during a commute, and will reduce the susceptibility of children to tobacco advertising accordingly.

SEC. 1422. ADVERTISING PROVISIONS.

(a) In General.—A tobacco product may not be sold or distributed in the United States—

(1) if its advertising or labeling (including the package)—

(A) contains a cartoon character;

(B) except as provided in subsection (b), contains a human image or animal image;

(C) appears in an enclosed stadia during events that are conducted with a reasonable expectation that 5 percent or more of the attendees will be under the age of 18 years;

(D) appears within 5000 feet of any elementary or secondary school, playground, or public park containing playground equipment;

(E) appears in public transportation, including buses, subways, and trains, that is reasonably expected to be utilized by 5 percent or more of passengers under the age of 18 years on an average daily basis; or

(F) contains words such as "light" or "low tar" and is not accompanied by a disclaimer that words such as "light" or "low tar" describing the product do not render the product less hazardous than any other tobacco product, in addition to such other requirements as the Secretary may impose;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of the tobacco product that would be readily identifiable, and therefore appealing, to individuals under the age of 18 years is contained in a movie, program, or video game that an individual under the age of 18 years is able to attend or utilize without the accompaniment or consent of a parent or adult age 18 years or older for which a direct or indirect payment has been made to ensure its placement; or

(3) if a direct or indirect payment has been made by any manufacturer, distributor, or retailer to any entity for the purpose of promoting the image or use of a tobacco product through print or film media that is recognizable, and therefore appealing, to individuals under the age of 18 years and at which individuals under the age of 18 years are permitted to attend without the accompaniment or consent of a parent or adult age 18 years or older, or through a live performance by an entertainment artist where individuals under the age of 18 years are permitted to attend without the accompaniment of a parent or adult age 18 years or older, and would reasonably expect that 5 percent or more of the audience will be under the age of 18 years.

(b) Exception.—The prohibition contained in subsection (a)(1)(B) shall not apply to a tobacco product advertisement that appears in an adult-only facility, or in any publication which the manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2,000,000 persons under the age of 18 years as measured by competent and reliable survey evidence.

SEC. 1423. POINT-OF-SALE RESTRICTIONS.

(a) In General.—Except as provided in subsection (b), no manufacturer, distributor, or retailer shall engage in point-of-sale advertising of any tobacco product in any retail establishment (other than an establishment that sells only tobacco products) in which an individual under the age of 18 is present, or permitted to enter, at any time.

(b) Exception.—

(1) In general.—A retailer may place 1 point-of-sale advertisement in or at each such location for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) Display area.—The display area of any point-of-sale advertisement permitted under paragraph (1) (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) Limitation.—A point-of-sale advertisement permitted under paragraph (1) shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) Audio and Video.—Any audio or video format permitted under regulations promulgated by the Secretary may be distributed at the time of sale of a tobacco product to individuals over the age of 18 years, but no such format may be played or shown in or at any location where tobacco products are offered for sale and individuals under the age of 18 years are permitted.

(d) Definition.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1424. STATUTORY ADVERTISING RESTRICTIONS.

(a) Authority of Secretary.—The provisions of this subtitle shall in no way affect the authority of the Secretary to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(b) Authority of Federal Trade Commission.—The provisions of this subtitle shall in no way affect the authority of the Federal Trade Commission to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(c) Severability.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 1425. EFFECTIVE DATE.

The provisions of this subtitle shall become effective on the date that is 120 days after the enactment of the Act.

SEC. 1426. SUNSET PROVISION.

The provisions of this subtitle shall cease to apply beginning on the date on which all tobacco manufacturers to which the Act applies have entered into the Protocol.

SNOWE (AND JEFFORDS) AMENDMENT NO. 2478

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. Jeffords) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 194, after line 8, after the period add the following: "The net revenues credited to the trust fund under section 401(b)(3) and allocated to this account shall be used for smoking prevention and counter-advertising programs as provided for in clauses (i) and (ii) of paragraph (2)(C), with not less than 50 percent of such revenues being used for State and community-based prevention activities under section 1981C(b) of the Public Health Service Act.".

SNOWE (AND OTHERS) AMENDMENT NO. 2479

(Ordered to lie on the table.)

Ms. SNOWE (for herself, Mr. SMITH of Oregon, and Mr. ROBB) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 121, strike lines 7 through 13, and insert the following:

(III) OTHER.—Other programs including—

(aa) the required completion by individuals under 18 years of age of a mandatory, State approved anti-smoking, anti-drug and anti-alcohol class, prior to such individual receiving a drivers permit or license;

(bb) the mandatory suspension of the drivers permit or license of an individual under 18 years for the possession of, purchase of, or attempting to purchase tobacco products; and

(cc) the imposition of fines, community service requirements, or other programs as determined appropriate by the State.

ALLARD AMENDMENT NO. 2480

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, between lines 18 and 19, insert the following:

SEC. 456. ACTION BY STATE LEGISLATURE.

Amounts made available to a State under this Act shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this Act.

DOMENICI AMENDMENTS NOS. 2481–2489

(Ordered to lie on the table.)

Mr. DOMENICI submitted nine amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2481

Beginning on page 200, strike line 6 and all that follows through line 19 on page 201, and insert the following:

(b) USE OF FUNDS.—A State may use amounts received under this section as the State determines appropriate to support an effective anti-teen smoking and anti-drug use program.

SEC. . LIMITATION ON ATTORNEYS FEES.

Notwithstanding any other provision of this Act, amounts paid by a State to attorneys acting on behalf of the State or political subdivision of the State in connection with the past or future settlement of an action maintained by the State against 1 or more tobacco companies to recover tobacco-related medicaid expenditures, or for efforts that in whole or in part resulted in or created a model for programs in this Act, or for other causes of action to which the settlement agreement dated June 20, 1997 would apply, shall not exceed the lesser of—

(1) an amount equal to $2,000 per hour for each hour spent productively and at risk; or

(2) an amount equal to 10 percent of the amount which the State receives under section 451(a) for the fiscal year involved.

AMENDMENT NO. 2482

At the appropriate place in title XIV, insert the following:

SEC. . LIMITATION ON ATTORNEYS FEES.

Notwithstanding any other provision of this Act, amounts paid by a State to attorneys acting on behalf of the State or political subdivision of the State in connection with the past or future settlement of an action maintained by the State against 1 or more tobacco companies to recover tobacco-related medicaid expenditures, or for efforts that in whole or in part resulted in or created a model for programs in this Act, or for other causes of action to which the settlement agreement dated June 20, 1997 would apply, shall not exceed the lesser of—

(1) an amount equal to $2,000 per hour for each hour spent productively and at risk; or

(2) an amount equal to 10 percent of the amount which the State receives under section 451(a) for the fiscal year involved.

AMENDMENT NO. 2483

On page 199, after line 23, add the following:

(f) VETERANS ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Veterans Account. Of the net revenues credited to the trust fund under section 401(b)(1), $1,000,000,000 for each fiscal year shall be allocated to the Veterans Account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Veterans Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide care and services under chapter 17 of title 38, United States Code.

On page 199, after line 23, add the following:

(f) VETERANS ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Veterans Account. Of the net revenues credited to the trust fund under section 401(b)(1), $1,000,000,000 for each fiscal year shall be allocated to the Veterans Account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Veterans Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide care and services under chapter 17 of title 38, United States Code.

AMENDMENT NO. 2484

Beginning on page 192, line 6, strike all through page 199, line 23, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 20 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 20 percent share will be adjusted as necessary, to a percentage not in excess of 25 percent and not less than 15 percent, to achieve that 25-year total amount.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the State Litigation Settlement Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Eleven percent of the net revenues credited to the trust fund under section 401(b)(1) and 50 percent of the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17,5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) Health and Health-related Research Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 11 percent shall be allocated to this account.

(2) Authorization of appropriations.— Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made available in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 80 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) Farmers Assistance Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 8 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 2 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) Authorization of appropriations.— Amounts in the Farmers Assistance Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended for the purposes of section 1012.

(e) Medicare Preservation Account.— There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. Amounts in the trust fund shall be allocated to this account as follows:

(1) 50 percent of the net revenues credited to the trust fund under section 401(b).

(2) In any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), 50 percent of the amount of any such excess.

(3) Beginning in the eleventh year beginning after the date of enactment of this Act, 6 percent of the net revenues credited to the trust fund under section 401(b)(1).

(f) Transfer of Revenues to Federal Hospital Insurance Trust Fund.—Section 1817(a) of the Social Security Act (42 U.S.C. 1395i(a)) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by inserting after paragraph (2) the following:

"(3) the amounts allocated to the Medicare Preservation Account of the National Tobacco Trust Fund."

Amendment No. 2485

At the appropriate place, insert the following:

SEC. . EXPEDITED JUDICIAL REVIEW.

(a) Expedited Review.—

(1) In general.—Any individual adversely affected by—

(A) a penalty for a violation of the lookback provisions of subtitle A of title II;

(B) an assessment for an initial or annual payment under section 403;

(C) any restrictions on marketing and labeling under this Act (or an amendment made by this Act) either foreign or domestic; or

(D) any licensing fee under section 1121;

may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or its application to such individual violates the Constitution.

(2) Delivery of copy.—A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congres shall have the right to intervene in such action.

(3) Right of intervention.—Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) Appeal to Supreme Court.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) Expedited Consideration.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) Adjustment of Industry Payments.—

(1) In general.—Except as provided in paragraph (2) and notwithstanding section 402(b), the amount of the annual payments required of a manufacturer under such section for a fiscal year shall be equal to the product of $0.75 and the number of packages of cigarettes sold in the previous year by such manufacturer.

(2) Increase in amount.—Paragraph (1) shall cease to apply on the earlier of—

(A) the date on which a final ruling has been made as to the constitutionality of all of the provisions described in subsection (a)(1); or

(B) the date that is 3 years after the date of enactment of this Act.

Amendment No. 2486

Beginning on page 192, line 6, strike all through page 199, line 23, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) State Litigation Settlement Account.—

(1) In general.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 20 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 20 percent share will be adjusted as necessary, to a percentage not in excess of 25 percent and not less than 15 percent, to achieve that 25-year total amount.

(2) Authorization of appropriations.— Amounts in the State Litigation Settlement Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(3) Distribution formula.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) Use of funds.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) Funds not available as Medicaid reimbursement.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) Public Health Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be

known as the Public Health Account. Eleven percent of the net revenues credited to the trust fund under section 401(b)(1) and 50 percent of the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 11 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made available in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 80 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 8 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 2 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Farmers Assistance Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), 50 percent of the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 6 percent of the net revenues credited to the trust fund under section 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

(f) RATE REDUCTION ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Rate Reduction Account. Fifty percent of the net revenues credited to the trust fund under section 401(b) shall be allocated to this account.

(2) APPROPRIATION.—Amounts so allocated are hereby appropriated to the general fund of the Treasury for the purposes of providing the revenue offset for the amendments made by section 451A of this Act.

SEC. 451A. REDUCTION OF 15 AND 28 PERCENT RATES.

(a) IN GENERAL.—The tables contained subsections (a) through (e) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) are amended by striking "15%" and "28%" each place they appear and insert "14.8%" and "27.65%", respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

AMENDMENT NO. 2487

At the appropriate place insert the following:

SEC. . INCREASE AND SIMPLIFICATION OF DEPENDENT CARE TAX CREDIT.

(a) INCREASE IN MAXIMUM CREDIT RATE.—Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.".

(b) ELIMINATION OF HOUSEHOLD MAINTENANCE TEST.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is repealed.

(c) INFLATION ADJUSTMENT FOR CERTAIN AMOUNTS.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules), as amended by subsection (c), is amended by adding at the end the following:

"(12) INFLATION ADJUSTMENTS.—

"(A) IN GENERAL.—In the case of any taxable year beginning after 1999, the $30,000 amount referred to in subsection (a)(2) and the dollar amounts referred to in subsection (c) and paragraph (11) of this subsection shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any dollar amount after being increased under subparagraph (A) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1998.

(e) APPROPRIATION.—Notwithstanding any other provision of this Act, from amounts credited to the National Tobacco Trust Fund but not appropriated by this Act, there is appropriated to the general fund in the Treasury an amount equal to the reduction in revenues to the Treasury resulting from the amendments made by this section.

AMENDMENT NO. 2488

On page 199, after line 23, add the following:

(f) TERMINATION OF ACCOUNTS.—

(1) IN GENERAL.—The accounts established under subsections (a), (b), (c), and (d) shall terminate on the date that is 10 years after the date of enactment of this Act.

(2) USE OF FUNDS.—Any amounts in the accounts terminated under paragraph (1) that remain unobligated on the termination date described in such paragraph, and any amounts contained in the trust fund in a fiscal year after the termination of such accounts, shall be used as follows:

(A) 50 percent of such amounts shall be used to offset tax cuts.

(B) 50 percent of such amounts shall be transferred to the Medicare Preservation Account established under subsection (e).

AMENDMENT NO. 2489

At the appropriate place in the bill, insert the follows:

SEC. . WINDFALL PROFIT EXCISE TAX ON CERTAIN EXCESSIVE ATTORNEY FEES.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after chapter 44 the following:

"SEC. 4986. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed on any taxpayer who receives a windfall profit on any taxable award of attorney fees a tax equal to the applicable percentage of such windfall profit.

"(b) DEFINITIONS.—For purposes of this section—

"(1) TAXABLE AWARD OF ATTORNEY FEES.—The term 'taxable award of attorney fees' means that portion of the award of attorney fees with respect to a judgment in or settlement of any litigation by a State or class-action plaintiffs against a tobacco manufacturer or a group of tobacco manufacturers for damages relating to tobacco-related diseases, conditions, or addiction which exceeds any court approved expenses relating to such litigation.

"(2) WINDFALL PROFIT.—The term 'windfall profit' means that portion of a taxable award of attorney fees which exceeds 5 percent of the amount any such judgment or settlement or which exceeds $1,000 per hour.

"(3) APPLICABLE PERCENTAGE.—The applicable percentage is—

"(A) 20 percent with respect to that portion of the windfall profit exceeding 5 percent but not 10 percent of the amount of such judgment or settlement or which exceed $1,000 per hour but not $1,500 per hour, and

"(B) 40 percent with respect to that portion of such windfall profit exceeding 10 percent of such amount or which exceed $1,500 per hour.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) WITHHOLDING.—In the case of any windfall profit which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such windfall profit.

"(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(b) CONFORMING AMENDMENT.—The table of chapters of subtitle D of such Code is amended by inserting after the item relating to chapter 44 the following:

"CHAPTER 45. Windfall profit tax on certain attorney fees."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to awards received after December 31, 1997.

GORTON AMENDMENTS NOS. 2490–2491

(Ordered to lie on the table.)

Mr. GORTON submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2490

At the appropriate place in the pending amendment, add the following:

SEC. 604. STATE TOBACCO TAX COMPLIANCE

(a) IN GENERAL.—An Indian tribe, tribal corporation, or individual member of an Indian tribe engaged in tobacco retailing shall collect all applicable tobacco excise and sales taxes lawfully imposed by the State, within the exterior boundaries of which the purchase occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the nonmember from the Indian tribe, tribal corporation, or individual member.

(b) REMITTANCE TO TREASURY DEPARTMENT.—To the extent that all such taxes are not collected and not remitted to the appropriate State by the Indian tribe, tribal corporation, or individual member of an Indian tribe (or, in the manner provided by State law, by any other person), the tribe, tribal corporation, or individual member shall remit such taxes to the Treasury of the United States, which shall, in turn, remit such taxes to the State in which the purchase by the nonmember took place. The Secretary of the Treasury of the United States shall promulgate regulations within 120 days to enforce this section.

(c) EXEMPTION UNDER STATE LAW.—Subsections (a) and (b) shall not apply if (1) the State's laws provide that Indian tribes or tribal corporations are not obligated to remit excise and sales taxes to the State on the condition that such tribe or tribal corporation imposes and collects tobacco excise and sales taxes on purchases of tobacco products by non-members that are equal to or greater than the applicable excise and sales taxes lawfully imposed by the State on the purchase of tobacco products within the State's exterior borders; or (2) the State's laws exempt or waive the application of such taxes. Nothing in this section is intended to prohibit a State from enacting a law consistent with the provisions of this section.

(d) TRIBAL-STATE AGREEMENTS.—Subsections (a) and (b) shall not apply to Indian tribes or tribal corporations if the tribe or tribal corporation has an agreement with the State, within which the purchase of tobacco products by nonmembers occurs, on the collection and allocation of excise and sales taxes on the purchase of tobacco products by nonmembers. Nothing in this section prohibits a tribe and a State from entering into such an agreement after the date of enactment of this Act.

AMENDMENT NO. 2491

At the appropriate place in the pending amendment, add the following:

SEC. 604. STATE TOBACCO TAX COMPLIANCE.

An Indian tribe or tribal corporation shall collect any excise or sales tax imposed by a State, within the exterior borders of which the sale occurs, on non-members of the Indian tribe as a consequence of the purchase of tobacco products by the non-member from the Indian tribe or tribal corporation. The Indian tribe or tribal corporation shall remit such taxes collected to the Treasury of the United States, which shall, in turn, remit the taxes to the State in which they were collected.

LUGAR (AND McCONNELL) AMENDMENTS NOS. 2492–2502

(Ordered to lie on the table.)

Mr. LUGAR (for himself and Mr. MCCONNELL) submitted 11 amendments to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2492

Strike section 1024.

AMENDMENT NO. 2493

Strike title X.

AMENDMENT NO. 2494

Strike section 1021(d)(4)(E).

AMENDMENT NO. 2495

Strike section 1021(d)(13).

AMENDMENT NO. 2496

Strike title X (relating to long-term economic assistance for farmers).

AMENDMENT NO. 2497

Strike title X and insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

SEC. 1004. EFFECTIVE DATE.

This title takes effect on the day after the date of enactment of this Act.

AMENDMENT NO. 2498

Strike title X and insert the following:

TITLE X—TOBACCO TRANSITION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Tobacco Transition Act".

SEC. 1002. PURPOSES.

The purposes of this title are—

(1) to authorize the use of binding contracts between the United States and tobacco quota owners and tobacco producers to compensate them for the termination of Federal programs that support the production of tobacco in the United States;

(2) to make available to States funds for economic assistance initiatives in counties of States that are dependent on the production of tobacco; and

(3) to terminate Federal programs that support the production of tobacco in the United States.

SEC. 1003. DEFINITIONS.

In this title:

(1) ASSOCIATION.—The term "association" means a producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers.

(2) BUYOUT PAYMENT.—The term "buyout payment" means a payment made to a quota owner under section 1014 for each of the 1999 through 2001 marketing years.

(3) CONTRACT.—The term "contract" or "tobacco transition contract" means a contract entered into under section 1012.

(4) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(5) LEASE.—The term "lease" means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(6) MARKETING YEAR.—The term "marketing year" means—

(A) in the case of Flue-cured tobacco, the period beginning July 1 and ending the following June 30; and

(B) in the case of each other kind of tobacco, the period beginning October 1 and ending the following September 30.

(7) OWNER.—The term "owner" means a person that, at the time of entering into a tobacco transition contract, owns quota provided by the Secretary.

(8) PRICE SUPPORT.—The term "price support" means a nonrecourse loan provided by the Commodity Credit Corporation through an association for a kind of tobacco.

(9) PRODUCER.—The term "producer" means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(10) QUOTA.—The term "quota" means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(13) TOBACCO.—The term "tobacco" means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

(14) TOBACCO PRODUCT MANUFACTURER.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(15) TRANSITION PAYMENT.—The term "transition payment" means a payment made to a producer under section 1015 for each of the 1999 through 2001 marketing years.

(16) TRUST FUND.—The term "Trust Fund" means the Tobacco Community Revitalization Trust Fund established by section 1011.

(17) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle A—Tobacco Production Transition

CHAPTER 1—TOBACCO TRANSITION CONTRACTS

SEC. 1011. TOBACCO COMMUNITY REVITALIZATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Tobacco Community Revitalization Trust Fund", consisting of amounts paid into the Trust Fund under subsection (d).

(b) ADMINISTRATION.—The Trust Fund shall be administered by the Secretary of the Treasury.

(c) USE.—Funds in the Trust Fund shall be available for making—

(1) buyout payments;

(2) transition payments;

(3) rural economic assistance block grants under section 1021;

(4) payments to carry out sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2);

(5) payments to reimburse the Commodity Credit Corporation for net losses under section 1032(f)(3); and

(4) payments for tobacco related administrative costs and subsidies described in section 1052.

(d) TRANSFER FROM NATIONAL TOBACCO SETTLEMENT TRUST FUND.—The Secretary of the Treasury shall transfer from the National Tobacco Settlement Trust Fund to the Trust Fund such amounts as the Secretary of Agriculture determines are necessary to carry out this title.

(e) TERMINATION.—The Trust Fund shall terminate effective September 30, 2024.

SEC. 1012. OFFER AND TERMS OF TOBACCO TRANSITION CONTRACTS.

(a) OFFER.—The Secretary shall offer to enter into a tobacco transition contract with each owner and producer.

(b) TERMS.—

(1) OWNERS.—In exchange for a payment made under section 1014, an owner shall agree to relinquish the quota owned by the owner.

(2) PRODUCERS.—In exchange for a payment made under section 1015, a producer shall agree to relinquish the value of the quota leased by the producer.

(c) RIGHT TO GROW TOBACCO.—Each owner or producer that enters into a contract shall have the right to continue the production of tobacco for each of the 1999 and subsequent crops of tobacco.

SEC. 1013. ELEMENTS OF CONTRACTS.

(a) DEADLINES FOR CONTRACTING.—

(1) COMMENCEMENT.—To the maximum extent practicable, the Secretary shall commence entering into contracts under this chapter not later than 90 days after the date of enactment of this Act.

(2) DEADLINE.—The Secretary may not enter into a contract under this chapter after June 30, 1999.

(b) DURATION OF CONTRACT.—The term of a contract shall—

(1) begin on the date that is the beginning of the 1999 marketing year for a kind of tobacco; and

(2) terminate on the date that is the end of the 2001 marketing year for the kind of tobacco.

(c) TIME FOR PAYMENT.—A buyout payment or transition payment shall be made not later than the date that is the beginning of the marketing year for a kind of tobacco for each year of the term of a tobacco transition contract of an owner or producer.

SEC. 1014. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—The Secretary shall make buyout payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco involved, to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(c) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1015. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—The Secretary shall make transition payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased during the 3 crop years described in subsection (a)(1).

(c) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(d) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

CHAPTER 2—RURAL ECONOMIC ASSISTANCE BLOCK GRANTS

SEC. 1021. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds in the Trust Fund, the Secretary shall use $200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates October 1, 2003.

Subtitle B—Tobacco Price Support and Production Adjustment Programs

CHAPTER 1—TOBACCO PRICE SUPPORT PROGRAM

SEC. 1031. INTERIM REFORM OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PRICE SUPPORT RATES.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended to read as follows:

“SEC. 106. TOBACCO PRICE SUPPORT RATES.

“The price support rate for each kind of tobacco for which quotas have been approved shall be reduced by—

“(1) for the 1999 crop, 25 percent from the 1998 support rate for a kind of tobacco;

“(2) for the 2000 crop, 10 percent from the 1999 support rate for a kind of tobacco; and

“(3) for the 2001 crop, 10 percent from the 2000 support rate for a kind of tobacco.”.

(b) NO NET COST TOBACCO FUND AND ACCOUNT.—

(1) NO NET COST TOBACCO FUND.—Section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended to read as follows:

“SEC. 106A. NO NET COST TOBACCO FUND.

“(a) DEFINITIONS.—In this section:

“(1) ASSOCIATION.—The term ‘association’ means a producer-owned cooperative marketing association that has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco.

“(2) CORPORATION.—The term ‘Corporation’ means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers.

“(3) NET GAINS.—The term ‘net gains’ means the amount by which the total proceeds obtained from the sale by an association of a crop of tobacco pledged to the Corporation for a price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on the crop, plus interest and charges.

“(4) NO NET COST TOBACCO FUND.—The term ‘No Net Cost Tobacco Fund’ means the capital account established within each association under this section.

“(5) PURCHASER.—The term ‘purchaser’ means any person that purchases in the United States, either directly or indirectly for the account of the person or another person, Flue-cured or burley tobacco.

“(6) TOBACCO.—The term ‘tobacco’ means any kind of tobacco for which—

“(A) a marketing quota is in effect;

“(B) a marketing quota is not disapproved by producers; or

“(C) price support is available.

“(7) TRUST FUND.—The term ‘Trust Fund’ means the National Tobacco Settlement Trust Fund established in the Treasury of the United States consisting of amounts that are appropriated or credited to the Trust Fund from the tobacco settlement approved by Congress.

“(b) PRICE SUPPORT PROGRAM; LOANS.—The Secretary—

“(1) may carry out the tobacco price support program through the Corporation; and

“(2) shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

“(c) ESTABLISHMENT OF FUND.—

“(1) IN GENERAL.—Each association shall establish within the association a No Net Cost Tobacco Fund.

“(2) AMOUNT.—There shall be transferred from the Trust Fund to each No Net Cost Tobacco Fund such amount as the Secretary determines will be adequate to reimburse the Corporation for any net losses that the Corporation may sustain under its loan agreements with the association, based on—

“(A) reasonable estimates of the amounts that the Corporation has lent or will lend to the association for price support for the 1982 and subsequent crops of tobacco, except that for the 1986 and subsequent crops of burley tobacco, the Secretary shall determine the amount of assessments without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with the association for the 1983 crop of burley tobacco; and

“(B) the proceeds that will be realized from the sales of tobacco that are pledged to the Corporation by the association as security for loans.

“(d) ADMINISTRATION.—The Secretary shall—

“(1) require that the No Net Cost Tobacco Fund established by each association be kept and maintained separately from all other accounts of the association and be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of tobacco, will suffer no net losses (including recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under paragraph (3), except that, notwithstanding any other provision of law, the association may, with the approval of the Secretary, use funds in the No Net Cost Tobacco Fund, including interest and other earnings, for—

“(A) the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of tobacco and making loan advances to producers as authorized; and

“(B) any other purposes that will be mutually beneficial to producers and purchasers and to the Corporation;

“(2) permit an association to invest the funds in the No Net Cost Tobacco Fund in such manner as the Secretary may approve, and require that the interest or other earnings on the investment shall become a part of the No Net Cost Tobacco Fund;

“(3) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that the net gains will be used for the purpose of—

“(A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of tobacco; or

“(B) reducing the outstanding balance of any price support loan made by the Corporation to the association under the loan agreements for 1982 and subsequent crops of tobacco; and

“(4) effective for the 1986 and subsequent crops of tobacco, if the Secretary determines that the amount in the No Net Cost Tobacco Fund or the net gains referred to in paragraph (3) exceeds the total amount necessary for the purposes specified in this section, suspend the transfer of amounts from the Trust Fund to the No Net Cost Tobacco Fund under this section.

“(e) NONCOMPLIANCE.—

“(1) IN GENERAL.—If any association that has entered into a loan agreement with the Corporation with respect to any of the 1982 or subsequent crops of tobacco fails or refuses to comply with this section (including regulations promulgated under this section) or the terms of the agreement, the Secretary may terminate the agreement or provide that no additional loan funds may be made available under the agreement to the association.

“(2) PRICE SUPPORT.—If the Secretary takes action under paragraph (1), the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to the association, through such other means as are authorized by this

Act or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

"(f) Termination of Agreement or Association.—If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the No Net Cost Tobacco Fund or the net gains referred to in subsection (d)(3) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that the net gains shall, to the extent necessary, first be applied or used for the purposes specified in this section.

"(g) Regulations.—The Secretary shall issue such regulations as are necessary to carry out this section.".

(2) No net cost tobacco account.—Section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2) is amended to read as follows:

"SEC. 106B. NO NET COST TOBACCO ACCOUNT.

"(a) Definitions.—In this section:

"(1) Area.—The term 'area', when used in connection with an association, means the general geographical area in which farms of the producer-members of the association are located, as determined by the Secretary.

"(2) Association.—The term 'association' has the meaning given the term in section 106A(a)(1).

"(3) Corporation.—The term 'Corporation' has the meaning given the term in section 106A(a)(2).

"(4) Net gains.—The term 'net gains' has the meaning given the term in section 106A(a)(3).

"(5) No net cost tobacco account.—The term 'No Net Cost Tobacco Account' means an account established by and in the Corporation for an association under this section.

"(6) Purchaser.—The term 'purchaser' has the meaning given the term in section 106A(a)(5).

"(7) Tobacco.—The term 'tobacco' means any kind of tobacco for which—

"(A) a marketing quota is in effect;

"(B) a marketing quota is not disapproved by producers; or

"(C) price support is available.

"(8) Trust fund.—The term 'Trust Fund' has the meaning given the term in section 106A(a)(7).

"(b) Price Support Program; Loans.—Notwithstanding section 106A, the Secretary shall, on the request of any association, and may, if the Secretary determines, after consultation with the association, that the accumulation of the No Net Cost Tobacco Fund for the association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses that the Corporation sustains under its loan agreements with the association—

"(1) continue to make price support available to producers through the association in accordance with loan agreements entered into between the Corporation and the association; and

"(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for the association in lieu of the No Net Cost Tobacco Fund established within the association under section 106A.

"(c) Establishment of Account.—

"(1) In general.—A No Net Cost Tobacco Account established for an association under subsection (b)(2) shall be established within the Corporation.

"(2) Amount.—There shall be transferred from the Trust Fund to each No Net Cost Tobacco Account such amount as the Secretary determines will be adequate to reimburse the Corporation for any net losses that the Corporation may sustain under its loan agreements with the association, based on—

"(A) reasonable estimates of the amounts that the Corporation has lent or will lend to the association for price support for the 1982 and subsequent crops of tobacco, except that for the 1986 and subsequent crops of burley tobacco, the Secretary shall determine the amount of assessments without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with the association for the 1983 crop of burley tobacco; and

"(B) the proceeds that will be realized from the sales of a kind of tobacco that are pledged to the Corporation by the association as security for loans.

"(3) Administration.—On the establishment of a No Net Cost Tobacco Account for an association, any amount in the No Net Cost Tobacco Fund established within the association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that the amount shall, to the extent necessary, first be applied or used for the purposes specified in that section.

"(d) Use.—Amounts deposited in a No Net Cost Tobacco Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with the association will suffer, with respect to the crop involved, no net losses (including recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under subsection (g).

"(e) Excess Amounts.—If the Secretary determines that the amount in the No Net Cost Tobacco Account or the net gains referred to in subsection (g) exceed the total amount necessary to carry out this section, the Secretary shall suspend the transfer of amounts from the Trust Fund to the No Net Cost Tobacco Account under this section.

"(f) Termination of Agreement or Association.—In the case of an association for which a No Net Cost Tobacco Account is established under subsection (b)(2), if a loan agreement between the Corporation and the association is terminated, if the association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco, or if the No Net Cost Tobacco Account terminates by operation of law, amounts in the No Net Cost Tobacco Account and the net gains referred to in subsection (g) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that the net gains shall, to the extent necessary, first be applied to or used for the purposes specified in this section.

"(g) Net Gains.—The provisions of section 106A(d)(3) relating to net gains shall apply to any loan agreement between an association and the Corporation entered into on or after the establishment of a No Net Cost Tobacco Account for the association under subsection (b)(2).

"(h) Regulations.—The Secretary shall issue such regulations as are necessary to carry out this section.".

(3) Conforming amendments.—

(A) Section 314(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(a)) is amended in the first sentence—

(i) by striking "(1)"; and

(ii) by striking ", or (2)" and all that follows through "106B(d)(1) of that Act".

(B) Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended by inserting after "1445–2)" the following: "(as in effect before the effective date of the amendments made by section 1031(b) of the Tobacco Transition Act)".

(c) Administrative Costs.—Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97–98; 7 U.S.C. 1445 note) is repealed.

(d) Crops.—

(1) In general.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply with respect to the 1998 through 2001 marketing years.

(2) Price support rates.—Subsection (a) and the amendments made by subsection (a) shall apply with respect to the 1999 through 2001 crops of the kind of tobacco involved.

SEC. 1032. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) Parity Price Support.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking ", except tobacco,"; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) Termination of Tobacco Price Support and No Net Cost Provisions.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) Definition of Basic Agricultural Commodity.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(d) Review of Burley Tobacco Imports.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) Powers of Commodity Credit Corporation.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

(f) Transition Provisions.—

(1) Liability.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) Tobacco inventories.—The Secretary shall issue regulations that require the orderly sale of tobacco inventories held by associations.

(3) Net losses to the commodity credit corporation.—

(A) Transfer.—The Secretary of the Treasury shall annually transfer from the Trust Fund to the Commodity Credit Corporation an amount that the Secretary of Agriculture determines will be adequate to reimburse the Corporation for net losses sustained under price support loan agreements with associations.

(B) Amount.—The Secretary of Agriculture shall base the determination of the amount to be transferred under subparagraph (A) on a reasonable estimate of—

(i) the outstanding balance due on price support loans; and

(ii) the proceeds that will be realized from the sales of tobacco that are pledged to the

Corporation as security for price support loans.

(g) Crops.—

(1) In general.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply with respect to the 2002 and subsequent crops of the kind of tobacco involved.

(2) Net losses to the commodity credit corporation.—Subsection (f)(3) shall apply with respect to the 2002 and subsequent marketing years until—

(A) all price support loans for each kind of tobacco are repaid to the Commodity Credit Corporation; and

(B) the Commodity Credit Corporation has been reimbursed for all net losses sustained as a result of price support loans provided through the 2001 crop of the kind of tobacco involved.

CHAPTER 2—TOBACCO PRODUCTION ADJUSTMENT PROGRAMS

SEC. 1041. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) Declaration of Policy.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(b) Definitions.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (7), by striking the following:

"tobacco (flue-cured), July 1—June 30;

"tobacco (other than flue-cured), October 1–September 30;";

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking "and tobacco";

(6) in paragraph (12), by striking "tobacco,";

(7) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) Parity Payments.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(d) Marketing Quotas.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) Administrative Provisions.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(f) Adjustment of Quotas.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(2) in the first sentence of subsection (b), by striking "peanuts or tobacco" and inserting "or peanuts".

(g) Reports and Records.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking "peanuts, or tobacco" each place it appears in subsections (a) and (b) and inserting "or peanuts"; and

(2) in subsection (a)—

(A) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(B) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(h) Regulations.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking "peanuts, or tobacco" and inserting "or peanuts".

(i) Eminent Domain.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking "cotton, tobacco, and peanuts" and inserting "cotton and peanuts"; and

(2) by striking subsections (d), (e), and (f).

(j) Burley Tobacco Farm Reconstitution.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(2) by striking subsections (b) and (c).

(k) Acreage-Poundage Quotas.—Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(l) Burley Tobacco Acreage Allotments.—The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) Transfer of Allotments.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) Advance Recourse Loans.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking "tobacco and".

(o) Tobacco Field Measurement.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(p) Liability.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) Crops.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle C—Funding

SEC. 1051. TRUST FUND.

(a) Request.—The Secretary of Agriculture shall request the Secretary of the Treasury to transfer from the Trust Fund amounts authorized under sections 1014, 1015, 1021, 1032, and 1052 and the amendments made by section 1031 to the account of the Commodity Credit Corporation.

(b) Transfer.—On receipt of such a request, the Secretary of the Treasury shall transfer amounts requested under subsection (a).

(c) Use.—The Secretary of Agriculture shall use the amounts transferred under subsection (b) to carry out the activities described in subsection (a).

(d) Termination of Authority.—The authority provided under this section shall expire on September 30, 2024.

SEC. 1052. TOBACCO RELATED ADMINISTRATIVE COSTS AND SUBSIDIES.

(a) In General.—For each of fiscal years 1999 through 2024, the Secretary shall—

(1) estimate the costs to the Federal Government relating to tobacco that involve—

(A) agricultural extension;

(B) handling, sampling, grading, inspecting, and weighing;

(C) crop insurance; and

(D) administering the tobacco price support program; and

(2) use funds transferred from the Trust Fund to the Commodity Credit Corporation to cover the costs estimated under paragraph (1).

(b) Adjustments.—At the end of each of fiscal years 1999 through 2024, the Secretary shall—

(1) use funds transferred from the Trust Fund to the Commodity Credit Corporation in any amount by which the amount of funds transferred under subsection (a)(2) for the fiscal year is less than the actual costs described in subsection (a)(1) for the fiscal year; or

(2) transfer funds from the Commodity Credit Corporation to the Trust Fund in any amount by which the amount of funds transferred for the fiscal year under subsection (a)(2) is more than the actual costs described in subsection (a)(1) for the fiscal year.

SEC. 1053. COMMODITY CREDIT CORPORATION.

The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title and the amendments made by this title.

Subtitle D—Miscellaneous

SEC. 1061. LIABILITY FOR OBLIGATIONS OF TOBACCO PRODUCT MANUFACTURERS.

A person that owns or produces tobacco, or owns or operates a tobacco warehouse, shall not be liable for—

(1) any action or legal penalty or obligation of a manufacturer of a tobacco product under this Act; or

(2) any financial penalty or payment owed by a manufacturer of a tobacco product under this Act.

SEC. 1062. FDA REGULATION OF TOBACCO PRODUCTION AND FARMS.

Notwithstanding any other provision of law, an officer, employee, or agent of the Food and Drug Administration shall not—

(1) regulate the production of a crop of tobacco by a person; or

(2) enter the farm of a person that owns or produces tobacco without the consent of the person.

Amendment No. 2499

In lieu of the matter proposed to be inserted for title X, insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) In General.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

SEC. 1004. EFFECTIVE DATE.

This title takes effect 2 days after the date of enactment of this Act.

AMENDMENT NO. 2500

In lieu of the matter proposed to be inserted for title X, insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

AMENDMENT NO. 2501

Strike title X in the Committee amendment and insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

SEC. 1004. EFFECTIVE DATE.

This title takes effect on the day after the date of enactment of this Act.

AMENDMENT NO. 2502

In lieu of the matter proposed to be inserted for title X, insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

MURKOWSKI AMENDMENTS NOS. 2503–2504

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2503

At the end of title VI, add the following:

SEC. . COLLECTION OF STATE TOBACCO EXCISE AND SALES TAXES FROM INDIAN TRIBES.

(a) IN GENERAL.—An Indian tribe, tribal corporation, or individual member of an Indian tribe engaged in tobacco retailing shall collect all lawfully-imposed, non-discriminatory tobacco excise and sales taxes imposed by a State, within the exterior boarders of which the purchase occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the nonmember from the Indian tribe, tribal corporation, or individual member of an Indian tribe.

(b) ENFORCEMENT.—

(1) IN GENERAL.—To that extent that all such taxes are not collected and remitted to the appropriate State by the Indian tribe, tribal corporation, or individual member of an Indian tribe (or, in the manner provided by State law, by any other person), such tribe, corporation, or individual shall remit such taxes to the Treasury of the United States, which shall, in turn, remit such taxes to the State in which the purchase by the nonmember took place.

(2) AUTHORITY OF SECRETARY OF THE TREASURY.—The Secretary of the Treasury of the United States shall—

(A) have the authority to enforce the requirements of subsection (a) and to administer the collection of tobacco excise and sales taxes under subsection (b)(1);

(B) issue regulations to implement subsection (b)(1) within 180 days of enactment; and

(C) specify in such regulations such return information to accompany remittance of the taxes due under subsection (b)(1) and the time period (not to exceed 180 days) for return of such taxes to the appropriate State.

(c) PRESERVATION OF STATE LAW AND TRIBAL-STATE AGREEMENTS.—Subsections (a) and (b) shall not apply to Indian tribes or tribal corporations if—

(1) the law of a State provides that Indian tribes or tribal corporations are not obligated to collect and remit such State's tobacco excise and sales taxes to the State provided that the tribe or tribal corporation imposes and collects tobacco excise and sales taxes on the purchase of tobacco products by nonmembers that are equal to or greater than the tobacco excise and sales taxes imposed by the State on the sale of tobacco products within the State's exterior borders; or

(2) the Indian tribe or tribal corporation has entered into an agreement with a State, within which the purchase of tobacco products by an nonmember occurs, on the collection and allocation of the State's tobacco excise and sales taxes on the purchase of tobacco products by nonmembers from the Indian tribe or tribal corporation, and such agreement provides that the Indian tribe or tribal corporation imposes and collects tobacco excise and sales taxes on the purchase of tobacco products by nonmembers that are equal to or greater than the tobacco excise and sales taxes imposed by the State on the sale of tobacco products within the State's exterior borders.

(d) EFFECTIVE DATE.—This section shall apply to sales occurring after the date of enactment of this Act.

AMENDMENT NO. 2504

At the end of title VI, add the following:

SEC. . UNIFORMITY OF TOBACCO PRODUCT SALES PRICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, if with respect to the sale by an Indian tribe, tribal corporation, or individual member of an Indian tribe of any tobacco product on Indian lands, the price at which such product is sold to a non-Indian exceeds such price to an Indian, there is imposed a fee equal to such excess on such sale to an Indian.

(b) DETERMINATION OF EXCESS.—For purposes of subsection (a), the excess shall be determined without regard to any State tax on the sale of tobacco products if such tax is collected and remitted to the State by such tribe, tribal corporation, or individual member.

(c) ENFORCEMENT THROUGH REMITTANCE OF FEE.—The fee imposed under this section shall be remitted at least quarterly by such tribe, tribal corporation, or individual member to the Treasury of the United States, unless such tribe or tribal corporation has provided the Secretary with proper certification that such fee shall not be used to provide a refund or rebate to Indians who purchase tobacco products on such Indian lands.

(d) EFFECTIVE DATE.—This section shall apply to sales occurring after the date of enactment of this Act.

LIEBERMAN AMENDMENT NO. 2505

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

In title XIV, §1412(c)(2), insert on p. 435, line 23, after "this title:" "Such mechanism shall, to the greatest extent possible, ensure that in the event the liability cap is met in any calendar year, compensatory damage awards registered with the Secretary shall be given priority for payment over registered punitive damage awards."

KENNEDY AMENDMENTS NOS. 2506–2507

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2506

Strike section 405, and insert the following:

SEC. 405. TAX TREATMENT OF PAYMENTS.

(a) IN GENERAL.—Payments made under section 402 shall not be considered to be ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 and shall not be deductible under the Internal Revenue Code of 1986.

(b) Full Payment by Manufacturers.—

(1) Determination.—For each calendar year, the Secretary of the Treasury shall determine whether and by what amount—

(A) the amount paid to the Internal Revenue Service for such calendar year by manufacturers of tobacco products; exceeds

(B) the amount that would have been paid by such manufactures for such calendar year in absence of the application of subsection (a).

(2) Transfer.—With respect to a calendar year, the Secretary of the Treasury shall transfer to the National Tobacco Trust Fund an amount equal to the excess determined for such calendar year under paragraph (1).

Amendment No. 2507

Strike section 405, and insert the following:

SEC. 405. TAX TREATMENT OF PAYMENTS.

(a) In General.—Payments made under section 402 shall not be considered to be ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 and shall not be deductible under the Internal Revenue Code of 1986.

(b) Full Payment by Manufacturers.—

(1) Determination.—For each calendar year, the Secretary of the Treasury shall determine whether and by what amount—

(A) the amount paid to the Internal Revenue Service for such calendar year by manufacturers of tobacco products; exceeds

(B) the amount that would have been paid by such manufactures for such calendar year in absence of the application of subsection (a).

(2) Transfer.—With respect to a calendar year, the Secretary of the Treasury shall transfer to the National Tobacco Trust Fund an amount equal to the excess determined for such calendar year under paragraph (1).

CRAIG AMENDMENTS NOS. 2508–2509

(Ordered to lie on the table.)

Mr. CRAIG submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2508

Beginning on page 192, strike line 8 and all that follows through line 2 on page 193, and insert the following:

(1) Amounts.—

(A) In general.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, at least 62 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $340,200,000,000, then beginning with the eleventh year the 62 percent share will be adjusted as necessary to achieve that 25-year total amount. Notwithstanding section 452(b) or any other provision of this Act, amounts received by a State under this subsection may be used as the State determines appropriate.

(B) State loss of revenue adjustments.—

(i) In general.—Amounts provided to a State under this subsection for a fiscal year shall take into account the decrease in the amount of revenue that the State received during the previous fiscal year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(ii) Determinations.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under clause (i) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

Amendment No. 2509

Beginning on page 179, strike lines 21 and all that follows through line 4 on page 180, and insert the following:

(c) Net Revenues and Adjustments for Loss of Revenues by States.—

(1) Net revenues.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Congressional Budget Office based on the excess of—

(A) the amounts received in the Treasury under subsection (b), over

(B) an amount equal to—

(i) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b); and

(ii) the increase in direct and indirect Federal spending as a result of the enactment of this Act (including increases in cost of living adjustments resulting from an increase in the Consumer Price Index as a result of required tobacco product price increases).

(2) State loss of revenue adjustments.—

(A) In general.—Amounts provided to a State under section 451 for a fiscal year shall be increased by an amount equal to the decrease in the amount of revenue that the State received during the previous fiscal year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(B) Determinations.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under subparagraph (A) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

(C) Funding.—Amounts in the Trust Fund shall be made available to carry out this paragraph.

DOMENICI AMENDMENTS NOS. 2510–2511

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2510

At the appropriate place, insert the following:

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) In General.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) Conforming Amendment.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998.

SEC. 2. MODIFICATIONS OF CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) Fixed-Base Percentage.—Subparagraph (A) of section 41(c)(3) of the Internal Revenue Code of 1986 (defining fixed-base percentage) is amended to read as follows:

"(A) In general.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for taxable years beginning in the base period is of the aggregate gross receipts of the taxpayer for such taxable years. For purposes of the preceding sentence, the base period for any taxable year is any period of 4 consecutive taxable years elected by the taxpayer from the 10 immediately preceding taxable years."

(b) Start-Up Companies.—

(1) Fixed-base percentage.—

(A) In general.—Clause (i) of section 41(c)(3)(B) of such Code (relating to start-up companies) is amended to read as follows:

"(i) Taxpayers to which subparagraph applies.—The fixed-base percentage shall be determined under this subparagraph if the taxpayer did not have both gross receipts and qualified research expenses in each of the 10 taxable years described in subparagraph (A)."

(B) Maximum percentage not to apply.—Section 41(c)(3)(C) of such Code (relating to maximum fixed-base percentage) is amended by adding at the end the following: "This subparagraph shall not apply to a taxpayer to which subparagraph (B) applies."

(C) Conforming amendments.—Section 41(c)(3)(B)(ii) of such Code is amended—

(i) by striking "1st 5 taxable years beginning after December 31, 1993" and inserting "1st 5 taxable years in the 10-year period described in subparagraph (A)", and

(ii) by inserting "and" at the end of subclause (V), by striking ", and" at the end of subclause (VI), and by striking subclause (VII).

(2) Repeal of minimum base amount for start-up companies.—Section 41(c)(2) of the Internal Revenue Code of 1986 (relating to minimum base amount) is amended by adding at the end the following: "This paragraph shall not apply to a taxpayer to which paragraph (3)(B) applies."

(c) Repeal of Limitation on Contract Research Expenses.—Section 41(b)(3) of the Internal Revenue Code of 1986 (defining contract research expenses) is amended—

(1) by striking "65 percent of" in subparagraph (A), and

(2) by striking subparagraph (C).

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) Transition rule.—In the case of a taxpayer's 1st 5 taxable years beginning after December 31, 1998, the taxpayer may elect to have section 41 of the Internal Revenue Code of 1986 applied without regard to the amendments made by subsections (a) and (b).

SEC. 3. MODIFICATIONS OF BASIC RESEARCH CREDIT.

(a) Expansion of Credit to Research Done With National Laboratories and Federal Research Centers.—Section 41(e)(6) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) National laboratories and research centers.—Any organization which is—

"(i) a national laboratory specified by the Secretary of Energy as being under contract with the Department of Energy, or

"(ii) a federally funded research and development center (within the meaning of section 2367 of title 10, United States Code)."

(b) Basic Research.—Section 41(e)(7) of the Internal Revenue Code of 1986 (relating

to definitions and special rules) is amended by adding at the end the following new subparagraph:

"(F) Specific commercial objective.—For purposes of subparagraph (A), research shall not be treated as having a specific commercial objective if—

"(i) all results of such research are to be published in such a manner as to be available to the general public prior to their use for a commercial purpose, or

"(ii) such research is done for a consortium of domestic corporations which represent substantially all of the domestic corporations conducting business within the sector to which the research relates."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Amendment No. 2511

On page , after line , insert the following:

SEC. . DEDICATION OF FUNDS TO MEDICARE AFTER FISCAL YEAR 2008.

(a) Expiration of Authority.—Notwithstanding any other provision of this Act, the following shall expire on September 30, 2008:

(1) All authority provided in this Act to obligate and expend funds from the National Tobacco Trust Fund.

(2) All obligations of the Federal Government to make any payment to any person or government under this Act.

(3) All provisions in this Act which result, directly or indirectly, in an increase in direct spending by the Federal Government.

(b) Transfer of Funds.—After September 30, 2008, the following amounts shall be transferred to the Federal Hospital Insurance Trust Fund (part A):

(1) The net revenues resulting from—

(A) amounts paid under section 402;

(B) amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon; and

(C) amounts equal to penalties paid under section 202, including interest thereon.

(2) The unobligated balances in the National Tobacco Trust Fund.

ROTH AMENDMENTS NOS. 2512–2515

(Ordered to lie on the table.)

Mr. ROTH submitted four amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2512

Beginning on page 161, strike line 16 and all that follows through page 162, line 2.

On page 162, after line 23, add the following:

(b) Elimination of Limitation On Medicaid Coverage of Smoking Cessation Agents.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively.

On page 192, beginning with line 15, strike "Such" and all that follows through the period on line 19.

On page 193, strike lines 7 through 25 and insert the following:

(3) Distribution formula.—

(A) In general.—Except as provided in paragraph (5), amounts in the State Litigation Settlement Account shall be available, without further appropriations, to make payments to each State in the amount determined under subparagraph (B). The Secretary shall transfer amounts available under this subsection to each State as amounts are credited to the State Litigation Settlement Account without undue delay.

(B) Amount.—Except as provided in paragraph (4), the amount of any payment to a State under subparagraph (A) for any calendar year shall be equal to the percentage of the amounts transferred to the State Litigation Settlement Account for such calendar year determined in accordance with the following table:

"States:	Percentage:
Alabama	1.231000
Alaska	0.400000
American Samoa	0.007850
Arizona	1.701000
Arkansas	0.949000
California	8.653000
Colorado	0.985000
Connecticut	1.541000
Delaware	0.400000
District of Columbia	0.472000
Florida	4.745000
Georgia	2.722000
Guam	0.005704
Hawaii	0.800000
Idaho	0.400000
Illinois	3.911000
Indiana	1.483000
Iowa	0.928000
Kansas	0.800000
Kentucky	1.656000
Louisiana	1.715000
Maine	0.800000
Maryland	1.418000
Massachusetts	3.783000
Michigan	3.569000
Minnesota	1.240000
Mississippi	1.693000
Missouri	1.693000
Montana	0.400000
Nebraska	0.400000
Nevada	0.400000
New Hampshire	0.400000
New Jersey	3.737000
New Mexico	0.800000
New York	12.751000
North Carolina	1.967000
North Dakota	0.400000
Northern Mariana Islands	0.001270
Ohio	4.185000
Oklahoma	0.800000
Oregon	1.346000
Pennsylvania	4.400000
Puerto Rico	0.416015
Rhode Island	0.800000
South Carolina	1.085000
South Dakota	0.400000
Tennessee	2.837000
Texas	5.901000
United States Virgin Islands	0.004413
Utah	0.400000
Vermont	0.400000
Virginia	1.342000
Washington	1.718000
West Virginia	0.778000
Wisconsin	1.832000
Wyoming	0.400000.

(C) Application of medicaid cost recovery rules.—Subject to section 1903(d)(7) of the Social Security Act, a State may use amounts received under this paragraph as the State determines appropriate.

(4) Minimum payments to settlement states.—

(A) In general.—In the case of the State of Florida, Minnesota, Mississippi, or Texas, the payment under paragraph (3)(A) for any calendar year shall be equal to the greater of—

(i) the amount of the payment determined under paragraph (3)(B), or

(ii) the aggregate payments which, but for paragraph (5), would have been received by such State for such calendar year under the settlement, judgment, or other agreement with respect to which payments were waived under paragraph (5).

(B) Reallocation of amounts for other states.—If the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i) for 1 or more States for any calendar year, the amount of the payments under paragraph (3)(A) to all States to which subparagraph (A) does not apply shall be ratably reduced by the aggregate amount of such excess for all 4 States.

(5) Waiver of payments from state litigation.—

(A) In general.—No payment shall be made from the State Litigation Settlement Account to any State unless such State agrees to waive its rights to receive funds after the date of the enactment of this Act under any settlement, entry of a court judgment, or other agreement, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco-related diseases or conditions.

(B) Redistribution of waived payments.—If a waiver is not in effect under this paragraph with respect to a State for a calendar year, any payments out of the State Litigation Settlement Account which would otherwise have been made to such State shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

(C) Waiver.—Any waiver under subparagraph (A) shall be made before the date which is 1 year after the date of the enactment of this section and, once made, is irrevocable.

(6) Budgetary treatment.—This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States in accordance with the provisions described in paragraph (3).

(7) Definition of State.—In this subsection, the term "State" means each of the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands.

(8) Application of medicaid cost recovery rules.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(7)(A) Except as provided under subparagraph (B), the provisions of this subsection relating to the treatment of overpayments, and any other cost recovery rules applicable to payments made under this title, shall apply to the portion of any of the following amounts that is used for expenditures under or related to the State plan (or a waiver of such plan) under this title:

"(i) Payments from the State Litigation Settlement Account established under section 9512(d) of the Internal Revenue Code of 1986.

"(ii) Payments received as a result of litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers based on expenditures of the State for tobacco-related diseases or conditions that is resolved through a settlement, entry of a court judgment, or otherwise.

"(B) Upon receipt of certification by the chief executive officer of a State that the State shall not use payments described in clauses (i) or (ii) of subparagraph (A) for expenditures under or related to the State plan (or a waiver of such plan) under this title, the Secretary shall waive the application of the provisions of this subsection relating to the treatment of overpayments, and any other cost recovery rules applicable to payments made under this title, to such payments."

Beginning on page 200, strike line 1 and all that follows through page 206, line 19.

Amendment No. 2513

Beginning on page 203, strike line 21 and all that follows through page 206, line 15, and insert the following:

(f) Increase in Limitation on Expenditures under Children's Health Insurance Program.—Section 2105(c)(2)(A) of the Social Security Act (42 U.S.C. 1397ee(c)(2)(A)) is amended by striking "10" and inserting "15".

Amendment No. 2514

On page 210, between lines 18 and 19, insert the following:

SEC. 456. REPEAL.

(a) Repeal.—Section 8401 of the Transportation Equity Act for the 21st Century is repealed.

(b) Effective Date.—The repeal made by subsection (a) shall take effect as if included in the enactment of the Transportation Equity Act for the 21st Century.

(c) Offset.—The amount in the Trust Fund established under section 401 that is in excess of the amount that is required to offset the direct spending in this Act shall be reduced by an amount equal to the amount necessary to fund the increase in the amounts specified for allocation under section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) as a result of the repeal made by subsection (a).

Amendment No. 2415

On page 210, between lines 18 and 19, insert the following:

SEC. 456. AUTHORITY FOR STATE INNOVATION UNDER THE MEDICAID PROGRAM.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by adding at the end the following:

"(aa)(1) Notwithstanding any other provision of this title, a State may, subject to paragraph (2), contract with 1 or more private entities to administer and integrate the procedures for determining eligibility for medical assistance (including presumptive eligibility for such assistance, in the case of pregnant women and children, in accordance with sections 1920 and 1920A) under the State plan (or a waiver of such plan).

"(2) A contract entered into under the authority of paragraph (1) shall provide that appeals of eligibility determinations shall be heard and decided in accordance with the requirements of the State plan (or a waiver of such plan) and this title.".

ROTH (AND OTHERS) AMENDMENT NO. 2516

(Ordered to lie on the table.)

Mr. ROTH (for himself, Mrs. Boxer, Mr. Grassley, Mr. Domenici, Mr. Nickles, Mr. Graham, Mr. Coats, Mr. Bond, Mr. Allard, and Mr. Abraham) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the appropriate place, insert:

SEC. ___. DEDUCTION FOR HEALTH INSURANCE COSTS FOR INDIVIDUALS NOT ELIGIBLE TO PARTICIPATE IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. HEALTH INSURANCE COSTS.

"(a) In General.—In the case of an individual, there shall be allowed as a deduction an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(b) Limitations.—

"(1) Other coverage.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer (or former employer) of the taxpayer or of the spouse of the taxpayer. The preceding sentence shall be applied separately with respect to—

"(A) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

"(B) plans which do not include such coverage and are not such contracts.

"(2) Long-term care premiums.—In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under subsection (a).

"(3) Medicare premiums.—Subsection (a) shall not apply to amounts paid as premiums under part B of title XVIII of the Social Security Act.

"(c) Special Rules.—For purposes of this section—

"(1) Coordination with medical deduction, etc.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

"(2) Deduction not allowed for self-employment tax purposes.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

"(3) Continuation coverage.—Coverage shall not be treated as subsidized for purposes of subsection (b)(1) if—

"(A) such coverage is continuation coverage (within the meaning of section 4980B(f)) required to be provided by the employer, and

"(B) the taxpayer or the taxpayer's spouse is required to pay a premium for such coverage in an amount not less than 100 percent of the applicable premium (within the meaning of section 4980B(f)(4)) for the period of such coverage."

(b) Conforming Amendments.—

(1) Subsection (l) of section 162 of such Code is hereby repealed.

(2) Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new paragraph:

"(18) Health insurance costs of certain individuals.—The deduction allowed by section 222."

(3) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 222. Health insurance costs.

"Sec. 223. Cross reference."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

LANDRIEU AMENDMENTS NOS. 2517–2520

(Ordered to lie on the table.)

Ms. LANDRIEU submitted four amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

Amendment No. 2517

On page 182, strike lines 11 through 23, and insert the following:

(b) Annual Payments.—Each calender year beginning after the required payment date under subsection (a)(3) the participating tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403.

(1) For year 1, an amount equal to the product of $0.65 and the total number of units of tobacco products that were sold in the United States in the previous year.

(2) For year 2, an amount equal to the product of $1.25 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, and each subsequent year, an amount equal to the amount paid in the prior year adjusted in accordance with section 403.

Amendment No. 2518

On page 141, between lines 12 and 13, insert the following:

"(f) Tobacco Illness Assistance Program.—The Secretary shall establish a program to provide assistance and compensation to individuals (and entities providing services to such individuals) suffering from tobacco-related illnesses and conditions. Under such program the Secretary shall ensure that assistance is targeted at individuals who are determined to be uninsured or underinsured and who can demonstrate financial hardship.

Amendment No. 2519

On page 193, line 16, add at the end the following: "Such formula shall take into account factors that include—

"(1) the number of smokers in each State;

"(2) the number of cases of cancer in each State;

"(3) the per capita income in each State; and

"(4) the number of teen smokers in each State.".

Amendment No. 2520

On page 199, after line 23, add the following:

(f) Federal Employees Child Care Account.—

(1) In general.—There is established within the trust fund a separate account, to be known as the Federal Employees Child Care Account. Of the net revenue credited to the trust fund under section 401(b)(1) in each fiscal year, $10,000,000 shall be allocated to this account.

(2) Use of funds.—Amounts in the account under paragraph (1) shall be made available to the Director of the Office of Personnel Management for the purpose of ensuring the availability of affordable child care for Federal employees. Such funds shall be provided to such individuals on the basis of a sliding scale to be developed by the Director taking into consideration total family income and the Federal pay scales.

(3) Authorization of appropriations.—Amounts allocated to the account under

paragraph (1) shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the purpose described in paragraph (2).

DURBIN (AND DEWINE) AMENDMENT NO. 2521

(Ordered to lie on the table.)

Mr. DURBIN (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

In title II, strike subtitle A and insert the following:

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(f) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(g) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASUPES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the term "manufacturer's share of youth incidence" means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(h) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term "children" means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term "existing manufacturer" means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term "new manufacturer" means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term "non-attainment percentage" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

DURBIN AMENDMENTS NOS. 2522–2524

(Ordered to lie on the table.)

Mr. DURBIN submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2522

In section 1404(a)(1)(B), strike "on mass transit vehicles" and insert "on or in mass transit vehicles and systems".

AMENDMENT NO. 2523

In the amendment made by section 221, insert after the part heading the following:

"SEC. 1980. DEFINITION.

"In this part and part E, the term 'tobacco product' has the meaning given such term in section 201(kk) of the Federal Food, Drug and Cosmetic Act, and shall include cigars, smokeless tobacco, and cigarettes.

AMENDMENT NO. 2524

At the appropriate place, insert the following:

SEC. . CONGRESSIONAL ACCOUNTABILITY.

(a) APPLICATION OF LAWS.—Section 102 of the Congressional Accountability Act of 1995 (2 U.S.C. 1302) is amended by adding at the end the following:

"(12) Section 502 of the National Tobacco Policy and Youth Smoking Reduction Act.".

(b) PROCEDURES.—Title II of the Congressional Accountability Act of 1995 (2 U.S.C. 1311 et seq.) is amended—

(1) by redesignating parts E and F as parts F and G, respectively; and

(2) by inserting after part D the following:

"PART E—TOBACCO SMOKE EXPOSURE REDUCTION REQUIREMENTS

"SEC. 222. RIGHTS AND PROTECTIONS UNDER THE NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT.

"(a) REDUCTION OF EXPOSURE.—

"(1) RIGHTS AND PROTECTIONS.—Each responsible entity shall comply with section 502 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(2) DEFINITION.—For the purpose of this section and the application of such section 502 under this section—

"(A) the term 'public facility' means a building owned by or leased to an entity of the legislative branch of the Federal Government, that is not a building or portion excluded under section 501(2)(B) of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(B) the term 'responsible entity' means an employing office, the General Accounting Office, the Government Printing Office, the Library of Congress, and any other entity of the legislative branch.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such order enjoining the violation or such civil penalty as would be appropriate if issued under subsection (b) or (e) of section 503 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(c) PROCEDURES.—

"(1) HEARINGS AND REVIEW.—After providing notice as described in section 503(c) of the National Tobacco Policy and Youth Smoking Reduction Act, an aggrieved person may file a complaint alleging a violation of subsection (a) with the Office against the responsible entity. The complaint shall be submitted to a hearing officer for decision pursuant to subsection (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

"(2) JUDICIAL REVIEW.—A party aggrieved by a final decision of the Board under paragraph (1) may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

"(d) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the office responsible for correction of a particular violation.

"(e) EFFECTIVE DATE.—Subsections (a) through (c) shall be effective on January 1, 1999.".

(c) CONFORMING AMENDMENTS.—

(1) The table of contents of the Congressional Accountability Act of 1995 is amended by striking the items relating to parts E and F of title II of such Act and inserting the following:

PART E—TOBACCO SMOKE EXPOSURE REDUCTION REQUIREMENTS

Sec. 222. Rights and protections under the National Tobacco Policy and Youth Smoking Reduction Act.

PART F—GENERAL

Sec. 225. Generally applicable remedies and limitations.

PART G—STUDY

Sec. 230. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress.

(2) Section 407(a)(1)(C) of the Congressional Accountability Act of 1995 (2 U.S.C. 1407(a)(1)(C)) is amended by inserting before the comma the following: ", or a party aggrieved by a final decision of the Board under section 222(c)".

(3) Section 414 of such Act (2 U.S.C. 1414) is amended by inserting "222," after "220,".

(4) Section 415(c) of such Act (2 U.S.C. 1415(c)) is amended—

(A) in the subsection heading, by striking "AND ACCESS" and inserting "ACCESS, AND TOBACCO SMOKE EXPOSURE REDUCTION"; and

(B) by striking "or 215" and inserting "215, or 222".

BINGAMAN AMENDMENT NO. 2525

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the end of section 451, add the following:

(f) VETERANS COMPENSATION ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Veterans Compensation Account. Of the net revenues credited to the trust fund under section 401(b)(1), $10,000,000,000 shall be allocated to this account over the 5-fiscal year period beginning on the date of enactment of this Act.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Veterans Compensation Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide disability payments to former military personnel who became addicted to tobacco while on active duty and who have sustained a disability for tobacco-related illnesses.

MURRAY AMENDMENT NO. 2526

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill, S. 1415, supra; as follows:

At the end of section 501(2), add the following:

(D) CHILD CARE PROVIDERS.—The term "public facility" includes any residence or facility at which a licensed or certified child care provider provides child care services, regardless of whether the residence or facility serves 10 or more individuals each day.

CONRAD AMENDMENTS NOS. 2527–2529

(Ordered to lie on the table.)

Mr. CONRAD submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2527

On page 124, line 8, strike "5" and insert "50".

AMENDMENT NO. 2528

On page 125, strike lines 4 through 8, and insert the following:

"an amount equal to 40 percent of the amount determined under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33) for the State for the fiscal year from the amounts otherwise payable under this Act.".

AMENDMENT NO. 2529

On page 195, between lines 17 and 18, insert the following flush sentence:

"Not less than $500,000,000 of the amounts made available under this subparagraph shall be used each year to carry out counter-advertising activities under clause (i).".

KERREY AMENDMENT NO. 2530

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Strike title XV and insert the following:

TITLE XV—TOBACCO TRANSITION

SEC. 1501. DEFINITIONS.

In this title:

(1) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(2) LEASE.—The term "lease" means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(3) OWNER.—The term "owner" means a person that, on the date of enactment of this Act, owns quota provided by the Secretary.

(4) PRODUCER.—The term "producer" means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota or farmland;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(5) QUOTA.—The term "quota" means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) TOBACCO.—The term "tobacco" means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

Subtitle A—Payments for Lost Value of Tobacco Crops

SEC. 1511. PAYMENTS FOR LOST VALUE OF TOBACCO CROPS.

(a) IN GENERAL.—For each of fiscal years 1999 through 2005, the Secretary shall make payments for the lost value of tobacco crops to owners and producers from funds made available from the National Tobacco Trust Fund established by section 401.

(b) AMOUNT.—

(1) OWNERS.—The amount of the payment made to an owner for a fiscal year under this section shall equal 30 percent of the value of the tobacco produced under a tobacco farm marketing quota or farm acreage allotment established owned by the owner under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

(2) PRODUCERS.—The amount of the payment made to a producer for a fiscal year under this section shall equal 15 percent of the value of the tobacco produced by the producer under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

Subtitle B—Rural Economic Assistance Block Grants

SEC. 1521. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds made available from the National Tobacco Trust Fund established by section 401, the Secretary shall use $200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on, as determined by the Secretary—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2003.

Subtitle C—Tobacco Price Support and Production Adjustment Programs

SEC. 1531. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking ", except tobacco,"; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the poration Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) TOBACCO STOCKS AND LOANS.—The Secretary shall issue regulations that require—

(A) the orderly disposition of tobacco stocks; and

(B) the repayment of all tobacco price support loans by not later than 1 year after the effective date of this section.

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

SEC. 1532. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (7), by striking the following:

"tobacco (flue-cured), July 1—June 30;

"tobacco (other than flue-cured), October 1–September 30;";

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking "and tobacco";

(6) in paragraph (12), by striking "tobacco,";

(7) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(d) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(f) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(2) in the first sentence of subsection (b), by striking "peanuts or tobacco" and inserting "or peanuts".

(g) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking "peanuts, or tobacco" each place it appears in subsections (a) and (b) and inserting "or peanuts"; and

(2) in subsection (a)—

(A) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(B) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(h) Regulations.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking "peanuts, or tobacco" and inserting "or peanuts".

(i) Eminent Domain.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking "cotton, tobacco, and peanuts" and inserting "cotton and peanuts"; and

(2) by striking subsections (d), (e), and (f).

(j) Burley Tobacco Farm Reconstitution.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(2) by striking subsections (b) and (c).

(k) Acreage-Poundage Quotas.—Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (Public Law 89-12; 7 U.S.C. 1314c note), is repealed.

(l) Burley Tobacco Acreage Allotments.—The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) Transfer of Allotments.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) Advance Recourse Loans.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c-1(a)(2)(B)) is amended by striking "tobacco and".

(o) Tobacco Field Measurement.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended by striking subsection (c).

(p) Liability.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) Crops.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle D—Miscellaneous

SEC. 1541. TOBACCO PRODUCERS MARKETING CORPORATION.

(a) Establishment.—There is established a corporation to be known as the "Tobacco Producers Marketing Corporation", which shall be a federally chartered instrumentality of the United States.

(b) Duties.—The Corporation negotiate with buyers of tobacco produced in the United States on behalf of producers of the tobacco that elect to be represented by the Corporation (referred to in this section as "participating producers").

(c) Board of Directors.—

(1) In general.—The powers of the Corporation shall be vested in a Board of Directors.

(2) Members.—The Board of Directors shall composed of members elected by participating producers.

(3) Membership qualifications.—A member of the Board shall not hold any Federal, State, or local elected office or be a Federal officer or employee.

(4) Chairpersons.—The chairperson of the Board shall be elected by members of the Board.

(5) Executive director.—

(A) Appointment.—The Board shall appoint an Executive Director.

(B) Duties.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Board.

(C) Compensation.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(6) Officers.—The Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this section.

(7) Meetings.—

(A) In general.—The Board shall meet at least 3 times each fiscal year at the call of a Chairperson or at the request of the Executive Director.

(B) Location.—The location of a meeting shall be subject to approval of the Executive Director.

(C) Quorum.—A quorum of the Board shall consist of a majority of the members.

(8) Term; vacancies.—

(A) Term.—The term of office of a member of the Board elected under paragraph (2) shall be 4 years.

(B) Vacancies.—A vacancy on the Board shall be filled in the same manner as the original appointment was made.

(9) Compensation.—

(A) In general.—A member of the Board shall receive, for each day (including travel time) that the member is engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Expenses.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(10) Conflict of interest; financial disclosure.—

(A) Conflict of interest.—Except as provided in subparagraph (C), a member of the Board shall not vote on any matter concerning any application, contract, or claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner of the member, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with which the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(B) Violations.—Violation of subparagraph (A) by a member of the Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(C) Exceptions.—

(i) In general.—Except as provided in clause (ii), the prohibitions contained in subparagraph (A) shall not apply if—

(I) a member of the Board advises the Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation; and

(II) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter.

(ii) Vote.—The member involved shall not vote on the determination under clause (i)(II).

(D) Financial disclosure.—A Board member shall be subject to the financial disclosure requirements of subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

(11) Bylaws.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation.

(12) Personnel.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(d) General Powers.—In addition to any other powers granted to the Corporation under this section, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

(B) exclusive original jurisdiction shall reside in the district courts of the United States, and the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Board considers necessary or desirable;

(8) may indemnify officers of the Corporation, as the Board considers necessary and desirable, except that the officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this section, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this title and the powers, purposes, functions, duties, and authorized activities of the Corporation.

SEC. 1542. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this title, from amounts made available to carry out this title, the Secretary shall use $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

SEC. 1543. SAVINGS.

Except as provided in section 1542, any savings derived as a result of this title shall be used for tobacco use prevention and cessation initiatives.

BOND AMENDMENTS NOS. 2531–2532

(Ordered to lie on the table.)

Mr. BOND submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2531

(1) Title II, Subtitle B add the following:

SEC. 231. (B)(2)(D)(ii)(III) Strike the section in its entirety and add the following: "A system of graduated sanctions for underage youths who possess, purchase or attempt to purchase tobacco products, the sanction for the first offense shall be no less than a requirement of community service and the sanction for the second offense shall be no less than a requirement of community service or a fine."

(2) SEC. 232. Add the following:

SEC. 232(b)(3) have a law that provides for a system of graduated sanctions for underage youths who possess, purchase or attempt to purchase tobacco products, the sanction for the first offense shall be no less than a requirement of community service and the sanction for the second offense shall be no less than a requirement of community service or a fine."

(3) Title II, Subtitle C, SEC. 261 add the following:

SEC. 1981A(4) A state receiving or expending, or if any of the state's agencies receives or expends, under this subtitle funds from the Tobacco Settlement Trust Fund, that state shall establish to the Secretary that it has laws or regulations that include such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase or attempt to purchase tobacco products.

AMENDMENT NO. 2532

Title II, Subtitle B, SEC. 231. State Retail Licensing and Enforcement Block Grants. Add the following:

SEC. 231(a) After "to carry out the provisions of this section." add the following: $100,000,000 of the annual appropriation shall be used for block grants to state and local law enforcement agencies to assist in providing the resources necessary for law enforcement to enforce sanctions on underage youths who possess, purchase or attempt to purchase tobacco products and enforce the remaining provisions of this title.

SHELBY AMENDMENTS NOS. 2533–2534

(Ordered to lie on the table.)

Mr. SHELBY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2533

On page 441, line 5, insert before the period the following: ", including the success of the claimant in prior related litigation that contributed materially and directly to the result obtained".

AMENDMENT NO. 2534

On page 440, line 25, insert before the period the following: ", both in the litigation in which the award is sought, and to the extent, if any, that the result of such litigation has the effect of making available documentary evidence that materially and directly contributes to a successful result in other pending or subsequent litigation involving the same or similar issues involving different litigants".

HATCH AMENDMENTS NOS. 2535–2539

(Ordered to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2535

On page 58, strike lines 8 through 23, and insert the following:

"(3) PROCEDURE FOR GENERAL PROHIBITION OF TOBACCO PRODUCTS AND ELIMINATION OF NICOTINE.—

"(A) NONDELEGATION.—The Secretary may not delegate the authority provided under this section to promulgate a regulation that results in a general prohibition of cigarettes or smokeless tobacco or the reduction of nicotine yields of a tobacco product to zero.

"(B) CONGRESSIONAL REVIEW.—In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule of the Secretary establishing, amending, or revoking a tobacco product health risk reduction standard, except that with respect to a standard that results in a general prohibition of cigarettes or smokeless tobacco or the reduction of nicotine yields of a tobacco product to zero, such standard shall only take effect following the date of enactment of a joint resolution of approval of such standard. The provisions of section 802 of title 5, United States Code, relating to certain disapproval resolutions shall apply to the consideration of any joint resolution of approval under this subsection.

AMENDMENT NO. 2536

On page 28, between lines 2 and 3, insert the following:

"(d) APPLICATION OF FDA RULE.—The provisions of the final regulations promulgated by the Secretary in the rule dated August 28, 1996 (61 Fed. Reg. 44615-18) shall be given effect as follows:

"(1)(A) The regulations codified in sections 897.1, 897.2, 897.3, 897.10, 897.12, 897.14, and 897.16(b) through (d) of title 21, Code of Federal Regulations, shall be deemed to have been promulgated by the Secretary pursuant to chapter IX of the Federal Food, Drug and Cosmetic Act (as added by section 103 of this Act).

"(B) The Secretary shall promulgate a regulation under section 701(a) of the Federal Food, Drug and Cosmetic Act to—

"(i) transfer the regulations referred to in subparagraph (A) to the appropriate part of the Code of Federal Regulations; and

"(ii) make such other amendments to such regulations if the Secretary determines that such amendments are necessary to conform such regulations to the provisions of this Act.

"(2) Any portion or provision of the final regulations not specifically referred to in paragraph (1) shall be considered null and void.

AMENDMENT NO. 2537

Beginning on page 67, strike line 4 and all that follows through line 6 on page 79.

AMENDMENT NO. 2538

Beginning on page 42, strike line 10 and all that follows through line 20 on page 43.

AMENDMENT NO. 2539

On page 52, strike lines 3 through 16, and insert the following:

"(a) PERFORMANCE STANDARDS.—

"(1) ADOPTION.—

"(A) IN GENERAL.—Within 24 months after the date of enactment of this chapter, the Secretary, in accordance with the regulatory policies and principles set forth in Executive Order No. 12866 (including the policies and principles set forth in the January 11, 1996 Office of Management and Budget guidance document entitled, 'Economic Analysis of Federal Regulations Under Executive Order 12866'), shall adopt performance standards for tobacco products that maximize the net benefits to the public health.

"(B) OBJECTIVE.—Performance standards under subparagraph (A) shall have as their major objective reducing the overall health risks to the public. Such performance standards shall take into account—

"(i) the increased or decreased likelihood that existing consumers of tobacco products will stop using such products;

"(ii) the increased or decreased risk of likelihood that existing users of tobacco products will reduce their use of such products; and

"(iii) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(C) CONSIDERATIONS.—In establishing performance standards under subparagraph (A), the Secretary shall identify, make available for public comment, and consider relevant factors including the following:

"(i) Whether the proposed standard will result in a reduction in the health risks associated with the use of the tobacco product, constituent, or component.

"(ii) Whether the proposed standards will result in a significant increase in the number of individuals seeking tobacco product cessation or withdrawal treatments, including an assessment of the effectiveness, availability, and accessibility of such treatments.

"(iii) Whether the proposed standard will result in any possible countervailing effects on the health of adolescent tobacco users, adult tobacco users, or nontobacco users, such as the creation of a significant demand for, and supply of, contraband tobacco products specifically including increased consumption of tobacco products that do not meet the requirements of this chapter.

"(iv) Whether the proposed standard is technologically feasible for commercial manufacturing.

"(v) Whether the proposed standard is likely to be accepted by and affordable to adult consumers of tobacco products.

Nothing in this subparagraph shall be construed as requiring the Secretary to make a finding on each of the individual considerations described in this subparagraph. The issuance of performance standards requires the balancing of many considerations and other factors and performance standards shall not be invalidated solely on the basis of the Secretary's evaluation of any of the individual considerations described in this subparagraph.

"(2) TECHNICAL PROVISION.—In implementing this Act, any reference to 'appropriate for the protection of public health' in this section, and sections 906(d)(1) and 910, shall be deemed to be a reference to 'maximize the net benefits to the public health'.

DODD AMENDMENT NO. 2540

(Ordered to lie on the table.)

At the end of section 452, add the following:

(   ) ASSISTANCE FOR CHILDREN.—A State shall use not less than $1,250,000,000 of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

KERRY (AND OTHERS) AMENDMENT NO. 2541

(Ordered to lie on the table.)

Mr. KERRY (for himself, Mr. BOND, Mr. CHAFEE, Mr. CAMPBELL, Mr. KENNEDY, Mr. DODD, Mr. WELLSTONE, Mr. JOHNSON, Mrs. BOXER, Mr. SPECTER, Ms. LANDRIEU, Mr. DURBIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the End of Section 452, add the following:

(   ) ASSISTANCE FOR CHILDREN.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

JEFFORDS (AND BINGAMAN) AMENDMENT NO. 2542

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 159, line 8, strike "such sums as may be necessary" and all that follows through line 11, and insert "not less than 5 percent of such funds in fiscal year 1999, 10 percent of such funds in fiscal year 2000, 15 percent of such funds in fiscal year 2001, and 20 percent of such funds in fiscal year 2002 and each subsequent fiscal year, shall be used to expand existing support for epidemiological, behavioral, psychopharmacological, psychobiological, psychophysiological, health services and social science research related to the prevention and treatment of tobacco addiction. Research described in this paragraph shall include research on the effect of nicotine on the brain and behavior.".

On page 159, line 13, strike "may" and insert "shall".

On page 160, line 18, strike "may" and insert "shall".

On page 161, between lines 15 and 16, insert the following:

"(h) RESEARCH AND COLLABORATION.—The Director may conduct and support neurobiological, biomedical, biochemical, or other biological research related to tobacco addiction, and shall encourage collaboration between such research and research conducted under subsection (c), except that research described in this subsection shall not be included in determining whether the requirement of subsection (c) has been satisfied with respect to a fiscal year.".

JEFFORDS AMENDMENT NO. 2543

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 194, line 8, add after the period the following: "Each agency authorized to receive funds under this subsection shall consult with the committees of the House or Representatives and the Senate with jurisdiction over each such agency to establish, consistent with the Government Performance and Responsibility Act of 1993—

"(A) goals and performance measures for activities under this Act within the jurisdiction of each such agency; and

"(B) annual financial accountings of the allocation and expenditure of funds appropriated to each such agency as authorized under this subsection.".

On page 194, line 10, add after "be" the following: "authorized to be appropriated for each of the fiscal years 1999 through 2008, and such authorization shall expire after such period. Such amounts shall be".

On page 197, line 8, add after the period the following: "Each agency authorized to receive funds under this subsection shall consult with the committees of the House or Representatives and the Senate with jurisdiction over each such agency to establish, consistent with the Government Performance and Responsibility Act of 1993—

"(A) goals and performance measures for activities under this Act within the jurisdiction of each such agency; and

"(B) annual financial accountings of the allocation and expenditure of funds appropriated to each such agency as authorized under this subsection.".

On page 197, line 11, add after "be" the following: "authorized to be appropriated for each of the fiscal years 1999 through 2008, and such authorization shall expire after such period. Such amounts shall be".

ASHCROFT AMENDMENTS NOS. 2544–2553

(Ordered to lie on the table.)

Mr. ASHCROFT submitted 10 amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2544

In section 452, beginning on page 200, strike line 8 and all after, through page 202, line 14.

AMENDMENT NO. 2545

Strike lines 7–11, page 161.

AMENDMENT NO. 2546

Strike lines 1–5, page 154.

AMENDMENT NO. 2547

Strike lines 14–20, page 196.

AMENDMENT NO. 2548

Strike section 1107.

AMENDMENT NO. 2549

Strike section 1104.

AMENDMENT NO. 2550

Strike section 405.

AMENDMENT NO. 2551

On page 180, line 10, after the period add the following: "Amounts credited to the Trust fund under subsection (b) may be used to fund anti-illegal drug programs in States and other programs that target illegal drugs.".

AMENDMENT NO. 2552

At the appropriate place, insert the following:

SEC.   . METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(viii)—

(A) by striking "100 grams" and inserting "50 grams"; and

(B) by striking "1 kilogram" and inserting "500 grams"; and

(2) in subparagraph (B)(viii)—

(A) by striking "10 grams" and inserting "5 grams"; and

(B) by striking "100 grams" and inserting "50 grams".

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(H)—

(A) by striking "100 grams" and inserting "50 grams"; and

(B) by striking "1 kilogram" and inserting "500 grams"; and

(2) in paragraph (2)(H)—

(A) by striking "10 grams" and inserting "5 grams"; and

(B) by striking "100 grams" and inserting "50 grams".

AMENDMENT NO. 2553

On page   , strike lines   through   , and insert the following:

SEC.   . MODIFICATION OF SYNAR AMENDMENT.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) is amended—

(1) in subsection (a)(1), to read as follows:

"(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1999 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for—

"(A) any manufacturer, retailer, or distributor of tobacco products, or for any individual to sell or distribute any such product to any individual under the age of 18; and

"(B) any individual under the age of 18 to purchase or possess any such product."; and

(2) in subsection (b)(1), by adding at the end the following: "In enforcing such law the State shall ensure that penalties for violations of such law are at least as stringent as penalties applied for the illegal distribution or possession of alcohol to or by minors.".

SEC. ____. INCREASED PENALTIES FOR DRUG OFFENSES INVOLVING MINORS.

(a) Increased Penalties for Distributing Drugs to Minors.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking "one year" and inserting "10 years"; and

(2) in subsection (b), by striking "one year" and inserting "20 years".

(b) Increased Penalty for Drug Trafficking in or Near a School or Other Protected Location.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "10 years"; and

(2) in subsection (b), by striking "three years" each place that term appears and inserting "20 years".

(c) Increased Penalties for Using Minors To Distribute Drugs.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking "one year" and inserting "10 years"; and

(2) in subsection (c), by striking "one year" and inserting "20 years".

SEC. . DISTRICT OF COLUMBIA.

(a) Increased Penalties for Sale to Minors.—Section 1120 of title 22 of the District of Columbia Code is amended by striking subsection (d) and inserting the following:

"(d)(1) Upon finding that a licensee has violated subsection (a) or (b) of this section, the Mayor shall—

"(A) on the first violation, fine the licensee not less than $1,000 and not more than $2,000, or suspend the license for 10 consecutive days;

"(B) on the second violation, fine the licensee not less than $2,000 and not more than $4,000 and suspend the license for 20 consecutive days; and

"(C) on the third violation and each subsequent violation, fine the licensee not less than $4,000 and not more than $10,000 and suspend the license for 30 consecutive days, or revoke the license.

"(2) In the event of revocation or suspension of the license pursuant to this subsection the Mayor shall post a notice in a conspicuous place on the exterior of the premises stating the reason for the revocation or suspension. The notice shall remain posted through the prescribed dates. The licensee shall immediately notify the Mayor if the notice is removed or defaced. Failure of the licensee to notify the Mayor may result in the extension of the prescribed period of revocation or suspension.".

(b) Penalties for Purchase by Minors.—Section 1120 of title 22 of the District of Columbia Code is amended—

(1) in the caption, by inserting "or purchase of tobacco by" after "to"; and

(2) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2)(A) No person who is under 18 years of age shall possess or purchase any cigarette or other tobacco product.

"(B)(i) Any person under 21 years of age who falsely represents his or her age for the purpose of procuring a cigarette or other tobacco product shall be deemed guilty of a misdemeanor and be fined not more than $300 for each offense, and in default in the payment of the fine shall be imprisoned for not longer than 30 days.

"(ii) A civil fine may be imposed as an alternative sanction for any infraction of this subsection, or any rules or regulations issued under the authority of this subsection, pursuant to sections 6–2701 to 6–2723 ("Civil Infractions Act"). Adjudication of any infraction of this section shall be pursuant to sections 6–2701 to 6–2723.

"(C) In addition to the penalties provided in subparagraph (B), any person who violates any provision of this subsection shall be subject to the following additional penalties:

"(i) Upon the first violation, shall have his or her driving privileges in the District suspended for a period of 90 consecutive days.

"(ii) Upon the second violation, shall have his or her driving privileges in the District suspended for a period of 180 days.

"(iii) Upon the third violation and each subsequent violation, shall have his or her driving privileges in the District suspended for a period of 1 year.".

McCAIN AMENDMENT NO. 2554

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 106, strike lines 7 through 11, and insert the following:

(3) Survey methodology scope of review.—A survey using the methodology required by this subsection shall be subject to judicial review only by the United States Court of Appeals for the District of Columbia Circuit, based on the standard set forth in section 706(2)(A) of title 5, United States Code.

On page 188, line 4, strike "**ADJUSTMENTS.**" and insert "**ADJUSTMENTS; LIMITATIONS.**".

On page 188, line 5, strike "The" and insert "(a) In General.—The".

On page 188, strike line 8.

On page 188, move the matter appearing in lines 9 through 22 2 ems to the left.

On page 188, line 9, strike "(A) In general.—Beginning" and insert "(1) Adjustment.—Beginning".

On page 188, beginning in line 15, strike "CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2)." and insert "CPI.".

On page 188, line 18, strike "(B)" and insert "(2)".

On page 188, beginning in line 18, strike "subparagraph (A)," and insert "paragraph (1),".

On page 188, beginning with line 23, strike through line 16 on page 189 and insert the following:

(b) Limitation Based on Annual Increase in Price-per-pack.—Notwithstanding the amount set forth in paragraph (1), (2), (3), (4) or (5) of section 402(b) and the amount determined under paragraph (6) of that section, the amount of the payment required under section 402(b) for any calendar year from cigarette manufacturers shall not exceed an amount which, when divided by the number of packs of cigarettes sold during the calendar year, will be equal to—

(1) 65 cents in year 1;
(2) 70 cents in year 2;
(3) 80 cents in year 3;
(4) $1.00 in year 4; or
(5) $1.10 in year 5 and thereafter.

(c) Price-per-pack Limitation Applies to Smokeless Tobacco Products.—Under regulations prescribed by the Secretary, the price-per-pack limitation set forth in subsection (b) shall be applied to units of smokeless tobacco at equivalent per-unit prices, taking into account applicable ad valorem taxes.

(d) Adjustment.—Beginning with the second calendar year after the date of enactment of this Act, the amounts set forth in subsection (b) shall be adjusted as provided in subsection (a)(1).

STEVENS AMENDMENT NO. 2555

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 20, line 21, strike "and includes" and insert in lieu thereof "and, except for the purposes of carrying out this Act in Alaska, also includes".

On page 220, strike lines 16 and 17 and insert in lieu therof, "modifying it to address population factors, land base factors, and, except in Alaska, jurisdiction factors.".

On page 224, line 8, immediately after the word "Act" insert ", except that regional health entities (as that term is used in section 325 of Public Law 105–83) shall be the only entities eligible to receive such grants in Alaska under this paragraph.".

On page 224, line 13, insert immediately before the period "and, in Alaska, such regional health entities shall be required to utilize such grants, to the maximum extent possible, to support programs operated by community health aides within the service populations of such entities".

On page 224, line 18, strike "smoking" and insert in lieu thereof "tobacco use".

On page 225, strike lines 14–22 and insert in lieu thereof:

(C) Use of health care funds.—Amounts made available to the Indian Health Service under this paragraph shall be—

(I) made available to Indian tribes pursuant to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), except in Alaska where such amounts shall, notwithstanding any other provision of law, be made available pursuant to such Act only to the Consortium (as that term is used in section 325 of Public Law 105–83) which shall be eligible to enter into contracts, compacts, or other funding agreements under such Act without further resolutions of the Regional Corporations, Village Corporations, tribes and/or villages represented by the members of the Consortium; and

(II) used to reduce tobacco consumption, promote smoking cessation, and to fund health care activities, including—

On page 225, line 23, strike "(i)" and insert in lieu thereof "(I)".

On page 226, line 1, strike "(ii)" and insert in lieu thereof "(II)".

On page 226, line 3, strike "(iii)" and insert in lieu thereof "(III)".

On page 226, line 6, strike "(iv)" and insert in lieu thereof "(IV)".

On page 226, line 8, strike "(v)" and insert in lieu thereof "(V)".

INOUYE AMENDMENT NO. 2556

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 402, strike lines 15-25 and insert in lieu thereof the following:

If the Congress enacts legislation to provide for the payment of asbestos claims, then unobligated amounts in the National Tobacco Trust Fund established by title IV of this Act may be made available, as provided by appropriations Act, to make those payments.

MACK AMENDMENT NO. 2557

(Ordered to lie on the table.)

Mr. MACK submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, between lines 18 and 19, insert the following:

SEC. 456. STATE SETTLEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of this Act, amounts received by a State as a result of the resolution by such State of tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

HUTCHISON (AND MACK) AMENDMENTS NOS. 2558–2559

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. MACK) submitted two amendments intended to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2558

On page 210, between lines 18 and 19, insert the following:

SEC. 456. NO REDUCTION OF STATE FUNDS.

Notwithstanding any other provision of this Act, payments under this Act to a State that, as of the date of enactment of this Act, has resolved tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers, shall not be less than the State would have otherwise received under the State settlement or judgment.

AMENDMENT NO. 2559

On page 210, between lines 18 and 19, insert the following:

SEC. 456. STATE OPT-IN.

(a) IN GENERAL.—A State that, as of the date of enactment of this Act, has resolved tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers, shall not be eligible to receive funds under section 452 unless the State provides notice in writing to the Secretary affirmatively electing to receive such funds and comply with the requirements of such section.

HUTCHISON AMENDMENTS NOS. 2560–2561

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted two amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2560

On page 210, between lines 18 and 19, insert the following:

SEC. 456. STATE SETTLEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of this Act, amounts received by a State as a result of the resolution by such State of tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) USE OF FUNDS.—Amounts received by a State under a settlement described in subsection (a) may be used in any manner that the State determines appropriate, consistent with State law.

AMENDMENT NO. 2561

On page 442, between lines 4 and 5, insert the following:

(d) OFFSET OF STATE LIABILITY FOR FEES.—In the case of a State that has pursued an independent civil action against tobacco product manufacturers, and that may be liable for attorneys fees, the total amount of any determination of attorneys fees to be paid by such manufacturers through arbitration under this section shall be applied as a dollar-for-dollar offset against any potential State liability for attorneys fees.

TORRICELLI AMENDMENTS NOS. 2562–2563

(Ordered to lie on the table.)

Mrs. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2562

At the appropriate place, insert the following:

SEC. . MICHAEL GILLICK CHILDHOOD CANCER RESEARCH STUDY.

(a) FINDINGS.—Congress finds that—

(1) during the period from 1979 to 1995, Ocean County, New Jersey, had a significantly higher rate of childhood brain cancer than the rest of the United States, including a rate of brain and central nervous system cancer that was nearly 75 percent above the rate of other States;

(2) during the period from 1979 to 1995—

(A) there were 350 cases of childhood cancer in Ocean County, of which 90 cases were in Dover Township, and of those 24 were in Toms River alone;

(B) the rate of brain and central nervous system cancer of children under 20 in Toms River was nearly 3 times higher than expected, and among children under 5 was 7 times higher than expected; and

(C) Dover Township, which would have had a nearly normal cancer rate if Toms River were excluded, had a 1.3 times higher cancer rate than the rest of the State and an 1.5 times higher leukemia rate than the rest of the State; and

(3)(A) according to New Jersey State cancer registry data from 1979 to 1995, a population the size of Toms River should have 14 children under age 20 with cancer; and

(B) Toms River currently has 24 children under the age of 20 with cancer.

(b) STUDY.—Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)) is amended by adding at the end the following:

"(19) MICHAEL GILLICK CHILDHOOD CANCER RESEARCH STUDY.—

"(A) IN GENERAL.—The Administrator of ATSDR shall conduct dose-reconstruction modeling and an epidemiological study of childhood cancer in Dover Township, New Jersey.

"(B) GRANT TO THE STATE OF NEW JERSEY.—The Administrator of ATSDR may make 1 or more grants to the State of New Jersey to carry out paragraph (1).

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

"(i) $2,000,000 for fiscal year 1999; and

"(ii) $1,000,000 for fiscal year 2000.".

AMENDMENT NO. 2563

On page 201, between lines 19 and 20, insert the following:

(3) MEDICAID CHILDREN'S ENROLLMENT PERFORMANCE BONUS.—

(A) SET ASIDE OF FUNDS.—Notwithstanding the preceding paragraphs of this subsection, 8 percent of the amount received under this section in a fiscal year shall not be used by a State unless the State satisfies the requirements of subparagraphs (B) and (C).

(B) DEMONSTRATION OF IMPLEMENTATION OF OUTREACH STRATEGIES.—A State shall demonstrate to the satisfaction of the Secretary that the State has a commitment to reach and enroll children who are eligible for but not enrolled under the State plan through effective implementation of each of the following outreach activities:

(i) STREAMLINED ELIGIBILITY PROCEDURES.—

(I) IN GENERAL.—The State uses streamlined procedures described in subclause (II) for determining the eligibility for medical assistance of, and enrollment in the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) of—

(aa) children in families with incomes that do not exceed the effective income level (expressed as a percent of the poverty line) that has been specified under such State plan (including under a waiver authorized by the Secretary or under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))) for the child to be eligible for medical assistance under section 1902(l)(2) or 1905(n)(2) (as selected by a State) of such Act (42 U.S.C. 1396a(l)(2), 1396d(n)(2)) for the age of such child; and

(bb) children determined eligible for such assistance, and enrolled in the State plan under title XIX of the Social Security Act, in accordance with the requirements of paragraphs (1) and (2) of section 1931(b) of such Act (42 U.S.C. 1396u–1(b)).

(II) PROCEDURES DESCRIBED.—The streamlined procedures described in this subclause include—

(aa) using shortened and simplified applications for the children described in subclause (I);

(bb) eliminating the assets test for determining the eligibility of such children; and

(cc) allowing applications for such children to be submitted by mail or telephone.

(ii) CONTINUOUS ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for 12-months of continuous eligibility for children in accordance with section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)).

(iii) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for making medical assistance available to children during a presumptive eligibility period in accordance with section 1920A of the Social Security Act (42 U.S.C. 1396r–1a).

(iv) OUTSTATIONING AND ALTERNATIVE APPLICATIONS.—The State complies with the requirements of section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) (relating to outstationing of eligibility workers for the receipt and initial processing of applications for medical assistance and the use of alternative application forms).

(v) SIMPLIFIED VERIFICATION OF ELIGIBILITY REQUIREMENTS.—The State demonstrates to the satisfaction of the Secretary that the State uses only the minimum level of verification requirements as are necessary for the State to ensure accurate eligibility determinations under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(C) REPORT ON NUMBER OF ENROLLMENTS RESULTING FROM OUTREACH.—A State shall annually report to the Secretary on the number of full year equivalent children that are determined to be eligible for medical assistance under the State plan under title XIX of the Social Security Act and are enrolled under the plan as a result of—

(i) having been provided presumptive eligibility in accordance with section 1920A of such Act (42 U.S.C. 1396r-1a);

(ii) having submitted an application for such assistance through an outstationed eligibility worker; and

(iii) having submitted an application for such assistance by mail or telephone.

(D) PROCEDURE FOR REDISTRIBUTION OF UNUSED SET ASIDES.—The Secretary shall determine an appropriate procedure for the redistribution of funds set aside under this paragraph for a State for a fiscal year that are not used by the State during that fiscal year because the State did not satisfy the requirements of subparagraphs (B) and (C) to States that have satisfied such requirements for such fiscal year and have fully expended the amount of State funds so set aside.

(E) OFFSET OF FEDERAL EXPENDITURES.—The amount allocated to the State Litigation Settlement Account for a fiscal year shall, in addition to any reductions required under the third sentence of section 451(a), be further reduced by the additional estimated Federal expenditures that will be incurred as a result of increased State expenditures resulting from the application of this paragraph.

(F) APPLICATION OF RESTRICTION ON SUBSTITUTION OF SPENDING.—The provisions of subsection (c) of this section apply to this paragraph in the same manner and to the same extent as such provisions apply to the program described in paragraph (2)(G) of this subsection.

WARNER AMENDMENTS NOS. 2564–2566

(Ordered to lie on the table.)

Mr. WARNER submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2564

Strike Section 1031.

AMENDMENT NO. 2565

Strike Title II.

AMENDMENT NO. 2566

Strike Subtitle A of Title XI.

JEFFORDS AMENDMENT NO. 2567

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 198, strike lines 3 through 10 and insert the following: "added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 1 percent, but not more than 3 percent shall be used for this purpose.".

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

ABRAHAM (AND OTHERS) AMENDMENT NO. 2568

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. ASHCROFT, Mrs. SNOWE, and Mr. MACK) intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, insert the following section:

SEC. . EXPRESSING THE SENSE OF THE CONGRESS THAT THE PRESIDENT OF THE UNITED STATES SHOULD RECONSIDER HIS DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the followings findings:

(1) Nine years ago on June 4, 1989, thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and democracy;

(2) It was with horror that the world witnessed the response of the Government of the People's Republic of China as tanks and military units marched into Tiananmen Square;

(3) Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on young, unarmed civilians;

(4) "Children were killed holding hands with their mothers," according to a reliable eyewitness account;

(5) According to the same eyewitness account, "students were crushed by armored personnel carriers";

(6) More than 2,000 Chinese pro-democracy demonstrators died that day, according to the Chinese Red Cross;

(7) Hundreds continue to languish in prisons because of their belief in freedom and democracy;

(8) Nine years after the massacre on June 4, 1989, the Government of the People's Republic of China has yet to acknowledge the Tiananmen Square massacre; and

(9) By being formally received in Tiananmen Square, the President would bestow legitimacy on the Chinese government's horrendous actions of 9 years ago:

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square until the Government of the People's Republic of China acknowledges the Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students still imprisoned for supporting freedom and democracy that day.

ADDITIONAL STATEMENTS

TRIBUTE TO GENERAL BERNARD A. SCHRIEVER

• Mr. BENNETT. Mr. President, I rise today to pay tribute to General Bernard A. Schriever, a modern-day pioneer whose legendary contributions to our nation's defense will be appropriately recognized on Friday, June 5, 1998, when Falcon Air Force Base will be renamed in his honor. General Schriever, a retired four-star general, is widely regarded as the father of the ICBM.

General Schriever was born in Bremen, Germany, on September 14, 1910. His family immigrated to the United States when he was seven years old, and he became a naturalized citizen at age 13 and finished his early schooling in San Antonio, Texas. His flying career began in the late 1920s, as a mail-carrier flying between my home state of Utah and Wyoming. In 1931, he received a Bachelor of Science degree from Texas A&M, and a reserve appointment in the Field Artillery. He earned his wings as a second lieutenant in the Army Air Corps Reserve in June 1933.

After obtaining his Master's degree in Aeronautical Engineering from Stanford University in 1942, he gained rapid promotions and positions of increasing responsibility during World War II. He was Chief of Staff of the 5th Air Force Service Command and later Commander of the Advanced Headquarters for the Far Eastern Air Force Service Command. After the war he became the Chief of the scientific Liaison Section at Headquarters USAF and held other scientific evaluation jobs as they pertained to military weaponry.

Beginning in 1954 when he assumed command of the Air Force Ballistic Missile Division and later with the Air Research and Development Command, General Schriever pushed forward research and development on all technical phases of the Atlas, Titan, Thor and Minuteman ballistic missiles. He also provided for the launching sites and equipment, tracking facilities, and ground support equipment necessary to the deployment of these systems.

With the expansion of the Air Research and Development Command, he became Commander of the newly created Air Force Systems Command (AFSC). Among the many creative programs he conceived and directed at

AFSC was Project Forecast I, completed in 1964, which enlisted the best scientific and technological minds of that period in the projection of the aerospace world for the future.

After retiring from the Air Force on August 31, 1966, with more than 33 years of active military service, General Schriever became a consultant to government and industry where he could most effectively use his knowledge and experience pursuing technology and its management into military operational capabilities.

General Schriever has had several important government advisory assignments since his retirement in 1966, including: by Executive Order, Chairman, President's Advisory Commission on Management Improvement (PACMI); member, National Commission on Space; member, President's Foreign Intelligence Advisory Board; member, Strategic Defense Initiative (SDI) Technical Advisory Committee; Chairman, SDI Institute, and various ad hoc advisory committees and panels involving national security (DoD) and space (NASA).

General Schriever has been awarded four honorary Doctor of Science degrees, one honorary Doctor of Aeronautical Science degree, one honorary Doctor of Engineering degree, and one honorary Doctor of Laws degree, by various colleges and universities, including Utah State University. Inducted into Aviation Hall of Fame in 1980. Elected Honorary Fellow AIAA, recipient of James Forrestal Award 1986. Member of NAE. He received the National Air and Space Museum Trophy for Lifetime Achievement in November 1996.

General Schriever remains very active even today, and continues to serve on several important advisory boards to government, industry, and education. He currently chairs the Guidance Council for the Space Dynamics Lab at Utah State University in my home state. Several years ago, I was honored to have General Schriever participate as the featured speaker at my annual conference, SpaceTalk.

General Schriever's patriotism, intelligence, and vision have served our country well. The United States is more secure thanks to his many contributions and achievements. Thank you, General Schriever, for your dedication to the nation's well-being. I congratulate you and wish you continued success.•

RACE FOR THE CURE

• Mr. LEAHY. Mr. President, fifteen years ago the first Susan G. Komen Breast Cancer Foundation Race For The Cure was held in Dallas. This year, at least 500,000 participants in more than 85 communities nationwide will host 5-K runs and 1-mile fitness run/walks to raise money for national breast cancer research efforts and local breast cancer initiatives.

I am proud to be honorary co-chair for this year's Vermont Race For The Cure, along with my distinguished colleague, Senator JEFFORDS. The race will be held in Manchester on July 26. Last year our race was a wonderful community event, with more than 2,300 Vermonters running or walking in the race and with others joining in support through pledges and by cheering racers on. That effort led to $84,000 in grants for nine projects throughout Vermont to support breast cancer treatment, education and survivor support.

The Race For The Cure is an important and successful effort to raise private funds for breast cancer screening, education, and treatment to reduce and one day eliminate this terrible disease. One woman somewhere in the United States is diagnosed with breast cancer every three minutes and one of its victims dies from the disease every twelve minutes. One in eight women will suffer from breast cancer in her lifetime, and it is the leading cause of death for women between the ages of 35 to 54.

The private contributions raised by the Race For The Cure are a vital complement to the efforts of those of us in Congress who strive each year to secure federal funding to fight breast cancer.

We in Congress have made it clear that we plan to continue to increase research funding at the National Institutes of Health.

And just yesterday, the Senate Appropriations Committee voted to guarantee at least $135 million for Fiscal Year 1999 for the Department of Defense breast cancer research program. This program continues to spawn far-reaching innovations in medical research, and the seven-year total allocated under this program will rise to $872 million, if this provision is enacted this year.

Seven years ago, working with the breast cancer survivor community, several of us launched this crusade to earmark a portion of the defense budget for this breast cancer research program, and over the years it has become a crucial supplement to other federally and privately sponsored research efforts.

Working together on these initiatives, and by supporting such private efforts as the annual Race For The Cure, we are drawing closer, year by year, to the day when we can eliminate the destruction and the pain of breast cancer from the lives of our wives, mothers and sisters.•

RECOGNITION OF OSSABAW ISLAND FOUNDATION AND IMPORTANCE OF WORKING TO PRESERVE NATURAL HABITATS

• Mr. CLELAND. Mr. President, I rise today to recognize the Ossabaw Island Foundation and the Georgia Commissioner of Natural Resources for their efforts to preserve Ossabaw Island, Georgia's first Heritage Preserve.

Georgia's high rate of population and economic growth have created statewide expansion into previously uninhabited areas. Efforts to preserve and protect endangered natural areas is vital to the well being of Georgia's environment.

Ossabaw Island is one of the few remaining barrier islands on the Atlantic Coast. The fragile ecosystems of the island should be preserved so that natural areas along the coast will work to protect estuaries, wildlife, marshes, and coastal shorelines. If Ossabaw Island remains in its natural state, it will provide needed protection for the mainland from Atlantic storms, permit the functioning of marshes which provide water and air purification essential to habitation of Georgia's mainland, and provide conditions not tainted by human intervention for environmental research.

I would like to commend the Ossabaw Island Foundation, a public/private partner with the State of Georgia's Department of Natural Resources, for diligently serving as a voice for the preservation of the island. The Foundation has worked to incorporate educational and cultural programs in the island's historical buildings and to provide appropriate access and utilization of the Ossabaw Heritage Preserve.

Through the efforts of the Board of Trustees of the Foundation, Ossabaw Island was included on the National Trust for Historic Preservation's Eleven Most Endangered Properties List of 1995. The island was also listed on the National Register of Historic Places by the United States Department of the Interior in 1996.

The importance of preserving natural habitats is a common belief among the members of the Senate. We must not allow the natural beauty and resourcefulness of our nation to be sacrificed for lesser purposes. The benefits of protecting and preserving areas of natural habitat range from aesthetic to practical and must not be ignored.

Mr. President, I ask that you and my colleagues join me in recognizing the partnership and hard work of the Georgia Commissioner of Natural Resources and the Board of Trustees of the Ossabaw Island Foundation. Their combined efforts have protected and will continue to protect and ensure a beautiful environment on Georgia's Ossabaw Island for many years to come.•

NATIONAL SMALL BUSINESS WEEK

• Mr. KERRY. Mr. President, I would like to express my support and admiration to small business owners and entrepreneurs during the first week of

June, otherwise known as National Small Business Week. It is appropriate that during this week of recognition that we honor the many contributions entrepreneurs have made to strengthen our communities and our national economy.

As the Ranking Democrat of the Small Business Committee, I have followed the dramatic growth of thousands of small businesses and have worked to champion their success by increasing access to capital, expanding Women's Business Centers, improving business education and technical assistance, and reducing capital gains taxes. Under Democratic Leadership, the Small Business Administration now annually guarantees about $10 billion in loans to small businesses, and has increased loans to women business-owners by 86 percent.

Small businesses are changing the face of the economy by creating jobs and bringing prosperity to small towns and cities across the country. Nationwide, small businesses represent 99.7 percent of all employers and provide 67 percent of workers with their first jobs. Smaller firms are also more likely to be flexible and hire workers from many segments of the economy, including younger workers, older workers, women, minorities, and people interested in working part time.

In the state of Massachusetts, we have two outstanding business owners that deserve special recognition. Cassie Farmer, President and Roberta Adams, Vice President/Treasurer of New World Securities Associates, Inc, have been named State Small Business Persons of the Year by the Small Business Administration, and have been honored this week here in Washington.

Ms. Farmer and Ms. Adams began their security business just eight years ago with fifteen employees, one patrol car, and a few clients. They invested their personal savings to get the company off the ground. By 1997, their company has grown to employ 240 people with annual sales of $5 million. The Dorchester-based company is not only the largest employer within the Dorchester/Roxbury/Mattapan area, but is also the largest women/minority owned security company in Massachusetts. I congratulate them on their success.•

JESS AND SELMA KAUFMAN CELEBRATE GOLDEN ANNIVERSARY

• Mr. GLENN. Mr. President, I rise today to recognize and congratulate Jess and Selma Kaufman on the celebration of their 50th wedding anniversary on June 20.

Jess served in the United States Navy during World War II and was wounded at the Battle of Guadalcanal. On June 20, 1948, Selma Bruckner and Jess Kaufman were married in Brooklyn, New York. Now retired and living in Stratford, Connecticut, their marriage has been blessed by their children David, Susan and Steven.

Successful marriages represent real commitment and serious work, yet the rewards are among the greatest delights of life. We share your joy in the years accomplished, and wish you many more rich and fulfilling years of happiness together.

Annie and I are delighted to extend our congratulations to the Kaufmans on their 50th wedding anniversary!•

TRIBUTE TO ALFRED HEALY, M.D.

• Mr. HARKIN. Mr. President, on June 30, 1998, Alfred Healy, M.D., professor emeritus of pediatrics and special education at the University of Iowa, in Iowa City, Iowa will conclude a distinguished 41-year career of clinical service, teaching, research, and administration of innovative programs supporting individuals with developmental disabilities. His career at the University of Iowa includes 21 years of directing three entities: the Division of Developmental Disabilities in the Department of Pediatrics, the University Hospital School of the University of Iowa Hospitals and Clinics, and the Iowa University Affiliated Program. He also provided leadership to numerous national and international programs promoting the independence, productivity, and community inclusion of people with disabilities.

Dr. Healy gained firsthand knowledge of physical disabilities as a young teenager, during his recovery from two prolonged episodes of rheumatic fever that later severely restricted his participation in sports and other physical activities. Seeking other ways to participate in athletics, he earned his bachelor's degree in physical education in 1956 from the University of Notre Dame while concurrently serving as Assistant Athletic Trainer for all Notre Dame athletic teams.

A Master of Arts Degree in physical education followed in 1957 from the University of Iowa, where for three years he served as a teacher at the Iowa Hospital School for Severely Handicapped Children, assisting children with cerebral palsy, the residuals of poliomyelitis, and other physical disabilities in their rehabilitation process. This experience led him to pursue a medical degree, which he earned from the University of Iowa in 1963. Following residency training in pediatrics and fellowship training in disabilities, he joined the pediatric faculty at Iowa in 1967, achieving full professorship in 1980. In 1977 he was appointed director of the Division of Developmental Disabilities, the renamed University Hospital School, and also of the Iowa University Affiliated Program.

As a professor of pediatrics, he served as director of the Division of Developmental Disabilities, and over the years he supervised the training of countless numbers of medical students, physical and occupational therapy students, pediatric and family practice residents, and community physicians. Of the fourteen physician fellows trained under Dr. Healy's leadership, nine are now sharing their expertise and understanding of the interdisciplinary process with another generation of trainees in other university training programs. As a professor of special education, Dr. Healy has taught several courses relating to disabilities on an on-going basis each year for the College of Education.

As director of University Hospital School, Dr. Healy has provided clinical care in both inpatient and outpatient settings to thousands of infants, children and adults with physical disabilities. He presided over the transition of University Hospital School from a residential school, founded prior to the passage of P.L. 94–142, to its current role as a tertiary level diagnosis and evaluation center supporting community education and human service programs throughout Iowa. The hallmark of Dr. Healy's administration of University Hospital School has been his commitment to the interdisciplinary process as the most effective response to meeting the clinical needs of individuals with disabilities.

As director of the Iowa University Affiliated Program, Dr. Healy expanded the breadth of University Hospital School programs to also emphasize pre-service training, community education, technical assistance to state and local agencies, and information sharing programs. Most of these activities were implemented through grants and contracts that were awarded in no small part because of his leadership. Current examples include the statewide Iowa Program for Assistive Technology, the Iowa COMPASS information and referral service, the Iowa Telemedicine Project from the National Library of Medicine, the Iowa Prevention of Disabilities Policy Council, and the Maternal and Child Health funded Iowa Leadership in Neurodevelopmental and related Disabilities Project.

Dr. Healy has also participated in a wide range of national and international initiatives. Responding to a request from the American Academy of Pediatrics in 1978, Dr. Healy secured federal funding, and then served as chair of the National Advisory Committee, for the $3.9 million, four-year New Directions training course for pediatricians that dealt with Public Law 94–142. In 1986, also on behalf of the Academy of Pediatrics, he secured funding, and chaired the National Advisory Committee for the $3.2 million, four-year Project BRIDGE training program for pediatricians and therapists that focused on the use of the interdisciplinary process in early intervention for children with physical and other disabilities. This led the academy to award him the Ross Award for Lifetime Accomplishment in Pediatric Education in 1986.

Following service in a number of committee and task force roles, Dr. Healy was elected president of the American Association of University Affiliated Programs in 1984, and was presented their "Distinguished Service Award" in 1995. He served as president of the American Academy for Cerebral Palsy and Developmental Medicine in 1989. He served two three-year terms as a member of the American Academy of Pediatrics National Committee for Children with Disabilities, followed by two three-year terms as chairman. These offices provided many opportunities to significantly influence federal legislation and funding for programs serving children with physical and other disabilities, and he provided verbal testimony on eight occasions to various committees of the U.S. Congress. In addition, he served as a member of the federal Social Security Administration panel selected to devise a federal response to the U.S. Supreme Court Zebley versus Sullivan decision regarding SSI benefits, which affected hundreds of thousands of children with physical and other disabilities in America.

On the international level, Dr. Healy has provided consultations to Ireland, Saudi Arabia, and Russia regarding ways to improve their national programs for children with physical and other disabilities. He was also instrumental in helping to establish a University Affiliated Program in Dublin, Republic of Ireland, and he has now completed two trips to Belfast, Northern Ireland, to assist Queens and Ulster Universities in establishing similar programs.

During the four decades of his career, Dr. Healy has seen, and contributed to, unprecedented changes in society's response to people with disabilities. According to Dr. Healy, the most rewarding aspect of his work has been participating in a dynamic systems change that now affirms that people with disabilities, and their families, must be at the center of service planning, setting goals, and identifying the means to achieve them. He repeatedly acknowledges that his greatest teachers have been individuals with disabilities and their families. My colleagues are particularly pleased, I know, to join me in expressing profound appreciation for the career of this remarkable American—clinician, teacher, researcher, and leader.●

MEASURE READ THE FIRST TIME—H.R. 3433

Mr. LOTT. Mr. President, on behalf of the Democratic leader I make the following request. I understand that H.R. 3433, received earlier today from the House, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

Mr. LOTT. I now ask for its second reading, and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that if and when the Environment and Public Works Committee reports legislation that amends, modifies, deletes, or in any way affects transit provisions contained in section 135 of title 23, United States Code, it be referred to the Committee on Banking, Housing, and Urban Affairs for a period of not to exceed 20 session days of the Senate, solely for the purpose of considering such provisions, and that if not reported by the Committee on Banking, Housing, and Urban Affairs by that time, it be discharged and placed on the Senate calendar.

I further ask that if and when the Banking Committee reports legislation that amends, modifies, deletes, or in any way affects highway transportation provisions contained within section 135 of title 23, United States Code, it be referred to the Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate, solely for the purpose of considering such provisions, and that if not reported by the Environment and Public Works Committee by that time, it be discharged and placed on the Senate Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEADBEAT PARENTS PUNISHMENT ACT OF 1998

Mr. LOTT. I ask unanimous consent the Senate proceed to consideration of Calendar No. 369, H.R. 3811.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3811) to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I rise today in support of final passage of the Deadbeat Parents Punishment Act authored by my distinguished colleague, Senator HERB KOHL from Wisconsin. Senator KOHL has worked tirelessly to strengthen our child support laws, and I have been happy to lend my support to this effort.

The House bill we pass today mirrors the Senate-passed version that we sponsored earlier this session. I believe children should not have to suffer twice for the decisions of their parents to divorce; once when they decide to divorce, and again when one of the parents evades the financial responsibility to care for them.

Let me tell you just one story from my home state of Ohio. Marcia Walsh, the mother of seven children, became one of the working poor when she and her husband divorced, and he neglected his child support order. He left Ohio, leaving Marcia to support seven children, ages 6 to 15, on food stamps and a $14,000-a-year night job. When Marcia turned to our federal Child Enforcement Program, she discovered a failed program whose collection rate is only about 19.4 percent.

Mr. President, people like Marcia and her children deserve better than that.

Our bill will help address situations like theirs, in two ways. First, the Deadbeat Parents Punishment Act gives federal law enforcement an incentive to bring more of these cases against deadbeats by making this offense a felony. Second, this legislation would make movement from state to state to avoid child support payments a crime. Today, nonpayment of child support is a class B misdemeanor, and the Federal Bureau of Investigation is frustrated at having to chase deadbeats for just a class B misdemeanor. Federal prosecutors are equally discouraged about trying misdemeanor cases.

It is currently not a crime to move to another state to avoid having to pay child support. Under this bill, not paying child support for two years, owing more than $10,000 in back child support, or going to another state to avoid child support payments would be penalized by a fine or two years in jail, or both. If the parent flees the state where the child resides, and owes more than $5,000, the same penalty described above would apply.

Mr. President, making sure parents live up to their financial responsibilities for their children is a very important national priority. We have serious laws in this country protecting life and property—it's highly appropriate that we protect with equal seriousness the interests of our most precious national resource, America's children.

I thank Senator KOHL for his work on this important bill.

Mr. KOHL. Mr. President, I rise today to express my support for the final passage of our Deadbeat Parents Punishment Act and to commend Senator DEWINE, cosponsor of the Senate version which we passed last November, along with Chairman HYDE and Congressman HOYER for their commitment to promoting the welfare of children and to strengthening our child support laws. In sum, this measure sends a clear message to the deadbeat parents of America: pay up or go to jail.

Mr. President, when the original Child Support Recovery Act of 1990 was first enacted, Senator SHELBY and I hoped to make a real impact on the non-payment of support orders. And we did make some progress. Over 200 more cases of nonpayment were prosecuted. Over 50 went to jail. Of the 150-some remaining cases, many were dropped when the defendant agreed to pay the support arrears. And some very high profile cases prosecuted under this law have also made some potential deadbeats think twice before not paying. But for some deadbeats the threat of a misdemeanor sentence still isn't enough to keep them paying. Many would rather "risk it." They know that if they get caught for a first offense—no matter how big their debt and no matter how long they went without paying—they aren't facing a felony conviction.

Now, Mr. President, we are not trying to throw people into jail. We'd rather they paid their child support on time and in full. And many parents—mothers and fathers—do just that. But some need a little extra incentive to fulfill their responsibilities. The threat of a year in prison and a felony conviction on their records, contained in this bill, provides that much needed incentive.

It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. In fact, Mr. President, since our original legislation was signed into law in 1992, collections have increased by nearly 50 percent, from $8 billion to $11.8 billion. Moreover, a new national database has helped identify 60,000 delinquent fathers—over half of whom owed money to women on welfare.

Although we should be proud of these efforts, they are merely a point of departure, not a final destination. It seems to me that in passing this legislation, we all recognize that we cannot simply stop and rest on our laurels. We must continue to work on behalf of children and families. We must give police and prosecutors the tools they need to make a real impact on the nonpayment of child support. And today, we have taken that next step, we have done these things, and we have continued this important work. I look forward to the President's signing this bill into law, which will help ensure that deadbeats across the country sign more child support checks.

Mr. LOTT. Mr. President, I would like to notify the Senate that this is the bill that is commonly referred to as the Deadbeat Parents Punishment Act, and I appreciate the cooperation that we received on both sides of the aisle today to get this legislation through, because it is clearly something that should be passed. We should have felony violations for failure to pay legal child support obligations. I am glad to move the legislation.

I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3811) was ordered to a third reading, was read the third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar: No. 624. I further ask unanimous consent that the nomination be confirmed; that the motion to reconsider be laid upon the table; that any statements relating to the nomination of Judge Richard Roberts, to be a U.S. District Judge for the District of Columbia, appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

THE JUDICIARY

Richard W. Roberts, of the District of Columbia, to be United States District Judge for the District of Columbia.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TUESDAY, JUNE 9, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, June 9. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of Coverdell amendment No. 2451 pending to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. The minority leader filed a cloture motion yesterday, Thursday, June 4, and a second cloture motion was filed today by our minority colleagues. Therefore, I ask unanimous consent that the first cloture vote occur on Tuesday, June 9, at 2:15 p.m., and the mandatory quorum under rule XXII be waived. I further ask unanimous consent that all second-degree amendments must be filed by 12:30 p.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will not be in session on Monday, and we will resume the pending drug amendment at 9:30 a.m. on Tuesday. It is my hope that a vote will occur on the drug amendment prior to the scheduled cloture vote at 2:15 p.m. on Tuesday. That means it will have to occur before the luncheons that day. Rollcall votes could occur then Tuesday morning, one after 9:30 a.m. and then a second one at 2:15 p.m. I will consult with the minority leader, of course, further with respect to the scheduling of the second cloture vote, assuming the first cloture vote is not invoked, and that vote will occur then I believe on Wednesday.

The Senate could also consider any other legislative or executive items that may be cleared for action on Tuesday. In fact, we hope to have another Executive Calendar nomination or two that we will be able to get cleared.

ADJOURNMENT UNTIL 9:30 A.M., TUESDAY, JUNE 9, 1998

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:31 p.m., adjourned until Tuesday, June 9, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 5, 1998:

THE JUDICIARY

ROBERT S. RAYMAR, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE H. LEE SAROKIN, RETIRED.

CONFIRMATION

Executive Nomination Confirmed by the Senate June 5, 1998:

THE JUDICIARY

RICHARD W. ROBERTS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

EXTENSIONS OF REMARKS

H.R. 3998 OBEY/MATSUI AMERICAN HEALTH SECURITY PARTNERSHIP ACT OF 1998

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. OBEY. Mr. Speaker, last year, the Congress passed a proposal that was meant to take care of the health insurance needs of poor children. This year, the Congress is looking at ways to reform managed care so that the 85% of Americans in HMOs can be guaranteed quality health care based on need and not on profit margins. These are important steps but we need to, and we can go further.

Good health is one of God's greatest blessings. Those of us who have it have an obligation to see that every American who doesn't can walk into a hospital or a doctor's office and get the health care they need without begging. Over forty-one million Americans are without health insurance, and that number is rising by about one million every year. Many more have insurance today but are afraid of losing it. There is no reason why we cannot figure out a way to assure that every American has and will be able to keep affordable health insurance coverage.

That's why Congressman BOB MATSUI of California and I are sponsoring the American Health Security Partnership Act which is based on the premise that if revenue is raised from tobacco companies, it ought to be used to help see to it that every person has secure health insurance.

This legislation creates a cooperative cost sharing partnership between the federal government, state governments, employers and individuals. With each sharing in the cost and bearing a reasonable load, we can finally end the gap in health insurance coverage and put a stop to the cost shifting games that go on when the cost of providing care to the uninsured is shifted to those who do have insurance.

In the best Wisconsin LaFollette Progressive Tradition we would use the states as laboratories of democracy to help find alternative health care reform models that work. States will have maximum flexibility to make choices on what devices to use, what systems to implement, and how best to use the federal funds for their citizens. But, the main federal requirement is that everyone in the state will have access to health insurance that is at least as good as what is available to Members of Congress under the Federal Employees Health Benefits Plan (FEHBP).

Employers need to play a role too. That's why this legislation requires large employers to provide health insurance coverage for their workers and it provides funds that States can use to help small businesses expand health care coverage for their employees even though small business is not required to do so by this bill.

But this is not a something for nothing approach. Individuals have a responsibility to get health insurance and to the extent possible, pay for some of the cost of that insurance. Cost shifting contributes greatly to the rising costs of health care and the only means of putting an end to it is to ensure that every individual has health insurance coverage.

Many American families feel threatened by health care costs and many others are afraid of losing the health insurance coverage they have. The purpose of this bill is to strengthen the health care security of every American family. We do that by creating a 4 legged stool comprised of the federal government, the State government, employers and individuals.

If there is going to be a tobacco settlement of any kind, the most logical use of that settlement is to make sure the average American family has health care coverage when they need it.

Here are some of the elements of the plan.

It establishes a federal and state partnership in which states have the flexibility to decide how everyone in the state is covered by health insurance. The rules would be set by the states and not the federal government.

The only federal requirement is that health insurance coverage must be at least as good as what is currently available for Members of Congress and other federal employees under the Federal Employee Health Benefits Plan.

Farmers and people who are self-employed will be able to deduct 100% of their health insurance costs.

Workers who do not have employer subsidized health insurance will also be able to deduct 100% of their health insurance costs.

Businesses with 100 or more employees will be required to offer health care coverage to employees and their families.

It is paid for in two ways. A portion of the tobacco settlement would be used to establish a cost sharing agreement with the federal government and the states. That amount would be supplemented by a 1% increase on corporations with over $10 million in taxable income. Out of the one million corporations in the country, fewer than 3,000 pay income taxes at the top rate and would be affected by this increase.

That cost is a small price to pay to meet the moral responsibility that any ethical society has to ensure that all Americans receive the health care they need simply because they are God's creatures.

CONGRESSWOMAN NANCY PELOSI PAYS TRIBUTE TO PIONEERS WHO BUILT ISRAEL ON ITS 50TH ANNIVERSARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. LANTOS. Mr. Speaker, our distinguished colleague and my friend and neighbor in San Francisco, Congresswoman NANCY PELOSI, is the author of an excellent article marking the 50th anniversary of the establishment of the modern state of Israel. The article, which appeared in the San Francisco Chronicle on Wednesday, June 4, is an outstanding discussion of the commitment to the dream of the state of Israel by those pioneers who, from the ashes of the Holocaust, made the desert bloom.

Mr. Speaker, I ask that Congresswoman PELOSI's article be placed in the RECORD. I commend this article to my colleagues, and I urge them to give it careful and thoughtful attention.

[From the San Francisco Chronicle, Thursday, June 4, 1998]

DIVERSE GROUP OF PIONEERS BUILT A DREAM

(By Nancy Pelosi)

As Israel celebrates its 50th anniversary, we in the United States join in celebrating 50 years of friendship, a mutually beneficial alliance and the great future possibilities that exist for the U.S.-Israel partnership.

In looking back over 50 years, it is useful to remind ourselves of Israel's short history. In many ways, it mirrors America's early days as well as those of San Francisco, a city built by pioneers and blessed with diverse and skilled citizens. What we in the United States and the citizens of Israel now take for granted was, only a short time ago, nothing but an improbable dream. Like those who founded our nation, Israel's founding leaders sought to build a nation that would serve as an example to the world and a new home to those who fled oppression and tyranny.

After only 50 years of independence, a sophisticated, stable, and reliable Western democracy has been built in the sands of the Middle East, a region that cannot claim any other democracies. Israel has developed a world-class educational system and a high-tech economy. During the past 50 years, Israel has absorbed immigrants and refugees from more than 100 countries, people with different cultures, languages and backgrounds to create a nation with a common language and a 98 percent literacy rate. Israel has a challenge and a responsibility to continue to combat prejudice and respect the cultural heritage of Jews from other countries as well as the rights of Arabs in Israel.

As a nation of immigrants who have sacrificed for freedom, independence and democracy, we Americans have shared in the tragedies and triumphs of the Israeli people during their first 50 years. In fact, Israel's survival would not have been possible without

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the help and friendship of the U.S. government. Israel continues to face existential threats and challenges; her future cannot, unfortunately, be taken for granted.

Only seven years ago, SCUD missiles fired by Saddam Hussein were directed at Israel's population centers but, fortunately, caused minimal damage. Since those attacks, Saddam Hussein has made no secret of the fact that he is seeking more accurate missiles and the biological and chemical arsenal to cause devastation within Israel.

Iran is well on the way to acquiring the technology needed to build its own accurate missiles as well as actively seeking a nuclear, biological and chemical weapons capability. So, in many ways, the challenges to Israel of the next 50 years are far greater than those of the first 50.

For many reasons—strategic, historic, religious and moral—American support for Israel has been generous. The United States has played and will continue to play an important role in ensuring Israel's success. As a member of Congress, and as the senior Democrat on the Appropriations Committee's Foreign Operations Subcommittee, I am proud to have had a unique opportunity to help build and maintain the very special relationship that exists between the United States and Israel. That relationship will continue to serve both nations as we look ahead—as friends and partners and allies—to the special challenges we face together in the next 50 years.

THE BLOODSHED IN KOSOVA MUST STOP

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. BONIOR. Mr. Speaker, the situation in Kosova, which has been tense all year, has taken a recent turn for the worse. The Serbian army has undertaken another brutal attack on the ethnic population in Kosova.

More than 39 ethnic Albanians were killed during the last two days in May in what was the worst crackdown since the March massacre of 80 people in Kosova.

The violent campaign continues, as Serbian forces have carried on a five-day operation that targets ethnic villages to the south and west of Pristina, the capital of Kosova. In addition to the demolition of village after village by air and rocket attacks, Serbian forces have laid mine fields in several locations in the southwest. It is clear that this has become an ethnic cleansing campaign.

On June 3rd, there was another surge of refugees in the way of the Serb attacks. The UN High Commissioner for Refugees estimates that over 2,000 crossed into Albania during that night, adding to the humanitarian crisis.

Women, children, and elderly trekked for days through the mountains. Weeping, they described how Serb police burst into their homes, dragged them out and told them to "go to Albania and never return" and then burned their houses before their eyes.

The latest wave of thousands of refugees and victims of this violent campaign of aggression shows us that unless we act now, the situation will only grow worse.

The possibility for a diplomatic solution grows increasingly dim as intensified Serbian military efforts reveal Milosevic's determination to wipe out the pro-separatist Kosova Liberation Army.

If we are to prevent another Bosnia from occurring in Kosova, as well as prevent chaos from spreading throughout the Balkans, we must convince our allies to discontinue the past policy of simply threatening, imposing, and then withdrawing sanctions.

In order to strengthen our position and compel the Serbian government to stop the bloodshed, it is necessary to consider military measures as well as reinstatement of economic sanctions. Yesterday, the Washington Post rightly editorialized that the "United States can intervene now, as it said it would. Or, as in Bosnia, it can be forced to intervene later, after much damage has been done and any solution is far more difficult."

A more dynamic approach is necessary in order to end the violence and oppression in Kosova and to allow the people there to determine their own future.

Let us not allow ourselves to be faced with a situation where we did too little too late.

HONORING DIKEMAN ENGINE AND HOSE COMPANY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. GILMAN. Mr. Speaker, for 125 years, the Dikeman Engine and Hose Company has served the community of Goshen located in Orange County. This weekend they are celebrating their anniversary. They have provided excellent prevention and protection from fire and other disasters. This company deserves to be acknowledged for their tireless efforts in all of their community related services.

On September 12, 1873, a group of local men met above Ed Dikeman's Drug Store in Goshen and decided to form a second hose company to protect Goshen. They decided to name the company after Mr. Dikeman, who was a prominent resident and business man.

In April 1874, the Dikeman company responded to their first fire, beginning their commitment to serving their community. For the next 124 years, the Dikeman Engine and Hose Company has continued their outstanding fire fighting practices and their dedication to the community of Goshen.

Dikeman Engine and Hose Company has been housed on New Street since 1885. This building was once shared by the Village Police Department and the Village Jail. In 1967, the company added a new truck bay, a meeting room over the truck bay, and a back room to the building.

Their continious service to the community of Goshen has not been over looked. They have protected the citizens from fire, instructed youth on fire prevention, aided the community in time of crisis, and gone above and beyond the call of duty.

I invite my colleagues to join in recognizing these dedicated volunteers on their years of service. Dikeman Engine and Hose Company Number 3 has been a vital asset to the residents of Goshen and to everyone they have helped over their years of service.

A TRIBUTE TO JOHN BERRY, SR.: OHIO ENTREPRENEUR

HON. ROB PORTMAN
HON. JOHN A. BOEHNER
HON. DAVID L. HOBSON
HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. PORTMAN. Mr. Speaker, I and my colleagues, JOHN BOEHNER, DAVID HOBSON and TONY HALL, rise today so that my colleagues and I may recognize the life of a giant of American business and philanthropy, John Berry, Sr., a friend and entrepreneur who passed away on May 20, 1998. When Mr. Berry took over his father's small telephone book company in 1946, it employed 50 people and generated $2 million in annual revenue. Under his leadership, the company became the largest independent publisher of the Yellow Pages in the United States and grew to $1 billion in annual revenue by 1986 and employed 3,000. It went international in the mid-sixties with a joint venture with ITT World Directories, which grew to become the largest publisher of the Yellow Pages outside of the United States.

Mr. Berry was a graduate of Dartmouth College, a school he loved and generously supported over the years. Most recently, the college library was renamed "Berry Baker" due to his strong support for the college and its mission. He served in the Army during World War II and was a committed community volunteer, serving as Chairman of the Board of Trustees of the Air Force Museum Foundation and on the Boards of Trustees of the University of Dayton and The Ohio State University and The Ohio State University Foundation. He was also a member of the Dayton Chamber of Commerce, Dayton Urban League and Junior Achievement of Dayton and Miami Valley.

Mr. Berry received several honorary degrees, including Doctor of Laws from Dartmouth College, Doctor of Humane Letters from University of Dayton, Doctor of Public Service from Rio Grande College, and Doctor of Business Administration from the Ohio State University. He also received the Everett D. Reese Medal from The Ohio State University in recognition of his service.

Those who knew John Berry knew him as a remarkably successful entrepreneur and a community leader. But they also knew that nothing was more important to him than his family. He is survived by his wife, Marilynn; five sons: George, John Jr., David, Richard, and Charles; two daughters: Vickie and Lynne; and 18 grandchildren. John Berry was the quintessential American success story, but also had a quintessential American spirit of giving back to his country. He will be missed by all.

TRIBUTE TO DANIEL C. PREECE

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Daniel C. Preece, for his leadership and effort to improve the quality of life in our community. Daniel is a determined, hard working individual who has dedicated 25 years of invaluable service to the California Department of Parks and Recreation.

There are many areas in California of immense natural beauty that are designated as sanctuaries where plant and wildlife can live in an undisturbed, harmonious environment. Mr. Preece has dedicated tireless hours upon hours of service to preservation of State Parks all over California, and has much to show for his devoted career.

Daniel first responded to his calling in 1972 with a nine month training course at the California State Park Training Center and the Regional Criminal Justice Training Center. Mr. Preece then served as a Park Ranger in the County of Orange, and later as a Supervising Ranger at San Clemente State Beach.

Two years later Daniel began a ten year commitment as an Associate Park and Recreation Specialist. As a Specialist, he worked as a liaison between Director of State Parks and the California State Parks Foundation, and other groups. Highlighting this period, Daniel served for two years as the Supervisor for the California Statewide Recreation Needs Analysis, and for six years as the Grants Administrator for Federal Land and Water Conservation Fund and the California State Parks Bond Programs.

Feeling the need for a new challenge, Daniel moved on to become the District Superintendent for the Gaviota District in 1984. During his five year tenure at this position, he played an instrumental role in the acquisition and development of park lands and facilities, and the historic restoration at El Presidio de Santa Barbara. He also worked to minimize the impact of major oil production and transportation on state parklands, resources and visitors.

Currently, Daniel is the District Superintendent and Deputy Regional Director for Los Angeles and the Santa Monica Mountains and Los Angeles District. As District Superintendent, Mr. Preece oversees thirty-five units of the California State Park System, including Red Rock Canyon, Malibu Creek and Leo Carrillo State Parks. During this period, which began in 1989, Daniel has helped to add over 20,000 acres to the Santa Monica and Los Angeles Mountains District, has opened numerous centers for public use, has developed nature preservation programs and has worked to better the relationship between State Parks and their neighbors. He has also sat on numerous boards and teams, including the Santa Monica Bay Restoration Project.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Daniel C. Preece. He has shown an unwavering commitment to the community and deserves our recognition and praise.

CONSTITUTIONAL AMENDMENT RESTORING RELIGIOUS FREEDOM

SPEECH OF

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to H.J. Res. 78, the Religious Freedom Constitutional Amendment. I reject this measure because it is intended to destroy the delicate balance of church-state relations in America. The so-called Religious Freedom Amendment is fraudulently labeled and it would obliterate the Founders' vision, expressed in the First Amendment, of a tolerant nation where religion can flourish in the absence of excessive government entanglement. There are few passages in the Constitution more central to the premises of this country's establishment than the 10 words that open the First Amendment: "Congress shall make no law respecting an establishment of religion * * *" Americans already enjoy the liberty to worship freely and of not having to participate in religious activities in which they do not believe. And, they have the liberty not to have their taxes pay for religious instruction with which they might disagree. These are the freedoms that would fall if the Istook amendment were passed. Clearly, a proposal to offer schools and governments a role in determining how Americans worship is dangerous and unnecessary. Perhaps, we should more appropriately label this the Religious Freedom Stripping Amendment!

The Istook amendment is dangerous, because it aims to create a new right to practice religion in public institutions and on government property. It would permit inherently coercive programs of group prayer in public schools and mandate use of public funds to support private religious schools and other religious programs. It would also allow government officials, including teachers and judges, to display religious symbols in classrooms, courtrooms or other public spaces and communicate their personal religious beliefs while on the job, say by reciting a prayer at the beginning of a public school class or legal proceeding. The religious right in this country and, specifically, the Christian Coalition argue passionately about the need for prayer in school as a way to unite the nation in the face of racism, yet nothing currently bars students from praying voluntarily in school so long as they do not interfere with classes or commandeer a captive audience of other students. Moreover, it is hard to think of anything more divisive than putting the Federal and state governments in a position to favor one religion over another, as the amendment would do by granting officials the right to display religious material and channel tax dollars to religious programs.

The amendment rests on the false premise that neither the Constitution nor current law adequately protects religious expression or permits religiously affiliated groups to play a role in delivering secular services with public funds. However, recent court decisions have reaffirmed the equal right of private citizens to erect religious symbols in public areas and to have access to public facilities for religious activities. Religion has not been shut out of the public square but is an active voice in American culture. Students already enjoy many opportunities for religious expression within the school environment, including the opportunity to pray and read the Bible privately, say grace at lunch, distribute religious materials to their friends and join voluntary religious clubs. Two documents outline students' rights to religious expression: Religion in the Public Schools: A Joint Statement of Current Law and the U.S. Department of Education's guidelines on religious expression. Under current law, organizations that are religiously affiliated, but not pervasively sectarian, can and do receive government grants for secular social programs as long as they do not advance religion or discriminate on the basis of religion.

In short, Mr. Speaker the Istook amendment is dangerous and unnecessary. I urge my colleagues to reject the needless Istook amendment and preserve real religious freedom.

IN HONOR OF LOIS BEAUBIAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. DIXON. Mr. Speaker, I rise today with great pleasure to honor and acknowledge my friend Lois Beaubian for her distinguished career and her contributions to family and community. On June 26, 1998, Lois will retire as Principal of Saturn Street Elementary School in Los Angeles, culminating an illustrious career. I thank you, Mr. Speaker and esteemed colleagues, for joining me in commemorating this occasion.

Lois Beaubian—a longtime resident of Los Angeles—embarked on her path of lifetime achievement in 1954, graduating from Manual Arts High School. Following high school, Lois worked for Golden State Mutual Life Insurance Company, and received a scholarship through the firm to continue her education. While a full-time employee of Golden State, Lois studied education at California State University, Los Angeles.

After her graduation from Cal State, L.A. in 1965 with a bachelor of arts degree in Education, Lois began her career in education. Her first position was as a teacher at Wadsworth Avenue Elementary School. Through her experience as a teacher, Lois developed an interest in educating students with special needs. Lois continued her education while working as a teacher and earned a masters degree in Special Education from California Lutheran College in 1983.

Lois Beaubian taught at a number of Los Angeles schools, including Western Avenue Elementary, Marvin Elementary, and Crenshaw High School. In 1985, Lois took her expertise into school administration as an Administrative Assistant at Carver Junior High School. From 1986–88, Lois served over 55,000 Los Angeles Unified School District students as manager of the compensatory education program. In 1988, she assumed the position of Assistant Principal of Manchester Elementary. Lois Beaubian began her tenure as Principal of Saturn Street Elementary School in 1992. Throughout her career, Lois developed a reputation as a warm, caring, and effective teacher and administrator. As Principal of Saturn, she inaugurated a computer technology program that is a permanent tribute to her commitment to assuring the future success of her students.

Lois is active in a number of community and professional organizations. She has served as a career instructor for the Los Angeles Urban League, as President of Women Aware, as Grammateus of Alpha Kappa Alpha, and as a member of the NAACP. Lois also is an Elementary Consultant to the Children's Discovery Centers of America, a member of the Associated Administrators of Los Angeles, and the Council of Black Administrators.

Lois and George Beaubian have been partners in life for 39 years and instilled in their children great self confidence and intellectual curiosity. Lois and George are now the proud grandparents of Britt, Jacqueline's son.

Mr. Speaker, I congratulate Mrs. Lois Beaubian on her long-time commitment to the education of our children, her service to our community, and her dedication to her family. I ask my colleagues to join me in congratulating her and extending our best wishes to her and George for many years of good health and prosperity.

MARKING THE DEDICATION OF THE BAKERSFIELD POLICE MEMORIAL

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. THOMAS. Mr. Speaker, last month we observed Law Enforcement Officers Memorial Week, seven days set aside to honor the courageous men and women who gave their lives protecting us and upholding the law. Last month, I was proud to vote for House Resolution 422 which states that law enforcement officers who have died in the line of duty should be honored, recognized, and remembered for their great sacrifice. Today I rise to help pay tribute to the law enforcement officers who died while serving Bakersfield, California.

With all of the advances that have been made in the field of American law enforcement this century, one sad and sobering fact remains the same: police officers are often killed in the line of duty. On May 15, the Bakersfield Police Department dedicated a monument to honor the law enforcement officers who sacrificed their lives for the safety and well-being of the people of Bakersfield over the past century.

Of great men, Ralph Waldo Emerson once said "brave men who work while others sleep, who dare while others fly . . . they build a nation's pillars deep and lift them to the sky." The names which have been etched on this memorial will be an eternal reminder of the seven brave men who lost their lives daring to protect the people of Bakersfield.

Mr. Speaker, it is with great pride that I pay tribute to the law enforcement officials in Bakersfield who died in the line of duty: T.J. Packard, Frank Sparks, Aaron A. Trent, Floyd B.D.W. Cummings, William L. Rucker, Patrick D. Vegas, and William L. Sikola. The somber black granite monument will be a lasting tribute to these individuals who put the safety of the community ahead of their own. I am proud to live in a town which has chosen to honor its fallen police officers in such a fitting and lasting manner.

A TRIBUTE TO LOUISVILLE MALE HIGH SCHOOL WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mrs. NORTHUP. Mr. Speaker, I rise today to recognize a talented and motivated group of young people, who competed in the national finals of the We the People . . . The Citizen and the Constitution program in early May.

I am pleased to recognize the class from Male High School in Louisville, which represented the state of Kentucky in this national event. These young scholars worked diligently to reach the national finals by winning competitions in their home state and did a wonderful job at the national event.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country, developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a Congressional hearing in which students demonstrate their knowledge as they defend positions on historical and contemporary constitutional issues.

Administered by the Center for Civic Education, the We the People . . . program has provided curricular materials at upper elementary, middle and high school levels for more than 75,000 teachers and 24 million students nationwide.

In a time when the public is often disenfranchised with the political system, when public cynicism and apathy are fueled by media that love nothing more than a story of sin and corruption, this program is instilling in young people a sense of understanding and civic duty.

It is an honor for me to recognize this group of shining, young Kentuckians: Angela Adams, Perry Bacon, Katherine Breeding, Will Carle, Eric Coatley, Courtney Coffee, Brian Davis, Mary Fleming, Matt Gilbert, Amanda Holloway, Holly Jessie, Heath Lambert, Gwen Malone, Kristy Martin, Brian Palmer, Lauren Reynolds, Shane Skoner, LaVonda Willis, Bryan Wilson, Darreshia Wilson, Beth Wilson, Janelle Winfree, Treva Winlock and Jodie Zeller.

I am thrilled Male High School once again represented my home state of Kentucky in national competition. The student team worked diligently and demonstrated a remarkable understanding of the ideals of our government during the national competition in Washington, DC. I am proud of the students and their teacher, Sandy Hoover, and would like to extend my sincere congratulations for their success.

SIGNS DESIGNATING RONALD REAGAN NATIONAL AIRPORT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to introduce a simple bill—a bill to protect the good name of one of America's greatest Presidents, Ronald Reagan.

On February 4 of this year, Mr. Speaker, this body and the other body both overwhelmingly passed legislation renaming National Airport after Ronald Reagan. President Clinton signed the bill into law on February 6, President Reagan's 87th birthday.

Nevertheless, the National Park Service has announced that it intends to thumb its nose at the will of Congress and the President by erecting signs on the George Washington Memorial Parkway that omit President Reagan's name.

This bill prohibits such a move, and requires new signs that use the correct name of the airport. And, if the Park Service decides to go ahead with its plan to thwart the will of Congress, then we will require the signs to be replaced, with the funds coming out of the budget of the director of the National Park Service.

Ronald Reagan is an American hero. Mr. Speaker, the Park Service must not be allowed to rob him of any part of his tremendous legacy.

Mr. Speaker, I insert a copy of the bill for the RECORD:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ronald Reagan National Airport Preservation and Protection Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(a) Ronald Reagan is an American hero deserving of recognition;

(b) the will of the Congress to honor President Reagan was clearly expressed when both Houses overwhelmingly passed legislation changing the name of "Washington National Airport" to "Ronald Reagan Washington National Airport" on February 4, 1998;

(c) the will of President Clinton to honor President Reagan was clearly expressed when he signed such legislation into law on February 6, 1998, the 87th birthday of President Reagan;

(d) notwithstanding the fact that the will of the Congress and the President had been clearly expressed through passage of such legislation and signing such legislation into law, the National Park Service (NPS) has recently announced that it intends to erect new signs on the George Washington Memorial Parkway directing motorists to Ronald Reagan National Airport that omit Ronald Reagan's name.

SEC. 3. PROHIBITION OF SIGNS OMITTING RONALD REAGAN'S NAME.

(a) Notwithstanding any other provision of law, the Director of the National Park Service—

(1) shall not erect any new signs on, near, or adjacent to the George Washington Memorial Parkway in Northern Virginia, Maryland, the District of Columbia, or elsewhere,

displaying the name "National Airport", but omitting the name "Ronald Reagan.".

(2) shall, on or before August 5, 1998, replace all signs on, near, or adjacent to the George Washington Memorial Parkway in Northern Virginia, Maryland, the District of Columbia, or elsewhere, displaying the name "National Airport" with signs prominently displaying the name "Ronald Reagan National Airport."

(3) shall fund the replacement pursuant to subsection (2) of any signs that had been erected after February 4, 1998, entirely out of the budget of the Director of the National Park Service.

TRIBUTE TO RANCE LEADERS OF BATTLE CREEK, MICHIGAN

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. SMITH of Michigan. Mr. Speaker, I wanted to take a moment today to point out to my colleagues someone in my district who epitomizes the dedication and commonsense leadership we all should value in our local government officials. On Friday, June 12, 1998, Rance Leaders will retire as City Manager of Battle Creek, Michigan, after serving with distinction for 10 years. Today, our community will salute Mr. Leaders with a gala retirement celebration for his years of service to Battle Creek.

Mr. Leaders has served the people of Battle Creek, Michigan, for 18 years, first starting as Assistant City Manager in 1980. When Gordon Jaeger retired in 1988, the City Commission, then led by Mayor Al Bobrofsky, selected Mr. Leaders as Battle Creek's City Manager, effective June 1, 1988. Rance served our country in the United States Marine Corp during the Vietnam Conflict and also worked for the U.S. Department of Housing and Urban Development prior to working for the city of Battle Creek.

Tonight's salute, dubbed "Operation Compass," honors an outstanding leader in the community. I wholeheartedly believe that Mr. Leaders is deserving of such recognition for its leading role in revitalizing Battle Creek—the best-known city of its size anywhere in the world.

Mr. Speaker, as you know, I'm pretty proud of Battle Creek. The town, as millions of Americans know, is affectionately called the "Cereal City," because it is the birthplace of modern breakfast cereal. It was once home to over 100 cereal companies and today is home of the world headquarters of the Kellogg Company.

Mr. Leaders has been a key catalyst for many positive changes within the City. He has worked to create better partnerships with regional units of government and most of all among the citizens of Battle Creek. Today, according to some surveys, citizens' trust in city government has risen from 45 percent in 1990 to 83 percent in 1997. One of his favorite sayings might be one any leader should remember—especially here in Congress—"None of us is as smart as all of us."

Rance worked to strengthen Battle Creek's global reputation by working in collaboration with all parties to continue to attract business to Battle Creek's Fort Custer Industrial Park. Most recently, I was honored to join city officials as Western Michigan University opened its elite International Pilot Training Center in Battle Creek to train airplane pilots from all over the world.

Rance also worked on several projects including the Emmett Street overpass, Full Blast, a premier youth recreation facility, removal of the pedestrian mall to increase economic development in the downtown area, and most recently, Kellogg's Cereal City U.S.A., a museum recognizing Battle Creek's breakfast cereal heritage.

I personally have had the pleasure of working closely with Rance Leaders since 1993 when the Department of Defense sought to close several agencies at the Federal Center located in downtown Battle Creek. Rance helped us convince the Department of Defense that the work performed at the facility was cost-effective and at a lower cost than that cited by the federal government. Because of our coalition's efforts, the Federal Center remains in Battle Creek and its operations are expanding.

As other cities have faltered, the transformation that Battle Creek has experienced over the last 10 years is nothing short of miraculous. Rance Leaders deserves much praise and recognition for his accomplishments. And there is so much more that I could highlight. But perhaps it will suffice to say that Rance Leaders truly exemplifies the spirit of Battle Creek, a city that will continue to thrive due in no small part to his efforts.

Mr. Speaker, for all of these reasons, and on behalf of the citizens of Battle Creek, I am very proud to offer this tribute to Rance Leaders, retiring City Manager of Battle Creek, Michigan. I know that Rance enjoys sailing and may take some time to explore other areas of our world. But all of us hope he stays anchored in Battle Creek.

Thank you, Rance, and good luck. Bonnie and I wish you the very best.

PERSONAL EXPLANATION

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. SERRANO. Mr. Speaker, last evening, I was inadvertently delayed in my office and missed the vote on H. Con. Res. 285, a resolution expressing the sense of Congress that the President should reconsider his decision to be received in Tiananmen Square when he visits the People's Republic of China.

Had I been present, I would have voted against the resolution. I fully believe that if the United States is to exercise leadership in the world and, particularly, to influence other governments to adopt policies we support on issues such as human rights, we must be engaged with those governments. This includes exchanging visits, but a resolution urging the President to insult his hosts by refusing to be received where all national leaders are received comes pretty close to telling the President not to go to China at all.

Indeed, Mr. Speaker, I would go a step farther. China is not the only nation with which we should be engaged. I look forward to the day when our policies toward Cuba will make possible an American President's visit there, and, when that day comes, I will be happy to support a resolution calling on the President to be received in the Plaza of the Revolution in Havana.

TRIBUTE TO RABBI HAROLD AND MALKAH SCHULWEIS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Rabbi Harold and Malkah Schulweis, two extraordinary individuals who have, throughout their 50 years of married life, dedicated themselves to strengthening our community.

The Talmud tells us that, "Great is charity. It uplifts the soul." By giving selflessly of their time, Rabbi and Mrs. Schulweis have not only enriched the lives of those around them, but they have also strengthened the bond of love that exists and continues to grow between them. They have challenged all of us who live in the San Fernando Valley to live ethical and moral lives, embrace their warm spirituality and their commitment to education and personal growth. For their efforts, Rabbi and Mrs. Schulweis will be honored by Valley Beth Shalom, their temple of over 25 years, as Couple of the Year at the Temple's annual awards gala. This honor is well deserved.

For over 45 years, Rabbi and Mrs. Schulweis have dedicated themselves to teaching others about religion, culture and life in general. Privately, they have created a Jewish home which is caring, compassionate and alive with moral and intellectual dialogue. Publicly, they have "sounded the call," challenging their fellow congregation members to study and share in their love of knowledge.

But this dedication to others has not been bound by temple walls. Together, Rabbi and Mrs. Schulweis have coordinated a number of innovative community outreach programs, among them the Valley Beth Shalom Counseling Center, Food Bank, Prayer and Theological Commission, Day School, and Outreach to Jews By Choice as well as the now national Synagogue Havurah Program. Together, they have opened their hearts to all members of the community, regardless of race, creed, color, or gender. They have been shining examples of love and unconditional acceptance of others in our community. And it is this love between this remarkable couple that I wish to honor today. May their happiness continue to grow as it has through their first 50 years of marriage.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Rabbi Harold and Malkah Schulweis for their controlled efforts to strengthen our community and the example of love for one another that they continue to set for each and every one of us to follow.

COMMENDING TOM CONLAN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. PORTMAN. Mr. Speaker, I rise today to commend a leader in the Cincinnati community, Mr. Tom Conlan. On June 15, Tom will receive the Peace of the City Award from the Jewish Community Relations Council of Cincinnati. This award is presented annually to citizens who contribute greatly to the life of their community and whose lives are dedicated to creating a fair, equitable and just society for all.

Throughout his life, Tom has assisted others through his professional career and charitable activities. Tom's professional career has included financial analysis and feasibility of higher education, energy, housing and health care. For example, he has served as executive director of the Ohio Energy Advisory Committee, where he spearheaded the development of the Winter Heating Assistance Program.

Importantly, Tom and his father co-founded Student Loan Funding in 1981, an organization dedicated to ensuring access to higher education in Ohio and throughout the nation. Over the past 17 years, Student Loan funding has helped over 600,000 students achieve their dreams of higher education with more than $4 billion in financial aid.

Most recently, Tom demonstrated his commitment to education through the formation of the Thomas L. Conlan Education Foundation, named after his late father. It is dedicated to supporting education access through grants, research and advocacy. With approximately $100 million in assets, the Foundation will be one of the premier education support organizations in Ohio.

Tom's charitable activities have included service on the Boards of the Hamilton County Alcohol and Drug Addiction Services, the National Underground Railroad Freedom Center, the Queen City Foundation, the Greater Cincinnati Tall Stacks Commission and the Catholic Big Brothers Association of Cincinnati.

The Peace of the City Award is a well-deserved recognition for a man whose efforts have significantly increased educational attainment in Ohio, and whose community involvement has contributed to the quality of life in Greater Cincinnati.

COMMEMORATING 50 YEARS OF RELATIONS BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA, H. RES. 459

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. GILMAN. Mr. Speaker, I am proud to introduce today a Resolution commemorating 50 years of relations between the United States and the Republic of Korea. It is right and fitting that the House of Representatives makes note of the special relationship that the United States and the Republic of Korea have shared since 1948—nearly half a century.

The introduction of this Resolution also marks the visit of South Korean President Kim Dae-jung to the United States and to Capitol Hill next week on June 10th where he will address a joint session of the Congress.

I congratulate President Kim and the people of South Korea on the most recent presidential elections and their strong commitment to democratic principles and practices. President Kim's visit provides a unique opportunity for the United States and the Republic of Korea to renew their commitment to cooperate on issues of mutual interest and concern.

Though the United States and South Korea are literally an ocean apart, the large Korean-American community—of almost two million—has immeasurably enriched the social and cultural fabric of the United States and serves as a sturdy bridge of friendship between the two countries.

The United States has important strategic, economic and political interests at stake in Northeast Asia and maintaining stability remains an overriding U.S. security concern in the region. South Korean soldiers have stood shoulder to shoulder with American troops on the battlefields of Korea and Vietnam to protect and advance these mutual interests.

Today, South Korea remains an important partner and ally in guarding the peace and maintaining stability in Northeast Asia. To support these objectives, 37,000 American servicemen and women are stationed in South Korea protecting freedom and democracy which is threatened on a daily basis by the communist government and armed forces of the Democratic People's Republic of Korea (DPRK).

The United States is pleased with the flourishing of democracy in South Korea. It is hoped that the Republic of Korea will serve as an example to others in the region and will encourage progress in the furthering of democratic principles and practices, respect for human rights, and the enhancement of the rule of law.

I am confident that despite current economic uncertainties, the Republic of Korea will weather the troubles plaguing Asia and emerge even stronger than before.

The Congress looks forward to a broadening and deepening of friendship and cooperation with the Republic of Korea in the years ahead for the mutual benefit of the peoples of the United States and the Republic of Korea.

I am pleased to have this opportunity to introduce the legislation and I invite my colleagues in the House of Representatives to support this Resolution commemorating the distinctive ties between the peoples and the governments of these two great nations.

I include the entire text of H. Res. 459 for insertion at this point in the RECORD:

H. RES. 459

Whereas the Republic of Korea was established 50 years ago on August 15, 1948;

Whereas the United States and the Republic of Korea have long had a close relationship based on mutual respect, shared security goals, and common interests and values;

Whereas the United States relies on the Republic of Korea as a partner and treaty ally in fostering regional stability, enhancing prosperity, and promoting peace and democracy;

Whereas the American military personnel who are, and have been, stationed on the Korean Peninsula have been key in deterring armed aggression for more than 4 decades;

Whereas South Korean soldiers fought alongside American troops on the battlefields of Korea and Vietnam;

Whereas the Republic of Korea has embraced economic reform and free market principles in response to current economic circumstances;

Whereas the Republic of Korea is an important trading partner of the United States, the recipient of significant direct American investment, and a prominent investor in the United States;

Whereas the large Korean-American community has made significant contributions to American society and culture;

Whereas the people of the Republic of Korea have demonstrated their strong commitment to democratic principles and practices through free and fair elections; and

Whereas the state visit of President Kim Dae-jung to the United States offers the people of the United States and the people of South Korea an opportunity to renew their commitment to international cooperation on issues of mutual interest and concern: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the Republic of Korea on the 50th anniversary of its founding;

(2) commends the people of the Republic of Korea on the peaceful democratic transition that has taken place during the most recent Presidential elections;

(3) supports the government of President Kim Dae-jung as it takes appropriate measures to address the problems in the Korean economy;

(4) confirms that the question of peace, security, and reunification on the Korean Peninsula is, first and foremost, a matter for the Korean people to decide and that the Four-Party Peace Talks complement direct North-South dialog; and

(5) looks forward to a broadening and deepening of friendship and cooperation with the Republic of Korea in the years ahead for the mutual benefit of the people of the United States and the people of the Republic of Korea.

REMEMBERING THE LIFE AND COMMITMENT OF ROBERT F. KENNEDY ON THE 30TH ANNIVERSARY OF HIS DEATH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying tribute to the memory of one of our Nation's most compassionate and principled leaders—Robert Francis Kennedy, who was assassinated thirty years ago today. He served our country as Attorney General and United States Senator, but his legacy cannot be measured by mere titles and offices; rather, his greatness can only be understood by understanding the uncompromising morality of his political philosophy, his devotion to the most downtrodden in our society, and the intellectual eloquence of his efforts to communicate their needs to the rest of the American community.

Robert F. Kennedy believed that one person, standing alone and guided only by the courage of his or her convictions, could move metaphorical mountains. His inspirational words to the oppressed black people of South Africa, spoken 32 years ago today, capture this spirit. They apply not just to those who were fighting against the brutal racism of apartheid, but to all of us. These words apply in particular to the life of Robert F. Kennedy.

> Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation. * * * It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

Robert F. Kennedy rode the crest of an immense wave, serving as the nucleus of so many great progressive causes that marked the 1960's and helped mold a more just society, one less encumbered by bigotry, poverty, and apathy. His numerous lofty causes reflected these high ideals.

Senator Kennedy fought for civil rights with a moral intensity rarely matched by the most legendary of noble crusaders. During his visit to South Africa, a land fractured by the scourge of apartheid, he addressed the most controversial questions with the absolute certainty of a man driven by the righteous rectitude of his cause. When asked at the University of Witwatersrand to respond to charges that blacks were too barbarous to be entrusted with power, he replied: "It was not the black man of Africa who invented and used poison gas and the atomic bomb, who sent six million men and women and children to the gas ovens." He condemned the race-baiting leaders of South Africa to their faces, leaving no doubt about the moral degeneracy of their policies.

Robert F. Kennedy's quest for human rights was felt most strongly by his own countrymen. As Attorney General, he did not hesitate to stare down Southern governors who attempted to curry favor with the Ku Klux Klan by denying justice and opportunity to minorities. He sent federal marshals to integrate the University of Alabama, the University of Mississippi and other public institutions, withstanding vicious personal attacks against him in order to break down centuries-old barriers of hatred. As a United States Senator, he worked diligently to pass a wide array of civil rights legislation, including the Voting Rights Act of 1965. And as a presidential candidate in 1968, he uttered the following words to a crowd of black men and women in Indianapolis as he informed them of the tragic death of Rev. Martin Luther King, Jr.:

> What we need in the United States is not division; what we need in the United States is not hatred; what we need in the United States is not violence or lawlessness, but love and wisdom, and compassion toward one another, and a feeling of justice toward those who will suffer within our country, whether they be white or they be black.

These were the words of a man who had known great pain after the assassination of his brother, but had overcome his hatreds to strive for a greater cause. His words touched the audience and helped to ease their immense pain at the loss of their leader.

Senator Kennedy's devotion to America's underprivileged extended to those whose problems were economic as well as social. He spoke with sharecroppers in Mississippi, hungry families in Appalachia, dispossessed Indian youths on the reservations, and migrant workers in California. He listened rather than preached to them, grasping their pain and fighting with them to ease it. Kennedy understood their longing for self-sufficiency, not government handouts. He campaigned tirelessly to provide a platform from which they could rise above their hellish circumstances: investment in impoverished cities and towns, comprehensive welfare reform (decades ahead of its time), strong advocacy for the expansion of educational opportunity, and the implementation and enforcement of labor laws to protect abused workers and, especially, exploited children.

Kennedy believed most passionately in the need to provide a better society for these young people: on the opening page of his 1967 book "To Seek A Newer World," he quoted the French intellectual Albert Camus: "Perhaps we cannot prevent this world from being a world in which children are tortured. But we can reduce the number of tortured children. And if you don't help us, who in the world can help us do this?" Kennedy's disgust at the mistreatment of children is most movingly shown by the story of a trip to a migrant worker camp in upstate New York in 1967. The noted historian Arthur M. Schlesinger, Jr., recorded an account of this visit in his biography "Robert Kennedy And His Times."

> * * * The owner's sign warned: ANYONE ENTERING OR TRESPASSING WITHOUT MY PERMISSION WILL BE SHOT IF CAUGHT. This discouraged most of the party. Kennedy, head down, kept walking. He found three migrant families living in an old bus with the seats ripped out. Inside he saw six small children, their bodies covered with running sores. The stench was overpowering * * *. Cardboard covered the windows of the next bus, where a child played forlornly on a filthy mattress. 'As Kennedy looked down at the child,' reported Jack Newfield, 'his hands and his head trembled in rage. He seemed like a man going through an exorcism.' The owner, as billed, had a gun. 'You had no right to go in there,' he said. . . . Kennedy replied in a whisper, 'You are something out of the 19th century. I wouldn't let an animal live in those buses. . . .'' Once back in the twentieth century, Kennedy demanded that [New York Governor Nelson] Rockefeller investigate health conditions in the camps and called on labor leaders to organize the migrants."

Mr. Speaker, we will never know for certain the impact that Robert Kennedy might have had upon our country as President of the United States, but I believe it fair to speculate that fewer children would live in abandoned buses today if his boundless compassion and his energetic commitment had become a driving force behind our government.

This love of children was the source of his desire to improve the quality of our nation's schools. I once had the privilege of working with him on this all-important issue. As a young professor of economics and as a member of the Millbrae, California, school board, I was invited by Senator Kennedy's Committee to testify on the merits of the Elementary and Secondary Education Act. Senator Kennedy's inciteful questioning reflected an unencumbered devotion to ensuring that all children, regardless of their race, ethnicity, geographic or economic circumstances, had access to a top-notch education that would prepare them to access unlimited opportunities.

Senator Kennedy's feelings for young people also led him to his principled stand against the Vietnam War. A committed anti-Communist whose belief in civil liberties mandated his abhorrence of collectivist oppression, Robert Kennedy was a key participant in the dealings with Nikita Khrushchev and Fidel Castro during the Cuban Missile Crisis. By the mid-1960's, however, he realized that the Johnson Administration's Vietnam policy would do little to curb Communism despite its sacrifice of thousands and thousands of young American men. Kennedy did not shy away from communicating his deep emotions regarding this loss. He once said:

> Our brave young men are dying in the swamps of Southeast Asia. Which of them might have written a poem? Which of them might have cured cancer? Which of them might have played in a World Series or given us the gift of laughter from the stage or helped build a bridge of a university? Which of them would have taught a child to read? It is our responsibility to let these men live. * * * It is indecent if they die because of the empty vanity of their country.

Kennedy loved his country and all of its people, but he was not afraid to be unpopular if it meant doing what he felt was right.

Mr. Speaker, Robert F. Kennedy's life was cut short by an assassin's bullet 30 years ago today, and with his passing America lost one of its most brilliant and compassionate leaders. Many of his gifts, however, live on to this day. His invaluable contributions to civil rights, economic justice, and a moral and principled foreign policy will not be erased from our consciousness. Robert F. Kennedy's children have followed their father's example by their commitment to public service, and I am proud to have worked for the last twelve years with his oldest son, Rep. Joseph Kennedy, Jr., a dear friend and tireless advocate for human rights and the underprivileged.

I invite my colleagues to join me in remembering Robert F. Kennedy. I pray that we all let his moral courage guide our public service, and that we ensure that his lessons will never be forgotten.

TRIBUTE TO L'ANSE CREUSE MIDDLE SCHOOL SOUTH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. BONIOR. Mr. Speaker, education is a lifelong commitment and adventure. As children and adults, we all have reaped the benefits of our teachers' and school administrators' dedication. That is why each year, the United States Department of Education awards a selection of secondary schools with the Blue Ribbon Schools Award. This year, one hundred and sixty-six schools will be presented with the honor. We, in Macomb County, are proud of the fact that one of our own—L'Anse Creuse Middle School South—has been chosen to receive this important award this year.

As you walk into L'Anse Creuse Middle School South, a banner greets you with the words, "This is our village, these are our children. Love them, teach them, guide them." These are not merely words decorating a hallway. They symbolize the dedication that the staff feels for their students. As a recipient of the 1998 Blue Ribbon School Award, L'Anse Creuse Middle School South has worked hard to create a supportive educational environment for their students.

In 1975, L'Anse Creuse Middle School South opened its doors to students in Harrison Township, Michigan. Within the walls of Middle School South, an emphasis has been placed on academic success and self-esteem. The highly trained teaching staff is committed to working with each student as an individual. It is cooperation and respect between the staff and students that makes L'Anse Creuse Middle School South an exciting environment in which to learn and grow.

Each fall, for the past twenty-three years, students have entered the doors of L'Anse Creuse Middle School South to find a nurturing environment in which to learn. As a Blue Ribbon School, Middle School South is a working example for other schools to follow. I am proud to honor the achievements of the students and staff at L'Anse Creuse Middle School South.

HONORING MR. JIM BILL MCINTEER FOR HIS 77TH BIRTHDAY, AND FOR THE 60TH ANNIVERSARY OF 21ST CENTURY CHRISTIAN

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. CLEMENT. Mr. Speaker, I rise today in honor of Jim Bill McInteer for his 77th birthday, and for the 60th anniversary of 21st Century Christian. This powerful, religious periodical, which humbly originated out of the home of M.N. Young, Sr., in 1938, is now in circulation to more than 6,000 people.

Mr. McInteer, who began his service with 20th Century Christian in 1947, working as a business manager, has been afforded the privilege to see this vehicle for Christ not only reach its 60th year of service, but also has been fortunate enough to stand at the helm, as this magazine now prepares itself for the new millennium—thus the name change to 21st Century Christian.

But more outstanding than recognition, medals or fame is the story of how Jim Bill McInteer, M. Norvel Young, Winston Moore and several others courageously worked with this organization in its early stages, while having to overcome a mountain of adversity. They relentlessly pursued a way to relate the Gospel to the lives of people everywhere. And, of course, they faced the financial realities of such a venture, which would constantly whisper discouragement to them.

Yet, these Christian leaders were equipped with an extraordinary amount of faith and fortitude, desiring to see "New Testament Christianity" brought to the forefront of the modern age. They would work tirelessly knowing that many hurting people had a dire need to read and be encouraged by the Gospel.

As a result of the determination of Jim Bill McInteer and his partners, the 20th Century Christian magazine grew beyond its humble beginnings under the steps of the David Lipscomb College auditorium to a brand new 22,000 square-foot facility equipped with a bookstore, a warehouse filled with thousands of useful Christian books, Bibles and Christian curriculum materials.

Thanks to the services of the men and women at 21st Century Christian, the good news of the Gospel has reached and continues to reach the lives of many families all throughout Tennessee.

And I reserve a special "thank-you" to Jim Bill McInteer, whose visionary leadership and unselfish Christian service will have a far greater impact than his eyes will ever see. May God continue to shine upon his life, family and service as He has for the past 77 years. And may the future receivers and readers of 21st Century Christian literature forever be touched with the encouragement and inspiration that it has already brought to the lives of so many others.

THE STUDENT WINNERS OF THE 1998 EXPLORAVISION AWARDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. BROWN of California. Mr. Speaker, for the recognition of their achievement, I am inserting into the RECORD the names of the student winners of the 1998 ExploraVision Awards:

1998 FIRST PLACE FINALISTS

Holmes Elementary School, San Diego, CA; Grade Level: K–3; Project: Finders Keepers; Students: Ashlyn Hrenko, Rachel Sampson, Tyler Santander; Teacher Advisor: Diana Celle; Community Advisor: Steve Celle.

Pickens Academy, Carrollton, AL; Grade Level: 4–6; Project: Operation Odor Eater; Students: Wetherly Collins, Maggie King, William Webb Lavender; Teacher Advisor: Nita Bailey; Community Advisor: Natalie Lavender.

Kate Collins Middle School, Waynesboro, VA; Grade Level: 7–9; Project: In Vivo Cartilage Implants: The Technological Application of Tissue Engineering to Regenerate Articular Cartilage; Students: Andrew Humphries, Lauren Preski, Kristen Burgess, Elizabeth Anderson; Teacher Advisor: Dr. John E. Pierce; Community Advisor: David A. Burgess, MD.

University of Detroit Jesuit High School and Academy, Detroit, MI; Grade Level: 10–12; Project: SMAART: Shape Memory Alloys in Airplanes Reduce Turbulence; Students: Brett Lee, Joseph Oravec, William Schlotter, Daniel Tremitiere; Teacher Advisor: Anne Moeser; Community Advisor: W. Charles Moeser.

1998 SECOND PLACE FINALISTS

Bluemont Elementary School, Manhattan, KS; Grade Level: K–3; Project: DNA Door Opener; Students: Phillip Kuehl, Margaret Thomas, Jamon John, Benjamin Stark-Sachs; Teacher Advisor: Cynthia Garwick; Community Advisor: John Garwick.

Eugene Christian School, Eugene, OR; Grade Level: K–3; Project: The Tooth Buffer; Students: Scott Oplinger, Micah Randall, Alex Woldt; Teacher Advisor: Gwen Philipsen; Community Advisor: Thomas Zorn.

Mayfield Woods Middle School, Elkridge, MD; Grade Level: 4–6; Project: The Medwatch; Students: Andrew White, Robert K. Albin II, Christopher Perks, Nirav Parekh; Teacher Advisor: Lynn Birdsong; Community Advisor: Kem White.

Leeds Elementary School, Arlington, WI; Grade Level: 4–6; Project: The Smart Smoke Detector; Students: Charles Delorey, Jeffrey Mueller, Ashly Hall; Teacher Advisor: Jeffrey Stem; Community Advisor: Roger Bjorge.

Point Grey Mini School, Vancouver, BC; Grade Level: 7–9; Project: N.A.F.T.A.-Newron Activation: A Frequency Technology Application; Students: Barry Wohl, Robyn Massel, Carly Glanzberg, Isaac Elias; Teacher Advisor: John O'Connor; Community Advisor: Sanford Wohl.

John Burroughs School, St. Louis, MO; Grade Level: 7–9; Project: QUACK-The Duckweed Paper; Students: Anita Devineni, Eric Hirsh, Jonathan Pollock, Catherine Whyte; Teacher Advisor: Mary Harris; Community Advisor: Elaine Kilmer.

University Laboratory High School, Urbana, IL; Grade Level: 10–12; Project: NaMReH: The Tissue Engineered Nanomachine Monitored Replacement Heart; Students: Mara Bandy, Kim Ly, Zeynab Moradi, Anna Sczaniecka; Teacher Advisor: David Stone .

South Salem High School, Salem, OR; Grade Level: 10–12; Project: AntiQuake: Securing Society Through the Science of Nitinol; Students: Randy Kluver, Patrick Gilger, Daniel Gruber, Joy Harms; Teacher Advisor: Michael Lampert.

PARITY FOR MENTAL HEALTH CARE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to bring to the attention of this Congress a study that has found that health insurance coverage for mental health is being cut far faster than issuance coverage for physical injury and illness.

This study found that mental health benefit costs have been slashed six times as often as general health benefit costs over the past 10 years. Where the value of general health benefits has declined 7 percent (from $2,326.86 per covered individual in 1988 to $2,155.60 in 1997), the value of mental health benefits has declined 54 percent (from $154.08 in 1988 to $69.61 in 1997), according to the report.

This study was prepared by the Hay Group on behalf of the National Association of Psychiatric Health Systems, the Association of Behavioral Group Practices and the National Alliance for the Mentally Ill.

As the study shows, discrimination in benefits for mental health care persists. Mental health care has been, and remains, subject to different limits, caps, and deductibles than general health care. In addition, these caps, limits, and deductibles have not raised substantially in the past 10 years to account for inflation. That translates into additional erosion of the behavioral health benefit.

This is discrimination. And this is the reason the House Mental Health Working Group and I have introduced comprehensive legislation requiring health insurance companies to establish parity between mental health and substance abuse coverage and coverage for physical illnesses and injury.

The Mental Health and Substance Abuse Parity Act would prohibit insurance companies from setting spending limits for mental health and substance abuse coverage that are lower than limits set for physical illness or injury. Legislation introduced and passed with my initiative in 1996 prohibited unequal limits on annual and lifetime spending levels. This legislation goes further by prohibiting limitations on the frequency of treatments, number of visits, or other limitations on treatment not imposed for medical-surgical treatment. It would also prohibit copayments, deductibles, out-of-network charges, and out-of-pocket contributions or fees not imposed for medical surgical treatment.

This bill has been endorsed by the Coalition for Fairness in Mental Illness Coverage, which includes the American Medical Association, American Psychiatric Association, American Psychological Association, National Mental Health Association, National Alliance for the Mentally Ill, American Managed Behavioral Healthcare Association, Federation of American Health Systems and National Association of Psychiatric Health Systems.

The cost of mental health parity is small, especially when weighed against its benefits. A study by the Department of Health and Human Service's Office of Substance Abuse and Mental Health Services Administrations found the average increase in insurance premiums necessary to achieve parity for mental health coverage would be only 3.4 percent. Adding both mental health and substance abuse parity would require a combined increase of 3.6 percent.

Mental illness is not a character flaw, but a tangible treatable health problem as real as hypertension, cancer or heart disease. Today, the advances of our medical system have given us scientific breakthroughs that make appropriate care as effective for mental illness as insulin is for a diabetic.

It is time that health insurance plans recognize that mental illness is an illness. Most people who suffer from mental illnesses can live normal lives if they receive treatment but most can't receive treatment if their insurance won't pay for it.

The bottom line is that discrimination against people with mental and addictive disorders still exists. It must end.

TRIBUTE TO CHIEF RALPH H. ANDERSON

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. McGOVERN Mr. Speaker, I rise today to pay tribute to an outstanding public servant, Police Chief Ralph H. Anderson. Chief Anderson is retiring after 30 years of dedicated service with the Rutland Police Department. I join his family, friends and colleagues in celebrating his distinguished career.

Chief Anderson began his career as a police officer in 1968 and became Chief of Police in 1983. Ralph Anderson's devotion to his community is truly impressive. During Ralph Anderson's tenure with the Rutland Police Department, a larger and more effective police force emerged. Under his guidance, community programs including Neighborhood Watch and Kindness Police programs have prospered, helping to make his community safer for all.

Mr. Speaker, it is my great pleasure to honor Chief Ralph H. Anderson for his strong commitment to serve the hardworking citizens of central Massachusetts and his genuine concern for his community. I want to congratulate and wish him the very best in his retirement.

A TRIBUTE TO PASQUALE "PAT" J. CURCIO, OF COPIAGUE, LONG ISLAND

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. FORBES. Mr. Speaker, I rise today to join my friends and neighbors as we pay tribute to Pasquale "Pat" J. Curcio, of Copiague, who received an "Honorary Doctorate Degree" from New York Institute of Technology for his leadership in many of Long Island's civic, community and educational causes.

Pat Curcio was honored because the college appreciates his seemingly endless contributions of time and energy to the Long Island community. Pat works tirelessly to improve the quality of life of all his neighbors, and his support, leadership and dedication have made our community a better place.

To celebrate this recognition, Pat's friends are establishing a scholarship fund at New York Institute of Technology in his name. This scholarship will help deserving students pursue their dreams of a college education and a career in communications, engineering, criminal justice, a political science or medicine.

Pat's accomplished business life includes more than 35 years experience in computer graphics, aerospace engineering, telecommunications and architectural design, leading to many awards and accolades. He received the "1st Shuttle Flight Achievement Award" and the "Creative Development of Technology Award" from NASA and the "Recognition of Achievement Award" for his work on the Orbital Flight of the Space Shuttle.

A natural leader, Pat serves as Vice Chairman for the New York State Conservative Party, and Chairman of the Suffolk County and Babylon Town Conservative Parties. For 25 years, Pat served the Babylon Town Zoning Board of Appeals, and has been recognized for his exceptional public service by every major political party, organization and club in New York State, Nassau and Suffolk Counties.

Yet, Pat is most proud of his work on behalf of fellow Long Islander Corporal Anthony Casamento in his battle against bureaucratic red tape so that he could receive the Congressional Medal of Honor for his heroic actions at Guadalcanal. Pat spearheaded a grassroots organization that for two and a half years worked to bring recognition to Corporal Casamento's heroism. President Jimmy Carter presented Corporal Casamento with the Medal of Honor in a White House, Rose Garden ceremony.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring Pat Curcio and to recognize his commitment to promoting and protecting the quality of life for all of Long Island, for his family and his community. We are truly blessed to count him as our friend and neighbor.

HONORING LIEUTENANT COLONEL GARY C. POWELL

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. STENHOLM. Mr. Speaker, I rise today to recognize Lieutenant Colonel Gary C. Powell upon his retirement from the United States Army after serving our great nation for over 20 exemplary years. For the past three years Lieutenant Colonel Powell has served as the Congressional Affairs Contact Officer for the Deputy Chief of Staff for Personnel, Headquarters Department of the Army. In this position he has established a solid reputation among his peers and superiors alike. He serves as the principal advisor to the Deputy Chief of Staff for Personnel on all matters relating to congressional activities.

Lieutenant Colonel Powell was born in Rotan, Texas on September 25, 1953. Upon completion of the Reserve Officers' Training Corps curriculum and the educational course of study at Hardin Simmons University in 1977, he was commissioned a second lieutenant of Infantry and awarded a BS degree in Social Work. He also holds a Master of Arts degree in Human Resource Development from Webster University. His military education includes completion of the Infantry Officer Basic and Advanced Courses, the Combined Arms Staff Course, and the United States Army Command and General Staff College.

His initial assignment was at Fort Campbell, Kentucky with the 101st Airborne Division. There he served as a rifle platoon leader, antitank platoon leader, and company executive officer, 1st Battalion, 503d Infantry, 3d Brigade, 101st Airborne Division. In January 1980, he was assigned to the United States Army Ranger Department as a Ranger Instructor in the Florida Ranger Camp. He attended the Infantry Officer Advance Course in

October 1982. After graduating in 1983, he was assigned as a Test Officer with the United States Airborne and Special Operations Test Board at Fort Bragg, North Carolina. In November 1984 he was assigned as an assistant operations officer with 3d Brigade, 82d Airborne Division. In May 1985 he assumed command of A Company, 1st Battalion, 505th Parachute Infantry Regiment, and again assuming command in June 1986 of Headquarters Company, 505th Parachute Infantry Regiment, 82d Airborne Division. In June 1987 he was assigned as a combat arms assignment officer in the Office of the Deputy Chief of Staff for Personnel, XVIII Airborne Corps. He served in this capacity until his selection and assignment in July 1988 as the commander of the Joint Security Force Company, United Nations Command Security Force, Panmunjom, and Republic of Korea. After completion of his command, he was assigned as an operations officer in the Office of the Deputy Chief of Staff for Plans and Operations, III Corps and Fort Hood, Texas. He left Fort Hood in June 1991 to attend the Command and General Staff College at Fort Leavenworth, Kansas. After graduating in 1992, he was assigned as the Operations Officer for the 2d Battalion, 505th Parachute Infantry Regiment, 82d Airborne Division, at Fort Bragg, North Carolina. Following his tour, he was selected to become the Deputy Chief of Staff for Force Integration for the 82d Airborne Division. In June 1994, he was assigned to Headquarters, Department of the Army, Office of the Deputy Chief of Staff for Personnel, in Washington, DC. He served as a Personnel Systems Staff Officer until his selection in October 1995 to become the Deputy Chief of Staff for Personnel, Congressional Affairs Contact Officer.

Lieutenant Colonel Powell's military decorations include the Meritorious Service Medal with three oak leaf clusters, the Army Commendation Medal with six oak leaf clusters, the Army Achievement Medal, the Army Superior Unit Award, the National Defense Service Medal, the Armed Forces Reserve Medal, the Expert Infantryman Badge, the Master Parachutist Badge, the Ranger Tab, the Air Assault Badge, the Australian Parachute Badge, and the Army Staff Identification Badge. He has served with great distinction and has earned our respect and gratitude for his many years of unselfish service to our nation's defense.

It is with great pride that I congratulate Gary upon his retirement and wish he and his wife, Tonie, all the best as they move on to face new challenges and rewards in the next exciting chapter of their lives.

KEEP THE GOVERNMENT OUT OF THE SOFTWARE INDUSTRY

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. DELAY. Mr. Speaker, until recently, the computer services industry, an engine of economic growth and job creation in the United States, has remained unbridled by the government. But that all changed when the Clinton Justice Department decided that Microsoft—a company whose innovations have made the personal computer the modern personal productivity tool—that Microsoft is harmful to the U.S. economy and must therefore be regulated.

The computer software industry has doubled its number of employees in the last eight years. It is growing at 2½ times the rate of the U.S. economy. And it consistently delivers consumers more innovative products at lower prices. But despite these facts, the U.S. Department of Justice insists that the industry is not competitive. Instead, the DOJ suggests that Microsoft, a company at the center of all that job creation and economic growth, should be regulated. That's right. The problem with the computer services industry, insists the Clinton Justice department, is that the government needs to be more involved. Isn't this the president who told us the era of big government is over? When government starts defining for our nation's fastest growing industry which innovations will be legal, which will be illegal, what can be given away for free and what cannot—well, I say that that is the definition of big government.

Mr. Speaker, every industry the government has ever tried to manage has suffered because of it. The free market works. And I defy any member to name just one industry—just one—that has generated as much economic growth and good-paying jobs as the computer services industry has, that was improved when government lawyers decided to regulate it.

Apparently the American people understand this better than the Justice Department. They understand that the way to ensure competition is to let consumers and the market decide, not government regulators. They understand that Microsoft is an agent of economic growth, not an obstacle to it. And the American people understand that Microsoft's success has helped establish the U.S. as the worldwide leader in the computer and software industries.

I, for one, do not believe we should sacrifice this world leadership on the altar of government regulation just because the Clinton Justice Department thinks consumers are incapable of making intelligent market choices.

Computers and software are big markets, and each new technological innovation opens up vast economic opportunities for the companies that have the wisdom and creativity to take advantage of them. The market does not guarantee equal outcomes, and the government should not come to the aid of businesses that didn't make smart choices.

The Department of Justice should take that to heart. And the software companies supporting the DOJ's suit against Microsoft should consider the chilling prospect that tomorrow it could very well be they who the government next decides to regulate.

The bottom line is that most software companies would gladly trade places with Microsoft. It's a great company that has been innovative, improved its products, been aggressive, and reaped the rewards of market success. The place for companies to compete with Microsoft, however, is in the marketplace, where consumers will let the competitors know whose products they like and what innovations they want to see.

But for the government to choose sides in a highly competitive industry is not only unfair, it's not necessary. If Microsoft is to fail, it should be because it failed to innovate, not because its innovations were outlawed by the Clinton Justice Department.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999

SPEECH OF

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.Con. Res. 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003:

Mrs. MORELLA. Mr. Chairman, I voted against the rule for consideration of the House budget resolution yesterday and I will vote against the resolution itself when it is considered later today.

I voted against the rule because it did not allow consideration of the Minge-Stenholm budget substitute, a proposal based on the Senate-passed budget resolution. The Senate budget resolution closely tracks the Balanced Budget Act passed last summer, maintaining the discretionary caps set in last year's budget agreement and allowing for realistic tax cuts if offsets are provided. I strongly believe that we should follow the budget agreement that we approved by a wide bipartisan vote. In so doing, we could move quickly to approve the appropriations bills for Fiscal Year 1999 and avoid delaying our responsibility to pass all thirteen funding bills before October 1.

The Budget Committee budget resolution simply goes too far. Cutting $101 billion over five years beyond the cuts required by last year's budget agreement is too extreme and would do great harm to a number of domestic programs. It is important to understand that all of these additional cuts would come from nondefense spending. Of that total, $45 billion in additional domestic discretionary reductions would be required and $56 billion in additional mandatory spending reductions would be necessary. The additional $101 billion in cuts would be used for tax cuts.

Achieving that level of savings required under last year's budget agreement will be difficult enough—it is hard to imagine how we would achieve an additional $101 billion in cuts. The very fact that the bulk of these cuts are put off until 2002 and 2003 makes it clear that they would not only be extremely painful, they would be nearly impossible to achieve. We simply cannot provide a $101 billion tax cut without requiring unrealistic and unfair reductions in domestic programs.

Further, the Budget Committee's resolution bypasses the "PAYGO" rules by allowing a portion of the tax cut to be financed by cuts in discretionary spending. As the Concord Coalition has stated, "There is good reason for this rule (PAYGO). Because discretionary programs are funded year-by-year, temporary cuts in discretionary spending should never be used to fund permanent tax cuts. . . The next Congress, or the one after that, may decide to put back the spending that was cut this year. But who thinks they will reinstate the income tax marriage penalty? The lost stream of revenue will continue forever, but the discretionary spending cuts could disappear after the next election. We are concerned that if the PAYGO rule is set aside, it will send a signal that from now on, 'anything goes'."

While I believe the Budget Committee was correct in dropping their recommendations for specific proposals to achieve the additional cuts, some of the savings are required in program areas with few options. For example, the Committee resolution requires a $1.7 billion reduction over five years in mandatory spending under the jurisdiction of the Committee on Government Reform and Oversight, on which I serve. Mr. Speaker, we have seen such attacks on federal employee and retiree benefits before. Because the committee's jurisdiction is limited to federal retirement and benefits and the postal service, it is very difficult to identify mandatory savings in the Balanced Budget Act. Each of the few remaining options are painful. It is unfair to come back again and again to federal employees and retirees who have borne more than their fair share of deficit reduction. In fact, the Budget Committee originally recommended limiting the annual growth in the government's share of FEHBP premiums to the consumer price index, which would result in cost-shifting $3.1 billion in premiums onto retirees and employees. According to a CBO estimate prepared last year, the added annual cost to enrollees would be $400 in 2002 and more in later years. This provision would undo an important change in FEHBP's formula that I offered as an amendment to the BBA. The formula included in the BBA is fair—it is derived from taking a weighted average of all the plans and setting the maximum government contribution at 72%; it will ensure that federal employee premiums do not rise and the government's share and employees' share will remain the same. Alternative proposals to cut mandatory spending could be equally harmful—we have already been through COLA delays and increased contributions to retirement, and it is unfair to keep going back to the same group for increased cuts.

The Budget Committee budget resolution has also been changed to eliminate an assumed $10 billion reduction in outlays in Medicare by requiring instead that the savings come from other income security programs within the Committee on Ways and Means. In effect, it appears that the Committee would be forced to take almost all of this reduction from the block grant for Temporary Assistance for Needy Families (TANF)—breaking Congress' agreement with the governor on welfare reform. Despite large caseload reductions in many states, families who remain on TANF experience substantial obstacles in achieving economic self-sufficiency. This block grant is critical to ensuring the resources are there to assist families in their transition from welfare to work.

The Senate budget resolution closely follows the spending cuts in last year's budget agreement and provides for a much smaller tax cut. A large bipartisan majority support the elimination of the marriage penalty as I do. The Senate budget resolution would provide the means to work toward that objective, while also preserving critical domestic programs.

I urge my colleagues to vote against this rule and this budget resolution. Let us follow the lead of the Senate and approve a sensible and realistic budget resolution. Last year, we passed a strong bipartisan budget agreement; let's stick to it.

50TH WEDDING ANNIVERSARY OF STEPHEN AND EMILY BARAN

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the momentous occasion of the 50th Wedding Anniversary of Stephen and Emily Baran.

Stephen Baran and the former Emily Sarzensky will have been married 50 years on May 30, 1998. Their wedding took place on May 30, 1948 at the Holy Rosary Church in Passaic, New Jersey.

Stephen and Emily have been residents of the city of Clifton for 43 years, and both are active parishioners of Saint Philip the Apostle Church on Valley Road in Clifton.

Stephen worked for Athenia Steel before his retirement. A United States Army veteran of World War II, he is a member of the local American Legion. Emily has been, and continues to be, a dedicated homemaker.

They have two daughters, Nancy Felipe and Christine Beauvais, and are the proud grandparents of Stephanie Beauvais, Thomas Felipe, and Michael Felipe.

Mr. Speaker, I ask that you join me, our colleagues, Stephen and Emily's family and friends, and the cities of Clifton and Passaic in recognizing the momentous occasion that is the 50th Wedding Anniversary of Stephan and Emily Baran.

TRIBUTE TO CAPTAIN AL GASTON

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to an outstanding patriot, United States Coast Guard Captain Al Gaston. This guy got a rather odd start for one who serves in the Coast Guard . . . he was drafted by the U.S. Army.

He served two tours in Vietnam, left the Army, went to college, then joined the Coast Guard. During Captain Gaston's command of Group and Air Station Corpus Christi, I have been impressed with his efficiency, his straightforwardness, and his extraordinary ability to exercise good judgment in any situation.

He was thoughtful about keeping my office appraised of situations as they occurred with regard to matters of security. He oversaw Operation Gulf Shield, the largest multi-agency counter-drug operation in the history of the United States.

As a former law enforcement officer myself, I am deeply aware of the price illegal drugs exact from our communities and our nation. Captain Gaston and I share a commitment to keeping drugs off the streets of our country. This native of Cuba, who emigrated here with his family in 1961, has carried out the policies of the United States in a professional manner; he is a true public servant.

The Coastal Bend of South Texas will miss his commitment and integrity. He is dedicated to the principles of democracy. He is the sort of leader who shows respect for the men he commands. Captain Gaston leads by example.

He worked incredibly hard, and with a cooperative spirit, with the agencies which formed Operation Gulf Shield. He is a talented diplomat and a dedicated family man. He is quick to give credit, wherever credit is due. He never fails to give out special awards to his men when they deserved it.

Al Gaston is a man of high integrity and value. He goes the extra mile for his duty; and he does his job well. I hope all of you will join me in commending this outstanding public servant and dedicated Coastie.

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. PORTER. Mr. Speaker, on June 3, 1998, I missed three roll call votes. Had I been present, on Roll No. 193, I would have voted yes, on Roll No. 194, I would have voted yes, and on Roll No. 195, I would have voted yes.

H.R. 3946—THE ICCVAM AUTHORIZATION ACT OF 1998

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. LANTOS. Mr. Speaker, recently I introduced legislation to promote better business, protect consumers, increase the efficiency of the federal government, contribute to scientific progress, and protect animals. H.R. 3946—The ICCVAM Authorization Act of 1998—is a non-partisan, non-controversial bill that emphasizes the protection of human health as well as animal health by facilitating the acceptance of alternative testing methods.

Mr. Speaker, there has never been such an impressive marriage of diverse interests working together to supply the same legislation. I am honored and delighted that H.R. 3946 is supported by the Procter & Gamble Company, the Gillette Company, the Colgate-Palmolive Company, the American Humane Association, the Humane Society of the United States, the Massachusetts Society for the Prevention of Cruelty to Animals, the Doris Day Animal League, and over 6.5 million Americans who have demanded viable alternatives to animal testing whenever possible.

Animal tests have been used for over fifty years by federal regulators to test for product safety. In the last decade, however, biotechnology companies have researched, developed, and manufactured alternative testing procedures that are just as effective as outdated animal testing, but these newer technologies currently have no established avenue for receiving approval by federal agencies. By continuing to promote antiquated, although generally accepted, animal tests, federal agencies have put up an unnecessary roadblock to scientific and technological progress and innovation.

Mr. Speaker, in an effort to eliminate duplicative efforts and to increase communication in cross-cutting levels of different Federal regulatory agencies, the ground-work for the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) under the National Institutes of Environmental Health Sciences (NIEHS) was laid by the National Institutes of Health (NIH) Revitalization Act of 1993. The ICCVAM has functioned solely on an ad-hoc basis since that time and was the first body to establish criteria for the validation and acceptance of alternative methods.

This important committee has functioned well and recently completed a final report receiving acknowledgment from federal agencies. Under the NIEHS Applied Toxicological Research and Testing Program, ICCVAM Contracts were listed in the Federal Register: $666,950 (year one), $691,308 (year two), $717,167 (year three), with two additional option years. In contrast, the NIEHS budget for FY1998 was over $300 million. The ICCVAM is a body that more than pays for itself in terms of its worth to the Federal agencies and its contribution to industry and the public.

H.R. 3946 will raise the ICCVAM to standing committee status and thus we can continue to move forward into the next century recognizing and supporting scientific progress. For years, the regulated industries and the biotech companies that engineer alternative testing methods have endured a frustrating, confusing Federal process for test method review and approval. Despite the fact that many companies have committed themselves to ensuring human safety while decreasing the usage of unnecessary animal tests, the federal government has remained unresponsive to their concerns. Mr. Speaker, these businesses have petitioned Congress to authorize the ICCVAM, thus simplifying the process for evaluating new tests.

I have introduced legislation that, for the first time, provides for gathering information in a single body for agencies, companies, animal protection advocates, and the consumer. H.R. 3946 requires that agencies be accountable for providing the appropriate information regarding all regulations, requirements, and recommendations on the animal tests under their respective jurisdictions. Federal agencies with jurisdiction over toxicity tests would be required to review and identify all regulations that require animal use for toxicity tests and forward the list to the ICCVAM.

Mr. Speaker, by adopting this legislation, the Congress will demonstrate a commitment to increasing the health and environmental safety of Americans. H.R. 3946 will open the doors to more technologically-advanced methods of research that will more closely replicate the reactions of the human body than does the current research that is done on animals. When a method meets a specific endpoint for specific agencies, or needs multiple agency acceptance, the ICCVAM can encourage agencies to modify their recommendations and/or requirements to reflect the best new scientific methods.

H.R. 3946 requires that agencies notify the ICCVAM within 180 days of receiving the ICCVAM's recommendations. The ICCVAM does not mandate the acceptance of any alternative testing method; it requires that federal agencies consider the ICCVAM's recommendations on new test methods and provides strict criteria under which the federal agencies can reject the alternative testing method. Under the Federal Advisory Committee Act, each agency under current federal statute has the ultimate authority to accept or reject recommendations in any situation under its regulatory jurisdiction.

Importantly, H.R. 3946 will end the incentive for companies to prefer status quo animal tests by giving the ICCVAM the authority to make an otherwise fragmented regulatory process coherent, cost-efficient, and accessible so that industry can more readily market its products.

Mr. Speaker, when the NIEHS worked towards the goal of establishing the ad-hoc ICCVAM as a single review body for the entire federal government, the objective was to end the usage of inappropriate tests from as far back as the 1940's before we stepped into the 21st century. Without the ICCVAM, we will fall short of maximizing health and human safety protections for all consumers. H.R. 3946 prioritizes high human health standards.

Mr. Speaker, to ensure that there is no confusion in its objectives and jurisdictions, H.R. 3946 also contains a specific exemption for regulations, guidelines, or recommendations related to medical research, expressly written into the bill. In effect, Mr. Speaker, medical research is not directly regulated by the federal agencies in the same manner as product testing.

Mr. Speaker, I am delighted to introduce the ICCVAM Authorization Act of 1998. I believe that H.R. 3946 streamlines the federal bureaucracy while increasing human safety and progress while refining, reducing, and replacing animal testing. We in Congress must ensure that as we step into the next century, the federal government works efficiently to demonstrate leadership in scientific advancement while emphasizing human health and animal health. With these goals in mind, Mr. Speaker, I urge my colleagues to join me by supporting this bill.

Recently, Mr. Speaker, I held a briefing on H.R. 3946. This legislation was broadly supported by the public and by all those who would be affected by this legislation. Mr. Speaker, I would like to defer at this time to the comments of the industry experts, scientists, and animal protection advocates, and federal agency representatives who have been integral in the creation of this legislation. Mr. Speaker, several of these distinguished professionals attended a briefing which I chaired and spoke out in support of H.R. 3946 and the merits of the ICCVAM. I ask that the full text of their testimonies be placed in the RECORD.

TEXT OF PRESENTATION BY DR. KATHERINE STITZEL, THE PROCTER & GAMBLE COMPANY

The Procter & Gamble Company is pleased to be here today to support the ICCVAM Authorization Act of 1998. P&G is one of the largest consumer products companies in the world. Our products our under the sink and in the bathroom medicine cabinet in nearly every home in America and used by billions of people around the world. We have an obligation to ensure our many products are safe not only when they are used as intended, but also when they are accidentally ingested by children, splashed into your eye, or used in other ways which were not intended.

We believe the ICCVAM Authorization Act of 1998 is a very important step in industry's efforts to reduce the use of animals while ensuring product safety. As science has progressed over the years industrial toxicologists have been constantly researching new ways to assess the effects of new products and ingredients. In the last fifteen years we have concentrated on developing and gaining regulatory acceptance of alternative methods, that is methods that reduce the number of animals necessary or the stress caused to the animals or that replace animals with an in-vitro or non-animal method. We have spent over $64MM dollars on this effort and reduced our animal use for non food/non drug testing by over 85% since 1984 even though the Company is more than three times larger than it was in 1984.

While we cannot predict every possible toxicological effect with an alternative test, there are many effects, such as the ability of a material to penetrate the skin, where we still find ourselves having to resort to what we believe is unnecessary animal testing. this is because the process for getting regulatory agencies to accept improved toxicological methods is time consuming, difficult and very rarely successful. Each new test must be submitted for evaluation and approval to each agency—sometimes to several different divisions within one agency. As the agencies are very busy, most do not have the time to carefully evaluate new test methods and therefore they opt to continue to use their current methods. Think about it, we are about to begin the 21st century using many toxicology methods that were originally developed in the 1940's. I can think of few other fields where acceptance of scientific progress has been so effectively blocked.

Recognizing this problem in the early 1990's P&G joined other companies and animal welfare organizations to support inclusion of language in the NIH Revitalization Act of 1993 which directed National Institute of Environmental Health Sciences to "establish criteria for validation and regulatory acceptance of alternative testing and recommend a process through which scientifically validated methods can be accepted for regulatory use". NIEHS worked with 15 government agencies and with the public to develop what we believe will be an effective solution—to create a single review body for the entire federal government. This organization, ICCVAM, is comprised of representatives from the various federal agencies that use animal testing. It will encourage the development of improved testing methods, particularly alternative tests, and evaluate these new methods for the entire government. This simplified process will be much more efficient. It will also be more effective because ICCVAM scientists will be expert in evaluating new test methods. We are very supportive of the proposal, and feel it is important to make ICCVAM a permanent part of the NIEHS.

We in industry applaud the efforts of Doris Day Animal League, the American Humane Association, the Humane Society of the United States, and the Massachusetts Society for the Prevention of Cruelty to Animals for working with us to help establish ICCVAM as the organization that will help ensure we are using the most efficient and effective safety tests and reduce animal use as far as scientifically possible

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COMMENTS BY NEIL L. WILCOX, D.V.M., M.P.H., SENIOR SCIENCE POLICY OFFICER, OFFICE OF SCIENCE, FOOD AND DRUG ADMINISTRATION FOR THE CONGRESSIONAL BRIEFING ON THE "INTER-AGENCY COORDINATING COMMITTEE FOR THE VALIDATION OF ALTERNATIVE METHODS (ICCVAM) AUTHORIZATION ACT OF 1998"

Congressman Lantos and distinguished guests, thank you for the opportunity to participate in this briefing. I am here to describe the current and potential relationship between the Food and Drug Administration and the Inter-Agency Coordinating Committee for the Validation of Alternative Methods, or ICCVAM, listen to your comments, and attempt to answer your questions.

For the record, I may not take a position in favor of, or in opposition to, this or any other proposed bill intended for Congress. I am here to inform this audience as to how FDA has participated on the inter-agency committee known as ICCVAM and what affect it may have on the FDA in the future.

The FDA has a sincere and dedicated interest in emerging scientific technologies, including alternative methods intended to reduce, refine, or replace the use of animals, and that provide the agency with the best scientific answers to accomplish our public health mission. In particular, we are interested in test methods that provide specific answers for safety and efficacy testing of FDA-regulated products. To this end, the FDA supports the notion of the 3-R's in research and testing where scientifically feasible.

The FDA has been a participant of the ICCVAM ad hoc committee since it was chartered in 1994 and continues to be actively involved now that it is a standing committee. The Office of Science has the lead for the agency and has formed a committee with representatives from all FDA Centers and the Office of Regulatory Affairs.

You should understand that there is currently no formal process for a new testing method to be reviewed by the FDA for validation or regulatory acceptance. New methods are incorporated into the review of product applications in FDA, but it is on a case-by-case basis with no internal structure in place to facilitate such action. The ICCVAM model proposes to review new testing methods on behalf of federal agencies, which would provide a service not currently available.

ICCVAM, with its representatives from 15 federal agencies, provides many benefits. This forum benefits not only the agencies involved but also those who wish to introduce a novel test method to a regulatory agency such as FDA. ICCVAM will only review methods that have application to more than one agency. If the method is such that it will be used only by one agency, the sponsor of the method will be encouraged to take the method straight to that agency. For a method with potential use in several federal agencies, an early step in the ICCVAM process will be to establish an expert working group consisting of individuals from each of the agencies where the method may have application. This expert working group will then work with the sponsor of the method to make sure that adequate data are available to have the method thoroughly evaluated.

Any method used by the FDA must be validated for its intended use. Once the ICCVAM working group has determined that the method is ready to be reviewed for validation, a group of experts from outside the government would be convened as a Federal Advisory Committee. Through this external peer review process, the committee would make a recommendation to ICCVAM as to whether or not the proposed method meets the criteria for validation as put forth in an ICCVAM document, Validation and *Regulatory Acceptance of Toxicological Test Methods*, published in March 1997. The expert peer review panel's recommendation would then be conveyed to the relevant federal agencies by ICCVAM. Finally, each agency would distribute the recommendation to its appropriate organizational components.

FDA has five product Centers, on research Center, and the Office of Regulatory Affairs to which the ICCVAM recommendation would be distributed. It is clear that considering the many offices within the FDA to which such information must be distributed, the ICCVAM proposal would stream-line the process. Without ICCVAM, no one would know exactly which office should review a particular test. Moreover, even if one did know the appropriate offices to which a new method should be introduced, there would be no consistent review criteria for validation or regulatory acceptance across the agency. The individual review offices are simply not equipped or staffed to work with a method's sponsor for a process as resource intensive as validation.

Through an exhaustive and comprehensive three year process, ICCVAM has worked with U.S. federal agencies, as well as academia, industry and governments world-wide, to reach consensus on criteria for validation and regulatory acceptance. Due to the vast differences in regulatory requirements between U.S. regulatory agencies, not to mention other governments, the final acceptance and use of an ICCVAM-reviewed method remains the prerogative of each regulatory agency. However, ICCVAM assures that, to the extent feasible, adequate data for the proposed method have been reviewed by external peer review for their validity. ICCVAM provides a vehicle for a new method to be introduced to each agency through scientists responsible for its internal use.

With such intimate involvement of agency experts from within the appropriate scientific field, the method and its potential uses will be well understood by participating agencies. Furthermore, by the time a method has reached recommendation status to the agencies, it will more likely gain regulatory acceptance. Since the ICCVAM process has been endorsed by experts across the U.S. and throughout the world, international harmonization on ICCVAM-reviewed methods will be encouraged. Finally, the incorporation of methods that promote the reduction, refinement, and replacement of whole-animal tests into regulatory decision-making clearly supports the responsible use of animals in product testing.

In summary, from an FDA perspective, the ICCVAM facilitates the scientific review by experts, in both the public and private sectors, to establish the scientific validation of new testing methods that may have application in determining the safety of FDA-regulated products. It should be emphasized, however, that there may be occasions when a sponsor of a particular method would prefer submitting its data on a new method directly to the FDA, or any other agency, and this remains an important option. The ability to employ new technology in the regulatory decision-making process and facilitate the acceptance of new methods for safety testing is clearly enhanced with the added dimension of the ICCVAM process.

I would welcome questions relating to the current activities between ICCVAM and FDA, as well as our vision of this relationship in the future. Again, thank you for the opportunity to discuss this important issue in a public forum.

STATEMENT OF HOLLY E. HAZARD, EXECUTIVE DIRECTOR, DORIS DAY ANIMAL LEAGUE

We are proud to join with industry and animal protection organizations in support of the "ICCVAM Authorization Act of 1998."

The bill, sponsored by Representative Tom Lantos, will raise to standing status, an interagency coordinating committee that will review alternative methods for risk assessment and safety substantiation for humans and the environment. ICCVAM will make recommendations to agencies to adopt procedures for implementing these recommendations. The committee will be comprised of representatives from each of the agencies with jurisdiction over products that require or recommend some form of animal testing. There are over 15 such agencies in the federal government. The committee will also establish a scientific advisory committee that will allow interested outside scientists and other stakeholders to comment on newly-developed alternatives as they become available.

This committee will facilitate the acceptance of the use of alternatives that will significantly decrease the numbers of animals used in toxicity testing, while not only ensuring that the health and safety of Americans and the environment remain at the highest level, but hopefully increasing that level of safety as more technologically-advanced methods of research more closely mimic what may happen in the human body.

The bill is an outgrowth of the former Consumer Products Safe Testing Act. It builds on the mandate given to the National Institute of Environmental Health Sciences in the NIH Revitalization Act of 1993 to develop criteria for the validation and acceptance of alternative methods. It also consolidates the requirements for an evaluation of alternatives that have interagency implication to one central committee, rather than agency by agency.

We've received many staff calls on how this bill affects medical research. The bill has a specific exemption for research. However, because the government does not regulate industry protocols for medical research, the entire issue is outside the scope of the legislation.

The Doris Day Animal League is working with a number of leaders in industry, and within the animal protection movement, to bring about changes in the uses of animals for toxicity testing. These individuals include: Dr. Martin Stephens and Dr. Andrew Rowan of the Humane Society of the United States; Dr. Dan Bagley of Colgate-Palmolive; Dr. Wallace Hayes and Dr. Louis DiPasquale of Gillette; Dr. Kathy Stitizel of Procter & Gamble; Ms. Adele Douglass of the American Humane Association; and Dr. Peter Theran and Elaine Birkholz of the Massachusetts Society for the Prevention of Cruelty to Animals.

One of the significant frustrations of the humane community has been the lack of acceptance by the federal government of technologically-advanced alternatives to animal testing. Many in industry have met with a brick wall when they have attempted to move alternative methods of testing through the government bureaucracy to get their products on the market. The fact is that the easiest thing for any company is to simply maintain the *status quo* and do the animal tests to get on with marketing their products.

The Doris Day Animal League, along with a number of other organizations, successfully lobbied the Department of Transportation for the acceptance of the first federally-approved alternative to animal testing. This was an alternative to the use of rabbits for the testing of highly corrosive chemicals to determine the correct packaging material for transportation. In the animal test, the product would literally eat away the skin of a rabbit while researchers tested how long this took; it could take anywhere from hours to days. While this alternative was accepted at one agency, the company had to petition others for multiple agency acceptance and, as of yet, has been unsuccessful in securing full federal approval for the continued acceptance by the government of this alternative.

This bill is desperately needed to push this issue forward significantly in this country, and because of this country's stature in this area, throughout the world. We believe that many companies are standing ready to invest the resources that they need to develop alternatives. And now regulators have taken the first step. Many in the federal bureaucracy are extremely comfortable with old methodologies that have established protocols and a history of success from a regulatory perspective. Congress needs to push these agencies to look ahead, not behind, in terms of the most efficient, effective and humane scientific judgment that should be expected from the agencies called upon to protect the consumers of this country.

I urge your strong support of the ICCVAM Authorization Act and invite questions for the League or for our industry supporters.

THE SECURITY SITUATION IN MEXICO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. GILMAN. Mr. Speaker, the Washington Times front page story yesterday about the threats to American law enforcement agents involved in fighting drugs along and across the border with Mexico should be a cause for alarm for all of us.

It strains credibility that the Administration again this past March "fully certified" Mexico as cooperating with us in the battle against illicit drugs. The recent stories on the deteriorating security situation along the border from drug related violence and threats against our law enforcement agents make it clear—the Mexican authorities are just not doing enough.

I have long argued that the safety and security of our law enforcement agents who every day risk their lives for us and our communities, should be of paramount concern in our bilateral relationship in the fight against drugs. These latest accounts of threats and inadequate resolution of the issue of the security of our law enforcement agents underscores that we have a long way to go.

[From the Washington Times, Thurs., June 4, 1998]

U.S. AGENTS WARNED OF MEXICAN RETALIATION

By Jamie Dettmer

The U.S. Drug Enforcement Administration has pulled its agents out of Tijuana, and the Justice Department is warning American lawmen on both sides of the 2,000-mile-long Mexican border to protect themselves more than ever.

The new threat they face isn't violence from narcotics traffickers, but hostility from their law enforcement counterparts in the Mexican federal judicial police.

Working relations between American and Mexican lawmen seldom have been smooth—distrust on both sides all too often undermines cooperation in the fight against drug smuggling and illegal immigration.

But as a result of a recent U.S. undercover money-laundering sting that nabbed several Mexican bankers, the bad blood has rolled to a pitch not seen since the murder 13 years ago of a DEA agent in Mexico, U.S. law-enforcement sources say.

According to a report by Insight magazine, a sister publication of The Washington Times, an urgent warning was sent Tuesday to all U.S. law-enforcement agencies with officers working along the border or in Mexico to stay alert "retaliation" from the Mexican police as a consequence of the sting, known as Operation Casablanca.

High-level DEA sources say they can't rule out physical assaults on U.S. lawmen operating in Mexico or visiting on official business.

The Mexican police are aggrieved by U.S. investigators luring Mexican bankers to America for arrest and are infuriated that American lawmen worked undercover on Mexican territory without the Mexican government's approval. U.S. authorities say they didn't want to tip off the subjects of their probe.

As a precaution, the DEA has withdrawn all agents from a joint U.S.-Mexico task force in Tijuana, the home city of the Arellano Felix brothers, who control Mexico's second-largest drug cartel. The retreat will disrupt investigations and jeopardize special operations against the traffickers, say DEA and U.S. Customs sources.

"We are basically facing a breakdown on the border," says a senior California-based DEA agent. "We have right now some big operations going on against the Arellano Felixes—last week we intercepted $4 million of their cash—and against a Tijuana family who control amphetamine smuggling. Those ops are endangered now."

The alert was issued when the El Paso Intelligence Center, the federal law-enforcement intelligence clearing house, noticed an abrupt rise in reports from various federal agents of hostility from their Mexican counterparts. The federal Bureau of Alcohol, Tobacco and Firearms (ATF) later verified the danger.

The official warning sent by the Justice Department to the U.S. Immigration and Naturalization Service cautions, "The Mexican Federal Judicial Police may seek retaliation against U.S. law-enforcement" because of Casablanca.

The warning goes on to say, "Reliable information received by the Los Angeles [ATF office] also indicates that Mexican law enforcement intends to seek revenge . . . by ensuring that any American law enforcement officer caught committing any sort of infraction will be given 'No Slack,' and they will be prosecuted to the fullest extent possible under Mexican law."

INS intelligence also suggests that bitterness over Operation Casablanca may not be limited to the Mexican police. "Feelings of injustice may manifest itself into the Mexican military as well."

An INS spokesman refused to confirm or deny the authenticity of the memo.

Frustrated U.S. lawmen point to the hostility of their Mexican counterparts as proof that DEA and Customs Service agents should be allowed to carry their sidearms when traveling south of the border on official business. Mexican authorities won't allow it, and the U.S. and Mexican governments have been locked in a fierce behind-the-scenes diplomatic dispute over the issue for more than a year.

The Mexicans have refused to budge. President Clinton's antidrug chief, Gen. Barry McCaffrey, recently sided with the Mexicans on the issue, infuriating Rep. Benjamin A. Gilman, New York Republican and chairman of the House International Relations Committee, by suggesting that U.S. lawmen should be satisfied with Mexican police protection.

In May, Mr. Gilman slammed Gen. McCaffrey, arguing that DEA agents couldn't entrust their lives to their Mexican counterparts because drug cartels are growing more violent and there is "proven massive corruption among Mexican law enforcement agencies."

A veteran DEA agent says he hasn't encountered such hostility from Mexican police since the fallout from the murder of DEA agent Enrique Camarena by narcotics traffickers in 1985. Some U.S. sources believe Mr. Camarena was killed with the collusion of corrupt Mexican officials and police officers.

Mexican law enforcement officials reacted very badly later when undercover DEA agents snatched a doctor in Mexico who had been involved in torturing Mr. Camarena before his murder.

HONORING KAVANAUGH'S FURNITURE FOR THEIR 125 YEARS OF BUSINESS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to have the opportunity to acknowledge and honor Kavanaugh Furniture of Springfield, Massachusetts for its 125th year of business.

In 1873, Mr. Dennis Nelen opened his establishment as a "wholesaler and retailer in elegant furniture, hair and husk mattresses" and before 1900 he partnered with Mr. William Kavanaugh. Today, Kavanaugh's is the largest furniture store in Western Massachusetts and has three sister stores with a fourth on the way. It is Springfield's oldest family owned business still in existence and one of the oldest operating furniture stores in the entire United States.

In an era where retailers often sacrifice quality service for quantity sold, Kavanaugh's has remained a testament to the beauty of the family business. In their establishment, quality service is a trait passed down through the generations. Mr. Jack Nelen, who became Kavanaugh's president in 1965 and is the grandson of the original founder, began making deliveries for the store when he was just a teenager. The success of a family business can be measured, in part, by the duration of its existence. Kavanaugh Furniture has survived and flourished through two world wars, the Great Depression, and several other fluctuations in the economy. They were also able to last during the recession of the early 90s even though furniture was considered a luxury by many. Perhaps more impressive has been Kavanaugh's ability to survive the local "big chain" competition, while located in an area not supported by mega-mall traffic. In this regard, the Nelen family business can be considered a huge success and a strong example for other family businesses.

Only 1 out of 30,000 retail stores makes it to be 100 years old, and Kavanaugh's has now reached its 125th year in the business. Not only has Kavanaugh's created lasting personal success for its owners and employees, it has been an enormous asset to the community and neighborhood as well. Its list of civil activities and commitments includes being a catalyst for and taking part in fund raisers for The Children's Miracle Network, Shriner's Hospital, the Red Cross, and the United Way. Kavanaugh's once even held a free picnic for over 2,500 city kids.

The Kavanaugh Furniture store is an anchor for the community. It has taken care of its customers and has been rewarded with 125 years of business. I wish the Nelen family and all of the folks at Kavanaugh's success in continuing a great tradition of excellent service to their customers and the community at large as they embark on the 21st century and another 125 years.

INTRODUCTION OF H.J. RES. 120: DISAPPROVING THE EXTENSION OF THE PRESIDENT'S WAIVER OF JACKSON-VANIK CRITERIA FOR VIETNAM

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. ROHRABACHER. Mr. Speaker, I have introduced a Joint Resolution, co-sponsored by my good friends, BEN GILMAN, Chairman of the International Relations Committee and CHRIS SMITH, Chairman of the Subcommittee on Human Rights, in partnership with Senator BOB SMITH and Senator JESSE HELMS, to require Vietnam to provide freedom of emigration for its people, under the provisions of the U.S. Trade Act of 1974, before tax dollars from American citizens are used to insure or otherwise further trade with the communist regime in Vietnam.

Vietnam remains among the world's last Marxist-Leninist governments, where corrupt cronyism and an absence of credible courts have driven away foreign investors. The freedoms of speech, religion and assembly are denied to average citizens, as well as the freedom of emigration. As a result, Vietnam's economy is lagging, investor disenchantment is growing and, despite continued arrest and persecution of dissidents and religious leaders, protest movements have taken root in northern and southern provinces. It is both unconscionable and unsound for President Clinton to issue waivers in order to permit U.S. financing guarantees and credits to investors through the Overseas Private Investment Corporation and Export-Import Bank.

In addition to H.J. Res. 120, I have also introduced H.R. 3158 to prevent the President from granting waivers for Ex-Im and OPIC credits and financing guarantees in the absence of true democratic reform, release of all political prisoners, humane working conditions, as well as the Jackson-Vanik emigration criteria.

A critical lesson we should learn from the economic collapse of the so-called "Asian Tigers" such as Indonesia, South Korea and Thailand is that the U.S. Government should not put tax dollars at risk to subsidize unsound private business deals with corrupt regimes. The Heritage Foundation's *1998 Index of Economic Freedom* ranks Vietnam among the six worst economic environments in the world. It would be appalling to make American taxpayers guarantee private business investments before real democratic political reform is in place. We should stand with the people of Vietnam who crave for freedom, and abide firmly by America's principles and laws to require the despotic regime in Hanoi to respect international standards of human rights and labor before giving the Vietnamese regime the benefit of our taxpayer-backed institutions.

IN HONOR OF THE NEW JERSEY NETWORK'S IMAGES/IMAGENES

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to honor New Jersey Network's Images/Imagenes for its 25th year of providing quality cultural and public affairs programming for the Hispanic community. This program has helped introduce America to the rich depth, diversity and beauty of the Latino culture through probing documentaries and thought-provoking round table discussions.

Over the years Images/Imagenes has shed light on the everyday lives of the Latino community and provided a forum for role models such as Roberto Clemente, Ricardo Montalban, Gloria Estefan, Chi Chi Rodriguez, Julio Iglesias, Nancy Lopez, Lee Trevino and Tony Ayala. The program has done some of its best work by exploring major news stories such as the AIDS epidemic, bilingual education, U.S. relations with Cuba, and the roots of domestic violence.

The show's quality and professionalism has not gone unrecognized by the television industry. Images/Imagenes has earned a Regional Emmy Award and nine Regional Emmy Award nominations. The program has also been recognized for excellence in broadcasting from the National Commission on Working Women and has received the National Unity Award.

In the late '80's, Images/Imagenes began airing the Hispanic Youth Showcase. This competition provides a forum for the tri-state area's Hispanic youth to demonstrate their skills in the performing arts. Over 1500 children have participated, with many going on to professional acting and musical careers. Every participant gains confidence because they have competed in such a popular and renowned event.

Images/Imagenes is now the longest running Latino community program in the PBS system. On Saturday, June 6, Images/Imagenes will be celebrating its Silver Anniversary at the Robert Treat Hotel in Newark, New Jersey.

I urge my colleagues to join me in honoring Images/Imagenes by working to strengthen our commitment to strong community programming. Images/Imagenes has shown us that television can be more than just entertainment, but can also provide a forum through which community building activities can take place. I congratulate Images/Imagenes on a successful 25 years and wish them another 25 years of success.

TRIBUTE TO DR. SAMUEL KRANTZOW

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call your attention to the many accomplishments of Dr. Samuel Krantzow, who is being honored at the breakfast celebrating the occasion of the 70th Anniversary for Congregation Ahavas Israel.

Dr. Krantzow is a life long resident of Passaic, New Jersey and a graduate of their fine school system. After giving 3 years of service to the Army Air Force during World War II, he went to school and received his degree in optometry from the Pennsylvania State College of Optometry.

In 1951, after starting his practice in his hometown of Passaic, he married the former Estelle Wechsler. They have two lovely daughters, Caryl, who lives in Columbia, Maryland, and Debra who resides in Houston, Texas. Pamela and Rachel, their two granddaughters, are the light of Samuel and Estelle's eyes.

During his many years of optometrical practice, Dr. Krantzow served as President of the Bergen Passaic Optometric Society, as President of the N.J. Optometric Association, and as a member of the Board of Directors of the Omni Eye Services of Northern New Jersey. In addition to serving on the Governor's Advisory Committee where he was instrumental in setting up the vision portion of the Medicaid Program for the Garden State, Dr. Krantzow sat on the Board of Directors of the New Jersey Vision Service Plan. He also served for six years as a member of the Board of Directors of the Bergen Passaic Health Systems Agency. Apart from his distinguished medical associations, Dr. Krantzow is a past-chancellor of Passaic Lodge, Knights of Pythias.

Being active in the local Jewish community constitutes a large part of Dr. Krantzow's schedule. From 1989–1990, he served as President of the Ahavas Israel Congregation. Dr. Krantzow was called to serve again in June 1994 as co-President of his congregation, and from 1996 until 1997, he held the position on his own. Currently, Dr. Krantzow serves as co-chairman of the Chevra Kadisha of Congregation Ahavas Israel. Believing he should give something back to his community, he has been Staff Optometrist at the Daughters of Miriam Center for the Aged in Clifton and is a delegate to the Jewish Memorial Chapel.

Mr. Speaker, I ask that you join me, our colleagues, the Congregation of Ahavas Israel, Dr. Krantzow's family and friends, and the City of Passaic in recognizing and honoring the accomplishments of Dr. Samuel Krantzow.

TRIBUTE TO THE EXPLORAVISION AWARDS PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. BROWN of California. Mr. Speaker, I rise to announce the introduction of House Concurrent Resolution 279, a resolution to honor the ExploraVision Awards Program and to encourage more students to participate in this innovative national student science competition.

The ExploraVision Awards Program is funded by Toshiba and administered by the National Science Teachers Association. Nearly 18,000 students entered the competition this year, making it the largest K–12 student science competition in the world. Working in teams of 3 or 4 with a teacher-advisor, students use their imaginations to envision a form of technology 20 years from now and compete by sharing their vision through written descriptions and story boards.

As a strong advocate of science education in Congress, I am proud to have introduced House Concurrent Resolution 279 in support of the goals of the ExploraVision Awards Program. This is truly an innovative program that energizes students with a desire to learn and increases their interest in the world of science. The program is designed to help develop the kind of scientific and technological thinking our society needs for the 21st century.

On June 12, more than 40 students will come to our Nation's Capital to receive top honors in the 1998 ExploraVision Awards. I applaud the student winners for their hard work, creativity, and ability to work together as a team to explore innovative scientific work for the future. With their enthusiasm for learning and their commitment to scientific excellence, the future of our Nation is in good hands.

Mr. Speaker, I ask my colleagues to join me in cosponsoring House Concurrent Resolution 279 to support the goals of the ExploraVision Awards Program, and to commend the student winners for their outstanding accomplishment.

REPORT FROM INDIANA—TERRI TOWNER

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. McINTOSH. Mr. Speaker, I rise today to give my Report from Indiana.

There are so many good people doing great things to make our community a better place to live. Every so often, I run across a story that I feel stands out. These shining individuals are what I like to call Hoosier Heroes. These Heroes are an inspiration to me, and by sharing their stories I hope they can not only be an inspiration to my colleagues today, but as well as the American people.

Mr. Speaker, Terri Towner of Pendleton, Indiana, is a Hoosier Hero. Her dedication to the Senior Citizens of Madison County provides us with a role model that we all can strive to model. Terri is a volunteer for Pet-A-Pal, a volunteer organization that incorporates animals to bring smiles to the faces of Senior Citizens by parading animals in costumes.

Jo Rehm, coordinator of the Pet-A-Pal program, described Terri as "a dedicated and faithful volunteer to the Senior Citizens." She continued by adding that Terri "simply enjoys helping others."

Sharron Towner, her mother, feels that her dedication to helping Senior Citizens stems from her strong relationship with her grandparents, and that's why Terri really appreciates what Senior Citizens have to offer.

When not volunteering her time, Terri enjoys playing the trumpet in the East Side Church of God band and is an active member in Sunday school. Youth Pastor Andy Odle described Terri as, "a very responsible, talented, intelligent young lady."

After high school, Terri plans on attending Purdue University to study pre-law. She hopes to be able to utilize her education to become involved in laws pertaining to Senior Citizens.

This is testimony from people that have seen the difference that one person can make. This is just one example, of one person who has made a significant difference on the lives of others. Dedication, faithfulness, responsibility; these are examples of the values and beliefs that sometimes go unnoticed.

Mr. Speaker, this is the foundation for the American spirit. Doing the right thing. Helping others and demonstrating the qualities that make us "good" people. These are the qualities that Terri Towner has learned, and this is why she is a Hoosier Hero, Mr. Speaker that is my report from Indiana.

PERSONAL EXPLANATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. ENGEL. Mr. Speaker, I was necessarily absent during roll call votes 203, 204, and 205. If present, I would have voted 'yes' on roll call vote 203, 'yes' on roll call vote 204, and 'no' on roll call vote 205.

IMPACT OF MINIMUM WAGE INCREASE

HON. JAY DICKEY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. DICKEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the wise remarks of Mr. Leo Collins in the following article which appeared in the Pine Bluff Commercial. As a former small business owner myself, I understand and believe the comments made by Mr. Collins. Another increase in the minimum wage will have a negative impact on jobs, especially jobs for teenagers. Increases in the minimum wage lead employers to cut back on work hours and training. Unfortunately, low-skilled teenage workers will be the first to be affected. Combining the cutback of hours and training with the loss of job opportunities, this means that many youths are prevented from reaching the first rung on the ladder of success.

[From the Pine Bluff Commercial]

TO OVERCOME MEANS ACCEPTING REALITY

(By Leo Collins)

I became acquainted with a young Nigerian male some years ago who was fortunate to be one of a few chosen by his government to be given the opportunity to study and attend school in America.

He thought himself special and could not understand why so many Americans, particularly young blacks, did not pursue an education in an aggressive way since education was so accessible.

This young man was my roommate one summer while I was in graduate school. He asked me one day, "Why is it that blacks in America who will not take full advantage of an education, continue to blame other racial groups for their own personal failures?" I had no concrete answer.

He said, since he had been in America, it seems that every other race of people tend to overcome poverty except blacks. Other groups, he said, tend to take full and complete advantage of public schools, educational grants and low interest college student loans.

Every other group, other than American blacks—he implied—tend to develop a bond between themselves not too much unlike a mother and a new born child. He added that American blacks either do not like each other or they do not trust each other.

I had to tell him at that point that even though he is a Nigerian, his ancestors have never been enslaved. I told him that all of the other racial groups he sees came to America on their own accord. They didn't come, I told him, in the belly of slave ships and once here, sold on an auction block as chattel to the highest bidder.

I did not want him to go back to his native Nigeria with his knowledge bucket half full and half empty. I insisted that he fully understand that the black experience was unique only to blacks in America. He needs to fully understand that there is nothing in the annals of world history to compare that experience with; therefore, he shouldn't try to make a simple analogy when he returns to his native homeland.

Even today, blacks have not gotten completely away from the yoke of suppression. Too many are still seeking a solution to their economic, social and political woes outside of their own ranks. Many seemingly seek ways to generate failure. They do so by dropping out of school, defying authoritative symbols, joining street gangs, resisting parental guidance, etc.

Blacks tend to keep the memory of slavery alive by doing to themselves exactly what the old slave masters of a bygone era did to them: that being, denying themselves the opportunity to develop the most important human organ: their minds.

Today, there is a great demand for all kinds of workers. Employers cannot find enough workers. But do you know who still cannot find work? I'll tell you: 9.6 percent of current unemployed Americans are black. Out of nearly 6 million unemployed, 600,000 are black. Is this because of racism? Some of it may be, but the bulk of it isn't.

Blacks are not getting the technical training needed in today's job market. Dropping out of school in the ninth grade doesn't prepare you for much other than membership in a street gang and a short life span.

Blacks must learn to bond with each other and stay in school. Being dumb is not being cool; it's being stupid. Minimum wage, as benevolent as it is, is only another crutch aimed at pacifying black Americans that there is no need to rush to help yourself. Uncle Sugar will guarantee you a marginal lifestyle.

Blacks should develop their skills. Minimum wage laws do nothing but pacify the conscience of whites who support it and sedate the minds of blacks who accept it. Minimum wage is not a panacea for high school dropouts.

H.R. 2652 "COLLECTIONS OF INFORMATION ANTIPIRACY ACT"

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. HYDE. Mr. Speaker, I would like to place in the RECORD the correspondence between Chairman BLILEY and myself on this legislation.

House of Representations,
Committee on the Judiciary,
Washington, DC, June 3, 1998.

Hon. Tom Bliley,
Chairman,
Committee on Commerce, House of Representatives, Washington, DC.

Dear Mr. Chairman: Thank you for your letter of May 19, 1998, expressing your interest in H.R. 2652, the "Collections of Information Antipiracy Act."

As you know, H.R. 2652 was introduced on October 9, 1997. Its predecessor in the 104th Congress, H.R. 3531, authorized by then-Chairman of the Subcommittee on Courts and Intellectual Property, Carlos Moorhead, was introduced on May 23, 1996. H.R. 3531 was introduced in anticipation of a Diplomatic Conference on Intellectual Property in Databases held by the World Intellectual Property Organization in Geneva, Switzerland in December, 1996, and on a Directive issued by the European Union under which member countries must enact laws to protect collections of information and pursuant to which American collections would not receive reciprocal protection without offering comparable protection to foreign collections in the U.S. Both bills were referred to the Committee on the Judiciary.

H.R. 2652 was the subject of two days of hearings held by the Subcommittee on Courts and Intellectual Property on October 23, 1997 and on February 12, 1998. The Subcommittee held a markup on H.R. 2652 on March 18, 1998. The full Committee held a markup on the bill on March 24, 1998. The bill was reported to the House on May 12, 1998 (H. Rept. 105–525) and placed on the Union Calendar (Calendar No. 297) on that same date. I first learned of your interest in this important legislation on May 12, the date it was reported and placed on the Union Calendar, as the manager of the bill was preparing to call it up for consideration under suspension of the Rules on the House floor. After you expressed initial concerns, I agreed to recommend a one week delay in the consideration of the bill so that you might review it. It passed the House under suspension of the Rules on May 19, and was received in the Senate on May 20, 1998. It has been referred to the Senate Committee on the Judiciary for consideration by the other body.

There are several statements and assertions contained in your letter to me in need of clarification. The "Collections of Information Antipiracy Act" is legislation necessary to serve as a complement to copyright protection of collections in which there has been substantial investment. It does not, as your letter indicates, create a new federal property right; rather, like the Lanham Act for trademark protection, it prohibits misappropriation of another's collection under certain circumstances. The general prohibition and other specific provisions guarantee that a use of a collection similar to a "fair use" under copyright law is permitted.

The bill was developed in the aftermath of the Supreme Court's 1991 decision in *Feist Publications v. Rural Telephone Service Co.*, which, in denying copyright protection for certain collections, highlighted the need for Congress to establish a separate complementary federal remedy for the unauthorized copying of collections of information in order to guarantee complete protection. The bill is based on United States "sweat of the brow" case law predating the application by courts of copyright protection to collections of information, and was suggested as one viable way of "filling in" the "*Feist* gap" in a Report issued by the Copyright Office of the United States on Database Protection in September, 1997.

While, like almost every piece of legislation, H.R. 2652 affects commerce generally, it does not discriminate between environments in which collections may appear, such as print or digital, nor does it "govern a key component of interstate and foreign electronic commerce," as you assert. Rather, it establishes a legal right to bring a cause of action in federal district court for the unauthorized taking of another's collection of information organized, gathered, or maintained through the investment of substantial monetary or other resources. The bill specifically denies protection to any product or service incorporating a collection of information which is gathered, maintained or organized to address, route, forward, transmit, or store digital online communications or provide or receive access to connections for digital online communications. Thus, the bill provides a new legal cause of action in federal courts, rather than regulating any element or function relating to digital communications or electronic commerce.

Your letter states that the Committee on Commerce has two specific interests in H.R. 2652. It states that "[f]irst, proposed section 1204(a)(2) would . . . [a]s our staffs have discussed, . . . result in effective changes to existing laws and regulations administrated by the Securities and Exchange Commission, which would undermine the ability of the Commission to regulate and oversee the collection and dissemination of information about the securities markets, including information about stock quotations and transactions, and could create questions as to the public nature of that market data." I must take exception to this statement. You will recall that my staff communicated to your staff the opposite assertion. The language to which you refer the opposite effect of that which you claim. Paragraph 1204(a)(2) was drafted to avoid the interference you suggest.

As you know, the dissemination of stock and commodities information based on the public interest in such information is regulated by the Securities Exchange Act and the Commodity Exchange Act, and regulated by the Securities and Exchange Commission and the Commodity Futures Trading Commission. Currently, by regulation, exchanges are allowed to be compensated for certain market information for a short time after its creation. While the regulatory bodies to which exchanges are subject are governmental entities, the exchanges themselves are not. Subsection 1204(a) provides that government information is not protected under the bill in order to preserve free access by taxpayers to collections of information funded by them. In order to avoid any confusion, and to avoid interfering with the ability of exchanges to be compensated according to applicable regulations, paragraph 1204(a)(2) states that an exchange is not to be considered a governmental entity under 1204(a). In other words, to prevent any misconception that exchanges are governmental entities and therefore must give out information for free under the bill, which would undermine current regulations, and to avoid interference with the jurisdiction of the Committee on Commerce, the clarifying language contained in 1204(a)(2) was inserted. The provision you cite therefore averts, and does not create, jurisdiction in the Committee on Commerce.

Your letter states as your second specific interest in H.R. 2652, that "notwithstanding the savings clause in proposed section 1205(f) for provisions of the Communications Act of 1934, the bill may have the unintended effect of restricting the Federal Communications Commission's (FCC's) ability to administer telecommunications laws that require carriers make available to the FCC and other carriers certain information," and that 'if interpreted narrowly, the savings clause will not preclude carriers from limiting access to, or dissemination of, certain information that is critical to promoting competition in telecommunications markets." Again, I must take exception to this statement. The savings clause to which you refer states that nothing in the bill shall affect "the operation of the provisions of the Communications Act of 1934." This language has been drafted in the broadest possible terms so as to prevent any narrow reading. Further, just in case any court could possibly interpret any situation regarding the dissemination of subscriber information as somehow not falling under the scope of the "operation of the provisions of the Communications Act," an additional clause was added to provide excessive and abundant assurance that the circumstance you foresee could not occur.

Despite the careful drafting done by the Committee on the Judiciary to assure no repercussions on important issues and governmental bodies falling under the jurisdiction of the Committee on Commerce, I agreed to recommend a delay in floor consideration of H.R. 2652 for one week, so that you and your staff might be able to review the provisions of this important bill. Based upon your review, Chairman Coble was equally pleased to include in a manager's amendment additional clarifying language suggested by you to reaffirm and reassure that the provisions contained in H.R. 2652 do not affect any matter or entity within the jurisdiction of the Committee on Commerce.

Per your suggestion, I will include your letter of May 19, along with this letter, in the record. Thank you for expressing your views, and for your cooperation.

Sincerely,

HENERY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 19, 1998.

Hon. HENRY J. HYDE,
Chairman,
Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On May 12, 1998, the Committee on the Judiciary reported H.R. 2652, the Collection of Information Antipiracy Act. As you know, H.R. 2652 would establish a prohibition, with certain exceptions and exclusions, against the misappropriation of information gathered, organized or maintained by another person in a collection through the investment of substantial monetary or other resources.

The Committee on Commerce has a strong interest in legislation affecting the accessibility of information on the Internet, and other telecommunications and information networks that rely on electronic databases for the storage of information. The Committee is in the midst of a Committee-wide review of electronic commerce issues within its jurisdiction. Our review demonstrates that the Internet and other digital networks carry great potential for facilitating interstate and global commerce, and that the potential for global electronic commerce, among other things, presupposes that users and providers will have ready and affordable access to collections of information. By providing collections of information a new federal property right, H.R. 2652 would govern a key component of interstate and foreign electronic commerce.

In addition, the Committee on Commerce has two specific interests in H.R. 2652, as reported by the Committee on the Judiciary. First, proposed section 1204(a)(2) would except from the exclusion provided for government-owned collections any information required to be collected and disseminated by either a national securities exchange under the Securities Exchange Act of 1934 or a contract market under the Commodity Exchange Act. As our staffs have discussed, this exception would result in effective changes to existing laws and regulations administered by the Securities and Exchange Commission, which would undermine the ability of the Commission to regulate and oversee the collection and dissemination of information about the securities markets, including information about stock quotations and transactions, and could create questions as to the public nature of that market data.

Second, we have expressed a concern that, notwithstanding the savings clause in proposed section 1205(f) for provisions of the Communications Act of 1934, the bill may have the unintended effect of restricting the Federal Commission's (FCC's) ability to administer telecommunications laws that require carriers make available to the FCC and other carriers certain information. The Committee on Commerce is concerned that, if interpreted narrowly, the savings clause will not preclude carriers from limiting access to, or dissemination of, certain information that is critical to promoting competition in telecommunications markets. The Telecommunications Act of 1996 is intended to promote competition in all telecommunications markets, and the Committee on Commerce seeks to ensure that H.R. 2652, if enacted, does not supersede our national commitment to competition.

I understand your interest in moving this legislation expeditiously to the House Floor. In exchange for your agreement to include language in the bill to address the problems described above, I agree not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee on Commerce does not waive its jurisdictional interest in any matter within the scope of the bill. Furthermore, I reserve the right to seek appropriate representation on any House-Senate conference that may be convened on this legislation.

I want to thank you and your staff for your assistance in providing the Committee on Commerce with an opportunity to review it jurisdictional interests in H.R. 2652. I would appreciate your acknowledgement of our agreement and your including this letter in the record of the debate on H.R. 2652 on the House Floor.

Thank you again for your consideration.

Sincerely,

TOM BLILEY,
Chairman.

SMALL BUSINESS WEEK

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. BOYD. Mr. Speaker, in honor of Small Business Week, I would like to commend a hard working group of dedicated men and women who own and operate the nearly 23 million small businesses in the United States. America's small busineses are the heart and soul of our Nation's marketplace and the lifeblood of our communities.

Small business owners constitute almost 98 percent of all employers and are the key to our economy's continued prosperity. Through their innovation and hard work, the United States has remained competitive in the world marketplace for the last 200 years. At the same time, the charity and civic leadership of America's small business owners have made our neighborhoods a better place to live.

During Small Business Week, and throughout the year, Congress should take time to consider the contributions of small business owners to our society. As Members of Congress, we must ensure that our nation's small business owners and their employees are not choked by unnecessary government regulation, but rather free to grow and provide new jobs and opportunities for our communities.

REGARDING CONCURRENT RESOLUTION ON SCHOOL VIOLENCE

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. FORD. Mr. Speaker, today, I will introduce a sense of the Congress resolution in the House calling on the President to use the imposing power of his office to make the issue of school violence a top priority in the United States.

In the last year alone, at least a dozen students and teachers have been killed, and many more wounded, by young people who have come to school with guns rather than books. And until recently, few if any Americans, ever could have imagined or expected that such shootings would become common place. The incidents in the last year demonstrate that school violence is not an isolated problem—confined only to poor schools or forgotten neighborhoods. In fact these communities have struggled with this problem for years. It is a problem that is plaguing urban, rural and suburban communities alike. It is an American problem.

Nor is this a manufactured crisis as some have claimed. According to the National School Safety Center, the number of persons who have died in school violence incidents has increased 30% over last year. As a public policy maker, I wish that new laws and regulations alone could bring an end to these tragedies. Rather the solution, like the problem runs much deeper.

My resolution simply calls upon the President to use his bully pulpit to bring together those who can make a difference on this issue. First, it urges the President to initiate a series of town meetings with school superintendents, principals, students and parents to explore solutions to the problem. Second, I am asking the President to call upon States and local communities to improve communication between law enforcement officials and students, parents, and teachers by establishing violence prevention hotlines to inform law enforcement officials when threats of violence are made at schools.

A phone call from one student who heard Kip Kinkel's threats may have saved lives. The same is true for every other fatal shooting that has occurred over the past year. If a school violence hotline saves one life, then these hotlines will be worth the time, effort and expense. Currently the resolution has 6 original cosponsors. I am also pleased that the International Brotherhood of Police Officers, the largest union in the AFL–CIO has endorsed this resolution and I look forward to working with other national school advocacy organizations on this issue.

The President has eloquently expressed his sympathy and concern over the recent shootings in Springfield, Oregon, and I believe his leadership on this issue would serve to galvanize communities to establish this and other effective violence prevention programs in our nation's schools.

TRIBUTE TO BENNETT HERMAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the United States House of Representatives to join me in honoring a very special person who has given over 65 years of dedicated service to his community, Mr. Bennett Herman. Mr. Herman has channeled his many talents and boundless energy into improving the quality of life for his fellow citizens in the city of Orange, New Jersey. This weekend, the Orange Rotary Club is recognizing his remarkable achievements at a special dinner in his honor.

Bennett Herman truly stands out as a leader who was always there for those around him, eager to take up new challenges to enhance the well-being of the community. He is a member and officer of the Orange Rotary Club; a founder, the first Executive Secretary and President of the Orange Chamber of Commerce; a member of the Economic Development Corps of the City of Orange, the first president of the Oranges and Maplewood Meals on Wheels Program; an organizer of the first Child Care Center in Orange; a member of the Board of the Orange Public Library; former vice president of the Orange Evening Community School; past president Social Welfare Council of the Oranges and Maplewood; recipient of the Community Service Award from the Neighborhood Development Corp.; Outstanding Citizen award from the American Legion; VFW Award; Marine Corps League Award and numerous other community and state honors. He also brought the first, and only, State American Legion Convention to Orange. In addition, he took the lead in honoring the teachers of the Orange community in a highly successful tribute.

Mr. Speaker, I know my colleagues join me in extending warmest congratulations and appreciation to Mr. Bennett Herman for his tireless work and his outstanding contributions to his community. We are very proud of him and we wish him all the best in the years ahead.

PERSONAL EXPLANATION

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. LEWIS. Mr. Speaker, had I been present for rollcall vote 200, I would have voted no.

FINANCIAL SERVICES COMPETITION ACT OF 1997

SPEECH OF

HON. TOM BLILEY

OF VIRGINIA

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes:

Mr. BLILEY. Mr. Chairman, my colleague, Mr. DINGELL, and I strongly support H.R. 10, The Financial Services Act of 1998, which will create new opportunities for all financial services providers, make our nation's financial services businesses more competitive both domestically and internationally, and benefit consumers by providing for fair competition, investor protection, and the protection of American taxpayers. Several important aspects of this historic legislation merit further emphasis, which we provide below.

A. H.R. 10 PROTECTS AMERICAN TAXPAYERS AND PROVIDES FOR FAIR COMPETITION

H.R. 10 permits bank operating subsidiaries to engage in all financial agency activities. The bill protects American taxpayers and ensures that all financial services providers will be able to fairly compete with one another. The legislation specifically repudiates any interpretation of the Comptroller of the Currency of the National Bank Act as authorizing bank operating subsidiaries to engage in principal activities that a bank could not conduct directly, such as insurance or securities underwriting.

Banks, unlike other forms of business organizations, benefit from access to the federal safety net—which refers to FDIC deposit insurance and access to the Federal Reserve's discount window and payment system. Because of their access to the federal safety net, banks can raise funds at a lower cost than other nonbank entities. Allowing banks to establish and fund operating subsidiaries engaged in activities prohibited for the bank (including speculative securities activities), as the amendments offered by Messrs. LAFALCE and VENTO and Mr. BAKER would have done, to different degrees, would directly extend the subsidy inherent in the federal safety net to cover a variety of activities that Congress has decided should not be protected by governmental guarantees. It would do so by permitting national banks to establish operating subsidiaries with equity capital raised at subsidized rates through the bank's access to the federal safety net. Because each of those amendments was defeated, the LaFalce/Vento amendment by a vote of 115 to 306 and the Baker amendment by a vote of 140 to 281, the bill ensures that banks will not be able to use the subsidy provided by the federal safety net to fund a wide range of activities that a bank cannot engage in directly.

The Treasury Department's contention that H.R. 10 would "harm consumers" by limiting the benefits of improved services and lower costs is incorrect. H.R. 10 will dramatically help consumers by achieving these benefits through the full affiliation of banks, insurance companies, securities firms and other financial service providers through a holding company. There is no greater benefit to be achieved from allowing these new activities to be conducted through an operating subsidiary of a bank unless Congress desires to permit the operating subsidiary to fund these activities with subsidized funds raised through the parent bank's access to the federal safety net—and in that case, the benefit would be to the bank, not financial services consumers, and certainly not American taxpayers. Such subsidization would undermine the benefits that consumers reap through vigorous industry competition by unfairly discriminating against securities, insurance and other financial service providers that do not have access to such subsidies, and would pose financial risks to the federal safety net and American taxpayers.

Furthermore, the bill would not "force innovation out of banks." The bill does not scale back any power that national banks currently have to conduct banking activities, or require any national bank to terminate any of its existing activities. National bank subsidiaries are currently not authorized to engage in any ineligible securities or insurance underwriting activities (other than limited credit life underwriting). The bill would simply limit the ability of the Comptroller to authorize a subsidiary of a national bank to engage in new activities as principal that Congress has determined are beyond the scope of activities permissible for the parent national bank. To put it plainly, the bill prevents national banks from doing indirectly what Congress has determined to be imprudent for banks to do directly. This limit is necessary and appropriate to protect banks, the federal safety net and the taxpayer, as well as to ensure fair competition among all financial service providers.

We note that proponents of expanding the powers of bank operating subsidiaries have argued that a national bank is equally exposed to its subsidiaries and to its affiliates because a national bank can issue dividends to its holding company and thereby indirectly fund a nonbank affiliate engaged in activities that are not permissible for the bank to engage in directly. The federal banking laws, however, limit the ability of a national bank to pay dividends where the payment would impair the bank's capital. This arrangement also ignores the requirements of GAPP, which mandates that the entire loss incurred by a subsidiary be reflected in the financial statements of the parent bank. There is no similar requirement applicable to its affiliates. Thus, a parent bank's financial statements must reflect all the losses experienced by a subsidiary, even when those losses far exceed the capital of the parent bank, while a bank's financial statements do not need to reflect losses incurred by an affiliate (beyond any limited amount that the bank may have lent to the affiliate in accordance with federal law). Because losses incurred by a holding company subsidiary do not directly impact the financial condition of an affiliated bank, the bank may face less pressure to support a subsidiary of a holding company than a subsidiary of the bank.

B. FEDERAL RESERVE BOARD REGULATION OF FINANCIAL HOLDING COMPANIES

Title I of the bill addresses the establishment of capital requirements for financial holding companies by the Federal Reserve Board. It is our intention that, in establishing capital adequacy guidelines or requirements, the Board take into account that certain holding companies predominantly engaged in nonbanking financial activities have been organized in non-corporate structures, and should treat as common equity such interests as limited company memberships and partnership interests where such interests are accepted in the marketplace as equity available to absorb losses.

In addition, Section 116 of the bill forbids the Board to take any action under or pursuant to the Bank Holding Company Act or Section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company except in two circumstances: where action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty that poses a material risk to the financial safety, soundness, or stability of an affiliated depository institution or the domestic or international payment system, or where the action is appropriate to enforce compliance with federal law that the Board has specific jurisdiction to enforce. Section 10A prohibits the Board from taking any action under the specified statutes where the purpose or effect of doing so would be to override a determination that an activity is financial in nature and thereby exclude regulated subsidiaries from a line of business that is financial in nature or prevent regulated subsidiaries from offering a product or services that is financial in nature. None of the above would prevent the board from taking action in an individual case where the manner in which an activity is conducted renders action necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by a regulated subsidiary that poses a material risk to the financial safety and soundness or stability of an affiliated depository institution or to the domestic or international payment system.

In determining whether or not it is reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally, the Board must consider the full scope of any statutory authority it and the other federal banking agencies may have over any type of depository institution, including national banks and state nonmember banks, under any statute which the Board and the other federal banking agencies are authorized to administer. In this regard, we expect the Board, if necessary and possible, to request other federal banking agencies to exercise their authority in order to protect against any feared risk, and we expect the other agencies to coordinate with and accommodate requests for action by the Board.

C. H.R. 10 PROVIDES FOR FAIR COMPETITION AND INVESTOR PROTECTION THROUGH FUNCTIONAL REGULATION

H.R. 10 recognizes that blanket exceptions from securities regulation are no longer appropriate for banks that are actively participating in securities activities. It reflects our belief that functional regulation is necessary to ensure that all entities engaged in securities activities, and all securities professionals, are regulated by the functional regulator with over 60 years of expertise focused specifically on these activities—the SEC. We recognize, however, that certain limited existing bank securities activities may remain excepted from SEC regulation without creating significant opportunities for regulatory arbitrage. We believe these exceptions are appropriate, based on the limited nature of some activities and the existing scheme of regulation of other activities. For instance, the way that banking regulators oversee bank trust activities—including those involving securities products—may more closely approximate the scheme of regulation embodied in the federal securities laws than the banking regulations applicable to other parts of a bank.

H.R. 10 eliminates the blanket exceptions for banks from the definitions of "broker" and "dealer," and, instead, includes limited exceptions from these definitions available to banks.

1. TRUST AND FIDUCIARY ACTIVITIES EXCEPTION

H.R. 10 permits banks to effect transactions in a trustee or fiduciary capacity without being considered to be broker-dealers under the securities laws. Banks would be permitted to effect such transactions so long as the department in which they are conducting the activities is regularly examined by bank regulators for compliance with fiduciary principles. It is our intent that such examinations be specifically focused on these activities and rigorous in nature. Banks that use this exception may also be primarily compensated by an annual fee, a percentage of assets under management, or a flat or capped per-order processing fee, or any combination of such fees, and may not receive brokerage commissions exceeding the banks' execution costs. Such fees must not be structured in such a way that they give rise to the sales incentives inherent in brokerage commissions.

2. EMPLOYEE AND SHAREHOLDER BENEFIT PLANS EXCEPTION

Under H.R. 10, a bank will not be considered a "broker" when, acting in its transfer agent capacity, it conducts brokerage transactions for: (1) employee benefit plans; (2) dividend reinvestment plans; and (3) open enrollment plans.

In connection with all three types of plans, banks may not solicit transactions or provide investment advice concerning the purchase or sale of securities. In addition, banks using this exception may only receive compensation consisting of administrative fees, flat or capped per order processing fees, or both, and may not receive brokerage commissions exceeding the banks' execution costs. As to both dividend reinvestment plans and open enrollment plans, the substitute bill clarifies that banks also may not net shareholders' buy and sell orders except for odd-lot holders or plans registered with the SEC.

3. DEFINITION OF "BANKING PRODUCT"

The bill attempts to preserve the ability of the SEC to determine what is a "security." under the federal securities laws, and when new bank products are "securities," by putting the definition of "traditional banking product" into a stand-alone statute—not in the federal securities laws or the banking laws. As in the bill reported by the Commerce Committee, this bill's definition of traditional banking product includes such things as deposit accounts, letters or credit, credit card debit accounts, certain loan participations, and certain derivative instruments that traditionally have not been regulated as securities. If banks sell products within the scope of this definition, they are not required to register as a broker or a dealer.

We have also expanded the types of derivative products that come within the definition of traditional banking product. In addition to derivatives involving or relating to foreign currencies, under the substitute bill, banks may also sell as traditional banking products derivatives involving or relating to interest rates, commodities, other rates, indices or other assets, except instruments (i) that are based on a security or a group or index of securities, (ii) that provide for the delivery of one or more securities, or (iii) that trade on a national securities exchange. However, if a derivative other than an interest rate swap or a foreign currency swap is a security, it would not qualify as a traditional banking product unless it were based on a government security, commercial paper, banker's acceptance or commercial bill of a group of index of one or more of these products.

H.R. 10 includes a new provision that establishes a process by which the SEC shall decide whether banks that sell "new banking products" that are securities must register with the SEC as brokers, dealers, or both. Specifically, the SEC must engage in a rulemaking proceeding and must determine (1) that the new product is a security and (2) that imposing a registration requirement on a bank to sell the new product is necessary or appropriate in the public interest and for the protection of investors. In addition, during the rulemaking process, when considering whether an action is for the protection investors, the SEC also must consider whether the action will promote efficiency, competition and capital formation as set forth in Section 3(f) of the Exchange Act. Under this provision, during the rulemaking process, the SEC is also required to consult with and consider the views of the appropriate banking agencies concerning the proposed rules and the impact of those rules on the banking industry.

H.R. 10 is clear that the classification of a product as a traditional banking product does not imply that such product (i) is or is not a security for purposes of the securities laws, or (ii) is or is not an account, agreement, contract, or transaction for purposes of the Commodity Exchange Act.

RELIGIOUS FREEDOM AMENDMENT

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. ISTOOK. Mr. Speaker, please enter the enclosed materials into the RECORD.

SOUTHERN BAPTIST CONVENTION,
Nashville, TN, June 2, 1998.

DEAR MEMBER OF CONGRESS: I am writing to re-iterate our support for the Religious Freedom Amendment, which is soon to be voted upon. Passage of the Religious Freedom Amendment is essential to restoring the original intent of our First Amendment. Restoring the original intent of the First Amendment is essential to fully restoring religious liberty. Therefore, I urge your support of this historic effort to further secure our inalienable right to the free exercise of religion.

If we may be of assistance to you in your deliberation, please feel free to contact Will Dodson in our Washington office at (202) 547-8105. thank you for your consideration of this issue of critical importance to the welfare of our nation.

Sincerely,

DR. RICHARD D. LAND,
President,
Ethics & Religious Liberty Commission.

Christian Voice,
Alexandria, VA, May 8, 1997.

Hon. Ernest Jim Istook,
U.S. House of Representatives.

Dear Ernest: Please accept our most heartfelt thanks and congratulations on the introduction of the Religious Freedom Amendment which Christian Voice fully supports.

As you may know, Christian Voice has been a strong advocate of returning voluntary prayer in public schools since our founding in 1978. We were instrumental in the introduction of and spearheaded the lobbying effort for President Reagan's Constitutional Amendment to restore voluntary prayer in 1983.

We look forward to working with you in this vital battle to restore religious freedom in our society in order to truly make America one nation under God. Please do not hesitate to call on us if there is anything we can do to help you advance this critically important initiative.

Thanking you again for your outstanding leadership in defending the religious freedom rights of all America, and wishing you God's richest blessings, I remain

Yours sincerely,

Gary L. Jarmin,
Legislative Director.

American Family Association,
Washington, D.C., May 28, 1998.

Dear Member of Congress: On behalf of our president Donald Wildmon and our hundreds of thousands of supporters, I am writing to indicate our support for the Religious Freedom Amendment sponsored by Representative Ernest Istook of Oklahoma. We are deeply concerned about the restrictions that the United States Supreme Court has placed on our right to religious expression. Americans' desire to keep God, our Creator, in all aspects of our lives. This is a desire, which conforms to that of our Founding Fathers and is our right as Americans. We believe that the Religious Freedom Amendment will restore the original intentions of our Founding Fathers.

We strongly urge you to vote in favor of the Religious Freedom Amendment.

Sincerely,

Patrick A. Trueman,
Director of Governmental Affairs.

Christian Action Network,
May 28, 1998.

Hon. Ernest Istook,
U.S. House of Representatives, Washington, DC.

Dear Congressman Istook: On behalf of Christian Action Network and its 250,000 supporters, I heartily endorse the passage of the Religious Freedom Amendment (H.J. Res. 78) in the U.S. House of Representatives.

The Religious Freedom Amendment (RFA) will protect people of faith throughout the country. The American people have again and again expressed their support for voluntary prayer in the schools. Religious symbols and observances should not be stripped from our public life. The Ten Commandments have been banished from courthouses and public Christmas displays are often cleansed of their original religious significance.

However, the right of free speech has been expanded in almost every area except religious freedom. The premise of your amendment is simple: To secure the people's right to acknowledge God according to the dictates of conscience.

Last June, the Supreme Court overturned the Religious Freedom Restoration Act, which provided some basic protections for people of faith. This decision shows that passage of the Religious Freedom Amendment is even more important.

You have Christian Action Network's full support in this effort. Thank you for all of your hard work.

Sincerely,

Martin Mawyer,
President.

Christian Coalition,
Capitol Hill Office, May 28, 1998.

PROTECT RELIGIOUS FREEDOM—VOTE FOR THE RELIGIOUS FREEDOM AMENDMENT

Dear Representative: On Thursday, June 4th, the House will hold a truly historic vote. For the first time in 27 years, you will consider an amendment to the United States Constitution concerning the fundamental right of an American citizen to publicly acknowledge his or her religious faith. This constitutional amendment will guarantee the same First Amendment protection to religious speech as for non-religious speech, including *voluntary school prayer*. In a nation that was founded on the principle of religious liberty, we must take steps to restore the rights that our Founding Fathers intended to protect. And in a recent poll in which voters were asked about moral issues confronting the nation, almost 70% agreed that America needed a Religious Freedom Amendment that would allow voluntary school prayer. The Christian Coalition strongly urge you to vote for the Religious Freedom Amendment (H.J. Res. 78).

The most dramatic example of a religious freedom that has been whittled away is the right to religious speech. The right to free speech is one of the most highly revered and protected rights in our Constitution. Yet, a series of Supreme Court rulings over the past 35 years have misinterpreted the Constitution to ban and censor free speech when that speech is religious in nature. Specifically, the Supreme Court has censored free speech in only three areas: inciting violence and insurrection, obscenity, and religious speech. It is absurd for the Supreme Court to equate the act of expressing one's faith in God with expressions of insurrection or obscenity.

This amendment would protect the right of school children to organize prayer during the school day, while explicitly reigning in the influence and participation of the government in such activities. The government, represented by either a teacher or a school administrator, would be prohibited from requiring, writing or forbidding prayer.

With the protection of the Religious Freedom Amendment, courts would no longer issue rulings such as the one in which the judge upheld a teacher's decision to give a young Tennessee student an "F" on a research paper simply because the student decided to write her paper about Jesus. (*Settle v. Dickson County School Board*). And the highest court in our land would be required to enforce the right of a rabbi to offer a nonsectarian prayer at a middle school graduation.

Enactment of the Religious Freedom Amendment is the only effective means to truly restore our religious freedom. On behalf of the Christian Coalition, I strongly urge you to vote yes for final passage on Thursday, June 4th.

Sincerely,

Randy Tate,
Executive Director.

Concerned Women for America,
March 21, 1997.

The Hon. Ernest Istook,
U.S. House of Representatives,
Washington, DC.

Dear Representative Istook: Concerned Women for America (CWA), as the largest pro-family women's organization in America, is pleased to support your efforts to bring forward a constitutional amendment that will safeguard religious expression. Our over 500,000 members have continued to remind us that their First Amendment rights to free religious expression are routinely trampled. It's time for those who seek to persecute religious people to stop hiding behind the robes of the Supreme Court. It is time for a Religious Freedom Amendment.

America's religious heritage can be traced to the Declaration of Independence, our founding document, which reminded the world that mankind has been endowed by the Creator with certain inalienable rights. And our Constitution further elaborated the fundamental rights that Americans hold dear. CWA favors protection for: Religious symbols (i.e. the cross, creche, menorah, etc.), voluntary, student-initiated and student-led prayer in all schools, and Free and secure religious expression.

Now is the time to permanently codify the rights of all Americans—rights that have been ignored by many in the judicial system for the last 30 years. Rep. Istook, CWA appreciates your tireless efforts on behalf of America's families, and we look forward to working with you and other members of Congress in the months ahead.

Sincerely,

Beverly LaHaye,
Chairman & Founder.

WallBuilders, Inc.,
Aledo, TX, February 28, 1997.

The Hon. Ernest Istook,
U.S. House of Representatives, Washington, DC.

Representative Istook: I am President of the national ministry, WallBuilders. Our organization, which includes almost one-hundred-fifty thousand citizens among its direct supporters, and hundreds of States legislators and leaders, is dedicated to rebuilding and protecting the religious and family values on which America was founded, and which, for so long, were embraced in our public policy.

Thank you for your leadership and vision on the "Religious Freedom Amendment"—a long-awaited opportunity for millions of Americans. Your amendment will again secure their genuine "free exercise of religion," and will reverse the religious hostility now so evident in the federal courts, ending their micro-management of religious activities.

I applaud the scope of the protections you have provided in your amendment, ranging from securing freedom of conscience to forbidding religion-based discrimination, from securing public religious speech and expressions to protecting voluntary student religious exercises. Certainly, you know that you have much public support behind you as recent polls have shown 74 percent of the nation supporting a constitutional amendment explicitly protecting school prayer, and 73 percent supporting explicit wording to protect public religious acknowledgments (Luntz Research Companies, January 16–21, 1996).

Be assured that you have our complete and unwavering support for your amendment and the protections it encompasses. We are at your service in helping secure the passage of this wonderful and necessary constitutional amendment.

Again, thank you for your leadership on this issue. You are a genuine friend to and champion for people of faith everywhere! May God continue to prosper you and your endeavors for Him! God bless!

In prayer that our government will once again be upon His shoulders, and that we will again become one nation under God, I remain,

DAVID BARTON.

YOUTH FOR CHRIST,
U.S. NATIONAL OFFICE,
June 13, 1997.

Hon. ERNEST ISTOOK,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ISTOOK: We at Youth for Christ would like to offer our full and enthusiastic support of the Religious Freedom Amendment (HJRes 78) which you have presented to this session of Congress. We view your Amendment as the only way to restore religious liberties in America.

Youth for Christ is an international, interdenominational movement with affiliates in 225 cities across the United States and 127 countries around the world. Our target audience is junior high and senior high school students. As part of the body of Christ, our vision is to see every young person in every people group in every nation have the opportunity to make an informed decision to be a follower of Jesus Christ and become a part of a local church. Last year 600,000 young people were impacted by some aspect of our outreach and 33,000 young people made decisions to receive Jesus Christ as their Savior.

Nationally, we have 982 full time paid staff, 592 part time staff and over 14,000 volunteers. Our annual budget is $4.2 million.

We wholeheartedly encourage Congress to enact the Religious Freedom Amendment.

Cordially,

ROGER CROSS,
President.

CORAL RIDGE MINISTRIES,
March 21, 1997.

Hon. ERNEST ISTOOK,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ISTOOK: Thank you for spearheading the effort to draft and introduce into Congress a Religious Freedom Amendment. This measure has my complete support.

The need for the protection that this constitutional amendment offers is evident in a cursory review of some recent attacks on religious expression, often under the rubric of protecting the so-called wall of separation between church and state.

Witness these few examples:

- In Alabama, a state judge is under attack for having the Ten Commandments posted in his courtroom and allowing an outside clergyman to lead prayer at jury organizing sessions.
- A Bronx church is prohibited from renting a public school to hold worship services even though other community groups are allowed.
- A federal court forbids a fourth grader from distributing religious literature at his public school.

Time magazine commented several years back on this current state of affairs—the bitter fruit, I believe, of the Supreme Court's 1962–63 school prayer decisions:

In this nation of spiritual paradoxes, it is legal to hang a picture in a public exhibit of a crucifix emerged in urine, or to utter virtually any conceivable blasphemy in a public place; it is not legal, the federal courts have ruled, to mention God reverently in a classroom, on a football field or at a commencement ceremony as part of a public prayer.

Religious freedom is the cornerstone of all the other freedoms we enjoy. Without it, our other freedoms are likewise open to attack. The idea that freedom is granted by God, not the state, and that religion—the duty man owes to God—is outside the jurisdiction of government, acts as a powerful safeguard against the everpresent impulse of government to encroach on the people's liberty. For that reason this amendment is not merely a concern of religious people, but of all Americans who value freedom.

It is long past time for Congress to address this issue. Public opinion polls over the past 30 years indicate overwhelming support for a constitutional amendment such as you are introducing. I applaud you for your leadership in this cause and pledge my support to help win passage.

Sincerely,

D. JAMES KENNEDY,
Ph.D.

CATHOLIC ALLIANCE,
April 23, 1998.

Hon. ERNEST ISTOOK,
Washington, DC.

DEAR CONGRESSMAN ISTOOK: Thank you for your sponsorship of the Religious Freedom Amendment. Catholic Alliance wholeheartedly supports passage of your bill.

Our nation's courts have rewritten the Constitution to governmentally institutionalize secularism. The founding fathers intended for all Americans to be able to exercise their religious beliefs openly without fear of government retribution. The founders prohibited the promotion of one religion over another, not the promotion of religious belief. The courts have created a world where school teachers can wear Black Sabbath t-shirts in school but cannot publicly pray the rosary. Students can display "Legalize Marijuana" badges but not scapulars. Saying grace over a teacher's own meal, if accompanied by the sign of the cross, can be a disciplinary offense.

We are compelled by the courts failure to rectify their errors to seek the Religious Freedom Amendment. The RFA does not require the schools or any public institution to incorporate or regulate religious expression. The RFA merely prohibits public institutions from suppressing individuals religious expression. The RFA clears the way for the full involvement of faith based institutions in solving the social ills of our times.

Thank you for your leadership.

Sincerely,

DEACON KEITH A. FOURNIER,
President.

FOCUS ON THE FAMILY ENDORSES "RELIGIOUS FREEDOM AMENDMENT"

Colorado Springs—Today Dr. James C. Dobson, president of Focus on the Family, joined many other national pro-family and religious liberty organizations to endorse the Religious Freedom Amendment, sponsored by Rep. Ernest Istook (R–Okla). His statement was released this morning at a Capitol Hill news conference:

"Focus on the Family strongly supports the Religious Freedom Amendment to secure the protection of religious freedom for all Americans. We believe in a vision for a just society that protects religious liberties for people of all faiths. This constitutional amendment will make that vision a reality and is long overdue.

"We at Focus on the Family receive 250,000 letters and phone calls each month. We hear all too often from citizens—especially children—who have had their First Amendment religious freedoms trampled upon. The Religious Freedom Amendment will reinforce Americans' First Amendment guarantee of religious liberty and will specifically protect voluntary, student-initiated prayer in public schools.

"Whether its expelling expressions of Christmas from public schools or public parks, outlawing benedictions or censoring student speeches at high school graduations, or punishing a fourth grade boy for praying over his lunch in a public school cafeteria, liberal judges and misguided school administrators have perverted Thomas Jefferson's meaning of the 'wall of separation between church and state.'

"The U.S. Supreme Court's 1962 prohibition of school prayer unfortunately set in motion an intense effort by the judiciary to eliminate all evidences of religious expression for public life. What we have seen over the last thirty years from the courts is not religious neutrality, but rather what Justice Potter Stewart called a 'religion of secularism.' It is time for the Congress to remedy this abuse of the people's constitutional liberties by passing the Religious Freedom Amendment.

"We urge the American people to call and write their congressmen and senators to assure this amendment's passage."

Founded in 1977 by James C. Dobson, Ph.D., Focus on the Family is a nonprofit Christian organization dedicated to the preservation of the home. Focus on the Family has a monthly mailing list of over 2 million and a daily radio broadcast heard by 3–5 million each week in the United States.

FELLOWSHIP OF CHRISTIAN ATHLETES,
May 21, 1998.

DEAR MEMBER OF CONGRESS: On behalf of the Fellowship of Christian Athletes, I want to voice our support for the Religious Freedom Amendment (HJR 78), and urge all Members of Congress to vote for this vital constitutional amendment.

The Fellowship of Christian Athletes (FCA) has almost 8,000 Huddles (chapters) in schools all across America. Not only do we seek to motivate young athletes to find a better way of playing the game of life, but FCA leads the outreach to students all across America to avoid the temptations of alcohol and illegal drugs. There is only "One Way 2 Play—Drug Free!"

Our outreach is based on a commitment grounded by faith in Jesus Christ. Unfortunately, we must overcome hurdles and barriers that are placed in our path, but which are not applied to some other student clubs and organizations in public schools. By protecting the right to pray at school, and to recognize religious traditions, heritage and beliefs, the Religious Freedom Amendment will remove the discrimination against faith-based student groups, and maintain the protections against unfounded fear that prayer or any other religious activity would be compulsory. This will also allow the students to attend the Huddle meetings at school and not have to miss, due to transportation problems to off campus sites at night.

The Fellowship of Christian Athletes urges all Members of Congress to support the Religious Freedom Amendment.

Sincerely,

DR. DAL SHEALY,
President/CEO.

TOWARD TRADITION,
March 18, 1997.
HON. ERNEST ISTOOK, Jr.,
Washington, DC

DEAR CONGRESSMAN ISTOOK: Firstly, let me congratulate you on the remarkable progress you have made on the Religious Liberties Amendment. I feel honored to have been able to support you in this milestone.

I heartily endorse the proposed language for the Religious Freedom Amendment. I want to stress as a Jew how proud and privileged I feel to live in a country whose leaders like yourself are eager for these hallowed words to become law. It is precisely the commitment to God and the devotion to prayer that have made the United States of America the most tranquil and gracious home that the Jewish people have enjoyed during that past 2,000 years. May God bless you and your work.

Do let me know if there is anything at all I can do to be of assistance to you in the crucial work of assuring the religious right of all Americans, regardless of faith.

Sincerely your friend,
RABBI DANIEL LAPIN,
President.

AMERICAN CONFERENCE OF JEWS AND BLACKS

DEAR CONGRESSMAN: After viewing the Religious Freedom Amendment and speaking with Congressman Istook I fully endorse the Amendment's passage. As you are well aware, teachers and bureaucrats in today's schools are so fearful and confused when it comes to general statements about religion that even the most cursory and innocuous remark by a school child regarding a routine religious activity is censored. This goes beyond separation of Church and State into separation of state from common sense.

The bedrock of the American public school system is local control. If a local district chooses to allow a minute toward acknowledging God and His blessings, I should think that would fall within the age-old classic Jewish tradition to "Acknowledge the Presence of God in our midst." This is not done to proselytize but simply acknowledge the Creator we all share.

My parents and all of their Jewish peers in the previous generation spent each morning during their public school years doing so; indeed benefiting from the classic wisdom and guidance offered, for example, by Psalms.

Those uncomfortable with the notion of God—Jew or non-Jew—will naturally be uncomfortable with such public acknowledgments. Should we, then, censor and ban everything in society that some person finds irritating? Instead of censorship, I would expect some elementary graciousness and generosity of spirit from those who seem bothered. Truly, they are not, in any way, jeopardized. Far more ennobling than stilling the heartfelt expression of others would be to exhibit respect and tolerance for others, as well as the ideal of live-and-let-live.

Perhaps on one occasion, somewhere in some district, a Jewish child may hear the name Jesus uttered. So what! Is Judaism so tenuous that it crumbles when simply hearing about other people's beliefs? How ironic that those who for their children espouse openness to all sorts of other ideas, become insecure in this matter. The remedy for such insecurity is not to stop believers from expressing thanks to God, nor to eradicate their freedoms. It is, rather, to overcome manufactured insecurities, strengthen the Jewish education of their own children and, once and for all, begin believing in the general innate fairness of the American people.

Sincerely,
RABBI ARYEH SPERO,
President.

RELIGIOUS FREEDOM AMENDMENT

The Religious Freedom Amendment, a proposed constitutional amendment to protect religious freedom, is supported by religious organizations and others across America, with over 150 House cosponsors, including the House leadership.

ENDORSING GROUPS AND ORGANIZATIONS

American Conference of Jews and Blacks, American Family Association, Americans for Voluntary School Prayer, American Muslim Council, Americas Prayer Network, Catholic Alliance, Christian Action Network, Christian Coalition, Christian Voice, Citizens for Excellence in Education, Coral Ridge Ministries (Presbyterian), Concerned Women for America, Ethics and Religious Liberties Commission, Family Research Council, Focus on the Family, Free Congress Foundation, and Full Gospel Baptist Church Fellowship.

General Council of the Assemblies of God, International Pentecostal Church of Christ, Jewish Union, National Clergy Council, National Baptist Convention USA, Religious Freedom Coalition (William Murray), Religious Roundtable, Salvation Army, Southern Baptist Convention, Toward Tradition (Jewish Rabbinical Group), Traditional Values Coalition, Trinity Global, U.S. Family Network, Wall Builders, Youth for Christ, and National Association of Evangelicals which represents the following groups:

Advent Christian General Conference, Assemblies of God, Baptist General Conference, Brethren Church, Brethren in Christ Church, Christian & Missionary Alliance, Christian Catholic Church, Christian Church of North America, Christian Reformed Church in North America, Christian Union, Church of God, Church of God, Mountain Assembly, Church of the Nazarene, Church of the United Brethren in Christ, Churches of Christ in Christian Union, Congregational Holiness Church, Evangelical Church of North America, Evangelical Congregational Church, Evangelical Church of America, Evangelical Friends International of North America, Evangelical Mennonite Church, Evangelical Presbyterian Church, Evangelical Missionary Fellowship; and Fellowship of Evangelical Bible Churches.

Fire Baptized Holiness Church of God of the Americas, Free Methodist Church of North America, General Association of General Baptists, International Church of the Foursquare Gospel, International Pentecostal Church of Christ, International Pentecostal Holiness Church, Mennonite Brethren Churches, Midwest Congregational Christian Fellowship, Missionary Church, Inc., Open Bible Standard Churches, Pentecostal Church of God, Pentecostal Free Will Baptist Church, Inc., Presbyterian Church in America, Primitive Methodist Church USA, Reformed Episcopal Church, Reformed Presbyterian Church of North America, Salvation Army, Synod of Mid America, Wesleyan Church and Worldwide Church of God.

COMMITTEE ON RESOURCES OVERSIGHT REPORT ON INTERIOR DEPARTMENT RULE-MAKING

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1998

Mr. YOUNG of Alaska. Mr. Speaker, today I am filing a report by the Committee on Resources entitled Abuse of Power: The Hardrock Bonding Rule which presents the results of the Committee's oversight investigation of an informal rule-making process at the Department of Interior. We are publishing the report in order to open the curtains and let full sunlight shine on Interior's rule-making process. The issue here is not about mining—it is about the right of a citizen to meaningful participation in the rule-making process.

The report concludes that Department documents obtained by the Committee clearly show that undue interference of political appointees at Interior in the rule-making was so great that the integrity of the rule-making process itself was discredited. In addition, the new rule was published despite warnings from Interior's own regulation writers and lawyers that they had significant concerns about compliance with the Administrative Procedures Act (APA).

After this regulation was implemented, political appointees at the Department of Interior attempted to prevent and obstruct the Committee on Resources from carrying out its Constitutional oversight responsibilities. A drawn-out string of dilatory tactics was initiated after all documents pertaining to this rule-making were requested. Some records were produced by Interior pursuant to this request, but many documents were withheld from the Committee under a prospective claim of "privilege." The Department also tried to impose rules and conditions under which this Committee could have access to documents. After these dilatory tactics continued for more than three months, the Committee subpoenaed the documents.

In their dissenting views filed with the report, the Minority argues that the documents obtained under the subpoena are confidential and part of the deliberative process. We disagree. A consensus has emerged under the APA that a rule-making record or file should be created in informal rule-making. In *Citizens to Preserve Overton Park* v. *Volpe*, the Supreme Court stated that, although agency action is entitled to a presumption of regularity, "that presumption is not to shield [the] action from a thorough, probing, in-depth review." 401 U.S. 402 (1971). These documents are part of the rule-making record.

An appendix to the report contains some of the subpoenaed documents which illustrate the serious problems with this rule-making. Perhaps this will encourage the political appointees at Interior to comply with the laws governing rule-makings and goad the Department into reforming their rule-making process to restore meaningful input from the American people. Certainly, a higher standard can be expected of the "most ethical Administration" in American history.

The Minority also says that "despite assurances to the contrary" during oversight hearings conducted by Subcommittee on Mineral and Energy Resources Chairman Barbara Cubin, the report concludes that actions by a special assistant to the Assistant Secretary for Land and Minerals constitutes a "serious conflict of interest." The Minority is construing more from these remarks than we implied. Indeed, immediately after this statement during the June 19th hearing, Chairman Cubin told Department officials that "the cure for this problem or perceived problem would be to allow public comment, because the appearance isn't very pretty. I mean it really looks bad. . . ." Interior was also withholding key documents from the Committee at the time of the oversight hearings. Interior produced these documents, but only after they were subpoenaed, nearly two months after these remarks were made.

In fact, Interior recently lost a lawsuit over this regulation. The Minority Views to the report try to minimize this stating that the court "did find that DOI [Interior] violated only the procedural requirement of the RFA [Regulatory Flexibility Act] by not consulting with the SBA [Small Business Administration] on the definition of a 'small entity.'"

The court decision concerned whether Interior obeyed the law in issuing the regulation. The court granted a summary judgment against Interior, which means that after construing all of the relevant facts in the most favorable light for Interior, the court found that Interior had no case, and ordered the Department to rescind the regulation and start over.

In her concluding statement, the judge said, "While recognizing the public interest in preserving the environment, the Court also recognizes the public interest in preserving the rights of parties which are affected by government regulation to be adequately informed when their interests are at stake and to participate in the regulatory process as directed by Congress [emphasis added]." I am attaching a copy of this Court decision to these remarks for inclusion in the RECORD.

The Resources Committee told Interior officials more than a year ago—long before the Department was sued—that the new rule was illegal because the department violated the rule-making process. We urged them to withdraw the rule and correct these violations. Instead, Interior wasted taxpayer money defending an untenable position in a lawsuit.

This whole sorry episode results from the refusal of a few imperious, high-level, politically motivated bureaucrats to obey laws that govern a rule-making. Accountability is the issue. Political bosses at Interior, who love to write regulations for others to obey or face severe penalties, refuse to heed laws that regulate their own actions. Shouldn't they be accountable too?

[United States District Court for the District of Columbia, Civil Action No. 97-1013 (JLG)]

NORTHWEST MINING ASSOCIATION, PLAINTIFF, *v.* BRUCE BABBITT, SECRETARY, U.S. DEPARTMENT OF INTERIOR; ET AL., DEFENDANTS

MEMORANDUM

This matter is before the Court on opposing motions for summary judgment. The Plaintiff, Northwest Mining Association ("NWMA", disputes a final rule enacted by Defendant United States Bureau of Land Management ("BLM") concerning reclamation of mining lands. The Small Business Administration ("SBA") submitted an amicus curiae brief in favor of NWMA's position. The Arizona Mining Association and the Nevada Mining Association jointly submitted an amici curie brief, also in favor of NWMA's position. The Court heard oral argument on March 10, 1998. For the reasons that follow, NWMA's motion is granted and the BLM's motion is denied.

I. Background

In 1976, Congress enacted the Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. 1701, (*et seq.* (1994). Congress declared in the FLPMA that it is the policy of the federal government, through the Secretary of the Interior, to manage public lands "in a manner which recognizes the Nation's need for domestic sources of minerals . . . from public lands[.]" 43 U.S.C. 1701(a)(12).[1] Congress, however, also recognized the need to manage the public lands "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values[.]" 43 U.S.C. §1701(a)(8). Accordingly, while managing public lands under the Act, the Secretary and the BLM must "take any action necessary to prevent unnecessary or undue degradation of the lands" by "regulation or otherwise." 43 U.S.C. §1732(b).

The BLM's obligatory duty to prevent unnecessary or undue degradation of public lands has significant application in the mining industry. The extraction of hardrock minerals, such as gold and copper, often involves the excavation of large open pits, the use of toxic chemicals, disruption of underground water, and various other negative environmental effects. Historically, some miners abandoned their claims after the minerals ran out and left the land disturbed. In many cases, the use of millions of dollars of public funds has been required to reclaim such old, abandoned mining operations and return them to an environmentally sound state. (Def. Mem. at 2–3.)

In 1981, the BLM responded to this problem by promulgating regulations, set forth in 43 C.F.R. §3809, which allowed it to require bonds from miners in certain situations. Bonding ensures a miner's compliance with environmental standards by proactively funding the reclamation before the operation begins. In the event of a miner's default of its reclamation obligation, the bond, or other surety, will fund the environmental restoration, not the public. (Def. Mem. at 2–3.)

The original regulations defined three levels of mining activities: "casual" level use, where only negligible disturbance of the land results (43 C.F.R. § 3809.0–5(b)); "notice" level use, where mining operations are greater than casual use but still disturb less than five acres per calender year and where the operator need only submit a general notification of operations to the BLM before commencement (43 C.F.R. §3809.1–3(a)–(c)); and "plan" level use, where more than five acres per calendar year are disturbed and where the operator must submit a detailed plan of all operations and reclamation to be undertaken to the BLM for approval (43 C.F.R. §3809.2–9(b)). The original regulations allowed the BLM to require plan level operators to post a bond to ensure the reclamation of disturbed areas, but such bonds were not mandatory to all plan level operations (43 C.F.R. 3809.1–9(b)).

On July 11, 1991, the BLM issued a notice of proposed rulemaking to amend its bonding requirement rules. The proposed rule would require bonds for all mining operations larger than casual level use. 56 Fed. Reg. 31,602 (1991). Notice level operators would be required to post a $5,000 bond for each claim, *Id.* at 31,604, while plan level operators would be required to post a bond in an amount specified by the BLM, but in no case to exceed $1,000 per acre for explorational operations and $2,000 per acre for mining operations. *Id.* at 31,605. Additionally, the proposed rule would allow alternative financial instruments to be substituted for bonds, *Id.* at 31,602, and would require operators with a history of noncompliance with BLM regulations to file plans on subsequent operations which would normally be conducted on a notice level. *Id.* at 31,602.

The BLM stated that it would accept comments on the proposed rule amendments until September 9, 1991, *Id.* at 31,602, but later extended the comment period to October 9, 1991 (56 Fed. Reg. 41,315 (1991)).

On February 28, 1997, almost six years after the original proposal, the BLM issued the final rule. 62 Fed. Reg. 9093 (1997). The final rule contained several substantive differences from the proposed rule which are pertinent to this case. Most notably, notice level and plan level operators are each required by the final rule to post bonds for 100 percent of the estimated reclamation costs. *Id.* at 9100, 9101.

Additionally, the final rule requires notice and plan level operators to employ an outside engineer to calculate and certify the cost of reclamation of the disturbed areas, *Id.* at 9100–01, provide bonds for all its existing mining disturbances within ninety days (if not in compliance with the rules), *Id.* at 9103, and meet water quality standards for one year at the reclaimed site before the bond would be released. *Id.* at 9102. The final rule imposed criminal sanctions on persons who knowingly violate the regulations. *Id.* at 9103.

The BLM stated that the rule, as enacted, would not have a significant impact on a substantial number of small entities. *Id.* at 9099. The BLM defined "small entity" as "an individual, small firm, or partnership at arm's length from control of any parent companies." *Id.* at 9099.

The NWMA seeks summary judgment under the Administrative Procedure Act, 5 U.S.C. §§551, *et seq.* (1994) ("APA") on the basis that there was no notice in the proposed rule of the 100 percent bond requirement, the professional third party engineer requirement, the water quality requirement, or of the potential criminal sanctions.

Alternatively, the NWMA seeks summary judgment under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. §601, *et seq.* (1994) (*as amended by* Pub. L. 104–121, Title II, 110 Stat. 864–67 (1996)) on the grounds that, when certifying that the final rule would not have a significant economic impact on a substantial number of small entities, the BLM did not use the Small Business Administration's definition of "small miner" and did not follow the appropriate procedure for adopting an alternate definition as required by the RFA.

The BLM generally denies the NWMA's allegations and itself moves the Court for summary judgment, arguing that the NWMA lacks standing to object. The BLM alleges that, since the NWMA failed to participate in the rulemaking process by filing any comments during the appropriate period, the NWMA lacks standing to challenge the new rule under the APA.[2] The BLM also alleges that, because the NWMA is not itself a small entity, it lacks standing to challenge the new rule under the RFA.

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[1] The Secretary is charged "to promulgate rules and regulations to carry out the purposes of [the] Act." 43 U.S.C. §1740. The administrator of these rules and regulations is the Director of the BLM, through the authority and at the direction of the Secretary. 43 U.S.C. §1731(a).

II. Discussion

The Court shall grant summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

A. STANDING OF THE NWMA

The BLM claims that the NWMA does not have standing to object to its final rule under either the APA or the RFA because it did not submit comments during the notice and comment period. The NWMA asserts that it need not have submitted comments because the BLM's original rule proposal did not properly inform it that its interests were at stake. The NWMA further asserts that, in any event, it has associational standing as a representative of its members.

The Plaintiff is correct. The nature of the NWMA's claims under the APA is that there was insufficient notice of the altered and additional aspects of the final rule given by the BLM in its initial proposal. There is no way the NWMA could have submitted comments regarding interests it was not informed were at stake.

The BLM also challenges the NWMA's assertion of associational standing, contending that it does not apply to rulemaking procedures. The BLM does not provide an explanation of why this is so. In *Warth v. Seldin*, 422 U.S. 490 (1974), and *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333 (1977), the Supreme Court refined its associational standing doctrine into a three-prong test.

"[A]n association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit."—*Hunt*, 432 U.S. at 343.

The Plaintiff here meets these elements and the Court finds no basis to conclude that rulemaking should be regarded as exempt from this test. Accordingly, the Court finds that the NWMA has standing under the APA to object to the final rule at issue here.

The BLM also claims that the NWMA lacks standing under the Regulatory Flexibility Act because the language of the RFA extends standing to seek judicial review only to a "small entity." The RFA provides that "a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review. . . ." 5 U.S.C. §611(a)(1). Section 601(6) of the RFA states, in relevant part, that the term "small entity" shall have the same meaning as the term "small organization." Section 601(4) states, in relevant part, that the term "small organization" means "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. . . ." Here, the BLM does not contest the NWMA's assertion that it is an independently owned and operated, not-for-profit enterprise which is not dominant in its field. (Pl. Mem. at 34–37.) Therefore, the NWMA is a "small entity" as defined by the RFA and has standing to object.[3]

B. PLAINTIFF'S CLAIMS UNDER THE APA

The standard for judicial review of the BLM's actions here is set forth in Section 706 of the APA. The court shall "hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, of otherwise not in accordance with the law." 5 U.S.C. §706(2)(A). The Court must show "great deference" to the agency's interpretation of its own powers and responsibilities. *EPA v. National Crushed Stone Ass'n*, 449 U.S. 64, 83 (1980) (citation omitted).

The gist of the NWMA's numerous counts under the APA is that the final rule enacted by the BLM is significantly different from that originally proposed. The NWMA alleges that the differences are great enough to constitute abuses of the notice and comment requirement, 5 U.S.C. §553(b), and the basis and purpose requirement, 5 U.S.C. §553(c) of the APA. The final rule, however, "need not match the rule proposed [and] indeed must not if the record demands a change." *Kooritzky v. Reich*, 17 F. 3d 1509, 1513 (D.C. Cir. 1994) (citations omitted). To do otherwise "would lead to the absurdity that . . . the agency can learn from the comments on its proposals only at the peril of starting a new round of commentary." *International Harvester Co. v. Ruckelshaus*, 478 F. 2d 615, 632 n. 51 (D.C. Cir. 1973). The test is whether the agency gave notice to interested parties that a different rule might be enacted. *Kooritzky*, 17 F. 3d at 1513. Adequate notice is given if the final rule is a "logical outgrowth" of the proposed rule. *Fertilizer Inst. v. EPA*, 935 F. 2d 1303, 1311 (D.C. Cir. 1991). Therefore, the pertinent question to be asked in this case is whether the BLM's final rule is a logical outgrowth of the proposed rule.

The determination of what rule is a logical outgrowth of another can be a difficult task and require detailed examination of the administrative record. For instance, the NWMA alleges that the minimum bond amounts required by the final rule cannot be a logical outgrowth of the maximum amounts contemplated by the proposed rule. At first blush, this might seem to be one of the NWMA's strongest arguments. An examination of the administrative record reveals that the rule proposal does, indeed, state that bond amounts for plan level operations "would be capped at $1,000 per acre for exploration activities and $2,000 for mining activities." 56 Fed. Reg. 31,603. The proposal goes on, however, to state that "[c]omments are specifically requested on the adequacy of these definitions."*Id.*

The request for commentary on the definitions *reasonably* could be construed to include commentary on the adequacy of the dollar amount, which, in turn, *reasonably* could be found to constitute adequate notice that the rule might be changed. It is uncertain whether additional examination of comments received would be indicative of the adequacy of the notice. It is also uncertain whether testimony at trial might prove dispositive of the issue. In other words, the claim is not readily applied to the summary judgment standard, *i.e.*, that no reasonable factfinder could find for the BLM in this matter.

The Court does not need to conduct such as exhaustive examination of the administrative record to reach the merits of the NWMA's claims under the APA because of the disposition of their claim under the RFA.

C. PLAINTIFF'S CLAIM UNDER THE REGULATORY FLEXIBILITY ACT

The NWMA's claim under the RFA is that the BLM did not follow the legal procedure required by the RFA when it issued the final rule.

The RFA requires administrative agencies to consider the effect of their actions on small entities, including small businesses, small non-profit enterprises, and small local governments. *See* 5 U.S.C. §§601, *et. seq.*; *Southwestern Pa. Growth Alliance v. Browner*, 121 F.3d 106, 118 (3d Cir. 1997). *See also* S. Rep. No. 96–878, at 1–6 (1980). When an agency issues a rulemaking proposal, the RFA requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" which will "describe the impact of the proposed rule on small entities." 5 U.S.C. §604(a).

Rather than prepare initial and final regulatory flexibility analyses, the BLM chose to use the exception allowed by Section 605 of the RFA. Section 605 provides:

> Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The Agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.—5 U.S.C. §605(b).

In a section of the final rule publication entitled "Compliance With Regulatory Flexibility Act," the BLM stated that the final rule "will not have a significant economic impact on a substantial number of small entities." 62 Fed. Reg. 9099. The BLM stated that, for the purposes of this certification under the RFA, the term "small entity" is defined as "an individual, small firm, or partnership at arm's length from the control of any parent companies.". *Id.* The BLM set forth a short factual basis for the certification. *Id.*

The nature of NWMA's challenge is that the BLM did not use the correct definition of "small entity" (specifically, a small miner) when it made the "no significant impact" certification.

The RFA requires agencies to use the Small Business Administration's definition of small entity. Section 601 of the RFA sets forth, in relevant part, "[f]or the purposes of this chapter . . . the term 'small entity' shall have the same meaning as the term 'small business' . . . . " 5 U.S.C. §601(6). The term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act, 15 U.S.C. §632 (1994). 5 U.S.C. §601(3).

An examination of the Small Business Act reveals that the SBA may "specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of [the Act] or any other Act." 15 U.S.C.

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[2] The NWMA asserts that, in fact, it did submit comments, but that its records of such have been lost in the intervening five years. (Pl. Mem. At 12–13, Pl. Reply at 3–7.)

[3] It is probable that the NWMA would also have standing to object under the RFA based on associational standing, discussed *supra*.

§632(a)(2)(A). The SBA publishes these small business definitions in 13 C.F.R. §121.201. Division B of section 121.201 provides, in pertinent part, that mining concerns must have 500 or fewer employees to be considered "small." *Id.* Therefore, the standard for "small miner" which the BLM must use when performing an Initial or Final Regulatory Flexibility Analysis or when certifying "no significant impact" is a 500 or fewer employee standard. By using a definition other than the SBA's, the BLM violated the procedures of law mandated by the statute.

The BLM, for its part, argues that it used a subsequent Congressional definition of "small miner" used in recent legislation.[4] This argument is unconvincing in light of the clearly mandated procedure of the RFA. The definitions section of the RFA uses phrases such as "'small entity' shall have the same meaning . . . " and '"small business' has the same meaning . . . ". 5 U.S.C. §601 (emphasis added). Words such as these doe not leave room for alternate interpretations by the agency. The ultimate expression of legislative intent is, of course, and unambiguously worded statute.'

Insofar as the BLM's certification (*i.e.*, that the final rule would have no significant impact on a substantial number of small entities) was without observance of procedure required by law, the NWMA, as complaining party, is entitled to relief, and this Court, therefore, grants NWMA's motion for summary judgment on these grounds.

D. RELIEF TO BE GRANTED UNDER THE RFA

Section 611 of the RFA, entitled Judicial Review, provides, in pertinent part:

> In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter . . . including, but not limited to, remanding the rule to the agency, and deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

5 U.S.C. §611(4)(A)-(B). Consequently, the issue is what the public interest is here.

The BLM, arguing for continued enforcement, warns of potential publicly funded restoration efforts and cites a ten-year old report showing an estimated restoration cost of $284 million for a parcel of federal land that had been left unreclaimed. *See generally* GAO/RCED-88-123BR (April 1998).

The Court, however, is unconvinced by such anecdotal evidence. In fact, the Court does not find that much would change should enforcement be discontinued. Large, open-pit mines are already subject to discretionary bond requirements by the BLM as plan level operations. 43 C.F.R. §3909.1-9(b). Moreover, the BLM admits that it already has in place a policy which requires 100 percent bonding for all mining operations which use cyanide or other dangerous leachates (Def. Mem. at 6,8; Def. Reply at 8.) In other words, to protect the environment against the most potentially dangerous mining operations, the BLM need only exercise its existing powers between a remand and its next final rule promulgation.

Moreover, the new rule's requirements concerning the amount of regulation on the smaller notice level mining operations, the dollar amounts the BLM can require for all bonds, and the additional procedural expenses incurred by miners when obtaining the bonds, appear to have a large impact on the small miner. Effects on small businesses and industry-wide changes in regulatory expenses, however, are precisely what the procedural safeguards of the RFA and the APA are set in place to address. A claim that the public interest requires an exception to the RFA and APA because of the very interests they protect requires a better showing of threatened societal harm than the BLM has produced here.

Finally, the BLM states that, upon remand, any new rule promulgation will be delayed because Congress has prohibited the BLM from publishing new hardrock mining rule proposals until November 15, 1998.[5] *See* Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1998, Pub. L. No. 105-83' §339 (1997). While true, the BLM itself delayed enacting a new rule for roughly nine years after the issuance of the GAO report and five and one-half years after its own rule proposal. The BLM has not explained this delay in light of its alleged urgency. The absence of alacrity by the BLM in this matter convinces the Court that another brief delay will not be contrary to the public interest.

III. Conclusion

While recognizing the public interest in preserving the environment, the Court also recognizes the public interest in preserving the rights of parties which are affected by government regulation to be adequately informed when their interests are at stake and to participate in the regulatory process as directed by Congress. For this reason and for the reasons stated in this memorandum, the Court remands the final rule to the BLM for procedures consistent with this opinion. Accordingly, the Plaintiff's motion for summary judgment is denied. An appropriate Order accompanies this Memorandum.

JUNE L. GREEN,
United States District Court Judge.

Date: May 13, 1998.

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[4] Specifically, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1993, 106 Stat. 1374, 1378-79 (1992). (Def. mem. at 15-26; Def. Reply at 14-15).

[5] The BLM did not address this argument in its briefs, nor did it file a post-hearing brief. It mentioned this argument briefly during oral argument only.

SENATE—*Tuesday, June 9, 1998*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, it is awesome to realize that we have been called to be Your servants, elected to be Your friends, chosen to be Your leaders of this Nation. Grant the women and men of this Senate three liberating assurances today: that You are present in this Chamber, that they are accountable to You for the progress of this day, and that each one is called to be an enterprising instigator of cooperation and creative compromise. Father, You know all the issues of the complicated legislation before the Senate at this time. Resolve differences, create a greater spirit of unity, and motivate oneness in seeking what is really best for our Nation. Before we turn to the challenges of the day, we return to You to be reminded of why we are here and to be renewed by Your strength. In the Name of our Lord and Saviour. Amen

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Mr. President, thank you.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will resume consideration of the Coverdell drug amendment pending to the tobacco legislation. As a reminder to all Members, under a previous order, a cloture vote on the tobacco committee substitute will occur at 2:15 p.m. today. Members have until 12:30 p.m. in order to file second-degree amendments. And with respect to the second cloture motion which was filed, all Members have until 12:30 in order to file first-degree amendments.

It is hoped that a vote could occur on the Coverdell drug amendment prior to the cloture vote today. Therefore, rollcall votes can be expected this morning prior to the recess for the party caucuses to meet. If the first cloture motion is not invoked—and I expect it will not be—I will be consulting with the minority leader for the timing with regard to the second cloture vote, which would occur some time on Wednesday. It could occur on Wednesday morning, but it will depend on other developments in the interim. Also during today's session, the Senate may consider any legislative or executive items cleared for action.

I ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 to allow for the weekly party caucuses to meet.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 3433

Mr. LOTT. I understand there is a bill at the desk due for its second reading, Mr. President.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will report the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

Mr. LOTT. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar under rule XIV.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

If the Senator would permit us to execute the order.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. The clerk will report S. 1415.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Lott (for Coverdell) modified amendment No. 2451 (to amendment No. 2437), to stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I understand that the order of business is the amendment that I and Senator CRAIG and Senator ABRAHAM have made to the tobacco legislation; is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, in the closing hours of debate last week, I was somewhat——

Mr. KENNEDY. Parliamentary inquiry. I thought I was recognized and was asked to yield so that the clerk could report. Do I understand that I lost the floor and the Chair recognized another Senator?

The PRESIDING OFFICER. The regular order was the reporting of the bill, at which point recognition was then available. It was at that point I recognized the Senator from Georgia.

Mr. KENNEDY. Further parliamentary inquiry. Since I was recognized by the Chair, could I retain my right to continue to address the Senate?

The PRESIDING OFFICER. The regular order was to report the bill, and at that time recognition was sought by the Senator from Georgia, and he was recognized.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, as I was saying, when the debate was closing, several Senators acknowledged the importance of drug abuse, teenage drug addiction, but thought that, we are suggesting, this was not necessarily the appropriate time to do it, which I take great exception to.

I think this is exactly the time to do it. I think that it sends the wrong message for us to be talking about teenage addiction and wrap our arms around it like it is only involved in tobacco.

About 14,000 teenagers die from drug addiction every year. And, as I will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

enumerate in a bit, teenagers, parents, our society in general view the No. 1 teenage addiction problem as drugs.

Tobacco is a problem and tobacco use among teenagers has increased by 40 percent. Drug abuse among teenagers has increased by 135 percent in the last 6 years. The figures used last week were that 400,000 people, according to CDC, die each year of smoking-related illnesses. We are dissecting those numbers. I do not dispute them. But the point I make, Mr. President, is that of course this is of the entire population. You can't just measure the effects of teenage drug abuse by measuring the deaths. Fourteen thousand young people die each year, but the societal cost of drugs to our society are just staggering.

Illegal drugs, according to the Robert Wood Johnson Foundation, represents $67 billion in an annual drain on the United States. According to the University of Southern California, it is $76 billion. And 80 percent of all prisoners, whether they are in a local jail or Federal prison, today are there on drug-related charges—direct or indirect.

When you look at the scope of the prison population in the United States today, you might as well look at it and say, well, there is the drug-related causes. It is a staggering sum of money. And it produces—remembering that those folks who finally find their way to prison are but a dot on the map as compared to the incidents related to this—these are the handful that the system finally ensnares and gets in prison and is not even a measure of all which has occurred and who have not been apprehended or somehow interacted with the system and never ended up in prison.

We have had a lot of discussions in here of late about violence among teenagers. Our young society is becoming more violent. It is directly related to an increasing consumption and use of drugs by our younger population. It is an epidemic of enormous proportions, and the reach of it is stunning and staggering.

I guess where the other side was headed was that the cost of confronting teenage drug addiction would somehow interfere with the attack on the teenage smoke addiction. First of all, over 25 years, if fully appropriated, this amendment would use 14 percent of the funds raised through the tax hike the other side envisions. Over 10 years, this amendment would consume 23 percent and, over 5 years, 23 percent, in rounded off figures; over 25 years, 14 percent; over 10 years and 5 years, about 23 percent.

If we are using 23 percent of the funds—and by anyone's measure, it is the No. 1 problem—if you want to reduce it to financial measurements, it is an equal problem. The cost to American society is as great on the drug side as it is on the tobacco side. The perception of parents, families, and teenagers is that it is a far greater problem, and in the data we have before us, it is an equal financial problem. So, why in the world would we ever come down here and talk about teenage addiction and not talk about the No. 1 problem—a problem causing massive violence, total disruption, and a financial partner to the costs of tobacco?

This is how public schoolteachers rate the top disciplinary problems: No. 1, drug abuse; No. 2, alcohol abuse; No. 3, pregnancy; No. 4, suicide; No. 5, rape; No. 6, robbery; and No. 9, addiction. I point out that the No. 1 problem is probably driving all the others—robbery, assault, and the others.

A national survey of American attitudes in substance abuse: What is the most important problem facing people your age?—that is, the thing which concerns you the most. That was the question raised for 1996 and 1995. No. 1, 31 percent—one out of three—drugs; No. 2, social pressures; No. 3, crime and violence in school. Not that it is relevant, but after you go through 10 or 12 different items, teenage smoking is never raised at all. That is among students. That is what students say.

What do the parents say when asked the same question? No. 1, drugs; No. 2, social pressure; No. 3, crime and violence in school. It goes all the way down to getting a job, problems at home. At no time do the teenagers or the parents raise the question of smoking as a serious problem for teenagers.

I don't agree with them. I think teenage smoking is a serious problem, a very serious problem. The point is that the most important problem is drug abuse, teenage drug addiction.

Let me read from the startling results of the 1995 CASA survey of teens. Illegal drugs were cited as the most serious problem teens face, far above any other concern, well ahead of the 14 percent who cite social pressures. This question was open ended, meaning respondents were not provided with a list of possible responses, and it was asked early in the interview before any other question raised, the issue of illegal drugs.

While responses to this question do not strongly correlate with the teen risk score, those who cite drugs as their biggest concern are no less at risk than the average teen. Some interesting patterns do emerge. Teens who cite doing well in school as their biggest concern are less at risk than other kids. They are more concerned with doing well in school, and it keeps their minds attending to other things.

As I said a moment ago, according to the Robert Wood Johnson Foundation, the total economic cost of drug abuse is valued at $67 billion annually in 1990, up $23 billion from 1985. Research at the University of Southern California using the same methodology estimated the economic costs of drug abuse at $76 billion, up more than $30 billion from 1985.

I don't know the final disposition of this tobacco legislation. I kind of divide the debate into two camps; there is a health-related camp and a revenue-related camp. I am very concerned with the revenue-related camp, but it is my intention and I think the intention of several other members, we are not going to debate the tobacco addiction without including a strong and forceful statement on the issue of teenage drug addiction, the reason being, again, that teenage drug addiction is the No. 1 problem being faced by teenagers. It is an equal partner, in the context of social costs to our society, as tobacco. Parents, teenagers, science-based institutions, law enforcement officers—you can go anywhere in the country, any community, and ask them what the No. 1 problem going on here is, and they will say it is drugs, it is drugs.

I had an Atlanta city traffic judge call on me a couple weeks ago. I didn't know exactly why he wanted to visit. He came into the office. The first words out of his mouth were, "Senator, drugs are burning the heart out of America." He said, "I see it every day, and it is getting worse by the second, and we're not fighting it, we're not taking it on. If we don't, it will ruin our country."

Mr. President, this is the time and the exact moment, and appropriate in every other way, to bring to the forefront what drugs are doing to America's teenagers, what drugs are doing to America. As we make a conscious decision to deal with the health issues affecting America's teenagers, it is absolutely appropriate we talk about tobacco. We need to get at it. It is a very unhealthy habit, and it can be exceedingly costly. Teenage drug abuse has the same effect, and I might add that smoking marijuana as compared to smoking cigarettes is five times more deadly, five times more deadly.

With that opening statement, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I regret enormously not just the amendment of the Senator from Georgia, which I know is well-intentioned, and I know his efforts on narcotics are sincere, but the entire panoply of amendments that are coming forward on the Republican side are—at least in my judgment, and I think in the judgment of many other Senators—calculated not to fundamentally improve the bill but to kill this bill. And there are provisions in here which have very little to do with drug fighting—a voucher provision to allow any Federal education funds to pay the tuition of victims for a religious school or for a private school. Boy, there is one we have spent a lot of time on under the banner of education in the

U.S. Senate, which we know to be fundamentally controversial in the Senate. That is here in this bill for the purpose of reducing the number of kids smoking.

What really disturbs me about it—and I think I have been involved in the drug fight as long as anybody in the Senate, since I first came here. I led the effort to try to expose what was happening with our loose borders during all of the efforts to fund the Contras, the narcotics that were flowing through Central America. I have led efforts to put 100,000 cops on the streets of America. We now have that happening. Everybody who fought against it was the first to go out and campaign in their districts, saluting the virtues of community policing. Senator BIDEN and others helped design and fight the 1986 and 1988 drug bills that we passed. There have been many efforts here. There is a sincere effort in the Senate to try to deal with drugs.

But to suggest that we now ought to make the drug effort competitive with the drug effort is rather remarkable to me. What do I mean by that? Well, to stop kids from smoking is part of the drug effort. There isn't anybody who doesn't say that smoking isn't sort of the gateway to marijuana and other drugs, and marijuana a gateway to cocaine, and so forth. If you treat—as we want to in this legislation—tobacco as the addictive substance that it is, that kills people, and recognize that this legislation seeks to give broad authority to the FDA in order to be able to regulate tobacco, then the question ought to be asked: Why are we setting it up so that we have this competition between the effort to stop kids from smoking and the effort to fight drugs? Let's go to the violent crime trust fund. Let's go to a host of other arenas and do some of the things that the Senator from Georgia is talking about.

But that is not really what is going on here. What is really going on here is the piling on of amendments that are calculated to kill the bill to stop kids from smoking. What is going on here is a group of people who are doing the bidding of the billions of dollars that are being spent on all of the advertising in the country, to somehow suggest to people that this bill is overweighted or that this bill is a tax bill—all the things that this bill is not.

The tobacco companies agreed to raise the price of cigarettes. The tobacco companies are settling in State after State; they are agreeing, and they agreed originally in the national settlement, that the price of cigarettes ought to be raised. The tobacco companies agreed to do that. But the great fear-mongering that is going on, to the tune of millions of dollars being spent on all of these radio advertisements and television advertisements around the country, is to try to scare the American people, because people want to help the tobacco companies and do the bidding of the tobacco companies.

The tobacco companies contribute an awful lot of money to campaigns. The tobacco companies are a powerful lobby in this country, and the tobacco companies are working their will hard to try to convince people that this bill is somehow against the public interest. What is against the public interest, Mr. President, is an effort to stall this bill in the U.S. Senate. What is against the public interest is a willingness to somehow see this bill die and forget about the fact that 400,000 of our fellow citizens die every year as a result of smoking.

The cost to America of smoking is far, far greater than any cost in this bill. I heard the majority leader say over the weekend that this bill is going to die under the weight of amendments. Well, they are not Democrat amendments, they are Republican amendments—amendment after amendment—that are coming, trying to weigh this bill down. Everybody knows that some of the amendments that may have passed are going to be fixed in conference—if we can ever have a conference. Everyone understands that if this bill is given an opportunity to breathe, if it goes out of the Senate and ultimately the House passes a bill, there is going to be a very significant negotiation and a very significant rewrite of whatever is to leave the U.S. Senate.

The effort here is to prevent something from leaving the U.S. Senate, and it is to prevent it from leaving the Senate by doing everything except paying attention to kids who are smoking. I have heard Republicans come to the floor and criticize the amount of money that is in this bill and the pot that is being used in order to stop kids from smoking. They say, isn't it terrible, here is this big pot of money, and all the Democrats want to do is spend it on some program. Well, the program happens to be counteradvertising to stop kids from smoking; it happens to be a cessation program, proven to work, which involves young people directly in the effort to try to make better choices other than smoking. What do they want to do? They want to come and spend the money on something that has nothing to do with trying to stop kids from smoking—nothing at all.

Their alternative is to fix the marriage penalty. Many of us on this side of the aisle want to fix that, Mr. President. The question is, What is an appropriate amount of money to take out of this bill, and what is the impact on a whole lot of other things that matter? The funding of this bill that the Coverdell amendment would strip away reaches 5 million smokers who would receive cessation services. And 90 percent of young people, age 12 to 17—more than 20 million people—would be exposed to effective counteradvertising that would discourage them from taking up cigarette smoking. And 50 million children would take part in school-based prevention programs, and all 50 States would implement comprehensive State-based prevention programs in order to stop underage smoking and support laws that prohibit the sale of tobacco products to minors and develop culturally sensitive preventive programs.

All of those would be threatened if the Coverdell amendment passed. They would be threatened because the Coverdell amendment wants to take more than half of the money allocated to those efforts and put it into the drug war, the Coast Guard, and into vouchers, into a set of things that, as worthy as some may be, would wind up totally negating the purpose of the health portion of this legislation.

Mr. President, this legislation has traveled, obviously, a very difficult road. But it is clear that the intent of a number of these amendments coming from the Republican side is calculated not to legitimately improve the bill, not to figure out, OK, which one of these cessation programs works the best? Do some States have a better model than others? If so, why don't we try to support those models more? Why don't we get more specific about diverting some of this money into a very specific set of counteradvertising efforts that we know work better? Some of those kinds of things might be very legitimate approaches to improving the bill. But to come in and say, no, we are going to take more than half of the money and just give it to the marriage penalty, and we are going to take some more money and give it to the Coast Guard and other antidrug efforts. Worthy as those may be, as I say, you wind up stripping away completely the capacity to do what a lot of States are struggling to do and what the health community of this country has advised us again and again is critical that we do if we are going to stop kids from smoking. That is what this bill is about. Somehow, a lot of colleagues seem prepared to simply trample on that. No one disputes the notion that somewhere in the vicinity of 3,000 kids, every single day, start smoking.

No one has come to the floor and been able to dispute the testimony of the tobacco companies themselves who acknowledge that raising the price is a critical component of reducing the accessibility of cigarettes to teenagers. Nobody has any counterevidence to that. But they simply come down and try to pile on the notion that this bill is somehow too big.

Mr. President, in the tobacco bill we have an expert designed approach to try to provide smoking cessation programs for 5 million Americans. That is an effort to try to give a second chance to some 5 million Americans. There are

45- to 50 million Americans who are hooked on cigarettes. How can you come down here and suggest you are going to take half the money that is directed towards 5 million of the 45- to 50 million Americans and say you are improving things with respect to the health of the country or with respect to young people's introduction to an addictive substance that kills them?

There is a total contradiction here in coming down and saying what we have to do is stop cocaine and stop heroin, whatever substance you are trying to stop from coming in with interdiction by beefing up the Coast Guard or beefing up Customs, all of which we ought to do, but doing it at the expense of stopping kids already in this country from smoking cigarettes which are already in this country when we know we have the ability to stop them from doing that.

I don't doubt the urgency the Senator from Georgia applies to the drug war. I have been the first to say we haven't been fighting it adequately, but I am not going to suggest that we ought to be robbing Peter to pay Paul, that we ought to be stealing from these kids in order to somehow beef up the Coast Guard. That doesn't make sense, particularly since cigarettes are the entryway to the very drugs that the Senator from Georgia wants to stop coming in.

So let's find that money. But let's find it in an appropriate place without gutting the cessation, counter advertising and other kinds of efforts that are contained in here to try to stop our own children from smoking in our own country and from getting hold of the cigarettes that are manufactured here that are already here and that kill them here. What is the common sense in coming down here and stripping away all of that to suggest somehow—Do you know what this is? This is, "Let's give the Senate a tough vote. Let's make it hard for people to vote against drug control, and we can strip away a little bit of the bill and strip away a little more." And indeed it will be overweighted in precisely the way the majority leader suggests because the entire guts of the bill will have been ripped out. That is what we are really talking about.

Mr. President, it seems to me that hopefully colleagues will recognize that the crunch time is coming on whether or not we are going to try to find the bipartisan collegiality to try to legitimately improve this bill or whether people are just determined to kill it. If they kill it, it will be clear to every American why and how it happened and who did it.

That is the choice here. If we want to legitimately restrain what some people on the other side think might be an aberration in terms of a particular choice of spending as to how you stop kids from smoking, then surely we can find a better way to help stop those kids from smoking.

There is a clear distinction between the legitimate effort to try to do that and the efforts that we are seeing on the floor, which are to strip away all the funds altogether and put them into things that have nothing to do with stopping kids from smoking, nothing to do with helping kids to be able to build the character and the value system necessary to empower them to be able to say no to cigarettes. If you can't say no to cigarettes, you are going to have a real hard time saying no to the marijuana, or to the cocaine, or to whatever it is that might flow at a later date. These are directly related.

My hope is that we will recognize the real choices of what lies in this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, for the last several days we have attempted to find a way to get around the impasse we have experienced. I am disappointed that we haven't made more progress, and it was only with the frustration which I had experienced that we were led to file cloture on two occasions last week.

Our desire to come to some closure on this bill and on the amendments that are pending could not be greater. We have no reservations and no objections to having a vote on the amendment offered by the Senator from Texas, Senator GRAMM, or the amendment offered by the Senator from Georgia, Senator COVERDELL. What we would like, however, is the opportunity to offer similar amendments that deal with the same issue at approximately the same time. Let's have an amendment offered by our Republican colleagues. Then let's have an amendment by our Democratic colleagues. Let's go back and forth as we had been doing now for some time. But I really do not think it is the amendments or the procedure relating to the amendments that is keeping us from getting this job done. I think the opponents of the bill will never let a fair process unfold.

It is every Senator's right to hold up legislation. That is the prerogative of the U.S. Senate. So we all understand this is a filibuster. The only way to break a filibuster is to invoke cloture.

The bill, as everyone knows, is designed really to stop 3,000 kids a day from smoking. That is really what this is all about. Since we have been on this bill, 60,000 kids have become smokers. I think everybody needs to understand what has happened; 60,000 new smokers have begun smoking since we started this legislation, 60,000 of them. About one-third of them will die of smoking-related diseases. So 20,000 of those kids at some point, because they started smoking since we have become involved in this legislation, will die.

From votes taken on those issues, it is clear that there is a bipartisan majority for reaching conclusion here. Some of the Senate wants votes on other issues like taxes, drugs, and lawyers. We are prepared, as we have already expressed, to have votes on those issues. Our position is as clear as it can be. Let's have the votes. We voted on lawyers' fees. We have already voted on an array of other issues. Some I voted for, and many I voted against. We are ready to vote on the marriage penalty. We are ready to vote on drug abuse. We are ready to keep voting, just like we started alternating back and forth. We are ready to sit down and work out a way to process the rest of the amendments, and to finish the bill. But we have now spent more time on this bill than any other bill this Congress.

The time for talking is over. Now is the time to act. Now is the time to vote. Now is the time to stand up and be counted. How many more thousands of kids will start smoking before we finish? Another 60,000? 600,000? And, if it is, indeed, one-third of those who will die from smoking, how many kids can we prevent from acquiring the habit and from dying? That is what this bill is about. That is why it is so important to come to closure.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I now send a cloture motion signed by 16 of my colleagues to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute for S. 1415, the tobacco legislation:

Thomas A. Daschle, Carl Levin, Jeff Bingaman, Daniel K. Akaka, John Glenn, Tim Johnson, Daniel K. Inouye, Dale Bumpers, Ron Wyden, Mary L. Landrieu, John D. Rockefeller IV, Paul S. Sarbanes, Harry Reid, Richard H. Bryan, Kent Conrad, J. Robert Kerrey.

Mr. DASCHLE. Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 2451

Mr. SESSIONS. Mr. President, this is an important bill, legislation that I hope that this body can reach an accord on. The Coverdell-Craig amendment on drugs is not a way to undermine the bill but a way to improve the bill.

Drug use among young people is the No. 1 concern of parents, according to authoritative polling data. We have a bill that has gone from $360 billion to, some say, $750 billion in income to the U.S. Treasury. It would be a tragedy were we not to take this opportunity to do something about the drug abuse problem that continues to increase at extraordinary rates, particularly among young people in America today.

I serve as chairman of the Senate Judiciary Subcommittee on Juvenile Crime. I have had the occasion to deal with the drug abuse problem in that capacity. I also had the occasion, for 15 years, to be a Federal prosecutor and 12 years as U.S. attorney in the Southern District of Alabama. During that time, I was actively involved in the Mobile Bay Area Partnership For Youth, the primary drug-fighting organization which was later added to the Coalition for a Drug-Free Mobile. We worked on a monthly basis with the leadership in our community to do what we could do, as citizens within that community, to reduce drug abuse in our schools and among young people.

I learned some things during that process. I learned that what you do makes a difference. I was proud to have served under the Reagan-Bush administration as a Federal prosecutor. During that time, I observed a continual decline in drug use, according to the University of Michigan study that tested high school seniors, among others, every year for 20 years. It is probably the most authoritative and respected study in America. It showed that, for the 12 years under Presidents Reagan and Bush, drug use went down every single year, something I was extraordinarily proud to have been a part of. President Reagan and Mrs. Reagan sent a message down to every federal agency to cooperate in efforts to reduce drug abuse, because we cared about young people; we did not want them to be hooked on drugs. And it worked. Those who said the drug fight was a failure were wrong; we were making progress.

When President Clinton was elected, I sensed, and told my friends and professional acquaintances who were involved in this area, that he was making some very serious mistakes. When you go on MTV and you joke about whether or not you inhaled, saying, "Maybe I wish I had," that sends a message to young America that something has changed, that the moral-based unacceptability of drug use message that had gone out consistently for over a decade was now changed; there was going to be a new day. I recognized it then, and so did professionals. This was bad. The drug czar's office, the office that Bill Bennett used so effectively to continue to drive down drug use, was gutted. It is only recently that we have shown the need for the drug czar's office to be strengthened again and for General McCaffrey to begin to stand up to some of the inertia and bureaucracy in this Government to make a clearer point about the problem of drug use.

So, I just say that this is an important matter. It would be unfortunate, indeed, if, in our concern here, as part of this tobacco bill, which is to help the youth and health of children, we didn't also focus on drugs. It is the No. 1 concern of parents, and well it should be.

I would just say this. In general, there are a number of other amendments we need to talk about with regard to this tobacco bill. I have been intimately involved in the attorneys' fees matter. We need to vote on that again. As far as I am concerned, I will not support a bill that does not limit the incredible fees that attorneys stand to gain. So we need to have a discussion about that. We have an attorney in Miami, FL, according to John Stossel on "20/20," who hits golf balls out into the ocean from his beach-front mansion when he practices his driving. That is just indicative of how wealthy they have become from this litigation. He expects not millions, not tens of millions, not hundreds of millions of dollars, but billions of dollars. They want $2.8 billion in attorneys' fees in Florida.

They say, "A judge can decide this." A judge has already approved $2.3 billion in attorneys' fees to the firms in Texas. This is extraordinary—a billion dollars. To give an indication, the general fund budget of the State of Alabama is less than a billion dollars. This is the kind of fees we are talking about paying.

So I think we are going to have to talk about that some more. There is a provision in this bill that allows for $8 billion to be paid out "to victims who win lawsuits, smokers who win lawsuits." They can go to this fund, run by the tobacco companies, and they can get money up to $8 billion, and then they are cut off. That is a terrible plan, because some States are going to have laws, traditional laws, that will probably not allow smokers to win at all. Other States may allow them to win. One jury may give $10 million, another nothing—"You smoked; it warned you on the package when you smoked; you should not recover." We are going to have aberrational justice of the most extraordinary nature. It is going to be like the asbestos litigation, in which there are 200,000 pending asbestos cases today—200,000—and no more than 40 percent of the money paid by the asbestos companies actually got to the victims of asbestos. We are creating the exact same process with this legislation.

So I have an amendment, Senator JEFFORDS and I do; we will be introducing it—to create a compensation fund and let the Secretary of Health and Human Services, under certain guidelines, distribute the money promptly to people who are in need. If you have lung cancer from smoking, your life expectancy is a matter of months. You don't need to have 2 years of litigation before you get any compensation. If you are entitled to it, you ought to get it promptly. We would have awards within 90 days and without attorneys' fees. We don't even need attorneys under those circumstances.

So there are a lot of things we can deal with. We have a huge tax increase, and how we are going to reduce some taxes in the course of this will be important also.

So there are a lot things we need to talk about. We have 17 programs, $500 billion, $600 billion, $700 billion in new income to the Government. We ought not to pass this lightly. It is just going to take some time to go through it. I am chagrined that the Democratic leader would feel we ought to cut off the opportunities to debate and improve this bill.

As I said, I have spent some time wrestling with the drug issue over the years. It is a matter about which I feel very deeply. I gave a lot of my personal time to it. I have worked with civic leaders. I have worked with juvenile judges. I have worked with mental health officials. I have worked with treatment officials and other people. I brought in national experts to my district. I have met with them and talked with them. When I was U.S. Attorney, I chaired a national antidrug committee for the Department of Justice and had a lot of concern about it.

Let me share with you a few thoughts about what we ought to do.

We have—and Senator COVERDELL has done an outstanding job on this legislation—agreed to a particular amendment that I suggested, the parental consent drug testing provision. It is a provision that allocates $10 million to be available to schools. A school will have to ask for it. It will be voluntary for the school. They will establish a program to drug test within that school. Parents will have to consent for their children to be drug tested. If they do not want them tested, they do not have to allow them to be tested.

I will talk about that for a few minutes and explain why, if we really care about children, this is a tool which I believe has a potential to do more than any single other thing I know of to reduce drug abuse in America.

We have talked about it a lot. We tell our children we do not want them to use drugs and it is dangerous, but we do not do the things that allow us to know whether or not they are using drugs. Dr. Laura tells us we need to confront our children and be honest with them and find out whether or not they are using drugs. Sometimes you can't always take what they say at face value. Drug testing is a tool for parents, it is a tool for teachers, and it is a tool for people who love children, who care about them. If you love them, if you care about them, you want to know whether or not they are undertaking bad habits.

It is disclosure. It is truth. It is confrontation. It is what the psychologists and psychiatrists call intervention. They will not use a positive drug test to prosecute somebody or to otherwise send them to jail or invoke the criminal law. That is prohibited by this legislation. What it will do is allow that parent, that teacher, that principal to know that this child has a problem and it could get worse. If we intervene early before addiction occurs, we have a much better chance of changing those life habits.

I don't know if this program will work—maybe it won't work—but my experience, and it has been over a number of years, tells me that it will. Let me tell you why.

A number of years ago in the early 1980s, the captain of a Navy aircraft carrier spoke before a civic organization of which I am a member. He told us that less than 2 years before, over 60 percent of the sailors on that ship, in his opinion, had tried an illegal drug within the past few months—60 percent on that naval ship. He said since they began a rigorous program, "Just Say No. No Drugs in Our Navy," and drug testing, that was down to 2 or 3 percent, in his opinion, in a matter of 2 years.

Some people were kicked out of the Navy, true, but not that many. Most of them who had a clear message of what they were expected to do, what kind of standards they were expected to meet and that those standards were going to be enforced, met those standards. Were their lives better? Was the quality of life on a naval ship better when people were not using drugs than when they were? I submit it is much better. And, in fact, I believe if you go back and study what has happened in our military, you will find the great upsurgence in quality and strength of our military coincides with the time we took a strong stand on drugs and removed drugs from the military. In fact, the military has some of the lowest drug use statistics of any group in the country. That was progress. That was good. That is the kind of thing that makes life better. It makes better soldiers, it makes those soldiers better family leaders, better parents, better with their lives and community activity. I say that is important.

I talked to a man who ran a work release center in my hometown of Mobile. He told me this story. They had 16 members on a work release gang, and they received approval to do a blind testing of those members for drugs. They had not been doing it that much. They checked them. Fifteen of the 16 had used drugs, they tested positive for drugs on a criminal prison work release program.

When they began to test regularly, drug use went down dramatically. They had discipline—not harsh discipline—but they had discipline for those who did not stay drug free, and it worked. Are those work release people better off because somebody cared enough to test them, to stay on them, to discipline them when they failed? Yes, they are.

Jay Carver, who we brought to my hometown of Mobile, ran the drug testing program in the District of Columbia for many, many years. It was the largest, most effective and efficient drug testing program in the world, I suppose, certainly in America. He said he had people who were testing positive, who had drug problems, tell him they wanted to stay on the program even after their time on it was off. Why? Because it helped them stay off drugs, and they wanted to stay off drugs. That discipline, that testing and reporting, helped them stay drug free.

Prison guards—we have had problems with drugs in prisons, ar[illegible] there has been a small number of [illegible]on guards over the years who, it has been discovered, were using drugs and also bringing drugs into the prisons. Drug testing among prison guards has caused a big step forward in reducing drug use in prisons.

Police departments, fire departments, transportation personnel, private companies and businesses all testify to the great increase in productivity that occurs when you eliminate drugs in those departments. I say to you that drug testing has proven to be effective in reducing drug use.

A lot of people have discussed whether or not it can be done in schools and whether or not it is constitutional. I personally believe it is. Certainly it is if parents agree, and if schools voluntarily attempt to offer it as a program, I think we will find perhaps that because certain schools are showing dramatic improvement in reducing drug use, others may want to do it in the future. And if the program doesn't work, well, we will have learned that, too. I suspect if it is properly run, we will have significant drug use reduction, and maybe as the years go by other schools may want to try it and we can develop a more comprehensive program that will improve the fight against drugs.

Mr. President, let me mention a few things that are important. Why do we want to talk about drugs when we are talking about tobacco? Why? Well, this is all about children and their health. Let me share with you some statistics.

Some say, "Well, you are just being political; you are just talking about Presidents Reagan-Bush versus President Clinton," but we ought to know these factors. I predicted to the people I dealt with that the policies of this administration were going to undermine the successes of President Reagan and Mrs. Reagan's "Just Say No to Drugs" program. I see it happening. Let me show you what has happened according to unchallenged statistics throughout this country.

For eighth graders, the portion using any illegal drug in the prior 12 months has increased 71 percent since the election of President Clinton. It has increased 89 percent among 10th graders; 57 percent among 12th graders. That is use of any illicit drug. It has increased that much in this period of time, following a time when it had been going down.

Marijuana use has accounted for much of this increase, and its strong resurgence among eighth graders is obvious. Use of marijuana in the prior 12 months by eighth graders has increased 146 percent since 1992. Yes, tobacco is important, but now we have an indication of why parents say drugs are their No. 1 concern.

Since the year President Clinton was first elected to office, among 10th graders the annual prevalence increased 129 percent, and among 12th graders, 76 percent since 1992.

This is something we ought to have talked more about in this country. I do not think the American people fully understand that policies do have impact, that leadership does count. If you are sounding an uncertain trumpet, then you have a real problem.

I remember the first drug adviser to President Reagan before you had a drug czar. Dr. Carlton Turner was from the small county in Alabama where my mother is from. I got to know him and watched him. He came to our community and he talked about the drug issue at a civic club, my Lions Club.

While he was there, somebody raised their hand and mentioned a rural county. He said the No. 1 cash crop in that county is marijuana, "ha, ha, ha." Dr. Turner jumped down that person's throat. He said, "I don't want you ever laughing about drugs. This is very, very dangerous." He had a Ph.D. and had studied marijuana. That was his field of study. He said, "We should never be laughing about it. This is a serious matter. We, as a nation, need to send a clear, unequivocal message of intolerance to drugs, and we need to stand by it. And you, as leaders in your community, need to do the same."

I thought that was a very good message. I never forgot that. That was in the early 1980s.

We started joking about, "I wish I'd inhaled." We have more drug use references in rock music, more drug use references on television and in movies than we had before. That is bad. It is one of the things I think is driving this increased use.

Daily use of marijuana, according to the survey, continues to rise by even younger and younger people. More than 1 in every 25 of today's high school seniors is a current daily marijuana user, according to the PRIDE study, which is a good study—that is an astounding statistic—with an 18.4 percent increase since only last year.

While only 1.1 percent of 8th graders used marijuana daily in 1997—1 percent is a lot of 8th graders using drugs. That is 1 out of every 100 that are daily users. That still represents an increase of 50 percent since 1992.

LSD has increased. That is Dr. Leary's "get high" drug. It has increased over 52 percent. It has increased 50 percent among 8th graders since 1992.

More than 1 in 20 seniors in the class of 1997 used cocaine this year, a 12.2 percent increase over last year. That is cocaine, a highly addictive drug. Crack-cocaine use has continued its gradual climb among 10th and 12th graders.

Since 1992, annual cocaine use is up 87 percent for 8th graders, 147 percent for 10th graders, and up 77 percent for 12th graders. Those are big increases. That is a real societal problem. That is why parents listed it as such a high priority with them.

So I want to say to those who express their concern about tobacco and its damaging health impact on children, they are correct. But as you know, marijuana, Mr. President, is, I think, 40 times more carcinogenic than tobacco. It is a highly carcinogenic drug, in addition to the adverse effects such as habituation and other problems.

We know, for example, learning skills go down when marijuana is used. Kids grades drop, and they lose their motivation to work. That is a characteristic of marijuana use that ought not be dismissed lightly. It is a very serious drug.

So I just say this, Mr. President—I see the Senator from Arizona has returned to the floor, and I know he has many things he would like to say—but I salute Senator COVERDELL for his outstanding effort to improve this bill with a tough antidrug initiative. It will be effective. I believe the one part of it that I have discussed mostly today, the part that allows drug testing for those high school students, whose parents agree to it, could be a turning point in our effort to reduce drugs among teenagers, to make their lives healthier and richer as time goes by.

My experience, as a Federal prosecutor and as chairman of the Youth Juvenile Crime Subcommittee of the Judiciary Committee, convinces me this is the right course for us to take. I hope that we will continue to pursue it. I hope this amendment will be made a part of the bill, and I know it will strengthen it.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, before the Senator from Alabama leaves the floor, I want to thank him for not only the great, important remarks he has made about the pending amendment concerning the problem of drugs in America, but I want to also thank him for his efforts to resolve another very contentious aspect of this legislation, and that is the issue of lawyers' fees.

There was an amendment that the Senator from Alabama proposed which was defeated, perhaps because the amount of money involved in compensation for the plaintiffs' lawyers was too low. But I know that he and the Senator from Washington, Senator GORTON, and others are working on another amendment I hope we could add to this bill before we vote on final passage that would properly compensate the legal profession who has been involved in this issue, but at the same time not deprive the victims from the compensation they deserve, deprive the programs from the funding that is absolutely critical and needed if we are going to address this issue. The reality is we cannot divert as much money as being contemplated in the State settlements as well as in other areas that would go to the legal profession.

I thank the Senator from Alabama for his work on that. As we all know, in his previous incarnation he served as attorney general of the State of Alabama, and I appreciate his efforts in that direction. I also appreciate the comments he made, his opening comments, and that is, he believes we need to pass this legislation. I believe that still reflects the majority view here in the Senate. And I am eager for the Senate to complete its work on the bill.

Mr. President, we are, I know, in the third week now of contemplation of this legislation and amendments and debate and discussion. Unfortunately, last week's activities were truncated, to some degree, by a requirement for a large number of us to attend the funeral of my predecessor, Barry Goldwater. I think it is clear we are reaching a point in this legislation where we either come to closure or then we have to move on to other issues.

I believe at the right time that cloture should be invoked, if that is what it takes to complete our work in a timely fashion. I hope that rather than cloture we could agree to time agreements on the amendments. I hope we could agree to narrow the amendments even further, and we could dispose of the issues at hand. I think it is important to point out that we have pending amendments which have to do with drugs, we have tax cut alternatives, and we have substitute measures as well as I mentioned earlier an additional amendment on the attorneys' fees issue.

Very frankly, Mr. President, there are not any other significant issues or amendments that would affect this legislation. So I think they could be disposed of in short order if we can enter into time agreements. That will be my effort this morning as we enter into discussions with other Members who have an interest in the bill.

I would not vote for cloture at this time until it is clear to me that we have exhausted our efforts to come to time agreements and dispose of pending amendments. I think that is a far better way of proceeding as, frankly, we do on most pieces of legislation that come before the body.

Mr. President, I also point out that there are interests that want to see this legislation fail.

I think we should acknowledge that. It is interesting, which parts of the political spectrum these efforts come from.

I do not question the motives of any opponent of this legislation, and they may succeed. I remind opponents of this legislation that if it does not move forward and we have to move to other issues, the issue is not going away. No matter what is done on the other side of the aisle, or if nothing is done on the other side of the aisle, there will be, in the words of one well known plaintiff's lawyer in the America, "a rush to the courthouse." There will be 37 States who will proceed with their suits. There will be settlements. If the past four have been any guideline, those judgments are substantial. And, by the way, they have entailed substantial plaintiff fees—in the case of the State of Florida, I believe over $2 billion, if my memory serves me correctly. So the issue of children and tobacco is not going to go away.

I hope that when colleagues of mine on both sides of the aisle who would rather see this bill die, for whatever reason—whether it be a philosophical problem they have with a "big government solution" or whether it be, in all candor, perhaps, the use of this issue in the November elections to some political advantage, or whatever reason—the issue isn't going away.

Every day that we do delay, there are 3,000 children who start to smoke, and 1,000 of them will die early. I appeal to the better angels of our natures here in this body and ask for a lowering of the rhetoric. I am not sure it does any real good to attack someone else's position on an issue. I don't think it does any good to even question anyone's motives, whether they agree or disagree with this legislation. For the first couple of weeks, or at least the first week or 10 days as we addressed this issue, it was characterized by respect for one another's views and, I think, was very helpful as an educational debate.

Beginning the end of last week, obviously that atmosphere of comity was dramatically reduced, if not disappearing. I hope my colleagues will not get too partisan on this issue. It is not one that should be partisan. It is one that should be, indeed, nonpartisan rather than bipartisan, because it is a problem that transcends party lines.

I intend, as I said, to work this morning in trying to get some time agreements on pending legislation. We clearly have debated the drug amendment to a significant degree, and I think we could vote on that very soon. We continue to talk with Senator GRAMM about his tax cut amendment. There may be another one besides that, and then substitute measures, and attorneys' fees. I have to say, in all candor, Mr. President, there is no reason to delay any more after we have resolved those issues.

Let me just make a couple comments about the drug amendment. Obviously, illegal drugs are a terrible problem in America. It continues to pose a serious threat to our youth, and I strongly support many aspects of the pending amendment to attack the problem.

I am compelled, however, to mention that one of the criticisms that has been leveled at the pending legislation is the "new bureaucracies" issue: There are new bureaucracies and new programs, and this is a big-government solution. Let me just list some of the new programs and bureaucracies that are in this amendment: Drug Testing Demonstration Program, Driving Work Grant Program, Student Safety and Family Choice Program, Victim and Witness Assistance Program, Victim/Witness Assistance Grants, Report Card Grants, Random Drug Testing Grants, Parental Consent Drug Testing Demonstration Projects, Drug-Free Workplace Grants, Small Business Development Centers, Convicted Drug Dealers Grants, on and on.

So, Mr. President, I hope that those of my colleagues who are supportive of this legislation, as I am, will perhaps better understand why there is money spent for specific reasons in the overall tobacco bill for basically the same reason money is spent for "bureaucracies" in the drug bill—because we have to have some kind of vehicle within existing bureaucracies to attack the problem. None of us should want to say OK, Federal Government, here is the money, do whatever you want to attack either the drug problem or the tobacco problem. We have to specify as to how this body, in its wisdom, with the advice of the experts, can best dispense those funds in programs that will attack the problem.

I think a Driving Grant Program is probably important. I think a Student Safety and Family Choice Program is important. I think Report Card Grants are important. And on and on and on. So those who support this amendment—and I know it is a majority of my colleagues certainly on this side of the aisle—I hope they will understand better why the arguments about "new bureaucracies" is not necessarily valid when we are attempting to address a specific issue with specific programs.

Finally, on the issue of the money, I believe the tobacco trust fund should pay a fair share in taking action that will defend efforts to prevent and cease drug use in America. But I also hope we can take some of the money from the violent crime trust fund and other sources of revenue and ensure that funding for tobacco, for drug enforcement purposes, does not undermine the basic purposes for which the fund was established.

As I said before, I do not support a cloture vote at this time. I am hopeful that we can, as we go through this morning and early afternoon, agree on time agreements on amendments. I do believe that if we can't do that, then we either vote for cloture or we move on to other issues that are important. I believe we can move forward. I believe the majority of the American people want us to move forward, and I am still confident that we can complete this legislation in a timely fashion.

I note the presence of my colleague from Massachusetts on the floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to express strong support for what my friend and colleague from Arizona has commented to the Senate and thank him for this long and continuing battle. He has been a leader in terms of trying to have a responsible position on this tobacco issue. As all of us understand, this has been an issue where there has been a great deal of diversity in this body, but there has been an enormously admirable, noble, and I think commendable effort on his part to try to move this legislation in a responsible way that tries to find a common ground. I want to just commend him for his continued efforts to move this process forward.

We may have some differences on some particular issues as we address them, but I think every Member of this body who believes in the importance of developing a responsible position has to recognize his very, very strong and positive leadership. I join with others who have expressed that previously but, again, take note based upon his continuing efforts and upon his very reasoned statements that he made here earlier today.

Now, I want to just join in welcoming many of our colleagues' focus and attention on the problems that this Nation is facing in terms of substance abuse. I am so delighted that many of our colleagues on the other side of the aisle have brought forth their strong support for this Nation to be addressing this particular problem in a more aggressive way. And I welcome that, because many of us stood on the floor of the U.S. Senate in the period of the past 3 years when we saw the Drug-Free School Program, which is the one program that has been developed that had bipartisan support, that is focused on the high schools of this country, that is focused on dealing with the problems of substance abuse, alcohol abuse, and conflict resolution. It doesn't provide a lot of resources—maybe $12 or $14 per school. Nonetheless, there have been a number of very impressive and important programs that have been developed on that. We have seen in recent times many of those who have spoken in favor of this particular amendment voting in favor of cutting the program back in a significant way that would bring targeted help and assistance in terms of the at-risk youth. We have seen that program, which includes the young people who are attempting to try to acquire some kind of treatment and attention and have been afflicted by this horrific kind of addiction in terms of substance abuse, significantly cut back and cut back again.

We have seen the important success, I believe, of adding police officers to the streets across this country. The neighborhood policing concept reaches far beyond the total number of 100,000 police officers. I can tell you that in my city of Boston, where they have had the additional kinds of police officers that are community policing, that are involved in the community policing network and are out in schools setting up local kinds of police departments in these schools, in recreational areas, working virtually around the clock and doing a lot of work with community groups, nonprofit agencies, outreaching in terms of trying to deal with some of the problems of gangs. They have had a very important success.

In my State of Massachusetts—particularly in Boston—up to just 2 months ago we went close to 2 years without a youth homicide. There are a lot of factors included in the efforts in Boston. Paul Evans, our commissioner, deserves great credit. The neighborhood policing support that was received as a result of some of these programs played an important part, and, again, that program was opposed.

So I am not going to take much time here this morning to go through the opposition that many of us faced as we were looking for drug courts which have, I think, demonstrated to be very important and very effective in dealing with the more violent aspects of those that are involved in substance abuse, and the battle we have had in terms of support for those kinds of programs that have been developing to try to demonstrate their success in different regions and communities across the country.

So over the period of these past years, many of us have been trying to give additional life to the problems of substance abuse in our society and we haven't been able to get very much support. So whatever the circumstances, we are glad that at least we are hearing on the floor of the U.S.

Senate an increasing priority for this Nation in terms of focusing resources. We are not saying that necessarily just adding dollars to a particular program is going to solve the issue, but we do say that the allocations of resources—in this case, the commitment of appropriations, is at least the Nation's priorities in terms of allocating these resources. For many of those, I might say, in watching this debate on the problems of substance abuse and the so-called drug amendment, we have not heard their voices, we have not seen their support, we have not had their votes in the very recent times as all of us are trying to find ways of dealing with a problem that affects too many communities and families in this Nation.

So if nothing comes out—and hopefully something will—of the debate, at least we will have additional kinds of focus and attention and, hopefully, support to try to help families, schools, and communities deal with the problems of substance abuse.

Let's go back again to what we have here on the floor of the U.S. Senate. What we will find out, Mr. President, if you bring the experts in, in terms of substance abuse, is that virtually without exception the gateway drug to substance abuse is smoking. It is smoking. They will say that is the predominant one, and access to beer is a secondary aspect. But they will say smoking is the gateway drug to substance abuse. We won't take the time this morning—perhaps later in the debate—to show the correlation of smokers to those who get into the use of marijuana, or young smokers that start at 12, 13, and 14 years old that begin to use substances like heroin. The correlation is powerful, it is compelling, and it is convincing. If we are trying to come back to the problems in terms of substance abuse, the first place and the best place to start is with the issue of smoking. The younger the better. The younger the better.

That is why I think it is important, as we are coming to this time in the debate and discussion, to keep our focus on what the underlying legislation is all about, which is the public health of young people in this country, to discourage them from smoking with the increase in price and a vigorous antismoking campaign on the back end to try to help provide both information and assistance, cessation programs, and others, in dealing with the challenge that this Nation is facing, and which other countries are facing as well.

So, Mr. President, this is why it is so important that we get on with the business that is before the Senate, which is getting, I think, action in terms of voting rather than talking on the issue of tobacco legislation. We have all been through these various battles and we have legislation on the floor of the Senate, where there are strong differences of opinion, and the ability to delay action is readily available by Members on this issue. It seems that the debate has moved along. The issues before us are imperative and we ought to go ahead in having the cloture vote, and we can then deal with those amendments that are relevant at that time.

The first vote we are going to be facing this afternoon on the motion to invoke cloture on the tobacco legislation is a key vote. For more than 3 weeks, opponents of the legislation have used every parliamentary trick in the book to prevent the Senate from passing this bill, even though a clear majority are for it. In the 3 weeks since the Senate started this debate, 66,000 more children have started to smoke, and 3,000 more will start each day until the legislation is enacted and implemented. While the Senate fiddles, the cigarettes burn.

The opponents have attempted to create a smokescreen to divert attention from the real purpose of this legislation, which is to prevent children from beginning to smoke and becoming addicted to tobacco and help current smokers stop smoking. The opponents are desperate to have the Senate focus on anything else—limiting attorneys' fees, reducing the marriage penalty in the tax laws, prohibiting illegal drug use, school vouchers—any issue but the real issue. They would prefer to ignore the fact that tobacco use is responsible for 20 percent of all premature deaths in the United States.

Tobacco is the Nation's leading cause of preventable death and disability. It accounts for 400,000 deaths a year—more deaths than from alcohol, more deaths than from car accidents, more deaths than from suicides, more deaths than from AIDS, more deaths than from homicides, more deaths than from illegal drugs, more deaths than from fires, more deaths than from all of these combined.

Yet, the opponents of this legislation are not interested in protecting the public health and saving lives from tobacco use. They are interested in protecting big tobacco and blocking any effective action that would reduce tobacco use and therefore reduce tobacco profits.

The American people understand what is going on here. Today's vote will lift the smokescreen and demonstrate where each Senator stands on this fundamental issue. Do they stand for further delay and obstruction, or do they have the courage to act against the will of the tobacco lobbyists?

Parents are watching to see if the Senate will continue to allow tobacco companies to blatantly market their products to children, or will we force the Marlboro Man into the sunset?

People are watching to see if the Senate will continue to allow nonsmokers to be exposed to secondhand smoke, which causes 3,000 to 5,000 lung cancer deaths each year in the United States and up to 60 percent of all cases of asthma and bronchitis in young children.

Are we willing to stand up against the tobacco industry, and stand for the smoking cessation programs and the counter-advertising campaigns and the law enforcement efforts that are needed to prevent tobacco sales to minors?

There is no valid reason why the Senate cannot vote on final passage this week. If the majority leader was willing to permit the fair and timely scheduling of amendments from both sides of the aisle, we could complete action on them within a few days. We have filed for cloture because it is the only way to break the parliamentary logjam created by a small group of willful defenders of the tobacco industry. It will provide an irrefutable public record of who is ready to vote for strong legislation to prevent youth smoking and who is attempting to talk the legislation to death.

The opponents of the McCain bill are engaging in filibuster by amendment—amendments which do not even deal with the subject of smoking prevention. These amendments are transparent attempts to scuttle the legislation, not improve it. The Coverdell amendment would divert more than 80 percent of the funds currently directed to anti-smoking prevention and cessation programs.

According to the analysis, the Coverdell-Craig amendment will slash, as I mentioned, funding for the smoking prevention programs by 82 percent over 5 years. This will be $13 billion, down to the $2.4 billion that will match reduction for these programs that have been demonstrated to be effective. We have gone through that in the course of the debate, including my own State of Massachusetts, California, and other various communities, and neighboring countries such as Canada. The list goes on.

Effectively what we are saying is the Office of Management and Budget says this amendment would drain $10 billion from the $13 billion set aside by the bill each year for the antismoking programs. Effectively it guts the program.

These anti smoking initiatives are at the very heart of the legislation. If the Senate is serious about stopping children from beginning to smoke and saving lives from tobacco-induced diseases, we have to invest in these important public health measures.

If the Coverdell amendment is enacted, there will be less funding for smoking cessation programs, for counter-advertising programs, and for school and community-based education initiatives, all of which have an excellent track record of preventing smoking by children and helping adults to stop smoking.

Clearly, we need greater enforcement efforts to prevent the illegal sale of tobacco products to minors. Each year, American youths spend over $1 billion to purchase tobacco products, despite laws in all 50 states that prohibit underage sales. According to Professor Joseph DiFranza of the University of Massachusetts Medical Center, "if $1 billion in illegal sales were spread out evenly over an estimated 1 million tobacco retailers nationwide, it would indicate that the average tobacco retailer breaks the law about 500 times a year."

We shouldn't weaken these important law enforcement efforts by reducing their funding, when they could have such a significant effect in reducing teenage smoking.

The Federal Government currently spends $520 million a year on tobacco control efforts. That sum is dwarfed by the amount spent to fight illegal drugs, which will total $16 billion this year—thirty times as much.

Deaths caused by tobacco, 400,000; the amount that is actually spent on Federal spending, $520 million; deaths caused by substance and illegal drugs is 20,000. We spend close to $16 billion. Of course, we are all concerned about the problems of substance abuse. But we are talking about now dealing with the issue of tobacco because it is the gateway to the substance abuse problem that we are facing in this country. If we don't understand that interconnection, we don't really understand this problem in a very important way.

This disparity is especially significant, since tobacco use causes 400,000 deaths a year, while illegal drugs are responsible for 20,000 deaths.

Clearly, we can do more to reduce illegal drug use, but those efforts should not come at the expense of needed antismoking initiatives. President Clinton has already asked Congress to act this year on a $17 billion counter-drug budget—the largest anti-drug budget in our history.

The National Drug Control Strategy increases funds for drug intervention programs for youth and for treatment programs. It adds 1,000 officers to the Border Patrol and 540 new DEA positions. Two hundred counter-narcotics agents will be assigned to initiatives to combat heroin and other drug smuggling. In fact, some of the components of the Coverdell amendment duplicate anti-drug strategies set in motion months ago.

The Coverdell amendment contains another provision—private school vouchers—which are poison pills for the tobacco legislation. I strongly oppose these provisions, and the Senate should reject them.

The private school voucher provisions are a blatant attempt to force the Republican anti-public school agenda on the tobacco bill. The Senate has already debated this issue at length earlier this year. We all know that it is a highly contentious issue. We should not revisit it in the context of the tobacco legislation, since private school vouchers are totally unrelated to reducing youth smoking. The only reason it was included in this amendment is to serve as an anchor to weigh down this important bill.

Our goal is to improve the public schools, not abandon them. Instead of draining much-needed resources from public schools, we need to take steps to help all schools, not just a few schools—and to help all students, not just a few students.

The Coverdell amendment would undermine these efforts by diverting federal funds to help private schools.

Supporters of this legislation are certainly prepared to allocate part of the funds to the anti-drug measures in the Coverdell amendment, but it makes no sense to allocate the vast majority of the funds to those programs.

It is time for Republicans in Congress to stop holding the tobacco bill hostage. We should free the prisoner, and do what's needed to reduce smoking.

Cloture should be invoked now to prevent any more delaying tactics. I urge my colleagues to vote to end this pro-tobacco filibuster and pass this needed legislation.

Mr. President, just to reiterate, we welcome the new voices that are speaking in terms of support for the substance abuse programs. We could have used both their voice and their vote in recent years when those programs were under attack and assault here in the appropriations committees as we were trying to deal with those issues. But now that we find new interest in these programs, we welcome their effort. But you can't get away from the fact that even in dealing with the illegal problems of substance abuse and illegal drugs that the gateway to all of this is tobacco. That is what we are focused on. That is the core issue. We take meaningful steps in terms of tobacco by discouraging young people from purchasing as a matter of price, and by taking the antismoking kinds of programs that have been included in this effort, we are going to have a meaningful impact on the number of young people that are going to smoke, and we are going to have a meaningful impact on the problem of substance abuse.

Mr. President, I hope we can come back this afternoon and move towards cloture and get on with the business before the Senate. The American people have been listening to this debate for some 3 weeks. Families are entitled to have a vote to protect their children in this country. We ought to be able to take a stand. We should be willing to take such a stand and be held accountable for that. We will have the first opportunity to do so this afternoon. I hope all of our colleagues will give support for that program so we can move this legislation, so the House will move it, eventually the President will sign it, and we will make meaningful progress in reducing the problems of youth smoking in this country.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to speak in regard to the effort to restrict debate on this bill.

Mr. GRAMM. Mr. President, will the Senator yield for a unanimous consent request?

Mr. ASHCROFT. I will be happy to.

Mr. GRAMM. Mr. President, I ask unanimous consent that, following the remarks of the Senator from Missouri, the Senator from Iowa be recognized for 5 minutes, and following those remarks, I be recognized for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to speak briefly against restraining the debate by invoking cloture here. There are too many outstanding issues to invoke cloture and to amend or stop the debate and amendment process. I rise today to oppose invoking cloture on the tobacco bill. A vote to invoke cloture, a vote to cut off debate on this massive legislation, is a vote in favor of a massive tax increase. It is a vote against tax relief, a vote against fighting illegal drug use in this country. I doubt whether those who are not keenly familiar with the procedures of the Senate would understand that when you invoke cloture, you limit amendments, and if you invoke cloture at this time—if we were to vote to invoke cloture today, we would basically be saying that we could not include in this bill any antidrug measures, we could not include in this bill any tax relief.

I think it is clear that the American people are beginning to learn what this bill is about. The American people are beginning to understand what $868 billion in new taxes really means. They are beginning to understand that there are boards and commissions and new iterations of the Federal Government, of the National Government, dictating activity in this bill, and it is time for us to continue the debate. The American people are beginning to learn that there is foreign aid in this bill, that there is $350 million a year in foreign aid just to provide for studies in foreign countries of the impact of smoking in those countries.

This legislation is almost 500 pages long. It is quite possibly an attempt at the largest expansion of government since the ill-fated Health Security Act, President Clinton's attempt to take over one-seventh of the U.S. economy in the health care measure. And, while we have spent several weeks on this bill, we have not begun to scratch the surface of this 480-page bill.

As I believe others who will be coming to the floor will show, you will find a bill like this is very complex. As I mentioned, the kinds of foreign aid measures, the kinds of things virtually unrelated to any benefit people in this United States could expect to receive from this bill are tucked into the nooks and crannies of this bill. It is no wonder people do not want further amendments. It is no wonder they want to curtail debate. But I think it is time we continue to have debate. We have spent several weeks on this bill. We have not begun to scratch the surface. There are issues that we have discussed but haven't voted on and issues that have yet to have a full and fair debate. On Friday, over 100 amendments were filed to this bill. More than 30 Members of this body have filed amendments to this bill. We should not curtail the discussion of this bill by invoking cloture.

Many important issues will not be addressed if cloture is invoked. If cloture is invoked, many of those amendments—the antidrug amendment and the tax cut amendments—would be ruled nongermane and would not be allowed to be considered. Some say this is legislation that is dead or dying and cloture is needed to salvage this legislation. That is the mindset of people who are afraid that the details of the legislation will be exposed to the American people and, as a result, the American people will no longer support the measure. That is the mindset of people who are afraid the American people will learn that this bill in fact contains a massive tax increase, $868 billion, and it is focused, 60 percent of it, on people who earn less than $30,000 a year.

The American people have a right to know what is in this bill, and we have only begun educating the American people about the bill and debating the important issues. We have had only 5 votes on amendments to this legislation, 3 motions to table that were agreed to and 2 that were not—a bill of almost 500 pages and only 5 votes so far. We have not even begun to discuss the controversial provisions regarding tobacco farmers. We have just begun to talk more about the serious problem of illegal drug use by teenagers and the fact that most parents are far more concerned about that than they are about smoking.

We have yet to vote on any amendment to provide relief from the discriminatory marriage penalty. I know there are several Senators who have amendments to address this tax penalty, including the minority leader, who has expressed that. Of course, I have a measure in this respect, as does the Senator from Texas and the Senator from New Mexico. But this cloture motion would put an end to these discussions. I ask my friends who filed this motion, what are they afraid of? Why won't they allow full and fair debate on this bill? What are they afraid of, that the American people will find out that is included in this legislation?

I believe if we are going to raise the kind of taxes that are included in this bill, we need to have a complete and open debate. Unfortunately, some from the beginning have tried to hide the tax increase. The Commerce Committee—I was a member of the committee, but I was the only one to vote against this bill—simply refused to call this a tax; instead, they called it a penalty on the tobacco companies, but put in the bill a requirement that the tobacco companies would pass it on to the American people. Thankfully, what we call something will not change its real character. If it is a tax, it is a tax, whether we call it that or not. The Finance Committee at least had the integrity to say it was a tax and that this is a massive tax increase on the American people.

The fact that the bill requires this to be paid by the American people, by consumers, not the tobacco companies, is something the American people deserve to know. This is a bill that is designed, at least in the minds of many people, to somehow punish the tobacco companies. But there is a mandate in the legislation that requires that the tax be passed through to the consumer. Tobacco companies will be fined if they don't pass the price increase on to the addicted consumers, and of course this tax does fall most heavily on those who are least able to pay it, those earning less than $30,000 a year.

Using data provided by the Centers for Disease Control, this tobacco legislation will be an annual $382 million tax increase on individuals in my home State—a $382 million tax increase on Missourians. That is more than $3 million per county in my State. Roughly $227 million of that amount would be paid by individuals in households of less than $30,000.

It is clear we should not invoke cloture. Invoking cloture would curtail the availability of amendments relating to drug use. It would curtail the availability of amendments relating to tax relief. In the face of a tax measure which potentially would add $860-plus billion to the tax responsibilities of the people of this country, I believe we should maintain our ability to talk about tax relief in the same legislation.

With that in mind, I oppose the invoking of cloture here. I think it is bad judgment. It curtails discussion unnecessarily and unduly. It would provide for the masking of the real character of this legislation from the American people when the American people have every right to know and learn about the full nature of this measure.

I thank the Chair for this opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in support of the Coverdell amendment. I sincerely hope that the Senate will adopt this important amendment. I think the main concern on this side of the aisle is not about the importance of an antitobacco campaign and an education program so teenagers will not smoke in the first place. This is very important, and it should be well funded. But money above and beyond that ought to go into fully funding existing programs rather than creating a whole new scheme of programs. Creating new Federal programs is a goal of this administration. It is important that we not just create the programs for their sake, but that we make sure that it is used wisely. There will be a lot of new revenue generated by this bill and we must not use it all to create new Federal programs.

We cannot put an obligation on the people of this country to support programs that we do not know, down the line, how much they are going to cost, just because there is a big new bonanza of money available.

The purpose of this legislation is to keep teenagers from starting to smoke in the first place. This must remain our focal point. This is one important reason that I support the Coverdell amendment, because it will put excess money into existing programs and not create a whole new list of programs. Another is that this amendment will combat illegal drug use—which also kills our children. We should not address one without addressing the other. If we say that we are going to help our children, then we simply cannot walk away from an opportunity to help them fight against illegal drugs. This is not one against the other—either we fight youth tobacco smoking or we fight illegal drug use. Quite the contrary, this amendment means that we do both.

We are in the process of considering monumental legislation. We are engaged in a major debate about what to do about tobacco. Many of the arguments in favor of this bill focus on keeping kids from starting to smoke. I believe this is a very important objective. But there is more we can do with this bill to help our kids. When you talk to young people about what concerns them, when you look at what they tell pollsters, you learn what most concerns them. If we are going to engage in all of this talk of what to do for young people, it might be a good idea to listen to what they have to say.

Young people today are very concerned about the availability of illegal drugs and of the violence that is all too common in our schools. Whatever else we might say about tobacco, it is not the source of the violence that threatens so many young people. While it has serious health consequences, those are not immediate. Smoking tobacco may give you heart disease or cancer in the future. The use of illegal drugs and the bad things that they do are not a problem of tomorrow, those are problems this very day, they are immediate problems, and the availability of these drugs is what most concerns kids.

We hear very little of this in this debate. I think we make a mistake in not consulting what our young people are telling us. They are telling us that we must also address the use and availability of illegal drugs if we are to protect their health. That is why I am supporting amendments to the tobacco bill that will bring the issue of illegal drugs into the discussion. I wish every time the President took time to discuss tobacco and kids, he would bring the issue of illegal drugs into the discussion. And I wish that the President of the United States would never be seen with a cigar in his mouth if his campaign against tobacco is to be credible.

Seeing that he is not likely to do that, I believe that we in the Congress must talk about illegal drugs. I therefore draw to my colleagues' attention these amendments and ask them to join me in voting for them. That includes the Coverdell-Craig amendment on drug-free neighborhoods and others that strengthen our efforts to deal with illegal drug trafficking and use. These amendments put drugs back into the debate, and they should be there. They should be there every time he talks about tobacco. They should be there every time he talks about children's health. The President should also talk about not only drugs being illegal and not that they are bad because they are illegal—but they are illegal because they are bad. These amendments give support to increasing our prevention, treatment, and interdiction programs for the issues that most concern our young people.

I also call to mind an important point. In the years that we made "Just Say No" a critical element of our counterdrug efforts, we saw a significant decline in illegal drug use among our young people. And we also saw something else. "Just Say No" had a halo effect. Kids not only stopped using illegal drugs, but they also stopped using tobacco and alcohol in impressive numbers.

In the last several years, in the absence of a coherent antidrug message, drug use is on the rise—use of all drugs—especially among young people. Tobacco use is also on the rise. We must address these threats to the health and well-being of our children. And the situation is worse than we think.

As the most recent national drug strategy hints at and other studies confirm, we have been under reporting drug use for years. That means there are more addicts than we thought; there are more users than we thought. We need to keep this in mind as we talk about teen smoking. We cannot afford to leave a problem that kids say concerns them most out of our discussions. We cannot look young people in the face and tell them that we are doing all this on tobacco for their sake and ignore illegal drugs. This is a landmark opportunity to do both, and we owe it to our kids to do as much as we can.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Texas.

Mr. GRAMM. Mr. President, I wanted to come over this morning to say a few words about the bill and about cloture. I am strongly supportive of the amendment by Senator COVERDELL, and what I would like to try to do in my brief remarks is to put this whole debate in proper context. I know literally dozens of our colleagues who support the bill have come over and spoken. It is awfully easy on these kinds of issues for people to get confused. So what I would like to do, very briefly, is to go back and put the focus of attention on where the money is coming from that comes into the bill, where the money is going, and what both—where the money is coming from and where it is going—say about the bill. Then I would like to talk very briefly about the Coverdell amendment and conclude by making a remark on the cloture vote.

First of all, for endless hours our colleagues who support this bill have damned the tobacco companies. They have indicted—convicted on many occasions—the tobacco companies for their activities over the last 25 years. And let me say that it seems to me, based on the evidence they have presented, that if one were sitting on a jury, one would have to find the tobacco companies guilty.

While our colleagues hold the tobacco companies in contempt, seeking to draw our eye to the tobacco companies, the problem is that the money coming into this bill comes not from the tobacco companies but it comes from working Americans who are relatively-modest-income people.

The reality of the bill is, interestingly enough, that while our colleagues who support the bill go on and on about the tobacco companies, damning them for their activities—and justifiably so—the reality of their bill is that the tobacco companies not only do not pay these taxes but they are mandated to pass the taxes through to the consumer.

I hope when people listen to this debate about the terrible activities of tobacco companies, they will realize that what we have in this bill is one of the giant legislative bait and switches in the history of American Government. The bait is tobacco companies—savage the tobacco companies—but the switch is that we are taxing blue-collar Americans, and, in fact, with an incredible pass-through provision in the bill, we are requiring the tobacco companies to work in concert to see that working Americans pay every penny of these taxes. That is the bait and switch of this bill.

The proponents of the bill hold up tobacco companies to revile, but they reach into the pockets of blue-collar working Americans and take untold billions of dollars in one of the largest tax increases in American history and certainly the most regressive tax increase of any size in the history of this country.

And I would like to remind my colleagues that 34 percent of the over $600 billion of taxes collected in this bill will come from Americans in families that make $15,000 or less; 47.1 percent will come from Americans in families that make $22,000 or less, and 59.1 percent of the taxes in this bill will come from families that make less than $30,000 a year.

So while our colleagues hold up tobacco companies as this source of evil and the focus of the debate, the reality is that the tobacco companies are paying no taxes and that Americans who make $30,000 or less are paying 59.1 percent of the taxes in this bill.

This is a tax on blue-collar workers, and it is a massive tax. Let me just give you an example. The Presiding Officer is from Alabama. And 24.9 percent of the people in Alabama, who are adults, smoke. That is 762,857 smokers. If this bill is implemented and, as is predicted by most sources, the price of a pack of cigarettes rises by $2.78 a pack, that means that a blue-collar worker in Alabama, a truck driver, a waitress, will pay $1,015 in additional taxes to the Federal Government if they smoke one pack of cigarettes a day.

We can say, well, they ought not to be smoking cigarettes. And, obviously, we all hope they will quit smoking cigarettes. But the point is, this bill clearly assumes they will continue to smoke in vast numbers, because how else then would the bill get over $600 billion to spend?

So the question we have to ask ourselves is, in the name of punishing the tobacco companies, why are we imposing a tax of $1,015 per year on blue-collar workers in Texas and in Alabama and all over the country? It is interesting to note that if this bill goes into effect, the Federal tax burden on people making less than $10,000 a year will rise by 44.6 percent. So this is a massive confiscatory tax on blue-collar workers.

The amazing thing is, by the logic of this bill, they are the victims. These are the people the tobacco companies conspired to induce to smoke, targeted with their advertising, many of them when they were less than 21 years of age. They now are addicted to nicotine. While the bill dubs them as "victims," and promises them that they will be helped, the reality is the victims are being taxed by a massive amount to fund this bill. That is a point we must never forget.

I have an amendment pending to give some of this money back to blue-collar workers. I have read it written up in many newspapers and being covered in the media. Obviously, I must be doing a poor job of explaining what the objective of this amendment is, or else you would have to conclude that maybe the point is not being portrayed accurately. I would never assert that.

Basically, what I am trying to do here is to say to blue-collar workers all over America who smoke: Look, this bill wants to raise the price of cigarettes to discourage teenagers and to discourage you from smoking. But rather than impoverishing you, our objective is to change the price of cigarettes and alter behavior, so we are going to take a portion, a substantial portion of the money and give it back to blue-collar workers by repealing the marriage penalty for couples that make $50,000 a year or less.

Now, let me make it clear. In our budget, and the tax cut that will flow from it, we are going to cut the marriage penalty for those who make over $50,000 a year. And if we do not pass this bill—and increasingly it looks like we may not—then we are going to repeal the marriage penalty for everybody. But the reason that I focused in on $50,000 and below in this bill, is that smoking in America today is predominantly a blue-collar phenomenon. Seventy-five percent of these taxes will be paid by people who make $50,000 or less. So the objective here is to give some of the money back to them, so we raise the price of cigarettes but we do not pound blue-collar workers literally into the ground with this tax.

We have been in a period of chaos since my amendment was introduced because our colleagues are concerned about losing the money. If you listen to this debate, almost every day, at least a dozen times, proponents of the bill say, "This is not about money. This is about smoking. We're raising taxes not because we want the money." They say, "But we're raising taxes because we want to discourage people from smoking, and studies have shown that price is the most effective way to do that."

But their bill belies what they say in two ways: No. 1, they spend the money; and, No. 2, they spend it in the name of getting people to stop smoking when, in fact, of the 60 percent reduction in teenage smoking they seek, 50 percent would be produced by raising price alone.

So what I am trying to do in my amendment is to simply do this. Let them raise the price of cigarettes, but hold them to their word that this is not about money, and give a substantial amount of the money back to blue-collar workers who are paying this tax in the form of a tax cut, and the one I have chosen is to repeal the marriage penalty for modest income people.

I think the debate about the marriage penalty is well understood. When we get to my amendment, I will talk about it in detail. But never in America should there be a penalty involved for people who fall in love and get married. The average marriage penalty in America is $1,400 of additional taxes that people pay for the privilege of being married. As I have said on numerous occasions, my wife is worth $1,400, but I think she ought to get the money and not the Government.

And so I am going to hold out on my amendment. This bill will not pass without my amendment being part of it. And it may not pass with my amendment being part of it.

The argument against the tax cut which I have proposed, which is really a rebate to people who are bearing confiscatory taxes under this bill, and the argument against the Coverdell amendment, which seeks to broaden the protection for teenagers from smoking to smoking and drug use, the argument against it is we do not have enough money to do these things.

We are collecting over $600 billion in this bill, but they do not have enough money to give some of it back to blue-collar workers and they do not have enough money to try to do something about illegal drugs even though that is the No. 1 concern of parents.

In a recent poll, when parents were asked what things they worried most about in terms of things their children might do, 39 percent said using illegal drugs, 16 percent said joining a gang, 9 percent said drinking alcohol, 7 percent said having sex, 7 percent said driving recklessly and 3 percent said chewing or smoking tobacco.

What the Coverdell amendment simply says is, while we are protecting our children, let us not just protect them from the 3 percent, let us protect them from the concern that 39 percent of our parents list as their No. 1 concern, and that is using illegal drugs. But yet our colleagues say, we do not have enough money to do this.

That leads me to the next point, and that is, what are they using the $600 billion for? The cold reality is, not only do they have enough money to give some back to workers to prevent a massive tax-and-spend program from coming into effect, not only do we have money to improve our war on drugs and to promote the cessation of smoking for teenagers and adults, but the plain reality is this bill is awash in money. It is obvious from looking at how it is spent. And I want to give you three examples.

The first example has to do with the tobacco farmer. Obviously, we are all concerned about the impact of this bill on tobacco farmers. But when you look at this bill it is clear in looking at the tobacco farmers section that no logic whatever has gone into devising this section. In fact, it is clear that this bill has more money than it knows what to do with.

Let me just give two examples, not to belabor the point. The first example is that we are in the midst of a program we call Freedom to Farm where we literally have gone through our major commodity groups and given farmers transition payments to begin phasing out of the program. We are in the process for wheat, corn, grain sorghum, barley, oats, upland cotton and rice. We paid for wheat, a total over a 7-year period of $125.34 per acre; for corn, $220.27; for grain sorghum, $131.25. The highest payment was for rice, $714.09 per acre. If you add up all the amounts, all that we paid all seven major crops combined was $1,495.78. If you multiply that times the 740,000 acres we have planted in tobacco in America, under the Lugar provision of this bill, if you paid the cumulative amount of all the other programs combined, you would pay tobacco farmers $1,106,877,000. The Lugar provision in the bill pays tobacco farmers $22,297.29 an acre and they can go right on growing tobacco. We don't even get the land for $22,297.29 an acre.

Now, my purpose here is not to ridicule this provision. My purpose is to point out how much money is squandered in this bill. Robert Samuelson, in his article in the Washington Post the other day, cites a figure of $92,000 an hour paid to attorneys in these tobacco settlements. Yet we have no provision of this bill setting out some limit. It is my understanding that we are going to try to limit that at $1,000 an hour or $2,000 an hour, but in a bill where supposedly we can't give any of the money back to working people who are bearing a massive tax increase, we have enough money to pay tobacco farmers $22,297.29 an acre. We have enough money to pay plaintiffs' attorneys $92,000 an hour.

I have a new one today, and what I thought I would do is begin to do a new one each day that we do this bill. My new one today is on Native American smokers cessation. We have a provision tucked away in this bill, one of dozens and dozens of provisions, where we are going to provide up to $7.56 billion for smoker cessation programs among Native Americans. These bills will be targeted at the 1.4 million Native Americans served by the Indian Health Service. Adult Native Americans smoke at a higher rate than the population as a whole—39.2 percent. We will be spending $18,615.55 per adult Native American smoker in this program. If you have a family in which both adults smoke, we will be spending on their smoker cessation programs under this bill—now, hold your hat on this—$37,231.10 for every Native American family who smokes, $37,231.10.

Now, we could buy people a Chevrolet Suburban. We could buy every smoking Native American family a Suburban for what this program will cost on a per capita basis for smokers.

Now, does anybody believe that when we are talking about one little provision—and I could make this point about dozens of other programs, and I will as we go further along the debate—but does anybody believe this bill is seriously "scrubbed" for how we are spending money, when we are spending $37,231.10 per smoking Native American family on cessation? Does anybody view that as anything other than what a candidate for State office in my State called this whole process when he said, "We won the lottery."

Well, let me remind my colleagues that to some people this money is a lottery, but to blue-collar working Americans who will bear the brunt of this tax, this is going to be a massive tax increase.

Now, even at this late date, what could we do to salvage this bill? I thought I would add one final thing before I end my remarks this morning. What could we do that would make it possible to move ahead with this bill? First of all, the bulk of the money we are collecting ought to go back to the people paying the tax. If the objective of the tax is not to tax and spend, if the objective of the tax is not to fund more government, why not raise cigarette taxes, but give the bulk of the money back to the same people by repealing the marriage penalty, by making health insurance tax deductible for the self-employed, and people who don't get health insurance on their job so that Joe and Sarah Brown—one a waitress and one a truck driver, neither of which gets health insurance on their job—get the same treatment as General Motors.

Repeal the tax penalty. What I would like to see is maybe 60 percent to 70 percent of the money given back in tax rebates—not tax cuts because their taxes are going up. The taxes of Americans making less than $50,000 a year as family income will go up on a massive scale in this bill. If we repeal the marriage penalty for them, if we make health insurance tax deductible for people who make less than $50,000 a year, their taxes will still go up as a result of this bill, but they won't go up as much as they would under the existing bill and will raise the price of cigarettes without impoverishing people. Now, if my colleagues are serious when they say that it is not their objective to get this money to spend it, they just want to raise the price of cigarettes, I don't understand why we don't begin there.

Second, we ought to bring drugs and tobacco on an equal level in the bill and use half our money for smoking cessation for teenagers and half our money to try to get teenagers to stop using drugs. Since 1992, drug use among seniors in high school has risen faster than tobacco use. It is a much more serious problem and ought to be treated at least on par in this bill.

Now, if we had a bill that gave some of the money back to the States, gave some of the money back in tax rebates to the very people who will pay the taxes, and then took the rest of the money, throughout all of the massive overkill—you can't spend the money; the levels of money spent in this bill are virtually unspendable by any stretch of the imagination. Read two paragraphs in here and you can't figure out what they are doing, and we are giving them $10 billion to do it. Read another paragraph, it is not clear what they are doing, and we are giving them $20 billion to do it. What I am saying is throw all that stuff out, come up with a coherent, antismoking, antidrug program. If you do that, we have a bill. But if you do that, you do not have what I believe is driving this bill in many quarters, and that is the desire for a massive tax increase to fund the most rapid growth in government spending since Lyndon Johnson became President.

So if this is not about tax and spend, this bill can still be saved. The way it can be saved is give most of the money back in tax cuts, get the benefit of raising the price of cigarettes, give money to the States, take what is left, split it between drug abatement and smoking abatement, and come up with a simple, coherent, practical program to try to abate smoking and drugs for teenagers. If we do that, we can still have a bill. But we are not going to have one of the largest and certainly the most regressive tax increases in American history to fund a massive growth in Government.

I assume my colleagues will vote against cloture. If they vote for cloture, they are basically voting to freeze all of these programs in place—two different programs; I was only talking about one of the two programs for tobacco farmers. All of this wasteful spending, all of these massive tax increases, all of this tax-and-spend effort—if people vote for cloture, they are locking that in, because at that point none of these amendments—the Coverdell amendment to bring in drug abatement, my amendment to give a tax rebate to moderate-income people so we don't drive them into poverty with this tax—all these things will be denied. The Senate will not have an opportunity to vote on them if they vote for cloture. I trust that my colleagues will not do that.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I listened with interest to the Senator from Texas. Even when I wasn't on the floor, I heard some of it on the television. I must say that what fascinates me about it is that the real bait and switch is not the bait and switch that he has described. He has tried to describe that somehow because this bill defines a problem of smoking and then raises the prices on cigarettes, which is what the tobacco companies have agreed to do, and the tobacco companies have acknowledged affects the number of people who smoke; but he tries to allege the switch is that we don't like the tobacco companies, so what do we do? We turn around and hurt the victims.

Now, in the next breath, at the end of his speech, the Senator says why don't we just raise the price and give it back to people. Why don't we raise the price, but give it back in tax cuts. The bait and switch is that the Senator from Texas doesn't give the money back to the people who pay it. He gives it back to a whole bunch of people, many of whom are doing much better than the people who will pay the higher cigarette taxes and are also people earning much more income, and also people who don't smoke. The Senator is willing to say in one breath that here you have these victims being hurt by raising the price of cigarettes, but his amendment doesn't help those victims—maybe a very few number of them—because he is willing to give money back under a marriage penalty rebate, which even goes back to people who aren't even hurt by the marriage penalty. Talk about bait and switch. That is the most extraordinary bait and switch.

In addition to that, the Senator wants to have it both ways. The Senator from Texas comes to the floor and says, Why, these folks have presented enough evidence to allow me to find the tobacco companies guilty. So he acknowledges the evidence is that the tobacco companies have targeted young people and have willfully put a narcotic substance into the mainstream of America and helped our children get addicted to it and then lied about it; he acknowledges all of that evidence. He says that is fine; the tobacco companies are terrible, and we ought to do something about it. But what does he say we should do about it? He complains about raising the tax on the victims, but then he agrees that we ought to leave the tax in place, not give the money back to the people who he describes as victims, and somehow we ought to punish the tobacco companies. But he doesn't say how. Well, how are you going to do that?

I remember a few days ago the Senator from Texas came to the floor and said, "Why don't we have a windfall profit tax?" Whoever heard of any tax on any company for any purpose that isn't subsequently written into their ability to make profits by passing it on to the people who buy their products? The Senator from Texas is, after all, a former economics professor. I know he understands the notion that if it costs you x amount to produce your product and you are in business to make money, you are going to sell your product to people, you are going to write in the cost of doing business to the cost of your product. So if all of a sudden we were to sort of somehow punish the tobacco companies by raising taxes on them, who in America doesn't believe the consumer isn't going to pick up the cost? Who in America doesn't believe if you want a better car with more luxurious appointments in it, are they going to give it to you? No. You are going to pay for it. If the cigarette companies are charged in whatever form you want to call it—a windfall profit, an excess, a bad behavior tax, a deception tax, or whatever you want to call it, to punish the companies, you are absolutely going to see that passed on to the consumer in a higher cost of a pack of cigarettes.

But that is not what we are doing here. The Senator from Texas and those who want to kill this bill and who are working so hard with all of these carefully crafted amendments that create tough votes for people in the Senate understand there is only one reason the U.S. Senate is presented with legislation that raises the cost of a pack of cigarettes, only one reason. It is because every expert in the country—those who have spent more years studying this issue than any of us in the Senate—has told us unequivocally that if you raise the price of cigarettes, you will reduce the number of kids who smoke. That is the reason the cost of cigarettes goes up.

So the Senator and others who oppose this legislation seem to be all over the place. They are willing to accept the price increase. They are crying for the victims, but they don't want to give back the money to the real victims, and at the same time, they are saying this is a big tax bill. At the same time, they are willing to live with the price increase that is the "big tax bill," as long as they give it back to the certain things they think are important. So what we are seeing is the greed factor played out on the floor of the Senate in the form of a lot of ideological grab bags that are going to try to get vouchers. I mean, we are going to have a voucher program here on education taken out of the hides of kids who we are trying to stop from smoking.

The bottom line is that for every day this debate goes on, as our friends try to stop this legislation in its tracks, more American children begin smoking—3,000 a day. For the period of time that we have been on the floor of the Senate debating this, 60,000 kids have started smoking, and 20,000 of those 60,000 kids will some day die early as a result of a tobacco-related disease. That is what this is about. Now, we keep hearing complaints about the amount of money that is somehow being spent.

I just heard the Senator talk about $38,000 that is going to be spent per Native American on a cessation program. Well, here is another example of the kinds of distortion that we see in the debate.

First of all, the amount of money that is made available under an authorization only, which has yet to conceivably be appropriated in an appropriate amount, is somewhere between $70 million and $196 million on an annual basis. Is that to go, as the Senator argued, just for cessation? The answer is no; that is not what it is for. If this were a real debate about the real issues that really deal with the facts, the Senator would note that it is—one of the critical components this bill has tried to recognize is the extraordinarily bad health status that exists on Indian reservations and within the Native American community, and it tries to deal with that by providing health care equipment, facilities, construction, repair of clinics themselves, and a whole group of inpatient and outpatient services. So the Senator from Texas may want to come to the floor and be cynical and/or sort of sarcastic about Native Americans and suggest that this bill is going to spend $38,000 per Native American to stop from smoking, but that is not what the bill says. That is not what the bill seeks to do. The bill seeks to rectify an enormous imbalance that for years has taken place in what is available in terms of health care overall, recognizing that all of that plays into any individual's ability to be able to be healthy and stop smoking and reduce other kinds of costs.

We also heard the Senator talk at some length about this unfair tax burden on the average American of $1,015 that the person who smokes is going to pay in a household under, I think it was about $30,000 on an annual basis. The Senator's amendment on the marriage tax doesn't just deal with that $30,000-or-under individual. It goes up to about $50,000 and, as I said earlier, rewards people. People are actually rewarded by the marriage tax, because there are some people, depending on how much money they earn and what their individual incomes are, who come out better under the current marriage structure in the Tax Code, not worse. They get rewarded, too, under the approach of the Senator from Texas.

But far more importantly, the reality is that there are only four areas where funding is allocated in this legislation: Public health, farmers, research, and the States. Forty percent of the money that is raised in this legislation goes back to the States directly. That very conservative fundamental has been one of the things that the Republicans have fought for for years. It is called a block grant. There is a block grant of 40 percent of the money. It is interesting that the Senator from Texas and the Senator from Georgia don't take money out of the block grant. They do not take money out of the farmers. They don't take money out of research. They only go to the public health components of this bill and cut that by one-half or more. Here, it is actually considerably more. This is the funding distribution under the public health account. Under the public health account, which would fund cessation programs, counteradvertising, prevention and education, enforcement and learning, antismuggling and Indian health, they would actually take, I believe, 82 percent. That would be cut under this approach in order to go into exclusively the so-called drug war.

Mr. President, if this were a fair-minded effort to try to deal with the problems of this legislation, you might want to try to approach this in a fairer distribution of how you are cutting the funds or how you want to fund the drug war. Some of the efforts the Senator from Georgia wants to make in funding I agree with completely. For years, I have said we don't have a real drug war in America and there is a lot more we could do. But to do it at the expense of those proven efforts that will reduce kids picking up the gateway drug, which is nicotine—tobacco—doesn't make sense. It would be far fairer—if we are going to talk about all the money that is being raised and all the money that is being spent in this legislation, then why not grab back some of the money from the farmers, or from the research, or from the States? I think the answer to that is fairly obvious as to why it isn't happening. It describes the politics of precisely where we find ourselves today.

Mr. President, we keep coming back to the reality. The Senator talks about the victims and the $1,015 they spend. Nobody is forcing them to do that. One should have a little sympathy, I suppose, because the tobacco companies so adroitly and intensely worked to get them addicted when they were young kids, recognizing that 86 percent of the adults in America who today smoke and are addicted began smoking as children.

We ought to probably feel something about the compulsion that sends them to buy those cigarettes. But if, in fact, raising the price will reduce even some of them smoking, as the tobacco companies have acknowledged—the R.J. Reynolds memoranda, the Philip Morris memoranda, all document that adults were reduced in smoking by the price increases of the 1980s. So it stands to reason that they would be reduced in their smoking levels by this price increase in the late 1990s. But their price increase in the 1990s would be accompanied by very significant efforts to train professionals, to educate children, to reach into our schools, and create a climate within which the entire attitude about smoking and drugs and health will change.

I would suggest respectfully to the Senator from Georgia that nothing would help our antidrug efforts more than some of the value-building, character-building efforts that are part of the counseling and cessation programs that build sufficient self-esteem and awareness among our young people that they will decide not to smoke. Quite clearly, if you have built up the courage and the capacity to say you are going to refuse a cigarette, you are most likely building the foundation to be the kind of person who can also say no to marijuana, which is a form of cigarette. So I think there is a real contradiction in what is happening here—that, unfortunately, to strip away the ability to be able to pursue these proven efforts is significant.

In addition to that, one of the things that the Senator from Texas and others vilify so much is the category under counteradvertising. Mr. President, a number of tobacco industry documents make it clear how much the industry targeted young kids as young as 13 years old. While the Senator says, "I accept the notion that the tobacco companies are evil for having done this and they would be found guilty for doing it," the fact is that it takes a certain counteradvertising effort, which is very expensive to counter, to contradict, and undo that targeting process. You can't just acknowledge it and walk away from it. You can't just say, "I accept. Let's find them guilty, but we are going to give them probation or even less than that." The question is, Are you going to do something about undoing the consequences of it? The fact is that at present there is no national antitobacco public education campaign that counters the protobacco imagery that has been presented to both adults and children by the tobacco companies.

Very few States have the resources to be able to undertake the kind of long-term, sustained effort necessary, I think Nancy Reagan proved beyond any doubt whatsoever in her steadfast and, frankly, significant campaign in the 1980s on the "Just Say No" Program. I join with my colleague in saying that I think there has been a retrenchment from that. I think we have gone backwards. I think the administration has dropped the ball to some degree in its efforts to help counter nationally the kind of efforts we want. "Just Say No" had a profound impact on at least casual use in this country, and we saw the figures go down. Why on Earth then, given that record, would we want to turn away from an effort to have the counter media effort here and have antitobacco advertisements?

The 1994 Surgeon General's report indicates that the mass media are particularly appropriate channels for tobacco education among young people who are heavily exposed to and often greatly interested in the media. Several States, my own among them—Massachusetts, California, and Arizona—have developed programs that are particularly effective. They work. We have seen a reduction in smoking as a consequence of those efforts. But we have learned that they have to be sustained and they need to be of even greater impact. That means creating this national strategy and having the funding to do it. So that is in here. That is one of the efforts that is being wiped out by the current proposal as well as by most of the criticisms that we have heard.

And the cessation programs themselves—it is just like the debate I remember we had on the crime bill. People came to the floor of the Senate, and there was such scorn and derision about midnight basketball, and such scorn and derision about some of these programs that take place in the boys and girls clubs, or the YMCA or the YWCA. People were able to say those are somehow tax-and-spend programs.

But what we have learned is that they really are the lifeline for a lot of kids in this country who have no parents at home, whose school doors shut at 2 o'clock in the afternoon, and who are, according to the Carnegie Foundation report some 7 years ago, most likely to get into trouble either with an unwanted teenage pregnancy or with some problem with drugs, introduced on the street in the afternoons when there is no adult supervision or structure in their lives. That is a proven fact all across this country. Talk to the president of the Boys and Girls Club. Talk to any of the people who dedicate their lifetimes trying to take care of kids who are stranded, alone, without sufficient parental support. Those people will tell you it makes a difference to have an adult role model, to have adult supervision, to have structure in their lives.

I recently went to a middle school in Charlestown, in Boston, and talked to a lot of kids in the middle school aged 10 to 14 years old. I was dumbstruck to learn that more than 15 percent of those kids aged 10 to 14 were going home in the afternoon, at 2 o'clock, to households that had no adult in them for 4 to 5 hours, for the rest of the day. That is the kind of program that now meets with derision on the floor of the Senate, where, specifically targeted with respect to children, we would have the ability to reduce these kids' exposure to a lot of the vicissitudes of life, not the least of which would be smoking and/or drug dealing and other kinds of problems that arise in the course of the day, unsupervised.

We believe what the Surgeon General and other experts have suggested, which is that there are some 48 million Americans out there who currently smoke and want to quit, who would like to quit, and they spend billions of dollars every year on patches, on nicotine alternatives, on chewing gums, on counseling, on hypnosis, and on all kinds of other efforts just to quit smoking. But one of the most successful ways to quit smoking is to help kids never start.

In Massachusetts, we have a program underway. We wish we could reach more kids. If we pass this legislation, we could reach more kids. But right now, limited as it is, we have been able to reach about a million kids in the State. We have been able to reduce smoking by 30 percent. That is a very significant level. That saves lives, saves money, and ultimately provides a much healthier country.

So that is the choice here. My hope is that a little bit more common sense and a little less effort to stop this legislation in its tracks would guide some of the amending process we are going through. I will join my colleagues and say I think there is a lot of money here. I think some of it might, indeed, be better spent. There are ways we could constructively arrive at that. But if all we are going to do is come to the floor and fight about these amendments that carve out and carve out, with a whole lot of issues involved in them that have already proven very tricky and very contentious and very divisive on the Senate floor in previous incarnations, if we keep revisiting them, one can only interpret that, unfortunately, as an effort to either derail or slow down or stop the fundamental legislation we are trying to achieve ourselves.

There is a simple bottom line here. You cannot argue this every single way—certainly, I suppose you can, and be inconsistent. That never bothered some people around here. But it seems to me if we are going to try to achieve a significant piece of legislation that will affect kids, you can't accept one notion that you ought to raise the price and then cut away the capacity to put into place the significant cessation, counteradvertising, and other kinds of efforts that would most impact the level of teenage smoking, which is what this legislation is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I note Senator STEVENS is on the floor desiring to speak. Might I ask, is he on a short timeframe? Does he want to speak now?

Mr. STEVENS. No. I thank my colleague very much.

Mr. DOMENICI. Mr. President, there are no time limits, are there, on speeches at this point?

The PRESIDING OFFICER. There are no restrictions. We are under consent to adjourn at 12:30.

Mr. DOMENICI. At 12:30; I hope I don't take that long.

Mr. President, I wish I could have been on the floor when Senator GRAMM spoke a little earlier, because I would have risen when he stated what we ought to try to do and what components we ought to try to agree upon to get a bill. I think he is right on. For those who were not listening, let me see if I can repeat.

First of all, let me suggest, in the past—I have noticed that we get large groups of lobbyists in a room promoting causes in only two circumstances. One, when there is a giant tax bill or tax reform measure, the halls are lined with them. That prompted Senator Dole, once, to speak of the "Gucci gultch." The only other time I see a large group in a room joined together lobbying, sending notes, watching television, is when there is a huge amount of money to spend. I have not seen large groups for any other causes. Guess what. In this case, it is obvious. The proponents of the bill have nothing in mind for tax cuts. So this large group meeting, with just scores of people watching every speech on the Senate floor and then sending people out to all the offices to get things done is because this is a giant spending bill.

There is no one more concerned about what is happening to young people and tobacco than I am. I was a smoker for a long time. I didn't start when I was a youngster, however. Fortunately, for me, I quit. It has been 8 or 9 years—I can't remember—and I am very lucky. I have a large group of wonderful children and not a single one smokes. My wife doesn't smoke. I can hardly imagine what a burden I was on them when I had these cigarettes around all the time. I even remember the chairman of the Budget Committee, the distinguished Senator from Florida, Senator Chiles, who had to sit there while I smoked through all these markups. He bought me one of those suction machines. I would have to put my cigarettes on it and then it would suck up all the smoke. At least, he said, I could make it through these 10- to 12-hour markups.

But, frankly, if we knew how to make our children quit smoking with $150 billion, and we said that is going to really keep them off cigarettes, and cancer rates are going to come down and the adult population is going to imitate the kids and they are going to stop smoking—because we have not talked about adults. I mean, they are smoking, too.

As a matter of fact, those in the health business of the United States and health care—clearly something admirable and something we are all concerned about—they are the lobbyists for this bill. They all started off with something in mind. They had their pet projects, and everybody would talk about them as if they were related to teenage smoking. Everybody would come to the floor and speak about the statistics on teenagers smoking and talk about "that is what we were here for," while the provision of the bill that had to do with teenage smoking is about one fiftieth of the bill in terms of pages. The rest of it is programs, programs we are supposed to fund and money we are supposed to give back to the States.

I wonder how many Senators know that of the amount we give back to the States, we tell them how to spend at least half of it. When you look at the list, one wonders what the different programs the States are going to spend the money on have to do with teenage smoking. They have nothing to do with it. But it is suggested the Governors chose the programs—and they ought to have the right to—and we ought to comport with it and say "that is all you can use it for," because, after all, they spent so much State tax money taking care of those people in their States who got lung cancer and were hospitalized, and had these very large treatment expenditures that came out of Medicaid.

Let me tell you, it is absolutely amazing that we are so willing to put a huge portion—40 percent—of what we are supposed to take in under this bill to compensate the States for health care costs when the big health care costs were actually paid for by the U.S. Government taxpayers and the U.S. Government, because Medicare and Medicaid, in particular Medicare, is an Federal program, not a State program. This bill doesn't put a penny in it. It is still going bankrupt because of the enormous drag on that program of more than $25 billion a year for cancer-related smoking diseases.

Medicaid, I know in my State, is paid for 75 percent by the Federal Government. Some States were 50; some States were 65. I think it is more than logical that a very large portion of anything we get here, if we put this together, should either go back to the taxpayers or will go back to the U.S. Government to help defray the expenses that we put into programs, like Medicare, which tax the American working men and women in a very, very regressive manner.

Having said that, I believe, and I state publicly right here today, that I think a bill can be put together. I am not sure that it isn't too late for many because they are already part of the group that wants to spend all this money on all these different programs that are supposed to be directed at our children smoking, but I believe there ought to be a part of this program that goes back to the States. I don't know that there has to be 40 percent, and I don't know that it has to be for the programs that are dictated in this bill for the States.

I also believe there ought to be a major antismoking and antidrug component to this bill, and it ought to be rather substantial. I certainly compliment the distinguished Senator from Georgia for the amendment that he has which brings front and center an even more disastrous habit which is catching on with our teenagers, more disastrous than smoking, and that has to do with illegal and illicit drugs from marijuana to the hard stuff, to cocaine. Now, the new surge is even something different from cocaine. We thought we were doing some good in that regard. Now heroin is back in vogue and use is growing. I compliment Senators COVERDELL and CRAIG for offering this amendment.

If we decided to give back to the States some but not necessarily as much money as this bill says, if we had a major program in illegal drug prevention akin to the amendment which the distinguished Senator from Georgia and his cosponsor, Senator CRAIG, have put before us, and then we did something for research through the NIH, or related, and gave the taxpayers of this country a break, especially those who are going to see the very onerous cost of cigarettes impinge on their lives because cigarettes may be as high as $3.50 to $4.50 a pack, if a bill like this passes, collecting a rather substantial amount of money—and I believe any bill ought to have a component which says let's reduce taxes, and since almost everybody on both sides of the aisle—maybe we quibble over details—but everybody knows the most antifamily, antichildren provision of the Tax Code is the one that punishes families who have two members working for a living as compared to two single people making the same amount—the marriage penalty. It is antifamily, it is antichildren, and clearly, that ought to be fixed. This is a rare opportunity to do that. If we can come together on a stripped-down bill that got rid of a lot of the things in this bill that really are not necessary and are not directly related to the problem at hand, we might make some headway.

I also remind everyone that whenever any of us come here and say let's not pass a brand new major tax-and-spend bill under the nomenclature and title of helping our children quit smoking—Secretary Shalala said that if, indeed, the FDA regulations that they propose could be put in effect—and I will add, if they are constitutional—that they alone have been predicted by the Administration to reduce smoking by 50 percent in 7 years. That is a rather significant proposal and a rather significant assessment by an administration about teenage smoking.

Why are we in such a hurry to put this big tax on and spend it for all these other things under the emphasis—I think ill-placed emphasis—that we are helping people quit smoking, when if we just tried those FDA regulations, if they are constitutional, they would restrain it by 50 percent in 7 years? I doubt we would achieve a higher goal even if we enact this huge tax and spend bill. In fact, I am not at all sure that we will do better.

If you look around the country, as I have in my home State, New Mexico recently completed, I say to my friend from Georgia, a drug, alcohol, and tobacco use survey of public high school students around the State of New Mexico. Not surprising, cigarette use has increased slightly. It is now 54 percent at the 12th grade level. In 1993, it was 47.

What is more shocking about the results of the survey is how much illegal drug use has increased in the past 5 years. In my State—I was looking at the chart which Senator COVERDELL used—and in my State, marijuana use by 12th graders is up 38 percent; cocaine is up 144 percent; and 51 percent of the students in New Mexico who smoke marijuana said they got it from friends at school. We know that drug use often correlates with illegal behavior. I said "often," I didn't say "always."

Sixty-three percent of the kids detained in New Mexico's juvenile justice system for violent behavior reported they used drugs on a weekly basis prior to their arrests. So nationally, the statistics are no more encouraging, and the Senator from Georgia, Senator COVERDELL, has stated those in his emphasis as to why we ought to adopt his amendment.

I support that amendment because it goes after illegal drug use from a number of fronts, and I am particularly pleased that in addition to promoting an anti-illegal drug use campaign, it does give some additional resources to those who are out there in the trenches fighting this war.

I say to Senator COVERDELL, I suggest that in the State of New Mexico, a major group of policemen—probably 40 percent of the law enforcement in the State is one police entity—they informed us and put out an article which they really believe there ought to be more money put into law enforcement. Particularly I will tell you what they are very worried about. They are worried about the fact they are going to get stuck with all the black market and illegal sales of tobacco, and they are going to be the ones to go out and enforce it. They truly believe at these prices it is going to be enormous in a State like ours; that it will come across from Mexico and all different places, and they are going to just be besieged.

Obviously, I have not thought of a way to help local law enforcement in this bill, but it is not too far-fetched as part of that provision which seeks to help us with reference to the black market, that we ought to give some thought to our local law enforcement people.

This afternoon or tomorrow I am going to speak on another subject, but I will say to Senators, I am continually amazed at what I find in this bill as page after page is looked at.

I have two reports here. One is called "Reducing the Health Consequences of Smoking," 1989. The other is called "The Health Consequences of Using Smokeless Tobacco, Advisory Committee to the Surgeon General." And there is a third report referred to in a provision of this bill that we can't even get the report, so we have only the executive summary of 1986, a report to the Surgeon General.

All I want to say about it right now is, believe it or not, there is a provision in this bill—I do not know who wrote it—but it says the burden of proof in the courts of America will be shifted to the tobacco companies with reference to any illness, disease, infirmity, that is reported in any three of these reports—even if it is mentioned. It means all you have to do is go file in the future, file a cookie-cutter lawsuit, and the tobacco company must disprove that your ailment or your disease or your condition came from smoking.

This afternoon, or when I get the floor again, I will go through a list of what that is going to mean. I mean, if ever—if ever—there was a lawyers' relief bill, beyond that which we have been discussing in terms of their recompense for the settlements, it is here.

We have been looking around for tort reform. And here we have exactly the wrong kind of tort reform. I do not believe very many Senators know that this provision is in this bill. I do not know whether I will try to take it out. I would just like to make sure it is well known.

I do not want to leave the impression, and never have, that tobacco companies should not pay for what they have wrought on this society in terms of misleading advertising and the effects of smoking. But to say that three reports that compiles the research of every ailment or disease that has been researched to try and find a causal relationship between that ailment and cigarette smoking should be incorporated by reference in this bill is not a good way to legislate. Under this provision a plaintiff would not have to worry about proving it anymore, just allege it, sue for it, and the tobacco company must then prove that they did not cause it.

That provision has been researched of late, and we will talk about it in a little more detail—how many thousands and thousands of lawsuits that would precipitate from people with diseases and ailments who never even gave a thought until now that they might find somebody who would pay for that; namely, the tobacco companies.

So I say to those who are very, very well-intentioned, who support this measure, I have said before—and the bill was redone—I said before that it was far too cumbersome, had way too many agencies and bureaus and bureaucratic innovations in it that nobody should really support. It was fixed somewhat. And I still seriously question how it got put together, how these kinds of provisions could find themselves in there with no discussion.

To me, this is one bill that I am very glad is taking a long time to get through the Senate. We normally say discussion on the Senate floor is good because it lets everybody understand what is going on and what the issues are. Frankly, I do not think we would have found out about all the things in this bill if we had not been down here for a couple weeks. It is just a very difficult job, very hard to do.

So let me summarize. I believe the amendment ought to pass, because if we are going to raise significant money, as purported in this bill, we ought to go after more than just the problems that teenage tobacco smoking brings to our country. We ought to try our best, in a very reasonable and well directed way, to spend money trying to get a better handle on illicit and illegal drug use by our children and, in fact, by the American population. So I hope that passes. I hope cloture is not invoked.

But I say that I believe it is beginning to come to the surface that a bill could be put together. It surely cannot be the bill that is before us. As a matter of fact, I think probably it ought to just get redrafted, if people want to put a bill together. Essentially, it ought to take care of the States in some way, not necessarily 40 percent. It ought to have a very significant tax cut, especially for those American families who are going to pay the tobacco tax—pay most of the tobacco tax. If we do that, it ought to be directed at the marriage penalty, perhaps some health related tax provisions, but that ought to take the lead. And we ought to put a major program together in trying to really declare war through advertising and other initiatives to aid in the prevention of smoking among kids. And, as I indicated, it is corollary with reference to illegal drugs.

Another component could be research at NIH on cancer and related kinds of research. And that is probably doable in this country. And if you are going to spend some additional money, you can probably justify it there as well as anywhere else, although I would suggest that if you have a big bill like this with a lot of resources, we can bring amendments to the floor, one after another, showing areas where the U.S. Government is not doing what it ought to do in certain areas of endeavor that are our responsibility as a Nation. And if it is needed, and doing a better job, we could have a myriad of amendments that we could let people vote on and decide what to do.

For instance, I give you one. It is totally unrelated, but some provisions in this bill are also. When will the U.S. Government pay for Indian schools in America?—which are falling down around the kids, totally ill-equipped, are way beyond anything we would have non-Indian kids in in the United States. And the only entity that is supposed to pay for it is the Federal Government. It is not a school board, not a State; it is the Federal Government. There is a backlog of over $750 million. And we are leaving those kids out there, watching the suicide rates go up, watching the illegal drug rate go up, watching all the social problems they have, and every year we take care of one or two schools.

The PRESIDING OFFICER. The Senator should be reminded we have an agreement to recess at 12:30.

Mr. DOMENICI. I am sorry I went over. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first, I thank the Senator from New Mexico for the enlightened remarks we just heard on this very important subject. I always enjoy the opportunity to hear his analysis. I hope he will return later this afternoon and continue with it.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I make an inquiry. I know we have the agreement to recess at 12:30. Is there not a vote at 2:15 when we return?

The PRESIDING OFFICER. That is correct. We have a cloture vote at 2:15.

Mr. DURBIN. I was looking for an opportunity to speak for 5 minutes. I ask unanimous consent that, after that vote, I have that chance in general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute to S. 1415, tobacco legislation:

Senators John Kerry of Massachusetts, Robert Kerrey of Nebraska, Kent Conrad, Harry Reid of Nevada, Paul Wellstone, Richard Durbin, Patty Murray, Richard Bryan, Tom Harkin, Carl Levin, Joe Biden, Joseph Lieberman, John Glenn, Jeff Bingaman, Ron Wyden, and Max Baucus.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate be brought to a close on the committee substitute?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Inouye
Specter

The PRESIDING OFFICER. On this vote the yeas are 42, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized, under the previous order, for 5 minutes.

Mr. DURBIN. Mr. President, I ask unanimous consent to extend that to 10 minutes, if there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to speak for 10 minutes.

Mr. DURBIN. Mr. President, for those who have counted out the tobacco lobby, for those who said the tobacco giants are now flat on their backs and have no strength left on Capitol Hill, I am afraid the last vote is an indication that there is still life in that tobacco lobby. This vote of 42 to 56 on a motion to bring to a halt the debate and bring to a vote the tobacco bill is a sad commentary on where we are today.

This legislation, S. 1415, which is the product of the Senate Commerce Committee and the hard work of both Republican and Democratic Senators, deserves a vote, not just because it is on the floor today but because what this bill sets out to do is so important for this Nation. Instead, what we have seen are the opponents of this legislation come to this floor over the last 3 weeks, producing amendments to grind us down, mire us down in debate, sink us in this morass of technicalities and procedures so we never get to this bill.

Many of my colleagues, Senators, have come to this floor and offered very important amendments, interesting amendments. They are not related to tobacco and children though. An amendment comes to the floor from one of the Senators, "Let's talk about reforming the Internal Revenue Code." That is a good idea. We should do that on a regular basis. But on this bill? Why on this bill? This bill, which is designed to stop the addiction of our children to tobacco products, why should it be a forum for this debate on reforming the Internal Revenue Code?

Another Senator comes to the floor and says, "Let's talk about the problem of narcotics in America." It is a terrible problem. It is a terrible problem. Everyone agrees with that. Every parent agrees with that. Yet, to raise that as an issue on this bill? To suggest, as part of this debate, we ought to talk about school vouchers? School vouchers, that is an important debate, too. But why in this bill? Why in this legislation, this historic piece of legislation that gives us a chance, for the first time in this Nation's history, to do something meaningful about tobacco, are we being diverted by so many amendments?

Do you know what the order of business before the Senate is at this moment? I can tell you what it is. You may want to write this down. For those with scorecards at home, be prepared with your pencils ready. We are currently debating the Coverdell amendment to the Durbin amendment to the

Gramm motion to recommit with two underlying Gregg amendments still pending.

Hard to follow? It is designed to be hard to follow. It is designed to tangle us up in procedure so we never get to vote on this bill and never vote on this issue.

The tobacco companies have to be cheering after that last vote, 42 to 56, so we continue to mire ourselves in this procedural mess and never get to the bottom line. What is the bottom line? Let me show you in this graph. This is the bottom line. The smoking rates among high school seniors in America are at a 17-year high. As I speak today, in the Senate gallery we have many visitors and friends and a lot of youngsters who are here from schools. You know what I am talking about. You know what is happening in your grade schools and in your junior high schools and in your high schools—more and more children are starting to smoke. I have never in my life ever met a parent who has come to me and said: "Great news, I just got the best news. My daughter just called, she started smoking." Have you ever heard that? I never heard that from any parent. It is a troubling piece of information which every parent dreads.

More and more kids, now over half the high school seniors in America, are taking up this deadly habit. Since we started this mindless debate, 66,000 children in America have started smoking for the first time. Tobacco companies have a big smile on their face: More and more kids addicted to their products, kids who will spend a fortune over their lifetimes on this addiction and ultimately a third of them to be victims of an early grave, because of this tobacco addiction. Yet here we are on the floor of the U.S. Senate. Here we are with this historic opportunity, with bipartisan legislation, to do what is right, to pass legislation and say to the tobacco companies, "The game is over. We are no longer going to allow you to appeal to and addict our children. We are going to ask you be held accountable, accountable for reducing the percentage of children who are smoking." And, by overwhelming votes, Senators on both sides of the aisle supported my amendment last week to hold the tobacco companies specifically liable if kids continue to be lured into this addiction. Yet, over the weekend one of the leaders here in the Senate says the tobacco bill is all but dead—all but dead, after all this work.

Keep in mind, we are not just talking about another piece of legislation in the Senate. We are talking about the No. 1 preventable cause of death in America today. Members of the Senate, Democrats and Republicans, who missed this opportunity, will, frankly, have to answer for it—perhaps not in the next election, but maybe at a later time—as to why at this moment in history, when we had the chance to seize the opportunity and do something to help our children, we failed to do so.

I continue to believe we have a chance to pass this legislation. We have Democrats and Republicans alike who believe it is not only right but timely. But if we allow this procedural morass to continue, if we do not bring to a vote the critical amendments necessary so we can bring this bill to final passage, then the clock runs out.

As I said once before, I guess time is on the side of those who want to stop this legislation. But history is not on their side. History will judge them harshly. Having been given this opportunity to pass an important bill, they missed it. They missed it, to the detriment not of their own political careers but of their children. And the money to be raised from this bill, the money that comes from a tobacco tax—that is right, t-a-x, tobacco tax; call it a fee or what you like, I call it a tobacco tax—that money is going in for specific purposes to help children: Smoking cessation clinics, antismoking advertising, and medical research.

I will stand in the State of Illinois, or wherever I am called on, to defend that vote. I think asking smokers to pay more for their product to reduce the sales to children and put money in the Treasury for those purposes is a defensible thing to do and not something we should shrink away from. I have heard all this argument on the other side about this bill: Senator MCCAIN's bill is going to create some massive Federal bureaucracy. Not so. Not so. This bill basically does, in self-executing ways, what we sought to achieve in the beginning, when 42 State attorneys general filed lawsuits across the United States saying to tobacco companies: Your day is over. You are going to be held accountable. This came to a basic agreement about a year ago. We are building on that agreement.

I salute them for their initiative in allowing us to reach this point. But, will this Senate miss this opportunity, as we missed the opportunity to pass campaign finance reform? Will we miss this opportunity to pass comprehensive tobacco legislation? This last vote, 42 to 56, is an indication we have a long way to go. Cooler heads have to prevail. Senators on both sides of the aisle have to understand, this is more than gamesmanship on some amendment tree; this is fundamentally a question about the public health of America and the public health of our children.

What we and the American people are waiting for is leadership, leadership here in the Senate to bring action to a close on this legislation. While we wait for that leadership, the advertising industry is waiting, too, pens poised, ready to write the next generation of ads for cigarettes to hook children. That will happen if this bill fails.

The lawyers are waiting, too. The lawyers are waiting with their legal briefs in hand to continue the next round of State litigation, and that will continue, month after month and year after year, if this bill fails.

The parents are waiting. The parents of America are waiting to see whether or not their children will be able to escape this addiction to tobacco while they go to school and while they grow up. Passing this bill will help those parents.

And, yes, the tobacco companies are waiting, too. They are waiting to see whether the Senate will drop the ball and give them another year of obscene profits at the expense of our children.

The President of the United States and this administration have shown extraordinary leadership on this issue. No President in history has ever stuck his neck out as far as President Clinton in fighting the tobacco lobby. He has taken a lot of grief for it. There have been a lot of people who invested a lot of money in opposition to folks who supported it. But he was right to do it. Those of us on the floor of the Senate who have been fighting this tobacco battle for over a decade have dreamed of this day and this opportunity.

And that is why it is so sad that we find ourselves in this gridlock, this procedural gridlock. I am sorry that the motion to close down debate and limit the amendments to those germane to the bill did not prevail. A similar motion will be offered tomorrow, and I hope that motion will prevail. In the meantime, I hope Democrats and Republicans will join Senator MCCAIN and Senator KERRY of Massachusetts in a bipartisan effort to pass this landmark legislation.

Mr. President, I yield back the remainder of my time.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Kentucky.

Mr. FORD. Mr. President, let me say to my colleague from Illinois, I understand his frustration. I understand the goals that he is attempting to reach, and I agree with him, but I am one of those who voted against cloture. In his 15-minute speech, he did not mention the farmer, the farmer who could wake up in the morning if we pass this bill with some amendments in it and be out of business in 36 months. The Senator from Illinois wouldn't mind that, but I certainly do.

I don't object to smoke-free schools. Ninety percent and better in my State, a tobacco State, are opposed to underage smoking. We have no problems with that. But be fair to those and help those who have a life in front of them based on a legal product. They have had no part in all these problems of lies and documents and court cases, but are down there living by the sweat of their brow. And we are not talking about the farmer.

Look at this bill that is before us and the amendments that have been adopted or that are pending, and you want cloture to be invoked on that bill and be the bill that goes out of here? I cannot allow that. I cannot in good conscience allow cloture to be voted on that bill and my farmers not be taken care of.

I agree with the Senator from Illinois—of course I do—we have lost the target. We have lost the target. Someone figured up the other day that if everything that has been introduced and is in this bill is taken care of, we will spend 169 percent of the estimated amount of money that is going to be raised in the next 5 years.

Mr. President, I am one of those—and I admit it, it is on the record—but I want people to know why I voted against cloture and will continue to vote against cloture until we can get some consensus as it relates to my farmers.

The Senator from Illinois said he wants leadership. I think our leader is doing one heck of a job. I think he is pushing the point. I think he is doing the right thing for the position he is in, and I think the leadership on the other side is making one mistake after the other after the other after the other, because of what they are trying to do—to make a lifesaving piece of legislation into a tax cut bill. We need to understand that, and I think the American people will.

Mr. President, I am hopeful that before we have too many cloture votes and are criticized for voting no on cloture that we can have something that is palatable or even reasonable—even reasonable—that we can vote on to do the right thing for those we represent. I represent 65,000 small farm families, and I intend to see that, to the best of my ability, every one of those are treated fairly. Up to now, the answer has been no, and the answer will continue to be no on cloture until such time that we can see some daylight as it relates to those families that are struggling down in my State of Kentucky. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, I, of course, am aware of the longstanding concern of the Senator from Illinois about tobacco, but I think to suggest that some of the amendments that are being discussed have some meaning other than their stated purpose is not appropriate. The amendment before the Senate is an effort to make sure that any legislation that deals with teenage addiction embrace all the components of teenage addiction. Yes, smoking, but, yes, drug abuse and the smoking of marijuana which, I point out, is five times more dangerous than smoking a cigarette—five times.

The principal drug abuse and addiction on behalf of teenagers is smoking, not cigarettes, but marijuana. I have long felt that for us to come to the Senate and talk about the dangers of tobacco and the addiction of tobacco and be absolutely silent on the question of teenage addiction to drugs is unconscionable policy.

Mr. President, just yesterday on June 8, the President of the United States at the United Nations in New York said:

> Ten years ago, the United Nations adopted a path-breaking convention to spur cooperation against drug trafficking. Today the potential for that kind of cooperation has never been greater or more needed. As divisive blocks and barriers have been dismantled around the world, as technology has advanced and democracy has spread, our people benefit more and more from nations working and learning together. Yet the very openness that enriches our lives is also exploited by criminals, especially drug traffickers. Today we come here to say no nation is so large and powerful that it can conquer drugs alone; none is too small to make a difference. All share a responsibility to take up the battle. Therefore, we will stand as one against this threat to our security and our future. The stakes are high, for the drug empires erode the foundations of democracy, corrupt the integrity of market economies, menace the lives, the hopes and future of families on every continent. Let there be no doubt that this is ultimately a struggle for human freedom.

Those are pretty lofty remarks, but where is the administration in support of our attempts to confront these drug cartels, to confront the fact that the target of these cartels are kids age 8 to 14 years old—8 to 14? Yes, tobacco is hazardous, and it has been abusive to health and it is increasing. Over the last 6 years, it has increased about 40 percent.

What about drug abuse? What about these points the President made to the world? It has increased 135 percent in the last 6½ years—135 percent. And his team, the President's team the day following these remarks is blocking votes on trying to make a component of teenage addiction embrace and confront drugs. It is OK to talk the talk, but you have to walk the walk.

Mr. President, this administration does not have a good record on the issue of teenage drug addiction. It does not have a good record. It came into office—if we are talking about the troubles of drug abuse—it came into office, and it closed down the drug office, for all practical purposes. It came into office and it massively reduced interdiction efforts in the Caribbean and on the border. As a result, Mr. President, massive amounts of new drugs are flowing into the country almost unfettered.

As a result of that, the price of these drugs has collapsed, utterly collapsed, and for some of these drugs, the price has dropped 70, 80, 100 percent—not 100—70 percent. So no message—more kids are unaware of the fact that drugs are dangerous. In fact, several years ago—2 years ago—that number was at the lowest ever. The number of children who perceived drugs to be dangerous to them was at an all-time low. So why are we surprised, if they do not think it is dangerous, that suddenly the use of it would just skyrocket and go up 135 percent?

Mr. President, framing what has happened here is important: Quit talking about it; dismantled interdiction; closed the drug czar office; massive amounts of new drugs in the country; no message to kids or parents about the dangers of drugs—boom, a new epidemic, a new epidemic. One million-plus new teenagers caught up in drugs.

Mr. President, there are 1.1 million prisoners in America today. Over 800,000 of them, 800,000 out of 1.1 million, are there on drug-related charges—indirect or direct. And $67 billion a year it is costing this country.

The No. 1 problem for teenagers, according to teenagers, according to parents, according to all statistics—and not by a slim margin; by an enormous margin, 2, 3, 4 to 1—they have said that is the No. 1 problem our kids face, smoking marijuana, getting in the drug culture, the No. 1 problem. It is accessible everywhere, and it is cheap. The other side says, "Oh, this is not appropriate to be talking about this on the tobacco bill." What in the world does it take to be appropriate?

Five times more dangerous to smoke it, mind-altering, 800,000 prisoners, $67 billion a year, the principal problem of teenage addiction, and we just heard the Senator from Illinois: "This is a poison pill amendment." The logic defies me, absolutely defies me.

He talked about school choice. What he is talking about is three paragraphs in this amendment that says if a child becomes a victim of a crime, including drug-related, that the school system could move the child to another school.

Mr. President, I will give you an example. First of all, we have a letter from the all-knowing NEA, which says, "This amendment"—this is the drug amendment provision—"to allow Federal tax dollars to be used to provide private school vouchers is a cynical attempt to use the recent tragic violence in our schools to advance a political agenda."

What they are talking about is the ability for a local school to take this teenage girl, who was assaulted at her school, sexually assaulted, in an abandoned locker room in De Kalb County—this school system to move her to another school. That is what the ruckus is about over there. Heaven forbid that we would make it possible for one of these victims of a violent crime to be moved to a safer location. That is what he is talking about when he talks about the nonrelated issue of school choice. He is talking about this girl and the right for a school system to try to protect the victim of a violent crime. "But this is not a serious attempt to make the bill better. There's not any relevance here."

Fourteen thousand teenagers die every year as a result of teenage drug use. Once again, in the drug culture, the chances of rehabilitation are very limited. That is why you have to have massive campaigns to educate. The administration and the Congress have already understood this because they are trying to launch a national campaign now. And I applaud them for it. It is just too little. If we are going to get this drug epidemic under control we have to get serious.

There was an article in the paper June 2, a pretty interesting article, Mr. President. I will just read a few select remarks from it.

> As commandant of the U.S. Coast Guard for the last 4 years, Admiral Robert E. Kramek played a key role in the war on drugs, serving as coordinator for U.S. interdiction efforts. But in leaving the post last week, after 41 years in the service, the 58-year-old admiral could not hide a sense of frustration and dismay about what he described as partisan bickering, pork-barrel politics that have hamstrung the United States in its fight against illegal narcotics. He said, "If we want to win the war on drugs, we've got to have the will to win." He said, "While politicians have described the war on drugs as a high priority and a matter of national security, they have failed to fund it adequately, preferring instead to pour billions of dollars into other things." He said, "Funds spent on interdiction represent 10 percent of the antinarcotic budget. Today [this is the admiral] I have two-thirds of the money, half of the ship time, half of the aircraft flight hours I need," the admiral said. "And you can't get there from here. You can't make a 50 percent reduction in demand in the flow of drugs into this country over the next 10 years with what we're committing to the battle."

The amendment that the other side does not want us to vote on, that some on the other side say is not relevant, the amendment responds to the admiral. The Coast Guard appropriation for interdiction would be doubled with this amendment. In other words, exactly what the admiral said he did not have the amendment gives him. It gives him the ship time to get back in the waters instead of being in mothballs. It gives him the aircraft and the surveillance that he needs to shut down the Caribbean.

The Caribbean got shut down in the 1980s, Mr. President. It got shut down. It was pouring into the United States. The will was put together, and in the 1980s it was locked off. It is not locked off anymore. It is pouring through the Caribbean again, pouring through the Caribbean.

Now the amendment also doubles the interdiction budget of U.S. Customs. It doubles the interdiction budget of the Department of Defense. It strengthens the civil and criminal penalties for custom violations and doubles the number of border agents by the year 2003.

Now, why all the interdiction? Because part of the reason that our teenagers, who are the target of these cartels, are being so affected by these drugs is that they are everywhere and readily accessible and cheap. If these interdictions are successful, the price goes up and the availability goes down. Price goes up. The other side is talking about the fact that price affects purchasing. It works that way in drugs, too. If the floor of the price drops out, you can buy marijuana as cheaply as a pack of cigarettes, what do you think will happen? The price affects not just tobacco, it affects drug use, too. And we have allowed the price to just plummet, too much of it, too accessible, too cheap.

So the admiral is absolutely correct. If we are going to stop this epidemic, it is going to require a nation demonstrating the will. If the President is serious in his statement about our nations of the world coming together to confront the evil empires, then he needs to have a message sent over here to his team and say we want drug addiction to be a part of this effort.

I find it curious, I have to tell you just at the outset, as to how you could have ever gotten into a debate about teenage addiction and been absolutely silent on the No. 1 problem, addictive problem, teenagers are facing. I find it incredulous. Then to make matters even worse, some lame argument that it isn't relative. First of all, the majority of the teenagers using it, smoke it. It is a product that is smoked, just like tobacco. The only difference is it is five times more dangerous. National Institute on Drug Abuse and National Institutes of Health say:

> Someone who smokes marijuana regularly may have many of the same respiratory problems that tobacco smokers have. These individuals may have daily cough and phlegm, symptoms of chronic bronchitis, and more frequent chest colds. Continuing to smoke marijuana can lead to abnormal functioning of lung tissue injured or destroyed by marijuana smoke. Regardless of the THC content, the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than tobacco smokers. This may be due to the marijuana users' inhaling more deeply and holding the smoke in the lungs.

But it is not relevant? What a puzzle. I have been trying to figure the logic. Just try to match that paragraph with the suggestion that this amendment is not relevant to this issue. Nonsense. It is the No. 1 issue. No. 1 for parents, for teenagers, for our society, for this country. It is an epidemic.

We had a lot of discussion about the fact that tobacco is focused on youngsters—and that is horrible—but the cartels are totally focused on teenagers, age 8 to 14. It is the first war that has ever been waged against kids that we are in the middle of.

So we suggest an amendment, if this legislation becomes law, that says 20 percent of the resources, 20 percent, are to be focused on the Nation's No. 1 problem. I think that leaves 80 percent to deal with what is, among families and teenagers, the eighth most serious problem.

I see the coauthor of this amendment has arrived on the floor. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that on Wednesday, June 10, between the hours of 3 and 4 p.m, Anson Chan, the chief secretary of Hong Kong special administration regional government, be given floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I am so pleased to be able to stand on the floor today with my colleague from Georgia who is the primary author of the important amendment that is before the Senate. He has done such an excellent job of laying out what everyone in America knows to be the No. 1 issue facing our young people and literally facing the American culture, and that is the drug culture and the impact it is having on the lives of an awful lot of our citizens and especially our young people.

Neither he nor I belittle the concern that 3,000 young Americans start smoking every day. But 3,000 young Americans that start smoking don't die every day. But about 40 of our youngest and sometimes our brightest die every day because of an overdose of drugs or because of a crossfire of a gang shooting that was drug-related. That adds up to about 14,000 young Americans.

Yet this legislation we have before us, S. 1415, 753 pages that our colleagues tell us will cause young citizens in this country to smoke less and live a better life, has not one word in it about illicit drugs, the drug traffic, and what we as a citizenry and those of us as policymakers ought to be doing, where we can, to stop the rapidly increasing flow of illicit drugs into this culture.

My colleague from Georgia, Senator COVERDELL, and I join together. By this amendment we are saying if you are really sincerely concerned about what goes on amongst our young folks today that may in some way damage them, then you ought to be voting for this legislation because the Senator from Georgia, like myself, and I know like the Presiding Officer at this moment, have on many occasions gone before grade school and high school groups to talk about the state of affairs of our country and the importance to those young people of what goes on in our country, and we have asked the question, Is cigarette smoking a problem.

Yes, a few hands go up. They are concerned about it. Others are not because they are smoking. But when you ask about drugs, when you ask about the character of them, the nature of them, the availability of them, all hands go up, or nearly all hands, because young people know better than anyone else what is going on amongst their peer group. They are frighteningly concerned because oftentimes it impacts the life of a friend or it disrupts in a massive way a friend's family.

Yet today this Senate is silent on the issue. This administration has retreated in a dramatic way from the war on drugs that was launched by the administrations of President Reagan and President Bush.

Let me give some very interesting statistics. While there are not as many pot smokers as tobacco smokers at current rates, if the current rate continues, in but a few short years there will be almost as many marijuana, pot, weed smokers amongst our youth as there are tobacco smokers. There has been a 25 percent, 38 percent, and 31 percent increase in the number of children who have smoked a cigarette in the last 30 days, in the month of May. In comparison, there has been 175, 153 and a 99 percent increase, respectively, in the number of children who have tried a joint of marijuana in the last 30 days in the 8th, 10th and 12th grades, respectively.

That is an American tragedy. We know it. Yet, we have allowed this administration and, frankly, we have allowed the Congress to be relatively silent on the issue. That is why the Senator from Georgia and I could be silent no longer. It is critically important that we speak out, that we begin to shape more clearly policy that will work toward interdiction. As the Senator has just spoken to, the Coast Guard, dramatically cut back, with ships in mothballs—they are not out in the Gulf of Mexico, where they were for a good number of years, stopping the flow of illicit drugs moving into the market.

There is a 70 percent flow of drugs coming across our southern borders, and we are silent to it. Well, yes, in all honesty, there has been a limited amount of interdiction. Yes, there was an effort on the part of this administration as it related to the money laundering in Mexican banks. But just the other night, on television, there was attention addressed to three Mexican brothers operating south of the border, in Tijuana, talking about the multi-hundreds of millions of dollars in cashflow and the intimidation and the deaths that they can bring down on citizens who get in their way because they are the kings of drugs flowing up the west coast. We know who they are. Their pictures were shown on television. But we do limited amounts of things against them. Are we frightened of them? No. It is just a retreat from the scene. It is the attitude of, well, we will fund a little bit of therapy if somebody gets hooked on drugs. But somehow we don't want to engage in a war to save our children.

I was once a smoker. I am not proud of it, but I was. But I quit, I guess when I matured enough to know that it wasn't good for me and smart enough to know that it wasn't the right thing to do. But you know, if I would have been hooked on a major drug like cocaine, I might not be here today. The great tragedy of young people and drugs is that it kills them. Young people, while smoking cigarettes may be the cool and stylish thing to do amongst their peers, grow up and mature. There is a reverse peer pressure that begins to develop, and in great numbers we see young people quitting in their twenties and early thirties. They can quit because they are not dead. But if they are hooked on cocaine or heroin, which is the follow-up to marijuana, they are dead. That is how they quit. We know it.

We saw the great tragedy out in California of the great humorist a few weeks ago whose wife could not get off cocaine. She finally killed that humorist and then took her own life and left two small children. That is the story of drugs, the tragedy of drugs. The other side is saying that we have a bitter pill here: We are trying to destroy a tobacco bill. Quite the opposite: We are trying to make it a good piece of legislation that truly does something against this phenomenal drug culture in our society. That is what we ought to be debating. Those are the real issues.

Let me give you some fascinating statistics. Young people are young people, and for those of us who are now adults, but, more importantly, for those of us who have raised teenagers, we know a lot more about kids than we used to know, especially if we have raised our own. We know that if you put a challenge against them, oftentimes they will meet the challenge. Well, guess what? The American public knows that, too. And so when they were recently asked, just in the last week, in a nationwide survey—not funded by a tobacco company, funded privately—the question was asked: Which of the following do you believe is the most responsible for young people initially beginning to smoke? Ten percent of the American public said Hollywood, television, popular culture.

You know, it is true. When that handsome or attractive television star or movie star walks out in prime time with a cigarette in their hand, that is cool; that is something, those viewing say, I ought to do. Yes, when President Clinton said he didn't inhale and then later on MTV he jokingly said he might have on a second try, guess what happened? Marijuana usage amongst teenagers bottomed out and headed up, because the leader, the icon of America's culture, kind of shrugged it off as no big deal. But the tragedy of no big deal is that, step one, marijuana smoking leads to step two, a search for cocaine, which can lead to death. The numbers have dramatically changed during this administration. I am amazed that they aren't out on the front line with us attempting to lead a war against drugs.

Well, back to the question: Who most influences young people to initially start smoking? Thirteen percent say the parent example—in other words, a power figure, an important figure in your life. If your parents smoke, you are likely to smoke.

The tobacco industry and their advertising—if you listened to the debate from the other side on the floor, you would be convinced that they alone caused 3,000 kids a day to start smoking. The American public says that maybe 6 percent of the cause is laid at the feet of the tobacco companies. I am not going to let the tobacco companies off. Yes, we now know that they targeted young people by their advertising, and that is wrong, and we ought to try to stop that. But the public knows that it didn't work that much.

Guess what. No. 1 factor: 59 percent say influence of peers and friends. If you have ever raised a teenager, you know that that is absolutely correct. It is the pressure of those whom they associate with, those whom they go to school with, those whom they play with; that is the real influence. If the friend is smoking, then there is a great pressure for you to smoke. Worst of all, if the friend is using drugs and thinks it is cool, and you are in that group, as a teenager, there is phenomenal pressure on you to go along, to be cool, to be part of the crowd.

Well, the statistics go on. But, most importantly, the American public has not been fooled by the rhetoric on the floor from the other side that somehow this massive tax increase, this massive expansion of Government programs, is somehow going to stop teenagers from smoking and make the world a safer and healthier place, because when they were asked, in this same poll, basically what the impact of this legislation would do and what it really was, 57 percent of them said it was a massive tax increase and a major increase in Government. And then they asked the question about raising the price of a pack of cigarettes by better than double—$2.50 when everything is added in at the furthest extension of the bill—is that more likely or less likely to stop teenagers from smoking? Sixty-seven percent of Americans said it was less likely. Strangely enough, Mr. President, if you do the math and you raise cigarettes to that amount, all of a sudden marijuana becomes less expensive in a relative sense. Kids are paying three times or four times the price of tobacco for a joint of marijuana. Yet, we are being told that if you just jack up the price somehow they quit smoking. Yet, marijuana usage in a 30-day period in this last month of May was up 157 percent amongst eighth graders. It sounds like a lot of spendable income to me. Yet, that is not taken into consideration.

So my colleague from Georgia and I said that somehow we have to change this. We have to work with our colleagues here in the Senate to change it. How long can we go with these figures and statistics and death rates smacking us in the face and saying it is not a problem, it is not a problem if 14,000 young people die directly or indirectly related to drugs on an annual basis? That is a national crisis by any definition deserving a national effort of magnitude against it. That is what the Coverdell-Craig amendment does.

As my colleague from Georgia was speaking and talked about doubling the interdiction budget for U.S. Customs, doubling the interdiction budget for the Coast Guard—in other words, ships out of mothballs and back in the water—the Department of Defense put some effort there because they have been pulled back. As my colleague from the State of Idaho who is chairing at this moment knows, we have seen a major effort out in our State with drug-free communities and a drug-free neighborhood effort. We help there. While that has been a marvelously successful voluntary effort bringing in business and educators in our State, we help them out by some block grants giving flexibility to do more in the local communities by millions of dollars nationwide to encourage the successes in Idaho and other communities to have those successes across the board everywhere. Does it make a difference if national leaders and local leaders and State leaders are standing up telling their young people not to get involved in drugs? You bet it does. Our First Lady, Nancy Reagan, was oftentimes joked about because she said "just say no." Yet, because she was and is a national leader and a national image of great respect, the young people responded.

There is value in saying no and not shrugging it off and laughing and saying, "Maybe I ought to have tried to inhale." But it is very important that leaders of this country say no.

Our legislation helps leaders at the local level and the State level say no. Why should teenagers convicted of drug crimes or associated with drug purchases have a driver's license? If you are caught drinking at an illegal age in the State of Idaho, you don't have a driver's license. Shouldn't it be the same? Our bill provides for that incentive, and it ought to.

But the real arena is our schools. This legislation makes allowable the use of Federal funds to provide school choice for grades K through 12 for students who are victims of school violence related to drugs, and includes drug-related crimes, creates incentives for States to provide an annual report card for parents and teachers listing incidents of crime. In other words, it lifts the awareness of drugs in the community and in the school system to get parents involved along with their educators to build a drug-free school environment. That is what we ought to be talking about—and a smoke-free environment. Let me add that. That is important, too, because we want to get kids away from tobacco.

The thing I fear most in all of what we do or may not do is that we are hiding in the myth that has been perpetrated by some, including the former Director of the Food and Drug Administration, that if you just jack up the price of a pack of cigarettes the problem goes away. Yet, every nation that has tried that in the past—and Canada is a perfect example—lost their market because the market went into the black market. When there is a desire in the public arena for something and you restrict the ability of the public to get to it, they will find a way. Thirty percent of the sales in Canada went into the black market. They had to lower the tax to get the sales back to control the product.

My point is very simple. If we do that in this country and 30 to 40 percent of tobacco and cigarette sales move into the black market, then that cool dude on the street that is selling your kids marijuana or cocaine is going to open his coat and say, "Oh, you can have some cigarettes, too. I am your local cigarette vendor, but I also have marijuana and cocaine. What is your choice?" Wouldn't that be a human tragedy if that is what this legislation, S. 1415, results in?

I am not saying that is the intent. I am saying that is how the market reacts. The statistics and facts show that in Canada, in Europe, and in Germany, that is exactly what happened. Yet, we are so naive to think you just jack up the price as high as you can possibly get it. Oh, sure, you are going to get hundreds of billions of dollars from the lower income, 30 percent of the socioeconomic scale of this country, and you are going to spend that in all kinds of programs. The trial lawyers are all going to get billions of dollars. But what about the kids? What about the kids?

You can't tell the tobacco industry to quit advertising without their consent. It is something called the first amendment in our country. They said they would voluntarily do that if we would control this a little bit. This Senate has chosen not to do so. So we will not get their consent. They will not become involved. But the great tragedy is our kids will be the victims still. While it may curb a few of them from smoking, we are silent—deathly silent—to the issue of drugs.

I am extremely proud to stand on the floor today with my colleague from Georgia to offer the most comprehensive anti-teen-drug amendment, to my knowledge, that this Senate has put forward. I don't plead with my colleagues from the other side. I challenge them to get aboard, to quit looking at the dollars and the political game being played, and come with us into good, effective public policy that mans the front lines once again in the war against drugs, that allows national leadership and State and community leadership to unite to say that perpetuating a drug culture among teenagers of our country is an evil we will not tolerate. That is what our amendment does so very clearly.

So to the other side, don't call it a bitter pill. How dare you? I don't blame you for being embarrassed about the President's record. The country ought to be. But we don't have to live with that record. We can walk beyond it. This amendment allows that to happen. This is not a bitter pill, nor is it a placebo. It is the beginning of a major and comprehensive effort to deal with the reality of our time. That is that there is the growth of a drug culture in our society that is killing America's youth in greater numbers than we ever dreamed possible. It is time that we stop it.

Mr. COVERDELL. Mr. President, will the Senator yield?

Mr. CRAIG. I would be happy to yield.

Mr. COVERDELL. There are so many numbers that we talk about here. We often talk about how complicated it gets. But when the Senator talks about the magnitude of this issue, I think there are two figures that have been spellbinding to me, and it fits so much with what the Senator is saying.

What all this means is that today one in four—that is 25 percent—of high school students are using drugs now regularly—one in four. Most of them are smoking it. They smoke it. But they say it is not relevant—1 in 10 junior high schools students. When the Senator was talking about the number of students that are affected by this, the number of deaths, 25 percent of the high school population in the United States and 10 percent of the junior high population in the United States.

I just wanted to make that point.

Mr. CRAIG. The last 30 days, 8th, 10th, 12th graders, using marijuana, up on the average of 100 percent. That is a dramatic figure that you speak to.

Out in my State of Idaho—rural, big public land State—two major raids last year of huge magnitude, to interdict marijuana, and still it remains, by everybody's figures—and we don't have those figures—the No. 1 cash crop in this country being driven by this huge market in this country. And that is in this country. And we are not getting that, let alone getting the huge flow of cocaine and heroin coming in from the outside along with marijuana, 70 percent of the flow across our southern borders.

The Senator from Georgia dealt with that with greater money for Border Patrol and interdiction. When we look at what is going on in Mexico today and their attitude in relation to this, it is a huge money machine for them, and it permeates down through their system, and it corrupts it. And it will corrupt ours, because there is the constant effort to corrupt. So that those who are of the profiteers can gain access through to the innocent, the children.

I thank my colleague from Georgia for his effort and his energy in this area. He brought my attention to this issue, and it was obvious to me in a very short time that we had to deal with this. We will be back, successful or unsuccessful here. This is something I think neither of us will rest on until we have a much clearer, stronger public policy in this area and we engage our Government in probably one of the most significant wars—against our very culture and our people, our young people, our future—that we have ever seen before.

I thank my colleague, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, working off the remarks of the Senator from Idaho, which I appreciated very much—not only his cooperation in joining in the amendment in the first place but the energy and intellect that he has brought to the discussion since that time—as he was talking, I was reminded of a meeting that occurred, probably, now, some 2 years ago.

I was encouraged to stop by a female youth detention center in the middle of my State. I really didn't expect that much from the meeting, but they gathered about 20 of the inmates. Their ages were 12 to 16. They were each given the assignment to tell about their own experience and what happened. As they walked—I was quite taken with the courage. It is not an easy thing. First all, the circumstances were pretty rough; and then they have to sit there and talk about it. But they did. They walked around the room. They were in the detention center for prostitution, assault and battery, attempted murder, car theft—and you name it—all related to an addiction to drugs. All of it.

It was very moving, the damage and their realization of it. I asked them, in the meeting, if they could say whatever they wanted to say to the rest of the youth of the Nation, what would they say? Really quite remarkable. They all said essentially the same thing in different ways. They said, "Don't use drugs. Do not believe you can control them"—which is the point my colleague was making. "The drugs will control you. And do not use drugs to be anybody's friend, because if somebody is encouraging you to use drugs, they are not your friend." They all had a sense of how dramatically their lives had been changed. One young girl said she was afraid to leave the institution; she just knew she was going to have difficulty breaking away from it.

Cigarettes are a tough problem. But there isn't anybody in a youth detention center over it.

Mr. President, as has been stated here repeatedly, this amendment is a very bold statement about what this Nation is going to do about drug use. I am not going to name the individual here I was talking with several months ago. Suffice it to say, the individual was the head of one of our Nation's most powerful agencies. I said, "Are we guilty of just taking on this drug epidemic in a kind of day-to-day, you just kind of keep the wheels turning, but have been unable to understand, as in the Persian Gulf, that this Nation needs to be bold and forceful and come down on this with a hammer?" He paused for a moment, and he said, "We are guilty. We are not paying enough attention. We are not getting bold."

That makes all those men and women out there on the front lines—two of whom were killed a couple of weeks ago, overwhelmed at the border, shot and killed. All those people out there—I am not talking about the teenagers for a moment, but the people trying to help them—get the feeling that we don't care. I am sure the debate they have listened to here on this amendment has not encouraged them: "This is not relevant." This is relevant. This is destroying lives as we stand here and talk. The chance of recovery once the addiction occurs, once somebody is on this stuff—getting them off of it is murder. Our best shot is that they don't get on it in the first place.

So, yes, we need advertising to dissuade people from smoking. In fact, we have been doing a lot of that. This Nation has improved the statistics about tobacco. All of you have seen it. You walk outside, in this new culture, and you see a gaggle of people outside the building smoking in front of the building. When you walk into a restaurant, we just take it for granted, but the hostess says, "Smoking or nonsmoking?" The flight attendant says, "This is a no-smoking flight." Everywhere we go, in our culture, we are beginning to get a message: Tobacco is not healthy.

We are making progress, and we should continue doing it. And I do not fault the underpinnings of the bill to improve the advertising. But it is flawed thinking, to think we can go to the Nation and say it would really help teenagers, and we would have been silent on the No. 1 addiction problem and the one that is undermining our society, the one that is so difficult to correct, if somebody does get snared on this.

One of the provisions in this amendment gives Customs the authority to, up to 5 percent of their force, be able to move it, irrespective of collective bargaining agreements. There is a flurry of worry on the other side because of that. Why is this language in the amendment? Because Customs has to have the authority, from time to time, to alter the nature of who is present at a point of entry. They have to mix it up. So, we have this amendment which—as I said, it is limited up to 5 percent, to give them some flexibility to be able to maneuver who is at a given post at a given time.

It is almost as if every NEA, Fraternal Order of Police, lets them dominate this war. For heaven's sake, we don't want a rape victim to be able to be moved or someone who is a victim of a drug crime, we don't want to give a school district the ability to move that student to a safe-haven school.

Mr. President, I am going to take a few minutes and describe in more detail exactly what the amendment does.

No. 1, it stops the flow of drugs at our borders, and it doubles the resources for U.S. Customs, doubles the resources for the U.S. Coast Guard and doubles the resources for the Department of Defense. It also increases the antinarcotic capacity of the FBI by 25 percent and the Drug Enforcement Agency by 25 percent. In other words, I am responding to the gentleman I talked to a moment ago. It is a bold statement. It responds to what the admiral, who I quoted, said, that the Nation doesn't have the will to fight this battle. This says the Nation does have the will and is going to fight it. Then the accountability will be up to the admirals. We are going to give them the materiel to fight the fight, and then they better win it.

It strengthens the civil and criminal penalties for Customs violations and doubles the number of border agents by the year 2003.

It protects our neighborhoods and schools from drugs.

It has a title dealing with drug-free teen drivers, providing $10 million per year in grants for States that institute voluntary drug testing for teen driver license applicants and for States that enact and enforce laws that crack down on drivers who use drugs. Only five States do that, Mr. President. Only five States have expanded DUI to drug driving. So this legislation encourages an expansion of drug driving.

Drug-free schools: It makes it allowable to use Federal funds to provide compensation and services to K through 12, kindergarten through high school students, who are the victims of school violence, including drug-related crimes. It creates incentives for States to provide an annual report card to parents and teachers listing incidents of school violence, weapons possession or drug activity, and makes voluntary random drug testing programs an allowable use of Federal funds.

The drug-free student loan provision: It restricts loans for students convicted of drug possession, 1 year for first offenders, 2 years for second offenders and indefinitely for third. It restricts loans for students convicted of drug trafficking, 2 years for first offenders and indefinitely for second offenders. It resumes loan eligibility on an expedited basis for students who satisfactorily complete a drug rehabilitation program that includes drug testing.

Drug-free workplace: It authorizes $10 million per year in SBA demonstration grants for small- and medium-size businesses to implement drug-free workplace programs and provides technical assistance for businesses through SBA.

Drug-free communities: It authorizes $50 million per year to encourage communities nationwide to establish comprehensible, sustainable and accountable antidrug coalitions through flexible matching grants, and it allows up to $10 million of these funds to be used each year to encourage the formation of parent-youth drug prevention strategies.

Mr. President, there is data that strongly suggests that if parents talk to children about the drug issue, the chance of their children becoming users are cut in half—cut in half. But if you ask students by survey or in person whether they are talking to their parents about these problems, they are not. Only about 10 percent of the knowledge that students learn about drugs are coming from the parents. That dialog is not occurring, which also explains why what parents think about the drug epidemic is different from what children think, and children are far more knowledgeable, unfortunately, about the drug epidemic than their parents.

The other day I mentioned one statistic of, "Do your children know someone who uses marijuana?" The percentage of parents who think that is the case is 20 percent. When you ask the students, "Do you know someone who smokes marijuana?" Yes, over 70 percent. There is a disconnect out there, and that disconnect is hurting us. That is what this provision is meant to get at. We have to get parents talking to their children.

One of the ads being used now from the drug czar's office shows a little girl sitting at a desk, and she is being talked to by a voice. The voice says: "There is a pack of matches there. Do you use matches?"

The little girl says, "Oh, no, they are dangerous."

"How do you know that?" the voice says.

"My mommy told me so."

Then they say, "Well, are drugs dangerous?"

And the girl just sits there and looks at the camera. Inference: Mommy is not talking to the little girl about drugs.

These provisions begin to highlight this dialog.

Ban free needles from drug addicts. This has been very controversial, a dispute in the administration, the drug czar's office arguing there should be no needle exchange program. It almost came about, but the drug czar caused a change.

I was given this pamphlet earlier this afternoon. It is published by the Bridgeport Needle Exchange Program of Bridgeport, CT. This is the kind of thing that a needle exchange program would move toward.

The brochure says: "Shoot smart; shoot safe. Tips for safer crack injection."

I have to tell you, Mr. President, the Federal Government should have nothing to do with anything associated with this kind of activity.

"Get your stuff ready. Have a cooker, water, syringe, citric or ascorbic acid, cotton or alcohol wipes ready."

It is your ABCs on how to use a needle. It goes through every step.

"Get a vein ready. Tie off a good vein and clean with alcohol wipe. Never share a syringe or cooker."

Just all your tips.

This legislation makes it absolutely clear that there will be no needle exchange program. It would be banned, and it ought to be.

As I mentioned a little earlier, the Drug Enforcement Agency would receive an antinarcotic budget increase of 25 percent. The Federal Bureau of Investigation would receive an increase in the drug enforcement budget by 25 percent. It would require the registration of convicted drug dealers and provides $5 million per year in incentive grants to States that require convicted drug dealers who target kids to register with local law enforcement.

That is the nuts and bolts of the amendment that we are discussing this afternoon, an amendment that has been criticized as being not relevant to the subject or issue.

From the outset, I have been stunned that this legislation would be silent on teenage drug addiction. Myself, Senator CRAIG and others decided that could no longer be the case.

If we are going to talk about teenage addiction, we have to simply make sure that in the center of this debate is the subject of teenage drug abuse. Why? Because teenage drug abuse is the No. 1 problem—No. 1—because it is costing our society $67 billion a year; because it has resulted in 800,000 U.S. prisoners in jails, in prisons, State and Federal; because it has caused, and continues to cause on a daily basis, the most violent, hostile attack on our citizenry and its property.

As bad as smoking a cigarette is, it does not cause a mind to pick up a gun and murder someone. But drug abuse does. That is why we have seen this surge of violent crime among our youth that everybody is so alarmed about—drug based. And as we have wondered about the increase in mindless crime, just senseless and brutal—drug based. Drugs alter the mind, and they cause inexplicable activity and hostility that the rest of society bears the brunt of.

Relevant? You bet. And this Senator, for one, any time you talk about teenage addiction, which I am glad we are talking about, we are going to talk about drug addiction because it is part of it. And it is smoke driven, the only difference being that it is five times as dangerous to smoke this stuff as to tobacco.

Mr. GRAHAM. Mr. President, at this point in the debate, it is appropriate to ask one very simple question: Why are we here? Why have Members of the Senate spent months of their time focusing on this issue? Why, with a busy schedule, and few legislative days left this year, are we occupying the Senate's time with this bill?

The answer to this question is equally simple—the most important thing the Senate can do this year is to make significant inroads in cutting youth smoking.

If you accept this simple premise—that the goal of a tobacco bill should be about reducing teen smoking, then the decision on how to vote on the Coverdell amendment is clear. The amendment should be opposed.

Mr. President, let me be perfectly clear. I support increased appropriations for drug enforcement and drug interdiction. I represent a State that has experienced major crises related to drug trafficking and drug use. And I know better than most, as a member of the Senate Caucus on International Narcotics Control, the importance of fighting the scourge of drugs in America.

Last year, I joined my House colleague and fellow Floridian JOHN MICA in establishing a new High Intensity Drug Trafficking Area in Central Florida. I was also an original co-sponsor of the Drug Free Communities Act. I have co-sponsored a bill with Senator GRASSLEY that will establish a national strategy to attack money laundering. I have fought to increase funding for our counternarcotics efforts time and time again.

Just next week I will be holding a field hearing in Miami on the current interdiction efforts in the Caribbean. I know how serious the drug threat is, and I have been and will be committed to doing whatever it takes to keep drugs away from our children.

I support many of the measures in the Coverdell amendment. And if the United States Senate ever gets serious about addressing this issue, perhaps funding these measures through general revenues, I would support them wholeheartedly.

In fact, we will have an opportunity to vote on an alternative which addresses the drug problem by authorizing funds to increase the number of border patrol agents, Coast Guard officers, and money for the Department of Defense to increase interdiction. And we will be able to augment these programs without gutting anti-tobacco efforts.

Mr. President, let's stay focussed, stick to the purpose, and send a message to parents right now that we are serious about reducing teen smoking.

If we adopt the Coverdell amendment, here's what happens: five million smokers will not receive smoking cessation services. Those who argue that the tobacco taxes are regressive should remember that cessation and other public health programs are targeted toward helping those who will actually pay the tax.

Over 20 million children will not receive the benefits of effective counter advertising to discourage them from taking up the deadly habit of cigarette smoking.

Fifty million children will not participate in school-based prevention programs.

States will not have the funds to develop their own anti-smoking programs which are so vital in protecting our children.

We will not have the benefit of future biomedical advancement through increased funding for NIH research.

In addition, we have solid scientific evidence to suggest that if we stop kids from smoking, they may never take up the use of illicit drugs, such as cocaine and marijuana. This "gateway effect" has been well documented.

Let's look at the findings of the Surgeon General's 1994 report, "Preventing Tobacco Use Among Young People"—ninety-eight percent of all cocaine users smoked cigarettes first.

Among 12 to 17 year olds—those who smoke are 114 times more likely to use marijuana and 32 times more likely to use cocaine.

By contrast, less than one percent of those children who never smoked end up using cocaine or marijuana.

Mr. President, if we are interested in cutting drug use among our children, we should pass this tobacco bill now, and leave the funding to States and public health intact, and then come back and fund the real anti-drug initiatives in the Coverdell proposal and the Democratic alternative amendment. There is simply no reason why we cannot and should not do both. Our kids are worth it.

This is simply the greatest opportunity, and perhaps our only opportunity to take a huge step toward reducing youth smoking. This bill is our best chance to have a significant impact on the Nation's public health. We shouldn't blow it.

Mr. President, those who attempt to gut this bill through funding extraneous programs—are going to be on the wrong side of history. For all of these reasons, I urge the rejection of the Coverdell amendment.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I be allowed to proceed for the next 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. CHAFEE. Mr. President, I rise today to say a few words about the Transportation Equity Act for the 21st Century, otherwise known as the ISTEA reauthorization legislation. This was passed by the House and Senate on May 22, and the President will sign this historic legislation into law later this afternoon.

In the rush to finish the conference before the Memorial Day recess—and I know the Chair remembers well the frantic hours that were taking place then—and during our subsequent efforts on the technical corrections bill to this overall legislation, I did not have an opportunity to speak about what was accomplished in this important bill. I also want to take this chance to thank the many people who were involved in the effort.

First, a word about the legislation. It is the result of over 2 years of hard work and careful negotiation. But I think the final product is better for the extra time and effort that was put into it.

This legislation builds upon the landmark achievements of the so-called first ISTEA legislation, which stands for Intermodal Surface Transportation Efficiency Act. That was in 1991. Senator MOYNIHAN of New York was chairman of our committee at the time, the Environment and Public Works Committee, and was, I think it is fair to say, the principal author of that landmark legislation in 1991.

Now, how is this bill historic? And how is it different from the 1991 legislation?

First, and most obvious, ISTEA II, or sometimes called the Transportation Equity Act for the 21st Century, authorizes a record amount of funding for surface transportation: almost $218 billion for highway and transit programs over the next 6 years.

Of this amount, almost $174 billion will be for highways—that includes bridges, obviously—$3 billion is for highway safety programs, and $41 billion is for transit programs.

Now, $205 billion of these funds are authorized from the highway trust fund, and $13 billion from the general fund. In total, the funds provided in the conference report represent a 40 percent increase over the last so-called ISTEA legislation—40 percent increase.

We will provide these record funding levels in the funding guarantee within a balanced budget. I think that is terribly important to remember, Mr. President. We are not increasing the Federal deficit, despite some of the statements that have been made in the various news media.

For achieving these record funding levels for the highway program, Senators BYRD, GRAMM, WARNER and BAUCUS deserve special recognition, as well as Congressmen SHUSTER and OBERSTAR from the House. All of those Members fought long and hard to ensure transportation would receive substantial increases over the original ISTEA legislation.

I know that the sums in this bill are large, and the press reports sometimes imply we spent too much, but I think we have to put all this into context.

The bill authorizes, indeed, $218 billion. And I must say, that is a lot of money, as we all recognize. It is over 6 years. As I said, this represents a large increase over ISTEA I of 1991.

However, and I think this is an important point, only about 30 to 40 percent of the total projected spending for highways and transit by all levels of government is encompassed in this legislation. People come up to me and say, well, isn't that a lot of money to be spending on transportation—that is, highways, bridges and transit—over the 6 years? Yes, it is a lot of money, but you have to realize it only represents about 30 to 40 percent of the total projected spending that will be done.

Where does the other spending come from? It comes from counties, it comes from States, it comes from cities that are doing things on their own.

In addition to record authorization levels, this legislation made significant changes to the way we budget for transportation at the Federal level. This legislation changed the budgetary treatment of the highway trust fund following the model set forth in a bill first introduced by Senator BOND, which I was pleased to cosponsor and work on with him, the so-called Bond-Chafee legislation.

This bill ensures that all Federal gas tax revenues deposited into the highway trust fund are spent on transportation programs. In effect, this bill reestablishes the linkage between the highway trust fund taxes and transportation spending that was envisioned when the highway trust fund was created. If future revenues to the highway trust fund increase, then under this legislation the highway spending will increase; and, of course, it works the other way, likewise. If the amount going into the highway trust fund from the various taxes—principally the Federal tax on gasoline—decreases, then highway spending, likewise, will decrease.

Now, using Congressional Budget Office projections, $198 billion of the total funding for highway and transit programs will be guaranteed under the new budget mechanism we have. Of the $198 billion, $162 billion is for highway and highway safety programs and $36 billion is for transit programs. It is important to note that this historic change which reestablishes the linkage between the trust fund moneys and trust fund spending was all accomplished within the balanced budget framework. We will keep the highway trust fund on budget as part of a unified budget and we will offset the increased spending with spending reductions in other programs.

I want to thank Senator BOND for his tireless work on the so-called Bond-Chafee proposal, which provides the underlying foundation for the budget reforms we implemented in this legislation. I thank the cosponsors of the Bond-Chafee proposal for their input. I also want to thank Senator DOMENICI and his staff for their work throughout the year and for their help in crafting the final budget mechanism that will become law later this afternoon.

I believe the original ISTEA was a landmark piece of legislation. I have said that many, many times. However, it is true that in the 1991 legislation there were some shortcomings, particularly for the so-called donor States. These were the States that put in substantially more into the trust fund than they got back. The original ISTEA established a 90 percent minimum allocation program which was intended to guarantee that each State at least got back 90 percent of what that State put into the trust fund. The problem was that it didn't work. The 90 percent only applied to some of the programs and wasn't structured mathematically to achieve its goals. The old minimum allocation calculation applied to fewer than 80 percent of the programs, leaving some States to receive a percentage share that was equal to 70 to 80 percent of their share of contributions. In other words, a program that was designed to make sure that every State got back at least 90 percent failed. Indeed, some States were left with between 70 plus up to 80 cents back on the dollars as opposed to the 90 cents.

In this legislation, thanks to the leadership of Senator WARNER and others in the Senate, tremendous efforts were made to guarantee that each State would get back—at least originally, we sought 92 percent. We weren't able to achieve that under the formula, but we did come up so that every State got back 90.5 cents for every dollar that State put into the trust fund, at least. So the donor States were put in far better shape than they previously had been under the old former legislation.

Other members of the Environment and Public Works Committee who played a key role in achieving this result were all very, very helpful. In addition, we had Senators who were not on the committee who were very anxious about the program. Senators ABRAHAM, LUGAR, COATS, MACK, GRAHAM, and LEVIN were diligent in their efforts to see that their States got back at least the 90.5 cents.

Another area where ISTEA broke with the past is how priority projects, otherwise known as demonstration projects, are treated. I realize that these projects are viewed by some just like the demonstration projects of the past. However, I think the way we dealt with them in this legislation was somewhat different. First, the special projects, demonstration projects in this bill, did receive an amount of attention that was far out of proportion to their dollar significance. The high priority projects similar to those in ISTEA I only received 5 percent of the total. If you read the newspapers, you would think they were consuming 40 to 50 percent of the total. Not at all. These special projects received 5 percent of the total. In the original bill, priority projects were treated as mandatory spending, exempt from the appropriations process. In this legislation, priority projects are discretionary spending, subject to the obligation limitations in the appropriation process.

Third, under the former bill, ISTEA I, priority projects were always funded at 100 percent of their authorized level. In other words, priority projects were not reduced when the total authorization went down. However, in this legislation, these projects were treated as the same as the other core projects, taking their share of any reduction caused by a shortfall in final appropriations. If the total amount goes down, the special projects go down, likewise.

We made a sincere commitment to safety in this legislation, recognizing that more than 40,000 Americans die and 3 million are injured in highway crashes every single year in our country. This is a tragic effect for millions of American families. We recognized these statistics and included a variety of initiatives to address this terrible problem. We increased the Federal commitment to improve roadway safety, providing more than $6.6 billion for highway safety programs; $3.6 billion of that will be available for safety construction, efforts aimed at eliminating road hazards and improving safety at rail-highway grade crossings. We provided a little over half a billion in incentives to States to promote seatbelt use. Seatbelt usage is by far the most important step that vehicle occupants can take to protect themselves in the event of a crash. We provided half a billion in incentive programs to encourage States to adopt tough .08 blood alcohol concentration standards. This is something that Senators LAUTENBERG and DEWINE worked very, very hard on. I want to recognize their efforts.

Under the category of innovation, we recognized we must maintain the strength of the transportation system we have in place but we have to provide new tools to address new problems and supply new solutions. We have to look at ways to finance our substantial infrastructure needs, evaluating the potential of new methods to design and build infrastructure more efficiently so we have innovative financing provisions, the so-called Transportation Infrastructure Financing and Innovation Act. That is a mouthful. It is also known TIFIA. I want to thank Senators GRAHAM and MOYNIHAN for their leadership on that important provision.

As far as intelligent transportation systems go, this is a forward-looking initiative. We have to make the most efficient use of our existing highways. We provide new options for transportation planners to address safety and capacity concerns. The objective is to move more vehicles in a safer fashion over the same amount of highway that exists—not expand the highways, just move more vehicles along the existing highways in a safe fashion.

The environment received great attention in our legislation, and, I might say, so did ISTEA I in 1991. But we continued that. Indeed, we increased funding for the Congestion Mitigation and Air Quality Program. In other words, where congestion arises, we took efforts to mitigate those problems and the reflections that that congestion has upon our air quality.

We boosted funding for the Transportation Enhancements Program. We increased that by 38 percent over the prior legislation of 1991. So States can use these funds for what we call transportation enhancements, such as bicycle and pedestrian facilities and historic or environmental preservation projects.

We initiated a wetlands banking system to mitigate transportation's effect on wetlands. When we build new roads, all too often wetlands are affected. We want to promote wetlands restoration.

We did that by making wetlands restoration a profitable private enterprise.

We reauthorized and amended the Aquatic Resources Trust Fund, which provides about $350 million annually to States throughout the Nation for sport fish restoration and boat safety programs.

So these are some of the things that we did. We had environmental streamlining. We held the line on administrative expenses. We added a design-build system for contracting. Current law doesn't allow the use of the so-called design-build concept in highway construction. The design-build concept combines the design and construction phases of a highway project, allowing projects to be built faster and at less cost to the taxpayer.

Mr. President, I will conclude by recognizing the tremendous efforts put forth in this legislation by the staffs and by the Department of Transportation. I want to thank Secretary Slater and Federal Highway Administrator Wykle for their time and effort on this bill and for making the full resources of the Department available to us. From the Department of Transportation, I thank specifically Jack Basso, Nadine Hamilton, Bud Wright and his staff, Tom Weeks, Bruce Swinford, Roger Mingo, Dedra Goodman, Frank Calhoun and his staff, Patricia Doersch, Bryan Grote, and David Seltzer. These individuals, particularly on the formula runs, were tremendously helpful.

I thank Secretary Slater for allowing Cheryle Tucker from the Federal Highway Administration to be detailed to our committee for 16 months to help us on this. I thank all the conferees from the Environment and Public Works Committee; all 18 were conferees. I think that was very helpful to me, and I believe it worked well. These members took hours from their busy schedules to listen to summaries of what was taking place and offered suggestions. I thank the chairman of the subcommittee, Senator WARNER, and the ranking member, Senator BAUCUS, for their efforts in getting this legislation up to the full committee.

Lastly, I would like to recognize the efforts of the Senate staff who worked so long and hard. Of course, I thank every single one of them. Particularly, I recognize the work of Jimmie Powell, who was just tireless, and a series of others who did such a good job. I am going to run over the names of some of those who worked on the reauthorization that I was particularly close with. Chris Hessler; Dan Corbett, of course, who was tireless and always present; Ann Loomis; Tom Sliter; Kathy Ruffalo, with Senator BAUCUS; Chris Russell; Gary Smith; Tracy Henke, with Senator BOND; Jason Rupp; Doug Benevento, with Senator ALLARD; Abigail Kinnison with the Environment and Public Works Committee; Al Dahlberg with the Environment and Public Works Committee; Linda Willard with the Environment and Public Works Committee; Ellen Stein with Senator WARNER; Chad Bradley with Senator INHOFE; Chris Jahn with Senator THOMAS; Gerry Gilligan with Senator SESSIONS; Rick Dearborn with Senator SESSIONS; Arnold Kupferman with Senator MOYNIHAN; Polly Trottenberg with Senator MOYNIHAN; Liz O'Donoghue with Senator LAUTENBERG; Kirsten Beronio with Senator LAUTENBERG; Drew Willison with Senator REID; Melissa White with Senator GRAHAM; Tim Hess with Senator GRAHAM; Joyce Rechtscheffen with Senator LIEBERMAN; Christopher Prins with Senator LIEBERMAN; Rob Alexander with Senator BOXER; Joshua Shenkmen with Senator WYDEN; Howard Menell with the Banking, Housing, and Urban Affairs; Peggy Kuhn with the Banking, Housing, and Urban Affairs; Joe Mondello with the Banking, Housing, and Urban Affairs; Loretta Garrison with the Banking, Housing, and Urban Affairs; Bill Hoagland with the Budget Committee; Brian Riley with the Budget Committee; Austin Smythe with the Budget Committee; Mitch Warren with the Budget Committee; Ann Begeman with the Commerce, Science and Transportation Committee; Charlotte Casey with the Commerce, Science and Transportation Committee; Clyde Hart with the Commerce, Science and Transportation Committee; Bob Greenawalt with Senator CHAFEE; Ashley Miller with Senator ROTH; Keith Hennessey with Senator LOTT; Carl Biersak with Senator LOTT; Janine Johnson with Senate Legislative Counsel; Peter Rogoff with Senator BYRD; Pam Sellers with Senator COATS; Steve McMilin with Senator GRAMM; and Dave Russell with Senator STEVENS.

They all were tremendous, and I feel bad if I left out the names of any of them. So it goes, Mr. President, without the help of these individuals, we plain could not have gotten this legislation accomplished. So I thank every one of them.

I thank the Chair.

Mr. President, I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I would like to return to a discussion of the bill that is currently before the Senate. I voted against cloture today, and barring some major shift in the direction of this legislation, which now, regrettably, appears unlikely, I will have no choice but to vote against cloture again tomorrow.

Mr. President, I have a keen interest in the pending legislation. I have three children, all now grown. No member of my family smokes now, and I hope they never do. In the Senate, we represent millions of parents who have the same wish for their children. There are thousands of Virginians who belong to the American Heart Association, the Virginia Cancer Society, the American Lung Association, Virginians who have fought for years against the scourge of smoking-related disease.

There are also, however, thousands of honest, hard-working, God-fearing, law-abiding, taxpaying Virginians whose lives and livelihoods would be dramatically affected solely by the actions this Congress may take on the tobacco issue. For example, there are thousands of Virginians who work to manufacture tobacco-related products, and thousands more who work in associated industries, like the dock-workers at the Ports of Hampton Roads, foil manufacturers, and filter makers. And there are the thousands of Virginia families who work the soil and grow tobacco, who face not only the uncertainty other farmers face regarding the weather and other uncontrollable forces, but must contend with the added uncertainty of what Congress may do to affect their lives.

In short, to an extent not shared by many of my colleagues I represent virtually every interest affected by this legislation. While some would argue that because I'm from a tobacco state I must be biased on this issue. I believe that because I'm from a tobacco state, I'm in a unique position to be objective. I'm willing to listen with an open mind to public health advocates, who want to protect the Commonwealth's children, but I'm also willing to listen with an open mind to tobacco workers and tobacco growers whose very livelihood is under attack. Indeed, I've worked closely with both the public health community and the tobacco grower communities—as well as the tobacco worker communities—whose concerns were not fully represented in the June 20 agreement.

I have believed from the outset that a resolution of the issues surrounding tobacco is in the best interests of all interested parties—children, the public health community, tobacco workers, plaintiffs, tobacco companies, tobacco farmers and their communities. I've said that from the very beginning and my position has not changed.

I still want very much to support comprehensive legislation that will address these concerns. Comprehensive legislation, however, must be reasonable. While by its very nature complicated legislation will not be perfect in any one individual's eyes, it must be fair and responsible. And indeed, it must meet its stated objectives. I have reluctantly come to the conclusion that as it now stands, this legislation has lost sight of its objective and will do more harm than good.

When we began this process of crafting legislative solutions to the problem of tobacco use among our children, we all understood it would not be easy. We knew that difficult and complicated issues needed to be addressed, and consensus would be hard to reach. But as I stand here today, I've become convinced that this effort has hopelessly faltered, tripped up by an unholy alliance of those who wanted to toughen the bill and those who wanted to kill it. We've lost our focus on our original goals. The lure of money to pay for both expensive tax cuts and federal programs, and the politics of punishment, have unfortunately proven irresistible.

We had, and regrettably for now we've lost, an historic opportunity to address underage tobacco use. While I did not agree with every element of the proposed resolution of tobacco issues that emerged with the original settlement agreement on June 20, 1997, I did see it as a chance to resolve many of the issues surrounding tobacco that have proven intractable in the past. The process of reaching the conclusion was not perfect, and there were parties who were not invited to participate, most notably in my view the tobacco growers and tobacco workers, to the extent their interests did not coincide with the companies'. But the framework for a resolution was there, representing compromise by the states, the tobacco companies, and the public health community.

A carefully crafted, moderate compromise, however, is no match for a hot political issue. Between those who focused on punishing tobacco companies, and those who focused solely on opposing a tax increase, we have a political free-for-all. And these two factions, one of which believes it is protecting the children and the other which believes it is protecting the taxpayer, have united to create legislation in its current state that has become unworkable, irresponsible and unlikely to solve the problem it is designed to address.

This legislation should be about developing a plan to stop children from using tobacco products. And I do not doubt the commitment of those who have worked so hard on this bill to achieve a reduction in youth smoking. In my view, however, the amendments to the underlying bill that we have adopted recently do not get us closer to that goal. To the contrary, they make the essential compromise unreachable.

It is clear that the advertising and marketing rules the FDA put in their regulations represented the outer limits of what the government could do to restrict speech without the consent of those being restricted. To entice consent from the tobacco companies to modify their speech, the bill contained a cap on the amount of money a consenting company could be required to pay during any one year. That cap did not shield any company from paying any judgment rendered by a court; it merely regulated the time period over which such payments would be made.

During the amendment process, we've witnessed the emergence of an unlikely coalition of those who seek to punish the companies and those who seek to kill the bill who teamed up to strip that provision from the bill, virtually ensuring that no company will consent to greater restrictions, and preventing us from further limiting the advertising and marketing practices of the tobacco companies which many have come to the floor to denounce. However gratifying that vote may have been for some, I believe that amendment moved us away from our objective to combat teen tobacco use.

I believe the absence of liability protection does even further damage to the goal of the legislation. Without some limitation on liability, a "Powerball" plaintiff could hit a jackpot with a lone jury and walk away with the keys to the company. If that occurs, the company's funds will not be there to spend in the public interest as elected representatives see fit, but will be spent however the winning plaintiff sees fit. No funds for counter-advertising, no funds for smoking cessation programs, no money for cancer clinical trials and, yes, no money for farmers. This is a perverse result, which may satisfy a short-term craving for revenge but will leave the programs we want to support starved for funding over the long-term.

A better approach, in my view, would be to eliminate punitive damages for prior bad acts in exchange for a substantial up-front payment by the tobacco industry. This approach would have the benefit of allowing those "punitive damages" to go toward the public good, rather than to plaintiffs and their attorneys who "hit the jackpot."

Without liability protection, a single runaway jury could wipe out a major U.S. corporation, without any corresponding public benefit except the satisfaction of some from "slaying the beast." But it would come at great social cost. It would destroy the jobs of those employed by those companies, and all of those in related jobs whose livelihoods depend on the company. And because there would still be a demand for cigarettes, other companies, both foreign and domestic, would simply step into the market and continue selling cigarettes, so there would be no guarantee of any perceptible public health benefit. I'm not convinced that this is the most rational course.

I'm also uncomfortable with the look-back provisions. The look-back provision sets up a performance standard, requiring certain goals of tobacco use reduction by minors. If those goals are not met, a strict liability scheme imposes penalties on those who manufacture tobacco products. While I certainly favor performance standards, I question their application when meeting the standard is not within the control of the entity charged with reaching it. Meeting the goals of the look-back provisions depend entirely on controlling the behavior of adolescents.

I'm not convinced that either the government or the tobacco companies really know how to control teen behavior, and while we should certainly try to develop methods of eliminating the use of tobacco products by adolescents, I don't believe we should assess damages against companies if those strategies don't work. The way the look-back provisions are currently structured, if the tobacco companies do everything this legislation requires them to do, and it doesn't work, they are still assessed damages, regardless of culpability. I believe this overestimates the power of the tobacco companies, because it requires companies to be responsible for the behavior of adolescents.

Finally, with regard to the tax increase on tobacco products, I'm not unalterably opposed to raising the price. In fact, I voted against the amendment that would have eliminated any tax from this bill. I have in the past supported necessary tax increases when I believed them to be in the national interest, such as the 1993 deficit reduction package which has helped spur the economy. But I believe we should think long and hard before levying a tax that disproportionately taxes those at the bottom of the economic ladder. If we determine that raising the price by $1.10 per pack is the only way to tackle the problem of teen tobacco use, then I believe we have an obligation to assess it. But given the uncertainty as to what will actually stop teens from trying to act like adults by smoking, it seems to me we should try other approaches first. A massive, regressive tax ought not be the first resort, it should be the last resort.

In its 1996 regulations, for example, the Food and Drug Administration indicated that marketing and advertising restrictions, and tougher retail enforcement, could cut teen tobacco use in half. While that estimate was likely overly optimistic, I think that we can expand upon the approach taken by the FDA to achieve the goal we all share. In the proposed rule, the FDA stated that "the agency has examined many options for reducing tobacco use by children and adolescents, and believes an effective program must address the two following areas: (1) Restrictions on cigarette and smokeless tobacco sales that will make these products less accessible to young people; and (2) restrictions on labeling and advertising to help reduce the appeal of tobacco products to young people along with requirements for a manufacturer-funded national education campaign aimed at those under 18 years of age to help reduce the products' appeal to these young people." I would prefer enhancing these proposals, and determining whether they can solve the problem, before assessing a major tax on adults. Since only 2% of the cigarettes purchased are used by children, I would place emphasis on a far more precise tool than a tax on the other 98%, unless such a tax is the only weapon left in our arsenal.

For example, I would like to focus more on requiring those children who smoke to accept some short-term consequences of the decisions they make, such as taking away their car keys.

This is the type of approach that would be a more exact tool. But it is not to say that I could not have supported some look-back provision, or some tax increase, so long as they were contained in an otherwise balanced bill and the proceeds targetted toward supporting and enhancing the objective. In fact, I agreed to serve on the tobacco task force to try to help develop a balanced approach that would solve the problem. I knew going in that no proposal would be completely to my liking, and I was prepared to accept some less palatable provisions as part of a workable package I could have embraced.

For example, although I've always believed the look-back provisions were not sound public policy, despite the support they had from the companies, as part of a fair and reasonable resolution, I could have supported this approach. I was willing to accept a certain level of variance from my ideal in the interest of accomplishing the objective. This legislation, however, has reached the point where the burden is too heavy and the variance too great.

I cannot in good conscience support legislation which places too heavy a burden on people I represent without some guarantee that their legitimate concerns would be addressed and without some certainty that the objective of reducing youth tobacco use would be met. All along, I've wanted to achieve the dual goal of reducing teen tobacco use and looking out for the economic well-being of the hard-working people I'm here to serve.

This bill in its current form no longer has enough emphasis on these objectives, which is why I now am not supporting it. An unusual confluence of those who want to punish the companies and those who want to kill the bill have shaped legislation which many of us who wanted a responsible bill can no longer support. I had hoped to come to a different conclusion about this process. I still believe that a properly crafted global settlement is in the best interest of those concerned about tobacco. A resolution of the issues that have dogged the tobacco industry for decades, if done correctly, would be good for growers and their communities, children, tobacco workers, the tobacco industry, smokers, non-smokers, and the public health community. The uncertainty that now surrounds these issues is good for no one.

Discussed rationally, I believe we could develop a solution that would address these uncertainties. On the floor of the Senate during an election year, as we all know, rational discourse doesn't always carry the day.

Mr. President, let me conclude by saying that I began this process with an open mind and a sincere belief that comprehensive tobacco legislation that could be both reasonable and effective in reducing smoking among our youth was in the best interest of all parties involved. I would have supported that legislation. But in the last three weeks, in amendments aimed at punishing tobacco companies, we have weakened the ability of this legislation to do what we all say we want it to do: reduce teen smoking. Again, this has been done by an unfortunate alliance of those who want a bill that's too punitive and those who want simply to kill this bill. In the end, I cannot support legislation that brings great and unnecessary economic harm on working people, and does not effectively achieve the benefit of preventing young Virginians—and young Americans—from becoming young smokers.

Mr. President, I yield the floor. I suggest the absence of a quorum.

Mr. KERRY. Will the Senator withhold?

Mr. ROBB. I withdraw my request.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me say to my friend from Virginia, I have great respect for his analysis and for the sober, introspective approach that he brought to this legislation. I must say I cannot disagree with him—that from, certainly, my perspective, there are one or two amendments that have been agreed to that may be a reflection of sort of a first-round fervor on the floor of the Senate. On the other hand, I am convinced that is going to change over the course of the legislative process. Some people have been trying to wish this bill dead for some period of time.

I think the Senator from Arizona and I would agree, this bill is not dead. This bill is going to continue to be fought out in the context of the Senate. I hope in the end the Senator from Virginia will find that, while he may not agree with what could still leave the Senate floor—and I believe the bill could still leave the Senate floor—if the Congress of the United States works its will in a complete way, it is possible that something could come back, ultimately, that the Senator may feel is better.

I also respect the Senator's particular needs with respect to Virginia. There are certain Senators here who obviously have a very particular problem they need to try to resolve in the context of this legislation. At the moment, there is not certainty as to that for the Senator. But I might say that might be also resolved as we go along here. So, I do respect his thinking on it. I appreciate his thoughtful approach.

Just so colleagues may have a sense of where we are and what we are doing, we do believe it may be possible within a short period of time that there would be a couple of votes. Our hope is to be able, though it is not yet guaranteed, to proceed forward with a couple of votes, conceivably one on the Coverdell amendment and then an alternative thereto, and then conceivably, first thing tomorrow, we may be able to deal with the issues of the Gramm amendment and a Democrat alternative to it.

So, even though things are not bubbling over with excitement on the floor itself, I think there is some quiet progress being made in some meetings behind the scenes. Hopefully, that will allow us to begin to break forward and set up something of a legislative agenda where we can begin to debate some additional amendments and, hopefully, proceed forward. That, obviously, will continue to depend on the goodwill of our colleagues and on the degree to which there is a good-faith effort to try to legislate rather than to procrastinate. Hopefully, within a short period of time we may be able to propound a request with respect to that.

I see the Senator from Wisconsin is on his feet and wishes to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I come here today to discuss an amendment to the tobacco bill and to highlight how tobacco companies have used court secrecy orders to deceive and endanger the American public. While secrecy orders may be justified to protect personal information or trade secrets, they all too often have been abused—especially by tobacco companies—to undermine health and safety. We need to strike a better balance and make sure this tactic can't be used to cover up future bad conduct.

Typically, tobacco companies—like many other defendants—threaten that without "secrecy," they will fight to conceal every document, and they will refuse to settle. They insist on making secrecy—or "protective"—orders a precondition to turning over documents and to settlement. And overmatched victims have no choice but to accept these demands, even though there is no legal reason why most of the documents should be kept under wraps.

While courts actually have the legal authority to deny requests for secrecy, often they do not—because both sides have agreed, and judges don't take the time to independently look into the matter themselves.

Over the years, we have raised this concern, citing several examples, including defective heart valves, exploding fuel tanks, and dangerous playground equipment. In case after case, people have been injured or killed by defective products that remained on the market while crucial information was sealed from the public light. This is not only wrong, it is also unacceptable.

There is no doubt that the most flagrant abuse of secrecy orders involves Big Tobacco. This tactic has served the industry in two disturbing ways. First, it dramatically drove up the cost of litigation by making every plaintiff "reinvent the wheel." As one tobacco official boasted, rather crudely, "the way we won these cases was not by spending all of [our] money, but by making that other S.O.B. spend all his." And secrecy orders helped them do it.

Second, secrecy kept crucial documents away from public view. The tobacco companies have used secrecy orders and attorney-client privilege to conceal all kinds of materials critical to public health and safety, including many relating to teen smoking and nicotine levels. Once these documents were released, public outrage compelled action. But if the public had this information earlier, we could have saved thousands of lives.

The underlying tobacco bill—which I strongly support—sets up a depository where tobacco companies are supposed to send current and future documents. But the tobacco companies have made clear that they will not cooperate. They'll just tie up this and other provisions in court, and the promise of a meaningful document library will literally be empty.

So the bill leaves a big, big loophole. In the future, tobacco companies could add new ingredients to cigarettes that pose health risks or make tobacco more addictive. And they will still be able to rely on secrecy orders to conceal these hazards from the public.

Our proposal will close this loophole. It is simple, effective and limited in scope. It only applies to a small category of cases, like tobacco, which involve public health or safety. Before approving secrecy orders, courts would apply a balancing test—they could permit secrecy solely if the need for privacy outweighs the public's right to know. In addition, the amendment bars any agreement that would prevent disclosure to the federal and state agencies charged with protecting public safety.

Mr. President, our proposal does apply to more than just tobacco cases, of course, and it should. We need to prevent others from copying the tobacco industry's tactics.

Bipartisan support for this proposal has grown over the years. Last Congress, it passed the Judiciary Committee 11 to 7. So if the tobacco bill moves forward, this proposal should be included.

But even if the tobacco bill goes down, we still need to address this problem. Because who knows what other hazards are hidden behind courthouse doors? So if necessary I will offer this amendment to another measure.

Today, a debate is raging about whether the President is hiding behind court orders and legal privileges. But when health and safety are at issue, there shouldn't be any debate at all. This is far too important. We need to learn our lessons from tobacco and take action to stop the next threat.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DORGAN. Mr. President, I want to speak just for a moment about the Patients' Bill of Rights that we have introduced in the Senate and that many of us in the Senate hope can be considered on an expeditious basis by the U.S. Senate.

The Patients' Bill of Rights is a piece of legislation designed to address some of the concerns we have about managed care. In many instances, health plans are denying patients the right to know all of the treatment options available for their not just the cheapest treatments available. The Patients' Bill of Rights would guarantee that right, along with the opportunity to understand your rights with respect to emergency care and a range of other rights that we believe should be inherent.

I want to tell the Senate another story, as we have done almost every day the Senate has been in session, that describes, again, the urgent need for passage of the Patients' Bill of Rights.

This is about a young woman named Paige Lancaster from Stafford, VA. In 1991, when Paige Lancaster was 11 years old, her mother took her to see her HMO pediatrician because she had complained of nausea and severe daily headaches for some long while.

For the next 4 years, Paige repeatedly sought medical treatment for headaches from two other HMO pediatricians available. They prescribed adult-strength narcotics but never once consulted with a neurologist nor did they recommend during all this time an MRI, CAT scan, EEG, or any other diagnostic test, for that matter, to diagnose Paige's condition.

Then in 1996, Paige's school counselor worried about this young girl's deteriorating high school performance. She recommended to the doctors that they perform some diagnostic tests to determine the cause of this young lady's debilitating symptoms.

Mr. President, 4½ years after the first visit by this child complaining of severe headaches, the doctors finally ordered an EEG and an MRI. The MRI revealed a massive right frontal tumor and cystic mass that had infiltrated over 40 percent of her brain. One week later, Paige underwent surgery to remove the tumor. However, the surgery was unsuccessful because of the tumor's size and maturity. Paige then underwent a second and third surgery and radiation therapy, and she is, we are told, likely to require additional surgery and ongoing intensive care.

What is so outrageous about this case is that the HMO covering Paige had in place a financial incentive program under which her physicians would receive bonuses for avoiding excessive treatments and tests.

This is not something new. We know of managed care organizations in which the contracts with the physicians require that, if a patient of the physician shows up in an emergency room, the cost of that emergency treatment comes out of the payment to the physician—an unholy circumstance, in my judgment, because it creates exactly the wrong kind of incentive for physicians.

In this case there is the same kind of incentive in reverse. The HMO had in place a financial incentive under which physicians would receive bonuses for avoiding excessive treatments and tests. Clearly, physicians should not prescribe excessive treatments and tests, but, just as clearly, physicians should not have to consider their own financial circumstances when determining whether they should prescribe a test.

The Lancasters, Paige's parents, challenged the HMO's handling of Paige's case, but, unfortunately for them, the insurance for their children was provided by Mr. Lancaster's employer and was subject to something called ERISA, the Employee Retirement Income Security Act. Under ERISA, the only available remedy to the patient is the cost of the benefit denied, in this case the $800 cost of the MRI. In other words, under ERISA, the HMO cannot be sued. The piece of legislation that we have proposed in the U.S. Senate, the Patients' Bill of Rights, would hold HMOs accountable by allowing patients to sue when their

HMO's coverage, or lack of it, has caused them harm. The bill will also require HMOs to disclose any financial incentives that might cause the HMO doctors to skimp on patient care. Any incentives that exist between the HMO and the doctor must be disclosed to the patients.

This young girl, Paige Lancaster, waited nearly 5 years for a diagnosis, one might argue, in part, because the wrong incentives existed between an HMO and a doctor. The incentives were about saving money rather than providing quality health care.

We very much hope we can get back to the notion in this country that practicing medicine ought to be done in doctor's offices and hospitals, not in the office of some insurance company accountant 500 or 1,000 miles away. It is our hope that we will be able to bring to the floor of the Senate the Patients' Bill of Rights because we think this country needs it. We hope the Senate can debate it and pass it in the coming weeks.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent to speak as in morning business not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELIZABETH "BETSY" DOWNS ENGELKEN

Mr. STEVENS. Mr. President, the other day, I had the pleasure of being invited to join my son Ben at the Blessed Sacrament School in Arlington to see my granddaughter participate in one of her first events at that school. I appreciated that opportunity because I had occasion to meet up with a friend, Elizabeth "Betsy" Downs Engelken, who has been a teacher there for some 20 years. We have something in common. She happens to also have a relationship to my granddaughter, because she is the mother of my son's wife, Elizabeth.

As Betsy retires after 20 years, I thought I would come to the floor and talk about this lady who has developed such creative teaching skills and has endless enthusiasm for the children with whom she works. She has a sparkling sense of humor, and it is really a delight to see what she has done working with the Diocese of Arlington for these past 20 years.

While she has been there, Betsy Engelken has developed unique talents to identify students that need special assistance and have learning disabilities. She has been a representative of the teachers on the school board and successfully initiated action to bring about additional recognition for teachers and pay increases.

She has worked on developing new techniques to find ways to bring children into the 21st century. She has brought them awareness of the new kinds of systems that they encounter as they go through school. But above all, I think she has really had a great impact on the many children she has taught because she has a real commitment to children.

So I want to share with my colleagues the joy I have had recently in terms of being able to participate in this event with my granddaughter Susan. And I also want to congratulate Elizabeth "Betsy" Downs Engelken for her years of commitment to the children of this area.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, as most Senators are aware, there is a signing ceremony at the White House at 5:30 on the highway transportation bill, so a large number of Senators will be there for that occasion. But we thought it was important we get a vote on the drug-related amendment this afternoon. So we have checked with parties on both sides.

I ask unanimous consent that a vote occur on amendment No. 2451 at 6 p.m. this evening, and immediately following that vote the Senate proceed to vote on the Democratic alternative, with the time between now and 6 o'clock to be equally divided on the issue of drugs.

I further ask unanimous consent that immediately following the granting of this consent, the Democratic leader be recognized to offer their alternative, and the Coverdell amendment be temporarily laid aside for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators—and I know Senator KERRY will want to comment; but I want to make it clear what we have done here—these two votes will be the two votes that will begin at 6 p.m., with one right behind the one at 6. They will be the last two votes of the evening.

Following those two votes, we will continue to work on a similar agreement, which we have not yet gotten everybody to sign off on, that will provide for votes on the marriage penalty and the self-deductibility of taxes issue by midday on Wednesday. We are working to see if we can get an agreement to have a vote at 1 o'clock, followed by an alternative that the Democrats would offer.

We do have a joint meeting in the morning to hear the President of South Korea at 10 o'clock. So we will not actually be able to get started on the marriage penalty and its alternative discussion until about 11 o'clock. But Senators will be notified when the second cloture vote will occur and the marriage penalty votes will occur during Wednesday's session of the Senate, we assume shortly after the noon hour; hopefully by 1 or 2 o'clock.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I want to thank the majority leader for his hard work in putting together this unanimous consent agreement. At the completion of it, we will have made progress on two of the very important key issues associated with this legislation, the drugs and tax cut. I also want to thank him for comity in giving the other side, obviously, an opportunity to propose their amendment. I am very encouraged by this. It seems to me, and the majority leader I hope would agree, that there are a couple of substitutes—attorneys' fees and the agricultural issues—that are the difference between Lugar and the LEAF bill that would keep us from completing action on this legislation.

I want to thank the majority leader, again.

Mr. LOTT. If the Senator would yield, I want to say I have discussed with him today and with others in the Senate and in the administration, the fact of the matter is, we sort of have been locked in this position for a week. The important thing was to try to come to an agreement and get some votes on these important issues. This gets us started in that direction. I think that is important.

Mr. McCAIN. I think they are two important provisions. Obviously, we have had significant debate on both the issue of drugs and tax cuts. I'm very pleased that we are going to make progress on both of those issues.

I hope the substitutes—one, I understand by Senator HATCH, and the other by Senators GRAMM and DOMENICI would be ready for us to start debating and discussing. We also plan to have another amendment on attorneys' fees, and then what remains, I think we could hopefully get time agreements on the amendments.

As we go through this process, one, we don't have a lot of time left; and, two, we have our up days and our down days. I suggest that all of us try to take and keep a steady stream as we work our way through this important issue.

I thank my friend from Massachusetts for his sincere and very valiant effort to try and maintain the comity on both sides of the aisle. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the majority leader and the minority leader for their efforts, jointly, with the Senator from Arizona and others. I am certainly appreciative of the fact we are able to proceed forward with a couple of votes here. I think this is an important beginning of our efforts to be able to really tie down narrowly some of the most contentious issues and to be able to lay out, hopefully, an agenda for the rest of the week which would really enable us to make some progress.

As the Senator from Arizona said, there really aren't that many major issues. There are some concerns Senators have and there are certainly amendments out there, some of which I know the Senator from Arizona and I are perfectly prepared to accept in the context of improving the bill, that we have before the Senate.

AMENDMENT NO. 2634 TO AMENDMENT NO. 2437

(Purpose: To stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs)

Mr. KERRY. Mr. President, at this time, I send the Democratic alternative to the desk on behalf of Senator DASCHLE and myself.

The PRESIDING OFFICER. Under the previous order, the Coverdell amendment is set aside and the clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Massachusetts [Mr. KERRY] for Mr. DASCHLE, for himself, Mr. Kerry, and Mr. BIDEN, proposes an amendment numbered 2634 to amendment No. 2437.

Mr. KERRY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The time will be equally divided.

Mr. KERRY. Just to inform Senators and others about what is happening here, we will vote on the Coverdell amendment and we will also vote on a Democratic alternative. The Democratic alternative covers many of the provisions of the Coverdell amendment with respect to drugs, beefing up our Customs enforcement, beefing up the Coast Guard, providing for capacity to be able to do a better job of drug enforcement, but it does so in a way that does not strip from the tobacco legislation the capacity to perform what we set out to perform under the health provisions.

We have maintained the minimum expenditures with respect to the counteradvertising and cessation programs and thereby kept a floor of those things we hope to achieve within the original tobacco legislation. I think that is the most important distinction.

In addition to that, there are a few other distinctions with respect to the needle program. There is a 1-year moratorium rather than a total stripping of that provision. In addition to that, there are a few other corrective measures with respect to testing and other aspects.

Finally, I might add with respect to the vouchers—because that is, obviously, constitutionally and otherwise such a contentious issue within the Senate—the Democrat alternative provides for the capacity for any victim of a drug-related crime or violent crime within a school system to be able to be properly transferred to another school, but without the guise of creating a whole new program with respect to education that would involve both private schools, parochial schools and the kind of support structure for those schools that obviously has divided the Senate so much in other legislation. We believe it is a more temperate, reasonable approach to the issue that allows us to do the best of what is in the Coverdell proposal with respect to drugs, but also maintain the best of what is in the tobacco legislation.

That is a fundamental summary, if you will, of the distinctions between the two approaches, both of which will be voted on shortly after the hour of 6 o'clock.

Mr. President, I ask unanimous consent to add the Senator from Delaware, Senator BIDEN, as a cosponsor of the alternative.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I rise in support of Senator Coverdell's and Senator Craig's amendment. These two Senators have focused attention on a critical issue for the next generation of Americans.

We are here today to discuss the MCCAIN bill, which seeks to combat teen smoking. Now, I doubt whether anyone in this Chamber would argue with the notion that teen smoking and use of tobacco products should be curtailed. But I want to focus our attention on the fact that there are other arguably more serious problems that our young people are facing today and seem to be turning a blind eye to.

I have been told for months that this antitobacco effort is aimed at one goal and one goal only. That is, making sure our children don't smoke and stop if they have started. If the real motivation for this bill were, in fact, to address the problems facing our young people, then someone please tell me why we are not here today addressing other serious problems that teenage Americans are facing—even more serious problems, problems that impact their life in a more direct manner. Why are we not dealing with the problem of teenage drug use which has been on the rise in recent years? Why are we not dealing with the frightening problem of juvenile violence, which is a throwoff from drug use? Why are we not dealing with the problem of teen drinking, with alcohol-related fatalities on the rise around American college campuses and high schools?

Teenage drug use today leads to ruined lives and overdose deaths every single day in this country. Underage alcohol drinking leads to drunken-driving fatalities every single day in this country.

The Centers for Disease Control and Prevention recently reported two-thirds of eighth graders have experimented with alcohol and 28 percent have been drunk at least once. Two-thirds of eighth graders have been drunk at least once.

A recent study by the National Institute on Alcohol Abuse says that the earlier people start drinking, the more likely they are to become alcoholics and addicted.

Let's put this in the proper perspective. We are debating a $1 trillion bill that is aimed at preventing children from starting to smoke. Yet, how many billions of dollars are we proposing to combat those other ills that plague our children, which are, in my opinion, more direct and more immediate?

I would like to focus today on the biggest of these problems now facing America's young people, which is the crisis of illegal drugs. While tobacco use by teenagers is a problem, illegal drug use by teenagers is much more than a problem, it is a crisis. And if our mandate is to protect our Nation's children, then we must not ignore our illicit drug crisis. I believe we should take this opportunity to address the problem of the illegal drug crisis in America.

Illegal drugs and drug-related crimes are ripping apart the fiber of families and communities, weighing down our education and health care systems, overburdening the resources of law enforcement, prosecutors, courts, and prisons. Drugs are literally changing the nature of the country our children and grandchildren will inherit. It is a crisis.

Drugs are altering the very definition of what it means to be a child in this country today. They alter the experiences that children have in school, and they are altering children's perception of the world around them.

Drugs are now a pervasive part of what it means to grow up as an adolescent in this country. If you are not a teenager who engages in drug use, you will be one who will be confronted by others who are drug users and presented with the temptation.

I do not think anyone in this Chamber, as much as they might dislike tobacco use, could stand up with a straight face and say the same things about the evils of smoking cigarettes that I have just said about drug use. Drug use is a problem of an entirely different magnitude, and it is unbelievable to me that we are not addressing that problem today.

Let's look at the hard numbers that demonstrate the recent rise in illegal drug use among teenagers while Congress has continued to ignore the problem—and we have ignored it.

Surveys released recently have uniformly shown that drug use is on the rise by our young people. Among eighth graders—now, these are really children—the proportion using illegal drugs in the prior 12 months has increased by 56 percent since 1992. Now, these are children. Overall teenage drug use has doubled since 1992. One-half of 17-year-olds now say they could buy marijuana within an hour.

Marijuana-related emergency room incidents rose 32 percent last year as a direct result of higher drug impurities and marijuana laced with PCP.

The Drug Abuse Warning Network has data that says that heroin-related emergency room episodes increased a whopping 27 percent in 1997. Now, these are heroin-related episodes among teenagers—up 27 percent in 1 year. Cocaine-related episodes increased by 21 percent. We are not talking about the population as a whole; we are talking about teenagers.

And between 1993 and 1994, the number of overall drug-related incidents rose by 17 percent for individuals between the ages of 12 and 17—12 years old.

In 1993, one out of three juveniles detained by police were under the influence of illicit drugs at the time of their offense, and this is according to statistics from the U.S. Justice Department. This represents a 25 percent increase in crimes committed by young people—teenagers.

It is plain to see that the Clinton administration has been asleep at the wheel on the illegal drug problem. The President is focusing much more of their time and energy on the use of tobacco.

Just look at what the administration's Office of National Drug Control Policy has said about tobacco use by teens versus illegal drugs by teens. The drug control strategy of this administration is laid out in so-called performance measures of effectiveness. That is a very high-sounding thing we are going to do. But in this document, the administration discloses that they have more ambitious goals about lowering teenage smoking and tobacco use than they do about lowering teenage drug use.

They state that their goals are to reduce youth tobacco consumption by 25 percent by 2002 and by 55 percent in 2007. Now, for drug use, they hope to get down about 20 percent by 2002, which is 5 percent less than tobacco, and 50 percent by 2007—again, 5 percent less than tobacco. So it is clear in black and white that the administration's 10-year national drug control strategy is focused on tobacco and not on drugs.

While this President is busy taking on tobacco, a National Guard counterdrug program has been decreased by $32 million since 1997. This is the very program that helps local sheriffs, who simply cannot afford to own helicopters, planes, and the pilots to go with them. They are fighting drugs on a local level.

With the President's approach, total smoking will not decrease at all; the children will be smoking marijuana and not tobacco. This administration cares more about tobacco use than it does about illegal drugs. In my opinion, this is a serious misplacement of priorities.

Let me emphasize that I don't even have faith that what the McCain bill proposes to do—supposedly in the name of reducing teenage tobacco use—will even work. It rests on the twin pillars of an advertising ban and a price increase in order to accomplish a decrease in teen tobacco use.

They propose doing away with tobacco advertising, and the sponsors argue that all these flashy, colorful tobacco ads cause kids to smoke. Well, there has never been, as far as I know, an ad for illegal drugs or marijuana in this country; yet, the youth of the Nation are using it more and more every day. They seem to have found out about it without it being advertised.

Secondly, the McCain bill proposes to raise the price of tobacco products drastically, from roughly $2 to $5 for a pack of cigarettes, and that the youth of this country, the teenagers, are price sensitive. They think that raising the price would cause these teenagers to stop smoking. What it will do is provoke, quickly and surely, a massive black market so that schoolchildren will be able to buy smuggled cigarettes out of the back of a truck.

I have some more news. If they think raising the price of a pack of cigarettes will slow down cigarette smoking, why hasn't drug use been totally eliminated? The price of marijuana and cocaine on the black market is astronomical.

Therefore, the two pillars upon which the McCain bill rests its attack on teen smoking—an ad ban and a high price—are already in place with respect to illegal drugs. What have they done there? Not anything.

Instead of focusing on these flawed approaches to fighting the problem of teen smoking, we should be looking at legislation that proposes new and innovative approaches to fight the crisis of illegal drug use by our Nation's young people. The hard facts show that there is no mission more vital to our Nation's future than doing more to protect our children and teenagers from the ravages of illegal drugs.

Let's not ignore this problem because it is more politically popular these days to be against tobacco and to talk about it. This tobacco bill is nothing more than a smokescreen to hide the fact that the Clinton administration has been out to lunch on the drug war for 6 years.

It starts from the top. The President joked about his own use of drugs. But drugs are no laughing matter, and they are destroying hundreds of thousands of young people in this country. They are the scourge of the schools and playgrounds. This amendment is about the safety and health of the next generation. It is about the future of this country.

Mr. President, I yield the floor and the remainder of any time I might have.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, Senator MCCAIN has said I may yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JEFFORDS. Mr. President, I am here today to talk about the tobacco bill. As we all know, under the present circumstances, we don't seem to be making much progress. On the other hand, I have been here long enough to know that sometimes we go through these phases where we come to situations where we have sort of a partisan battle on how we should proceed, and then finally, after we do that for a while, we recognize that we both ought to sit down and try to reconcile our differences and join together to make sure we do not let this opportunity pass that we have before us, where we could do so much to help, on the one hand, stop teenagers from starting to smoke and, on the other hand, help those who are addicted to tobacco and do what we can to ensure that they are taken care of.

One of the most sticky problems we have is what to do as far as how to compensate the victims of tobacco. We tried initially to have a system set up where the amount of money that would be subject to lawsuits and claims would be capped. That was killed with the Gregg-Leahy amendment. I have been involved in a number of issues over the years involving these kinds of matters, not the least of which was examining the situation with respect to asbestos, black lung disease, and other matters. And it seemed to me and to others that we ought to look at it as an opportunity to find a solution other than through the court system.

I am here today to talk about an amendment that Senator Sessions, Senator Enzi, and I plan to offer in the Senate—in fact, it has already been placed on file—to see what we can do to try to find a more humane system to solve this very difficult situation. Hours, days, and weeks have been spent arguing about liability, per-pack tax levels, States rights, and other issues.

But why are we really here?

No. 1, to reduce teen smoking; and, most importantly, to assure that teens don't start smoking, because we know if they don't start smoking, the odds are they never will smoke. Also, to strengthen the public health program and to ensure that victims of smoking are compensated fairly. That is what I would like to concentrate on today. The amendment that we have will bring logic to the system of compensating individuals.

As I mentioned earlier, throughout my time in Congress I have authored legislation to prevent smoking, supported increasing cigarette prices and requiring manufacturers to disclose the ingredients in cigarettes, and worked to reverse the impact of tobacco on the health of Americans. In fact, the present bill contains a substantial amount of the language that came from our committee in these areas. It has been adopted by the McCain bill. We have some very good provisions in the basic bill. We have a foundation to build upon. I have done all of these things hoping that together we could end the blight that cigarettes have brought to the lives of millions in this Nation.

Any legislation that Congress approves must ensure that families and individuals harmed by tobacco receive compensation in a timely and equitable manner. I fear, though, that this legislation we are finally considering will not achieve that goal. I am sure it won't. That is why I am here today.

With this bill, States are granted funds to begin to pay the health costs associated with smoking. Individuals, however, are left on their own to seek justice through the court system. You can only imagine the consequence of 50 million people bringing lawsuits. That is the number of potential claimants that you have. I know many lawyers out there are only all too ready to participate in this action. With up to 40 percent of the compensation going directly into their pockets, on the average, the lawyers in this Nation are happy to see this situation occur. But I am not sure that is the most equitable and fair way of doing it. Billions of dollars are at stake, and millions of people's lives are at stake.

But if the legal profession benefits, who loses? Those truly deserving of compensation—smokers and their families facing serious health consequences from smoking—will be left counting pennies. Our amendment attempts to hand these funds to those Americans who must recover from the tragedy of their addiction, and their families.

Our amendment would set up a compensation system designed by a bipartisan commission to award compensation to tobacco victims. This is not a situation where blame has to be determined—the tobacco companies admit to the linkage of smoking to illness. All we are concerned about here is how we should compensate.

Also, there is a certain logic in one of the problems with bringing the court suits. It is a thing called "assuming the risk," where the individuals have had years of looking at labels which tell them that it is a danger to their health. That creates a problem in the tort system as to how you award compensation.

The asbestos cases, as I mentioned earlier, provide us with an example of what may happen if we rely only on the judicial system to resolve the millions of claims against the tobacco manufacturers. As I will show later, it shows you what kind of system came about from the asbestos cases because of the horrendous mess that occurred in the courts. In the asbestos situation, only hundreds of thousands of lawsuits were brought, and they brought the system to a stoppage. They created a catastrophe. When you think that tobacco could result in millions of cases, you can only imagine what would happen in the court system if this were allowed to continue with this as the only option.

With asbestos, Federal judges struggled with an overwhelming backlog of lawsuits filed across the country on behalf of the asbestos victims. Many of these victims contracted fatal lung disease in working with the product.

I add as a side note, because there is somewhat of a linkage here, that those who suffered from asbestosis and smoked ended up with a much worse situation. So we even have a linkage in that respect.

Many victims died before the courts considered their case. These people never received the compensation they deserved in these cases. We cannot let this happen again in the tobacco case.

Lawsuits over asbestos claims have been mired in the Federal and State courts for over two decades. These lawsuits are few compared to the millions that will arise related to tobacco. In fact, 200,000 asbestos cases were filed in which compensation has been paid.

Another 200,000 cases are pending, and another 200,000 are projected to be filed in the future. Many of the 200,000 claimants who have received compensation have only received about 10 cents on the dollar of what they deserve. It is not getting any better for the remaining claimants.

I shudder to think how long victims of tobacco will need to wait to make it through the courts. Must we again allow individuals to die, waiting for their cases to be heard or settlement to be reached?

No, and we have the solution. No lengthy depositions, years waiting to get to courts, weeks of trial and so on. But first of all, let me talk a little bit about what happened in the asbestos situation.

First of all, when the cases were brought the system came pretty much to a screeching halt, there were so many cases filed. Then awards were granted, heavy damage awards for the first victims. And what happened? The companies were driven into bankruptcy. Finally, in order to allow those companies to at least continue in business, a trust situation was set up so they are run by a trust. A certain amount of the available profits were made available for compensation to victims. However, also, to allow you to see how appropriate this kind of system might be in this case, they also were allowed, if they were not happy with compensation through the commission proposal, to sue.

In the meantime, which has been a couple of years now that this system has been in effect, only one person has gone to the court after going through the compensation commission.

Similarly, our amendment will create a commission to review the research and documents of the tobacco companies that they have long kept secret and compile a list of diseases linked to smoking and develop the compensation that these individuals deserve for their injuries. An individual harmed by smoking can simply apply to the Secretary of Health and Human Services for compensation and receive it in an expedited manner.

Also, we have it worded such that we want to make sure—although we are talking billions of dollars here, that could rise up to many, many billions, up to $25 billion that could be held in trust for this purpose—we would make sure that those who are most harmed would be considered first. The compensation may be so huge, as far as all of the individuals who may be affected, that you want to make sure those who are permanently disabled or those who are terminally ill would be fully compensated before you get into the lesser harmed individuals.

The amendment also gives these individuals the ability to appeal the decision that was reached if they feel it is appropriate.

The program is funded by voluntary contributions from the tobacco manufacturers. If they refuse to participate, as was in the original part of the bill, they would be subject to the current use of the courts to get the injured parties their just compensation.

The method we have developed would put compensating funds in the hands of victims and not their lawyers. As the asbestos cases show, individuals received less than 40 cents on the dollar of the compensation for the harm they incurred. The lion's share of the money went to make lawyers very wealthy. Why should we do so again? Our approach will avoid costly lawyers' fees and get the compensation to people who deserve it the most.

The asbestos cases will also illustrate what will happen if we rely on lawyers and the courts to strangle the tobacco companies. The asbestos companies eventually went bankrupt, as I mentioned earlier, because of a few earlier judgments that gave claimants such large sums of money. Unfortunately, after companies went bankrupt, individuals who had their suits settled or a judgment reached received only 10 cents on the dollar for damages suffered. A majority of the harmed individuals received almost nothing. In fact, people suffering almost identical symptoms from asbestos exposure received vastly different awards, depending on the jury that heard their case.

These lessons outline for me the importance of the approach we are taking to provide proper compensation to tobacco victims. The amendment will allow the claims to be sorted through and the funds distributed in a timely manner. With this we avoid the huge backlog of cases in our state and federal courts. We grant compensation before the injured parties are no longer with us. We ensure that tobacco victims will be given their due without lawyers taking a major cut. Finally, all injured parties will be guaranteed a source of funds and all similar claims will be treated equally.

I would strongly urge my colleagues to carefully consider our amendment as an alternative to insure that individuals harmed by tobacco manufacturers will receive the full compensation they deserve in a timely and efficient manner. For our country, we cannot allow a repeat of the asbestos catastrophe, and most especially for the people that were harmed by the tobacco manufacturers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JEFFORDS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has the time remaining until 6 o'clock.

Mr. KERRY. I thank the Chair. I will ask unanimous consent a memorandum from the National Governors' Association, which is opposed to the Coverdell-Craig-Abraham amendment, be printed in the RECORD.

Let me just say the Governors are deeply concerned about the financing mechanism which violates the financing that they are obviously concerned about with respect to the State expenditures on the cessation programs and other efforts with respect to the antismoking effort.

I also ask unanimous consent that a statement of the national president of the Fraternal Order of Police in opposition to the Coverdell amendment be printed in the RECORD.

I would just summarize. While they say it has a laudable goal of augmenting the ability of the Customs Service to interdict contraband coming across the border, they are deeply concerned about some antilabor schemes that strip Federal agents of their rights as employees. It also has significant language with respect to the bargaining process which would be changed without a hearing.

So I ask unanimous consent that both of those memoranda be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

National Governors Association,
Washington, DC, June 5, 1998.

To: Washington Directors, Health Reps, and State Contacts w/o DC offices.
From: Jennifer Baxendell.
Subject: Tobacco Amendment.

The Coverdell-Craig-Abraham anti-drug proposal will be the first amendment voted on next week after the cloture vote is completed. A summary of the amendment is attached.

Without entering into the merit of the amendment itself, its financing mechanism violates our principle of opposing any amendment that reduces the pool of $196.5 billion over 25 years reserved for the states. The Coverdell amendment is estimated to cost between $2 and $3 billion annually, which is to be financed through the trust fund. This earmark would be taken off the top of the trust fund, shrinking the amount of money against which the 40% of the revenue reserved for the states would be applied.

Please contact your Senate offices again in opposition to reduction of the state settlement pool. The McCain bill provides the federal government with over $320 billion in new tobacco revenues over 25 years with which to finance Washington's prioritized investments.

Call me at 202-624-5336 with questions/feed back. Thanks.

National Legislative Program,
Washington, DC, June 5, 1998.

Statement of Gilbert G. Gallegos, National President of the Fraternal Order of Police on Coverdell Amendment to S. 1415

The more than 272,000 rank-and-file members of the Fraternal Order of Police want to make absolutely clear our vehement opposition to language contained in an amendment offered by Senator Coverdell and others to S. 1415, the "Universal Tobacco Settlement Act."

This amendment, which has the laudable goal of augmenting the ability of the Customs Service to interdict contraband coming across the border, contains an anti-labor scheme to strip Federal agents of their rights as employees and thwart bargaining partnerships between rank-and-file agents and management by giving the Secretary of the Treasury the carte blanche power to nullify collective bargaining agreements.

It also gives the Secretary additional retaliatory powers against officers who do not kow-tow to management's every whim by enabling the unheard of power of transferring—permanently—up to five percent (5%) of Customs officers employed to new duty stations. This not only removes experienced interdiction officers—and does so for potentially political reasons—it also uproots families. This is simply unacceptable.

Perhaps the most blatantly offensive language in the amendment is the "sense of Congress" that collective bargaining undermines the war on drugs at our border. This patently untrue. Is it the sense of Congress then, that the officers who are charged with keeping narcotics out of country, preventing drugs from reaching our neighborhoods and schools, would somehow be parties to agreements that undermine that responsibility? Many of the bargaining issues discussed at the table are critically important to the success of the law enforcement mission—officer safety, hour and wage issues. If Congress wishes to strengthen the ability of our officers to fight drugs on our border, they would do well to endorse and strengthen the commitment of the Treasury Department to agreements reached between labor and management at the bargaining table. This language in amendment does not make any "sense" at all.

The amendment also includes language which gives the Treasury Department the ability to nullify any agreement that might have been reached if negotiations continue for more than ninety (90) days and impose their own "last offer." This is absurdly unfair. No matter what happens, the Treasury Department will "win" in the collective bargaining process, and this amendment will substantially weaken the ability to Customs officers to negotiate on an equal playing field.

This amendment contains a poorly concealed attempt to strip away the rights of law enforcement officers, and the Fraternal Order of Police, cannot support Senator Coverdell's proposal unless he strikes the anti-labor language it contains.

Law enforcement officers have, arguably, one of the toughest jobs in the nation. They alone are charged with keeping the streets and neighborhoods of this country safe from crime and drugs. Every day, police officers put their lives on the line—life and death decisions are in the job description. To restrict the ability of these officers to sit down and talk with their employers about workplace issues—when the work they do is to prevent drugs from making it into the United States—is counterproductive to the law enforcement mission and common sense.

Mr. KERRY. Mr. President, let me summarize, if I may, what the Democrat alternative, the amendment which Senator DASCHLE has submitted, seeks to accomplish here. First of all, the alternative antidrug amendment does not jeopardize the funding for public health. I think this is critical to understand. The Coverdell amendment will take more than 50 percent of the public health money and strip that away so as to deny the capacity of the tobacco legislation to accomplish the cessation programs, the State assistance programs, the counteradvertising and other efforts, in order to reduce the number of kids smoking.

What we seek to achieve in the Daschle alternative is we remove the section in the Coverdell amendment that would have eliminated the floors for funding of public health programs from the tobacco trust fund, which would have also diverted that money for other purposes.

Second, we include tough money-laundering provisions that provide critical assistance to State and Federal law enforcement in order to combat drug problems by enhancing the Federal prosecutors' ability to combat international money laundering and to seize the assets of drug kingpins and others who have engaged in illegal activities, which, I might add, would significantly augment our ability to fight drugs as well as provide additional economic assistance to some of the antitobacco efforts. In addition to that, we provide the States with additional funding to drug test, and we provide drug treatment for inmates.

None of that is in the Coverdell approach. So it is clear, there are significant differences in how one can do a better job of fighting drugs. We believe the money-laundering provisions in the Democrat alternative are significantly stronger than in their approach.

In addition, we have what we believe are significantly improved versions of some of the antidrug initiatives set forth in the Coverdell legislation without the liabilities carried in the Coverdell amendment. First of all, there are additional resources for interdiction. There is an increased budget for U.S. Customs, increased budget for the Coast Guard, and increased budget for the Department of Defense. But, instead of grabbing that, robbing Peter to pay Paul, stealing from the trust fund, so to speak, and denying us the ability to accomplish the fundamental goals of the antitobacco legislation, we seek to authorize that from the general revenues, which is really a more fair and more thoughtful way, in our judgment, to be able to try to deal with the problem of a drug war.

We have significant additional measures with respect to drug-free borders. We do so without attacking some of the entities that are a critical component of the drug war: Customs agents, police, and others. We increase the civil and criminal penalties for customs violations, and we raise the number of border agents by 2003 to 15,000. In other words, 15,000 additional border agents by the year 2003.

We give the Customs Service flexibility to address urgent drug interdiction needs, working with the front-line employees to identify the problems and to collaborate in finding effective solutions to those urgent needs. The Coverdell approach basically declares war on our own agents and begins to try to accomplish a certain ideological agenda with respect to labor unions that we think is inappropriate and unnecessary here.

We, furthermore, provide $10 million per year out of the general revenues to States that institute voluntary drug testing for teen drivers' license applicants or crack down on drivers who use drugs. So we have a strong provision in our approach to deal with the problem of drug testing for teen drivers.

In addition to that, we have a section on drug-free schools, but we do not add the poison-pill provision of school vouchers by the backdoor which would literally threaten to scuttle the entire tobacco legislation. All of us here know that no issue has been more contentious for a lot of different reasons. It is part of really what has divided the U.S. Senate so significantly and so unfortunately throughout the debate on education.

There are many people on our side of the aisle—I know on both sides of the aisle—who desperately want to improve the public school system and to recognize that we have some very significant problems in the public schools of this country. But increasingly, all we talk about in the Senate are either vouchers or money. We are sort of polarized. We are locked into this gridlock of discussion where one side is fighting for vouchers so 1,000 kids may get saved in the school system and the other side winds up saying, "We have to have more money," but in between all of the issues of curricula, standards, testing, finding good principals, hiring another 2 million teachers and how we are going to do that, a host of other things get lost.

What the Coverdell amendment fundamentally does is take us right back to that very narrow debate where all we are going to do in response to the laudable goal of trying to take the victim of a violent crime or of a drug-related crime and move them to another school, instead of doing that within the public school structure, all of a sudden here is another voucher plan to provide the opportunity for that person to move to a parochial school, religious-based school or to a private school. If that were part of some comprehensive program to deal with all the schools of this country and the 90 percent of our children who are in public school, perhaps it might meet with less resistance on the floor of the Senate. But under the circumstances, it is a backdoor effort within the tobacco bill to try to do something that the Senate has already struggled with so significantly.

Moreover, we create, as does the Coverdell legislation, the same financial incentives for States from general revenues. Unlike the Coverdell amendment, we take it from the general revenues; they take it from the tobacco trust fund. And we provide an annual report card to parents and teachers listing incidents of school violence, weapon possession or drug activity, and we also encourage the implementation of certain disciplinary policies.

In addition to that, we provide $10 million to States for parental consent drug testing of children, as does the Coverdell amendment, but we do that without coercing parents into allowing that testing by denying access to extracurricular activities, such as athletics, for those who are unwilling to subject their children to such testing. We think both from a fairness and commonsense point of view that is more in keeping with the spirit of how the relationship between parent and school ought to work.

Like the Coverdell amendment, we provide drug-free student loans. We restrict the loans for students convicted of drug possession. We restrict the loans for students convicted of drug trafficking, and just as the Coverdell legislation does, we resume loan eligibility on an expedited basis for those students who satisfactorily complete a program that includes drug testing.

Just like the Coverdell amendment, we authorize $10 million per year in SBA demonstration grants, but unlike the Coverdell amendment, once again, we do not strip the capacity of the tobacco legislation to work. We do not take away the cessation programs or other youth activities and youth-access efforts that are contained within the tobacco legislation in an effort to restrict the access of our young people to cigarettes.

I might add this is, I think, one of the most important things to remember when we reflect on what we are trying to achieve here. I used to be a prosecutor. I was the chief prosecutor and administrative officer for one of the 10 largest district attorney's offices in the Nation. I was part of the effort in the years when we created the first drug task forces and we created the first priority prosecution efforts and major violator efforts. I have tried cases that have sent people to jail for the rest of their life. I am proud of that record.

I have fought hard in the Senate to continue that kind of, I hope, conscientious antidrug effort. So I don't want to be somehow viewed as less concerned than my friend here with whom I work on the Foreign Relations Committee, on our subcommittee, on the issue of drugs.

I don't think we have a legitimate drug war in the United States. I have said that for a number of years. If you don't have adequate treatment, if you don't have adequate education, if you don't have adequate enforcement, if you don't have the capacity for swift and certain punishment, if you don't have the ability to put the people in jail who ought to be or sufficient capacity to keep the ones off the streets who ought to be kept off the streets, you are not serious. But you certainly are not serious if you don't have drug treatment on demand. Only about 26 or 30 percent of all drug addicts in the United States of America get treatment after 20 years of talking about this issue. That is not contained sufficiently in this legislation, and it ought to be.

What we have to stop doing is these scatter-shock, helter-skelter efforts that do little Band-Aids here and little Band-Aids there and somehow pretend, "Boy, have we done something to fix the drug war." We haven't. Nor is this going to do it. But, most importantly, what it is going to do is strip away the ability of the tobacco bill to do what it is intended to do, which is to get kids to stop smoking. That is the gateway drug to marijuana and ultimately to harder drugs.

If we are serious about a drug plan for America, we shouldn't be trying to augment the Coast Guard or augment the Department of Defense at the expense of the kids who are at the earliest stage of their life, who we are trying to teach and give the value system and the self-esteem and the structure with which to be able to make a decision, not to pick up a cigarette. The values that allow a kid and the strength of character that comes to a kid, that brings that child to the point of not picking up a cigarette are the same values and the same foundations that help that child decide not to do the other things that peer pressure forces them toward or that modernity in American life thrusts on them. So it doesn't make sense to strip away that capacity in this bill.

The Senator from Georgia will say, "Well, it doesn't automatically do that; all it does is authorize these numbers."

Mr. COVERDELL. Will the Senator yield?

Mr. KERRY. And that is true. I want to finish the thought and then I will be happy to yield to my friend. It is true all it does is authorize it. We all know what happens when the appropriators ultimately get those pressures put in front of them, and you have Department of Defense, Coast Guard or other kinds of antidrug efforts competing against something that we have never done before in America, which is sufficiently empower our antismoking efforts, sufficiently try at that early entry level to keep kids from being hooked.

I respectfully suggest to my colleague, this is well intentioned, and I know he is sincere in his passion about wanting to stop drugs and is caring about this, and I agree with him completely that the efforts to date are insufficient. No question about it. But I also believe very strongly that we ought to approach this in a commonsense way.

I yield to my friend for a question without losing my right to finish my time.

Mr. COVERDELL. I advise the Senator, of course I have not seen his amendment and the vote is scheduled at 6. I would like to make a comment, and I ask unanimous consent that I be given up to 10 minutes to respond to the remarks the Senator has just characterized.

Mr. KERRY. Let me say to my friend from Georgia, if I can, I don't want to be the bogeyman with respect to his request, but the leadership has carefully scheduled this because of the expectation of Senators to be in certain places. I know the time was equally divided——

Mr. COVERDELL. Up to 10 minutes.

Mr. KERRY. Mr. President, I will happily yield to my friend in a moment. And I would agree to the unanimous consent request for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. But will that be equally divided?

Mr. COVERDELL. I am trying to catch up with you.

Mr. KERRY. I might add, we are just trying to catch up with their side. The time was equally divided up until now. And the Senator from North Carolina and the Senator from Vermont both spoke using all of the time of that side. So we are just trying to catch up on our side.

Mr. COVERDELL. All right. I ask unanimous consent that we have 15 minutes equally divided.

Mr. KERRY. Mr. President, 15 minutes equally divided. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. So, Mr. President, the bottom line is, as I said, really whether or not we are going to try to approach this—maybe the Senator and I could agree that the goals of our amendment are indeed worthy, and he would like to wrap them into one, and we could have one vote accepting our amendment. I would like to do that. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Georgia.

Mr. COVERDELL. First, let me say that I appreciate that so much of the Coverdell-Craig-Abraham amendment has been wrapped into this amendment we have just heard described. I have not had a chance to see the amendment. There are some nuances.

What the Senator from Massachusetts characterizes as vouchers and choice, I characterize as common sense to handle a child that has been the victim of a crime. And I do not agree that that should be characterized as a voucher. It does not deal with the needle exchange permanently. It only deals with a couple years. But much of the amendment is the same.

So then the core question—they both authorize funding, and, as I understand it, it is at similar levels. So the question is, what does the authorization fall against? And where are the pressures?

The Coverdell-Craig amendment authorizes against a new revenue stream which comes from an increase in the price of tobacco. The Daschle amendment—I believe it is the Daschle amendment—from the other side authorizes against the current budget or the caps, so the pressure will fall against current programming: education, VA, veterans, all of that. That is where you put the pressure. I put the pressure against the new revenue stream. And I think that is more appropriate and much more likely to happen. I do not think it is near as likely to happen under the Senator's amendment from Massachusetts as it is to happen if this tobacco settlement weaves its way through the Congress and there is a drug section in it. It is far more likely to occur than under the Senator's amendment.

I appreciate the fact that we agree on its importance, that much of what we have drafted has been embraced. But I think it is far more likely to occur in the manner in which I suggested. And I do not accept the argument that it is misplaced. Most of teenage drug abuse occurs in smoking, smoking marijuana, which is five times more dangerous than tobacco.

Mr. KERRY. Would my colleague yield for a question?

Mr. COVERDELL. Sure.

Mr. KERRY. It is an important part of the discussion. I would ask my colleague—they are both smoking. They are both smoking a grown substance, wrapped in paper, and it requires the same process. But the same ingredients of smoking are the same impact fundamentally that require counseling, education, and knowledge to build up the sort of resistance to peer pressure.

I ask my colleague, if that is the purpose of it, why would he not want an increased level of funding to guarantee that they are sort of wrapped together? Smoking marijuana and smoking cigarettes are almost one in the same. They are both a narcotic substance. They both can ultimately result in great harm to health. Therefore, you want the cessation programs, the counteradvertising, et cetera. Why would the Senator then strip that capacity away for these other objectives rather than augment those?

Mr. COVERDELL. One, as I said a moment ago, I am not very encouraged where we are because this initiative has fallen poorly against the goals of the Congress and the administration over the last 6 years.

The interdiction budget has dropped from over $1 billion in 1991 and 1992, to under $700 million. It got down to $500 million in 1995. Flight hours that are protecting our citizens have dropped from 36,000 to 11,000. Ship days have dropped from 4,000 to 1,700 days.

We had one experiment recently in the Coast Guard in Puerto Rico that kept 350-plus million doses of cocaine off American streets. These are all interconnected.

The best thing we can have happen is for the child not to get ensnared into the drug war in the first place. I believe that you cannot deal with teenage addiction and separate it from the tobacco bill. I just do not think that is the right thing to do.

I think they should be embraced together. I think, given the scope, that this is the No. 1 problem. Given the scope of it, the fact that it would be authorized to consume 20 percent of these revenues, it is perfectly logical and sound. And there would be a revenue base generated to do it. I do not see the revenue base standing behind the good Senator. And I equally am admiring of the work that you have done on this issue. I have respect for it. I just do not think that amendment which has come late—very late—in response to what we have endeavored to do will achieve a new, bold initiative on antinarcotics in the United States.

I yield back whatever—I do not yield back the time; but I save it.

The PRESIDING OFFICER. The Senator from Georgia has 1 minute 40 seconds remaining.

Mr. KERRY. Mr. President, let me respond to my friend again. I do not think he absolutely answered my question. What he says is we have to have the interdiction efforts, we have to have an addition for the Coast Guard, the military because of the number of hours they are flying. I agree with that.

I think we have a very serious problem growing in this country with respect to our military because of the increased OPTOUT and OPTEMPO versus the pay we are giving them, and the opportunities for time off, and so forth. That is a huge issue, and it is growing in the country.

But the point is—and I make it again to my friend from Georgia—as a former prosecutor I can remember that there is a threshold level that you can stop drugs coming in, this sort of nuisance level. You can raise the price. You can always raise the cost of doing business.

But no one I know in the business of law enforcement, no one I know who is serious about the drug effort believes that augmenting interdiction at the expense of the demand side is going to cure the problem.

For every 300 tons of whatever that you stop, I promise you, there is an airplane that has been constructed with phony sides to it or any number of containers on ships, or any means, that the demand will bring those products. They will even manufacture them in this country. They will find a way to get them to people.

The key issue is reducing the level of demand. And the demand for a cigarette that has tobacco in it is the same demand for the white rolled piece of paper that has marijuana in it—same act, same discipline, same entryway, entry gate to drugs. Most experts in the field of treatment and demand will tell you that that is the gateway drug.

So it seems to me illogical on its face to say we are going to strip down the efforts to get the demand side reduced so we can augment what was going to automatically be increased anyway, which will be increased demand, increased interdiction. And you get caught in this vicious cycle where all of our resources keep being allocated to an area that does not give you as much return as education and treatment. Again, the perks are pretty clear on that issue, that if fewer and fewer kids started in the first place with cigarettes, you would have less and less demand, and no pusher can increase the number of people to demand the drugs fast enough to make up for kids who say no. If those kids are strong enough and educated enough and well prepared enough to say no, that is the way we will solve the problem in this country, more than any other.

Again, the Senator from Georgia strips away a significant portion of that. He makes them competitive. It is the wrong way to come at this.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. How much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 1 minute 40 seconds, and the Senator from Massachusetts controls 4 minutes 20 seconds.

Mr. COVERDELL. Mr. President, from 1980 to 1992 drug use among teenagers was reduced by two-thirds. It was reduced in great part by the massive interdiction program and much of an education program that was voluntary.

My point here is that the amendment we have offered to the tobacco bill, which shares an addiction problem with these new revenues, is a bold component for drug interdiction and drug education, the very points that the Senator from Massachusetts is making.

The proposal he puts to the table is designed very much the same way. As I said, there are nuances that are somewhat different. I think the likelihood of funding for this bold program under the Senator's amendment is far less—far less. Yes, if it all came about, it would be augmented, but there are more than sufficient revenues in the proposal we have on the floor, which is a tax bill, to fund a strong drug interdiction proposal and a strong antismoking proposal.

I yield the floor.

Mr. KERRY. Mr. President, let me say to my friend, if the funding is so jeopardized, as he suggested it is, then shame on us. Then we are not serious about the drug war. Shame on us.

Mr. COVERDELL. We aren't.

Mr. KERRY. Then shame on us. We ought to be prepared to do it. But don't do it at the expense of stopping kids from smoking.

The Senator just made my argument. The Senator from Georgia said between 1980 and 1992 we reduced drug use in America by 30 percent. Am I correct, the Senator said that?

Mr. COVERDELL. Sixty-six percent. From 1979 to 1992, it was reduced by two-thirds.

Mr. KERRY. We reduced drug use in America by two-thirds, according to the Senator from Georgia, between 1979 and 1992.

He has just made the argument for not doing what his own amendment seeks to do, because if you look at how we reduced that drug use by two-thirds between 1979 and 1992, it was because Nancy Reagan and the Reagan administration, to their credit, augmented our outreach efforts, our advertising efforts, the counteradvertising. We brought role models—sports figures and others—into the communities. We had an aggressive effort in the United States to reach into our communities and teach kids not to.

That is precisely what this tobacco legislation is seeking to do with respect to cigarettes, and there is no reason in the world that you can't dovetail all of the drug efforts into that so that smoking, drugs, all of it, are dependent on the same disciplines. They are dependent on kids being raised with enough awareness of the downside and with enough self-esteem and enough structure around them to be able to make good decisions.

What the Coverdell amendment does is reduce the capacity of kids to make those decisions. If we want to reduce drugs in America by two-thirds, we need to do what this tobacco legislation set out to do, and I believe we can do that by melding some of what the Senator from Georgia seeks to do. That is what the Democratic alternative seeks to do.

I yield back the remainder of my time.

AMENDMENT NO. 2451

Mr. McCAIN. Mr. President, I will vote for the Craig-Coverdell amendment because I believe that we should move forward with this bill. While I agree with the thrust of the amendment, I am seriously concerned that all of the revenue to fund this effort will come from the tobacco trust fund.

If we are to have legislation that provides for settlement of State cases, funding for smoking prevention and cessation, funding for research, farmer assistance and a tax cut, we must allow for funding for the drug amendment under additional accounts including the violent crime trust fund.

Clearly, the President will not sign legislation that does not provide the funding necessary for the basic purposes of this act. So, while I will support the drug amendment, my vote is to keep the process moving.

This is but one wicket in the legislative process and at the end of the day, if we are to have a meaningful bill, we must reconcile the various demands for trust fund revenues in a manner that will achieve the essential purposes of this bill, and which will best serve the public health and the public interest.

Mr. KERRY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2451, offered by the Senator from Georgia, Mr. COVERDELL.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 52, nays 46 as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—52

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Inouye
Specter

The amendment (No. 2451), as modified, was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We must have order in the Chamber.

AMENDMENT NO. 2634

Mr. KERRY. Mr. President, may I have the yeas and nays on the Daschle amendment? Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvannia (Mr. SPECTER), is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—53

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Inouye
Specter

The amendment (No. 2634) was rejected.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, we have now dispensed with the issue of addressing the problem of drugs in America. Tomorrow, we will take up the tax cut issue. There will be an amendment on this side of the aisle and an amendment on the other side of the aisle.

It is our hope that, following that, we will be able to take up the substitute. There are, I understand, two important substitutes, one by the Senator from Utah, which he has talked about at some length, and also one by perhaps Senator GRAMM and Senator DOMENICI. There is still concern about the issue of attorneys' fees. I would not be surprised if there was another amendment on that issue, and, of course, there is the remaining issue of the agriculture section of the bill, which could be addressed after cloture, if necessary.

Frankly, Mr. President, I don't know of any other major issues that are affecting this legislation. I hope that we can not only move forward but, at the appropriate time this week, hopefully the majority leader can propose a cloture vote so we can bring this issue to a close.

All of us are aware that we are in our third week on this legislation. All of us are aware that we have other legislation that we need to address, including very important appropriations bills.

I must say that on this day I am pleased with the progress that we have made, and I am pleased that we are going to address the issue of taxes, which is important to Members on both sides of the aisle.

So, Mr. President, I say, in the words of the late Mark Twain, the reports of the death of this legislation are premature. However, we certainly, by no means, have total confidence that we will reach a successful conclusion. But I think those of us who are supporting this legislation can be pleased at the progress we are making at this time. And it does not in any way mean that we do not have a lot of difficult hurdles to get over before we have a final vote.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me join the Senator from Arizona in simply saying that I think this was an important step forward today in a lot of respects. Neither the Senator from Arizona nor I want to sort of overly characterize what it may mean in the total yet, but it does open up the opportunity for the Senate to now move to the two remaining, most significant issues and then lay the groundwork to have, hopefully, an order of amendments for the following ones. I think it is not insignificant, therefore.

The last week permitted us, frankly, to be able to work quietly behind the scenes to be able to arrive at some understandings about the structure of the tax component of the bill. And while there are two alternatives being offered, the fact is that for a week we have understood that embracing a component of the tax cut in this legislation was not inappropriate—in fact, might not only be a necessary ingredient of passing it but also an important reality for the amounts of money that are being raised in the revenues.

So I think we are on a track where we have the ability tomorrow to make again some significant progress. And hopefully, with the substitutes, then we will have few remaining contentious issues and, obviously, some others that we ought to be able to arrive at a reasonable understanding about.

So my hope is that those Senators who have must-do amendments will certainly inform us of those in the course of the next day or so.

I thank my colleague for his cooperation. And I yield the floor.

MORNING BUSINESS

Mr. KERRY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

TRIBUTE TO BRIGADIER GENERAL TERRY PAUL

Mr. ROBB. Mr. President, I would like to just share with those of our colleagues who are watching the floor at this moment a ceremony that I just attended, that a number of our colleagues just attended, for the promotion of then Colonel Terry Paul to Brigadier General Terry Paul, the U.S. Marine Corps.

This is somewhat unusual, because General Paul has been serving as the Marine Corps liaison in the U.S. Senate for almost a decade. He came as a lieutenant colonel, he was promoted to the rank of full colonel, and this afternoon was promoted to the rank of brigadier general, where he will move across the Potomac to serve as the Legislative Assistant to the Commandant of the Marine Corps.

Many generals, officers of the Marine Corps, admirals of the Navy, representatives of the Department of Defense, and some of our colleagues in the House and Senate were there, to recognize an extraordinary Marine and an extraordinary patriot, someone who has worked very, very hard and very, very professionally in a job that many of us appreciate.

Mr. President, during his nearly 10-year assignment with the Marine Corps Liaison Office here in the Senate, General Terry Paul has championed a number of programs—like the M1A1 tank, the Maritime Pre-positioned Forces (MPF), the V-2 Osprey, and the Advanced Amphibious Assault Vehicle (AAAV)—that have helped sustain the Corps as the premiere expeditionary force in readiness and have helped mold the Corps for the twenty-first century.

To those of us who worked with him, General Paul has been a strong advocate for his beloved Corps.

He has poured his heart and soul into every facet of an issue, championing the best interest of the Corps and the nation, regardless of scope or monetary value.

He has also never lost sight of the individual Marine—working just as hard to secure a piece of gear that would keep a Marine dry during inclement weather as he would for a multi-million dollar modernization program that enhances the overall capability of the Corps.

As the Marine Corps' representative to the United States Senate, General Paul has also been instrumental in planning and assisting with countless congressional oversight missions here and abroad.

And as the only Senator serving on all three national security committees, I have personally embarked upon many a mission with General Paul.

On numerous occasions, I have been grateful for his invaluable assistance to me and to other Members of this body on what are inevitably grueling visits overseas.

General Paul unfailingly represents the Corps and country with great commitment and dedication.

Not only does General Paul do his job with extraordinary efficiency, with immense dedication, and with enormous pride, but he also does his job with great humor.

Whether it's Marine Corps ear-marks in the DOD bill, or racing to an airport in Ashgabat at 0-dark-30, or showing us the mettle of the Marines at Paris Island, Terry Paul is a consumate professional.

In my judgment, no one has better represented the Marine Corps on Capitol Hill.

And so, Mr. President, it is with high hopes and great appreciation that I wish General Paul godspeed as he embarks upon this new mission.

He moves to the Pentagon having contributed greatly to our work here—and having represented the Corps here in the Senate with enormous conviction.

We will miss him as a regular colleague—or at least an honorary colleague—in the Russell Senate Office Building—but he will be with us in spirit as he moves across the river. I look forward to continuing to work with him.

I will end by saying: to a Marine's Marine, to a man who epitomizes the motto of the Corps—Semper Fidelis, General Terry Paul.

And with that, Mr. President, I thank the Chair for the opportunity to recognize the extraordinary service of a very fine Marine and a very fine and patriotic American, and I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I join in the very kind remarks of the Senator from Virginia concerning Colonel Paul. He has done an outstanding job for many, many years and is a man all of us are proud of in his service to our Nation.

TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. LOTT. Mr. President, this is a great day for America's drivers, rail passengers, and freight haulers. Today, the Transportation Equity Act for the 21st Century (TEA21) has been signed into law. TEA21 will lead to better, safer, and less congested roads and bridges throughout the country. This extremely important transportation legislation is a great investment in our nation's future.

I applaud my colleagues, in both chambers of Congress, and on both sides of the aisle, for passing the Transportation Equity Act by overwhelming majorities.

Transportation is one of the few issues that Congress deals with that clearly and directly impacts every American, every day. That is why it was so imperative that both chambers take swift action on this important infrastructure bill. Whether driving to work, participating in a car pool, taking a commuter train, riding a school bus, hauling goods from one city to the next, or transporting an accident victim to the nearest hospital, Americans depend on safe roads, highways, and bridges to get them to their ultimate destination.

When the extended Intermodal Surface Transportation Efficiency Act (ISTEA) ran out on May 1, Congress recognized the importance of getting this new reauthorization legislation passed. A number of states could have been in serious jeopardy had Congress waited beyond the Memorial Day recess to enact the Transportation Equity Act. Now that the President has acted on this landmark transportation bill, I am proud that Congress has fulfilled one of our most important responsibilities to the American people. Authorizing road and bridge improvements into the next century is a significant accomplishment. This act alone should dispel the notion that this Congress has done nothing.

The Transportation Equity Act for the 21st Century (TEA21) deals with a wide range of highway, transit, research, recreational, safety and environmental policy initiatives. TEA21 is a balanced and effective infrastructure bill that will enhance our nation's roads and highways. TEA21 extends and improves upon many of the provisions contained in ISTEA, helping move America forward into the next century. It furthers the notion of an efficient and integrated national intermodal transportation system. This unified system links America's 161,000 mile National Highway System with state and local roads, ports, trade corridors, and airports. TEA21 is necessary for our nation's prosperity.

The Transportation Equity Act for the 21st Century provides a total of $216 billion for infrastructure development and improvements. That represents a 40% boost in transportation spending over current levels. This bill affects every state, every county and every city, providing significantly more money for the projects around the country that need and deserve federal assistance. TEA21 provides $173 billion for highways, $41.3 billion for mass transit, and $1.7 billion for highway safety programs. That translates into an annual highway spending increase of $8 billion and about $2 billion more annually for mass transit. Every year, $10 billion more will be spent on needed infrastructure.

Mr. President, I am particularly pleased that the Transportation Equity Act, as its title implies, provides more equity than the formula allocations provided by ISTEA. Under TEA21, each state is guaranteed to receive at least 90.5 cents for every dollar that its drivers send to Washington through the gas pump. As a result, forty-nine states will receive more money, with an average increase of about 44% over their current allocation levels. Even Massachusetts, the one state that did not receive a funding increase, will still get back more than it contributes annually to the Highway Trust Fund.

Many of the beneficiaries of the Act's minimum guarantee are the southern, midwestern, and western states commonly referred to as donor states. For years, these states have received far less in highway funding than they contributed in gas tax revenues. While TEA21 doesn't completely eliminate their donor status, North Carolina, Tennessee, Georgia, Indiana, Oklahoma, Louisiana, Arizona, Montana, among other donor states, will for the first time see an overall increase of more than 50% and a return of more than 90 cents on the dollar.

My home state of Mississippi, for example, will receive 92 cents. That's a 58% increase over the state's current gas tax return. While this is not a perfect dollar for dollar exchange, it represents significant progress that will help pave a great number of dirt and other substandard roads in Mississippi. In the years to come, I will continue my efforts to improve the formula allocation for all donor states.

Mr. President, TEA21 also re-establishes the covenant with our nation's drivers. It insures that each dollar of revenue contributed to the Highway Trust Fund is spent on transportation priorities and not on other initiatives. While this bill does not take the Highway Trust Fund off-budget, it does guarantee a minimum of $200.5 billion will be spent over the next six years on highways, safety, and mass transit programs. TEA21 also ensures that Congress fulfills its obligation to live within the Balanced Budget Agreement.

TEA21 authorizes bridge repair and improvement projects around the country. It supports the preservation of national historic covered bridges and includes funding that will allow states to retrofit bridges so they will be less prone to earthquake damage. Additionally, the bill provides $900 million to replace the decaying Woodrow Wilson Memorial Bridge, a 35 year old structure that now carries more than twice the 72,000 vehicles it was built to withstand. At the current rate of deterioration, passenger and freight traffic will be forced to stop in seven years. This is a major crossing on America's East-Coast highway that carries over 190,000 cars and trucks daily. That is why TEA21 was correct to step in.

I believe Congress has passed a bill that not only improves and enhances America's transportation system, but one that enriches our nation's economy and our quality of life. New roads and bridges spur economic development, increase mobility, and foster connectivity. For each dollar spent on our nation's infrastructure, society receives an exponential financial and social return on this public investment. In fact, economist Thomas Hogarty recently concluded that motor vehicle transport yields $6 trillion to $10 trillion in tangible benefits annually. That's trillion with a "t." Good roads, good bridges, and good transit systems facilitate the movement of people and supplies from the suburbs to major metropolitan areas and back, from one region of the country to another and from America to across the globe. Aside from heightening intrastate and interstate travel and trade, transportation improvements also support the creation of better and higher paying jobs. In Mississippi, for example, road work over the last ten years has helped prompt a 34% increase in the state's growth rate. I am very excited about the economic prospects for Mississippi under TEA21.

Mr. President, passage of the Transportation Equity Act will help repeat Mississippi's success story in each and every state. Infrastructure expenditures directly and indirectly support the 10 million people employed by our nation's transportation and related industries. In fact, Congressional Quarterly recently reported that TEA21 will lead to the creation of 400,000 new jobs throughout the United States.

TEA21 will strengthen our trade relationships with neighbors to the north and south of our nation's borders. TEA21 provides $700 million for trade and border crossings, and supports the continued development I–69, an 1,800 mile interstate that will stretch between nine states, from the Texas border with Mexico to Michigan's border with Canada. This Pan-American roadway, with vital regional connectors, will promote economic development all along its path. Additionally, I–69 will help virtually every state by fostering interstate and international commerce, helping our nation realize the benefits of the North American Free Trade Agreement.

The Transportation Equity Act is also a bill about safety. It provides over $2 billion for highway safety programs and authorizes $650 million in motor carrier safety grants. One of the many important reforms in TEA21 is the $500 million seat belt program which provides incentive grants to states that increase their seat belt usage or that exceed the national average. The Act also takes aim at drunk driving. It provides grants to states that have or adopt the more strict 0.08 percent blood-alcohol standard. TEA21 also promotes the development of airbags that do a better job of protecting children and smaller adults.

One of the issues that I felt very strongly about was the creation of a program to encourage states to improve their one-call system. As this Congress focused on our surface infrastructure, I felt it was important to include protections for our underground infrastructure. This took the form of a national call-before-you-dig system used to prevent accidents at underground facilities such as telephone, cable and power lines, water-maines and pipelines. A number of serious accidents have been caused by excavation without notice or by inaccurate markings of underground lines. While 49 states have one-call programs, it is widely recognized that many states' systems need to be strengthened.

Under TEA21, states that significantly improve their current one-call systems will qualify to receive federal grants. TEA21's one-call provision does not impose a federal mandate or establish a one-size-fits-all approach. It merely establishes national goals and offers states that want to participate the opportunity to apply for assistance. Decisions on a state's one-call system will still be left up to each state. The identification of minimum standards, however, will offer states a guide-post to help them improve their systems should they choose to do so. I believe that this non-prescriptive approach to state one-call systems will significantly enhance public safety, minimize disruptions, and improve environmental protection.

The Transportation Equity Act is also an environmental bill. It establishes private sector mitigation banks in support of wetlands, and streamlines the environmental review process for transportation projects. Senator BOND and Senator BREAUX championed these much needed fixes. TEA21 also increases annual funding for the Congestion Mitigation and Air Quality Program and for Transportation Enhancements to $1.5 billion and $630 million respectively. Additionally, the bill extends the Aquatic Resources Trust Fund, which supports sportfish restoration and boat safety programs, and provides to the fund an additional 1.5 cents per gallon of fuel tax revenues in fiscal year 2002, and another 2 cents after 2003. Another one of the important compromises achieved in this bill involves the harmonization of the Environmental Protection Agency's schedule for regulating regional haze and the 2.5 particulate matter standard.

This bill also authorizes several transportation research programs which will help our nation adapt to and utilize constantly changing technologies that will improve safety, ease congestion, and protect the environment.

Mr. President, I would like to conclude by thanking our colleagues who were instrumental in crafting and passing this landmark bill. First, my heartfelt appreciation goes out to Senator JOHN CHAFEE for his stewardship of this important, responsible, and historic transportation package. I also want to pay special tribute to Senator WARNER, Senator BAUCUS, Senator MCCAIN, Senator HOLLINGS, Senator D'AMATO, Senator SARBANES, Senator ROTH, Senator MOYNIHAN, Senator BOND, and Senator NICKLES because their guidance and leadership proved vital to this effort. I also want to recognize Senator DOMENICI for his efforts to ensure that the desired funding levels fell within the budget caps. Without his help, we may well have ended up with a much smaller bill.

All of the Senate conferees deserve a great deal of credit for bringing this much-needed transportation bill to fruition. Each and every one of them rolled up their sleeves and worked with Congressman BUD SHUSTER, Chairman of the House Transportation and Infrastructure Committee, and the House conferees to produce the largest infrastructure bill in U.S. history.

Lastly, a number of Senate staff worked long and hard on this bill. They worked many weekends and frequently late into the night. Mr. President, our colleagues know that staff provide invaluable assistance as public policy is formulated. Here they were essential. On behalf of our nation's highway users, I would like to thank each of them. I believe it is important to identify the staff directly involved in TEA21.

From the Senate Committee on Environment and Public Works: Daniel Corbett; Albert Dahlberg; Stephanie Daigle; Chris Hessler; Abigail Kinnison; Ann Loomis; Jason Patlis; Jimmie Powell; Kathy Ruffalo; Tom Sliter; Ellen Stein; Sharon Tucker; and Linda Willard.

From the Senate Committee on Commerce, Science and Transportation: Ann Begeman; Carl Bentzel; Moses Boyd: Lance Bultena; Charlotte Casey; Timothy Cook; Penny Dalton; James Drewry; Clyde Hart; Clark LeBlanc; John Raidt; and Sloan Rappoport.

From the Senate Committee on Banking, Housing, and Urban Affairs: Robert Drozdowski; Rachel Forward; Loretta Garrison; Steven Harris; Peggy Kuhn; Howard Menell; and Joseph Mondello.

From the Senate Committee on the Budget: William Hoagland; Brian Riley; and Austin Smythe.

From the Senate Legislative Counsel: Janine Johnson.

The following staff also participated on behalf of their Senator: Rob Alexander; Steven Apicella; Mark Ashby; Doug Benevento; Renee Bennett; Kirsten Beronia; Chad Bradley; Rick Dearborn; Steve Dye; Mike Egan; James English; Tracy Henke; Keith Hennessey; Timothy Hess; Gerry Gilligan; Chris Jahn; Arnie Kupferman; Adam Lawrence; Stephanie Leger; Ryan Leonard; Lisa Linnell; James McCarthy; Stephen McMillin; Ashley Miller; Beth Miller; Liz O'Donoghue; Justin Oliver; Brigitta Pari; Peter Phipps; Mark Prater; Chris Prins; Darla Romfo; Joyce Rechtscheffen; Brad Robinson; Peter Rogoff; Jason Rupp; Christine Russell; David Russell; Pamela Sellers; Joshua Sheinkmen; Becky Shipp; Gary Smith; Dave Thompson; Polly Trottenberg; Joseph Trujillo; Mitch Warren; Andrew Wheeler; Melissa White; Clay Williams; and Drew Willision.

Again, these individuals worked very hard on the Transportation Equity Act for the 21st Century and the Senate owes them a debt of gratitude for their dedicated service to this legislation.

Mr. President, now that President Clinton has signed The Transportation Equity Act for the 21st Century, our nation has enacted the foundation of our infrastructure for the next millennium. TEA21 will improve interstate and international commerce, stimulate our economy, protect our environment, and foster the use of modern transportation technologies.

With TEA21, American's can now look forward to better, safer and less congested roads and bridges throughout the nation.

ACKNOWLEDGMENT OF SENATOR GORDON SMITH'S 100TH PRESIDING HOUR

Mr. LOTT. Mr. President, today, I have the pleasure to announce that Senator GORDON SMITH is the latest recipient of the Golden Gavel Award, having presided his 100th hour earlier today.

The Golden Gavel has served for many years to mark a Senator's 100th presiding hour and continues to represent our appreciation for the time these dedicated Senators contribute to presiding over the U.S. Senate—a very important duty.

With respect to presiding, Senator SMITH has consistently pitched-in when presiding difficulties have arisen. With the aid of his enthusiastic scheduling staff, Senator SMITH has gladly carried more than his share of the presiding load.

It is with sincere appreciation that I announce to the Senate the newest recipient of the Golden Gavel Award—Senator GORDON SMITH of Oregon.

TRIBUTE TO THE 1998 RECIPIENTS OF THE PHOENIX AWARD FOR SMALL BUSINESS DISASTER RECOVERY

Mr. FORD. Mr. President, I rise today to pay tribute to Ruby L. Wyatt and Dixie L. Owen of Falmouth, Kentucky, who have both been selected as Phoenix Award recipients for Small Business Disaster Recovery by the U.S. Small Business Administration. The Phoenix Award seeks to recognize outstanding individuals who overcome the odds in the face of disaster.

Ruby is the President of Wyatt's Supermarket, Inc., and her daughter Dixie is the Secretary of this business which has been owned by their family for over 50 years. Ruby and her late husband Abe started in the grocery business in 1945 by selling food and supplies from the back of their Studebaker truck throughout the rolling hills of northern Kentucky. The Wyatt family soon expanded their operation and opened a full service supermarket.

The business continued to flourish until a major flood hit Falmouth in March 1997. The supermarket Ruby and Dixie had just built only seven years earlier, was devastated by the flood. Ruby, at age 75, and Dixie decided to rebuild the store. In just 66 days, Wyatt's SuperValu reopened for business and all 52 employees were rehired. Today, Wyatt's SuperValu is the only grocery store serving Pendleton County.

Ruby and Dixie's dedication did not end with rebuilding their own business. They worked to help secure federal funds to help rebuild the surrounding community in the aftermath of the flood. In addition, Ruby and Dixie participated in a fund-raiser with the Coca-Cola Company that raised money for the local public library damaged by the flood.

There can be no doubt that Ruby and Dixie's drive and determination during the aftermath of the flood is worthy of the Phoenix Award. The community of Falmouth is lucky to have two business leaders who are dedicated to the well-being of their community. The actions of the Wyatt family serve as a role model for other business leaders who are affected by natural disasters. I congratulate them on their success and wish them many future years of success serving the people of northern Kentucky.

TRIBUTE TO THE KENTUCKY SMALL BUSINESS PERSON OF THE YEAR

Mr. FORD. Mr. President, I rise today to pay tribute to Mr. Lior S. Yaron of Louisville, Kentucky, who has been selected as the Kentucky Small Business Person of the Year by the U.S. Small Business Administration.

Mr. Yaron is the President and CEO of LSY International, a distribution company in Louisville. He started the company in 1985 in New York and then moved the headquarters to Kentucky. Lior began LSY with a unique idea of marketing General Electric appliances with European voltage standards to domestic customers who would be moving back to their native country.

Mr. Yaron recognized that he was in a position to fill a niche market. As a result, his customers were able to buy an appliance in the U.S. that was designed to work on foreign voltage standards. This allowed customers to bring these appliances back to their home country without having to pay duties, thus providing them with significant savings while also giving them quality home appliances.

The success of LSY is also attributed to heavy advertising in publications frequently read by foreign nationals. Mr. Yaron relied on his unique advertising to minimize risks associated with selling goods that are only marketable overseas. LSY's innovative way of doing business has enabled it to grow and prosper. Sales have increased from $600,000 in 1985 to $11,520,460 in 1997. Employees have increased from only two in 1985 to 40 in 1997.

And finally, I would like to say that Mr. Yaron's vision and innovation set an example for all small business entrepreneurs. I am very happy that Mr. Yaron is being recognized for all of the hard work that has gone into this successful business. I congratulate him on this significant accomplishment and am proud that this innovative business is based in Kentucky.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 8, 1998, the federal debt stood at $5,495,352,165,488.00 (Five trillion, four hundred ninety-five billion, three hundred fifty-two million, one hundred sixty-five thousand, four hundred eighty-eight dollars and zero cents).

Five years ago, June 8, 1993, the federal debt stood at $4,303,726,000,000 (Four trillion, three hundred three billion, seven hundred twenty-six million).

Ten years ago, June 8, 1988, the federal debt stood at $2,540,845,000,000 (Two trillion, five hundred forty billion, eight hundred forty-five million).

Fifteen years ago, June 8, 1983, the federal debt stood at $1,308,822,000,000 (One trillion, three hundred eight billion, eight hundred twenty-two million).

Twenty-five years ago, June 8, 1973, the federal debt stood at $453,694,000,000 (Four hundred fifty-three billion, six hundred ninety-four million) which reflects a debt increase of more than $5 trillion—$5,041,658,165,488.00 (Five trillion, forty-one billion, six hundred fifty-eight million, one hundred sixty-five thousand, four hundred eighty-eight dollars and zero cents) during the past 25 years.

IN MEMORY OF TERRY SANFORD

Mr. HOLLINGS. Mr. President, on April 18, 1998, this body mourned the passing of a distinguished and beloved former colleague, Terry Sanford of North Carolina. In the days following Terry's death, I heard many moving tributes to him on this floor. And at his funeral in North Carolina, I heard eloquent eulogies and heartfelt testimonials to his greatness. But, I have heard no tribute to Terry Sanford more sincere or beautiful than that of Joel Fleishman, who was a good friend to Terry Sanford and whom I, too, am proud to claim as a friend. Mr. Fleishman's tribute evokes the qualities that made Terry Sanford a great statesman and educator, and it reminds us all of the importance of principled public servants to a republic such as ours.

At this time, Mr. President, I ask unanimous consent that Mr. Fleishman's tribute to Terry Sanford be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

TERRY SANFORD

Dear Margaret Rose, Terry, Betsee, and all members of Terry Sanford's family. Be comforted by the many, many years of exuberantly joyful memories which all of you shared with Terry, as well as by the grandeur of his astonishing gifts to society, all of which will forever bring credit to the Sanford name. One of the greatest privileges of my life, and certainly the greatest shaper of my career, have been my work and friendship with him over 47 years, as well as the warm friendship which you all have given me so generously.

Seeing you there, Terry, Jr., brings to mind one of the hallmarks of his way of doing everything. His original sense of humor was no secret to anyone. One time he was meeting with some out-of-state, indeed Northern corporate CEOs in the Governor's office, trying to get them to invest in North Carolina, and he had a call from you, which went, he told me later, as follows: "Dad, I caught that big turtle that's been giving me trouble in the pond. What should I do with him?" Deliberately without explaining the question to those in his office, Terry responded to you, "Well, son, shoot 'im and throw 'im in the back of the truck. We'll decide what to do with him later." The folks in Terry's office turned pale, afraid to ask for fear of what they might learn, and even more than a bit anxious than before about doing business with this good old boy turned New South politician.

Over the past 20 years I had occasion to introduce Terry Sanford hundreds of times, mainly when we were jointly trying, alas, to raise money for Duke. I loved regaling the audiences with his achievements and watching him first blush and then riposte with that deadpan, twinkle-in-the-eye humor. He would surely blush and fire back ripostes at what all of us are saying about him today.

Terry Sanford was a great-spirited, great-souled man, a man of passion, a man with a conscience that had real bite, a man, above all, who cared about people (really cared!), a man of loyalty. But most of all, Terry Sanford was a creative genius, but a thoroughly practical one, who transformed everything he touched into something finer, better, worthier and more useful to the world. If I had to call him by any single phrase, it would be "the great transformer."

At a time when most Southern governors were engaged in shameless, vicious race-baiting—and Fritz Hollings of South Carolina and Leroy Collins of Georgia were notorious exceptions to that pattern—Terry Sanford staked his political career on achieving equality of opportunity without regard to race, and thereby transformed public discourse in North Carolina.

At a time when, as he entered the governorship, North Carolina ranked next to last—49th—among the states in per capita income, Terry Sanford sparked the transformation of its economy by giving life, energy and momentum to Luther Hodges' and Romeo Guest's dream of a high tech research park as the magnet and engine of North Carolina's technological transformation. He got Jack Kennedy to give the Research Triangle Park the only one of the National Institutes of Health ever located outside of Washington and helped persuade IBM to be the first anchor tenant of the Park. What Sanford got rolling, governors Dan Moore, Bob Scott, Jim Holshouser, Jim Hunt and Jim Martin took to ever greater heights, and now North Carolina is in 32nd place destined to go even higher. Think what moving from 49th to 32nd means for all the people of North Carolina, and what it tells us about the power of enlighted, dedicated political leadership to do good in partnership with non-governmental entities.

At a time when government was thought by most people to be capable of solving, and indeed to have a monopoly on solving, all public policy problems by itself, Terry Sanford energetically created policy-shaping and problem-solving partnerships among government at all levels, not-for-profit organizations, foundations and for-profit corporations, pioneering in what is now the fashion—trisectoral public problem-solving. Miracle of miracles, he even began the practice of systematically drawing so-called "pointy-headed" academics from their ivory towers into policymaking and administration in government.

At a time when Duke University was barely known outside the South, Terry Sanford conceived and launched a plan to let the whole world in on the secret that Duke was one of the best universities in the world. The market test of his success is that the number of applications for undergraduate admission over the fifteen years of his presidency doubled—from 3.7 to 8 per place in the class, and went ever further later as a result of the momentum he established, while soaring in quality as well. [He loved to tell the story of President Few's effort to recruit William James' student and fellow Harvard colleague, Professor MacDougald, to the Duke faculty as the first professor of psychology.

Professor MacDougald was on sabbatical at Oxford, and Few cabled him the offer, which was financially very attractive, inviting him to join the faculty of Duke in Durham, N.C. He instantly wired back, saying "I accept; where's Durham?" Thanks in part to Terry Sanford, everyone now knows where Durham is.]

The great transformer!

What was his secret? What were the qualities of mind and character that enabled him to achieve these feats?

First of all, he genuinely cared about people, about individuals. He was not someone who loved "the people" in principle, while disdaining them as individuals.

Secondly, he never let things get to him. Over 47 years I knew him to get angry only once. That was when a state trooper on duty at the Governor's Mansion inadvertently let it be known to a reporter that—get this—alcohol was in fact being served at the Mansion, and Terry was furious that his mother might discover that he had an occasional sip!

He stuck to his word. Unlike so many persons who occupy political roles, whether as public office-holders or university presidents, Terry Sanford did not change his mind or his tune depending on what those with whom he was talking wanted to hear, or according to the views of those with whom he had most recently met. If he made a decision and committed himself to you, you could count on the fact that he would stick to it, and not be persuaded out of it by the next person with whom he talked.

How could he do that? Because he had real values, bedrock values. There was a there there!

His fidelity was the inevitable result of the fact that what motivated him in all his actions were the values to which he wholeheartedly committed his life and his entire career. Those values were the lyrical melody his soul sang from his birth to his death on Saturday last, a song which stirred the hearts and minds of the millions who admired, voted for, and followed him in the audacious goals he set for us all. It was those values that led him to do all that he did, and not some ego need to be loved or admired or be constantly in the spotlight.

And he served those values with the most amazing energy I've ever encountered in anyone. He was literally indefatigable! It was not only boundless but it was never-ending, showing itself even as he fought the last battle of his life against cancer.

One is forced to ask, "Why?" Why did Terry Sanford pour so much of himself into his quest for a better society? Anyone must wonder why a rational human being would sacrifice so much of their own life for others. One time, Terry and Bert Bennett were out on the road campaigning with Margaret Rose, and they were all being subjected to the same old cold peas and chicken, and equally tasty rhetoric from local politicians. Margaret Rose was complaining to Bert that Terry was gone from home all the time. Little Terry and Betsee were moaning about missing their father. Bert slipped a note to Terry, which said "Why do you continue to stay in this business anyway?" Terry fired back a note with the following words: "To keep the SOBs out." That's a bit more jugular than Edmund Burke's "All that is required for evil to triumph is for good men to do nothing."

Of course, it was more, a lot more than that.

It was the ideals which drove him. I know of no public figure who has demonstrated such consistent fidelity to his ideals over a lifetime as Terry Sanford did. Most of us change as we grow older, get a little more radical, even conservative perhaps, as the case may be. But his devotion to his ideals didn't waver one whit in the 47 years I knew him. What were those ideals?

Devotion to democracy, little "d" as well as big "D." He always believed from the depth of this being, and always acted on the belief, that the best cure for the ills of democracy is more democracy. He was a relentless, devoted big D Democrat. That is one, as he taught me, whose credo is "What my dog trees, I'll eat."

Devotion to equality of opportunity for all, irrespective of race, religion and gender. His creed has always been that of the Declaration of Independence—"We hold these truths to be self-evident,"—and by "self-evident" he really meant self-evident—"that all men"—and women, he would add—"are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness." [Until Terry Sanford became president of Duke University, there was a quota on the admission of Jewish students. The day he became president, it was removed.]

Devotion to education as the most important means of society's continuing renewal, and of the individual's personal growth and ladder to a better life. Of all the things he was called—and he reveled in the fact that he was called many things good and bad—he was proudest of being called "the education governor"—not just of North Carolina, although that would surely have satisfied him—but the education governor of the entire United States, probably the first governor of any state in the nation in history to be widely so called. And I'll bet, too, that he is just as proud to have inspired Jim Hunt to aspire to, and indeed to earn, the same proud title.

Devotion to the development of leadership—to bringing along young people and nurturing them—as society's single best means of ensuring the future flow of wise, energetic and dedicated leaders required to solve the problems of succeeding generations.

As all of us are now gathered in the Duke Chapel to celebrate Terry Sanford's life, think how those four great ideals—devotion to democracy, to equality, to education, and to leadership development—that animated his career have come to combine in the mission of the nearby building and Institute that are honored by his name, and how they bear witness to his devotion to them. A more perfect match could hardly be imagined!

In an age when many politicians seem drawn to seek office, like moths to a flame, primarily by a desire for power, fame, and the spotlight, but who use the public interest as a mask and justification for their ambition, Terry Sanford was exactly the opposite. Public service was his end and public office was the means of his service. He was obsessed by fixing what is wrong, making things better, serving the public, and he sought public office as the most effective means for someone with his mix of talents to do so. His ambition was redeemed because it was always yoked to his over-riding, all-consuming, relentless quest for benefiting the public. He was driven by his vision of making things better for all North Carolinians, especially the powerless, the less well off, those who are discriminated against. I said he had a conscience with real bite. He not only preached doing right, but he did right. When the business folks at Duke proposed moving payday for the hourly workers from Friday to Monday, someone wrote and delivered to Terry a note with two verses from Deuteronomy (24:14, 15): "Thou shalt not wrong a day-laborer who is poor and needy whether of they brethren or of the strangers that are in thy land, in thy gates. On his day shalt thou give him his wage and let not the sun go down on it, for he is poor and setteth his heart upon it; let him not call unto God against thee, and a sin would be upon thee." He instantly reversed the change.

In another extraordinary respect, Terry Sanford was unique among all those of my acquaintance. He had an unquenchable thirst for ideas from everyone, which led him to seek out persons of all stations and conditions of life with whom to consult about everything that he cared about. His life was a never-ending pursuit of the best ideas from as a wide a circle as possible about how to solve the problems of concern to him, or to them. Unlike so many public figures and university presidents, he was resolutely determined to resist becoming the captive of his long-time friends, his campaign workers, his kitchen cabinet. It goes without saying that he was always loyal to them, and that they had access to him. But that inner circle was perpetually refreshed over the years by hundreds of others whom he sought out and drew in on a continuing basis. He had the most remarkable thirst for new ideas of any man of action I've ever known. That characteristic had to be one of the keys to the many significant innovations for which he is so justly credited all across North Carolina and at Duke University. Honesty requires me to say that not all of the ideas he picked up and decided to run with seemed to me in prospect likely to succeed, but I am struck in retrospect by how many of them did.

Another key is the way he recruited, empowered and defended associates. Once he hired or otherwise engaged someone, he turned them loose to carry out their visions, and he backed them to the hilt! If you worked for Terry Sanford, you never had to worry about whether the would come to your aid when you needed it, or protect you from those who opposed what you were trying to do. He simply empowered you with the authority of his office, and he was loyal to you.

At least most of the time.

My first assignment the day after the victorious second primary, was to drive Margaret Rose home to Fayetteville. Tom Lambeth handed me a set of car keys, and said take the blue Oldsmobile in the parking lot of the Carolina Hotel, which was campaign headquarters. So Margaret Rose and I went out to the car, got in and started to drive away, when she said, "Why don't we drive around the Mansion just to take a look at where we'll be living next January." Of course there was still the general election to win, but Republicans weren't as powerful then as now. So we drove north on MacDowell Street and went all the way around the mansion and then headed south on Wilmington Street. We hadn't gotten two blocks past the Mansion when I heard police sirens behind us. To say that I was petrified is the understatement of the decade. I could see the screaming headlines in the N&O the next morning: "Gubernatorial Nominee's Wife and Sanford Aide arrested for speeding." I was baffled because I knew we had not been speeding. It was worse. The policeman told me that the car Mrs. Sanford and I were in had just been reported as stolen. So I sheepishly got out of the car, and asked the police to let me make my one phone call. I wasn't about to tell them to whom. I called Tom, who told Terry, whose immediate response was "Get Margaret Rose out of there as fast as possible, and forget about Joel!" It turned out that there were two blue Oldsmobiles in the lot, one of which belonged to the hotel manager, and miraculously the Sanford car keys fit his, too. We all had a great laugh when it was over.

Our bodies exist, I believe, only so that they can serve as instruments of the spirit that will animate us all if we but allow it to do so. Our bodies are but the means whereby we acquire the materiality to accomplish our visions in the world of the material. The spirit that animated Terry Sanford's body is the same spirit that found expression in the lives and bodies of Thomas Jefferson, Andrew Jackson, Abraham Lincoln, Charles Brantley Aycock, Franklin Roosevelt and John F. Kennedy, and although their bodies are long buried, their spirits live on in us. And it was the same spirit, too, that radiated through the body of Frank Porter Graham, in whose U.S. Senate campaign in 1950 Terry Sanford played his first active political role. The only time Tom Lambeth tells me that he ever saw Terry Sanford come close to breaking into tears was when he spoke about what Frank Graham's life had meant to him. Frank Graham's vision was Terry Sanford's vision, too: "In this land of liberty, for which our fathers died, and for which we would live, work, and give our all, may America become a country in which the highest and the lowest and all the people equally together have the freedom to struggle for the higher freedom of truth, goodness and beauty; where democracy is without vulgarity, excellence is without arrogance, the answer to error is not terror and the response to a difference in color, race, religion, ideas, and economic condition is not discrimination, exploitation, or intimidation."

It is not the body that we are here to bury that is Terry Sanford; what we bury is but the envelope. The real Terry Sanford can never be buried; that is the spirit, vision, energy and compassion that animated that body for eighty years. THAT is the Terry Sanford whom we honor and love, and that can never be interred in the earth from which the body came. As long as his spirit, vision, energy, and compassion animate *us*, all of us whose lives he stirred to "burgeon out all that is within us," in Governor Aycock's words, the values for which we love and honor Terry Sanford will go on leading us to serve the goals to which he helped inspire us to dedicate our lives.

EMERGENCY MEDICAL SERVICES FOR KING COVE, ALASKA

Mr. STEVENS. Mr. President, I lend my strong support to Senator MURKOWSKI and Congressman YOUNG in their efforts to provide better access to emergency medical services for the people of King Cove, Alaska. Senator MURKOWSKI's bill, S. 1092, and its companion bill in the House will put an end to the recent string of deaths resulting from emergency medical evacuation efforts out of King Cove.

King Cove is one of the most prolific fishing communities in the nation and has the largest fish processing operation in Alaska. It sits at the tip of the Alaska Peninsula, 600 miles southwest of Anchorage in the North Pacific Ocean.

King Cove is served by a small dirt runway. The runway has no lights and no instrument capability, and has no personnel manning it. It sits in a valley between two large mountains. The weather and the surrounding terrain create winds that are described as "venturi effects"—under these conditions the wind can blow in opposite directions at opposite ends of the runway. The winds aloft over the runway create wind shears that have flipped planes and thrown them into mountains. King Cove's airstrip is closed roughly one out of every three days, often for many days at a time.

Cold Bay also lies on the tip of the Alaska Peninsula. It is a community built entirely around the third largest nonmilitary runway in the state. Cold Bay is a ten minute plane ride from King Cove, just on the other side of a wildlife refuge. The main runway at Cold Bay is over ten thousand feet long. The crosswind runway is over five thousand feet long. Both are paved. Cold Bay's airport has runway lights and supports full instrument approaches. It is a designated landing site for the space shuttle, and is closed an average of two days a year.

The people of King Cove need emergency access to Cold Bay when the weather turns bad. Ferry service is not a viable option. The same wind that shuts down King Cove's runway can drive forty foot seas on Cold Bay. Recently, state officials looking into King Cove ferry service saw a one hundred twenty foot fishing boat fail to make it into the harbor because the seas were too rough.

The people of King Cove want to build a single lane gravel road to Cold Bay, but they need an easement through seven miles of federal land to do it. Many people who have never been to Alaska don't want to see this road built. They cite the cost of the road, the precedent of granting a right of way, and the availability of other options. What they don't cite is the eleven people who have died in recent years trying to fly out of King Cove.

Senator MURKOWSKI's bill does not authorize a single dollar of federal funds to build this road. It merely provides a land exchange in which the refuge gains five hundred acres of wilderness area.

The bill does not establish any precedent with respect to land use in wildlife refuges. There are currently 42 miles of road in this refuge, about a third of which are in wilderness areas. The Fish and Wildlife Service already encourages people to use these roads for bird-watching. Congress frequently allows a number of uses in wilderness areas. Just last Congress we allowed the use of all-terrain vehicles in the Anaktuvuk Pass land exchange.

Some people say that telemedicine is the answer to King Cove's emergency medical needs. I am a strong supporter of telemedicine, but I know that it is a diagnostic tool. Once a diagnosis is made, patients still need to get to a hospital. Telemedicine cannot reattach limbs or provide prenatal care.

Alaska is used to being micromangaged by Washington, but we will not sit by and listen to specious arguments made to raise funds for extreme environmental groups. We have a simple bill to fix a simple problem, and if we don't do it more people will die.

The people of King Cove deserve reasonable access to medical facilities. They have made a generous land exchange offer in return for the right of way. I strongly support Senator MURKOWSKI's efforts and urge my colleagues to support him as well when the bill comes to the floor. I ask that I be added as a cosponsor to the King Cove Health and Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE UNLV GOLF TEAM

Mr. REID. Mr. President, I rise today to express my congratulations to Coach Dwaine Knight, Assistant Coach Casey Whalen, and the entire University of Nevada, Las Vegas golf team for capturing its first-ever NCAA national championship.

The UNLV Rebels secured the title after fending off rival Clemson to win the NCAA tournament, which was held in the final week of May at the University of New Mexico's Championship Golf Course. UNLV easily set a team tournament record by shooting a sizzling 34 under (72-hole) par of 1,118. The previous mark was 23 under par.

Prospects for winning the title appeared dim at the beginning of the season. Despite high rankings, the team failed to make the cut in the tournament in 1997, and lost key players to graduation and the professional ranks. Some in the media speculated that UNLV could not win the big tournaments. The team has clearly proved its doubters wrong.

It is interesting to note, however, that the Rebels came in a disappointing 10th in the season's first match and fell dramatically in the rankings. Undeterred, the squad, which includes only one senior, bounced back to win seven contests, a UNLV record.

Importantly, instead of being laden with highly recruited stars and overblown egos that are the trademarks of so many top amateur sports programs, the 1998 Rebels featured a handful of student-athletes with tremendous heart and determination. Coach Knight has rightfully stated that the mark of this year's team was its will to do battle. Indeed, the group's desire to persevere and overachieve should be an inspiration to all who follow the sport.

Bob Hope once said that if you watch a game, it's fun. If you play it, it's recreation. If you work at it, it's golf. Plain and simple, the Rebels' tremendous success can be traced to their commitment to hard work. And, I might add, their hard work doesn't stop on the greens. In fact, the team is comprised of model student-athletes, young men who understand their first priority is academics. Their commitment to the sport is matched only by their commitment to the classroom.

I am particularly proud to report that the team earned a very respectable grade point average of 3.1 in the fall semester and 3.4 in the spring term. Moreover, they are true sportsmen in the sense that they represent themselves with class and good character.

The Rebels' success is something in which Nevadans can take great pride. In fact in southern Nevada, where the population increases by a thousand a week, where a new, spectacular course seems to open every month, and where the sun shines bright 300 hundred days a year, golf has emerged as nothing short of a sensation. The success of the UNLV team certainly contributes to the sport's popularity in southern Nevada.

Today, I applaud team members Jeremy Anderson, Chris Berry, Daron Dorsey, Charley Hoffman, Scott Lander, Bill Lunde, Christian Thornley, Morten Vidhoj, Scott Wingfield, the coaching staff, as well as the loyal fans, supportive community and UNLV, on the squad's amazing success. The UNLV golf team's hard work and great accomplishments have made Nevadans very proud, and I wish team members continued success in all their endeavors.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one treaty, a withdrawal, and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report on the national emergency declared by Executive Order 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

REPORT ENTITLED "INTERNATIONAL CRIME CONTROL ACT OF 1998"—MESSAGE FROM THE PRESIDENT—PM 138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am transmitting for immediate consideration and enactment the "International Crime Control Act of 1998" (ICCA). The ICCA is one of the foremost initiatives highlighted in my Administration's International Crime Control Strategy, which I announced on May 12, 1998. The proposed legislation would substantially improve the ability of U.S. law enforcement agencies to investigate and prosecute international criminals, seize their money and assets, intercept them at our borders, and prevent them from striking at our people and institutions.

Advances in technology, the resurgence of democracy, and the lowering of global political and economic barriers have brought increased freedom and higher living standards to countries around the world, including our own. However, these changes have also provided new opportunities for international criminals trafficking in drugs, firearms, weapons of mass destruction, and human beings, and engaging in fraud, theft, extortion, and terrorism.

In response to these formidable threats to the American people, I have directed the Departments of Justice, State, and the Treasury, as well as the Federal law enforcement and intelligence communities, to intensify their ongoing efforts to combat international crime. In order to carry out this mandate most effectively, the many departments and agencies involved need the additional tools in the proposed ICCA that will enhance Federal law enforcement authority in several key areas, close gaps in existing laws, and facilitate global cooperation against international crime.

The ICCA's provisions focus on seven essential areas to improve the Federal Government's ability to prevent, investigate, and punish international crimes and criminals:

(1) INVESTIGATING AND PUNISHING ACTS OF VIOLENCE COMMITTED AGAINST AMERICANS ABROAD

—Broadens existing criminal law to authorize the investigation and punishment of organized crime groups who commit serious criminal acts against Americans abroad. (Current law generally requires a link to terrorist activity.)

—Provides jurisdiction in the United States over violent acts committed abroad against State and local officials while in other countries on official Federal business.

(2) STRENGTHENING U.S. AIR, LAND, AND SEA BORDERS

—Increases penalties for smugglers who endanger Federal law enforcement officials seeking to interdict their activities, introducing the Federal criminal offense of "portrunning" (i.e., evading border inspections, often through the use of force).

—Addresses gaps in current law relating to maritime drug interdiction operations, introducing the criminal offense of failing to stop ("heave to") a vessel at the direction of a Coast Guard or other Federal law enforcement official seeking to board that vessel.

—Provides clear authority to search international, outbound letter-class mail if there is reasonable cause to suspect that the mail contains monetary instruments, drugs, weapons of mass destruction, or merchandise mailed in violation of several enumerated statutes (including obscenity and export control laws).

—Broadens the ability to prosecute criminals smuggling goods out of the United States.

(3) DENYING SAFE HAVEN TO INTERNATIONAL FUGITIVES

—Authorizes the extradition, in certain circumstances, of suspected criminals to foreign nations in two separate cases not covered by a treaty: (1) when the United States has an extradition treaty with the nation, but the applicable treaty is an outdated "list" treaty that does not cover the offense for which extradition is sought; and (2) when the United States does not have an extradition treaty with the requesting nation.

—Provides for exclusion from the United States of drug traffickers and their immediate family members and of persons who attempt to enter the United States in order to avoid prosecution in another country.

(4) SEIZING AND FORFEITING THE ASSETS OF INTERNATIONAL CRIMINALS

—Expands the list of money laundering "predicate crimes" to include certain violent crimes, international terrorism, and bribery of public officials, thus increasing the availability of money laundering enforcement tools.

—Broadens the definition of "financial institution" to include foreign banks, thereby closing a loophole involving criminally derived funds laundered through foreign banks doing business here.

—Provides new tools to crack down on businesses illegally transmitting money, and to investigate money laundering under the Bank Secrecy Act.

—Toughens penalties for violations of the International Emergency Economic Powers Act.

—Criminalizes attempted violations of the Trading With the Enemy Act.

(5) RESPONDING TO EMERGING INTERNATIONAL CRIME PROBLEMS

—Enhances enforcement tools for combating arms trafficking, including requiring "instant checks" of the criminal history of those acquiring explosive materials from Federal licensees and clarifying Federal authority to conduct undercover transactions subject to the Arms Export Control Act for investigative purposes.

—Addresses the increasing problem of alien smuggling by authorizing the forfeiture of the proceeds and all instrumentalities of alien smuggling.

—Cracks down on the international shipment of "precursor chemicals" used to manufacture illicit drugs, primarily by authorizing the Drug Enforcement Administration to require additional "end-use" verification.

—Provides extraterritorial jurisdiction for fraud involving credit cards and other "access devices," which cost U.S. businesses hundreds of millions of dollars every year.

—Authorizes wiretapping for investigations of felony computer crime offenses.

(6) PROMOTING GLOBAL COOPERATION

—Expands the authority of U.S. law enforcement agencies to share the seized assets of international criminals with foreign law enforcement agencies.

—Provides new authority, applicable in cases where there is no mutual legal assistance treaty provision, to transfer a person in United States Government custody to a requesting country temporarily for purposes of a criminal proceeding.

(7) STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIME IN U.S. COURTS

—Authorizes the Attorney General to use funds to defray translation, transportation, and other costs of State and local law enforcement agencies in cases involving fugitives or evidence overseas.

—Facilitates the admission into evidence in U.S. court proceedings of certain foreign government records.

The details of this proposal are described in the enclosed section-by-section analysis. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:35 p.m., a message from the House of Representatives, delivered by Mr. Hanraham, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1150. An act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar

H.R. 3433. An act to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5235. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Board of Governors of the Federal Reserve System for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-5236. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Single Family Mortgage Insurance; Electronic Underwriting" (RIN2502-AH15) received on May 29, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5237. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the State of Fair Housing in America for 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC-5238. A communication from the President of the United States, transmitting, pursuant to law, the report of a notice entitled "Continuation of Emergency with Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs"; to the Committee on Banking, Housing, and Urban Affairs.

EC-5239. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Burma; to the Committee on Banking, Housing, and Urban Affairs.

EC-5240. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Amendment to Affordable Housing Program Regulation" (RIN3069-AA73) received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5241. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the operations of the Exchange Stabilization Fund for fiscal year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-5242. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding property owned or controlled by the Government of Sudan, specially designated narcotics traffickers, and a vessel no longer owned or controlled by Cuba received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5243. A communication from the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice of Extension of Application Deadline" received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5244. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding individuals and entities whose property is blocked because they have been determined to play a significant role in international narcotics trafficking received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5245. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Custody of Investment Company Assets Outside the United States" (RIN3235-AE98) received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5246. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Revision to the NASA FAR Supplement on Technical Performance Incentive Guidance" received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5247. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Revision to the NASA FAR Supplement on Contractor Performance Information" received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5248. A communication from the Acting Associate Administrator for Legislative Affairs, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the annual performance plan for fiscal year 1999; to the Committee on Commerce, Science, and Transportation.

EC–5249. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning the closure of directed fishing for Pacific cod by vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (Docket 971208298–8055–02) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5250. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning summer period scup fisheries closures in Delaware, New Hampshire, Maryland, and Massachusetts (Docket 971015246–7293–02) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5251. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning Atlantic bluefin tuna quota specifications and general category effort controls (RIN0648–AK87) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5252. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (RIN0648–AK78) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5253. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (RIN0648–AF41) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5254. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the availability of Federal assistance under the Halibut and Sablefish Fisheries Quota-Share Loan Program (RIN0648–ZA38) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5255. A communication from the Office of the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "Rail Service Continuation Subsidy Standards" received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5256. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on actions taken in respect to the New England fishing capacity reduction initiative for calendar year 1997; to the Committee on Commerce, Science, and Transportation.

EC–5257. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Vergennes, Vermont, Willsboro and Malone, New York (Docket 97–185) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5258. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revisions to Part 21 of the Commission's Rules regarding the Multipoint Distribution Service" (Docket 96–179) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5259. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Brinkley and Colt, Arkansas (Docket 98–15) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5260. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Bozeman, Montana (Docket 98–23) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5261. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding deregulation of the equipment authorization requirements for digital devices (Docket 95–19) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5262. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Speculator, New York (Docket 98–12) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5263. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Oceanside, CA" (RIN2115–AA97) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5264. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Clear Creek, TX" (RIN2115–AE47) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5265. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Braked Roll Conditions" (RIN2120–AF83) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5266. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Knoxville, IA" (Docket 98–ACE–12) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5267. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes" (Docket 98–NM–34–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5268. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes" (Docket 98–NM–13–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5269. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328–100 Series Airplanes" (Docket 98–NM–40–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5270. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Model Hawker 800XP Series Airplanes, and Hawker 800 (U–125A Military Derivative) Airplanes" (Docket 98–NM–165–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5271. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes" (Docket 97–NM–251–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5272. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aerospatial Model ATR42–300 and –320, and Model ATR72 Series Airplanes" (Docket 98–NM–24–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5273. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; de Havilland Model DHC–8–301, –311, –314, and –315 Series Airplanes" (Docket 97–NM–330–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5274. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes" (Docket 97–NM–331–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5275. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29226) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5276. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29227) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5277. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class D Airspace, Lubbock Reese AFB, TX, and Revision of Class E Airspace, Lubbock, TX" (Docket 98-ASW-18) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5278. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29225) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5279. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling; Nutrient Content Claims—General Provisions" (Docket 98N-0283) received on May 26, 1998; to the Committee on Labor and Human Resources.

EC-5280. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding sodium phosphates for over-the-counter laxative use (RIN0910-AA01) received on June 2, 1998; to the Committee on Labor and Human Resources.

EC-5281. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Direct Food Substances Affirmed as Generally Recognized as Safe; Sheanut Oil" (Docket 88G-0288) received on June 2, 1998; to the Committee on Labor and Human Resources.

EC-5282. A communication from the Commissioner of Education Statistics, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, the statistical report of the National Center for Educational Statistics for 1998; to the Committee on Labor and Human Resources.

EC-5283. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Production Flexibility Contract Regulations" (RIN0560-AF25) received on June 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5284. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State Designation; Hawaii" (Docket 97-063-2) received on June 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5285. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule regarding oil and gas and sulphur operations in the outer continental shelf (RIN1010-AC45) received on May 28, 1998; to the Committee on Energy and Natural Resources.

EC-5286. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Blowout Preventer (BOP) Testing Requirements for Drilling and Completion Operations" (RIN1010-AC37) received on June 2, 1998; to the Committee on Energy and Natural Resources.

EC-5287. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding policy on small entity compliance with statutory and regulatory requirements received on June 2, 1998; to the Committee on Energy and Natural Resources.

EC-5288. A communication from the Secretary of Defense, transmitting, notices of military (Navy) retirements; to the Committee on Armed Services.

EC-5289. A communication from the Secretary of Defense, transmitting, notices of military (Air Force) retirements; to the Committee on Armed Services.

EC-5290. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting the report of the texts of international agreements, other than treaties, and background statements (98-70 through 98-75); to the Committee on Foreign Relations.

EC-5291. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Leverage Capitol Standards: Tier 1 Leverage Ratio" (Docket R-0948) received on June 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5292. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Adjustments of Status for Certain Nationals of Nicaragua and Cuba" (RIN1115-AF04) received on June 2, 1998; to the Committee on the Judiciary.

EC-5293. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule regarding criminal aliens and custody redeterminations (RIN1115-AE88) received on June 2, 1998; to the Committee on the Judiciary.

EC-5294. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending of receipts legislation within seven days of enactment dated May 1, 1998; to the Committee on the Budget.

EC-5295. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Child Support Enforcement Budget Amendments Act" ; to the Committee on Finance.

EC-5296. A communication from the President of the United States, transmitting, pursuant to law, a report of action under the Trade Act of 1974 concerning wheat gluten; to the Committee on Finance.

EC-5297. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the report on the operation of the United States trade agreements program for calendar year 1997; to the Committee on Finance.

EC-5298. A communication from the National Director of Appeals, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Income Tax Withholding on Compensation Paid to Nonresident Alien Crew by a Foreign Transportation Entity" received on June 2, 1998; to the Committee on Finance.

EC-5299. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding Department Store Inventory Price Indexes for April 1998 (Rev. Rul. 98-29) received on June 2, 1998; to the Committee on Finance.

EC-5300. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Pension, Profit-Sharing, Stock Bonus Plans, etc.; Certain Cash Deferred Arrangements" (Rev. Rul. 98-30) received on June 2, 1998; to the Committee on Finance.

EC-5301. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Rev. Rul. 98-32) received on June 2, 1998; to the Committee on Finance.

EC-5302. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5303. A communication from the Senior Deputy Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5304. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5305. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5306. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5307. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5308. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5309. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding revisions to the

Knox County portion of the Tennessee SIP (FRL6104–1) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5310. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding gasoline volatility requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area (FRL6102–4) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5311. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding emissions from perchloroethylene dry cleaning systems in Texas (FRL6104–2) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5312. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Azoxystrobin; Pesticide Tolerances for Emergency Exemptions" (FRL5793–6) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5313. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clopyralid; Extension of Tolerance for Emergency Exemptions" (FRL5789–8) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5314. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenbuconazole; Pesticide Tolerance for Emergency Exemptions" (FRL5791–5) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5315. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants; Petroleum Refineries" (FRL6106–4) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5316. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Polyvinyl Chloride; Tolerance Exemption" (FRL5789–7) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5317. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding standards for municipal solid waste landfills (FRL6106–8) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5318. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding the State of Florida Implementation Plans and emission standards for Washoe County, Nevada (FRL6015–4, FRL6014–5) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5319. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sinorhizobium meliloti Strain RMBPC–2; Significant New Use Rule" (FRL–5789–5) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5320. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model 2000 Series Airplanes" (Docket 96–NM–211–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5321. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes" (Docket 96–NM–172–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5322. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders" (Docket 98–CE–14–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5323. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders" (Docket 98–CE–11–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5324. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–201, 228–202 and 228–212 Airplanes" (Docket 97–CE–121–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5325. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes" (Docket 97–CE–38–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5326. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes" (Docket 97–NM–102–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5327. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Livingston, MT, and Butte, MT, and Removal of Class E Airspace; Coppertown, MT" (Docket 97–ANM–20) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5328. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; The Great Chesapeake Bay Swim Event, Chesapeake Bay, Maryland" (RIN2115–AE46) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5329. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Coney Island Air Show Days, Coney Island Channel, Brooklyn, New York" (RIN2121–AA97) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5330. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation: Fireworks displays within the First Coast Guard District" (RIN2115–AE46) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5331. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on air cargo security; to the Committee on Commerce, Science, and Transportation.

EC–5332. A communication from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the Federal-State Joint Board on Universal Service (Docket 96–45) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5333. A communication from the Secretary of the Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule regarding child-resistant packaging for certain household products containing fluoride received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes; to the Committee on the Judiciary.

By Mr. COVERDELL:

S. 2144. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees; to the Committee on Labor and Human Resources.

By Mr. SHELBY (for himself, Mr. ROCKEFELLER, and Ms. MOSELEY-BRAUN):

S. 2145. A bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process of the development, revision, and interpretation of Federal construction and safety standards for manufactured homes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2146. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2147. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 2148. A bill to protect religious liberty; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. BRYAN):

S. 2149. A bill to transfer certain public lands in northeastern Nevada; to the Committee on Energy and Natural Resources.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. WELLSTONE, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 2150. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL):

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH (for himself and Mr. THOMAS):

S. Res. 245. A resolution expressing the sense of the Senate that it is the interest of both the United States and the Republic of Korea to maintain and enhance continued close U.S-ROK relations, and to commend President Kim Dae Jung and the Republic of Korea for the measures already implemented and those it has committed to implement to resolve the country's economic and financial problems; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes; to the Committee on the Judiciary.

SUPREME COURT VOLUNTEER LEGISLATION

Mr. HATCH. Mr. President, year after year, millions of people flock to Washington D.C. to visit the seat of American government. They come from every state of the union and most of the nations of the Earth to view for themselves the workings of the oldest democracy in the world. This city, through its historic edifices, tells the story of our nation. I am grateful for the thousands of professionals and volunteers who help to share that story with all who come to hear it.

Over one million of these visitors come to the Supreme Court Building each year. They come to see, experience, and learn about the workings of American justice. Meeting this large demand can be taxing on the resources of the Court. To satisfy this need, without adding an undue burden to the budget, the Court has asked Congress to enact legislation permitting volunteers to conduct public tours of the Supreme Court building.

This legislation will provide the Court with the same benefits that have recently been extended to the Congress. Currently, 35 volunteers from the Capitol Guide Service assist Capitol visitors by providing historical perspective and insight. I have been told by the Capitol Guide Service that the influx of volunteers, allowed by legislation in the 104th Congress, enabled them to increase the volume of their tours of the Capitol by approximately twenty-five percent. Moreover, it provided the personnel necessary to expand their service to the exterior of the Capitol. Guides positioned outside the Capitol help direct visitors and provide information about the historic external architecture of this building. The use of volunteers has improved the experience of citizens visiting the Capitol grounds.

The proposed legislation, like that covering congressional volunteers, will have no adverse fiscal impact, nor will it displace any Supreme Court employees. The legislation will, however, dramatically improve the ability of the Supreme Court to educate the public about this distinctly American institution.

I believe that upon passage of this legislation, all Americans who visit our seat of Justice will appreciate the expanded services made available by its enactment.

By Mr. SHELBY (for himself, Mr. ROCKEFELLER, and Ms. MOSELEY-BRAUN):

S. 2145. A bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes; to the Committee on Banking, Housing, and Urban Affairs.

MANUFACTURED HOUSING IMPROVEMENT ACT

• Mr. SHELBY. Mr. President, today I introduce a bipartisan bill with my colleagues, Senators JOHN ROCKEFELLER and CAROL MOSELEY-BRAUN. Entitled the "Manufactured Housing Improvement Act," (MHIA) this bill is designed to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

Many do not realize that the manufactured homes of today are completely different from those of twenty or even ten years ago. They also do not realize that this is the fastest growing segment of the housing industry, and that it accounts for one out of every three new single family homes sold. Between 1980 and 1990, the industry experienced a 60 percent growth in market share, and last year set a twenty year sales record. There are good consumer-oriented reasons for this tremendous growth—manufactured housing offers quality and aesthetically pleasing housing at an average cost of $37,300, excluding the land. Today, manufactured housing has lowered the threshold to the American Dream of home ownership for millions of Americans, including first-time home buyers, senior citizens, young families, and single parents.

At a time when home ownership is becoming harder for the average American to attain, and with more than 5.3 million Americans paying more than 50 percent of their incomes on rent, I believe it is imperative to update the laws that regulate the private sector solution to affordable housing. In order for the manufactured housing industry to remain competitive, Congress must modernize the National Manufactured Housing Construction and Safety Standards Act of 1974.

My bill would do just that. MHIA would establish a consensus committee that would submit recommendations to the Secretary of Housing and Urban Development (HUD) for developing, amending and revising both the Federal Manufactured Home Construction and Safety Standards. This provision will allow the manufactured housing industry to update and create applicable building codes and standards just like other participants in the housing industry. In addition, the committee would be authorized to interpret the standards, thereby eliminating confusion and uncertainty in the market place.

The Manufactured Housing Improvement Act would authorize the Secretary of HUD to use industry labeling fees for the administration of the consensus committee and the hiring of additional HUD staff. The Secretary of HUD would also be authorized to use industry label fees to promote the availability and affordability of manufactured housing.

This legislation is a very significant step forward in that both the Manufactured Housing Institute and the Manufactured Housing Association for Regulatory Reform endorse this legislation. The industry participants have modernized the quality and technology of manufactured housing. Congress must now modernize the laws that regulate an industry that provides affordable housing and contributes more than $23 billion annually to our nation's economy.●

● Mr. ROCKEFELLER. Mr. President, I join today with Senator SHELBY to introduce legislation intended to strengthen the manufactured housing industry. Manufactured housing provides a major source of affordable housing for American families and seniors. This industry represents almost 30 percent of new single-family homes sold in the United States. In my state of West Virginia, manufactured housing represents more than 60 percent of new homes.

Manufactured housing should play a strong role to increase the availability of affordable housing. This issue will be especially important to seniors. According to a recent national survey, 45 percent of households living in manufactured homes are headed by a person more than 50 years old.

Manufactured housing is affordable housing, and it is the fastest growing type of housing nationally. The average cost of a new manufactured home without land in 1997 was $38,400. Even with land and installation fees, this cost is well below the typical costs of a newly constructed site-built home.

But this industry faces challenges. Unlike other housing, manufactured housing is regulated by the 1974 National Manufactured Housing Construction and Safety Standards Act by the Department of Housing and Urban Development, (HUD). Because of reform in HUD management, the federal officials overseeing manufactured housing have declined from a staff of 34 to only eight. This decline in staff has occurred at the same time that the industry has grown. Unfortunately, due to a lack of staff, HUD cannot keep pace with the need to update the code on a consistent basis and timely manner. For example, there are new nationally recognized standards for fire protection prepared by the National Fire Protection Association and endorsed by the National Institute for Standards and Technology (NIST). However, there is no indication that HUD is ready to act on using these new standards to upgrade its codes for manufactured housing. In fact, between 1989 and 1996, a consensus committee has made 140 suggestions to HUD about changes for the federal codes on manufactured housing. More than 80 of these provisions are still pending in the Department.

In 1990, Congress established a National Commission on Manufactured Housing and pushed the commission to forge a consensus on key issues for this important industry. Unfortunately that effort collapsed in 1994.

This legislation is a new effort to address the challenges facing the industry. Introduction of the bill is just a first step. We all understand that the legislative process is designed to seek a consensus and improve legislation. I believe that we must work hard to forge a consensus between the industry and the consumers. This will be a challenge, but the potential rewards can be great for both sides. The industry can win and prosper with a more effective, streamlined regulatory process that keeps pace with improvements and standards. Consumers will win if safety standards and regulations are adopted more efficiently, such as the pending fire safety standards. Also, if the industry can use newer standards to provide better housing, manufactured housing could be designed to meet a wider variety of needs including modules for assisted living and stack able units for urban sites.

My hope is that all sides will see this legislation as an opportunity to come together and develop a new, improved program for manufactured housing. Affordable housing is a major issue for families and communities. Manufactured housing is playing a key role in affordable housing, but more could and should be done. To achieve success, we need to develop a bipartisan, consensus approach. We need to help the industry and assure consumers that safety and standards will be retained and improved, not weakened. This is worth our combined effort to provide more affordable housing.●

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2146. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

UTAH SCHOOLS AND LANDS EXCHANGE ACT OF 1998

Mr. HATCH. Mr. President, nearly 2 years ago, President Clinton announced, from the South Rim of the Grand Canyon, the formation of the country's newest national monument, the Grand Staircase-Escalante Monument in southern Utah.

Because of the clandestine manner by which the Administration made this decision and planned its announcement, what should have been cause for celebration among Utahns resulted in feelings of exploitation and abuse. Public trust in our federal government reached an all time low in southern Utah, and many wounds inflicted then still exist today.

Today, I am introducing legislation, along with my colleague Senator BENNETT, which, if passed, will help restore trust in our government and assist the healing process among our rural citizens in Utah.

The Utah Schools and Lands Exchange Act of 1998 codifies a recently signed agreement brokered by the Secretary of Interior, Bruce Babbitt, and Utah Governor Michael Leavitt to exchange Utah School Trust lands located within Utah's national parks, monuments, recreation areas, and forests for cash and federal assets in other parts of Utah. The collaboration that should have taken place prior to the establishment of the Grand Staircase-Escalante Monument has finally taken place to mitigate one of the severest impacts of that presidential declaration.

This agreement is the result of a lengthy and somewhat fragile negotiation, which included such critical issues as achieving the effective management of the public's land, preserving the environment, and consummating a fair and equitable exchange between the federal government and the State of Utah. The result is a mutually beneficial exchange of state and federal property that deserves the support and approval of the Congress.

As my colleagues may recall, when Utah achieved statehood in 1896, a number of sections within each township were set aside for the support of the common schools. By law, these lands, known as School Trust Lands, are to be managed in the best possible way to generate revenue for Utah's school children. Several western states have a similar revenue plan for their public school systems.

Utah's checkerboard pattern of land owernship—squares of federal, state, and private land intermingled throughout the state—has historically created difficulties between the federal and state governments. Conflicts of interest between federal and state land managers became more obvious and divisive as national parks, forests, or monuments were created.

When federal land is set aside or designated as a national park, forest, or monument in Utah, our School Trust Lands are captured within their boundaries. In effect, the state loses its ability to generate revenues from these lands because they have been surrounded by lands in a specially protected designation. By 1990, over 200,000 acres of school trust land were isolated within federal designations.

In 1993, Congress passed legislation I sponsored along with other delegation members—the Utah Schools and Lands Improvement Act of 1993, P.L. 103-93—to help resolve this land management situation. But implementation has been unsatisfactory. There have been endless arguments over appraisals and literally millions of dollars in expenses to the state for legal and research activities. For this reason alone, the legislation we are introducing today is necessary.

During his announcement to establish the Grand Staircase-Escalante National Monument, President Clinton voiced his firm commitment that Utah's school children would not be negatively affected by the creation of the Monument. In other words, those School Trust Lands captured within the Monument's boundaries would be withdrawn and made fully available, and thus profitable, for the benefit of

Utah's public education system. The principal purpose of this bill is to put the bipartisan, federal-state negotiated agreement into effect and to ensure that the President's promise to protect Utah's school children does not ring hollow. This is accomplished in several ways.

First, as I mentioned, this bill will transfer approximately 350,000 acres of School Trust Lands that are located within Utah monuments, recreations areas, national parks, and forests, to the federal government. These lands are similar in nature to the adjacent federal lands and are deserving of the same designation and special management considerations as their federal neighbors. This exchange harmonizes the land ownership pattern within Utah's national parks, forests and monuments, thus eliminating any competing management objectives within these designations. The American people will be greatly benefited once the entire acreage within a park or forest is federal land.

Let me assure my colleagues that those lands to be acquired by the federal government are just as extraordinary as the adjacent federal lands.

For example, this acreage includes: Eye of the Whale Arch, located in Arches National Park; the Perfect Ruin (an Anasazi ruin) and the Jacob Hamblin Arch of Glen Canyon National Recreation Area; several hundred foot red rock cliffs located within in the Grand Staircase-Escalante National Monument; and the high mountain alpine area in the Wasatch-Cache National Forest known as Franklin Basin. It includes many other exciting natural wonders, such as ancient Native American rock art panels in Dinosaur National Monument and unique geologic formations of the Waterpocket Fold within Capitol Reef National Park.

Our proposal will protect these and other precious land forms by transferring their ownership to the federal government.

For its part, the State of Utah will receive $50,000,000 in cash previously set aside in the 103rd Congress for P.L. 103–93. This money has already been appropriated and thus there is no budgetary impact caused by this bill. An additional $13,000,000 produced from unleased coal sales will also be forthcoming to the State. These funds will all be deposited to the Utah Permanent School Fund for the benefit of Utah's current and future school children.

In addition, under the terms of the agreement, the State will gain access to 160 million tons of coal, 185 billion cubic feet of coal bed methane resources, 139,000 acres of land and minerals located in nine Utah counties, and a variety of minerals including limestone, tar sands, oil, and gas.

Coal reserves the state will receive include the Mill Fork Tract and North Horn Tract in Emery County; the West Ridge Tract in Carbon County; and the Muddy Creek and Dugout Canyon Tracts located in both Carbon and Emery Counties.

The coal bed methane resources acquired by the state are situated in the Ferron Field, located in Carbon and Emery counties, and totals 58,000 acres.

Finally, the agreement provides for additional state acquisitions, including limestone deposits, oil and gas properties, and Tar Sands, and several properties identified in 1993 will be transferred to state control: the Blue Mountain Telecommunication Site, located in Uintah County, and the Beaver Mountain ski resort in Cache County.

Mr. President, in closing let me mention one important point regarding the Babbitt-Leavitt agreement to be effectuated by the legislation we are introducing today. The entire exchange is of approximately equal value. This is a delicately structured package that includes an exchange of state lands for federal assets. Each party to the agreement recognizes this fact, which is the glue keeping this agreement together.

And, while protecting the interests of both the State of Utah and the federal government, the agreement and the bill also protect existing stakeholders, such as the affected local governments and the valid existing rights of permittees, such as ranchers and mining leases. As I mentioned earlier, the important fact to keep in mind is there is no impact to the federal budget from this legislation.

Mr. President, Secretary Babbitt and Governor Leavitt have achieved an historic agreement that is truly remarkable. The State of Utah has been trying to exchange School Trust Lands captured within federal reservations for decades, thus allowing these lands to be profitably utilized for the benefit of Utah's school children. We now have an opportunity through this agreement to reach this worthwhile goal.

I hope that the Senate will seriously review this agreement and this legislation will add its support with little, if any, alteration. I believe this proposal is necessary and will provide substantial benefit to the people of Utah and the citizens of this country.

Mr. BENNETT. Mr. President, I am pleased to join my colleague Senator HATCH in introducing the Utah School Lands Exchange Act. This legislation is the result of months of negotiations between the Utah School and Institutional Trust Administration (SITLA), the Governor of Utah and the Secretary of Interior.

Utah is a mosaic of land ownership and the federal government is the largest landlord. With 22 million acres under BLM management alone, eight million acres under the United States Forest Service and another three million in National Parks and Monuments, public lands issues command considerable attention in my state. This is complicated by the 1894 Enabling Act which created a checkerboard pattern of state ownership among federal lands, intermingling five sections of state lands in every township. The federal government and the state of Utah have been trying to resolve the thorny issue of how to manage or dispose of these trust lands for well over a half century now. My father attempted to bring some resolution to the issue when he served in this body more than forty years ago.

In 1993, after extensive negotiations, Congress passed P.L. 103–93 which set in motion a process to exchange lands out of Utah's National Parks and Forest lands for other parcels within the state. The process was marginally successful at best, due to the complex process of appraisals and arbitration established by the legislation. Of the 500 plus parcels identified in that exchange over five years ago, less than forty have actually been exchanged to date. The trust lands issue was further complicated by the creation of the Grand Staircase-Escalante National Monument in September of 1996. Without going into details, 176,000 acres of School Trust Lands were locked up by the creation of the Monument. President Clinton promised to use his office to facilitate the prompt exchange of these lands. Most Utahns were skeptical that this would actually happen. In fact, SITLA and the Utah Association of Counties filed suit over the creation of the Grand Staircase-Escalante National Monument.

Now, nearly two years later, the Clinton Administration has reached a historic agreement with the Governor of Utah and SITLA to exchange 376,000 acres of state lands for 138,000 acres of federal lands. This agreement fulfills the President's commitment to the schoolchildren of Utah and reduces the uncertainty over the future management of the Monument. I hope my colleagues understand that it is in the best interest of the federal government to exchange these lands promptly.

This proposal benefits the school children of Utah as well as the visitors and users of public lands. In exchange for lands encumbered within parks, forests and the Monument, the state of Utah will receive just compensation in the form of mineral assets, comparable lands within the state and a sizable cash payment. These assets will be administered by the State Institutional Trust Lands Administration for the improvement of public education in Utah. In that context, we must support this agreement. We have a responsibility to help SITLA fulfill its mandate and utilize these lands for the greatest benefit to the children of Utah. Without this exchange, these lands, despite their significant mineral potential, will remain unproductive.

At a time of competing interests and lack of consensus regarding land use in

Utah, this is a step in the right direction. I believe that the agreement reached between the state and the Department of Interior bridges the gap that has existed for decades. While some interests are not totally satisfied, I believe the legislation we are introducing today is a fair and equitable agreement. I am also confident that the Committee will listen closely to those parties and make a good-faith effort to resolve any lingering concerns.

I appreciate the good work of my colleague Senator HATCH, Governor Leavitt and Secretary Babbitt, as well as our colleagues in the House. I am confident that we will see a resolution to this longstanding debate in the 105th Congress. I urge my colleagues to support this bill and bring this issue to closure.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2147. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes; to the Committee on Finance.

MARRIAGE PENALTY TAX RELIEF

Mr. DASCHLE. Mr. President, it is my pleasure today to introduce legislation to encourage family and work and to facilitate the purchase of affordable health insurance by self-employed individuals.

It is no secret to many married Americans that the tax code often penalizes marriage. An estimated 21 million American couples with two breadwinners pay more than if they had remained single and filed separate tax returns—an average of nearly $1,400 more.

The marriage penalty is justifiably one of the most unpopular aspects of our tax system, second only to the complexity of the tax code. The federal government should be encouraging family and work, not discouraging them through disincentives in the tax code or any other area of public policy.

The bill I am introducing today would significantly reduce the added tax burden that many middle and lower income couples face when both spouses work. It will do so by providing an above-the-line 20 percent deduction against the earnings of the lesser earning spouse. The 20 percent deduction would be phased out between family adjusted gross incomes of $50,000 and $60,000. It would also be applied against the calculation of earned income for the purpose of determining eligibility for the Earned Income Credit, increasing the size of these refundable credits for a large number of families with incomes between $10,000 and $30,000. Finally, the bill would accelerate the date at which health insurance costs incurred by the self-employed become fully deductible. This is necessary to place farmers and small businessmen and women on the same footing as large, established companies when they purchase health insurance.

Congress has wrestled with the marriage penalty problem several times during the past century in an attempt to reconcile two goals that cannot always be satisfied simultaneously in the context of a progressive tax system. The first is to ensure that a couple's total tax is the same, irrespective of the breakdown of earnings between spouses. The second is to ensure that couples will be taxed the same irrespective of whether they are married or still single.

Before 1969, the tax code treated married couples as if they were composed of two single individuals. This avoided penalties on marriage, but it created higher rates on single taxpayers than married couples in cases in which one spouse earned all or most of the couple's income. Joint returns were computed by applying the normal rates to one-half of the couple's aggregate taxable income and multiplying the resulting amount by two. Single taxpayers' returns were computed by applying the normal rates to the full taxable income, causing a greater amount of the income to be taxed at a higher marginal rate.

When Congress acted in 1969 to redress the perceived inequity to single taxpayers, it created the modern-day marriage penalty by causing some married couples who file a joint return to pay more tax than would two single persons with the same total income. Congress based its action on the assumption that a married couple's expenses are lower than those of two single persons having separate households.

The time has come to reexamine this tradeoff, which was made nearly thirty years ago. Doing so, however, will require us to confront hard budgetary realities. Complete elimination of the marriage penalty without also eliminating the marriage bonus would cost an estimated $29 billion per year, a sum that is far in excess of what can be afforded while maintaining our commitment to a balanced budget and the use of budget surpluses for Social Security reform. While the drive to pay down the national debt and save Social Security will make comprehensive reform of the marriage penalty difficult any time soon, more targeted efforts are not only possible, they are the right thing to do.

We have an historic opportunity to redress the unjustified added tax burden we place on some married couples without undermining our commitment to pass an effective national tobacco policy and enact reforms to save Social Security. My bill would sharply reduce the marriage tax penalty for most couples with incomes of less than $60,000 at a fraction of the budgetary cost of other marriage penalty tax proposals, such as that offered by Senator GRAMM of Texas to increase deductions for all married couples. The reason is that these other proposals fail to distinguish between couples who incur a penalty and those who enjoy a marriage bonus. The Congressional Budget Office estimates that about 29 million families, those in which one spouse earns much more than the other, currently pay less than if they had filed single returns—an average of $1,300 less. Senator GRAMM's proposal and others like it dilute the amount of tax relief they are able to deliver to penalized couples by providing just as much of a tax cut to couples who receive a bonus.

By targeting its tax relief more directly on the couples who experience a marriage penalty, my bill would reduce this penalty far more for most families with incomes below $60,000 than competing approaches. For Example, in the case of a couple making $35,000, split $20,000 and $15,000 between the two spouses, my proposal would provide an additional tax deduction of $3,000 (i.e., 15% of $15,000). This is over twice as much marriage penalty tax relief as could be provided at a comparable cost by a proposal to increase the deduction for all joint filers. Similarly, for a couple making $50,000 divided evenly between the two spouses, my bill would provide a $5,000 deduction (20% of $25,000), representing more than three times as much tax as a proposal that costs the same but extends a supplemental deduction to all married couples.

We simply do not have the luxury of applying tax relief indiscriminately if we are to make good on our other commitments, whether they be passage of an effective tobacco bill that reduces youth smoking or preservation of budget surpluses for the difficult task of shoring up the financing of the Social Security system. The legislation I introduce today is aimed at demonstrating that we can reconcile our competing priorities. We can do right by married couples incurring a tax penalty and farmers and small businesses who must purchase their own health insurance at the same that we do right by our children and our growing population of seniors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of

1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

"(2) TRANSITION RULE FOR 1999 AND 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86,219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

"(c) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (25) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws."

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.
"Sec. 223. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent (75 percent in the case of taxable years beginning in 1999 and 2000) of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 2148. A bill to protect religious liberty; to the Committee on the Judiciary.

THE RELIGIOUS LIBERTY PROTECTION ACT OF 1998

Mr. HATCH. Mr. President, the first freedom guaranteed in the Bill of Rights is the freedom to believe and to put those beliefs into practice as we think right, without government interference. This promise of freedom of worship is, for many, this country's founding principle—the pilgrims' reason for braving thousands of miles of dark and dangerous seas, and countless privations once here. The Constitutional guarantee of the free exercise of religion for all has been a beacon to the world throughout our history.

In America, priests should not be punished for declining to violate the confidence of the confessional to turn state's evidence against religious confessors. In America, the ability of citizens to hold private Bible studies in their own homes or the freedom of synagogues and churches to locate near their members should not be left entirely to the whims of local zoning boards. Congregants of any faith should not be told by the government who they can and cannot have as religious leaders and teachers. No, not in America.

Last year, when the Supreme Court struck down part of the Religious Freedom Restoration Act in the case of City of Boerne versus Flores (117 S.Ct. 2157 (1997))—an Act that sought to redress a threat to religious liberty of the Court's own making—we who value the free exercise of religion vowed we would rebuild our coalition and craft a solution which appropriately defers to the Court's decision. Well, we have done so, and we are ready to move forward.

We introduce today legislation that uses the full extent of our powers to make government cognizant of and solicitous of the freedom of each American to serve his or her concept of God. Where adjustment in general rules can possibly be made to accommodate this most basic liberty, it ought and must be made. As our government exists to guarantee such freedoms, government should only in the rarest instances itself infringe on this most basic and foundational freedom.

We have worked together across party lines and with a coalition of truly remarkable breadth to fashion federal legislation to protect religious liberty that is consistent with both the vision of the Framers of the First Amendment and the ruling of the current Supreme Court about Congress' power to legislate in this area.

The legislation that we introduce today will subject to strict scrutiny laws that substantially burden religious exercise in those areas within legitimate federal reach through either the commerce or spending powers, and provides procedural helps to ensure a full day in court for believers who must litigate to vindicate Free Exercise claims in areas of predominantly state jurisdiction. The legislation seeks to protect religious activity even in the face of general legislative rules that make that worship difficult or impossible through unawareness, insensitivity, or hidden hostility

We believe we have constructed legislation that can merit the support of all who value the free exercise of religion, our first freedom. We commend it to our colleagues in the Congress, and to all those who wish to keep the Framers' promise of religious freedom alive for all Americans of all faiths.

Mr. President, I commend this important legislation to my colleagues for their support. It is backed by an unprecedented coalition ranging from Focus on the Family, Family Research Council, and the Southern Baptist Convention to People for the American Way and the ACLU. I also ask unanimous consent that a copy of the bill and an explanatory section by section analysis be placed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

S. 2148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Liberty Protection Act of 1998".

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) General Rule.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in or affecting commerce with foreign nations, among the several States, or with the Indian tribes;

even if the burden results from a rule of general applicability.

(b) Exception.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Funding Not Affected.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act.

(d) State Policy Not Commandeered.—A government may eliminate the substantial burden on religious exercise by changing the policy that results in the burden, by retaining the policy and exempting the religious exercise from that policy, or by any other means that eliminates the burden.

(e) Definitions.—As used in this section—

(1) the term "government" means a branch, department, agency, instrumentality, subdivision, or official of a State (or other person acting under color of State law);

(2) the term "program or activity" means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a); and

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

SEC. 3. ENFORCEMENT OF THE FREE EXERCISE CLAUSE.

(a) Procedure.—If a claimant produces prima facie evidence to support a claim of a violation of the Free Exercise Clause, the government shall bear the burden of persuasion on all issues relating to the claim, except any issue as to the existence of the burden on religious exercise.

(b) Land Use Regulation.—

(1) Limitation on land use regulation.—No government shall impose a land use regulation that—

(A) substantially burdens religious exercise, unless the burden is the least restrictive means to prevent substantial and tangible harm to neighboring properties or to the public health or safety;

(B) denies religious assemblies a reasonable location in the jurisdiction; or

(C) excludes religious assemblies from areas in which nonreligious assemblies are permitted.

(2) Full faith and credit.—Adjudication of a claim of a violation of this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) Nonpreemption.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

(4) Nonapplication of other portions of this act.—Section 2 does not apply to land use regulation.

SEC. 4. JUDICIAL RELIEF.

(a) Cause of Action.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) Attorneys' Fees.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting "the Religious Liberty Protection Act of 1998," after "Religious Freedom Restoration Act of 1993,"; and

(2) by striking the comma that follows a comma.

(c) Prisoners.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) Liability of Governments.—

(1) Liability of states.—A State shall not be immune under the 11th amendment to the Constitution from a civil action, for a violation of the Free Exercise Clause under section 3, including a civil action for money damages.

(2) Liability of the united states.—The United States shall not be immune from any civil action, for a violation of the Free Exercise Clause under section 3, including a civil action for money damages.

SEC. 5. RULES OF CONSTRUCTION.

(a) Religious Belief Unaffected.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) Religious Exercise Not Regulated.—Nothing in this Act shall create any basis for regulation of religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) Claims to Funding Unaffected.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) Other Authority To Impose Conditions on Funding Unaffected.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) Effect on On Other Law.—Proof that a religious exercise affects commerce for the purposes of this Act does not give rise to any inference or presumption that the religious exercise is subject to any other law regulating commerce.

(f) Severability.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) Definitions.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking "a State, or subdivision of a State" and inserting "a covered entity or a subdivision of such an entity";

(2) in paragraph (2), by striking "term" and all that follows through "includes" and inserting "term 'covered entity' means"; and

(3) in paragraph (4), by striking all after "means," and inserting "an act or refusal to act that is substantially motivated by a religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief.".

(b) Conforming Amendment.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking "and State".

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "religious exercise" means an act or refusal to act that is substantially motivated by a religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief;

(2) the term "Free Exercise Clause" means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution; and

(3) except as otherwise provided in this Act, the term "government" means a branch, department, agency, instrumentality, subdivision, or official of a State, or other person acting under color of State law, or a branch, department, agency, instrumentality, subdivision, or official of the United States, or other person acting under color of Federal law.

RELIGIOUS LIBERTY PROTECTION ACT OF 1998—SECTION-BY-SECTION ANALYSIS

Section 1. This section provides that the title of the Act is the Religious Liberty Protection Act of 1998.

Section 2. Section 2(a) tracks the substantive language of the Religious Freedom Restoration Act, providing that government shall not substantially burden a person's religious exercise, and applies that language to cases within the spending power and the commerce power. Section 2(b) also tracks RFRA. It states the compelling interest exception to the general rule that government may not substantially burden religious exercise.

Section 2(a)(1) specifies the spending power applications. The bill applies to programs or activities operated by a government and receiving federal financial assistance. "Government" is defined in §2(e)(1) to include persons acting under color of state law. In general, a private-sector grantee acts under color of law only when the government retains sufficient control that "the alleged infringement of federal rights [is] 'fairly attributable to the State.'" Rendell-Baker v. Kohn, 457 U.S. 830, 838 (1982). Private-sector grantees not acting under color of law are excluded from the bill for multiple reasons: because it is difficult to foresee the consequences of applying the bill to such a diverse range of organizations, because applying the bill to religious organizations would create conflicting rights under the same statute and might restrict religious liberty rather than protect it, and because the free exercise of religion has historically been protected primarily against government action and this bill is not designed to change that.

Section 2(a)(2) applies the bill to religious exercise in or affecting commerce among the States, with foreign nations, or with the Indian tribes. The language is unqualified and exercises the full constitutional limit of the commerce power, whatever that may be. The provision is tautologically constitutional; to the extent that the commerce power does not reach some religious activities, the bill does not reach them either. To the extent that this leaves some religious exercise outside the protections of the bill, that is an unavoidable consequence of constitutional limitations on Congressional authority.

Section 2(c) prevents any threat of withholding all federal funds from a program or activity. The exclusive remedies are set out in §4.

Section 2(d) emphasizes that this bill does not require states to pursue any particular public policy or to abandon any policy, but that each State is free to choose its own means of eliminating substantial burdens on religious exercise.

Section 2(e) contains definitions for purposes of §2.

The definition of "government" in §2(e)(1) tracks RFRA, except that the United States and its agencies are excluded. The United States remains subject to the substantially identical provisions of RFRA and need not be included here.

Section 2(e)(2) incorporates part of the definition of "program or activity" from Title VI of the Civil Rights Act of 1964—the part that describes programs and activities operated by governments. This definition ensures that federal regulation is confined to the program or activity that receives federal aid, and does not extend to everything a state does. The constitutionality of the Title VI definition has not been seriously questioned.

The definition of "demonstrates" in §2(e)(3) is taken verbatim from RFRA.

Section 3. This section enforces the Free Exercise Clause as interpreted by the Supreme Court. Section 3(a) provides generally that if a complaining party produces prima facie evidence of a free exercise violation, the government then bears the burden of persuasion on all issues except burden on religious exercise.

This provision applies to any means of proving a free exercise violation recognized under judicial interpretations. See generally Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993); Employment Division v. Smith, 494 U.S. 872 (1990). Thus, if the claimant shows a burden on religious exercise and prima facie evidence of an anti-religious motivation, government would bear the burden of persuasion on the question of motivation. If the claimant shows a burden on religious exercise and prima facie evidence that the burdensome law is not generally applicable, government would bear the burden of persuasion on the question of general applicability. If the claimant shows a burden on religion and prima facie evidence of a hybrid right, government would bear the burden of persuasion on the claim of hybrid right. In general, where there is a burden on religious exercise and prima facie evidence of a constitutional violation, the risk of nonpersuasion is to be allocated in favor of protecting the constitutional right.

Section 3(b) provides prophylactic rules to prevent violations of the Court's constitutional tests as applied to land use regulation. Land use regulation is administered through highly individualized processes, often without generally applicable rules. These individualized processes are conducive to discrimination that is difficult to prove in any individual case, but there appears to be a pattern of religious discrimination when large numbers of cases are examined. Section 3(b)(1) provides that land use regulation may not substantially burden religious exercise, except where necessary to prevent substantial and tangible harm, that jurisdictions may not deny religious assemblies a reasonable location somewhere within each jurisdiction, and that religious assemblies may not be excluded from areas where nonreligious assemblies are permitted.

Subsection 3(b)(2) guarantees a full and fair adjudication of land use claims under subsection (b). Procedural rules before land use authorities may vary widely; any procedure that permits full and fair adjudication of the federal claim would be entitled to full faith and credit in federal court. But if, for example, a zoning board with limited authority refuses to consider the federal claim, does not provide discovery, or refuses to permit introduction of evidence reasonably necessary to resolution of the federal claim, its determination would not be entitled to full faith and credit in federal court. And if in such a case, a state court confines the parties to the record from the zoning board, so that the federal claim still can not be effectively adjudicated, the state court decision would not be entitled to full faith and credit either.

Subsection 3(b)(3) provides that equally or more protective state law is not preempted. Subsection 3(b)(4) provides that §2 shall not apply to land use cases. The more detailed standards of §3(b) control over the more general language of §2.

Section 4. This section provides remedies for violations. Sections 4(a) and (b) track RFRA, creating a cause of action for damages, injunction, and declaratory judgment, creating a defense to liability, and providing for attorneys' fees.

Section 4(c) subjects prisoner claims to the Prison Litigation Reform Act. This permits meritorious prisoner claims to proceed while effectively discouraging frivolous claims; prisoner claims generally dropped nearly a third in one year after the Prison Litigation Reform Act. Crawford-El v. Britton, 66 U.S.L.W. 4311, 4317 n.18 (May 4, 1998).

Section 4(d)(1) overrides the states' Eleventh Amendment immunity in cases in which the claimant shows a violation of the Free Exercise Clause, enforced under §3. Section 4(d)(2) waives the sovereign immunity of the United States in the same cases. This override of state immunity and waiver of federal immunity do not apply to statutory claims under §2.

Section 5. This section states several rules of construction designed to clarify the meaning of all the other provisions. Section 5(a) tracks RFRA, providing that nothing in the bill authorizes government to burden religious belief. Section 5(b) provides that nothing in the bill creates any basis for regulating or suing any religious organization not acting under color of law. These two subsections serve the bill's central purpose of protecting religious liberty, and avoid any unintended consequence of reducing religious liberty.

Sections 5(c) and 5(d) were carefully designed to keep this bill neutral on all disputed questions about government financial assistance to religious organizations and religious activities. Section 5(c) states neutrality on whether such assistance can or must be provided at all. Section 5(d) states neutrality on the scope of existing authority to regulate private entities as a condition of receiving such aid. Section 5(d)(1) provides that nothing in the bill authorizes additional regulation of such entities; §5(d)(2), in an abundance of caution, provides that existing regulatory authority is not restricted except as provided in the bill. Agencies with authority to regulate the receipt of federal funds retain such authority, but their specific regulations may not substantially burden religious exercise without compelling justification.

Section 5(e) provides that proof that a religious exercise affects commerce for purposes of this bill does not give rise to an inference or presumption that the religious exercise is subject to any other statute regulating commerce. Different statutes exercise the commerce power to different degrees, and the courts presume that federal statutes do not regulate religious organizations unless Congress manifested the intent to do so. NLRB v. Catholic Bishop, 440 U.S. 490 (1990).

Section 5(f) states that each provision and application of the bill shall be severable from every other provision and application.

Section 6. This section is taken verbatim from RFRA. It is language designed to state neutrality on all disputed issues under the Establishment Clause.

Section 7. This section amends RFRA to delete any application to the states and to leave RFRA applicable only to the federal government. Section 7(a)(3) amends the definition of "religious exercise" in RFRA to clarify that religious exercise need not be compulsory or central to a larger system of religious belief.

Section 8. This section defines important terms used throughout the Act.

Section 8(1) defines "religious exercise" to clarify two issues that had divided courts under RFRA: religious exercise need not be compulsory or central to a larger system of religious belief.

Section 8(2) defines "Free Exercise Clause" to include the First Amendment clause, which binds the United States, and also the incorporation of that clause into the Fourteenth Amendment, which binds the States.

Section 8(3) defines "government" to include both state and federal entities and persons acting under color of either state or federal law. This tracks the RFRA definition. The free exercise enforcement provisions of §3 and the remedies provisions of §4 supplement RFRA, and these provisions are subject to the rules of construction in §5; each of these sections applies to both state and federal governments. This definition does not apply in §2, which has its own definition that reaches only state entities and persons acting under color of state law.

By Mr. REID (for himself and Mr. BRYAN):

S. 2149. A bill to transfer certain public lands in northeastern Nevada; to the Committee on Energy and Natural Resources.

THE NORTHEASTERN NEVADA PUBLIC LANDS TRANSFER ACT

• Mr. REID. Mr. President, I rise to introduce The Northeastern Nevada Public Lands Transfer. This Act provides for the transfer of Federal land to the Cities of Wendover, Carlin, and Wells and the Town of Jackpot, all in Elko County, Nevada.

Mr. President, the rural communities in northeastern Nevada, are growing. For example, in 1997, the City of West Wendover was certified as Nevada's fastest growing city. These communities are surrounded by Federal lands, with every little private land available for expansion and growth. In addition, because over 71 percent of the land in Elko County is in Federal ownership, these local governments do not have the resources to just go out and buy more land.

Mr. President, the property being conveyed in this Act has been determined to be important to the industrial, commercial, residential, infrastructure, and recreational needs of the citizens of Elko County. Conveying these lands in one transaction provides the county certainty about its future, which will allow it to diversify its economy and develop these properties in a planned and orderly manner.

Mr. President, Elko County has valid concerns about its future. The gaming and tourism industry is the primary employer, and every indication is that it will remain healthy. However, an economy, based on a single industry, bears an inherent risk of failure.

Mr. President, the City of West Wendover, in conjunction with the North Eastern Development Authority, has recently completed a countywide Economic Development Plan, which emphasizes the importance of economic diversification as its primary goal. This plan promotes quality development which enhances the quality of life for Elko County residents. West Wendover, Nevada has currently spent $100,000 for the Environmental Assessment and the Baseline Assessment, an Air Force prerequisite for land conveyance. In addition, the West Wendover City Council and the Nevada Rural Development Authority have indicated that they are committed to working together to ensure that economic development in the area is accomplished through a logical, well considered development plan.

Mr. President, I request unanimous consent that the Northeastern Nevada Public Lands Transfer Act to be printed in the RECORD.

S. 2149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northeastern Nevada Public Lands Transfer Act".

SEC. 2. AIR FORCE LAND CONVEYANCE, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and subject to subsection (c), the Secretary of the Air Force shall convey, without consideration, to the City of West Wendover, Nevada (in this section referred to as the "City"), all right, title, and interest of the United States in and to the property described in paragraph (2), for purposes of permitting the City to develop the parcels for economic and public purposes.

(2) PROPERTY DESCRIPTION.—The property described in this paragraph is the land consisting of approximately 15,093 acres of land, including any improvements, located within the Wendover Air Force Base Auxiliary Field, described as follows: Township 32 North, Range 69 East; Township 32 North, Range 70 East; and Township 33 North, Range 70 East; Mount Diablo Base and Meridian, being more particularly described as: All of Section 24 less the United States Alternate Route 93 right-of-way and those portions of sections 12 and 13 east of the east right-of-way line of United States Alternate Route 93 in Township 32 North, Range 69 East; all of sections 3, 4, 5, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, and the portions of sections 6 and 7 east of the east right-of-way line of United States Alternate Route 93 in Township 32 North, Range 70 East; all of sections 22, 27, 28, 32, 33, 34, and the portions of sections 16, 20, 21, 29, 30, and 31 east of the east right-of-way line of United States Alternate Route 93 and the portion of section 15 east of the east right-of-way line of U.S. Alternate Route 93 and south of the south right-of-way line of the Union Pacific Railroad Company right-of-way in Township 33 North, Range 70 East, not including the land comprising the Lower Jim's Mobile Home Park, Scobie Mobile Home Park, Ventura Mobile Home Park, Airport Way, Scobie Drive, or Opal Drive.

(b) EXCEPTION FROM SCREENING REQUIREMENT.—The Secretary shall make the conveyance under subsection (a) without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) HAZARDOUS MATERIALS.—

(1) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete hazardous material surveys with respect to the property to be conveyed under subsection (a) in order to identify any needed corrective actions that are required with respect to such property.

(2) CORRECTIVE ACTIONS.—The Secretary shall take any corrective actions that are identified by the surveys under paragraph (1) as soon as practicable after the surveys.

(3) POSTPONEMENT OF CONVEYANCE.—The Secretary may not carry out the conveyance of any property under subsection (a) that is identified under paragraph (1) as requiring corrective actions until the Secretary completes the corrective actions.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary and the City. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) WITHDRAWAL.—The public land described in subsection (a) is withdrawn from the operation of the mining and mineral leasing laws of the United States.

SEC. 3. TRANSFER OF CERTAIN PUBLIC LANDS TO THE CITY OF CARLIN, THE CITY OF WELLS, AND THE TOWN OF JACKPOT, NEVADA.

(a) CONVEYANCE.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey without consideration, all right, title, and interest of the United States, subject to all valid existing rights, in and to the property described in subsection (b).

(b) DESCRIPTION OF PROPERTY.—

(1) CITY OF CARLIN, NEVADA.—The Secretary shall convey to the City of Carlin, Nevada, in accordance with subsection (a) the property consisting of approximately 60 acres located in the SW¼SW¼ and the E½SE¼SW ¼ of section 22, Township 33 North, Range 52 East, Mount Diablo meridian.

(2) CITY OF WELLS, NEVADA.—The Secretary shall convey to the City of Wells, Nevada, in accordance with subsection (a) the property consisting of approximately 4,767 acres located in the E½SE¼ of section 1, the W½ of section 2, the E½ and the NW¼ of section 3, S½NW¼ of section 4, section 6, the NW¼, the SW¼, and a portion of the SE¼ of section 11, the N½ of section 12, section 14, the N½NW¼ of section 16, section 18, the W½ of section 20, and section 23, all of Township 37 North, Range 62 East, Mount Diablo meridian.

(3) TOWN OF JACKPOT, NEVADA.—The Secretary shall convey to the Town of Jackpot, Nevada, the property, consisting of approximately 532 acres located in a portion of the NE¼NW¼ and the NW¼NE¼ of section 6, the W½NW¼, the NW¼SW¼, and the SW¼SW¼ of section 7, and the NW¼NW¼ of section 18, all of Township 47 North, Range 65 East, Mount Diablo meridian and portions of section 1, portions of section 12, and the NE¼NE¼ of section 13, Township 47 North, Range 64 East, Mount Diablo meridian.

(4) SURVEYS.—

(A) IN GENERAL.—The Secretary may require such surveys as the Secretary considers necessary to determine the exact acreage and legal description of the property to be conveyed under this section.

(B) COST.—The cost of the surveys shall be borne by the City of Carlin, the City of Wells, and the Town of Jackpot, Nevada.

(c) ADDITIONAL TERMS AND CONDITIONS.—In carrying out this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(d) WITHDRAWAL.—The public land described in subsection (b) is withdrawn from the operation of the mining and mineral leasing laws of the United States.•

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. WELLSTONE, Ms. MIKULSKI, and Mr. TORRICELLI):

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

Mr. FRIST. Mr. President, I rise today to introduce the National Bone

Marrow Registry Reauthorization Act of 1998. Transplantation of bone marrow is a procedure that offers hope to patients and their families and has saved the lives of many patients with leukemia and other life threatening conditions. As a physician, I know first-hand the heartache of waiting for a donor, and how the gift of bone marrow can change a patient's life. Of patients needing bone marrow transplants, 70% do not have a family member with matching bone marrow. These patients must rely on an unrelated donor. The National Marrow Donor Registry helps patients needing a bone marrow transplant find that unrelated donor with matching bone marrow.

Since its inception in 1987, the National Marrow Donor Program has grown to include more than 3 million volunteers willing to donate bone marrow to an unrelated patient. The program has facilitated over 6,500 marrow transplants around the world. The annual number of transplants rose from 840 in 1994 to over 1,280 in 1997.

This bill is companion legislation to H.R. 2202, introduced by Congressman BILL YOUNG which has 218 co-sponsors. Congressman BILL YOUNG helped found the National Marrow Donor Program and has long been a champion of bone marrow transplantation. The companion House bill was unanimously voice voted out of the House Commerce Committee on May 14 and was unanimously passed by the House of Representatives on May 19, 1998. This kind of bipartisan support stems from the enormous need for this program. In this short legislative year, it is a must-pass bill.

The statutory authority for the legislation expired in 1994. An Act reauthorizing both the solid organ and bone marrow programs passed the Senate in 1996, but failed to pass the House.

This bill is the result of a collaborative effort by the House and Senate to reauthorize the National Bone Marrow Registry. In April, during National Organ and Tissue Donor Awareness Week, the Senate Labor Subcommittee on Public Health and Safety and the House Commerce Subcommittee on Health and Environment held a joint hearing on increasing bone marrow donation and transplantation. During the hearing, we heard from patients and their families, including testimony from Robert Wedge, a young man who continues to wait for a matching donor to be found. Robert's brother, Cornell, is a member of my staff. Our office has partnered with his loving family and the Congressional Black Caucus to hold a bone marrow drive here in Congress. We also heard from a father whose son's life was saved by a bone marrow transplant. We heard from professionals involved in the operation of the program, and the message throughout the hearing was consistent. The need for bone marrow donation is urgent, and we must continue to address the unique issues surrounding recruitment and transplantation of bone marrow among minorities.

The National Bone Marrow Registry clearly helps save lives. However, there is room for improvement in recruitment of donors and in the services provided to patients needing transplant.

Racial and ethnic minority populations are underrepresented in the Registry. The registry is working to increase the number of racial and ethnic minority donors. Today, the Registry includes more than 700,000 minority volunteers, a growth of almost 150%. However, more potential donors are needed before the probability of a match for a minority patient is comparable to that of a patient who is not a minority. This bill addresses the need for increasing the number and availability of minority donors. By directing special attention to informational and educational activities to recruit minority donors, including African Americans, Hispanics, Asians, Native Americans, and those of mixed racial heritage, the registry will increase the number of potential donors and help save lives.

To help patients and their families with the search for a bone marrow donor, the bill also establishes an Office of Patient Advocacy. The office will provide information to patients about the search process, the costs of the transplants, and patient outcomes at different transplant centers, and will also help resolve difficulties with the transplant process.

To facilitate donation, the bill will provide services for those volunteering as potential donors. Activities will help keep the registry of donors up-to-date, and case-management services will be provided to those donors who may be suitably matched to a patient needing bone marrow.

Bone marrow transplantation is a proven life-saving procedure. In recent years, the same type of blood cells used in transplants have been found in the umbilical cord after a baby is delivered. Using cells from umbilical cords may provide an alternative source of cells, but many questions, including those of ethics and safety, need to be answered. In 1996, the National Institutes of Health began a five-year, multi-center study to see if the use of umbilical cord blood cells is a safe and effective alternative to bone marrow transplantation for children and adults with a variety of cancers, blood diseases, and genetic disorders. The ongoing study includes a review of the data throughout the investigation.

The current bill does not include the use of umbilical cord blood cells, but the report language for the House bill includes a request that the Secretary of Health and Human Services keep the appropriate Congressional Subcommittees informed of advances in knowledge about the uses of blood cells from umbilical cords. If the study addresses the concerns about the use of blood cells from umbilical cords, we can then proceed to address possible expansion of the Registry to include this source of blood cells.

The bill also proposes a significant increase in funds to carry out the activities for recruitment and retention of potential donors, and for the patients needing transplants and their families. As I noted earlier, the current authorization expired in 1994. The bill proposes authorization of the program at $18 million (an increase from $15.27 million appropriated in fiscal year 1998).

Mr. President, I am pleased to introduce legislation today and encourage my fellow Senators to support this life-saving program. I hope my colleagues will pass this legislation quickly, so that we can send it to the President for signature this year. I also want to note that this bill has unanimous support from the National Institutes of Health, the Health Resources Services Administration, the Food and Drug Administration, the National Marrow Donor Program, the Red Cross, and the American Association of Blood Banks. Others have voiced their support as well, and this simply underscores the importance of this program, and this legislation. Thank you, Mr. President, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Bone Marrow Registry Reauthorization Act of 1998".

SEC. 2. REAUTHORIZATION.

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended—

(1) by striking "(referred to in this part as the 'Registry') that meets" and inserting "(referred to in this part as the 'Registry') that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets";

(2) by striking "under the direction of a board of directors that shall include representatives of" and all that follows and inserting the following: "under the direction of a board of directors meeting the following requirements:

"(1) Each member of the board shall serve for a term of two years, and each such member may serve as many as three consecutive two-year terms, except that such limitations shall not apply to the Chair of the board (or the Chair-elect) or to the member of the board who most recently served as the Chair.

"(2) A member of the board may continue to serve after the expiration of the term of such member until a successor is appointed.

"(3) In order to ensure the continuity of the board, the board shall be appointed so that each year the terms of approximately ⅓ of the members of the board expire.

"(4) The membership of the board shall include representatives of marrow donor centers and marrow transplant centers; recipients of a bone marrow transplant; persons who require or have required such a transplant; family members of such a recipient or family members of a patient who has requested the assistance of the Registry in searching for an unrelated donor of bone marrow; persons with expertise in the social sciences; and members of the general public; and in addition nonvoting representatives from the Naval Medical Research and Development Command and from the Division of Organ Transplantation of the Health Resources and Services Administration.".

(b) PROGRAM FOR UNRELATED MARROW TRANSPLANTS.—

(1) IN GENERAL.—Section 379(b) of the Public Health Service Act (42 U.S.C. 274k(b)) is amended by redesignating paragraph (7) as paragraph (8), and by striking paragraphs (2) through (6) and inserting the following:

"(2) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c), including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Registry;

"(3) carry out informational and educational activities in accordance with subsection (c);

"(4) annually update information to account for changes in the status of individuals as potential donors of bone marrow;

"(5) provide for a system of patient advocacy through the office established under subsection (d);

"(6) provide case management services for any potential donor of bone marrow to whom the Registry has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d)), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

"(7) with respect to searches for unrelated donors of bone marrow that are conducted through the system under paragraph (1), collect and analyze and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached; the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances; and comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers; and".

(2) REPORT OF INSPECTOR GENERAL; PLAN REGARDING RELATIONSHIP BETWEEN REGISTRY AND DONOR CENTERS.—The Secretary of Health and Human Services shall ensure that, not later than one year after the date of the enactment of this Act, the National Bone Marrow Donor Registry (under section 379 of the Public Health Service Act) develops, evaluates, and implements a plan to effectuate efficiencies in the relationship between such Registry and donor centers. The plan shall incorporate, to the extent practicable, the findings and recommendations made in the inspection conducted by the Office of the Inspector General (Department of Health and Human Services) as of January 1997 and known as the Bone Marrow Program Inspection.

(c) PROGRAM FOR INFORMATION AND EDUCATION.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended by striking subsection (j), by redesignating subsections (c) through (i) as subsections (e) through (k), respectively, and by inserting after subsection (b) the following subsection:

"(c) RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

"(1) RECRUITMENT; PRIORITIES.—The Registry shall carry out a program for the recruitment of bone marrow donors. Such program shall identify populations that are underrepresented among potential donors enrolled with the Registry. In the case of populations that are identified under the preceding sentence:

"(A) The Registry shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

"(B) The Registry shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

"(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND ENROLLMENT.—

"(A) IN GENERAL.—In carrying out the program under paragraph (1), the Registry shall carry out informational and educational activities for purposes of recruiting individuals to serve as donors of bone marrow, and shall test and enroll with the Registry potential donors. Such information and educational activities shall include the following:

"(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

"(ii) Educating and providing information to individuals who are willing to serve as potential donors, including providing updates.

"(iii) Training individuals in requesting individuals to serve as potential donors.

"(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Registry shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

"(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor.".

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—Section 379 of the Public Health Service Act (42 U.S.C. 274k), as amended by subsection (c) of this section, is amended by inserting after subsection (c) the following subsection:

"(d) PATIENT ADVOCACY; CASE MANAGEMENT.—

"(1) IN GENERAL.—The Registry shall establish and maintain an office of patient advocacy (in this subsection referred to as the 'Office').

"(2) GENERAL FUNCTIONS.—The Office shall meet the following requirements:

"(A) The Office shall be headed by a director.

"(B) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for donor advocacy, and which shall serve patients for whom the Registry is conducting, or has been requested to conduct, a search for an unrelated donor of bone marrow.

"(C) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under subsection (b)(1) to conduct an ongoing search for a donor.

"(D) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the search needs of the patient involved are being met, including with respect to the following:

"(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding donors who are suitability matched to the patient, and other information regarding the progress being made in the search.

"(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

"(iii) Identifying and resolving problems in the search, to the extent practicable.

"(E) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the Registry, donor centers, transplant centers, and other entities participating in the Registry program are complying with standards issued under subsection (e)(4) for the system for patient advocacy under this subsection.

"(F) The Office shall ensure that the following data are made available to patients:

"(i) The resources available through the Registry.

"(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

"(iii) A list of donor registries, transplant centers, and other entities that meet the applicable standards, criteria, and procedures under subsection (e).

"(iv) The posttransplant outcomes for individual transplant centers.

"(v) Such other information as the Registry determines to be appropriate.

"(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved.

"(3) CASE MANAGEMENT.—

"(A) IN GENERAL.—In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

"(i) individualized case assessment; and

"(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

"(B) POSTSEARCH FUNCTIONS.—In addition to the case management services described in paragraph (1) for patients, the Office may, on behalf of patients who have completed the search for an unrelated donor, provide information and education on the process of receiving a transplant of bone marrow, including the posttransplant process.".

(e) CRITERIA, STANDARDS, AND PROCEDURES.—Section 379(e) of the Public Health

Service Act (42 U.S.C. 274k), as redesignated by subsection (c) of this section, is amended by striking paragraph (4) and inserting the following:

"(4) standards for the system for patient advocacy operated under subsection (d), including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;".

(f) REPORT.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended by adding at the end the following subsection:

"(l) ANNUAL REPORT REGARDING PRETRANSPLANT COSTS.—The Registry shall annually submit to the Secretary the data collected under subsection (b)(7) on comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers. The data shall be submitted to the Secretary through inclusion in the annual report required in section 379A(c).".

(g) CONFORMING AMENDMENTS.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended—

(1) in subsection (f), by striking "subsection (c)" and inserting "subsection (e)"; and

(2) in subsection (k), by striking "subsection (c)(5)(A)" and inserting "subsection (e)(5)(A)" and by striking "subsection (c)(5)(B)" and inserting "subsection (e)(5)(B)".

SEC. 3. RECIPIENT REGISTRY.

Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by striking section 379A and inserting the following:

"SEC. 379A. BONE MARROW SCIENTIFIC REGISTRY.

"(a) ESTABLISHMENT OF RECIPIENT REGISTRY.—The Secretary, acting through the Registry under section 379 (in this section referred to as the 'Registry'), shall establish and maintain a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor.

"(b) INFORMATION.—The scientific registry under subsection (a) shall include information with respect to patients described in subsection (a), transplant procedures, and such other information as the Secretary determines to be appropriate to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors.

"(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Registry shall annually submit to the Secretary a report concerning patient outcomes with respect to each transplant center. Each such report shall use data collected and maintained by the scientific registry under subsection (a). Each such report shall in addition include the data required in section 379(l) (relating to pretransplant costs).".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended—

(1) by transferring section 378 from the current placement of the section and inserting the section after section 377; and

(2) in part I, by inserting after section 379A the following section:

"SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.".

SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—During the period indicated pursuant to subsection (b), the Comptroller General of the United States shall conduct a study of the National Bone Marrow Donor Registry under section 379 of the Public Health Service Act for purposes of making determinations of the following:

(1) The extent to which, relative to the effective date of this Act, such Registry has increased the representation of racial and ethnic minority groups (including persons of mixed ancestry) among potential donors of bone marrow who are enrolled with the Registry, and whether the extent of increase results in a level of representation that meets the standard established in subsection (c)(1)(A) of such section 379 (as added by section 2(c) of this Act).

(2) The extent to which patients in need of a transplant of bone marrow from a biologically unrelated donor, and the physicians of such patients, have been utilizing the Registry in the search for such a donor.

(3) The number of such patients for whom the Registry began a preliminary search but for whom the full search process was not completed, and the reasons underlying such circumstances.

(4) The extent to which the plan required in section 2(b)(2) of this Act (relating to the relationship between the Registry and donor centers) has been implemented.

(5) The extent to which the Registry, donor centers, donor registries, collection centers, transplant centers, and other appropriate entities have been complying with the standards, criteria, and procedures under subsection (e) of such section 379 (as redesignated by section 2(c) of this Act).

(b) REPORT.—A report describing the findings of the study under subsection (a) shall be submitted to the Congress not later than October 1, 2001. The report may not be submitted before January 1, 2001.

SEC. 6. COMPLIANCE WITH NEW REQUIREMENTS FOR OFFICE OF PATIENT ADVOCACY.

With respect to requirements for the office of patient advocacy under section 379(d) of the Public Health Service Act, the Secretary of Health and Human Services shall ensure that, not later than 180 days after the effective date of this Act, such office is in compliance with all requirements (established pursuant to the amendment made by section 2(d)) that are additional to the requirements that under section 379 of such Act were in effect with respect to patient advocacy on the day before the date of the enactment of this Act.

SEC. 7. EFFECTIVE DATE.

This Act takes effect October 1, 1998, or upon the date of the enactment of this Act, whichever occurs later.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FRIST on this important legislation, which is strongly supported by the Clinton Administration, patient groups, and the American Association of Blood Banks.

The National Marrow Donor Program was established in 1986 to meet the need for a single large, nationwide registry of bone marrow donors. For those facing the diagnosis of leukemia or other life-threatening diseases, the registry can literally save their lives.

Of particular importance is the need for identifying potential donors for African Americans, Asian/Pacific Islanders, Hispanics, and Native Americans, since each individual's likelihood of finding a matching donor, apart from family members, is higher in the individual's racial or ethnic group. By cooperation with international registries and targeted campaigns to increase the representation of minorities, the NMDP has made remarkable progress in improving the likelihood that patients of every racial and ethnic group can find suitable donors.

Through skillful work and commitment, the NMDP has grown rapidly in recent years. It now maintains a registry of over three million volunteer bone marrow donors. The very important work of the registry must be continued. Its success in identifying matching donors and recipients is bringing the miracle of better health to families across the country. Congress has a responsibility to support this critical work.

In fact, this reauthorization is long overdue, and I hope that Congress will act expeditiously so that the National Marrow Donor Program can continue its life-saving work.

By Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL):

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; to the Committee on the Judiciary.

LETHAL DRUG ABUSE PREVENTION ACT OF 1998

Mr. NICKLES. Mr. President, today I rise, along with Senators LOTT, COATS, INHOFE, HELMS, MURKOWSKI, GRAMS of Minnesota, FAIRCLOTH, BOND, ENZI, SESSIONS, HAGEL, and COVERDELL to introduce the Lethal Drug Abuse Prevention Act of 1998. This legislation will clarify that physicians entrusted by the Federal Government with the authority to prescribe and dispense controlled substances may not abuse that authority by using them in assisted suicides. It also strongly reaffirms that physicians should use federally controlled substances for the legitimate medical purpose of relieving pain and discomfort.

Last year, Congress passed the Assisted Suicide Funding Restriction Act of 1997 without a dissenting vote in the Senate and by an overwhelming margin of 398–16 in the House. The President signed the bill, saying it "will allow the Federal Government to speak with a clear voice in opposing these practices," and warning that "to endorse assisted suicide would set us on a disturbing and perhaps dangerous path."

The distribution of narcotics and other dangerous drugs is prohibited by federal law under the Controlled Substances Act. Under this law physicians may get a special federal license from the Drug Enforcement Administration (DEA), called a DEA registration, that allows them to prescribe these federally controlled drugs for "legitimate medical purposes." This was confirmed last November in a letter by Thomas Constantine, Administrator of the DEA, who concluded that "delivering, dispensing or prescribing a controlled substance with the intent of assisting a suicide would not be under any current definition a legitimate medical purpose."

It is important to understand that while physicians receive their license to practice medicine from state medical boards, they receive this separate DEA registration to prescribe controlled substances from the federal DEA. Each time a doctor orders a controlled substance they must fill our a form in triplicate and one copy goes to the DEA. Physicians must be prepared to explain to DEA officials their use of these drugs, and they lose their registration and even risk criminal penalties if they prescribe such drugs for any reason but "Legitimate medical purposes."

On June 5, Attorney General Janet Reno issued a decision which overturned the DEA ruling. According to the Attorney General, the Controlled Substances Act does not restrict the use of federally controlled dangerous drugs for the purpose of assisted suicide. It is for this reason I am introducing this legislation.

I have long been a strong advocate of states' rights and the limited role of the Federal Government, so let me make clear what this legislation does. It simply clarifies that the dispensing of controlled substances for the purpose of assisted suicide is prohibited under longstanding federal law, the Controlled Substance Act.

This is not the first time the Federal Government has acted to ensure that federally regulated drugs are not used for purposes that violate federal law. The current Administration is committed to enforcing federal prohibitions on the use of marijuana, despite state referenda that seeks to legitimize such use for what some see as medicinal use. By the same token, one state's referendum rescinding local criminal penalties for assisting a suicide does not magically transform a lethal act into a legitimate medical practice within the meaning of federal law.

Congress cannot remain silent now. Congress acted with one voice to ensure that no federal program, facility or employee is involved in assisted suicide. Enactment of the Lethal Drug Abuse Prevention Act of 1998 will ensure that federal authorization to prescribe DEA-regulated drugs does not include the authority to prescribe such drugs to cause a patient's death.

I urge my colleagues to support and swiftly enact this urgently needed legislation.

Mr President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lethal Drug Abuse Prevention Act of 1998".

SEC. 2. FINDINGS; PURPOSES.

(a) Findings.—Congress finds that—

(1) the use of certain narcotics and other dangerous drugs is generally prohibited under the Controlled Substances Act;

(2) under the Controlled Substances Act and implementing regulations, an exception to this general prohibition permits the dispensing and distribution of certain controlled substances by properly registered physicians for legitimate medical purposes;

(3) the dispensing or distribution of controlled substances to assist suicide is not a legitimate medical purpose and should not be construed to be permissible under the Controlled Substances Act;

(4) the dispensing or distribution of certain controlled substances for the purpose of relieving pain and discomfort is a legitimate medical purpose under the Controlled Substances Act and physicians should not hesitate to dispense or distribute them for that purpose when medically indicated; and

(5) for the reasons set forth in section 101 of the Controlled Substances Act (21 U.S.C. 801), the dispensing and distribution of controlled substances for any purpose, including that of assisting suicide, affects interstate commerce.

(b) Purposes.—The purposes of this Act are—

(1) to provide explicitly that Federal law is not intended to license the dispensing or distribution of a controlled substance with a purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; and

(2) to encourage physicians to prescribe controlled substances as medically appropriate in order to relieve pain and discomfort, by reducing unwarranted concerns that their registration to prescribe controlled substances will thereby be put at risk, if there is no intent to cause a patient's death.

SEC. 3. LETHAL DRUG ABUSE PREVENTION.

(a) Denial of Registration.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following:

"(i) Denial of Registration.—The Attorney General shall determine that registration of an applicant under this section is inconsistent with the public interest if—

"(1) during the 5-year period immediately preceding the date on which the application is submitted under this section, the registration of the applicant under this section was revoked under section 304(a)(4); or

"(2) the Attorney General determines, based on clear and convincing evidence, that the applicant is applying for the registration with the intention of using the registration to take any action that would constitute a violation of section 304(a)(4).".

(b) Suspension or Revocation of Registration.—

(1) In general.—Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) has intentionally dispensed or distributed a controlled substance with a purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual, except that this paragraph does not apply to the dispensing or distribution of a controlled substance for the purpose of relieving pain or discomfort (even if the use of the controlled substance may increase the risk of death), so long as the controlled substance is not also dispensed or distributed for the purpose of causing, or assisting in causing, the death of an individual for any reason;".

(2) Conforming amendment.—Section 304(a)(5) of the Controlled Substances Act (21 U.S.C. 824(a)(5)) (as redesignated by paragraph (1) of this subsection) is amended by inserting "other" after "such".

(c) Pain Relief.—Section 304(c) of the Controlled Substances Act (21 U.S.C. 824(c)) is amended—

(1) by striking "(c) Before" and inserting the following:

"(c) Procedures.—

"(1) Order to show cause.—After any hearing under paragraph (2), and before"; and

(2) by adding at the end the following:

"(2) Medical review board on pain relief.—

"(A) In general.—The Attorney General shall by regulation establish a board to be known as the Medical Review Board on Pain Relief (referred to in this subsection as the 'Board').

"(B) Membership.—The Attorney General shall appoint the members of the Board—

"(i) from among individuals who, by reason of specialized education or substantial relevant experience in pain management, are clinical experts with knowledge regarding standards, practices, and guidelines concerning pain relief; and

"(ii) after consultation with the American Medical Association, the American Academy of Hospice and Palliative Medicine, the National Hospice Organization, the American Geriatrics Society, and such other entities with relevant expertise concerning pain relief, as the Attorney General determines to be appropriate.

"(C) Duties of board.—

"(i) Hearing.—If an applicant or registrant claims that any action (or, in the case of a proposed denial under section 303(i)(2), any potential action) that is a basis of a proposed denial under section 303(i), or a proposed revocation or suspension under subsection (a)(4) of this section, is an appropriate means to relieve pain that does not constitute a violation of subsection (a)(4) of this section, the applicant or registrant may seek a hearing before the Board on that issue.

"(ii) Findings.—Based on a hearing under clause (i), the Board shall make findings regarding whether the action at issue is an appropriate means to relieve pain that does not constitute a violation of subsection (a)(4). The findings of the Board under this clause shall be admissible in any hearing pursuant to an order to show cause under paragraph (1).".

SEC. 4. CONSTRUCTION.

(a) In General.—Nothing in this Act or the amendments made by this Act shall be construed to imply that the dispensing or distribution of a controlled substance before the date of enactment of this Act for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual is not a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) INCORPORATED DEFINITIONS.—In this section, the terms "controlled substance", "dispense", and "distribute" have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

ADDITIONAL COSPONSORS

S. 268

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 268, a bill to regulate flights over national parks, and for other purposes.

S. 507

At the request of Mr. LEAHY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 773

At the request of Mr. DURBIN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 773, a bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes.

S. 831

At the request of Mr. SHELBY, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1092

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 1092, a bill to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK], the Senator from North Dakota [Mr. CONRAD], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1531

At the request of Ms. SNOWE, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1531, a bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

S. 1532

At the request of Ms. SNOWE, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1532, a bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

S. 1686

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1686, a bill to amend the National Labor Relations Act to determine the appropriateness of certain bargaining units in the absence of a stipulation or consent.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1924

At the request of Mr. MACK, the names of the Senator from Kansas [Mr. ROBERTS] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2064

At the request of Ms. MIKULSKI, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 2064, a bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes.

S. 2077

At the request of Mr. FORD, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2077, a bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes.

S. 2085

At the request of Mr. HUTCHINSON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2085, a bill to assist small businesses and labor organizations in defending themselves against Government bureaucracy; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers.

S. 2112

At the request of Mr. ENZI, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 2112, a bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

S. 2118

At the request of Mr. CHAFEE, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2118, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Tennessee [Mr. FRIST], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. LIEBERMAN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. ABRAHAM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

AMENDMENT NO. 2446

At the request of Mr. JOHNSON, his name was added as a cosponsor of Amendment No. 2446 proposed to S. 1415, a bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

SENATE RESOLUTION 245—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES AND THE REPUBLIC OF KOREA SHOULD CONTINUE TO ADVANCE ALREADY CLOSE BILATERAL SECURITY, ECONOMIC AND POLITICAL TIES FOR THE MUTUAL BENEFIT OF BOTH COUNTRIES

Mr. ROTH (for himself and Mr. THOMAS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 245

Whereas, the United States maintains a close, critical and robust bilateral partnership with the Republic of Korea, and has a profound interest in furthering that relationship;

Whereas, the U.S. security relationship with the ROK, based on the 1953 Mutual Defense Treaty, bilateral consultations and combined military forces, is one of our most important, and it is in both countries' interest, as well as in the interest of the countries of the Asia Pacific region for that relationship to be maintained;

Whereas, the ROK is the United States' seventh largest trading partner, fifth largest export market and fourth largest market for U.S. agricultural products;

Whereas, the recent presidential election of Kim Dae Jung, formerly one of his country's most prominent dissidents, further demonstrates the strength and vibrancy of democracy in the ROK;

Whereas, the ROK has already made significant strides in reforming, restructuring and opening its economy in response to the Asian financial crisis;

Whereas, President Kim has committed his administration to making an array of further structural reforms that over the medium- to long-term, will produce a more open, competitive and dynamic Korea, benefiting the Korean people, U.S.-ROK relations and the global economy:

Resolved, That it is the sense of the Senate that:

(1) The United States and the Republic of Korea should continue to advance already close bilateral security, economic and political ties for the mutual benefit of both countries, and for the maintenance of peace, stability and prosperity in the Asia Pacific region; and

(2) Commends President Kim Dae Jung and the Republic of Korea for the measures already implemented and those measures it has committed to implement to resolve the country's economic and financial problems.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

ABRAHAM (AND COVERDELL) AMENDMENT NO. 2569

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. COVERDELL) submitted an amendment intended to be proposed by them to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 154, between lines 5 and 6, insert the following:

"SUBPART III—ANTI-DRUG COUNTER-ADVERTISING, EDUCATION, AND PREVENTION PROGRAMS.

"SEC. 1983. ANTI-DRUG ACTIVITIES UNDER SUBPARTS I AND II.

"In carrying out the programs authorized by subparts I and II of this part, the Secretary shall incorporate, or carry out parallel programs, with respect to the illicit use of drugs.

On page 195, strike lines 5 through 9, and insert the following:

(i) smoking prevention activities under subpart I, and anti-drug activities authorized by subpart III, of part D of title XIX of the Public Health Service Act, as added by section 261 of this Act;

(ii) counter-advertising under subpart II, and anti-drug activities authorized by subpart III, of such part as so added;

FEDERAL REPORTS ELIMINATION ACT OF 1998

LEVIN (AND McCAIN) AMENDMENT NO. 2570

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill (S. 1364) to eliminate unnecessary and wasteful Federal reports; as follows:

At the end of section 601 add the following:

(d) NIH.—

(1) ANNUAL REPORT ON DISEASE PREVENTION.—Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) REPORT OF NICHD ASSOCIATE DIRECTOR FOR PREVENTION.—Section 451 of the Public Health Service Act (42 U.S.C. 285g-3) is amended—

(A) in subsection (a), by striking "(a) There" and inserting "There"; and

(B) by striking subsection (b).

(3) REPORT OF COUNCIL ON ALZHEIMER'S DISEASE.—The Alzheimer's Disease Research, Training, and Education Amendments of 1992 is amended by striking sections 911 and 912 (42 U.S.C. 11211 and 11212).

(4) INTERNATIONAL HEALTH RESEARCH.—The International Health Research Act of 1960 (Public Law 86-610) is amended by striking section 5(h).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

D'AMATO AMENDMENT NO. 2571

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to amendment No. 2443 proposed by Mrs. FEINSTEIN to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(4) FUNDS FOR LOCAL GOVERNMENTAL ENTITIES.—To be eligible to receive funds under this subsection, a State shall have adopted procedures to provide an equitable portion of such funds to local governmental entities within the State that can demonstrate that such entities incurred tobacco-related health costs through—

(A) contributions to the program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(B) the provision of indigent care.

SMITH AMENDMENT NO. 2572

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to amendment No. 2435 proposed by him to the bill, S. 1415, supra; as follows:

Beginning on page 1 of the amendment strike line 1 and all that follows through line 15 on page 2.

WELLSTONE AMENDMENT NO. 2573

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to amendment No. 2508 proposed by Mr. CRAIG to the bill, S. 1415, supra; as follows:

Add the following at the end of the amendment:

(C) SET-OFF PAYMENTS FROM STATE LITIGATION.—

(i) IN GENERAL.—For any State which has entered into a settlement agreement prior to the date of enactment of this Act, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco related diseases or conditions, to be eligible to receive any funds from the State Litigation Settlement Account, the amount of any payment due in any year under the settlement agreement must first be received by the State after which the amount actually received will be set-off against any amount which the State is entitled to receive from the State Litigation Settlement Account. The failure of a State to receive any payment due under the settlement agreement will not prohibit the State from receiving any amount which the State is entitled to receive from the State Litigation Settlement Account.

(ii) REDISTRIBUTION OF SET-OFF PAYMENTS.—Any payments out of the State Litigation Settlement Account which would otherwise have been made to such State but for the set-off in subparagraph (i) shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

WELLSTONE AMENDMENT NO. 2574

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to amendment No. 2512 proposed by Mr. ROTH to the bill, S. 1415, supra; as follows:

Delete Section (4)(A)(ii) and Section (5) and insert in lieu thereof the following:

Section (4)(A)(ii) "the aggregate payments which are due to be received by such State for such calendar year under the settlement, judgement, or other agreement."

and

SEC. 5. SET-OFF PAYMENTS FROM STATE LITIGATION.

(A) IN GENERAL.—For any State which has entered into a settlement agreement prior to the date of enactment of this Act, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco related diseases or conditions, to be eligible to receive any funds from the State Litigation Settlement Account, the amount of any payment due in any year under the settlement agreement must first be received by the State after which the amount actually received will be set-off against any amount which the State is entitled to receive from the State Litigation Settlement Account. The failure of a State to receive any payment due under the settlement agreement will not prohibit the State from receiving any amount which the State is entitled to receive from the State Litigation Settlement Account.

(B) REDISTRIBUTION OF SET-OFF PAYMENTS.—Any payments out of the State Litigation Settlement Account which would otherwise have been made to such State but for the set-off in paragraph (A) shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

DURBIN AMENDMENT NO. 2575

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 216, line 9, insert before the period the following: ",except that, with respect to public facilities owned by or leased to an entity of the legislative branch of the United States Government, the provisions of this title shall take effect on January 1, 1999".

FORD AMENDMENTS NOS. 2576–2615

(Ordered to lie on the table.)

Mr. FORD submitted 40 amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2576

On page 19, after line 10, insert the following new subsection and renumber all subsequent sections accordingly:

"(1) BLACK MARKET TOBACCO PRODUCT.—The term "black market tobacco product" means any tobacco product sold or distributed in the United States without payment of all applicable State or Federal excise taxes."

AMDNEDMENT NO. 2577

On page 24, line 6, after "increasing" insert "materially".

AMENDMENT NO. 2578

On page 44, on line 23 change "60" to "90".

AMENDMENT NO. 2579

On page 44, on line 24 change "90" to "120".

AMENDMENT NO. 2580

On page 47, beginning on line 15 insert the following new subparagraph (i) and renumber the subsequent subparagraphs accordingly:

"(i) before issuing any regulation under subparagraph (A), consult with the Secretary of Labor, the United States Trade Representative and the Secretary of Agriculture to determine what effect that any proposed regulation shall have upon domestic employment within the United States and, in consultation with each of these other agencies, issue a joint finding that the regulation to be issued under subparagraph (A) shall not adversely affect agricultural employment or manufacturing employment in the United States."

AMENDMENT NO. 2581

On page 47, at line 23, delete ";" and insert the following after "hearing":

",and all tobacco manufacturers shall have at least 120 days notice of such hearing and shall be extended an opportunity to appear at an oral hearing."

AMENDMENT NO. 2582

On page 49, line 15 change "may" to "shall".

AMENDMENT NO. 2583

On page 55, after line 10 insert a new paragraph (5) as follows:

"(5) CONSULATION WITH UNITED STATES TRADE REPRESENTATIVE AND SECRETARY OF AGRICULTURE.—Prior to issuing any regulations under this section, the Secretary shall consult with the United States Trade Representative and the Secretary of Agriculture. Before any regulation issued under this section may become final—

"(A) the Secretary shall issue a joint finding with the United States Trade Representative which certifies that the regulation does not violate any treaty or international obligation to which the United States is a party; and

"(B) the Secretary shall issue a joint finding with the Secretary of Agriculture which certifies that the proposed regulation shall not have an adverse effect on the domestic or international competitiveness of tobacco growers in the United States."

AMENDMENT NO. 2584

On page 57, line 5 delete "60" and insert in lieu thereof "180".

AMENDMENT NO. 2585

On page 58, line 21 delete "2" and insert in lieu thereof "5".

AMENDMENT NO. 2586

On page 58, line 17 delete "to zero" and insert in lieu thereof "by fifty percent or more".

AMENDMENT NO. 2587

On page 59, strike lines 1 through 13 and insert in lieu thereof the following:

"By regulation promulgated after a period of notice and comment of at least 180 days, the Secretary may amend or revoke a performance standard. The Secretary shall be prohibited from issuing any regulation under this section that accelerates the effective date of a performance standard."

AMENDMENT NO. 2588

On page 60, line 24 after "substantial" insert "immediate".

AMENDMENT NO. 2589

On page 62, line 3 before "harm" insert "and immediate".

AMENDMENT NO. 2590

On page 72, line 10 delete "180" and insert in lieu thereof "90".

AMENDMENT NO. 2591

On page 82, line 8 insert the following new subsection:

"(a) IMPLEMENTING REGULATIONS.—The Secretary shall not institute any requirements under this section unless and until the Secretary has issued final regulations, after proposing such regulations for a public comment period of at least 120 days. In no event shall the Secretary issue interim regulations within an effective date that precedes the expiration of the 120-day public comment period."

AMENDMENT NO. 2592

On page 102, line 9 insert "product" immediately following "tobacco".

AMENDMENT NO. 2593

On page 102, line 11 immediately after "private sector," insert the following: "including representatives from tobacco manufacturers, distributors, retailers and growers."

AMENDMENT NO. 2594

On page 104, line 2 insert the following sentence after "percentages.":

"The Secretary shall also determine the percent incidence of underage use of black market tobacco products using the same calculations, the same categories, and the same years as used to determine the percentage incidence of underage use of cigarettes and smokeless tobacco products."

AMENDMENT NO. 2595

On page 122, line 22 insert the following and renumber accordingly:

"iii the extent to which underage youth are using black market tobacco products within the State and the activity that the State has undertaken to reduce the teenage use of black market activities;"

AMENDMENT NO. 2596

On page 141 after line 12, insert the following new subsection:

"(f) INFORMATION RELATED TO BLACK MARKET TOBACCO PRODUCTS.—The Secretary shall require any grant recipient that administers a smoking cessation program under this section to survey all participants of such cessation programs. This purpose of this survey shall be to determine the attitudes among program participants concerning the general awareness of black market tobacco products, the frequency of use of black market tobacco products, and the demographic characteristics of users of black market tobacco products."

AMENDMENT NO. 2597

On page 165, line 8, delete "January 1, 2000" and insert in lieu thereof "January 1, 2002".

AMENDMENT NO. 2598

On page 168 on line 20 insert the following at the end of paragraph (3):

"Any rulemaking conducted under this section shall be conducted to a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2599

On page 175 on line 23 insert the following immediately after "products.":

"Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2600

On page 177, after line 20 insert the following new subsection (D):

"(D) Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2601

On page 178, on line 6, delete "later than 24 months" and insert in lieu thereof "sooner than 36 months.'

AMENDMENT NO. 2602

On page 179 after line 4 insert the following new subsection (d):

"(d) Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2603

On page 188, after line 11, insert the following new subsection:

"(g) ADJUSTMENT FOR INCORRECT PAYMENTS.—The Secretary of the Treasury may order an adjustment for prior year payments, other than the first annual payment, upon a showing by a participating manufacturer that any payment in a previous year has been made on the basis of an incorrect annual apportionment. If the Secretary of the Treasury determines that prior payments must be adjusted, the Secretary of the Treasury shall then reapportion the annual payments for the previous year in dispute, and make adjustments as follows—

(1) Any participating manufacturer found to have made an overpayment shall receive a credit toward future payments due under this section. The credit shall include the amount of the overpayment, together with interest computed as provided for in subsection (a). Interest shall accrue from the date of the overpayment until the date upon which the next payment is due under this section.

(2) If the Secretary of the Treasury finds that a participating manfacturer must make additional payments because of an adjustment under this subsection, the payment shall include the amount of the underpayment, together with interest computed as provided for in subsection (a). The payments shall be due no later than 30 days after the Secretary of the Treasury notifies the participating manufacturers of the underpayment. Interest shall accrue from the date of the underpayment until the date on which the payment is received."

AMENDMENT NO. 2604

On page 214, on line 7, delete "Citizen Actions" and insert "Enforcement and Penalties".

AMENDMENT NO. 2605

On page 214, lines 9 and 10, delete "any aggrieved person, or any State or local agency," and insert "or any State or local agency".

AMENDMENT NO. 2606

On page 211, on lines 7 and 8, delete "10 or more individuals at least 1 day per week" and insert in lieu thereof "50 or more individuals at least 4 days per week".

AMENDMENT NO. 2607

On page 211, on lines 7 and 8, delete "10 or more individuals at least 1 day per week" and insert in lieu thereof "10 or more individuals at least 4 days per week".

AMENDMENT NO. 2608

On page 214, line 22, delete "60" and insert "180".

AMENDMENT NO. 2609

On page 215, line 2, delete "60-day" and insert "120-day".

AMENDMENT NO. 2610

On page 215, delete lines 3 through 7 and reletter the next subsection.

AMENDMENT NO. 2611

On page 216, on line 2, insert the following at the end of section 505:

"Any rulemaking conducted under this section shall provide a notice and comment period which shall be at least 180 days and, in no event, shall the Assistant Secretary issue any regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2612

On page 216, delete lines 11 through 18 and insert in lieu thereof:

"This title shall not apply to any State, unless that State adopts a law that applies this title within its jurisdiction."

AMENDMENT NO. 2613

On page 217, after line 13 insert a new paragraph and renumber subsequent paragraphs accordingly:

"(3) recognize the potential for this Act to create a black market for tobacco products on Indian lands and ensure that tribal governments, the Federal government and state and local governments cooperate to the maximum extent possible to reduce the potential for the manufacture, distribution, sale, and use of black market tobacco products on Indian lands;"

AMENDMENT NO. 2614

On page 227, after line 3, insert a new subsection (h) as follows:

"(h) REDUCTION OF BLACK MARKET.—Each Indian tribe shall establish a program to monitor the manufacture, distribution, sale and use of black market tobacco products on Indian lands and designate a government official to work with officials from the Federal, State and local governments to the fullest extent possible to minimize the manufacture, distribution, sale, and use of black market tobacco products on Indian lands. Within 60 days of the effective date of this Act, and no later than January 1 of each year thereafter, each Indian tribe shall submit the name, title and address of this responsible government official to the Secretary. The Secretary shall compile and update annually a list of these Tribal officials and make this list available to any Federal, State and local officials who request the information."

AMENDMENT NO. 2615

On page 233, after line 25, insert the following new section:

"SEC. 703. IMMUNITY FOR TOBACCO GROWERS, COOPERATIVES OR WAREHOUSES.

(a) GENERAL PURPOSE.—This section is intended to provide tobacco growers, tobacco cooperatives, and tobacco warehouses immunity from any Federal or State, civil or criminal actions arising out of health-related claims concerning the use of tobacco products.

(b) GENERAL PREEMPTION.—No civil action or criminal action in any court of the United States or in any State asserting a tobacco claim shall be brought against any tobacco grower, tobacco association or cooperative or owner or employee of such association or cooperative, or tobacco warehouse or owner or employee of such warehouse, if such claim arises out of actions or failures to act during the cultivation, harvesting, marketing, distribution or sale of tobacco leaf.

(c) DEFINITIONS.—For purposes of this section—

(1) CIVIL ACTION.—The term "civil action" means any Federal or State action, lawsuit or proceeding that is not a criminal action.

(2) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on, or related to allegations regarding any conduct, statement or omission respecting the health-related effects of such products. Tobacco claim also means any State or Federal action for relief which is predicated upon claims of addictions to, or dependence on, tobacco products, even if such claims are not based upon the manifestation of tobacco-related diseases.

(3) TOBACCO GROWER.—The term "tobacco grower" means any individual or entity that owns or has owned a farm for which tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), as well as any tobacco farmer that leases or has leased such a quota or allotment or procedures or has produced tobacco under such quota or allotment pursuant to a lease, transfer, or tenant or sharecropping arrangement.

(4) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut tobacco products.

(d) RELATIONSHIP TO OTHER LAWS.—This section shall supersede Federal and State laws only to the extent that Federal and State laws are inconsistent with this section.

FORD AMENDMENTS NOS. 2616–2620

(Ordered to lie on the table.)

Mr. FORD submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2616

Strike page 107, line 5 through page 182, line 21, and insert the following: "a surcharge on cigarette manufacturers as follows:"

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$160,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$800,000,000, plus $320,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$2,400,000,000, plus $480,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$8,000,000,000.

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$16,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$80,000,000, plus $32,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$240,000,000, plus $48,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$800,000,000.

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.—For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section

1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section

1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

“(A) public entity or a State health department; or

“(B) private or nonprofit private entity that—

“(i)(I) is not affiliated with a tobacco product manufacturer or importer;

“(II) has a demonstrated record of working effectively to reduce tobacco product use; or

“(III) has expertise in conducting a multi-media communications campaign; and

“(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

“(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

“(4) meet any other requirements determined appropriate by the Secretary.

“(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

“(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

“(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

“(g) ALLOCATION OF FUNDS.—Not to exceed—

“(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

“(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

“(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

“(4) half of 1 percent for administrative costs and expenses.

“(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.”.

“PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

“SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

“(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

“(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

“(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

“SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

“(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

“(b) CONSIDERATIONS.—

“(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

“(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

“(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

“(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

“(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

“(D) surveillance and epidemiology research relating to tobacco;

“(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

“(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

“(G) differentials between brands of tobacco products with respect to health effects or addiction;

“(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

“(I) effects of tobacco use by pregnant women; and

“(J) other matters determined appropriate by the Institute.

“(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

“SEC. 1991B. RESEARCH COORDINATION.

“(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

“(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

“SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

“(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

“(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

“SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

“(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

“(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

“(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

“(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

“(1) the epidemiology of tobacco use;

“(2) the etiology of tobacco use;

“(3) risk factors for tobacco use by children;

“(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

“(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

“(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

“(7) the toxicity of tobacco products and their ingredients;

“(8) the relative harmfulness of different tobacco products;

“(9) environmental exposure to tobacco smoke;

“(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) Coordination.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) Administration.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) Trigger.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) Report.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) Medicaid Coverage of Outpatient Smoking Cessation Agents.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) In General.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) Analyses and Special Programs.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) In General.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) Label Requirements.—

"(1) In general.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) Placement; typography; etc..—

"(A) In general.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) Flip-top boxes.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) Does not apply to foreign distribution.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) Advertising Requirements.—

"(1) In general.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) Typography, etc.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) Adjustment by secretary.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) Marketing requirements.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and

Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$7,200,000,000.

(2) year 2—$7,700,000,000.

(3) year 3—$8,850,000,000.

(4) year 4—$10,700,000,000.

(5) year 5—$11,800,000,000.

AMENDMENT NO. 2617

In lieu of the matter proposed to be inserted, strike page 107, line 5 through page 182, line 21, and insert the following: "a surcharge on cigarette manufacturers as follows:"

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$160,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$800,000,000, plus $320,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$2,400,000,000, plus $480,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$8,000,000,000.

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$16,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$80,000,000, plus $32,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$240,000,000, plus $48,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$800,000,000.

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.—For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and snall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) Coordination.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) Limitation.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) Administration.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) Application.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) State Plan.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) Certification.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) Reports, Data, and Audits.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) Withholding.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) Nondiscrimination.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) Criminal Penalties.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) In General.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) Duties.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) Composition.—

"(1) In general.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) Representatives.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"Subpart II—Tobacco-Free Counter-Advertising Programs

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) National Campaign.—

"(1) In general.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

“(2) Requirements.—The national campaign under paragraph (1) shall—

“(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

“(B) include a research and evaluation component; and

“(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

“(b) Establishment of an Advisory Board.—

“(1) In general.—The Secretary shall establish a board to be known as the ‘National Tobacco Free Education Advisory Board’ (referred to in this section as the ‘Board’) to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

“(2) Composition.—The Board shall be composed of—

“(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

“(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

“(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

“(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

“(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

“(II) 1 member shall have expertise in marketing research and evaluation; and

“(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

“(3) Terms and vacancies.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(4) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

“(5) Awards.—In carrying out subsection (a), the Secretary may—

“(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

“(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

“(6) Powers and duties.—The Board may—

“(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

“(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

“(c) Eligibility.—To be eligible to receive funding under this section an entity shall—

“(1) be a—

“(A) public entity or a State health department; or

“(B) private or nonprofit private entity that—

“(i)(I) is not affiliated with a tobacco product manufacturer or importer;

“(II) has a demonstrated record of working effectively to reduce tobacco product use; or

“(III) has expertise in conducting a multimedia communications campaign; and

“(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

“(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

“(4) meet any other requirements determined appropriate by the Secretary.

“(d) Use of Funds.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

“(e) Needs of Certain Populations.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

“(f) Coordination.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

“(g) Allocation of Funds.—Not to exceed—

“(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

“(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

“(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

“(4) half of 1 percent for administrative costs and expenses.

“(h) Trigger.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.”.

“Part E—Reducing Youth Smoking and Tobacco-Related Diseases Through Research

“SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

“(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

“(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

“(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

“SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

“(a) Contract.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

“(b) Considerations.—

“(1) In general.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

“(2) Specific considerations.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

“(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

“(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

“(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

“(D) surveillance and epidemiology research relating to tobacco;

“(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

“(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

“(G) differentials between brands of tobacco products with respect to health effects or addiction;

“(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

“(I) effects of tobacco use by pregnant women; and

“(J) other matters determined appropriate by the Institute.

“(c) Report.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"
"WARNING: Tobacco smoke can harm your children"
"WARNING: Cigarettes cause fatal lung disease"
"WARNING: Cigarettes cause cancer"
"WARNING: Cigarettes cause strokes and heart disease"
"WARNING: Smoking during pregnancy can harm your baby"
"WARNING: Smoking can kill you"
"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"
"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) In general.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) Typography, etc.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) Adjustment by secretary.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) Marketing requirements.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) Repeal of Prohibition on State Restriction.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) Additional statements.—" in subsection (a); and

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) Change in Required Statements.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) General Rule.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) Required Labels.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$7,200,000,000.
(2) year 2—$7,700,000,000.
(3) year 3—$8,850,000,000.
(4) year 4—$10,700,000,000.
(5) year 5—$11,800,000,000.

AMENDMENT NO. 2618

Strike all beginning with page 25, line 1, and insert the following:

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) Annual Submission.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) Time for Submission.—

"(1) New products.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) Modification of existing products.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) Definitions.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) Registration by Owners and Operators.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) Registration of New Owners and Operators.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) Registration of Added Establishments.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) Uniform Product Identification System.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) Public Access to Registration Information.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) Biennial Inspection of Registered Establishments.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) Foreign Establishments May Register.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) Registration Information.—

"(1) Product list.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) Biannual Report of Any Change in Product List.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) Report Preceding Introduction of Certain Substantially-Equivalent Products into Interstate Commerce.—

"(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) Application to certain post-August 11th products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee, whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

"(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation .

"(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—

"(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction or elimination of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where necessary to be appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

"(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

"(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(E) The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

"(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

"(4) AMENDMENT; REVOCATION.—

"(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

"(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

"(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES.

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant, refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

“(c) ACTION ON APPLICATION.—

“(1) DEADLINE.—

“(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

“(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

“(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

“(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

“(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

“(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

“(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

“(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

“(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

“(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

“(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(5) BASIS FOR ACTION.—

“(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

“(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

“(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

“(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

“(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

“(B) that the application contained or was accompanied by an untrue statement of a material fact;

“(C) that the applicant—

“(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

“(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

“(iii) has not complied with the requirements of section 905;

“(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

“(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

“(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

“(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“SEC. 911. JUDICIAL REVIEW.

“(a) IN GENERAL.—Not later than 30 days after—

“(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

“(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) COURT MAY ORDER SECRETARY TO MAKE ADDITIONAL FINDINGS.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

“(c) Standard of Review.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

“(d) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(e) Other Remedies.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

“(f) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

“SEC. 912. POSTMARKET SURVEILLANCE

“(a) Discretionary Surveillance.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

“(b) Surveillance Approval.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

“SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

“(a) Requirements.—

“(1) In general.—For purposes of this section, the term ‘reduced risk tobacco product’ means a tobacco product designated by the Secretary under paragraph (2).

“(2) Designation.—

“(A) In general.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

“(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

“(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

“(B) Basis for finding.—In making the finding under subparagraph (A), the Secretary shall take into account—

“(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

“(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

“(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

“(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

“(3) Marketing requirements.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

“(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

“(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

“(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

“(b) Revocation of Designation.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

“(1) the finding made under subsection (a)(2) is no longer valid; or

“(2) the product is being marketed in violation of subsection (a)(3).

“(c) Limitation.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

“(d) Development of Reduced Risk Tobacco Product Technology.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a ‘reduced risk tobacco product’ under subsection (a).

“SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) Additional Requirements.—

“(1) In general.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

“(2) Preemption of certain state and local requirements.—

“(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

“(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

“(b) Rule of Construction Regarding Product Liability.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“(c) Waivers.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

“(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

“(2) the requirement—

“(A) is required by compelling local conditions; and

“(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

“SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

-“The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.”.

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) Amendment of Federal Food, Drug, and Cosmetic Act.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) Section 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting “tobacco product,” in subsection (a) after “device,”;

(2) by inserting “tobacco product,” in subsection (b) after “device,”;

(3) by inserting “tobacco product,” in subsection (c) after “device,”;

(4) by striking “515(f), or 519” in subsection (e) and inserting “515(f), 519, or 909”;

(5) by inserting “tobacco product,” in subsection (g) after “device,”;

(6) by inserting “tobacco product,” in subsection (h) after “device,”;

(7) by striking “708, or 721” in subsection (j) and inserting “708, 721, 904, 905, 906, 907, 908, or 909”;

(8) by inserting “tobacco product,” in subsection (k) after “device,”;

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) Section 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) Civil Penalties; No-tobacco-sale Orders.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) Section 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) Section 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) Section 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) Section 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) Section 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) Section 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) Section 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(2) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) Section 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) Section 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) Effective Date for No-Tobacco-Sale Order Amendments.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) In General.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Red. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been

lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) Limitation on Advisory Opinions.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619-45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) Goals.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) Required Reductions for Cigarettes.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) Required Reductions for Smokeless Tobacco.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) Annual Performance Survey.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) Annual Determination.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) Confidentiality of Data.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) Methodology.—

(1) In general.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) Criteria for deeming point estimates correct.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) Survey deemed correct, proper, and accurate.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) Secretary may adopt different methodology.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) Industry-wide Non-attainment Surcharges.—

(1) Secretary to determine industry-wide non-attainment percentage.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) Non-attainment surcharge for cigarettes.—For each calendar year in which the percentage reduction in underage use required by section 203(b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"Subpart II—Tobacco-Free Counter-Advertising Programs

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multi-media communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) Administrative Provisions.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) Initial Payment.—

(1) Certain tobacco product manufacturers.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) No contribution from other tobacco product manufacturers.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) Payment date; interest.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) Annual Payments.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.
(2) year 2—$15,400,000,000.
(3) year 3—$17,700,000,000.
(4) year 4—$21,400,000,000.
(5) year 5—$23,600,000,000.
(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) Payment Schedule; Reconciliation.—

(1) Estimated payments.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) Reconciliation.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) Apportionment of Annual Payment.—

(1) In general.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) Determination of amount of payment due.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) Calculation of tobacco product manufacturer's share of annual payment.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) Units.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) Determination of adjusted units.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) Adjusted units determined on total domestic production.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) Special rule for large manufacturers.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) Smokeless equivalency study.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) Computations.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) Nonapplication to Certain Manufacturers.—

(1) Exemption .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) Limitation.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) Tobacco product manufacturers to which subsection applies.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) Inflation adjustment.—

(A) In general.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) Volume adjustment.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted unites as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) Penalty.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) Noncompliance Period.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) Limitations.—

(1) In general.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) Corrections.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) Waiver.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) State Litigation Settlement Account.—

(1) In general.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excees of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) Appropriation.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) Distribution formula.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) Use of funds.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) Funds not available as Medicaid reimbursement.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) Public Health Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) Authorization of appropriations.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) Cessation and other treatments.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) Indian health service.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) Education and prevention.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) Enforcement.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) Health and Health-related Research Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) Authorization of appropriations.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) Farmers Assistance Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) Appropriation.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) Medicare Preservation Account.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) Amounts.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) Use of Funds.—

(1) Unrestricted funds.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) Restricted funds.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV-B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) No Substitution of Spending.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) Federal-State Match Rates.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) Maintenance of Effort.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) Options for Children's Health Outreach.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) Expansion of presumptive eligibility option for children.—

(A) In general.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) Technical amendments.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) Removal of requirement that children's health insurance program allotments be reduced by costs related to presumptive eligibility determinations.—

(A) In general.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) Effective date.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) Increased funding for administrative costs related to outreach and eligibility determinations for children.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) Increased federal matching rate for administrative costs related to outreach and eligibility determinations for children.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) Periodic reassessment of spending options.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) Establishment.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) Application.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) Approved Clinical Trial Program.—

(1) In general.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) Modifications in approved trials.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) Routine Patient Care Costs.—

(1) In general.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) Exclusion.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) Study.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) Report to Congress.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) Assistant secretary.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) Public facility.—

(A) In general.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) Exclusions.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) Fast food restaurant defined.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) Responsible entity.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) Policy Required.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) Elements of Policy.—

(1) In general.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) Exception.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) Specially Designated Smoking Areas.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) In General.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) Venue.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) Notice.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) Costs.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) Penalties.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) Application With OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) Purpose.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the

cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) LIMITATION.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) APPLICATION ON INDIAN LANDS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) SCOPE.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) TRIBAL TOBACCO RETAILER LICENSING PROGRAM.—

(A) IN GENERAL.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) COOPERATION.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) ENFORCEMENT.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) ELIGIBILITY.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) DETERMINATIONS.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) SECRETARIAL REVIEW.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) ELIGIBILITY FOR PUBLIC HEATH FUNDS.—

(1) ELIGIBILITY FOR GRANTS.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a)), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) HEALTH CARE FUNDING.—

(A) INDIAN HEALTH SERVICE.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) FUNDING.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) USE OF HEALTH CARE TRUST FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) DISCLAIMER.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is

under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Civil action.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) Court.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) Final judgment.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) Final settlement.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) Individual.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) Tobacco claim.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) Tobacco product manufacturer.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) Castano civil actions.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay , et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al. (Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) Application.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) Preemption.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) Criminal Liability Untouched.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) General Causation Presumption.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) Actions Against Participating Tobacco Product Manufacturers.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) Accountability.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) Tobacco Company Plan.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) Annual Report.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) Prohibited Acts.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) JUDICIAL REVIEW.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) NONCOMPLIANCE.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) ACTION TO ENSURE COMPLIANCE.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) ENFORCEMENT.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) APPLICABILITY TO CERTAIN EMPLOYEES.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) EFFECT ON OTHER LAWS.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) POSTING.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) DISCLOSURE TO THE FOOD AND DRUG ADMINISTRATION.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing

trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) Separate Submission of Documents.—

(1) (1) Privileged Trade Secret Documents.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) Privilege and trade secret logs.—

(A) In general.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) Organization of log.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) Public inspection.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) Declaration of compliance.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) Document Categories.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) Future Documents.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) Document Identification and Index.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) Ajudication of Privilege Claims.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If the any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) TRADE SECRET.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) CERTAIN ACTIONS DEEMED TO BE PROCEEDINGS.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) OTHER TERMS.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999

marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal ¹⁄₁₀ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to ¹⁄₁₀ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

“(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

“(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

“(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

“(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

“(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(C) ADMINISTRATION.—The Secretary shall issue regulations—

“(i) defining the term ‘person’ for the purpose of this paragraph; and

“(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

“(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

“(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

“(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

“(ii) the ratio that—

“(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

“(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

“(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

“(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

“(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

“(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

“(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(6) ACTIVE PRODUCER REQUIREMENT.—

“(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

“(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

“(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

“(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

“(iii) the person may not receive any of the return before the sale of the crop.

“(C) PERSONS NOT SHARING RISK.—

“(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) COUNTY PRODUCTION POOL.—

“(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

“(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

“(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

“(i) the experience of the producer;

“(ii) the availability of land, labor, and equipment for the production of tobacco;

“(iii) crop rotation practices; and

“(iv) the soil and other physical factors affecting the production of tobacco.

“(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(c) REFERENDUM.—

“(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

“(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

“(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

“(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

“(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

“(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

“(3) Designation.—Grants made under this subpart shall be known as ‘farmer opportunity grants’.

“(b) Amount of Grants.—

“(1) Amounts.—

“(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

“(i) **$1,700** for each of the academic years 1999–2000 through 2003–2004;

“(ii) **$2,000** for each of the academic years 2004–2005 through 2008–2009;

“(iii) **$2,300** for each of the academic years 2009–2010 through 2013–2014;

“(iv) **$2,600** for each of the academic years 2014–2015 through 2018–2019; and

“(v) **$2,900** for each of the academic years 2019–2020 through 2023–2024.

“(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

“(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

“(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

“(c) Period of Eligibility for Grants.—

“(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

“(2) Construction.—Nothing in this section shall be construed to—

“(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

“(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

“(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

“(d) Applications for Grants.—

“(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

“(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

“(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

“(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

“(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

“SEC. 420F. STUDENT ELIGIBILITY.

“(a) In General.—In order to receive any grant under this subpart, a student shall—

“(1) be a member of a tobacco farm family in accordance with subsection (b);

“(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

“(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

“(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

“(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

“(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

“(B) the student's social security number; and

“(6) be a citizen of the United States.

“(b) Tobacco Farm Families.—

“(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

“(A) an individual who—

“(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

“(ii) is otherwise actively engaged in the production of tobacco;

“(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

“(C) an individual—

“(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

“(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

“(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

“(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

“(c) Satisfactory Progress.—

“(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. requirements apply if the destination country does not require specific health hazard warning labels.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) United States Person Defined.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) Report to Congress on Enforcement; Feasibility Regulations.—

(1) The president.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) The secretary.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) Establishment of International Tobacco Control Awareness.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) Activities.—

(1) In general.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) Grants and contracts.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) Transfer of funds to agencies.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) Authorization of Appropriations.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) Incorporation of Certain Definitions.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States ", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) Other Definitions.—In this subtitle:

(1) Affiliate.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) Interstate or Foreign Commerce.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) Secretary.—The term "Secretary" means the Secretary of the Treasury.

(4) Package.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) Retailer.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less packages, or its equivalent for other tobacco products.

(6) Exporter.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) Importer.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) Intentionally.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) Manufacturer.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) Wholesaler.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) In General.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) Labeling.—

(1) Identification.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or

distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(d) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation," ;

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the persons name, and trade name (if any), and the address of the persons principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949, (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) Supplement not Supplant.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) Ban of Sale of Tobacco Products Through the Use of Vending Machines.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) Compensation for Banned Vending Machines.—

(1) In general.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) Tobacco vending reimbursement corporation.—

(A) Corporation.—Reimbursement shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimbursement Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) Duties.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) Management of corporation.—

(A) Board of directors.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) Duties of the president of the corporation.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) Compensation fund.—

(A) Rules for disbursement of funds.—

(i) Payments to owners and operators.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) Other payments.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) Verification of vending machines.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) Return of account funds not distributed to vendors.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) Settlement of Legal Claims Pending Against the United States.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) Inpatient Care.—

"(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) Exception.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) Reconstructive Surgery.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) Notice.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) No Authorization Required.—

"(1) In general.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) Prenotification.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) Prohibitions.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) Rules of Construction.—

"(1) In general.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) Limitation.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) Cost sharing.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) Level and type of reimbursements.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) Preemption, Relation to State Laws.—

"(1) In general.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) Application of section.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) Erisa.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.
"9101. Recovery by Secretary of Veterans Affairs
"9102. Regulations
"9103. Limitation or repeal of other provisions for recovery of compensation
"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) Conditions; Exceptions; Persons Liable; Amount of Recovery; Subrogation.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) Enforcement Procedure; Intervention; Joinder of Parties; State or Federal Court Proceedings.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) Credits to Appropriations.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) Provisions Applicable to Documents.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) In General.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(8) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) Color Print Ads on Magazines.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) In General.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) Permitted POS Locations.—

(1) Placement.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) Size.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) Proximity to candy.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) Audio or Video.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) No Restrictive Covenants.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) Definitions.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) In General.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) Exceptions.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part

was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a nonparticipating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) EFFECT ON EXISTING STATE SUITS OF SETTLEMENT AGREEMENT OR CONSENT DECREE.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) STATE OPTION FOR ONE-TIME OPT OUT.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-DAY DELAY.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) PRESERVATION OF INSURANCE CLAIMS.—

(1) IN GENERAL.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) APPLICATION OF TITLE 11, UNITED STATES CODE.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) STATE LAW NOT AFFECTED.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) CASTANO CIVIL ACTIONS.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) ACTION BY SECRETARY.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation , interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(f) LIMITATION ON STATE COURTS.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) ARBITRATION PANEL.—

(1) RIGHT TO ESTABLISH .—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) OPERATION.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) RIGHT TO PETITION.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) CRITERIA.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) Appeal and Enforcement.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) Validity and Enforceability of Private Agreements.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) Offset for Amounts Already Paid.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) Severability.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) Nonseverability.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) Terms defined in title VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) Additional definitions.—

(A) Addiction claim; dependence claim.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) Compensatory damages.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) Protocol.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with a participating tobacco product manufacturers under this title.

(D) Punitive damages.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) Secretary.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

Amendment No. 2619

In lieu of the matter proposed to be inserted, strike all beginning with page 25, line 1, and insert the following:

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) Definition of Tobacco Products.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA Authority over Tobacco Products.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) In General.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) Applicability.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) Scope.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) In General.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and-other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

"(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) APPLICATION TO CERTAIN POST-AUGUST 11TH PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

"(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation .

"(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—

"(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction or elimination of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where necessary to be appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

"(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

"(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(E) The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

"(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

"(4) AMENDMENT; REVOCATION.—

"(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

"(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

"(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

“(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

“(2) Appeal.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

“(3) Temporary suspension.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) Service of Order.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“SEC. 911. JUDICIAL REVIEW.

“(a) In General.—Not later than 30 days after—

“(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

“(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) Court May Order Secretary to Make Additional Findings.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

“(c) Standard of Review.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

“(d) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(e) Other Remedies.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

“(f) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

“SEC. 912. POSTMARKET SURVEILLANCE

“(a) Discretionary Surveillance.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

“(b) Surveillance Approval.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

“SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

“(a) Requirements.—

“(1) In general.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

“(2) Designation.—

“(A) In general.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

“(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

“(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

“(B) Basis for finding.—In making the finding under subparagraph (A), the Secretary shall take into account—

“(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

“(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

“(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

“(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

“(3) Marketing requirements.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

“(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

“(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

“(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

"(b) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

"(1) the finding made under subsection (a)(2) is no longer valid; or

"(2) the product is being marketed in violation of subsection (a)(3).

"(c) LIMITATION.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

"(d) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a 'reduced risk tobacco product' under subsection (a).

"SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

"(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

"(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(c) WAIVERS.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

"(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

"(2) the requirement—

"(A) is required by compelling local conditions; and

"(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

"SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

–"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.".

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting "tobacco product," in subsection (a) after "device,";

(2) by inserting "tobacco product," in subsection (b) after "device,";

(3) by inserting "tobacco product," in subsection (c) after "device,";

(4) by striking "515(f), or 519" in subsection (e) and inserting "515(f), 519, or 909";

(5) by inserting "tobacco product," in subsection (g) after "device,";

(6) by inserting "tobacco product," in subsection (h) after "device,";

(7) by striking "708, or 721" in subsection (j) and inserting "708, 721, 904, 905, 906, 907, 908, or 909";

(8) by inserting "tobacco product," in subsection (k) after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(2) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Red. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act;; (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination;; (61 Fed. Reg. 44619-45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—'

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451(b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451(b)(2)(C).

"(b) National Activities.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) Amount.—

"(1) In general.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) Minimum amount.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) Reallotment.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) Payments.—

"(1) In general.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) Federal grantees.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) Availability of funds.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) Regulations.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) Technical Assistance.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) Provision of Supplies and Service in Lieu of Grant Funds.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) Tobacco Use Cessation Activities.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) State and Community Action Activities.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) Coordination.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the

Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) Terms and vacancies.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) Awards.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) Powers and duties.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) Eligibility.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) Use of Funds.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) Needs of Certain Populations.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) Coordination.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) Allocation of Funds.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) Trigger.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"Part E—Reducing Youth Smoking and Tobacco-Related Diseases Through Research

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) Contract.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) Considerations.—

"(1) In general.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) Specific considerations.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) Report.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) In General.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) Report.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on

Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r–8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"
"WARNING: Tobacco smoke can harm your children"
"WARNING: Cigarettes cause fatal lung disease"
"WARNING: Cigarettes cause cancer"
"WARNING: Cigarettes cause strokes and heart disease"
"WARNING: Smoking during pregnancy can harm your baby"
"WARNING: Smoking can kill you"
"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"
"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC..—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC..—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) Adjustment by Secretary.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) Marketing requirements.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) Repeal of Prohibition on State Restriction.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) Additional Statements.—" in subsection (a); and

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) Change in Required Statements.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) General Rule.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) Required Labels.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) Television and Radio Advertising.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) Authority to Revise Warning Label Statements.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:@@@

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be

equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) Units.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) Determination of adjusted units.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) Adjusted units determined on total domestic production.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) Special rule for large manufacturers.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) Smokeless equivalency study.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) Computations.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) Nonapplication to Certain Manufacturers.—

(1) Exemption .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) Limitation.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) Tobacco product manufacturers to which subsection applies.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) Inflation adjustment.—

(A) In general.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) Volume adjustment.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted units as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) Penalty.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) Noncompliance Period.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) Limitations.—

(1) In general.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) Corrections.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) Waiver.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) State Litigation Settlement Account.—

(1) In general.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excees of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) Appropriation.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) Distribution formula.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) Use of funds.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) Funds not available as Medicaid reimbursement.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) Public Health Allocation Account.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) AMOUNTS.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) USE OF FUNDS.—

(1) UNRESTRICTED FUNDS.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) RESTRICTED FUNDS.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV–B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) NO SUBSTITUTION OF SPENDING.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) FEDERAL-STATE MATCH RATES.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) MAINTENANCE OF EFFORT.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) Options for Children's Health Outreach.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) Expansion of presumptive eligibility option for children.—

(A) In general.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) Technical amendments.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) Removal of requirement that children's health insurance program allotments be reduced by costs related to presumptive eligibility determinations.—

(A) In general.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) Effective date.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) Increased funding for administrative costs related to outreach and eligibility determinations for children.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) Increased federal matching rate for administrative costs related to outreach and eligibility determinations for children.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) Periodic Reassessment of Spending Options.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) Establishment.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) Application.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) Approved Clinical Trial Program.—

(1) In general.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) Modifications in approved trials.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) Routine Patient Care Costs.—

(1) In general.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) Exclusion.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) Study.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) Report to congress.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) Assistant secretary.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) Public facility.—

(A) In general.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) Exclusions.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) Fast food restaurant defined.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) Responsible entity.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) Policy Required.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) Elements of Policy.—

(1) In general.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) Exception.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) Specially Designated Smoking Areas.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) In General.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) Venue.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) Notice.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) Costs.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) Penalties.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) Application with OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) Purpose.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) In general.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) Traditional Use Exception.—

(1) In general.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) Application of provisions.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(c) Limitation.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) Application on Indian Lands.—

(1) In general.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) Scope.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) Tribal Tobacco Retailer Licensing Program.—

(A) In general.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) Implementation.—

(i) In general.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) Cooperation.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) Enforcement.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) Eligibility.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) Determinations.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) Implementation by the Secretary.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) Deficient applications; opportunity to cure.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) Secretarial review.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) Eligibility for Public Heath Funds.—

(1) Eligibility for grants.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) Health care funding.—

(A) Indian health service.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) Funding.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) Use of health care trust funds.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) Preemption.—

(1) In general.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) Public exposure to smoke.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) Disclaimer.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) Affiliate.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Civil action.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) Court.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) Final judgment.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) Final settlement.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) Individual.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) Tobacco claim.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) Tobacco product manufacturer.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) Castano civil actions.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay , et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al.

(Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) TOBACCO COMPANY PLAN.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) PROHIBITED ACTS.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) Judicial Review.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) Noncompliance.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) Action to Ensure Compliance.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) Enforcement.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) Applicability to Certain Employees.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) Effect on Other Laws.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) Posting.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) Disclosure to the Food and Drug Administration.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) Separate Submission of Documents.—

(1) Privileged Trade Secret Documents.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) Privilege and trade secret logs.—

(A) In general.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) Organization of log.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) Public inspection.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) Declaration of compliance.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) Document Categories.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) FUTURE DOCUMENTS.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If the any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) Good Faith Requirement.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) Failure to Produce Document.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) Document.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) Trade secret.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) Certain actions deemed to be proceedings.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) Other terms.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) Tobacco product importer.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) Tobacco product manufacturer.—

(A) In general.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) Exclusion.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) Tobacco warehouse owner.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) Flue-cured tobacco.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $1/10$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $1/10$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*).

(c) Determinations.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) Authority.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) Application.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) Amount of Grant.—

(1) In general.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) Tobacco income.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) Payments.—

(1) In general.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) Form of payments.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) Reallotments.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) Use and Distribution of Funds.—

(1) In general.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) Tobacco-growing counties.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) Distribution.—

(A) Economic development activities.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) Technical assistance activities.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) Tobacco warehouse owner initiatives.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) Tobacco-growing counties.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) Preferences in Hiring.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) Maintenance of Effort.—

(1) In general.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) Reduction of grant amount.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) Federal funds.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

“(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

“(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

“(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

“(iii) the person may not receive any of the return before the sale of the crop.

“(C) PERSONS NOT SHARING RISK.—

“(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) COUNTY PRODUCTION POOL.—

“(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

“(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

“(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

“(i) the experience of the producer;

“(ii) the availability of land, labor, and equipment for the production of tobacco;

“(iii) crop rotation practices; and

“(iv) the soil and other physical factors affecting the production of tobacco.

“(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(c) REFERENDUM.—

“(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

“(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

“(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

“(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

“(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

“(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

“(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

“(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

“(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

“(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

“(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

“(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

“(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

“(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

“(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

“(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

“(2) TRANSFER TO DESCENDANTS.—

“(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

“(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

“(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

“(h) RESERVE.—

“(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

“(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

“(B) adjusting inequities; and

“(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

“(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

“(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

“(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in

subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

“(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

“(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

“SEC. 420F. STUDENT ELIGIBILITY.

“(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

“(1) be a member of a tobacco farm family in accordance with subsection (b);

“(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

“(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

“(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

“(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

“(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

“(B) the student's social security number; and

“(6) be a citizen of the United States.

“(b) TOBACCO FARM FAMILIES.—

“(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

“(A) an individual who—

“(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

“(ii) is otherwise actively engaged in the production of tobacco;

“(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

“(C) an individual—

“(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

“(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

“(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

“(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

“(c) SATISFACTORY PROGRESS.—

“(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

“(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

“(A) the death of a relative of the student;

“(B) the personal injury or illness of the student; or

“(C) special circumstances as determined by the institution.

“(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

“(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

“(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

“(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

“(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

“(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

“(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

“(3) DEFINITION.—For the purposes of this subsection, the term ‘telecommunications’ means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

“(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

“(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

“(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

“(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

“(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. REQUIREMENTS APPLY IF THE DESTINATION COUNTRY DOES NOT REQUIRE SPECIFIC HEALTH HAZARD WARNING LABELS.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) UNITED STATES PERSON DEFINED.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) REPORT TO CONGRESS ON ENFORCEMENT; FEASIBILITY REGULATIONS.—

(1) THE PRESIDENT.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) THE SECRETARY.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) ESTABLISHMENT OF INTERNATIONAL TOBACCO CONTROL AWARENESS.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) ACTIVITIES.—

(1) IN GENERAL.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) GRANTS AND CONTRACTS.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) TRANSFER OF FUNDS TO AGENCIES.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) INCORPORATION OF CERTAIN DEFINITIONS.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) OTHER DEFINITIONS.—In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) INTERSTATE OR FOREIGN COMMERCE.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) PACKAGE.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) RETAILER.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less packages, or its equivalent for other tobacco products.

(6) EXPORTER.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) IMPORTER.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) INTENTIONALLY.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) MANUFACTURER.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period;; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) WHOLESALER.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to

identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(d) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation," ;

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the persons name, and trade name (if any), and the address of the persons principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949, (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURMENT CORPORATION.—

(A) CORPORATION.—Reimbursment shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimburment Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) NO AUTHORIZATION REQUIRED.—

"(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) PREEMPTION, RELATION TO STATE LAWS.—

"(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) APPLICATION OF SECTION.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) ERISA.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.

"9101. Recovery by Secretary of Veterans Affairs

"9102. Regulations

"9103. Limitation or repeal of other provisions for recovery of compensation

"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) CONDITIONS; EXCEPTIONS; PERSONS LIABLE; AMOUNT OF RECOVERY; SUBROGATION.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) ENFORCEMENT PROCEDURE; INTERVENTION; JOINDER OF PARTIES; STATE OR FEDERAL COURT PROCEEDINGS.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) CREDITS TO APPROPRIATIONS.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) PROVISIONS APPLICABLE TO DOCUMENTS.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(8) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) COLOR PRINT ADS ON MAGAZINES.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) Permitted POS Locations.—

(1) Placement.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) Size.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) Proximity to candy.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) Audio or Video.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) No Restrictive Covenants.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) Definitions.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) In General.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) Exceptions.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a non-participating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) In General.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) Effect on Existing State Suits of Settlement Agreement or Consent Decree.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) State Option for One-Time Opt Out.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-day Delay.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) Preservation of Insurance Claims.—

(1) In general.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) Application of title 11, United States Code.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) State law not affected.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) Addiction and Dependence Claims Barred.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) Castano Civil Actions.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) Action by Secretary.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United

States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation , interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(f) LIMITATION ON STATE COURTS.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) ARBITRATION PANEL.—

(1) RIGHT TO ESTABLISH .—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) OPERATION.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) RIGHT TO PETITION.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) CRITERIA.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) APPEAL AND ENFORCEMENT.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) VALIDITY AND ENFORCEABILITY OF PRIVATE AGREEMENTS.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) OFFSET FOR AMOUNTS ALREADY PAID.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) SEVERABILITY.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) NONSEVERABILITY.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN TITLE VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) ADDITIONAL DEFINITIONS.—

(A) ADDICTION CLAIM; DEPENDENCE CLAIM.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) COMPENSATORY DAMAGES.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) PROTOCOL.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with a participating tobacco product manufacturers under this title.

(D) PUNITIVE DAMAGES.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

AMENDMENT NO. 2620

(a) Strike all after the first word and insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) Sale or transfer of farm.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) Death of quota lessee or quota tenant.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) Ban on subsequent sale or leasing of farm marketing quota or farm acreage allotment to quota holders exercising option to relinquish quota.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) Payments for Lost Tobacco Quota for Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Relinquishment of quota.—

(A) In general.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) Notification.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) Payments for lost flue-cured tobacco quota to quota holders that relinquish quota.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal ¹⁄₁₀ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have not relinquished permits.—

(A) In general.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have relinquished permits.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to ¹⁄₁₀ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Prohibition against permit expansion.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) Lifetime limitation on payments.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) Limitations on aggregate annual payments.—

(A) In general.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) Accelerated payments.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) Reductions.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph

(4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco

during 1 or more of the 1995 through 1997 marketing years.

(3) Distribution.—

(A) Economic development activities.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) Technical assistance activities.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) Tobacco warehouse owner initiatives.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) Tobacco-growing counties.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) Preferences in Hiring.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) Maintenance of Effort.—

(1) In general.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) Reduction of grant amount.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) Federal funds.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

“SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

“(a) Definitions.—In this section:

“(1) Individual acreage limitation.—The term ‘individual acreage limitation’ means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

“(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

“(2) Individual marketing limitation.—The term ‘individual marketing limitation’ means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

“(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

“(3) Individual tobacco production permit.—The term ‘individual tobacco production permit’ means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

“(4) National acreage allotment.—The term ‘national acreage allotment’ means the quantity determined by dividing—

“(A) the national marketing quota; by

“(B) the national average yield goal.

“(5) National average yield goal.—The term ‘national average yield goal’ means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

“(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term ‘national marketing quota’ for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

“(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

“(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

“(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

“(7) Permit yield.—The term ‘permit yield’ means the yield of tobacco per acre for an individual tobacco production permit holder that is—

“(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

“(B) adjusted by a weighted national yield factor calculated by—

“(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

“(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

“(b) Initial Issuance of Permits.—

“(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

“(2) Issuance of permits to quota holders that were principal producers.—

“(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

“(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the

1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. Notwithstanding any other provision of law, Title XV shall have no force and effect.

FORD (AND OTHERS) AMENDMENTS NOS. 2621–2622

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted two amendments intended to be proposed by them to amendment No. 2501 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2621

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota.—

(A) In general.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota.—

(A) In general.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal ¹⁄₁₀ of the lifetime limitation established under subparagraph (E).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) Reissuance of quota.—

(A) Reallocation to lessee or tenant.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation.—

(i) Timing.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) Limitation on marketing quota.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) Eligibility of lessee or tenant for payments.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota hqlder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) Ban on subsequent sale or leasing of farm marketing quota or farm acreage allotment to quota holders exercising option to relinquish quota.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) Payments for Lost Tobacco Quota for Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Relinquishment of quota.—

(A) In general.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) Notification.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) Payments for lost flue-cured tobacco quota to quota holders that relinquish quota.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have not relinquished permits.—

(A) In general.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have relinquished permits.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Prohibition against permit expansion.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) Lifetime limitation on payments.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) Limitations on aggregate annual payments.—

(A) In general.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) Accelerated payments.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) Reductions.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) Rollover of payments for lost flue-cured tobacco quota.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) Additional payments to quota holders exercising option to relinquish quotas or permits, or to quota lessees or quota tenants relinquishing permits.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) Death of quota holder, quota lessee, or quota tenant.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) Special rule for tenant of leased flue-cured tobacco.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) Option of quota lessee or quota tenant to relinquish permit.—

"(A) In general.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) Notification.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) Reallocation of permit.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) Active producer requirement.—

"(A) Requirement for sharing risk.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) Criteria for sharing risk.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) Persons not sharing risk.—

"(i) Forfeiture.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) Reallocation.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) Notice.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) Review.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) County of origin requirement.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) County production pool.—

"(A) In general.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) Priority.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) Criteria.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) Medical hardships and crop disasters.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) Referendum.—

"(1) Announcement of quota and allotment.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) Special referendum.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) Approval of permits.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) Disapproval of permits.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) Assignment of Tobacco Production Permits.—

"(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Designation.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) Amount of Grants.—

"(1) Amounts.—

"(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) Period of Eligibility for Grants.—

"(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1052. EFFECTIVE DATE.

This subtitle takes effect on the day after the date of enactment of this Act, but shall apply as of such date of enactment.

AMENDMENT NO. 2622

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee,

and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) Notification.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) Payments for lost flue-cured tobacco quota to quota holders that relinquish quota.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have not relinquished permits.—

(A) In general.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have relinquished permits.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Prohibition against permit expansion.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) Lifetime limitation on payments.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) Limitations on aggregate annual payments.—

(A) In general.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) Accelerated payments.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) Reductions.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) Rollover of payments for lost flue-cured tobacco quota.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) Additional payments to quota holders exercising option to relinquish quotas or permits, or to quota lessees or quota tenants relinquishing permits.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) Death of quota holder, quota lessee, or quota tenant.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) In General.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) Limitations.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) Determinations.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) Authority.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) Individual tobacco production permit.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) National acreage allotment.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) National average yield goal.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) Permit yield.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) Initial Issuance of Permits.—

"(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) Issuance of permits to quota holders that were principal producers.—

"(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) Quota holders that were not principal producers.—

"(A) In general.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) Medical hardships and crop disasters.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) Administration.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) Issuance of permits to principal producers of flue-cured tobacco.—

"(A) In general.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) Individual acreage limitations.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) Individual marketing limitations.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) Special rule for tenant of leased flue-cured tobacco.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) Option of quota lessee or quota tenant to relinquish permit.—

"(A) In general.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) Notification.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) Reallocation of permit.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) Active producer requirement.—

"(A) Requirement for sharing risk.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) Criteria for sharing risk.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) Persons not sharing risk.—

"(i) Forfeiture.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

COM008 (2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the

same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

“SEC. 420F. STUDENT ELIGIBILITY.

“(a) In General.—In order to receive any grant under this subpart, a student shall—

“(1) be a member of a tobacco farm family in accordance with subsection (b);

“(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

“(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

“(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

“(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

“(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

“(B) the student's social security number; and

“(6) be a citizen of the United States.

“(b) Tobacco Farm Families.—

“(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

“(A) an individual who—

“(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

“(ii) is otherwise actively engaged in the production of tobacco;

“(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

“(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

“(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

“(c) Satisfactory Progress.—

“(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

“(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

“(A) the death of a relative of the student;

“(B) the personal injury or illness of the student; or

“(C) special circumstances as determined by the institution.

“(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

“(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

“(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

“(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

“(f) Courses Offered Through Telecommunications.—

“(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

“(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

“(3) Definition.—For the purposes of this subsection, the term ‘telecommunications’ means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

“(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

“(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

“(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

“(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

“(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

“(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

“(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.”.

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENT NO. 2623

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2498 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Prohibition against permit expansion.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) Lifetime limitation on payments.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) Limitations on aggregate annual payments.—

(A) In general.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) Accelerated payments.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) Reductions.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) Rollover of payments for lost flue-cured tobacco quota.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) Additional payments to quota holders exercising option to relinquish quotas or permits, or to quota lessees or quota tenants relinquishing permits.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) Death of quota holder, quota lessee, or quota tenant.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) In General.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) Limitations.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) Determinations.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) Authority.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) Application.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) Amount of Grant.—

(1) In general.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) Tobacco income.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) Payments.—

(1) In general.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) Form of payments.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) Reallotments.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) Use and Distribution of Funds.—

(1) In general.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated

Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

“(B) adjusted by a weighted national yield factor calculated by—

“(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

“(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

“(b) INITIAL ISSUANCE OF PERMITS.—

“(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

“(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

“(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

“(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

“(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

“(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

“(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

“(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(C) ADMINISTRATION.—The Secretary shall issue regulations—

“(i) defining the term ‘person’ for the purpose of this paragraph; and

“(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

“(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

“(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

“(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

“(ii) the ratio that—

“(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

“(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

“(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

“(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

“(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

“(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

“(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(6) ACTIVE PRODUCER REQUIREMENT.—

“(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

“(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

“(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

“(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

“(iii) the person may not receive any of the return before the sale of the crop.

“(C) PERSONS NOT SHARING RISK.—

“(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) COUNTY PRODUCTION POOL.—

“(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

“(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

“(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

“(i) the experience of the producer;

“(ii) the availability of land, labor, and equipment for the production of tobacco;

“(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) Satisfactory Progress.—

"(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) Courses Offered Through Telecommunications.—

"(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) Definition.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENT NO. 2624

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. Hollings, and Mr. Robb) submitted an amendment intended to be proposed by them to amendment No. 2497 proposed by Mr. Lugar to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) Economic development activities.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) Technical assistance activities.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) Tobacco warehouse owner initiatives.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) Tobacco-growing counties.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) Preferences in Hiring.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) Maintenance of Effort.—

(1) In general.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) Reduction of grant amount.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) Federal funds.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

“SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

“(a) Definitions.—In this section:

“(1) Individual acreage limitation.—The term ‘individual acreage limitation’ means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

“(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

“(2) Individual marketing limitation.—The term ‘individual marketing limitation’ means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

“(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

“(3) Individual tobacco production permit.—The term ‘individual tobacco production permit’ means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

“(4) National acreage allotment.—The term ‘national acreage allotment’ means the quantity determined by dividing—

“(A) the national marketing quota; by

“(B) the national average yield goal.

“(5) National average yield goal.—The term ‘national average yield goal’ means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

“(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term ‘national marketing quota’ for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

“(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

“(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

“(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

“(7) Permit yield.—The term ‘permit yield’ means the yield of tobacco per acre for an individual tobacco production permit holder that is—

“(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

“(B) adjusted by a weighted national yield factor calculated by—

“(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

“(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

“(b) Initial Issuance of Permits.—

“(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

“(2) Issuance of permits to quota holders that were principal producers.—

“(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

“(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

“(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

“(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

“(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

“(f) Assignment of Tobacco Production Permits.—

“(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

“(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

“(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

“(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

“(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

“(2) Transfer to descendants.—

“(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

“(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

“(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

“(h) Reserve.—

“(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

“(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

“(B) adjusting inequities; and

“(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

“(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

“(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

“(A) land, labor, and equipment available for the production of tobacco;

“(B) crop rotation practices;

“(C) soil and other physical factors affecting the production of tobacco; and

“(D) the past tobacco-producing experience of the producer.

“(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

“(i) Penalties.—

“(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

“(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

“(j) Marketing Penalties.—

“(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

“(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.”.

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking “(c) Within thirty” and inserting the following:

“(c) Referenda on Quotas.—

“(1) In general.—Not later than 30”; and

(2) by adding at the end the following:

“(2) Referenda on program changes.—

“(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

“(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.”.

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking “(c) The amount” and inserting “(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount”; and

(B) by striking paragraph (1) and inserting the following:

“(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and”.

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking “section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)” and inserting “section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)”.

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

“(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.”.

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking “ten” and inserting “30”; and

(B) by inserting “during any crop year” after “transferred to any farm”.

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

“(k) Loss of Allotment or Quota Through Underplanting.—Effective for the

1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

“(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

“(3) Designation.—Grants made under this subpart shall be known as ‘farmer opportunity grants’.

“(b) Amount of Grants.—

“(1) Amounts.—

“(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

“(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

“(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

“(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

“(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

“(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

“(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

“(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

“(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

“(c) Period of Eligibility for Grants.—

“(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

“(2) Construction.—Nothing in this section shall be construed to—

“(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

“(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

“(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

“(d) Applications for Grants.—

“(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

“(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

“(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

“(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

“(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

“SEC. 420F. STUDENT ELIGIBILITY.

“(a) In General.—In order to receive any grant under this subpart, a student shall—

“(1) be a member of a tobacco farm family in accordance with subsection (b);

“(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

“(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

“(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

“(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

“(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

“(B) the student's social security number; and

“(6) be a citizen of the United States.

“(b) Tobacco Farm Families.—

“(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

“(A) an individual who—

“(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

“(ii) is otherwise actively engaged in the production of tobacco;

“(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

“(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

“(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

“(c) Satisfactory Progress.—

“(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

“(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

“(A) the death of a relative of the student;

“(B) the personal injury or illness of the student; or

“(C) special circumstances as determined by the institution.

“(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

“(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) Courses Offered Through Telecommunications.—

"(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) Definition.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security. number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1052. EFFECTIVE DATE.

This subtitle takes effect on the day after the date of enactment of this Act, but shall apply as of such date of enactment.

FORD (AND OTHERS) AMENDMENT NO. 2625

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. Hollings, and Mr. Robb) submitted an amendment intended to be proposed by them to amendment No. 2493 proposed by Mr. Lugar to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) Tobacco product importer.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) Tobacco product manufacturer.—

(A) In general.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) Exclusion.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) Tobacco warehouse owner.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) Flue-cured tobacco.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota.—

(A) In general.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota.—

(A) In general.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) Reissuance of quota.—

(A) Reallocation to lessee or tenant.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation.—

(i) Timing.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) Limitation on marketing quota.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) Eligibility of lessee or tenant for payments.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) Ban on subsequent sale or leasing of farm marketing quota or farm acreage allotment to quota holders exercising option to relinquish quota.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) Payments for Lost Tobacco Quota for Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Relinquishment of quota.—

(A) In general.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) Notification.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) Payments for lost flue-cured tobacco quota to quota holders that relinquish quota.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have not relinquished permits.—

(A) In general.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have relinquished permits.—

(A) In general.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) Amount.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Prohibition against permit expansion.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) Lifetime limitation on payments.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) Limitations on aggregate annual payments.—

(A) In general.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) Accelerated payments.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) Reductions.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) Rollover of payments for lost flue-cured tobacco quota.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) Additional payments to quota holders exercising option to relinquish quotas or permits, or to quota lessees or quota tenants relinquishing permits.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) Death of quota holder, quota lessee, or quota tenant.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS . ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

“(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

“(ii) the ratio that—

“(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

“(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

“(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

“(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

“(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

“(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

“(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(6) ACTIVE PRODUCER REQUIREMENT.—

“(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

“(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

“(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

“(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

“(iii) the person may not receive any of the return before the sale of the crop.

“(C) PERSONS NOT SHARING RISK.—

“(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) COUNTY PRODUCTION POOL.—

“(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

“(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

“(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

“(i) the experience of the producer;

“(ii) the availability of land, labor, and equipment for the production of tobacco;

“(iii) crop rotation practices; and

“(iv) the soil and other physical factors affecting the production of tobacco.

“(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(c) REFERENDUM.—

“(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

“(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

“(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

“(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

“(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

“(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

“(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

“(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

“(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

“(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

“(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

“(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

“(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

“(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

“(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated,

or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Designation.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) Amount of Grants.—

"(1) Amounts.—

"(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) Definition.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1052. EFFECTIVE DATE.

This subtitle takes effect on the day after the date of enactment of this Act, but shall apply as of such date of enactment.

FORD (AND OTHERS) AMENDMENT NO. 2626

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. Hollings, and Mr. Robb) submitted an amendment intended to be proposed by them to amendment No. 2496, proposed by Mr. Lugar to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be stricken, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) Tobacco product importer.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) Tobacco product manufacturer.—

(A) In general.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) Exclusion.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) Tobacco warehouse owner.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) Flue-cured tobacco.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota.—

(A) In general.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota.—

(A) In general.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) Reissuance of quota.—

(A) Reallocation to lessee or tenant.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation.—

(i) Timing.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) Limitation on marketing quota.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) Eligibility of lessee or tenant for payments.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) Reallocation to quota holders within same county or state.—

(i) In general.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) Cross-county leasing.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) Eligibility of quota holder for payments.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) Special rule for tenant of leased tobacco.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments

under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) Limitations.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) Determinations.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) Authority.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) Application.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) Amount of Grant.—

(1) In general.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) Tobacco income.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) Payments.—

(1) In general.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) Form of payments.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) Reallotments.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) Use and Distribution of Funds.—

(1) In general.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) Tobacco-growing counties.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) Distribution.—

(A) Economic development activities.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) Technical assistance activities.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) Tobacco warehouse owner initiatives.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) Tobacco-growing counties.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) Preferences in Hiring.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) Maintenance of Effort.—

(1) In general.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) Reduction of grant amount.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) Federal funds.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and "(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(6) Active producer requirement.—

“(A) Requirement for sharing risk.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

“(B) Criteria for sharing risk.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

“(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

“(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

“(iii) the person may not receive any of the return before the sale of the crop.

“(C) Persons not sharing risk.—

“(i) Forfeiture.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) Reallocation.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) Notice.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) Review.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) County of origin requirement.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) County production pool.—

“(A) In general.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

“(B) Priority.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

“(C) Criteria.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

“(i) the experience of the producer;

“(ii) the availability of land, labor, and equipment for the production of tobacco;

“(iii) crop rotation practices; and

“(iv) the soil and other physical factors affecting the production of tobacco.

“(D) Medical hardships and crop disasters.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(c) Referendum.—

“(1) Announcement of quota and allotment.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

“(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

“(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

“(2) Special referendum.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

“(3) Approval of permits.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

“(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

“(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

“(4) Disapproval of permits.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

“(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

“(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

“(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

“(f) Assignment of Tobacco Production Permits.—

“(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

“(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

“(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

“(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

“(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

“(2) Transfer to descendants.—

“(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

“(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

“(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

“(h) Reserve.—

“(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

“(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

“(B) adjusting inequities; and

“(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

“(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

“(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

“(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

“(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

“SEC. 420F. STUDENT ELIGIBILITY.

“(a) In General.—In order to receive any grant under this subpart, a student shall—

“(1) be a member of a tobacco farm family in accordance with subsection (b);

“(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

“(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

“(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

“(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

“(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

“(B) the student's social security number; and

“(6) be a citizen of the United States.

“(b) Tobacco Farm Families.—

“(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

“(A) an individual who—

“(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

“(ii) is otherwise actively engaged in the production of tobacco;

“(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

“(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

“(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

“(c) Satisfactory Progress.—

“(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

“(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

“(A) the death of a relative of the student;

“(B) the personal injury or illness of the student; or

“(C) special circumstances as determined by the institution.

“(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

“(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

“(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

“(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

“(f) Courses Offered Through Telecommunications.—

“(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

“(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

“(3) Definition.—For the purposes of this subsection, the term ‘telecommunications’ means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

“(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

“(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

“(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

“(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

“(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

“(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

“(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.”.

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENT NO. 2627

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 444, beginning with line 12, strike through the end of the bill, and insert the following:

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

FORD (AND OTHERS) AMENDMENT NO. 2628

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2497 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(*l*) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing

quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA

TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Designation.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) Amount of Grants.—

"(1) Amounts.—

"(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) Period of Eligibility for Grants.—

"(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) Construction.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) Applications for Grants.—

"(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) In General.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENTS NOS. 2629–2630

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted two amendments intended to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2629

Beginning after line 14 on page 444, strike through the end of the bill.

AMENDMENT NO. 2630

On page 457, beginning with line 1, strike through line 16 on page 482.

FORD AMENDMENTS NOS. 2631–2632

(Ordered to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to amendment No. 2435 proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2631

Beginning on page 444, line 11, strike everything through the end of the bill and insert the following:

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

SEC. 1418. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title shall take effect one day after the date of enactment of this Act.

AMENDMENT NO. 2632

In lieu of the matter proposed to be inserted, insert the following:

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

LAUTENBERG (AND SMITH) AMENDMENT NO. 2633

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 215, line 21, insert "A local government within a State shall have the authority to promulgate or enforce a law that provides additional protection from health hazards from environmental tobacco smoke to the protection provided under this title or, in the case of a local government situated in a State that has opted out of this title pursuant to section 507, provided under the law of such State." after the period.

DASCHLE (AND OTHERS) AMENDMENT NO. 2634

Mr. KERRY (for Mr. DASCHLE for himself, Mr. KERRY, and Mr. BIDEN) proposed an amendment to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE —DRUG-FREE NEIGHBORHOODS

SEC. 01. SHORT TITLE.

This title may be cited as the "Drug-Free Neighborhoods Act".

Subtitle A—Stopping the Flow of Drugs at Our Borders

CHAPTER 1—INCREASED RESOURCES FOR INTERDICTION

SEC. 11. INCREASED RESOURCES FOR INTERDICTION.

(a) CUSTOMS.—In addition to other amounts appropriated for the United States Customs Service for a fiscal year, there is authorized to be appropriated, $500,000,000 for each of the fiscal years 1999 through 2003 to be used to monitor border ports of entry to stop the flow of illegal drugs into the United States, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

(b) COAST GUARD.—In addition to other amounts appropriated for the United States Coast Guard for a fiscal year, there is authorized to be appropriated, $400,000,000 for each of the fiscal years 1999 through 2003 to be used to expand activities to stop the flow of illegal drugs into the United States.

(c) DEPARTMENT OF DEFENSE.—In addition to other amounts appropriated for the Department of Defense for a fiscal year, there is authorized to be appropriated, $470,000,000 for each of the fiscal years 1999 through 2003 to be used to expand activities to stop the flow of illegal drugs into the United States, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

CHAPTER 2—DRUG-FREE BORDERS

SEC. 15. SHORT TITLE.

This chapter may be cited as the "Drug-Free Borders Act of 1998".

SEC. 16. FELONY PUNISHMENT FOR VIOLENCE COMMITTED ALONG THE UNITED STATES BORDER.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements

"(a) IN GENERAL.—Whoever attempts to commit or commits a crime of violence during and in relation to—

"(1) attempting to elude or eluding customs, immigration, or agriculture inspection or failing to stop at the command of an officer of customs, immigration, or animal and plant and health inspection services; or

"(2) an intentional violation of arrival, reporting, entry, or clearance requirements, as set forth in a provision of law listed in subsection (c);

shall be fined under this title or imprisoned for not more than 5 years, or both, except that if bodily injury (as defined in section 1365(g) of this title) results, the maximum term of imprisonment is 10 years, and if death results, the offender may imprisoned for any term of years or for life, and may be sentenced to death.

"(b) CONSPIRACY.—If 2 or more persons conspire to commit an offense under subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

"(c) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are—

"(1) section 107 of the Federal Plant Pest Act (7 U.S.C. 150ff);

"(2) section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2806);

"(3) section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, 1459);

"(4) section 6 of the Act of August 30, 1890 (21 U.S.C. 105; Chapter 839, 26 Stat. 416);

"(5) section 2 of the Act of February 2, 1903 (21 U.S.C. 111; Chapter 349, 32 Stat. 791)

"(6) section 231, 232, 234, 235, 236, 237, or 238 of the Immigration and Nationality Act (8 U.S.C. 1221, 1222, 1224, 1225, 1226, 1227, 1228);

"(7) section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91); or

"(8) section 111 of title 21, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 27 of title 18, United States Code, is amended by inserting at the end the following:

"554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements.".

SEC. 17. INCREASED PENALTY FOR FALSE STATEMENT OFFENSE.

Section 542 of title 18, United States Code, is amended by striking "two years" and inserting "5 years".

SEC. 18. SANCTIONS FOR FAILURE TO LAND OR HEAVE TO, OBSTRUCTING A LAWFUL BOARDING, AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Sanctions for failure to heave to; sanctions for obstruction of boarding and providing false information

"(a) FAILURE TO HEAVE TO.—

"(1) IN GENERAL.—It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) OBSTRUCTION.—It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States knowingly or willfully to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or

"(C) provide false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(3) AIRCRAFT.—

"(A) IN GENERAL.—It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(B) REGULATIONS.—The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by, and circumstances under which a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft. Such regulations shall ensure that any such order is clearly communicated in accordance with applicable international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining when an officer may use the authority granted under subparagraph (A).

"(b) NO LIMITATION OF EXISTING AUTHORITY.—This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to heave to.

"(c) FOREIGN NATIONS.—A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by international agreement or, on a case-by-case basis, by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(d) Definitions.—In this section:

"(1) Federal law enforcement officer.—The term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(2) Heave to.—The term 'heave to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state.

"(3) Subject to the jurisdiction of the United States.—An aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States.

"(4) Vessel.—The terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings set forth for these terms, respectively, in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903).

"(5) Without nationality.—An aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft.

"(e) Fines or Imprisonment.—Whoever intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

"(f) Seizure and Forfeiture.—A aircraft or vessel that is used in violation of this section may be seized and forfeited to the United States. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. An aircraft or vessel that is used in violation of this section is also liable in rem for any fine imposed under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.".

SEC. 19. CIVIL PENALTIES TO SUPPORT MARITIME LAW ENFORCEMENT.

(a) In General.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§676. Civil penalty for failure to comply with vessel boarding

"(a) In General.—Any person that engages in conduct that violates section 2237(a)(1) or (2) of title 18, United States Code, shall be liable to the United States Government—

"(1) for a civil penalty of not more than $25,000, in the case of an intentional violation; or

"(2) for a civil penalty of not more than $15,000, in the case of any other violation.

"(b) Seizure or Forfeiture.—A vessel used to engage in conduct for which a penalty is imposed under subsection (a) is liable in rem for that penalty and may be seized, forfeited, and sold in accordance with customs laws.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"676. Civil penalty for failure to comply with vessel boarding.".

SEC. 20. INCREASED NUMBER OF BORDER PATROL AGENTS.

Section 101(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–553) is amended to read as follows:

"(a) Increased Number of Border Patrol Agents.—The Attorney General in each of fiscal years 1999, 2000, 2001, 2002, and 2003 shall increase by not less than 1,500 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year, to achieve a level of 15,000 positions by fiscal year 2003.".

SEC. 21. BORDER PATROL PURSUIT POLICY.

A border patrol agent of the United States Border Patrol may not cease pursuit of an alien who the agent suspects has unlawfully entered the United States, or an individual who the agent suspects has unlawfully imported a narcotic into the United States, until State or local law enforcement authorities are in pursuit of the alien or individual and have the alien or individual in their visual range.

SEC. 22. ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF OFFICERS OF THE UNITED STATES CUSTOMS SERVICE.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) Rotation of Duty Stations and Temporary Duty Assignments of Customs Officers.—

"(1) In general.—Notwithstanding any other provision of law or Executive order, beginning October 1, 1999, in order to ensure the integrity of the United States Customs Service, the Secretary of the Treasury—

"(A) may transfer up to 5 percent of the customs officers employed as of the beginning of each fiscal year to new duty stations in that fiscal year on a permanent basis; and

"(B) may transfer customs officers to temporary duty assignments for not more than 90 days.

"(2) Voluntary and other transfers.—A transfer of a customs officer to a new duty station or a temporary duty assignment under paragraph (1) is in addition to any voluntary transfer or transfer for other reasons.".

SEC. 23. EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF UNITED STATES CUSTOMS SERVICE TO INTERDICT CONTRABAND.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), as amended by this Act, is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) Effect of Collective Bargaining Agreements on Ability of Customs Service To Interdict Contraband.—

"(1) Sense of the congress.—It is the sense of the Congress that collective bargaining agreements should not have any adverse impact on the ability of the United States Customs Service to interdict contraband, including controlled substances.

"(2) Provisions causing adverse impact to interdict contraband.—

"(A) Requirement to meet.—If the Commissioner of the Customs Service or an exclusive representative of Customs Service employees determines that any collective bargaining agreement between the parties has an adverse impact upon the interdiction of contraband, including controlled substances, the parties shall meet to address the issue.

"(B) Failure to reach agreement.—If the parties do not reach agreement within 90 days of the date of the determination of adverse impact, either party may enlist the services of the Federal Mediation and Conciliation Service to facilitate the resolution of the dispute. If an impasse is declared, either party may pursue such impasse with the Federal Service Impasses Panel pursuant to section 7119(c) of title 5, United States Code, for ultimate resolution.

"(C) Rule of construction.—Nothing in this paragraph shall be construed to limit the authority of the Customs Service to implement immediately any proposed changes without waiting 90 days, if emergency circumstances, as defined in section 7106(a)(2)(D) of title 5, United States Code, warrant such immediate implementation, or if an impasse is reached in less than 90 days.".

Subtitle B—Protecting Our Neighborhoods and Schools from Drugs

CHAPTER 1—DRUG-FREE TEEN DRIVERS

SEC. 25. SHORT TITLE.

This subtitle may be cited as the "Drug Free Teenage Drivers Act".

SEC. 26. DEMONSTRATION PROGRAM.

The National Highway Traffic Safety Administration shall establish a demonstration program in several States to provide voluntary drug testing for all teenager applicants (or other first time applicants for a driver's license regardless of age) for a driver's license. Information respecting an applicant's choice not to take the drug test or the result of the drug test on the applicant shall be made available to the applicant's automobile insurance company. If an applicant tests positive in the drug test, the State in which the program is established will not issue a license to the applicant and will require the applicant to complete a State drug treatment program and to not test positive in a drug test before reapplying for a license.

SEC. 27. INCENTIVE GRANT PROGRAM.

(a) In General.—The Secretary of Transportation shall establish an incentive grant program for States to assist the States in improving their laws relating to controlled substances and driving.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a) a State shall carry out the following:

(1) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State with any measurable amount of an illegal controlled substance in the driver's body. An illegal controlled substance is a controlled substance for which an individual does not have a legal written prescription. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(2) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State when driving is impaired by the presence of any drug. The State shall provide that in the enforcement of such law, a driver shall be tested for the presence of a drug when there is evidence of impaired driving and a driver will have the driver's license suspended. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(3) Enact, actively enforce, and publicize a law which authorizes the suspension of a driver's license if the driver is convicted of any criminal offense relating to drugs.

(4) Enact a law which provides that beginning driver applicants and other individuals applying for or renewing a driver's license will be provided information about the laws referred to in paragraphs (1), (2), and (3) and will be required to answer drug-related questions on their applications.

(c) USE.—A State may only use a grant under subsection (a) to implement and enforce the programs described in subsection (b).

SEC. 28. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, $10,000,000 for each of the fiscal years 1999 through 2003 to carry out this chapter.

CHAPTER 2—DRUG-FREE SCHOOLS

SEC. 31. FINDINGS.

Congress finds that—

(1) the continued presence in schools of violent students who are a threat to both teachers and other students is incompatible with a safe learning environment;

(2) unsafe school environments place students who are already at risk of school failure for other reasons in further jeopardy;

(3) recently, over one-fourth of high school students surveyed reported being threatened at school;

(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;

(5) nearly 1 out of every 20 students in 6th through 12th grade uses drugs on school grounds;

(6) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and

(7) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

Subchapter A—Victim and Witness Assistance Programs for Teachers and Students

SEC. 32. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(f) VICTIMS OF SCHOOL VIOLENCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible crime victim compensation program may expend funds appropriated under paragraph (2) to offer compensation to elementary and secondary school students or teachers who are victims of elementary and secondary school violence (as school violence is defined under applicable State law).

"(2) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out paragraph (1).".

(b) VICTIM AND WITNESS ASSISTANCE.—Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)) is amended by adding at the end the following:

"(5) ASSISTANCE FOR VICTIMS OF AND WITNESSES TO SCHOOL VIOLENCE.—Notwithstanding any other provision of law, the Director may make a grant under this section for a demonstration project or for training and technical assistance services to a program that—

"(A) assists State educational agencies and local educational agencies (as the terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in developing, establishing, and operating programs that are designed to protect victims of and witnesses to incidents of elementary and secondary school violence (as school violence is defined under applicable State law), including programs designed to protect witnesses testifying in school disciplinary proceedings; or

"(B) supports a student safety toll-free hotline that provides students and teachers in elementary and secondary schools with confidential assistance relating to the issues of school crime, violence, drug dealing, and threats to personal safety.".

Subchapter B—Innovative Programs to Protect Teachers and Students

SEC. 35. DEFINITIONS.

In this subchapter:

(1) ELEMENTARY SCHOOL, LOCAL EDUCATIONAL AGENCY, SECONDARY SCHOOL, AND STATE EDUCATIONAL AGENCY.—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

SEC. 36. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

SEC. 37. AUTHORIZATION FOR REPORT CARDS ON SCHOOLS.

(a) IN GENERAL.—The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.

(b) PRIORITY.—The Secretary shall give priority to awarding grants under subsection (a) to—

(1) programs that provide parent and teacher notification about incidents of physical violence, weapon possession, or drug activity on school grounds as soon after the incident as practicable;

(2) programs that provide to parents and teachers an annual report regarding—

(A) the total number of incidents of physical violence, weapon possession, and drug activity on school grounds;

(B) the percentage of students missing 10 or fewer days of school; and

(C) a comparison, if available, to previous annual reports under this paragraph, which comparison shall not involve a comparison of more than 5 such previous annual reports; and

(3) programs to enhance school security measures that may include—

(A) equipping schools with fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around elementary schools and secondary schools, including canine patrols; and

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon, or the sale of drugs in school, will not be tolerated by school authorities.

SEC. 38. APPLICATION.

(a) IN GENERAL.—Each State, State educational agency, or local educational agency desiring a grant under this subchapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—Each application submitted under subsection (a) shall contain an assurance that the State or agency has implemented or will implement policies that—

(1) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;

(2) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another student or teacher; and

(3) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds—

(A) commits a violent offense resulting in serious bodily injury; or

(B) sells drugs.

(c) SPECIAL RULE.—For purposes of paragraphs (2) and (3) of subsection (b), State law shall determine what constitutes a violent offense or serious bodily injury.

SEC. 39. INNOVATIVE VOLUNTARY RANDOM DRUG TESTING PROGRAMS.

Section 4116(b) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (9), by striking "and" after the semicolon;

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following:

"(10) innovative voluntary random drug testing programs; and".

Subchapter C—Parental Consent Drug Testing

SEC. 40. GRANTS FOR PARENTAL CONSENT DRUG TESTING DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Administrator is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct programs for testing students for illegal drug use with prior parental consent.

(b) GUIDELINES.—The Administrator may award grants under subsection (a) only to programs that substantially comply with the following guidelines:

(1) Students will only be tested with their parent's consent. If the program also requires the consent of the student, the parent will be informed of any refusal by the student to give consent.

(2) The program may involve random testing or testing of all students within certain grade or age parameters at a participating

school. No students under seventh grade or over 12th grade may be tested using funds from grants awarded under this section.

(3) Students who test positive for illegal drugs will not be penalized, except that the privilege of participating in optional courses or extra-curricula activities in which drug impairment might pose a safety risk (such as athletic teams, drivers education, or industrial arts) may be restricted.

(4) The parent of a student who tests positive for illegal drugs shall be notified of the results in a discrete manner by a health care professional, a counselor, or other appropriate person. Parents shall be advised of resources that may be available in the local area to treat drug dependency.

(5) The procedures used in the demonstration project shall be designed to ensure fairness and accuracy. The procedures shall also require personnel administering the drug testing program to treat individual test results confidentially, and not to provide individual test results to law enforcement officials. Statistical information which does not reveal individual identifying information should be provided to law enforcement officials.

(c) SUBPOENAS AND DISCOVERY.—Test results for tests conducted under a demonstration project receiving funds under this section shall not be subject to subpoena or discovery in any court or administrative forum, without the consent of the individual's parent, unless the individual is no longer a minor, in which case the individual's consent is required.

(d) MATCHING FUNDS.—The Administrator may give a preference in the award of grants under this section to applicants who provide an assurance that such applicant will commit some level of matching funds or resources for the program.

(e) CONSTRUCTION OF THIS SECTION.—Nothing in this section shall be construed to restrict other permissible drug testing activities in schools. Additional drug testing not conducted in accordance with the guidelines in subsection (b) may be conducted in schools which receive funding under this section, except that grants awarded under this section shall not be used to fund such additional testing.

(f) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(2) PARENT.—The term "parent" means a custodial parent or legal guardian.

(3) STATE, STATE EDUCATIONAL AGENCY, AND LOCAL EDUCATIONAL AGENCY.—The terms "State", "State educational agency", and "local educational agency" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, $10,000,000 for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

CHAPTER 3—DRUG-FREE STUDENT LOANS

SEC. 41. DRUG-FREE STUDENT LOANS

(a) IN GENERAL.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

"(q) SUSPENSION OF ELIGIBILITY FOR DRUG RELATED OFFENSES.—

"(1) IN GENERAL.—An individual student who has been convicted of any felony offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of an offense involving:	Ineligibility period is:
The possession of a controlled substance:	
First offense	1 year
Second offense	2 years
Third offense	indefinite
The sale of a controlled substance:	
First offense	2 years
Second offense	indefinite

"(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the period determined under such paragraph if the student satisfactorily completes a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this paragraph and that includes two unannounced drug tests.

"(3) DEFINITIONS.—As used in this subsection, the term 'controlled substance' has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

CHAPTER 4—DRUG-FREE WORKPLACES

SEC. 51. SHORT TITLE.

This chapter may be cited as the "Drug-Free Workplace Act of 1998".

SEC. 52. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) 74 percent of adults who use illegal drugs are employed;

(2) small business concerns employ over 50 percent of the Nation's workforce;

(3) in over 88 percent of families with children under the age of 18, at least 1 parent is employed; and

(4) employees who use drugs increase costs for businesses and risk the health and safety of all employees because—

(A) absenteeism is 66 percent higher among drug users than nondrug users;

(B) health benefit utilization is 300 percent higher among drug users than nondrug users;

(C) 47 percent of workplace accidents are drug-related;

(D) disciplinary actions are 90 percent higher among drug users than nondrug users; and

(E) employee turnover is significantly higher among drug users than nondrug users.

(b) PURPOSES.—The purposes of this chapter are to—

(1) educate small business concerns about the advantages of a drug-free workplace;

(2) provide financial incentives and technical assistance to enable small business concerns to create a drug-free workplace; and

(3) assist working parents in keeping their children drug-free.

SEC. 53. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) businesses should adopt drug-free workplace programs; and

(2) States should consider financial incentives, such as reductions in workers' compensation premiums, to encourage businesses to adopt drug-free workplace programs.

SEC. 54. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

The Small Business Act (15 U.S.C. 636 et seq.) is amended—

(1) by redesignating section (32) as section (33); and

(2) by inserting after section 31 the following:

"SEC. 30. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—There is established a drug-free workplace demonstration program, under which the Administration may make grants to eligible intermediaries described in subsection (b) for the purpose of providing financial and technical assistance to small business concerns seeking to start a drug-free workplace program.

"(b) ELIGIBILITY FOR PARTICIPATION.—An intermediary shall be eligible to receive a grant under subsection (a) if it meets the following criteria:

"(1) It is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from tax under section 5(a) of such Act, a program of such organization, or provides services to such organization.

"(2) Its primary purpose is to develop comprehensive drug-free workplace programs or to supply drug-free workplace services.

"(3) It has at least 2 years of experience in drug-free workplace programs.

"(4) It has a drug-free workplace policy in effect.

"(c) REQUIREMENTS FOR PROGRAM.—Any drug-free workplace program established as a result of this section shall include—

"(1) a written policy, including a clear statement of expectations for workplace behavior, prohibitions against substances in the workplace, and the consequences of violating such expectations and prohibitions;

"(2) training for at least 60 minutes for employees and supervisors;

"(3) additional training for supervisors and employees who are parents;

"(4) employee drug testing; and

"(5) employee access to an employee assistance program, including assessment, referral, and short-term problem resolution.

"(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1999. Such sums shall remain available until expended.".

SEC. 55. SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (R), by striking "and" at the end;

(2) in subparagraph (S), by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (S) the following:

"(T) providing information and assistance to small business concerns with respect to developing drug-free workplace programs.".

SEC. 56. CONTRACT AUTHORITY.

The Administrator of the Small Business Administration may contract with and compensate government and private agencies or persons for services related to carrying out the provisions of this chapter.

CHAPTER 5—DRUG-FREE COMMUNITIES

SEC. 61. DRUG-FREE COMMUNITIES.

Section 1024(a) of the National Leadership Act of 1988 (21 U.S.C. 1524(a)) is amended—

(1) in paragraph (1), by adding "and" after the semicolon; and

(2) by striking paragraphs (2) through (5), and inserting the following:

"(2) $50,000,000 for each of the fiscal years 1999 through 2003, of which $10,000,000 in each such fiscal year shall be used for volunteer grassroots drug prevention programs that mobilize parent action teams nationwide to conduct community teen drug awareness education and prevention activities that guarantee increased parental involvement.".

CHAPTER 6—BANNING FREE NEEDLES FOR DRUG ADDICTS

SEC. 65. PROHIBITION ON USE OF FUNDS FOR HYPODERMIC NEEDLES.

Notwithstanding any other provision of law, no Federal funds for fiscal years 1998 and 1999 shall be made available or used to carry out any program of distributing sterile hypodermic needles or syringes to individuals for the hypodermic injection of any illegal drug.

Subtitle C—Defeating the Drug Mafia

CHAPTER 1—INCREASED RESOURCES FOR LAW ENFORCEMENT

SEC. 71. INCREASED RESOURCES FOR LAW ENFORCEMENT.

(a) DRUG ENFORCEMENT ADMINISTRATION.—In addition to other amounts appropriated for the Drug Enforcement Administration for a fiscal year, there is authorized to be appropriated, $300,000,000 for each of the fiscal years 1999 through 2003 to be used for additional activities to disrupt and dismantle drug trafficking organizations, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

(b) FEDERAL BUREAU OF INVESTIGATION.—In addition to other amounts appropriated for the Federal Bureau of Investigation for a fiscal year, there is authorized to be appropriated, $200,000,000 for each of the fiscal years 1999 through 2003 to be used to enhance investigative and intelligence gathering capabilities relating to illegal drugs, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

CHAPTER 2—REGISTRATION OF CONVICTED DRUG DEALERS

SEC. 99B. REGISTRATION OF CONVICTED DRUG DEALERS.

(a) IN GENERAL.—The Attorney General shall establish an incentive grant program for States to assist the States in enacting laws that establish State registration programs for individuals convicted of criminals offenses involving drug trafficking.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a) a State shall enact, actively enforce, and publicize a law that requires that a person who is convicted of a criminal offense involving drug trafficking register a current address with a designated State law enforcement agency for up to 10-years following the date on which such individual is convicted or released from prison.

(c) REQUIREMENTS OF STATE LAW.—A State law enacted under subsection (b) shall contain the following elements:

(1) DUTIES OF RESPONSIBLE OFFICIALS.—If a person who is required to register under a State law under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, the court, or another responsible officer or official, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall report the change of address as provided by State law;

(C) inform the person that if the person changes residence to another State, the person shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE.—State procedures under the State law shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system.

(3) VERIFICATION.—For a person required to register. State procedures under the State law shall provide for verification of address at least annually.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—A change of address by a person required to register under a State law under this section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system.

(5) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which requires registration under a State law under this section and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

(6) LENGTH OF REGISTRATION.—A person required to register under a State law under this section shall continue to comply with this section, except during ensuing periods of incarceration, until 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation.

(7) REGISTRATION OF OUT-OF-STATE OFFENDERS, FEDERAL OFFENDERS, PERSONS SENTENCED BY COURTS MARTIAL, AND OFFENDERS CROSSING STATE BORDERS.—A State shall include in its registration program residents who were convicted in another State and shall ensure that procedures are in place to accept registration information from—

(A) residents who were convicted in another State, convicted of a Federal offense, or sentenced by a court martial; and

(B) nonresident offenders who have crossed into another State in order to work or attend school.

(8) REGISTRATION OF OFFENDER CROSSING STATE BORDER.—Any person who is required under a State law under this section to register in the State in which such person resides shall also register in any State in which the person is employed, carries on a vocation, or is a student.

(9) PENALTY.—A person required to register under a State law under this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(10) RELEASE OF INFORMATION.—

(A) IN GENERAL.—The information collected under a State registration program under this section may be disclosed for any purpose permitted under the laws of the State.

(B) PROTECTION OF THE PUBLIC.—The State or any agency authorized by the State shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section.

(11) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies and independent contractors acting at the direction of such agencies, and State officials shall be immune from liability for good faith conduct under a State law under this section.

(12) FINGERPRINTS.—Each requirement to register under a State law under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).

(d) USE.—A State may only use a grant under subsection (a) to implement and enforce the law described in subsection (b).

(e) DEFINITION.—In this section, the term "offenses involving drug trafficking" means a criminal offense under Federal or applicable State law relating to—

(1) the distribution of illegal drugs to individuals under the age of 21 years;

(2) the distribution of manufacturing of illegal drugs in or near schools, colleges, universities, or youth-centered recreational facilities; or

(3) any other activity relating to illegal drugs determined appropriate by the chief executive officer of the State involved.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, $5,000,000 for each of the fiscal years 1999 through 2003.

Subtitle D—National Drug Control Strategy

SEC. 99C. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

Section 1005 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended to read as follows:

"SEC. 1005. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

"(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

"(1) TIMING.—

"(A) IN GENERAL.—Not later than October 1, 1998, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive 2-year plan for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

"(B) 4-YEAR PLAN.—Not later than October 1, 2001, and on October 1 of every fourth year thereafter, the President shall submit to Congress a revised National Drug Control Strategy, which shall set forth a comprehensive 4-year plan for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs, and shall include quantifiable 4-year performance objectives, targets, and measures for each National Drug Control Strategy goal and objective.

"(2) CONTENTS.—

"(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include—

"(i) comprehensive, research-based, long-range, quantifiable, goals for reducing drug abuse and the consequences of drug abuse in the United States;

"(ii) short-term measurable objectives to accomplish long-term quantifiable goals that the Director determines may be realistically achieved during the 2-year period beginning on the date on which the strategy is submitted;

"(iii) 5-year projections for program and budget priorities; and

"(iv) a review of State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

"(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the Strategy.

"(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

"(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

"(i) shall consult with—

"(I) the heads of the National Drug Control Program agencies;

"(II) Congress;

"(III) State and local officials;

"(IV) private citizens and organizations with experience and expertise in demand reduction; and

"(V) private citizens and organizations with experience and expertise in supply reduction; and

"(ii) may require the National Drug Intelligence Center and the El Paso Intelligence Center to undertake specific tasks or projects to implement the Strategy.

"(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

"(4) MODIFICATION AND RESUBMITTAL.—Notwithstanding any other provision of law, the Director may modify a National Drug Control Strategy submitted under paragraph (1) at any time.

"(b) ANNUAL STRATEGY REPORT.—

"(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

"(A) an assessment of the Federal effectiveness in achieving the Strategy goals and objectives using the performance measurement system described in subsection (c), including—

"(i) an assessment of drug use and availability in the United States; and

"(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

"(B) any modifications of the Strategy or the performance measurement system described in subsection (c);

"(C) an assessment of how the budget proposal submitted under section 1003(c) is intended to implement the Strategy and whether the funding levels contained in such proposal are sufficient to implement such Strategy;

"(D) beginning on February 1, 1999, and every 2 years thereafter, measurable data evaluating the success or failure in achieving the short-term measurable objectives described in subsection (a)(2)(A)(ii);

"(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

"(i) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(I) casual and chronic drug use;

"(II) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, probationers, and juvenile delinquents; and

"(III) drug use in the workplace and the productivity lost by such use;

"(ii) an assessment of the reduction of drug availability against an ascertained baseline, as measured by—

"(I) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

"(II) the amount of marijuana, cocaine, and heroin entering the United States;

"(III) the number of hectares of marijuana, poppy, and coca cultivated and destroyed;

"(IV) the number of metric tons of marijuana, heroin, and cocaine seized;

"(V) the number of cocaine and methamphetamine processing laboratories destroyed;

"(VI) changes in the price and purity of heroin and cocaine;

"(VII) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(VIII) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

"(iii) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(I) the burden drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

"(II) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

"(III) the extent of drug-related crime and criminal activity; and

"(IV) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

"(iv) a determination of the status of drug treatment in the United States, by assessing—

"(I) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

"(II) the extent, within each State, to which treatment is available;

"(III) the number of drug users the Director estimates could benefit from treatment; and

"(IV) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals; and

"(v) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs; and

"(F) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

"(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

"(A) at any time, upon a determination by the President and the Director that the National Drug Control Strategy in effect is not sufficiently effective; and

"(B) if a new President or Director takes office.

"(c) PERFORMANCE MEASUREMENT SYSTEM.—

"(1) IN GENERAL.—Not later than October 1, 1998, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

"(A) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

"(B) revises performance objectives, measures, and targets, to conform with National Drug Control Program Agency budgets;

"(C) identifies major programs and activities of the National Drug Control Program agencies that support the goals and objectives of the National Drug Control Strategy;

"(D) evaluates implementation of major program activities supporting the National Drug Control Strategy developed under section 1005;

"(E) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy; and

"(F) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

"(i) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(ii) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

"(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

"(2) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (1) shall be included in each report submitted under subsection (b).".

SEC. 99D. REPORT BY PRESIDENT.

Not later than October 1, 1998, and every April 1 and October 1 thereafter, the President shall prepare and submit to the appropriate committees of Congress a report on the prevalence of the use of any illegal drugs by youth between the ages of 12 and 17.

TITLE —MONEY LAUNDERING ENFORCEMENT AND COMBATTING DRUGS IN PRISONS

SEC. 00. SHORT TITLE.

This title may be cited as the "Money Laundering Enforcement and Combatting Drugs in Prisons Act of 1998".

Subtitle A—International Money Laundering

SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Enforcement Act of 1998".

SEC. 12. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) Civil Forfeiture for Money Transmitting Violation.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

(b) Scienter Requirement for Section 1960 Violation.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) Scienter Requirement.—For the purposes of proving a violation of this section involving an illegal money transmitting business—

"(1) it shall be sufficient for the Government to prove that the defendant knew that the money transmitting business lacked a license required by State law; and

"(2) it shall not be necessary to show that the defendant knew that the operation of such a business without the required license was an offense punishable as a felony or misdemeanor under State law.".

SEC. 13. RESTRAINT OF ASSETS OF PERSONS ARRESTED ABROAD.

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

"(3) Restraint of assets.—

"(A) In general.—If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure.

"(B) Application.—An application for a restraining order under subparagraph (A) shall—

"(i) set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture; and

"(ii) contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.".

SEC. 14. ACCESS TO RECORDS IN BANK SECRECY JURISDICTIONS.

Section 986 of title 18, United States Code, is amended by adding at the end the following:

"(d) Access to Records Located Abroad.—

"(1) In general.—In any civil forfeiture case, or in any ancillary proceeding in any criminal forfeiture case governed by section 413(n) of the Controlled Substances Act (21 U.S.C. 853(n)), the refusal of the claimant to provide financial records located in a foreign country in response to a discovery request or take the action necessary otherwise to make the records available, shall result in the dismissal of the claim with prejudice, if—

"(A) the financial records may be material—

"(i) to any claim or to the ability of the government to respond to such claim; or

"(ii) in a civil forfeiture case, to the ability of the government to establish the forfeitability of the property; and

"(B) it is within the capacity of the claimant to waive his or her rights under such secrecy laws, or to obtain the financial records himself or herself, so that the financial records may be made available.

"(2) Privilege.—Nothing in this subsection shall be construed to affect the rights of a claimant to refuse production of any records on the basis of any privilege guaranteed by the Constitution of the United States or any other provision of Federal law.".

SEC. 15. CIVIL MONEY LAUNDERING JURISDICTION OVER FOREIGN PERSONS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each subparagraph appropriately;

(2) by striking "(b) Whoever" and inserting the following:

"(b) Civil Penalties.—

"(1) In general.—Whoever"; and

(3) by adding at the end the following:

"(2) Jurisdiction.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts of the United States shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, that commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States, if service of process upon such foreign person is made in accordance with the Federal Rules of Civil Procedure or the laws of the foreign country in which the foreign person is found.

"(3) Satisfaction of judgment.—In any action described in paragraph (2), the court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.".

SEC. 16. LAUNDERING MONEY THROUGH A FOREIGN BANK.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

"(6) the term 'financial institution' includes—

"(A) any financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder; and

"(B) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));".

SEC. 17. SPECIFIED UNLAWFUL ACTIVITY FOR MONEY LAUNDERING.

(a) In General.—Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking clause (ii) and inserting the following:

"(ii) any act or acts constituting a crime of violence;"; and

(B) by adding at the end the following:

"(iv) fraud, or any scheme to defraud, committed against a foreign government or foreign governmental entity;

"(v) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

"(vi) smuggling or export control violations involving munitions listed in the United States Munitions List or technologies with military applications as defined in the Commerce Control List of the Export Administration Regulations; or

"(vii) an offense with respect to which the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution, if the offender were found with the territory of the United States;";

(2) in subparagraph (D)—

(A) by inserting "section 541 (relating to goods falsely classified)," before "section 542";

(B) by inserting "section 922(l) (relating to the unlawful importation of firearms), section 924(m) (relating to firearms trafficking)," before "section 956";

(C) by inserting "section 1030 (relating to computer fraud and abuse)," before "1032"; and

(D) by inserting "any felony violation of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)," before "or any felony violation of the Foreign Corrupt Practices Act"; and

(3) in subparagraph (E), by inserting "the Clean Air Act (42 U.S.C. 6901 et seq.)," after "the Safe Drinking Water Act (42 U.S.C. 300f et seq.),".

SEC. 18. CRIMINAL FORFEITURE FOR MONEY LAUNDERING CONSPIRACIES.

Section 982(a)(1) of title 18, United States Code, is amended by inserting "or a conspiracy to commit any such offense," after "of this title,".

SEC. 19. FUNGIBLE PROPERTY IN FOREIGN BANK ACCOUNTS.

Section 984(d) of title 18, United States Code, is amended by adding at the end the following:

"(3) In this subsection, the term 'financial institution' includes a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).".

SEC. 20. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended—

(1) by striking "section 1956, 1957, or 1960 of this title, section 5322 or 5324 of title 31, United States Code" and inserting "section 981 of this title";

(2) by inserting "before or" before "after"; and

(3) by striking the last sentence.

SEC. 21. FUGITIVE DISENTITLEMENT.

(a) In General.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§ 2467. Fugitive disentitlement

"Any person who, in order to avoid criminal prosecution, purposely leaves the jurisdiction of the United States, declines to enter or reenter the United States to submit to the jurisdiction of the United States, or otherwise evades the jurisdiction of a court of the United States in which a criminal case is pending against the person, may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in any third-party proceeding in any related criminal forfeiture action.".

(b) Conforming Amendment.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2467. Fugitive disentitlement.".

SEC. 22. ADMISSIBILITY OF FOREIGN BUSINESS RECORDS.

(a) In General.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§ 2468. Foreign records

"(a) Definitions.—In this section—

"(1) the term 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit;

"(2) the term 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country;

"(3) the term 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country; and

"(4) the term 'official request' means a letter rogatory, a request under an agreement, treaty or convention, or any other request for information or evidence made by a court of the United States or an authority of the United States having law enforcement responsibility, to a court or other authority of a foreign country.

"(b) ADMISSIBILITY.—In a civil proceeding in a court of the United States, including a civil forfeiture proceeding and a proceeding in the United States Claims Court and the United States Tax Court, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, a foreign record of regularly conducted activity (or a duplicate of such record), obtained pursuant to an official request, shall not be excluded as evidence by the hearsay rule if a foreign certification, also obtained pursuant to the same official request or subsequent official request that adequately identifies such foreign record, attests that—

"(1) the foreign record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(2) the foreign record was kept in the course of a regularly conducted business activity;

"(3) the business activity made such a record as a regular practice; and

"(4) if the foreign record is not the original, the record is a duplicate of the original.

"(c) FOREIGN CERTIFICATION.—A foreign certification under this section shall authenticate a record or duplicate described in subsection (b).

"(d) NOTICE.—

"(1) IN GENERAL.—As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party.

"(2) OPPOSITION.—A motion opposing admission in evidence of a record under paragraph (1) shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record, except that the court for cause shown may grant relief from the waiver.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2468. Foreign records.".

SEC. 23. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.

Section 1956(h) of title 18, United States Code, is amended—

(1) by striking "(h) Any person" and inserting the following:

"(h) CONSPIRACY; MULTIPLE VIOLATIONS.—

"(1) CONSPIRACY.—Any person"; and

(2) by adding at the end the following:

"(2) MULTIPLE VIOLATIONS.—Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.".

SEC. 24. VENUE IN MONEY LAUNDERING CASES.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

"(i) VENUE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in any district in which the financial or monetary transaction is conducted, or in which a prosecution for the underlying specified unlawful activity could be brought.

"(2) EXCEPTION.—A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district in which venue would lie for the completed offense under paragraph (1), or in any other district in which an act in furtherance of the attempt or conspiracy took place.".

SEC. 25. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY FOR CERTAIN MONEY LAUNDERING OFFENSES.

Section 2516(1)(g) of title 18, United States Code, is amended by striking "of title 31, United States Code (dealing with the reporting of currency transactions)" and inserting "or 5324 of title 31 (dealing with the reporting and illegal structuring of currency transactions)".

Subtitle B—Drug Testing and Intervention for Inmates and Probationers

SEC. 31. SHORT TITLE.

This subtitle may be cited as the "Combatting Drugs in Prisons Act of 1998".

SEC. 32. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANT PROGRAMS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended—

(1) by striking "(b) To be eligible" and inserting the following:

"(b) ADDITIONAL REQUIREMENTS.—

"(1) ELIGIBILITY FOR A GRANT.—To be eligible";

(2) by striking "a State shall provide assurances" and inserting the following: "a State shall—

"(A) provide assurances";

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(B) not later than September 1, 1998, have established and implemented, consistent with guidelines issued by the Attorney General, a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions (including denial or revocation of release) for positive drug tests.

"(2) USE OF FUNDS.—Notwithstanding section 20102, amounts received by a State pursuant to section 20103 or section 20104 may be—

"(A) applied to the cost of offender drug testing and appropriate intervention programs during periods of incarceration and criminal justice supervision, consistent with guidelines issued by the Attorney General;

"(B) used by a State to pay the costs of providing to the Attorney General a baseline study, which shall be consistent with guidelines issued by the Attorney General, on the prison drug abuse problem in the State; and

"(C) used by a State to develop policies, practices, or laws establishing, in accordance with guidelines issued by the Attorney General, a system of sanctions and penalties to address drug trafficking within and into correctional facilities under the jurisdiction of the State.".

SEC. 33. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of part S of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—Each State that demonstrates that the State has established 1 or more residential substance abuse treatment programs that meet the requirements of this part may use amounts made available under this part for drug treatment and to impose appropriate sanctions for positive drug tests, both during incarceration and after release.".

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to create incentives to achieve reductions in the percentage of children who use tobacco products and to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle (except as provided in subsection 205(h)), cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(f) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

(g) TECHNICAL ADJUSTMENTS.—The Secretary may make technical changes in the manner in which surveys are conducted under this section so long as adjustments are made to ensure that the results of such surveys are comparable from year to year.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) REPORT ON FURTHER REDUCTIONS.—The Secretary shall report to Congress by the end of 2006 on the feasibility of further reduction in underage tobacco use.

(f) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(g) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(h) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204. The Secretary shall publish in the Federal Register such determinations and any appropriate additional information regarding actions taken under this section.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the them "manufacturer's share of youth incidence" means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) PROCEDURES.—In assessing price increase assessments and enforcing other measures under this section, the Secretary shall have in place procedures to take into account the effect that the margin of error of the annual performance survey may have on the amounts assessed to or measures required of such manufacturers.

(h) OTHER PRODUCTS.—The Secretary shall promulgate regulations establishing performance objectives for the reduction of the use by children of other products made or derived from tobacco and intended for human consumption if significant percentages of children use or begin to use such products and the inclusion of such products as types of tobacco products under this subtitle would help protect the public health. Such regulations shall contain provisions, consistent with the provisions in this subtitle applicable to cigarettes and smokeless tobacco, for the application of assessments and surcharges to achieve reductions in the percentage of children who use such products.

(i) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(j) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term "children" means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term "existing manufacturer" means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term "new manufacturer" means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term "non-attainment percentage" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet in open session of the Senate on Wednesday, June 10, 1998, beginning at 9:30 a.m. to conduct an oversight hearing on Bureau of Indian Affairs School Construction. The hearing will be held in room 106 of the Dirksen Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at (202) 224–2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Wednesday, June 10, 1998 at 2 p.m. in SR–328A. The purpose of this meeting will be to examine livestock issues.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Employment and Training, Senate Committee on Labor and Human Resources will be held on Thursday, June 11, 1998, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Child Labor. For further information, please call the committee, (202) 224–5375.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, June 16, 1998, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following measures:

S. 1398, the "Irrigation Project Contract Extension Act of 1997";

S. 2041, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes;

S. 2087, the "Wellton-Mohawk Title Transfer Act of 1998";

S. 2140, a bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project;

S. 2142, the "Pine River Project Conveyance Act";

H.R. 2165, an act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes;

H.R. 2217, an act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes; and

H.R. 2841, an act to extend the time required for the construction of a hydroelectric project.

Persons wishing to testify or who wish to submit written testimony should write to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510. For further information concerning the hearing, please contact James Beirne, counsel to the Subcommittee at (202) 224–2564 or Betty Nevitt, Staff Assistant at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive session during the session of the Senate on Tuesday, June 9, 1998 at 3:30 p.m. to consider possible amendments relating to Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 9, 1998, to conduct a hearing of the following nominees: Rebecca M. Blank, of Illinois, to be a member of the Council of Economic Advisors; Michael J. Copps, of Virginia, to be the Assistant Secretary of Commerce for Trade Development; and Awilda R. Marquez, of Maryland, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 9, 1998 at 10:30 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNIVERSITY OF MARYLAND WOMEN'S LACROSSE TEAM

• Ms. MIKULSKI. Mr. President, I rise today to congratulate the University of Maryland women's lacrosse team on winning their fourth consecutive national championship by beating the number one-ranked University of Virginia, 11–5. Simply put, this is unprecedented in the history of women's lacrosse. The Maryland women's lacrosse team is the only team in NCAA Division I history to accomplish this remarkable feat. As the Senator for Maryland, I couldn't be more proud.

Because lacrosse is the unofficial state sport of Maryland, the Terrapins' championship is especially sweet for people in my home state. You see, in Maryland, we love our lacrosse, and it seems like the Maryland women's lacrosse team always comes through for us. This year, Maryland made its 15th ninth consecutive NCAA Final Four appearance, advanced to the championship game for the fifth consecutive year, played its record-setting 29th tournament game, won its record-setting 21st tournament game, won its fifth national championship in the last seven years, and won its seventh national championship overall.

Five Terps were named to the NCAA All-Tournament team, including College Lacrosse USA Division I Woman Player of the Year Sascha Newmarch, Kathleen Lund, Alex Kahoe, Tonia Porras, and Cathy Nelson, who was honored as the tournament MVP. The Terps were led by head coach Cindy Timchal, who has a 203–51 career record and is the third-winningest coach in women's lacrosse history. Too often, women's sports go unnoticed. However, every single member of this fabulous team deserves to be recognized—not only for their championship, but for exemplifying what college athletics are all about.

Mr. President, I'm sure you can see why Maryland is so proud of its Terrapins. Like so many lacrosse fans in my home state, I can't wait until next season.•

HAMPTON HIGH SCHOOL OF ALLISON PARK, PENNSYLVANIA

• Mr. SANTORUM. Mr. President, on May 2 through May 4, 1998, more than 1200 students from across the Nation came to Washington, DC, to compete in the national finals of the "We the People . . . The Citizens and the Constitution" program. I am proud to announce that the class from Hampton High School of Allison Park represented Pennsylvania. These young scholars worked diligently to reach the national finals by winning local competitions in Pennsylvania, and ultimately won the Northeastern States Regional Award.

The distinguished members of the class representing Pennsylvania were: Angela Ambrose, Rebecca Amrhein, Aren Bierkan, Christine Brady, Heather Gahagan, Emily Huie, Jessica Kiefer, Lauren Klemens, Jessica Lin, Rina Mansukhani, Lauren Montgomery, Laura Ostapenko, Andrew

Scharff, Christian Spearline, Courtney Vetter and Katrina Werger.

I would also like to recognize their teacher, Mrs. Tara O'Brien, who deserves much credit for the success of the class. The district coordinator, Ms. Jennie-Lynn Knox, and the state coordinator, Ms. Christine Crist, also contributed much time and effort to help the class reach the national finals.

The "We the People . . . The Citizen and the Constitution" program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three day national competition simulates a congressional hearing whereby students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of judges.

Administered by the Center for Civic Education, the "We the People . . ." program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staff enhance the program by discussing current constitutional issues with teachers and students.

The "We the People . . ." program is designed to help students achieve a reasoned commitment to the fundamental values and principles that bind Americans together as a people. The program also fosters civic dispositions, traits of public and private sector character conducive to effective and responsible participation in politics and government.

I congratulate these constitutional experts from Hampton High School for their success in the "We the People . . ." competition and commend them for their great achievement of winning the Northeastern Regional Award.•

VIOLENCE IN KOSOVO

• Mr. FEINGOLD. Mr. President, I rise today to express my grave concern, and that of my constituents, regarding the escalating violence in Kosovo. Fighting between Serbs and the majority ethnic-Albanian population in Kosovo has been on-going since Kosovo was declared to be part of Serbia in 1989.

Mr. President, I am deeply concerned about the safety of ethnic Albanians, many of whom have been murdered or forced to flee their homes by the ethnically-motivated attacks by the minority-Serb population. I am also concerned that this latest round of ethnic fighting in the Balkans could reignite unrest throughout the region.

The fighting intensified in late February of this year, and has been spiraling across Kosovo ever since. During the weekend of February 28 alone, approximately 30 people were killed there. When ethnic Albanians marched in the provincial capital of Pristina to protest these killings, they were met by Serb riot police armed with water cannon, clubs, and tear gas.

Since this latest wave of fighting began, a total of more than 200 ethnic Albanians, including women and children, have been killed, and more than 10,000 have fled into neighboring Albania. In early March, 22 members of the Jashari family were massacred on their farm in Prekaz. During the last weekend in May, at least 39 people were killed. These are but a few examples of the senseless bloodshed that has occurred in Kosovo during the last three months.

Day after day, the world is witness to this brutal fighting through television and print media coverage of the events in Kosovo. We saw the pictures from the massacre at Prekaz. We have seen soldiers in helicopters shooting at people trying to flee across the border into Albania. These pictures have an eerie resemblance to those from Bosnia, Rwanda, and other places where ethnic fighting has occurred in this decade.

The latest wave of fighting in Kosovo has been marked by an increase in violence and militancy. There is no question that there have been casualties on both sides of this conflict. What is troubling, however, is that very few of these casualties have been combatants fighting for their cause. Instead, the majority of the dead have been innocent civilians, many of them women and children. And most of these civilians have been killed simply because they happened to be Albanian.

I am pleased that the United States has contributed funding to the Yugoslav War Crimes Tribunal to begin an investigation into the involvement of Serbian forces in the violence in Kosovo.

I am also pleased that U.S. envoys Richard Holbrooke and Robert Gelbard, who traveled to the region last month, have been able to bring the two sides to the table to discuss their differences.

I was pleased that the first round of talks between Yugoslav President Slobodan Milosevic and Kosovo Albanian leader Ibrahim Rugova, which took place on May 15, opened a dialogue between the ethnic Albanians and the Serb government in Belgrade.

I was also hopeful that the May 29 meeting between President Clinton and Mr. Rugova would bolster attempts to reach a diplomatic solution to this ongoing crisis.

Unfortunately, the promise of the May 15 talks has been followed by continuing violence and attacks on civilians by the Serbian police and military. Today, the United States joined the European Union in issuing a ban on all new investment in Serbia and by freezing the assets of the Milosevic government. The U.S. had delayed the implementation of these sanctions prior to the May 15 talks, but now there is little choice but to impose these sanctions. I hope that these sanctions will help to stem the violence and bring the two sides back to the table.

The leaders on all sides of this conflict should not allow the escalating violence to derail plans for negotiations. While there remain many issues to resolve, I believe that only through continuing negotiations can a sustainable settlement be ironed out. I hope that people on all sides of this conflict are able to put aside their feelings of nationalism and ethnic pride and work together to achieve a peaceful solution to this situation before more innocent blood is shed, and before the fighting spreads into other areas of the Balkans.•

SUBMITTING CHANGES TO THE BUDGET RESOLUTION AGGREGATES AND APPROPRIAITONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 314(b)(3) of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect an amount of budget authority provided that is the dollar equivalent of the Special Drawing Rights with respect to: (1) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); and (2) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

Section 203 of H. Con. Res. 84, the Concurrent Resolution on the Budget for FY 1998, allows the Chairman of the Senate Budget Committee to adjust the allocation for the Appropriations Committee to reflect new budget authority and outlays provided for the renewal of expiring contracts for tenant- and project-based housing assistance under section 8 of the United States Housing Act of 1937.

I hereby submit a revision to the budget authority aggregates for fiscal year 1998 contained in section 101 of H. Con. Res. 84 in the following amounts:

	Budget authority
Current aggregates	1,405,438,000,000
Adjustments	−20,208,000,000
Revised aggregates	1,385,230,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee allocation, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	260,000,000,000	266,823,000,000
Nondefense discretionary	270,075,000,000	283,293,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total	821,887,000,000	832,433,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	−20,208,000,000	
Violent crime reduction fund		
Mandatory		
Total	−20,208,000,000	
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	249,867,000,000	283,293,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total	804,026,000,000	832,433,000,000

HONORING DONALD E. BARRIS

• Mr. LEVIN. Mr. President, I rise to honor one of Michigan's finest lawyers, Donald E. Barris, who is celebrating his 80th birthday on June 21st. Born and raised in Detroit, Don Barris attended Detroit public schools and Wayne State University, from whose law school he graduated in 1940. Don has spent his entire professional life, now approaching 60 years, in private practice in downtown Detroit. In 1968, he co-founded the firm of Barris, Sott, Denn & Driker and is its senior partner.

Known throughout southeastern Michigan as a premier trial lawyer, Don has also served as a trusted legal advisor to hundreds of families and businesses. Their problems have become his problems, as he passionately advocated their causes. Using his vast knowledge of zoning and land use law, Don has provided significant services to churches, synagogues and other nonprofit institutions throughout the Metropolitan Detroit area. He has been recognized by these appreciative clients for the zeal with which he has furthered their interests, often taking no compensation for his work.

Don Barris has been a generous benefactor of the Wayne State University Law School. He provided the funds for a student lounge named after his late wife, Miriam, and has contributed substantial resources to expand the Law School's computer laboratory. The Donald E. Barris Trial Practice Fund was established at the Law School by his law firm to honor his legal talents and many contributions to Wayne State.

It is a pleasure to recognize and honor Donald E. Barris, a great lawyer and a great humanitarian, on the occasion of his 80th birthday.•

RECOGNITION OF SUSAN CARLSON

• Mr. GRAMS. Mr. President, I take a moment today to express my gratitude and offer my congratulations to Susan Carlson, the First Lady of the State of Minnesota.

Susan Carlson will be honored tonight with a Leadership Award from the National Organization on Fetal Alcohol Syndrome for her work as the Co-Chair of the Governor's Task Force on Fetal Alcohol Syndrome. Through the efforts of Mrs. Carlson, Minnesota is one of the first states to put in place a comprehensive plan to prevent Fetal Alcohol Syndrome and improve the quality of life for those already affected by Fetal Alcohol Syndrome.

As we all know, Fetal Alcohol Syndrome is perhaps the most preventable contributor to our nation's ever-increasing health care costs. Low-birth weights, which lead to health complications for infants, developmental disabilities, and learning disabilities represent the tragic results of alcohol consumption during pregnancy. Clearly, Fetal Alcohol Syndrome is preventable and we spare a great deal of future pain by educating expectant mothers and their families about the risks associated with alcohol during pregnancy. In its campaign to eliminate Fetal Alcohol Syndrome, the National Organization on Fetal Alcohol Syndrome combines national and community-based awareness and educational programs with resource and referral clearinghouses.

Mr. President, again, I congratulate and thank Mrs. Carlson for her efforts. Minnesotans are fortunate to have her leadership on the important issue of preventing Fetal Alcohol Syndrome.•

TRIBUTE TO U.S. ATTORNEY ALAN D. BERSIN

• Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to Alan Bersin, a valued colleague and extraordinary public servant. During his four and half years as United States Attorney for the Southern District of California, the office became one of the premier prosecutorial offices in the country. Under Alan Bersin's leadership the caseload was transformed from one dominated by misdemeanor prosecutions to the largest number of felony prosecutions in the nation.

As the chief law enforcement officer along the most populous sector of the Southwest Border with Mexico, Alan Bersin has made border enforcement his highest priority, and is perhaps best known for his work as the Attorney General's Special Representative for Southwest Border Issues. He was appointed to the position in October 1995 at a time when the government was seeking new leadership and energy to deal with the proliferation of illegal activity along the southwest border which had become the principal corridor for smuggling of aliens and drugs into the country. Alan Bersin targeted for prosecution the large drug distributors and cartels on both sides of the border, and the repeat border crossers with felony records. He also coordinated resources in a manner never before attempted. Largely as a result of these strategic approaches, crime in the Southern District of California decreased 40 percent during Alan Bersin's tenure.

Shortly after taking office in 1994, Alan Bersin reached an historic accord with the San Diego District Attorney whereby the county, for the first time in San Diego history, prosecuted drug smuggling case which had a San Diego nexus. This has resulted in a dramatic increase in border drug smuggling prosecutions that is unprecedented, and has allowed the federal government to use its unique resources such as wire tap authority, to focus on the more serious violators. Alan Bersin also helped create a Specialized Drug Enforcement Operation in Imperial Valley which served as a prime trafficking route of the Mexican drug cartels. The special enforcement unit involves 17 federal, state and local drug-related law enforcement agencies, the California National Guard and the Department of Defense. Alan Bersin's ability to bring together enforcement agencies at all levels to cooperate in a number of successful enforcement initiatives has been praised by local, state and federal law enforcement leaders. Also, his ability to coordinate with our neighbor to the South has been most extraordinary. He worked tirelessly to bridge the cultural and political divide in a way that enabled both countries to see that it was in their best interests to find areas of mutual concern and work together to the maximum extent feasible, even though there are other areas on which we will continue to disagree.

As the patterns of illegal migration changed in response to increased law enforcement personnel and resources, criminal activity moved to new areas along the border. Under Alan Bersin's leadership both countries implemented collaborative programs to prevent criminal activity and to apprehend criminals who oftentimes preyed upon undocumented aliens. Alan Bersin also oversaw the creation of a civil rights working group comprised of federal law enforcement, immigrant rights' advocacy groups from San Diego and Tijuana, the Mexican Consulate in San Diego, the U.S. Consulate in Tijuana and the United States Attorney's Office to bring to the table all those affected by or involved in the enforcement of civil rights laws. The group provides assistance to investigators in locating evidence on both sides of the border to prove allegations of abuse. Other innovative programs launched during Alan Bersin's tenure include helping to establish a Binational Environmental Laboratory to facilitate the investigation and prosecution of environmental cases in Mexico and the U.S.

Mexico is not the only sovereignty with whom Alan Bersin negotiated well and successfully. At a time when Indian gaming was becoming an enormously difficult and controversial issue in California, and aspects of the issue were being litigated in both state and federal courts, Alan Bersin managed to maintain a level playing field on a government to government basis between the State of California and the Native American tribes of San Diego County.

Finally, in addition to the official law enforcement achievements during the last four years, Alan Bersin has added a new dimension to public service. By example and by encouragement, he has increased enormously the involvement of his staff in community projects, ranging from training programs to mentoring and public outreach. His commitment to the community will continue as he begins a new career as Superintendent of Schools for the San Diego Unified School District. I am confident he will bring to that position the same vision, inspiring leadership and commitment which made him such an outstanding United States Attorney. He has brought great credit to his office, to the Justice Department and to the nation. Congratulations Alan, and best wishes for every success as Superintendent of the San Diego Unified School District.•

POLITICAL TRANSITION IN NIGERIA

• Mr. FEINGOLD. Mr. President, I rise today to note the death of Nigeria's military ruler, Gen. Sani Abacha, yesterday in Abuja, the capital city of Nigeria. Although the circumstances surrounding his death remain unclear, it is my hope that his death will provide an opportunity for a new era in Nigeria.

As the Ranking Democrat of the Senate Subcommittee on Africa, I have long been concerned about the collapsing economic and political situation in Nigeria. Nigeria, with its rich history, abundant natural resources and wonderful cultural diversity, has the potential to be an important regional leader. But, sadly, it has squandered that potential and the good will of the world with repressive policies, human rights abuses and corruption, all of which proliferated during Abacha's tenure.

Although there was no clear line of succession, Nigeria's top military leaders met into the night yesterday to select Gen. Abdulsalam Abubukar as the new head of state. We do not know much about Gen. Abubukar, but we know that he has an historic opportunity to effect real political change for the country.

Last month, I introduced the Nigerian Democracy and Civil Society Empowerment Act (S. 2102). The provisions of my bill include benchmarks defining what would constitute an open political process in Nigeria. I call on Gen. Abubukar to implement as soon as possible some of these important changes, such as the repeal of the repressive decrees enacted under Abacha's rule, so that genuine reform can finally take place in Nigeria. The new leadership should demonstrate respect for the rights of all Nigerians to express their views. Most importantly, Gen. Abubukar should take advantage of this opportunity to immediately move toward free and fair elections and unconditionally release all political prisoners, including the winner of the annulled 1993 elections, Chief Moshood K.O. Abiola.

Abacha's death should represent not just a change in leadership, but ought to result in real change for the average Nigerian.

Finally, I believe the United States should take a clear and public stand to demonstrate its support for a clear transition to civilian rule in Nigeria. Now is the time for the United States to make unequivocally clear that the military should exercise restraint in the near and long term, begin to build bridges to the pro-democracy forces, and do everything possible to end the current political crisis and restore legitimacy to the Nigerian government.

I urge the Administration to communicate these sentiments quickly to Nigeria's new leadership.•

TRIBUTE TO JUNE SALANDER

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to June Salander of Rutland, Vermont. On May 9, 1998 June Salander celebrated her bat mitzvah at the remarkable age of 89. Mrs. Salander is a dear neighbor, mentor, and friend from my days growing up in Rutland, Vermont. It is believed she is the oldest Rutlander to celebrate a bat mitzvah. Over a hundred people attended the ceremony, one of many indicators of the inspiration she is to her family, friends, community, and faith.

Born in 1908 in Poland, June Salander came to America in 1920 to New York City with her family via Ellis Island. In 1941 she married her husband and moved to Vermont where she has resided ever since. In her many years as a citizen of Rutland she has been an active member of the community. She has served as a volunteer at the Rutland Jewish Center, as a Hebrew School teacher, and at the Rutland Hospital with the Grey Ladies.

In addition to filling the role as a bedrock member of her community she has also filled many stomachs with her famous cooking. Her strudel is legendary throughout the area and to the many people traveling through who she has opened her home to over the years. Her strudel recipe was even featured in a cookbook containing Jewish recipes honed in the United States. I can personally attest to the greatness of June Salander's cooking as I was able to eat breakfast at the Salanders when I was growing up as a boy on Kingsley Avenue in Rutland. She continues to teach cooking informally and will appear on a cooking video that will air on PBS in the near future.

Perhaps her most admirable quality is the energy she continues to display as she reaches her golden years. For some it means an idle time in their life but not for June Salander. When she was sixty-two she received her real estate license and remained active until recently. She picked up tennis when she was seventy-three and played for almost ten years. This fall she will travel all the way to Israel to attend the wedding of a niece.

I am glad my wife Liz was able to attend June's bat mitzvah on that Saturday and pass on our well wishes to June. I also wish her well as she approaches her ninetieth birthday on June 28, 1998. Mr. President, I would like to publicly recognize June's upstanding citizenship and the inspiration she is to the rest of us as she continues to embrace life into her nineties.•

TRIBUTE TO JACQUELYN BENSON AND ALEXANDER KAUFMAN 1998 UNITED STATES PRESIDENTIAL SCHOLARS

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Jacquelyn Benson and Alexander Kaufman of New Hampshire for being named 1998 United States Presidential Scholars.

Jacquelyn Benson is a student at Winnacunnet High School in Hampton Falls, New Hampshire, and has been active in her school's National Honor Society and Art Department. Jacquelyn plays the piano, is currently working on a book of fiction, and plans to attend Northeastern University in the fall. She chose Ms. Toni Talas as her most influential teacher.

Alexander Kaufman is also a 1998 Presidential Scholar. As a student at Phillips Exeter Academy in Dover, New Hampshire, Alexander has excelled in writing and math and was the editor of the school's poetry journal. He is also active in environmental issues and will be attending Harvard University in the fall. Alexander selected the late Frederick Tremallo as his most influential teacher.

The United States Presidential Scholars Program was established in 1964, by Executive Order of President JOHNSON, to recognize and honor some of our nation's most distinguished graduating high school seniors. Each year, the White House Commission on Presidential Scholars selects up to 141 Scholars on the basis of their accomplishments in many areas: academic and artistic success, scholarship, leadership, and involvement in school and community. The Commission invites the students to Washington, DC, to be honored for their accomplishments during National Recognition Week.

The Scholars, as guests of the Commission, along with their families and the teachers whom the Scholars have chosen as the "most influential" in their academic and artistic endeavors, will be involved in many activities while in Washington, DC. They will participate in informative panel discussions, a ceremony sponsored by the White House, a reception and art exhibit of the work by Scholars in the Visual Arts at the National Museum for American Art, and an evening at the Kennedy Center featuring performances by the Scholars in the Performing Arts.

As a former teacher and school board chairman, I recognize the challenges involved in providing students a quality education. Congratulations to Jacquelyn and Alexander for their distinguished recognition. I am pleased they have been recognized for their success and it is with great pleasure that I represent them in the United States Senate.•

CONGRATULATIONS TO MRS. GRACE BABCOCK

• Mr. BURNS. Mr. President, it is my great pleasure to honor Mrs. Grace Babcock of Helena, Montana. Grace will be 88 years young on July 29, 1998. She has the wonderful distinction of being the oldest state employee for my home state of Montana. I join Grace's family, friends, and co-workers in thanking her for a job well done!

Grace was born on July 29, 1910 in Deer Lodge, Montana. She was one of nine children. Early on, here family moved to the Canton Valley outside of Townsend, Montana. She married Carter Babcock in 1930. They became the proud parents of two girls, Marilyn and Joyce. In 1941, the family moved to Helena. Although Carter died in 1970, Grace kept the family going. She now dots on her seven grandchildren and eight great-grandchildren.

Grace worked for the accounting firm of Galusha, Higgins, & Galusha until her retirement in 1976. Then, in 1980, it was the beginning of here career with the State of Montana. Grace is certainly a role model not only for active seniors but also for so many young people across our state. She has been blessed with good health and uses her talents to help others.

On behalf of all Montanans, I would like to congratulate you, Grace, for your help in making our state truly the "last best place!" Mr. President, I yield the floor.•

TRIBUTE TO BLUEMONT ELEMENTARY SCHOOL

• Mr. BROWNBACK. Mr. President, I rise today to recognize a group of outstanding students from the state of Kansas. Cindy Garwick's first grade class from Bluemont Elementary School in Manhattan, Kansas, has been chosen as a finalist team in the Toshiba/National Science Teachers Association (NSTA) Exploravision Awards Program.

The NSTA Exploravision Awards Program is the largest K–12 student science competition in the country. This year, there were nearly 5,000 entries from more than 17,000 students in the United States and Canada. The class was chosen as a finalist for this prestigious award for their invention display prototype, "The DNA Door Open."

It is difficult to imagine how much time and energy was spent on this project by these outstanding young students. The award that they have received is a testament to their hard work and dedication. It gives me great pleasure to acknowledge Bluemont Elementary School's first grade class for the honor they have received. I congratulate them and wish them continued success.•

TRIBUTE TO DONALD BODETTE—A VETERAN'S VETERAN

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a fallen hero. His name is Donald Bodette and he passed away last August 10th after a long battle with cancer. However, his legacy lives on and he will be honored on June 14th at the Dodge Development Center in Rutland.

Don retired from the Marine Corps in 1968 and received a Purple Heart for wounds sustained in Vietnam. For those of us who knew Don, this information was a well kept secret. He was never inclined to tell you about his heroics. He did tell war stories as a way to draw other Vietnam Veterans out of their isolation. Don's theory was a very simple one and is the premise used today to help Vietnam Veterans worldwide—discussing traumatic war experiences with another veteran with a similar experience is the best way to heal.

An article in The Rutland Herald on August 12, 1997 announced that Donny had passed away, at age 48, at the VA hospital in White River Junction. As I read, I was struck by some of the tales recounted by his fellow veterans. Three of Don's best friends, Jake Jacobsen, Albert Trombley and Clark Howland, talked about meeting Don through a newspaper ad that only said, "Vietnam Veterans, we need to talk." According to Trombley, "He didn't have any master plan. He would stop and look for people, he would put advertisements in the paper to get veterans to come out, and once he found one or two, they would find two or three. He got all around the state of Vermont."

In the late 1970s, Don was instrumental in shaping the course of a fledgling organization known as the Vietnam Veterans of America (VA). He believed that the VA should be more than an activist group, and Don was so successful in his efforts to establish local chapters that Rutland, Vermont boasts the first VA chapter in the country. According to Jake Jacobsen, "Donny and I never worried about membership. If we're good enough, they'll want to join us."

Don helped found the Veterans Assistance Office (VAO) in Rutland sixteen years ago. It was designed as a non-profit community based organization to support veterans in a variety of different ways. The VAO still serves in that capacity today. The VAO's current director, Clark Howland, says of Bodette, "I owe him a lot. He helped an unknown number. I'd say it would run in the thousands of veterans. And what we're doing now is just to carry on for what Donny started."

Farewell Don. Your legacy of service will live on through your selfless acts that improved the lives of countless Vermont veterans.•

CBO COST ESTIMATE—S. 1275

• Mr. MURKOWSKI. Mr. President, when the Committee filed its report on S. 1275, the Northern Mariana Islands Covenant Implementation Act, the cost estimate of the Congressional Budget Office was not available. The estimate has since been received and I ask that it be printed in the RECORD for the information of the Senate.

The cost estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 8, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1275, the Northern Mariana Islands Covenant Implementation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), Marc Nicole (for the state and local impact), and Ralph Smith (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

S. 1275—Northern Mariana Islands Covenant Implementation Act

Summary: S. 1275 would amend the covenant act between the United States and the Commonwealth of the Northern Mariana Islands (CNMI), a territory of the United States, to reform the immigration laws of CNMI. It also would establish a special committee to set minimum wage rates by industry within CNMI. The estimated cost of S. 1275 depends on whether the Attorney General would elect to apply the provisions of the Immigration and Nationality Act (INA) to CNMI. If the Attorney General (AG) decided not to apply the INA, CBO estimates that, on average, implementing S. 1275 would increase annual costs by less than $500,000, subject to appropriation of the necessary amounts. If the AG did apply the INA, as modified for CNMI by S. 1275, CBO estimates that, subject to appropriation of the necessary amounts, implementing S. 1275 would increase costs—mostly at the Immigration and Naturalization Service (INS)—by less than $500,000 in fiscal year 1999 and a total of between $7 million and $8 million over the 1999–2003 period.

In addition to the increase in discretionary costs, S. 1275 also could affect direct spending if the AG applies the INA to CNMI; consequently, pay-as-you-go procedures would apply. CBO estimates, however, that any change in direct spending would have no significant net budgetary impact each year.

S. 1275 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because the bill would preempt the immigration and minimum wage laws of CNMI. CBO estimates that the costs of such mandates would not be significant and that the threshold for intergovernmental mandates established in UMRA ($50 million in 1996, adjusted annually for inflation) would not be exceeded.

S. 1275 contains private-sector mandates as defined in UMRA. Section 2 would impose a mandate on employers by limiting the number of temporary alien workers who could be legally present in CNMI. Section 3 would impose a mandate on employers by increasing the minimum wage which they would be required to pay their employees; the amount of the mandated increases in wages would be determined by an industry committee established as a result of enactment of this legislation. CBO cannot determine whether the direct cost to employers of those mandates would exceed the $100 million inflation-adjusted annual threshold specified in UMRA.

Description of the bill's major provisions: Within one year of enactment, S. 1275 would require that the AG determine whether CNMI possesses the institutional capacity to administer its own system of immigration control, consistent with minimum safeguards selected by the AG, and the will and commitment to enforce the system of immigration control. During this period, the bill would limit the number of temporary alien workers on CNMI to the number of individuals present at the date of enactment. If the AG determines that CNMI has both the institutional capacity and the commitment, then the INA would not take effect, although the bill would require that the AG make a new determination every three years thereafter.

If the AG determines that CNMI lacks either the institutional capacity or the political will to enforce its own system of immigration control, the bill would require that the Department of Justice (DOJ) develop a program to phase-in the INA, as modified for CNMI by S. 1275, over a period of no more than 10 years. The transition period would begin six months after the AG's determination. The program would include procedures for issuing visas to nonimmigrant temporary alien workers, family-sponsored immigrants, and employment-based immigrants. S. 1275 would allow CNMI to request that the federal government exempt certain family-sponsored and employment-based immigrant visas from certain limitations established by the INA.

For temporary alien workers who would not otherwise be eligible for admission into CNMI, S. 1275 would require that DOL establish and administer a system for issuing a decreasing number of annual permits to employers allowing them to hire such individuals during the transition period. The bill would authorize DOL to charge employers a fee for the permits; however, DOL could only use amounts collected from such fees to the extent authority was provided in advance by appropriations. To allow for the admission of temporary alien workers, the bill would authorize the Department of State to issue nonimmigrant visas.

To help implement the INA, S. 1275 would require that DOL and the Department of the Interior (DOI) develop a program to assist employers in hiring employees who are citizens of the U.S. or the freely associated states (Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau). The bill also would authorize DOL and DOJ to establish and maintain operations in the CNMI. Within five and one-half years of enactment, the bill would require that the President report to the Congress on the effectiveness of the Administration's efforts to implement the INA in CNMI.

In addition to the provisions affecting immigration control, S. 1275 would establish a special committee to determine minimum wage rates by industry for CNMI. The CNMI committee would be modeled after similar committees established in American Samoa, Puerto Rico, and the Virgin Islands. The committee would review wage rates once each biennium until such rates are equal to the minimum wage of the United States. In setting each rate, the bill would require that the committee consider the effect of the change on the industry's level of employment. In any event, S. 1275 would limit the amount of any annual increase to 50 cents.

Estimated cost to the Federal Government: The estimated cost of S. 1275 depends on whether the AG would require that the INA be applied to CNMI. On the one hand, if the AG decides not to apply the INA, we estimate that implementing the bill would increase annual costs, on average, by less than $500,000, subject to appropriation of the necessary amounts.

On the other hand, if the AG decides to apply the INA, we estimate that, subject to appropriation of the necessary amounts, implementing S. 1275 would increase costs by a total of between $7 million and $8 million over the fiscal year 1999–2003 period. In addition, beginning in fiscal year 2000, S. 1275 would decrease net direct spending by less than $500,000 each year.

The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget functions 800 (general government), 750 (administration of justice), 500 (education, training, employment, and social services), and 150 (international affairs).

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003
COST IF THE IMMIGRATION AND NATIONALITY ACT IS NOT APPLIED TO CNMI					
Spending subject to appropriation:					
Estimated authorization level	[1]	[1]	[1]	[1]	[1]
Estimated outlays	[1]	[1]	[1]	[1]	[1]
COST IF THE IMMIGRATION AND NATIONALITY ACT IS APPLIED TO CNMI					
Spending subject to appropriation:					
Estimated authorization level	[1]	1	2	2	2
Estimated outlays	[1]	1	2	2	2
Direct spending:					
Estimated budget authority	[1]	[1]	[1]	[1]	[1]
Estimated outlays	[1]	[1]	[1]	[1]	[1]

[1] Less than $500,000.

BASIS OF ESTIMATE

This estimate assumes that the bill will be enacted by the beginning of fiscal year 1999 and that the necessary amounts will be appropriated for each year. The amounts necessary will depend on whether the INA is applied to CNMI.

Estimated cost if the Justice Department does not apply the INA to CNMI

The increase in costs from not applying the INA would result primarily from establishing the special committee to determine minimum wage rates for CNMI. Based on information from DOL, we estimate that the committee would cost between $500,000 and $1 million every two years, or less than $500,000, on average, each year. In addition, DOJ would incur minor costs in fiscal years 1999 and 2002 to review CNMI's system of immigration control.

Estimated cost if the Justice Department applies the INA to CNMI

S. 1275 could result in additional costs if the AG applies the INA to CNMI. The bill also could reduce direct spending under this scenario; however, CBO estimates that the net reduction in direct spending would total less than $500,000 a year.

Immigration and Naturalization Service.—The increase in costs from applying the INA would result primarily from the INS administering the INA in CNMI, including the cost to relocate and hire the necessary personnel to handle immigration inspections, investigations, adjudications, and deportations. Based on information provided by the INS, we estimate that applying the INA would gradually increase its annual costs from about $500,000 in fiscal year 2000 to about $3 million in fiscal year 2003. That estimate assumes that the INS would phase in its operations over several years, eventually stationing around 40 people on CNMI. (By comparison, the INS currently spends about $5.7 million annually to station 82 employees on nearby Guam, another U.S. territory that has a considerably larger population than does CNMI, although its population is situated on a single island.) According to the INS, about half of the estimated costs would be financed from the collection of additional user fees, which could be spent without further appropriation. The other half of costs, which we estimate would increase from less than $500,000 in fiscal year 2000 to about $1.5 million in fiscal year 2003, would be subject to availability of appropriated funds.

Other Agencies.—Under this scenario, DOL would incur costs to issue permits to certain employers. Based on information provided by DOL, CBO estimates that implementing the permit system would not affect DOL's budget in fiscal year 1999 but would increase its costs by several hundred thousand dollars a year in 2000 through 2003. In addition, we estimate that DOL would collect an equivalent amount of permit fees each year, which would decrease direct spending. (The department would not be able to spend receipts from the new fees without appropriation.)

According to DOI, the federal government already is providing technical assistance to CNMI, and thus, the provision requiring that it and DOL assist employers in CNMI would not significantly increase federal costs. In addition, DOL and DOJ already have some personnel stationed in CNMI and would increase their personnel anyway to implement the INA. Thus, CBO estimates that authorizing the agencies to establish and maintain operations in CNMI would have no budgetary impact in this case.

Finally, based on information provided by the Department of State, we estimate that, subject to available funds, implementing S. 1275 would increase its annual costs by less than $100,000 in fiscal year 2000 and by between $100,000 and $200,000 a year in 2001 through 2003. Those amounts would cover the costs to add one to two officers overseas to process the additional visas that would result under S. 1275.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies procedures for legislation affecting direct spending and receipts. Pay-as-you-go procedures would apply to S. 1275 because the bill could affect direct spending if the AG applies the INA to CNMI. In that case, we estimate that enacting S. 1275 would gradually increase the amount of offsetting receipts collected by the INS from less than $500,000 in fiscal year 2000 to about $1.5 million in fiscal year 2003. Because the INS could spend such receipts without further appropriation, the provision would have no net impact on direct spending.

If the INA is applied, S. 1275 also would allow DOL to collect fees from issuing permits to certain businesses operating in CNMI. According to DOL, it would charge fees at a rate that would cover its costs to issue the permits. We estimate that enacting S. 1275 could increase offsetting receipts by less than $500,000 a year.

Estimated impact on State, local, and tribal governments: S. 1275 contains intergovernmental mandates as defined in UMRA because the bill would preempt the immigration and minimum wage laws of CNMI. (CNMI would be considered a state for the purposes of UMRA). Section 2 of the bill would preempt the immigration laws of CNMI. Section 3 of the bill would preempt the minimum wage laws of CNMI and would require employers, including governmental employers, to increase the minimum wage that they would pay their employees. The amount of the mandated increase in wages would determined by a special industry committee but could not be more than 50 cents per year. Based on information from DOI and CNMI, CBO estimates that the costs of complying with these mandates would not be significant because the number of public employees affected by the bill would be limited and because the change in the workload of the Commonwealth's immigration staff would be small.

Estimated impact on the private sector: S. 1275 contains private-section mandates as defined in UMRA. Section 2 would impose a mandate on employers by limiting the number of temporary alien workers who could be legally present in CNMI. Section 3 would impose a mandate on employers by increasing the minimum wage which they would be required to pay their employees; the amount of the mandated increases in wages would be determined by an industry committee established as a result of enactment of this legislation. CBO cannot determine whether the direct cost to employers of those mandates would exceed the $100 million inflation-adjusted annual threshold specified in UMRA.

Estimate prepared by: Federal Costs: John R. Righter. Impact on State, Local, and Tribal Governments: Marc Nicole; and Impact on the Private Sector: Ralph Smith.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.●

RIVER AND HARBOR ACT DEAUTHORIZATION

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No 391, S. 1531.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1531) to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1531) was considered read a third time and passed, as follows:

S. 1531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BASS HARBOR, MAINE.

(a) DEAUTHORIZATION.—The portions of the project for navigation, Bass Harbor, Maine, authorized on May 7, 1962, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), that are described in subsection (b) are not authorized after the date of enactment of this Act.

(b) DESCRIPTION.—The portions of the project referred to in subsection (a) are described as follows:

(1) Beginning at a bend in the project, N149040.00, E538505.00, thence running easterly about 50.00 feet along the northern limit of the project to a point N149061.55, E538550.11, thence running southerly about 642.08 feet to a point, N148477.64, E538817.18, thence running southwesterly about 156.27 feet to a point on the westerly limit of the project, N148348.50, E538737.02, thence running northerly about 149.00 feet along the westerly limit of the project to a bend in the project, N148489.22, E538768.09, thence running northwesterly about 610.39 feet along the westerly limit of the project to the point of origin.

(2) Beginning at a point on the westerly limit of the project, N148118.55, E538689.05, thence running southeasterly about 91.92 feet to a point, N148041.43, E538739.07, thence running southerly about 65.00 feet to a point, N147977.86, E538725.51, thence running southwesterly about 91.92 feet to a point on the westerly limit of the project, N147927.84, E538648.39, thence running northerly about 195.00 feet along the westerly limit of the project to the point of origin.

WATER RESOURCES DEVELOPMENT ACT DEAUTHORIZATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 392, S. 1532.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1532) to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1532) was considered read a third time and passed, as follows:

S. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEAUTHORIZATION OF REMAINDER OF PROJECT AT EAST BOOTHBAY HARBOR, MAINE.

Section 364 of the Water Resources Development Act of 1996 (110 Stat. 3731) is amended by striking paragraph (9) and inserting the following:

"(9) EAST BOOTHBAY HARBOR, MAINE.—The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657).".

Ms. SNOWE. Mr. President, I rise today to thank my colleagues for their support of my legislation, S. 1531 and S. 1532, introduced on behalf of the towns of Tremont and East Boothbay, Maine. S. 1531 deauthorizes certain portions of the navigational project for Bass Harbor, and S. 1532 deauthorizes the final portions of East Boothbay Harbor.

Bass Harbor has the greatest concentration of fishing boats on Mt. Desert Island and all mooring spaces are currently full, with a long waiting list to obtain future moorings. When the townspeople approached the U.S. Army Corps of Engineers to obtain a permit for expansion, they were told that no improvements could be made until the federal project area boundary was moved to the proper location by legislative action. I was happy to do this on their behalf. The Selectmen, Town Manager, and Harbor Committee will now be working with the Corps and the State in anticipation of having the harbor dredged, which last occurred in 1966, so that they may make space available for more and larger boats.

S. 1532 deauthorizes the remainder of the federal navigational project at Boothbay Harbor. The current marina owners purchased the former shipbuilding yard in East Boothbay in 1993 and have since turned it into a full service marina. In the process of getting all the permits together for further economic development, the marina discovered that parts of the harbor, while no longer used as such, were still deemed a federal navigation project created back in 1913, when mine sweepers and other ships were being built there for World War I. Because part of the federal navigation project is still considered active, the Corps told the town that nothing could be done in the water until the entire area was deauthorized. My bill takes care of this final deauthorization, the rest of which was accomplished in the last reauthorization of Water Resources Development Act, but the coordinates were ultimately found to be inaccurate. This legislation, with the assistance of the Corps, addresses that small section still requiring deauthorization.

I am especially pleased for the towns of Tremont and East Boothbay, with whom I have worked in the long deauthorization process, so as to allow them to continue with much needed harbor development. I want to thank Senator CHAFEE and his Environment and Public Works Committee for moving these bills out of committee and to the Senate floor. When passed by the House and signed into law, the bills will allow the towns to get on with much needed economic development in their harbors.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 643, 644, and 645. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. President, for the benefit of colleagues, those executive calendar items, Nos. 643, 644, and 645, those nominations are Joseph Westphal, Assistant Secretary of the Army; Mahlon Apgar, IV, Assistant Secretary of the Army; and Hans Mark, Director of Defense Research and Engineering.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Joseph W. Westphal, of Virginia, to be an Assistant Secretary of the Army.

Mahlon Apgar, IV, of Maryland, to be an Assistant Secretary of the Army.

Hans Mark, of Texas, to be Director of Defense Research and Engineering.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–49

Mr. McCAIN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 9, 1998 by the President of the United States: Inter-American Convention Against Illicit Manufacturing and Trafficking of Firearms, Ammunition, Explosives, and Other Related Materials (Treaty Document No. 105–49); I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (the "Convention"), adopted at the Special Session of the General Assembly of the Organization of American States (OAS) at Washington on November 13, 1997. The Convention was signed by the United States and 28 other OAS Member States on November 14, 1997, at the OAS Headquarters in Washington. So far, 31 States have signed the Convention and one (Belize) has ratified it. In addition, for the information of the Senate, I transmit the report of the Department of State with respect to the Convention.

The Convention is the first multilateral treaty of its kind in the world. The provisions of the Convention are explained in the accompanying report of the Department of State. The Convention should be an effective tool to assist in the hemispheric effort to combat the illicit manufacturing and trafficking in firearms, ammunition, explosives, and other related materials, and could also enhance the law enforcement efforts of the States Parties in other areas, given the links that often exist between those offenses and organized criminal activity, such as drug trafficking and terrorism.

The Convention provides for a broad range of cooperation, including extradition, mutual legal assistance, technical assistance, and exchanges of information, experiences, and training, in relation to the offenses covered under the treaty. The Convention also imposes on the Parties an obligation to criminalize the offenses set forth in the treaty if they have not already done so. The Convention will not require implementing legislation for the United States.

This treaty would advance important U.S. Government interests, and would enhance hemispheric security by obstructing the illicit flow of weapons to criminals such as terrorists and drug traffickers. In addition, ratification of this Convention by the United States would be consistent with, and give impetus to, the active work being done by the United States Government on this subject in other fora, such as the United Nations, the P–8 Group, and the OAS Inter-American Drug Abuse Control Commission (CICAD).

I recommend that the Senate give early and favorable consideration to the Convention, and that it give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

ORDERS FOR WEDNESDAY, JUNE 10, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Wednesday, June 10th. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 1415, the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I further ask unanimous consent that the cloture vote occur immediately upon convening, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. Mr. President, for the information of all Senators, tomorrow there will be a joint meeting in the House Chamber to hear an address by the President of South Korea. Senators are asked to be in the Senate Chamber by 9:40 a.m. in order to proceed as a body to the Hall of the House of Representatives to hear the address.

The Senate will then convene at 11 a.m. and immediately proceed to the second attempt to invoke cloture on the pending tobacco bill. Assuming cloture is not invoked, it will be the leader's intention to try to reach an agreement similar to the agreement reached today with respect to the drug issue, which will call for two votes on the marriage penalty issue, at 1 p.m. or 2 p.m. on Wednesday.

Therefore, votes will occur during Wednesday's session of the Senate, with the first vote being the second attempt to invoke cloture on the tobacco bill.

ADJOURNMENT UNTIL 11 A.M TOMORROW

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Wednesday, June 10, 1998, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 9, 1998:

DEPARTMENT OF HOUSING OF URBAN DEVELOPMENT

WILLIAM C. APGAR, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE NICOLAS R. RETSINAS, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL H. TRUJILLO, OF NEW MEXICO, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE AS DEAN OF FACULTY, UNITED STATES AIR FORCE ACADEMY, A POSITION ESTABLISHED UNDER TITLE 10, UNITED STATES CODE, SECTION 9335, AND FOR APPOINTMENT TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES:

To be brigadier general

COL. DAVID A. WAGIE, 0211.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be brigadier general

COL. GEORGE W. KEEFE, 3692.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. KENNETH W. HESS, 2733.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RICHARD C. COSGRAVE, 5678.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLED 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS J. KECK, 7924.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARVIN R. ESMOND, 6588.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. RICHARD B. MYERS, 7092.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. PATRICK K. GAMBLE, 2878.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RICHARD S. COLT, 4147.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

KEITH B. ALEXANDER, 9763
DORIAN T. ANDERSON, 0294
ELDON A. BARGEWELL, 6135
DAVID W. BARNO, 9794
WILLIAM H. BRANDENBURG, 9945
JOHN M. BROWN, III, 0258
PETER W. CHIARELLI, 6598
CLAUDE V. CHRISTIANSON, 1982
EDWARD L. DYER, 5307
WILLIAM F. ENGEL, 8868
BARBARA G. FAST, 1763
STEPHEN J. FERRELL, 9691
THOMAS R. GOEDKOOP, 5449
DENNIS E. HARDY, 6357
STEVEN R. HAWKINS, 7697
JOHN W. HOLLY, 6285
DAVID H. HUNTOON, JR., 1919
PETER T. MADSEN, 8165
JESUS A. MANGUAL, 6552
THOMAS G. MILLER, 3543
ROBERT W. MIXON, JR., 6735
VIRGIL L. PACKETT, II, 9367
DONALD D. PARKER, 6333
ELBERT N. PERKINS, 0786
JOSEPH F. PETERSON, 2747
DAVID H. PETRAEUS, 1960
MARILYN A. QUAGLIOTTI, 8480
MAYNARD S. RHOADES, 6348
VELMA L. RICHARDSON, 6426
MICHAEL D. ROCHELLE, 4381
JOE G. TAYLOR, JR., 0884
NATHANIEL R. THOMPSON, III, 5240
ALAN W. THRASHER, 6690
JAMES D. THURMAN, 8182
THOMAS R. TURNER, II, 7116
JOHN M. URIAS, 6022
MICHAEL A. VANE, 9890
LLOYD T. WATERMAN, 2903

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. EVAN R. GADDIS, 5455.
BRIG. GEN. ALFRED A. VALENZUELA, 4832

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT F. FOLEY, 9574.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SURGEON GENERAL AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5137:

To be vice admiral

REAR ADM. RICHARD A. NELSON, 1464.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ISAAC V. GUSUKUMA, 2574
ROBERTA M. JANSSEN, 8055
MORRIS D. MOOREHEAD, 5551
JAMES I. PYLANT, 3241

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL D. CORSON, 6576
KENNETH H. NEWTON, 9163

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND REGULAR APPOINTMENT IN THE MEDICAL SPECIALIST CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 3064:

To be major

* TIMOTHY C. BEAULIEU, 8411

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 3064:

To be major

* JAMES E. RAGAN, 1174
* FAYE M. JONES, 7514
ROBERT F. BECHTOLD, 9463
* MATTHEW J. SCHOFIELD, 2194
* GLEN J. MESAROS, 3051
* RICHARD D. PRICE, 3973
* JOHN H. CHILES, 7179

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS IN THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

WILLIAM M. AUKERMAN, 1052
JOSEPH BRANCO, 7293
ANTHONY M. BROOKER, 0107
PATRICK W. BURNS, 4733
KATHY M. CHARETTE, 6468
ROBERT E. CHOTE, 3161
STEVEN P. COUTURE, 6040
STANLEY A. CUNNINGHAM, 7200
MICHAEL P. DANHIRES, 0002
SAMUEL E. DAVIS, 1143
DOUGLAS E. DIPPOLD, 4570
KELVIN F. DUDENHOEFFER, 7805
KEITHA DUTTON, 7038
GREGORY D. EDWARDS, 9982
DOUGLAS M. FINN, 9614
KELLY O. FLODSTROM, 9514
GERALD M. FOREMAN II, 6160
PAUL A. FOX, 4240
CHARLES G. GROW, 9368
RICHARD D. HARDIN, 4650
KATHLEEN A. HOARD, 8658
MICHAEL J. KENNETH, 4716
TODD E. KUNST, 3290
ROY E. LAWRENCE, 7920
LANE A. MASSEY, 6282
ROBERT T. MAXEY, 9480
ALONZO H. MAYS, 2792
JAMES D. MCCOY, 7186
JESSE MCRAE, 8239
ROBERT R. NEWTON, JR, 5245
DAVID L. NICHOLS, 9099
CHARLES E. PARHAM, JR, 7703
DOUGLAS W. PHILLIPS, 0818
ANDREW M. ROSE, 2906
DANIEL S. RYMAN, 6392
CARLOS D. SANABRIA, 3396
GEORGE M. SEXTON, 3000
JAMES T. TAYLOR, 9461
CHARLES L. THRIFT, 2412
ELLEN P. TIPPETT, 7295
DAVID W. TOMILSON, 7488
GABRIEL J. TORRES, 5732
JOSEPH J. WAYNE, 2565
FRANK L. WHITE, 3062
JOHN W. WOMACK, 5282
DAYLE L. WRIGHT, 1165

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 9, 1998:

DEPARTMENT OF DEFENSE

JOSEPH W. WESTPHAL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

MAHLON APGAR IV, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

HANS MARK, OF TEXAS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

EXECUTIVE MESSAGE TRANSMITTED BY THE PRESIDENT TO THE SENATE ON JUNE 9, 1998, WITHDRAWING FROM FURTHER SENATE CONSIDERATION THE FOLLOWING NOMINATIONS:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WILLIAM C. APGAR, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MICHAEL A. STEGMAN, RESIGNED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 25, 1998.

HOUSE OF REPRESENTATIVES—*Tuesday, June 9, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BALLENGER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 9, 1998.

I hereby designate the Honorable CASS BALLENGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Guam (Mr. UNDERWOOD) for 5 minutes.

GUAM'S CENTENNIAL COMMEMORATION OF THE SPANISH-AMERICAN WAR

Mr. UNDERWOOD. Mr. Speaker, the Spanish-American War, which we are in the 100th year commemorating this year, was not a self-contained event. To the contrary, those events 100 years ago have far-reaching consequences today.

The fact that I am standing here representing Guam, speaking from the floor of the House, is testimony to the effects of the Spanish-American War. Guam's American journey began on June 20, 1898, when Captain Glass, U.S. Commander of the USS *Charleston*, accepted the surrender of Spanish forces based on Guam. From that initial point, our relationship with the U.S. has progressed from an island governed by the Navy Department and subjected to travel restrictions to an American unincorporated territory with a democratically elected local government.

However, the people of Guam continue to strive for political development, and since 1988, Guam has continually requested a new political status, a Commonwealth with the United States. Unfortunately, this next step in our political development has not yet been fully addressed.

The centennial anniversary is a time of reflection for our island. I have spoken from the well many times on the significance of this occasion, and I believe the centennial anniversary of 100 years under American governance should be a time for enlightened retrospection on Guam's relationship with the U.S.

If one were to analyze our relationship with the United States, it does not take a think tank strategist to figure out that Guam was and continues to be of primary strategic importance in the Pacific. If you were to fly a 7-hour airplane trip from Guam in any direction, you will hit a larger percentage of the world's population than if you fly from any city inside the United States. In fact, Guam was first used by American forces as a coaling station, and today we are an important base for the forward deployment and strategic positioning of military forces in the Asia-Pacific region.

One would also easily notice that Guam's relationship with the United States is characterized by the faith of the people of Guam in the American system of government and promise for self-determination. For example, Guam's first petition regarding the clarification of their political status was in 1901, 2 years after Guam was acquired. In 1933 a petition signed by the island was presented asking for political status clarification.

Guam is the only American territory that was occupied by enemy forces during World War II. Not only did the people of Guam withstand brutal marches and abuse for 32 months under the occupation forces, men and women even risked their lives to clothe and feed U.S. servicemen hiding from the Japanese Army.

To assist in our efforts to further understand the Spanish-American War, I am pleased to announce that the University of Guam's Richard Flores Taitano Micronesia Area Research Center is sponsoring a conference entitled "The Legacy of the Spanish-American War, a Centennial Conference."

I would like to enter into the RECORD a calendar of events. We have international participants for this truly international issue. Academic and professionals from the United States, Spain, Germany, Philippines, and Guam will be on hand to discuss the Spanish-American War itself. On June 21, later on this month, there will be a reenactment of the raising of the American flag over Guam.

Commemorating the centennial of that flag-raising will be a once-in-a-lifetime opportunity for many. However, I would like to emphasize, that for the people of Guam, 1998 is a year of commemoration, a year to remember Guam's transfer from Spanish to American jurisdiction. It was an act of colonialism based upon a previous Spanish act of conquest and an American victory in war. The people of Guam, my people, really had very little to do with it.

The Treaty of Paris, signed between the United States and Spain, stipulates that the United States Congress is obligated to determine the civil rights and political status of Guam's native inhabitants. One hundred years has passed, and this obligation has not been entirely fulfilled. The people of Guam certainly have much to reflect upon, and I hope that we do not wait for another 100 years before this country brings the full meaning of democracy to an area first taken in the spirit of imperialism.

Mr. Speaker, I include the program of the conference I mentioned earlier.

The material referred to is as follows:

[The Richard Flores Taitano Micronesian Area Research Center, University of Guam]

THE LEGACY OF THE SPANISH AMERICAN WAR IN THE PACIFIC: A CENTENNIAL CONFERENCE—17, 18 AND 19 JUNE 1998

Inauguration: Hilton Hotel, Wednesday 17 June 1998, 6:15 p.m.–9:30 p.m. Panels: Hilton Hotel, Thursday 18 June 1998, 8:00 a.m.–5:00 p.m. Guided Tour to Historical Sites: Friday 19 June 1998, 8:00 a.m.–5:00 p.m. Conclusion: Hagana Cathedral-Basilica Friday 19 June 1998, 7:00 p.m.

Registration, Hilton Hotel, Wednesday 17 June 1998, 5:00 p.m., $25.00.

Join this interdisciplinary conference, which offers the possibility for an exchange of ideas among local, national and international scholars. As an academic conference, it will increase discussion regarding the effects of 1898, not only on Guam, but on other areas of the Pacific.

This year, 1998, the centennial of the Spanish American War, provides an opportunity to reflect on the events that directly affected

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the people of Guam and the Pacific. It is important to consider those historical events that show the links of Guam with the Philippines and Spain in the past and with the United States today, while paying significant attention to the expectations of its people.

Featured Panelists:

Key Note Speaker, Congressman Robert Underwood.

Lourdes Diaz-Trechuclo, Ph.D., Universidad de Cordoba, Spain "Spanish Politics and the Mariana Islands."

Herman Hiery, Ph.D., University of Bayreuth, Germany "War with Germany is Imminent: Germany and the Philippines in the Spanish American War."

Thomas H. Neale, U.S. Library of Congress "Reluctant Imperialist? U.S. Congress and the War of 1898."

Wilfrido Vallacorta, Ph.D., De la Salle University, Philippines.

Logan Wagner, Ph.D., University of Texas "Architectural and Urban Design Legacy of Guam's Spanish Period."

Javier Galváin, Architect, School of Architecture, Madrid "The Preservation of the Architectural Legacy of Micronesia."

Jorge Loyzaga, Senior Architect, Mexico.

Dirk A. Ballendorf, Ed.D., University of Guam "The Americans, the Spanish-American War, and the Caroline Islands."

Prof. Augusto de Viana, University Ateneo de Manila "Apolinario Mabini and other Revolutionaries exiled in Guam by the Americans."

Florentino Rodao, Ph.D., Universidad Complutense, Madrid "Monsignor Olano, Bishop of Guam."

Arnold M. Leibowitz, Esq., Washington, D.C. "The Concept of Commonwealth and Freely Associate States."

Most Rev. Anthony Apuron, O.F.M. Cap, D.D. "The Role of the Church in the Preservation of the Chamorro Language."

Rafael Rodiguez-Ponga, Ph.D., Director General of International Cooperation of the Ministry of Education and Culture of Spain "The Spanish Influence in the Chamorro Language."

Laura T. Sauder, Ph.D. CEO, Betances & Associates, Chicago "Enduring Legacies: A Catholic Socio-religious Identity, An American Socio-political Identity."

Antonio Garcia-Abasolo, Ph.D., Universidad de Cordoba, Spain "Spanish Migration and Population to the Philippines."

Ann Hattori, Ph.D. candidate, University of Hawaii at Manoa "Feminine Hygiene: Gender and Health Under the U.S. Naval Government of Guam, 1898–1941."

Robert E. Statham, Ph.D., University of Guam "The U.S. Commonwealth of Puerto Rico: Pragmatism and the Empty Promise of Confederal Autonomy in the American Federal Republic."

Michael Phillips, Esq., Guam "Give 'em an inch; they take a yard. Grant 'em an easement; they take it all."

Donald Platt, Ph.D., University of Guam "Humanitarianism, Imperialism, or what? Demythologizing the United States' Reasons for going to War with Spain in 1898."

Robert F. Rogers, Ph.D., University of Guam (R) "From Spanish Lake to America Lake: The Enduring Geopolitical Legacy of the Spanish American War."

For more information contact RFT MARC 735-2150 or Professor Omaira Brunal-Perry, Chairperson Organizing Committee 735-2157.

This program is supported by The University of Guam, The Richard Flores Taitano Micronesian Area Research Center, the Director General of International Cooperation of the Ministry of Education and Culture of Spain, the Guam Preservation Trust, the Guam Visitors Bureau, the U.S. Department of Interior, the Office of Delegate Robert Underwood, Title VI NRC/FLAGS Grant Project, the 24th Guam Legislature and the Centennial Task Force.

THE 2000 CENSUS: POLLING VERSUS AN ACTUAL COUNT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. MILLER) is recognized during morning hour debates for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, we are less than 2 years from the beginning of the decennial census. The decennial census is a requirement of our Constitution where we count everybody living in America every 10 years. Since 1970 we have been doing it, and we are gearing up now for the 2000 census. It is one of the most important and controversial issues faced in public policy today.

It is controversial because, for the first time in history, the Clinton administration has proposed a radically different approach to be conducting the census. They have proposed this radical change without the approval of Congress. For the first time in history since 1790, for the first time, they do not want to count everybody. They only want to count some of the people and guess at the rest of them. They want to use science to come up with estimates of a population, rather than actually counting people, the hard work of counting people. From the days of Jefferson and Washington, we have been counting the population. Now they have come up with this radical idea.

It is a very important issue because it is fundamental to our democratic system of government, because most elected officials in this country are dependent upon an accurate census, and hundreds of billions of dollars flow out of Washington and out of State capitals on the census, so it is a critical issue.

The problem we are facing is we are moving towards a failed census. The General Accounting Office, who is the independent auditor of the Federal Government, has reported time and again that we are moving towards a failed census. The Inspector General for the Commerce Department has also warned us. So we have a serious problem.

Last week the President flew to Houston, mainly to raise money, but also to talk about the census. I am glad the President has entered this debate personally. His arguments in Houston were exactly why we should not use his plan.

What the President talked about was polling versus sampling. Polling is something we are all very familiar with. It is used in politics and actually in business and for a wide variety of areas. What the President was saying, and there is an interesting analogy, is that polling, and let me quote the President, "Most people understand that a poll taken before an election is a statistical sample. Sometimes it is wrong, but more often than not, it is right." That is what the President said. "Sometimes it is wrong, but more often than not, it is right."

Well, let us look at what really happens with polling. We will see the problems with it and why it is so dangerous and risky to try to use polling on the upcoming decennial census. One of the best ways to evaluate whether a poll is accurate is looking at election results. Let us look back at the last Presidential election in 1996, less than 2 short years ago.

Right before the election in November, all the major polls came up with the results that weekend before the Tuesday election. As we all know, President Clinton won and beat Bob Dole by 8 percentage points. That is a factor, what do you win by, and what is the difference between the winner and loser. Bill Clinton won and got 8.4 percent higher votes, percentage points, than Bob Dole.

CBS/New York Times, on the weekend before the election, the polling said the victory is going to be 18 points, not 8 percent, 18 percentage points. ABC said 12 percentage points. The Harris poll said 12 percentage. The Wall Street Journal/NBC, said it was going to be a 12-point election. CNN/USA Today, conducted by the Gallup poll, said a 13-point spread, not 8 points. That was a 50 percent mistake.

How can we rely on polling? We cannot just say it is close enough for government work. We are going to spend $4 billion on a poll that is not going to be close, if it is based on the polling ideas, the President wants us to risk that, and especially since it is something that is so important and that is fundamental to our democratic system. It is just wrong.

The President did not mention that back in 1990 we attempted to use sampling. It failed in 1990. When they tried to use sampling to adjust the population enumeration, it was a failure. It was a failure because it would have, for example, taken a congressional seat away from Pennsylvania and given it away without justification, because it turned out 2 years later it was a computer error and never should have been recommended.

It also says that adjusting, based on sampling, is less accurate when you have populations of less than 100,000 people. I am sure big-city mayors may like this, but we have to work with census tracts, we have to work with smaller communities. How do we show this is going to be trustworthy?

There is another thing I was concerned about in President Clinton's comments. I do not think President Clinton means to divide America. He said that Texas would have gained $1 billion if we had used sampling. We are talking about a zero sum game. A zero sum game means if you give $1 billion to Texas, you are going to take away $1 billion from somewhere else. We only have a fixed amount of money when we get to block grants. When we take money from one area to another area, we had better explain to people why we are taking the money away.

For example, when we start adjusting the census and subtracting people from the population, which they tried to do in 1990, that is when we start making people upset and not trusting our system. We cannot use this. This is not close enough for government work. It is wrong. We need to do an actual enumeration.

E-RATE/TRUTH IN BILLING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, over the course of recent months, I have taken to this floor in support of one of the critical elements of the 1996 Telecommunication Act, which was an agreement that was forged between Congress and the telecommunications industry for the benefit of our schools and libraries.

It was decreed that the concept of universal service, which has been employed since 1934 to subsidize the cost of extending service to rural areas, areas that provide very high costs, would be extended to include the Internet access for our schools and libraries through a mechanism known as the E-Rate.

It was determined that the E-Rate would be paid for by the savings that would be received by the telecommunication industry as a result of deregulation.

Over the course of this last year and a half, 30,000 schools and libraries across America are seeking to capitalize on this provision in the agreement. They have put tens of thousands of dollars into developing technology plans and applying for the discounts on services they need to give America's school kids access to the information highway. This is an important opportunity to remedy the fact that barely a quarter of America's classrooms have Internet access today.

Through a mechanism that would provide discounts ranging from 20 to 80 percent based on the cost of providing service and the poverty level in the individual community, this access would be provided.

Of late we have seen a certain amount of controversy arise surrounding the FCC and its handling of the new E-Rate authority. I will be the first to admit that there are a host of management and universal service issues. There are concerns, perhaps, about the mechanism chosen by the previous FCC Chair to pursue application approval.

□ 1245

But as evidenced by the recent surcharges that have been imposed by some of the giant telecommunications companies, and the people's reaction to them, there is also some controversy over whether adequate savings have materialized to cover the E-Rate costs or whether phone companies are seeking to recoup costs they have already recovered under deregulation.

I have received and examined information from the FCC that suggests that there are already over $2 billion worth of savings that have been granted to the telecommunications industry with hundreds of millions of dollars more underway; more than enough to offset the proposed $2 billion that is currently in the pipeline of applications from our schools and libraries.

But my concern, Mr. Speaker, is that we cannot let these controversies derail the promise of Internet and the benefits for schools that were approved under the act in 1996.

Mr. Speaker, I am introducing legislation today that would call for a General Accounting Office study on the actual savings and give consumers some truth in billing. It would show how much money has been saved by the telecommunication carriers as a result of these hundreds of millions of dollars in reduction. It would show how much has been passed back through to the consumers, and how much additional cost telecommunications carriers will have to bear, if any, in the implementation of the E-Rate.

In addition, my legislation would require that for those companies that seek to add additional line items to their bills, that these line items reflect the full and the accurate picture of both savings and costs to the carriers as a result of the Federal regulatory actions.

Similar language has already passed in the United States Senate, a part of their antislamming legislation, by a vote of 99-to-nothing.

The complex arguments surrounding implementation of a complex bill are hard for everybody to follow, but it will be lost on the thousands of representatives of our communities who are now operating in good faith to take advantage of what they understood to be a promise to help our schools and libraries.

We cannot end up holding our kids hostage to an intergovernmental dispute. This Congress will end up doing very little for education, the number one priority for most Americans. We must ensure that America's school kids have access to the information resources they need.

NATIONAL MEN'S HEALTH WEEK

The SPEAKER pro tempore (Mr. BALLENGER). Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. FOLEY) is recognized during morning hour debates for 5 minutes.

Mr. FOLEY. Mr. Speaker, I have just returned from Florida and had my usual town hall meeting where we have a chance to discuss issues of the day with our constituents, and one of the things I find myself frequently talking about is health care, the cost of health care, the spiraling cost of health care and its impact on the human spirit and the human condition.

Regrettably, in society, we are spending a lot of time finding ways to spend money after disease onsets the human body. We talk about prostate cancer after the fact rather than PSA tests that could quickly arrest prostate cancer in the early beginning.

I found myself this morning reading a magazine on my flight from Florida, Men's Health, and I see a new nationwide survey reveals that men are not only avoiding important health checks, they are significantly behind women in the awareness of the importance of preventive health care. A nationwide survey conducted for Men's Health Magazine and CNN by Opinion Research Corporation finds that 1 in 10 or approximately 7 million men have avoided getting regular health exams for more than a decade. Over all, slightly more than 15 million men have not had a basic health check in over 15 years.

Let us talk about some of the statistics affecting men's health. An estimated 184,500 new cases of prostate cancer will be diagnosed in 1998. At least an estimated 2.5 million men, or one-third of all men with diabetes, do not even know they have the disease. Despite advances in medical technology and research, the life expectancy of men continues to be an average of 7 years less than women.

Nearly 120,000 men aged 25 to 64 died from heart disease or stroke in 1995. The death rate of men from prostate cancer has increased by 23 percent since 1973. Twenty-seven percent of men will die within one year after having a heart attack.

In 1997, the bulk of government funding for breast cancer research was approximately $332 million; for prostate cancer, $82.3 million. An estimated 39,200 men will die of prostate cancer in 1998. It is the second leading cause of cancer death in men.

Women visit doctors 30 percent more than men do. In 1995, nearly three-fourths of heart transplant patients in the United States were male and over 30 percent of men in the United States are overweight.

Why do I reveal these statistics? Because it is vitally important that America get healthy. One simple change would be encouraging men to take an active role, as women do, in regularly visiting their physician for basic treatment and examinations. The rate of male mortality could significantly be reduced if we would encourage men to seek treatment before symptoms have reached a critical stage.

For example, a good friend of mine, Senator Bob Dole, is alive today because he sought early care for prostate cancer. Others, such as Muppet creator, Jim Henson, and Time-Warner Chair, Steve Ross, waited far too long for medical advice.

Now, in 1994, Congress inaugurated National Men's Health Week, which begins this year on June 15 and culminates on Father's Day, June 21.

Why is it vitally important that men become more aware of their health care needs? First and foremost for their longevity. Secondly, for the quality of life. Thirdly, as we look at the Federal budget and the growth of funding in Medicare and other programs, it is vitally important to rein in the costs of spending. It is much better in society for us to take preventive measures, to look at the healthy aspect of life, to look at ways to prevent the onslaught of disease by doing several things: One, exercise; one, controlling fat intake; one, obviously eliminating smoking as part of one's lifestyle; minimizing drinking. All of these things can be accomplished.

In addition for this week, nongender-specific issues such as heart disease, cholesterol count, blood pressure; specific health issues that deal with men such as stroke, colon cancer, prostate cancer, suicide, alcoholism, and men's fear of doctors, among others, should be focused on.

What will a week's difference make in the scheme of things? What will the difference in June 15 to June 21 yield? Well, when the problems of women's breast cancer and its rising rates became apparent over the past several years, the designation of October as National Breast Cancer Awareness Month enabled a broad collation of health organizations, associations, individual groups and the media to focus on the vital role simple steps such as breast exams can play in preventing this deadly disease. As a result, more women than ever before are taking steps to detect and treat breast cancer in its earlier stages, thereby sustaining their life and preventing the onslaught of a ravaging disease.

By developing an entire week on the broad range of health issues affecting men and ultimately their families, National Men's Health Week attempts to achieve the same positive behavioral changes among men that is already being undertaken by women.

So I urge men to follow the advice, read up on publications, try and exercise in order to preserve their health and, obviously, their family's.

DON HENLEY AND THE WALDEN WOODS PROJECT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas (Mr. LAMPSON) is recognized during morning hour debates for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I want to take a moment to honor a special man, Don Henley. Many of us know Mr. Henley for the numerous hit records that he has produced over the years. He has been recognized countless times for his fine musical achievements.

But today I want to honor Don Henley for something far more than the hit music that he has brought to us over the years. I want to recognize him for the wonderful work that he has done with the Walden Woods project and the Thoreau Institute to preserve the area around Walden Pond. These woods served as an inspiration for Henry David Thoreau's great work, "Walden."

Don Henley was drawn to Thoreau's writings as a high school student growing up in East Texas. He was troubled when he learned that the Walden Woods were threatened in 1989 by two commercial development projects. Plans were underway for the construction of an office complex 700 yards from Thoreau's cabin site and 139 condominiums less than 2 miles from Walden Pond itself.

In 1990, Mr. Henley founded the Walden Woods project, a nonprofit organization focused on the preservation of the land within the Walden Woods ecosystem. The project was able to raise enough money to purchase and to protect 100 acres of the woods, including the two sites slated for development.

Don Henley's work continues as the Walden Woods project has combined efforts with the Thoreau Society to form the Thoreau Institute. On June 5, the Institute was formally inaugurated at the same beautiful landscape that captivated the attention and the appreciation of the great author.

The Thoreau Institute will work to unite interest in saving the environmental riches of the woods with the study of Thoreau's scholarly writing. The Institute aspires to bring Thoreau's writings to individuals around the world.

Last September, Mr. Henley was awarded a National Humanities Medal by President Clinton for his extraordinary work to save Walden Pond. The President noted that the award was given to those men and women who keep the American memory alive and infuse the future with new ideas.

Mr. Henley has always been committed to the goals of preserving our environment and our natural resources. Through his hard work and his dedication, Don Henley has ensured that the legacy of Walden Pond will continue to be an inspiration for generations to come.

SELF-DETERMINATION FOR THE AMERICAN CITIZENS OF PUERTO RICO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) is recognized during morning hour debates for 5 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, 3.8 million American citizens of Puerto Rico are eager to exercise self-determination. We care passionately about our political status and we support congressional measures which call for a referendum, define status options, and provide for the implementation of the status choice that prevails.

Opponents of these bills object to the fact that if a majority of the 3.8 million U.S. citizens vote for statehood, a process might begin which would lead to the islands's full incorporation into the United States as an equal partner. So, some may be wondering what is the problem? What is the problem with having American citizens achieve the right to vote and the right to representation? If my colleagues should ask me, nothing. But some Members of Congress want to impose a supermajority requirement on Puerto Rico if we were to vote for statehood. If they have their way, even if a majority of American citizens in Puerto Rico voted for statehood and only 44 percent voted for Commonwealth, we would remain as a Commonwealth.

Why? Why should the will of a minority decide the relationship of 3.8 million American citizens? Why should a minority keep almost 4 million American citizens disenfranchised and denied the right to participate in their Nation's democratic process?

Mr. Speaker, is the imposition of such a threshold not unprecedented and shameful? Of course it is. It is also undemocratic.

H.R. 856 or S.472 would allow the American citizens in Puerto Rico to exercise their right to self-determination. They would give the American citizens in Puerto Rico an honest choice by providing congressionally approved and constitutionally sound definitions which explicitly detail the privileges and limitation of each of the status options.

In such a contest, statehood most probably would prevail. That apparently is not acceptable for the opponents of Puerto Rican self-determination. They imagine that the voters of all the territories overwhelmingly favored statehood before entering the Union and Puerto Ricans should do likewise.

But that simply is not the case. Most territories never even held referendums on statehood and, in some instances, the progress towards incorporation was advanced or stalled by whether or not the voters accepted their State constitutions. By this measure, voters in Colorado, Wisconsin, and Nebraska were decidedly ambivalent about the prospect of statehood, yet they all became States.

In Colorado's case, Congress passed an enabling act, but the citizens of the territory resoundingly rejected their first State constitution. A second State constitution was drafted and it prevailed by a narrow majority of 155 votes. But that is just the beginning of the story. President Andrew Johnson vetoed two statehood measures because Colorado's constitution differed substantially from the enabling act. Another 9 years passed before Colorado's voters managed to ratify a constitution compatible with` the statehood measure.

Nebraska, for its part, could be nicknamed the reluctant State. Its voters rejected the first proposal floated for a convention to draft a State constitution and were happy to let the matter rest there. But 4 years later, Congress seized the initiative and, without a mandate from territorial residents, passed an enabling act for Nebraska.

□ 1300

The voters wanted nothing to do with it and wasted no time in defeating the second proposal for a State constitutional convention. Two years later, in a referendum which was plagued with irregularities, Nebraskans grudgingly consented to join the Union with statehood prevailing by a mere 100 votes.

Incorporating Texas into the U.S. was a cliffhanger as well. When the Republic of Texas and the U.S. each failed to ratify a treaty of annexation, Congress jettisoned the treaty process. It adopted a different strategy, drawing up a joint resolution for annexing Texas to the United States. Even that almost failed. In the Senate, the resolution squeaked by with just two votes to spare.

Last but not least, all of the States south of the Mason-Dixon line decided to secede from the Union in the 1860s, but they were forced to remain against their will. How can anyone claim that in order for 3.8 million American citizens to be allowed a vote and to become a State or share as partners in equal terms a simple majority is not enough?

Given the historical record, we need to abandon this pretense, this exercise in revisionist history, that this Union was conceived and expanded without thoughtful reservations on the part of all participants. We need to reject unprecedented requirements which are designated to frustrate the exercise of democracy rather than enhance it. We need to extend to the American citizens of Puerto Rico the right to self-determination in the same way it was proffered to all the territories, freely. It is the only fair and just thing to do. It is the right thing to do for Congress and for our Nation.

RECESS

The SPEAKER pro tempore (Mr. BALLENGER). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 2 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. UPTON) at 2 o'clock.

PRAYER

The Reverend Kathleen Baskin, Greenland Hills United Methodist Church, Dallas, Texas, offered the following prayer:

Let us pray:

Most gracious one full of goodness and mercy, justice and righteousness, we know You ache for Your people to be one, as You are one with us. We pray today with a desperate longing for what is wrong in our lives and the life of our global community to be made right.

Children gaze dispassionately upon their distended bellies, and youths strike out unmercifully against family, friends, peers, and we, entangled in our own chaotic lives, struggle fiercely to soothe the world's troubled soul. Instill in us all, most especially in Your faithful servants of this body, the vision, the passion, the commitment to move beyond self-interest and to move toward peace for all Your people.

Thankful for Your confidence in us, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND KATHLEEN BASKIN

(Mr. SESSIONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SESSIONS. Mr. Speaker, today I have been joined by my preacher, the Reverend Kathleen Baskin from Greenland Hills United Methodist Church in Dallas, Texas, and it is especially important for me to be here today with my preacher because, Mr. Speaker, every week when I go home, I am met by those people who are members of the church, who embrace me and my family and offer the very best to me as one of the Members of Congress, and so it is wonderful that she today is a part of that which we get to do to open the House of Representatives today.

Mr. Speaker, I give thanks not only for our heritage and our freedom, but the ability to share my preacher, a woman who speaks from the Bible, the Scripture, and who has abiding faith in our country and in our government.

So I thank you, Mr. Speaker, for allowing Kathleen Baskin and myself to be a part of that which we do today. God bless America, and God bless Texas.

KEEP THE WORKERS AND GET RID OF THE TOP DOGS AND FAT CATS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last year the top dog at Bank One made $9 million. The big barker at Edison Brothers made $5 million. The kennel master at K-Mart made $6 million.

Mr. Speaker, if that is not enough to potty train a Rottweiler, the big Doberman at AT&T made $26 million, and do my colleagues know what he did? He got rid of 23,000 workers at AT&T.

Unbelievable. Big dogs go to the penthouse, American workers go to the dog house.

I think these companies are all screwed up. I think they should keep the workers and get rid of the fat cats at the top.

And listen to this very carefully: I say they can hire CEO's a lot cheaper in Mexico, too. Think about that.

HUMAN RIGHTS ATROCITIES BEING COMMITTED BY BURMESE MILITARY FORCES

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today on behalf of persecuted religious believers in Burma also known as

Myanmar. The Burmese Government engages in horrifying human rights violations against numerous religious and ethnic minorities.

I met a few weeks ago with a group of Christians from Burma. Reports tell of one Karen family which fled Burma after the military forced the husband to help build a pipeline for the UNOCAL and TOTAL oil companies. The husband escaped the forced labor, but soldiers hunted him down, then tortured his wife and seriously burned their 2-month-old baby. The baby died, and the rest of the family fled to refugee camps in Thailand.

This story is not unusual for the Karen and Chin peoples of Burma.

Mr. Speaker, I have photographs which reflect the atrocities committed by the Burmese military forces. The photos show the murder of a Karen man and woman. They are too horrible to describe and show, but if any Member wishes to see them privately, they can come to my office.

Human rights violations like this must not be allowed to continue. I urge the State Peace and Development Council to immediately cease these horrible human rights abuses.

SYRACUSE'S HALL OF FAME LACROSSE COACH ROY SIMMONS, JR. RETIRES

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, I want to bring to my colleagues' attention an important occurrence in the world of collegiate sports and ask that they join me in saluting one of the sport of lacrosse's modern legends. Head coach of Syracuse University lacrosse Roy Simmons, Jr., who followed his father in making SU a national powerhouse in this increasingly popular sport, has announced his intention to retire this year. The entire sports community in Central New York and others across America who love the game of lacrosse recognize the impact of this momentous decision.

Roy Simmons, Jr., was named to the Lacrosse Hall of Fame in 1992. He has coached 140 All-Americans, four national players of the year, five national championship most valuable players, while winning six national championships. The 1990 National Championship team was the first ever collegiate lacrosse team to be invited to the White House, where they met President Bush.

Roy Simmons, the most successful current intercollegiate lacrosse coach, has revolutionized the game and built a program at Syracuse University which is second to none. The fans, the team, the staff will miss his wisdom and humor. We wish him the very best in his retirement.

Thanks for the memories, Slugger.

SCHOOLCHILDREN SPENDING TOO MUCH PRECIOUS CLASS TIME TAKING NATIONALIZED TESTS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, there they go again. The Clinton administration is again attempting to force nationalized tests upon our schoolchildren. Unfortunately the President believes that our students must spend more precious class time taking nationalized tests created by some bureaucrats in Washington who think they know what is best fòr our children.

As a former teacher, instead of testing our children again, we should give them more time to do what they are supposed to do in school, learn. What a novel idea. For the last year and a half, a bipartisan majority of the House and Senate has expressed the will of the people and fought the administration on the creation of national tests. Congress has made it clear to the President that Americans do not want another standardized national test.

Please call the Federal bureaucrats back to their desk and out of the classrooms. Let the parents, teachers and local schools decide how best to test and educate our children.

Local control is still the best control.

URGING THE PRESIDENT NOT TO GO TO TIANANMEN SQUARE

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, last week the world commemorated the ninth anniversary of the Tiananmen Square massacre where an estimated 2,000 unarmed prodemocracy activists were mowed down with machine guns and tanks on the orders from the Communist Chinese dictators. Later this month President Clinton plans to be received by the Beijing regime at that very site.

By doing the dictator's bidding, President Clinton will be disgracing the memories of those oppressed Chinese men and women who only wanted to enjoy the fruits of freedom, freedom that we as Americans take for granted. His presence at Tiananmen will be a setback for that cause and a public relations coup for the tyrants who routinely make a mockery of fundamental human rights.

Mr. Speaker, the United States has long been a beacon of hope for those around the world who long for the freedom that we enjoy. By joining the Communist dictators at Tiananmen, the scene of that horrible, horrible massacre, he will be insulting those throughout the world who aspire to be free.

Do not do it, Mr. President. Do not join the tyrants at Tiananmen Square.

THE CHINESE COMMUNISTS NEVER GIVE MONEY FOR NOTHING

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, you have to look at Missilegate and ask yourself one question: Why? Why would the Chinese Communists give millions of dollars in campaign contributions to the Democrat party and not the Republican Party? What is it that the Chinese Communists want? What is it the Chinese Communist Government, what is their top priority, the one thing they desperately want that the Republicans do not want to let them have? Could it be high technology?

The response from the other side is highly revealing. They say, "Well, Reagan and Bush did it, too," but did the Reagan and Bush administration give waiver authority to the Commerce Department? No. Did the Reagan and Bush administrations have monitoring systems in place to ensure that no technology was used for military purposes? Of course they did. Did the Reagan and Bush administrations take campaign money from the Chinese Communists? Of course not.

And one thing to consider, the Chinese Communists never, never, never give money for nothing.

ADMINISTRATION MUST END POLICY OF SUPPLYING MASS DESTRUCTION TO ANYONE WILLING TO PAY FOR IT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, last weekend a bomb exploded on a Pakistani train. Pakistan in turn immediately blamed India, its longtime adversary, for the death and destruction and vowed revenge. For many Americans now this tragedy makes a potential of a nuclear exchange between Pakistan and India a very, very real occurrence.

But, Mr. Speaker, the most alarming part of this scenario is that this administration and Communist China are responsible for helping both Pakistan and India acquire their nuclear technology that now threatens the peace in our world. Americans are just learning that this administration and its Commerce Department are responsible for selling nuclear weapons and missile guidance technology to China. Then China nearly provided this technology that Pakistan needed for its fledgling nuclear program. Meanwhile U.S. companies like Digital and IBM were playing a huge role in India's advances by supplying them with supercomputers.

Mr. Speaker, this administration has let the fire-breathing nuclear dragon out of its cage. The time has come for this administration to end its policy of promoting and licensing mass destruction to anyone who is willing to pay for it.

PROVIDE FOR THE COMMON DEFENSE

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, the Preamble to the Constitution of the United States says America was established to provide for the common defense. That is the primary obligation of the President as Commander in Chief. But America is vulnerable today to a missile attack from abroad, and unbelievably this is the deliberate policy of the United States: to remain vulnerable to a missile attack.

How can this be? We justify this policy of mutual destruction based upon a treaty with a country that no longer exists. This policy is dangerous, obsolete and wrong. It is also deceptive because most Americans believe we are safe from a ballistic missile attack, although we are not.

It is time to honor our obligation to the Constitution and to the American people by building a missile defense system. We have the know-how, and we have the resources. It is time to act to protect America from a ballistic missile attack.

HARTMAN WIFE HAD DRUGS IN SYSTEM

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, not to detract from next week's Drug-Free Athletes and Role Models Week, but today I must speak directly to the role models of our Nation's youth, and that most certainly includes the Hollywood elite.

The toxicology report is back on the death of actor Phil Hartman, and my colleagues guessed it. Hartman's assailant, his wife, was high on cocaine, other drugs and alcohol when she pulled the trigger ending his life.

☐ 1415

How many more personal and public tragedies must this country endure at the hands of illegal drugs? Phil Hartman's passing, along with the deaths of Chris Farley and John Belushi, are not part of some so-called "Saturday Night Live" curse. These talented people are fatal victims of drug abuse.

As chairman of the Speaker's Task Force for a Drug-Free America, I urge the Hollywood elite to join this Congress in its commitment to win the war on drugs by the year 2002. As we all know, actions speak louder than any laws or any words.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas or nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules, but not before 6 p.m. today.

REGARDING IMPORTANCE OF FATHERS IN RAISING AND DEVELOPMENT OF THEIR CHILDREN

Mr. McINTOSH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 417) regarding the importance of fathers in the rearing and development of their children, as amended.

The Clerk read as follows:

H. Res. 417

Whereas studies reveal that even in high-crime, inner-city neighborhoods, well over 90 percent of children from safe, stable, two-parent homes do not become delinquents;

Whereas researchers have linked father presence with improved fetal and infant development, and father-child interaction has been shown to promote a child's physical well-being, perceptual abilities, and competency for relatedness with other persons, even at a young age;

Whereas premature infants whose fathers spend ample time playing with them have better cognitive outcomes, and children who have higher than average self-esteem and lower than average depression report having a close relationship with their father;

Whereas both boys and girls demonstrate a greater ability to take initiative and evidence self-control when they are reared with fathers who are actively involved in their upbringing;

Whereas, although mothers often work tremendously hard to rear their children in a nurturing environment, a mother can benefit from the positive support of the father of her children;

Whereas, according to a 1996 Gallup Poll, 79.1 percent of Americans believe the most significant family or social problem facing America is the physical absence of the father from the home and the resulting lack of involvement of fathers in the rearing and development of their children;

Whereas, according to the Bureau of the Census, in 1994, 19,500,000 children in the United States (nearly one-fourth of all children in the United States) lived in families in which the father was absent;

Whereas, according to a 1996 Gallup Poll, 90.9 percent of Americans believe "it is important for children to live in a home with both their mother and their father";

Whereas it is estimated that half of all United States children born today will spend at least half their childhood in a family in which a father figure is absent;

Whereas estimates of the likelihood that marriages will end in divorce range from 40 percent to 50 percent, and approximately three out of every five divorcing couples have at least one child;

Whereas almost half of all 11- through 16-year-old children who live in mother-headed homes have not seen their father in the last twelve months;

Whereas the likelihood that a young male will engage in criminal activity doubles if he is reared without a father and triples if he lives in a neighborhood with a high concentration of single-parent families;

Whereas children of single-parents are less likely to complete high school and more likely to have low earnings and low employment stability as adults than children reared in two-parent families;

Whereas a 1990 Los Angeles Times poll found that 57 percent of all fathers and 55 percent of all mothers feel guilty about not spending enough time with their children;

Whereas almost 20 percent of 6th through 12th graders report that they have not had a good conversation lasting for at least 10 minutes with at least one of their parents in more than a month;

Whereas, according to a Gallup poll, over 50 percent of all adults agreed that fathers today spend less time with their children than their fathers spent with them;

Whereas President Clinton has stated that "the single biggest social problem in our society may be the growing absence of fathers from their children's homes because it contributes to so many other social problems" and that "the real source of the [welfare] problem is the inordinate number of out of wedlock births in this country";

Whereas the Congressional Task Force on Fatherhood Promotion and the Senate Task Force on Fatherhood Promotion were both formed in 1997, and the Governors Fatherhood Task Force was formed in February 1998;

Whereas the Congressional Task Force on Fatherhood Promotion is exploring the social changes that are required to ensure that every child is reared with a father who is committed to be actively involved in the rearing and development of his children;

Whereas the 36 members of the Congressional Task Force on Fatherhood Promotion are promoting fatherhood in their congressional districts;

Whereas the National Fatherhood Initiative is holding a National Summit on Fatherhood in Washington, D.C., with the purpose of mobilizing a response to father absence in several of the most powerful sectors of society, including public policy, public and private social services, education, religion, entertainment, the media, and the civic community;

Whereas both Republican and Democrat leaders of the House of Representatives and the Senate will be participating in this event; and

Whereas the promotion of fatherhood is a bipartisan issue: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that the creation of a better America depends in large part on the active involvement of fathers in the rearing and development of their children;

(2) urges each father in America to accept his full share of responsibility for the lives of his children, to be actively involved in rearing his children, and to encourage the academic, moral, and spiritual development of his children and urges the States to aggressively prosecute those fathers who fail to fulfill their legal responsibility to pay child support;

(3) encourages each father to devote time, energy, and resources to his children, recognizing that children need not only material

support, but more importantly a secure, affectionate, family environment; and

(4) expresses its support for a national summit on fatherhood.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 417 expresses the importance of fathers in the rearing and development of their children. This is a bipartisan measure and has the support of both the majority and minority leaders.

I am very pleased to have the opportunity this afternoon to move this resolution forward. Perhaps the committee selected me to move this forward because I am a recent father. Elizabeth Jenkins was born into our household last fall on October 23, and Ellie, as Ruthie and I have been calling her, is the source of unending joy for me and for my wife, and I share that joy with all of my colleagues who I know are also fathers, and it has meant a great deal to me.

I hope today by this resolution to be able to share some of the sense of joy and importance of fathers in rearing our children, because it should be alarming to all of us that half of the children born today are likely to spend half of their childhood in a family in which a father figure is absent. We should be especially alarmed when study after study shows new evidence of the negative impact of an absent father on children.

I would like to highlight one study in particular, a recent study that was released last October by the Department of Education's National Center of Education Statistics. This study, entitled "Father's Involvement in Their Children's Schools," found that a father's involvement, whether in a two-parent family, a single-father family, or a nonresident family had a very positive impact on the children.

Specifically, this involvement increased the likelihood of their children getting mostly A's in schools, reducing the likelihood of their having to repeat a grade, and reduced the chance of being suspended or expelled from school. These associations remained even after controlling for other factors, such as the parents' education level, household income or the mother's involvement.

The fact is, a strong father's presence can improve both fetal development and infant development, promote physical well-being, and increase the ability of children to get along with each other. Conversely, the lack of a strong father figure presents an increased likelihood of delinquency and criminal behavior when the child is grown.

Social scientists are not the only ones who realize this. A 1996 Gallup poll found that nearly 80 percent of Americans, 80 percent of Americans, believe the most significant family or social problem facing America is the physical absence of the father from the home and the resulting lack of the involvement of that father in the rearing and development of their children.

Last year the leadership recognized this as well, and, with that leadership, they appointed a Task Force on Fatherhood Promotion led by the gentleman from Pennsylvania (Mr. PITTS), the gentleman from North Carolina (Mr. MCINTYRE), the gentleman from California (Mr. ROGAN) and the gentleman from Texas (Mr. TURNER). This congressional task force was formed, along with a similar task force in the Senate, as well as one by the national Governors.

One of the main goals of these groups is to highlight the importance of fatherhood, to explore the social changes that are required and to ensure that every child, every child in America, is raised with a father who is committed to that child, who will be actively involved in the rearing of that child and be involved in the development of that child.

On June 15, the National Fatherhood Initiative will hold a summit. It is a National Summit on Fatherhood here in Washington, D.C. The purpose is to mobilize a response to the problem of absent fathers. It will mobilize this response in several of the most important sectors in our community, the most powerful sectors in our society, including the public policy sector, private and public social services, education, religion, entertainment, the media, and the civic community.

This resolution that we have before us today was first introduced to the House by the gentleman from Pennsylvania (Mr. PITTS) and others who want to express support for such a summit. This resolution goes on to state that the House of Representatives, one, recognizes the creation of a better America depends in large part on the active involvement of fathers in the rearing and development of the children; two, it urges each father in America to accept his full share of responsibility for the lives of his children, to be actively involved in rearing the children and to encourage the academic, moral, and spiritual development of his children; and, thirdly, it encourages each father to devote time and energy and resources to his children, recognizing that children need not only material support, but, more importantly, the love of both parents, who provide an affectionate family environment.

I would also note that during consideration of this resolution by the Committee on Education and the Workforce, an amendment by the gentleman from Tennessee (Mr. FORD) was unanimously accepted by the committee. This amendment added a clause urging the States to aggressively prosecute those fathers who failed to fulfill their legal responsibility to pay child support. I note that this amendment and modification is entirely consistent with the Deadbeat Fathers Punishment Act of 1998, which passed the House in May by a vote of 412 to 2.

In closing, I would like to commend the gentleman from Pennsylvania (Mr. PITTS), the gentleman from Tennessee (Mr. FORD) and all the members of the Task Force on Fatherhood Promotion, the majority and minority leadership and others involved for their efforts in this area. I urge my fellow Members to support this important resolution as we bring it to the House floor today, and, hopefully, we will have a unanimous vote in favor of it.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate my colleague, the gentleman from Indiana (Mr. MCINTOSH), on the birth of his first child. The committee selected him because he was a new father, I guess they selected me because I am an old father, being the father of 5 children, the grandfather of 14 children, and the great-grandfather of 2 children.

I can tell the gentleman that he has got a lot to look forward to, especially when those children just before his eyes grow into adults, get married, and have children of their own. That is the greatest time, because you get to take your grandchildren and spoil them and send them home to their parents to run their parents crazy.

Mr. Speaker, this resolution and this topic, the importance of fathers in the raising and the development of their children, is extremely important. The role of the father in the family has been one of the more prominent issues to gain public attention in recent years.

Too many of our children are growing up in families which do not have the benefit of a father. In fact, the percentage of children growing up in a home without their father nearly tripled between 1960 and the early 1990s. Today, over 24 million American children are living without their biological fathers.

Most importantly, fatherless homes have a devastating impact on our children. National research tells us that without a father, children are four times as likely to be poor, twice as likely to drop out of school, et cetera. Fatherless children also have a higher risk of suicide, teen pregnancy, drug and alcohol abuse, and delinquency.

Clearly, the important role that fathers play in the development of their children cannot go unnoticed. Unfortunately, the issue of absentee fathers is not restricted to those who do not pay child support, or "deadbeat dads," as they are commonly referred to. Many fathers are tragically caught between their duties at work and their responsibilities to their families. The problems encountered by today's families are not limited to deadbeat dads. Today's families are also hampered by dead-tired dads, who want to be there for their children but do not have the time.

In closing, I want to say I am encouraged by the work of the Congressional Fatherhood Promotion Task Force. Their efforts, throughout this resolution and other activities, have begun to center attention on this very important issue. I believe this resolution sends a strong message which all Members should support. I certainly do.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINTOSH. Mr. Speaker, I yield such time as he may consume to the gentleman from Penhsylvania (Mr. PITTS), the author of this resolution.

Mr. PITTS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to join my colleagues today to reiterate the importance of fatherhood in this country. As one of the cofounders of the bipartisan Congressional Task Force on Fatherhood Promotion, I am pleased to recognize the significance of this resolution.

Today, Members of Congress will commit to promoting the role that faithful, dedicated fathers play in the development of our young people and, indeed, of our Nation; and, how timely, for it is again that time of year when we honor our dads. In two Sundays, we will celebrate Father's Day, a day to acknowledge the special place which dads hold in our hearts, and recognize dad's role as father, husband, teacher, provider, care-giver, and friend.

Although every American has a father, not every American has a dad, one whom they know, love, spend time with and trust. Because of this fact, our country has suffered.

The United States is now the world's leader in fatherless families. This has taken its toll in our society, when you need no longer talk about the Dan Quayle versus Murphy Brown debate. And we have a litany of statistics supporting the position that a family unit with mother and father is an ideal environment for our children.

The realities are staggering. Four in ten children who go to bed tonight will sleep in a home in which their fathers do not reside. Overall, nearly 2.5 million children will join the ranks of the fatherless this year. This is a sad commentary. We must each be committed to bringing this to an end.

But this is not just about fatherlessness. We as a society must work to elevate the importance of fathers who value their commitments. Men across America struggle to be good dads. Many of us are co-laborers in this struggle. This is why we as elected officials must be the ones to lead by example, to take up the bully pulpit in order to effect change in this spirit of this country.

Through the events of the Congressional Fatherhood Promotion Task Force, we have sought to heighten the discussion of responsible fatherhood and emphasize the importance of fatherhood in neighborhoods and in community forums across the country.

Working with the National Fatherhood Initiative, we are looking forward to the National Summit on Fatherhood next Monday. Leaders from across the country, from the highest levels of government here in Washington to sports figures such as Evander Holyfield, Michael Singletary and entertainment celebrities such as actor Tom Selleck, all will gather to honor the role of the father and to turn our momentum to action. We will gather at the J.W. Marriott next Monday for this fatherhood summit. All Members of Congress have been invited to take part in this event, and I hope many of them will come.

The time has come for fathers to take hold of and be proud of their role as dad. In the words of filmmaker John Singleton, "Any boy can make a baby; it takes a man to raise a son." The choice to place children above others is a noble one, and one which we as a society must recognize and reward.

Mr. Speaker, I urge my colleagues to support this resolution. In doing so, together, we can commit to promoting an office above all others in this country, that of the father.

Mr. Speaker, I would like to read the comments of the testimony that heavyweight champion Evander Holyfield recently gave to the Subcommittee on Early Childhood, Youth and Families of the Committee on Education and Workforce.

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He said, "I, Evander Holyfield, did not meet my father until I was 21 years of age. I missed the advice, the guidance, and time that only a father can give. However, thanks to my mother, Annie Laura Holyfield, and my coach at the Warren Boys' Club in Atlanta, Carter Morgan, I was given the faith, determination, and perseverance that helped make the boy into the man and father I am today.

"Perhaps the absence of my own father, but the presence of a strong and moral father figure in my childhood has helped me realize how important fatherhood is. In fact, being an active and caring father to my sons and daughters is just as important as being the three-time heavyweight champion of the world."

His wife spoke, and, finally, they said this: "As father and mother to our children, even with the time constraints of our careers, we realize the importance of quality time with our children. Not only is this our obligation as parents, but it is also one of our greatest sources of joy. We especially stress the areas of faith and education with our children. We love them; and loving children requires not just good intentions and feelings, but also time and attention.

"We reiterate our strong feelings about this important issue. And with God's guidance and help, we will do our part in encouraging and elevating the status of fatherhood in America."

Mr. MCINTOSH. Mr. Speaker, I would ask the Chair how much time is remaining on each side.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Indiana (Mr. MCINTOSH) has 8 minutes remaining. The gentleman from California (Mr. MARTINEZ) has 17½ minutes remaining.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR), the minority leader.

Mr. BONIOR. Mr. Speaker, I thank my friend from California for yielding to me.

First of all, Mr. Speaker, let me commend the gentleman from Pennsylvania (Mr. PITTS) for this resolution, also the gentleman from Texas (Mr. TURNER), the gentleman from North Carolina (Mr. MCINTYRE), and others who have worked on this, the gentleman from California (Mr. MARTINEZ), and others on this side of the aisle, the gentleman from Indiana (Mr. MCINTOSH) who care about this issue.

The life of a child, it goes without saying, is so critical and so important. Nobody can replace a father in the life of a child, nobody. Fathers are role models, and they are teachers, and they offer, as the gentleman from Pennsylvania mentioned in his comments by Mr. Holyfield, they offer the most important ingredients that a child could have in their childhood: love; guidance; encouragement; discipline, which is so critical, it would carry with a child throughout his or her life; wisdom; and, yes, inspiration.

Fatherhood is a responsibility, perhaps one of the greatest responsibilities, in a man's life. It is also one of the greatest joys that a man can have, along with the bumps along the way in raising a child, the joy of having the input, giving the love, providing the guidance, providing the inspiration, the encouragement when it is needed. These are all so very important in a child's development.

Mr. Speaker, America needs strong families, and America needs strong fathers. This resolution has been long in coming, and I am so proud of the fact that Members have decided to raise this issue to a higher level in the country today.

Congress recognizes the important role fathers play and honors fathers for their contribution. So it is with great pride that I rise today to thank my colleagues for offering this resolution, for recognizing fatherhood, for setting aside a day in which we can, as a community, come together and recognize the great values that emanate from fatherhood.

We sometimes talk about a lot of different issues in this institution, and we sometimes forget some of the very basic fundamental bedrock issues on which the others are built upon. Fatherhood is one of them. I am just very happy to be able to share some thoughts on this today.

I thank my colleagues for their leadership in this, and wish the event that will take place much success, and wish those who have put this together and who are trying to make sure that fatherhood is respected in this country and is honored. I thank them for their efforts.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Mr. Speaker, I rise today as an original cosponsor of House Resolution 417, which recognizes the importance of fathers in the rearing and development of their children. This resolution makes it clear that a better America depends on a better job at home, a more active, positive role model of our fathers in the rearing and development of their children, and honoring those who do. This resolution also calls on fathers to continually accept their fair share of responsibility in rearing children.

I am grateful for the example of love and leadership that my father has provided me throughout the years in the church and the community, and in civic, recreational, and political activities as well.

I am also grateful for the many wonderful loving gifts of time, talent, and treasure that my mother has given me in my life. And how appropriate it is for me to have this opportunity to say "thank you" to them as they celebrate the beginning of their union fifty years ago tomorrow, June 10th, when they have their golden wedding anniversary.

As one who served both as a charter member of the North Carolina Commission on the Family and a charter member of the North Carolina Commission on Children and Youth, I have looked at several legislative studies, considered several proposals.

I am excited today to think that here in the United States that we are giving this long-taken-for-granted role that the father plays, a much emphasized one, that we can honor fathers and encourage fathers to fulfill that important role in the lives of children.

This resolution emphasizes that family, faith, and future are the critical ingredients to the success of fathers here in America. First, unfortunately, the family often takes a back seat in many fathers' lives. Society itself has created an atmosphere in which job demands, commitments to various organizations and groups, and ambition often precede the responsibility at home.

The number of men who complain that work conflicts with family responsibilities has risen from 12 percent in 1977 to a staggering 72 percent in 1989. Other surveys show that 74 percent of fathers who live with their children prefer a "daddy track" job to a "fast track" job. Other studies show that positive father figures in the home clearly help reduce teen crime, reduce the dropout rate, and help reduce teen pregnancy.

Second, in addition to family, we, as Americans, must have faith that fatherhood can bring positive change to society. That is why, as cochairman of the Fatherhood Promotion Task Force, along with my colleagues here today who have spoken, and as a father of two boys, support efforts to make fathers a more positive influence in their children's lives.

Through a bipartisan effort such as you are witnessing right here before your eyes today, we can help focus national attention on the importance of the father in the home, or, where there may not be a father in the home for whatever reason, a positive male adult role model that can help fulfill that role. One step in this pursuit is H. Res. 417.

Third, with family and faith, we can work toward a better future for our children and for our country. This resolution sends an important message to America that the U.S. House supports fatherhood and the upcoming National Summit on Fatherhood to be held right here in Washington next Monday, June 15.

This resolution and the National Summit on Fatherhood can be just a beginning in mobilizing our society toward a positive and constructive response to the absence of fathers in home life.

I urge my colleagues to support this measure and to join me and to join all of us in the call for a positive force of fathers in the families, the faith, and the future of America.

Mr. MCINTOSH. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, the gentleman from Texas (Mr. DELAY) hoped to be able to make it, but is not able to be on the floor right now to endorse this resolution. I know how devoted a father he is. In fact, when I first came here, he shared with me how he had a special line put in for his daughter, that was only her number, that she could reach him in his office at all times.

He wanted to point out that oftentimes our government undermines the place of fathers in our society. When fathers abandon their families, our society does begin to break down. Fatherless children are five times more likely to be living in poverty. Violent crimes are committed overwhelmingly by males who grew up without fathers, 60 percent of America's rapists, 72 percent of adolescent murderers, and 70 percent of long-term prison inmates.

This chart here shows some of those statistics that were put together by the fatherhood initiative on the problems for children in broken homes.

It is also bad for the parents, by the way. If there are broken homes, it is likely the father will be more likely to suffer from respiratory diseases, more likely to have poor health and shorter life expectancy.

So the studies show time and time again what all of us know in our hearts, that a family that is intact, a father loving his children is the best for all of us, but certainly for those children to be raised, as many of the speakers on both sides of the aisle have said, knowing that the love of their father is there to sustain them through those troubled times that we all have in our lives.

One last thing in this 2½-minute segment, I wanted to share with my colleagues my favorite picture of my daughter and me that my wife took. She often will fall asleep on my chest. The knowledge that I have, that I have to protect and provide for her is an awesome responsibility. I would like to just encourage all of my colleagues here and all of those who are fathers around the country watching today never give up on that responsibility, because it will be a source of love and joy for you the rest of your lives.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I rise today in strong support of American families, American fathers, and House Resolution 417.

As a father of four children, two boys and two girls, and a former youth baseball, basketball, and softball coach, someone active in Boy Scouts, a former juvenile judge, I believe that investment in our children is the finest and best investment that we can make in the United States of America to secure the future of this country.

In today's society, a strong father figure is necessary. It is more important than it ever has been in the history of our country. Our children are faced today with many difficult choices, choices that I did not have to make as a young man, and choices that our parents did not have to make as young people.

If they are to make the right choices and grow up to be strong, productive, moral citizens of this country, they need good and strong role models with whom they can identify. They need strong fathers. These models can be teachers, they can be preachers, they can be business leaders. They can be community leaders. They can be Members of Congress.

But now, more than ever, children need their parents and need their families. Children look most often to their parent. Many times even now when I have decisions to make in life, I look back and think, what would my mom and dad do? My dad gave me the one piece of advice that I take with me day in and day out and always will. My father told me, "Do right." Do right. That is what I try to do.

Right now the United States is the leader in fatherless families. That is a tragedy. And 30 percent of our families are single-parent families. That does not speak well for the future. It is a disgrace.

Next week Washington will welcome the National Summit on Fatherhood. The theme this year is moving from rhetoric to action. The issue is too important for us simply to pay lip service to it. We have to put our action, we have to put our money where our mouth is.

Now more than ever we need a national strategy to create effective solutions to the problems of a lack of leadership in American families. This gathering of civic, business, religious, philanthropic governmental and cultural leaders should be just the catalyst we need to begin the discussion and to begin the strategy in this country.

I urge all of my colleagues to support this. Support the American families. Support our fathers. Fathers in the Congress, let us take responsibility and work for H. Res. 417.

Mr. MCINTOSH. Mr. Speaker, we have one more speaker on our side, and I would like to recognize him now. He is a freshman colleague of mine and also a father of four boys, who is expecting his fifth child sometime later this year.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in strong support of the resolution recognizing the importance of fathers in America and also recognizing the hard and good work of the gentleman from Indiana (Mr. MCINTOSH). My wife is a godmother of the gentleman's recent new addition to his family, to his daughter, and we proudly celebrate that.

As the gentleman mentioned, I am the father of four boys, four boys, ages 8, 6, 4 and 2; and we have just learned recently that the fifth is coming. This is my first public announcement of that good news, and so we are looking forward to maybe finding a little girl, maybe, somewhere in our house.

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Today I rise first to recognize the role of my father and grandfathers in my life, not because it is unique to me, but it is because of what fathers and grandfathers have offered this country over our proud history. They taught me leadership and discipline. They showed me what sacrifice and service means. They showed me commitment and integrity to faith and to community. They have given me the role model and the example and the path to follow.

As we approach Father's Day, I want to first recognize the role of my own father and my grandfather, one who was a farmer and one who was a high school principal and teacher and dean of men, and the role they played in my life.

My grandfather was committed to his wife, to his community, and to his church. He taught me what hard work meant and the joy of it. My father, who is now a Federal judge, taught me about public service. He is now the proud grandfather of 14 grandchildren, all under the age of 11. So with Father's Day coming, I thank them.

As we ask ourselves, what is the importance, what is the role of fatherhood in our country, let us put it in context. Let us put it in perspective. With the recent news of India and Pakistan and the possible escalation of the nuclear arms race, we say that that is a great threat to our security. We need to prepare for it and provide the resources, whatever it takes to defend ourselves in the future.

But I say, the greatest threat to our security is the loss of fathers in the home, and the lack of men stepping up and taking on the responsibility of being at home to teach and to provide for the well-being of their family.

As we look at education today, the greatest indicator of whether we will have educational success or failure goes back to the home and the role of the father being there. Violence and drugs are again tied back to the breakdown of the family, the loss and the lack of the male role model, of men and fathers being there; poverty.

Again, everything that we see facing our Nation, the greatest threats to our Nation, the greatest risk that we have, the greatest single determinant, the greatest factor that goes back to time and time again is whether men have accepted their role and have stepped up to the plate and assumed their responsibility. They have made a commitment and they have kept it.

Our challenge today is to call all men to assume their role, their responsibility in their home to be good husbands and to be good fathers. More important than anything we can do in this place, in Congress, is what happens in the home and what happens in the House, what happens with our families.

As the gentleman from Oklahoma (Mr. J.C. WATTS) said, the most important title to him is not Congressman, but daddy. There is no title, there is no position greater; the President of the United States, congressman, teacher, doctor, lawyer, whatever your title may be. The highest honor and the greatest obligation and responsibility, the greatest joy, is being called daddy and playing the role, and accepting the responsibility of being a good father.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will close by saying this is a resolution, as we have heard from people who are fathers and potential fathers, on how important the role of a father is. I think we simply have to look at the environment in which we live, where there are fatherless children, and those children usually run afoul of the law and have some kind of problem. We generally do not find that in a home where a father is present.

I was raised with a family of 10 children, but that important ingredient we had in our home to make our lives a success was our father being there for us in our time of need. I would simply say to all of my colleagues, this is a resolution that should get a unanimous vote.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINTOSH. Mr. Speaker, I yield myself such time as I may consume.

Let me first say, Mr. Speaker, I appreciate the gentleman from California and all of the speakers on the Democratic side who have been wonderful supporters of this resolution. It truthfully is a bipartisan effort.

Second, a very quick point, some people have asked me, what about the mothers involved? Of course, mothers are critical to the raising of our children, rearing of our children. I know I could not do it without my wife, Ruthie. And I know how much my mother meant to us, because, in fact, my father died when I was only 5 years old, and she had to serve both the role of mother and father in our family.

But I think everyone knows that all of us in my family and every family where they may not have an ideal circumstance, we truly wished my father could have been there and been with us. What we are trying to say in this resolution is, to the fathers of America, do all you can to be there, to love your daughters, love your sons, and be a great father to them.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Indiana (Mr. MCINTOSH) that the House suspend the rules and agree to the resolution, H. Res. 417, as amended.

The question was taken.

Mr. MCINTOSH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. McINTOSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 417.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERSONAL EXPLANATION

Mr. HOYER. Mr. Speaker, on Thursday, June 4, 1998, during the consideration of House Joint Resolution 78, I apparently voted contrary to my intent on one part of the amendment offered by the gentleman from Georgia.

I correctly voted "no" on the second part of the amendment, but thinking and intending to vote "no" on the first part, I apparently made a mistake and pushed the wrong button, and inadvertently voted "yes" on rollcall 198. I was shocked and disbelieving, Mr. Speaker, to discover my unintended vote of "aye" on the first part of the amendment, which would have stricken the reference to, and I quote, "acknowledge God in our Constitution" and replaced it with "freedom of religion." I did not and do not support that proposal.

As I said in my statement, Mr. Speaker, on House Joint Resolution 78, ". . . we do need to stress that faith in God and raising our voices in prayer continues to be one of the most important things that Americans can do." Mr. Speaker, the right to acknowledge one's God was fundamental to the founding of this great country. Indeed, the Founding Fathers acknowledged God as the source of our unalienable rights of life, liberty, and the pursuit of happiness.

SENSE OF HOUSE REGARDING FINANCIAL MANAGEMENT BY FEDERAL AGENCIES

Mr. HORN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 447) expressing the sense of the House of Representatives regarding financial management by Federal agencies, as amended.

The Clerk read as follows:

H. RES. 447

Whereas financial audits are an essential tool to establish accountable, responsible, and credible use of taxpayer dollars;

Whereas Congress needs such information to accurately measure performance of Federal agencies and distribute scarce resources;

Whereas Federal agencies should meet the same audit standards with which such agencies expect State and local governments, the private sector, and Federal contractors from which such agencies purchase goods and services to comply;

Whereas sections 331 and 3515 of title 31, United States Code (as enacted in section 405 of the Government Management Reform Act of 1994 (Public Law 103-356; 108 Stat. 3415)), require that Federal agencies prepare annual financial statements and have them audited, and that the Secretary of the Treasury prepare a consolidated financial statement for Federal agencies that is audited by the Comptroller General;

Whereas the enactment of these provisions resulted in the first time ever that the financial status of the entire Federal Government was subjected to the same professional scrutiny to which many who interact with the Federal Government are subject;

Whereas section 3521 of title 31, United States Code, requires that the audit follow the Generally Accepted Government Auditing Standards, which incorporate the common, private sector guidelines of the American Institute of Certified Public Accountants Statements on Auditing Standards;

Whereas Congress intended these audit requirements to provide greater accountability in managing government finances by improving financial systems, strengthening financial personnel qualifications, and generating more reliable, timely information on the costs and financial performance of government operations;

Whereas the data found in the financial reports was not sufficiently reliable to permit the General Accounting Office to render an opinion on the Government's financial statements;

Whereas only 2 of the 24 Federal agencies required to submit reports have reliable financial information, effective internal controls, and complied with applicable laws and regulations;

Whereas the financial statements of the Department of Defense could not be relied on to provide basic information regarding the existence, location, and value of much of its $635,000,000,000 in property, plant, and equipment;

Whereas the Department of Defense could not account for 2 utility boats valued at $174,000 each, 2 large harbor tug boats valued at $875,000 each, 1 floating crane valued at $468,000, 15 aircraft engines (including 2 F–18 engines valued at $4,000,000 each), and one Avenger Missile Launcher valued at $1,000,000;

Whereas inaccurate or unreliable data, such as the findings that 220 more tanks, 10 fewer helicopters, 25 fewer aircraft, and 8 fewer cruise missiles existed than those reported in the system of the Department of Defense, harms deployment activities;

Whereas the Department of Housing and Urban Development spends $18,000,000,000 each year in rent and operating subsidies, with $1 of every $18 being paid out unjustifiably;

Whereas financial management is so poor within Federal credit agencies that the true cost of the Federal Government's loan and guarantee programs cannot be reliably determined;

Whereas the Federal Aviation Administration's records regarding $5,500,000,000 in equipment and property are unreliable, including $198,000,000 in recorded assets that no longer exist, $245,000,000 in spare parts that were omitted from the financial statements, and $3,300,000,000 in works-in-process that could not be verified;

Whereas the Forest Service lacks a reliable system for tracking its reported 378,000 miles of roads;

Whereas the Medicare program identified an estimated $20,300,000,000 worth of improper payments in fiscal year 1997;

Whereas the Social Security Administration has identified $1,000,000,000 in overpayments for fiscal year 1997;

Whereas the Department of the Treasury recorded a net $12,000,000,000 "plug" recorded as "unreconciled transactions", made up of over $100,000,000,000 of unreconciled, unsupported transactions, to make its books balance; and

Whereas the disclaimers, mismanagement, and poor recordkeeping in the Federal Government expose taxpayers to continued waste, fraud, error, and mismanagement, and provide inadequate information to Congress for budget, appropriations, and reauthorization decisions: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the first-ever Governmentwide financial audit demonstrated serious concerns with financial management by the majority of Federal agencies;

(2) current efforts with respect to financial management by all too many Federal agencies have failed; and

(3) therefore, Congress must impose consequences on Federal agencies that fail their annual financial audits and conduct more vigorous oversight to ensure that Federal agencies do not waste the tax dollars of the people of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentleman from Ohio (Mr. KUCINICH) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, on April 1, 1998, the Subcommittee on Government Management, Information, and Technology held a hearing on the first ever audit of the United States government. We were presented with the consolidated government-wide financial statements issued March 31, 1998.

The Democratic 103rd Congress, in which I was a freshmen, enacted this law on a bipartisan basis in 1994. As a result of this audit, we found the Federal Government could not balance its books. That is why we gave them 5 years to do it way back in 1994. In fact, the information in the financial statements was so poor that the auditors were not able to determine the adjustments necessary to make the information reliable.

For the first time, however, Congress was provided a concise accounting for the many financial management problems faced by the executive branch of the Federal Government. This report, by the General Accounting Office, the audit arm of the legislative branch known as the GAO, confirmed that at least tens of billions of taxpayers' dollars are being lost each year to fraud, waste, abuse and mismanagement in hundreds of programs throughout the executive branch.

Government financial management is largely in disarray in some departments. Its financial systems and practices are obsolete and ineffective, and do not provide complete, consistent, reliable, and timely information to either congressional or presidential decision-makers, let alone to agency management, which is responsible for the implementation of these various programs.

The GAO report provided a synopsis of the significant weaknesses in the financial systems: problems with fundamental recordkeeping and incomplete documentation. There were weak internal controls, including weak computer controls. These structural problems then prevent the executive branch from accurately reporting a large portion of its assets, its liabilities, and its expenses.

According to the General Accounting Office, "These deficiencies affect the reliability of the consolidated financial statements and much of the underlying financial information." More important, "These problems also," said the GAO, "affect the government's ability to accurately measure the full cost and financial performance of programs, and effectively and efficiently manage its operations."

Looking at some of the charts here, the subcommittee released the first report card measuring the effectiveness of the financial management at 24 Federal agencies, which were required over a 5-year period to prepare financial statements and have them audited. The grades were based on reports prepared by the various agency Inspectors General, independent public accountants, and the General Accounting Office.

The report card is a gauge for Congress to see where attention is needed to push agencies to get their financial affairs in order. A few agencies, most notably the Department of Energy and the National Aeronautics and Space Administration, demonstrated that they could effectively manage their finances.

However, these agencies were the exception, rather than the rule. Six other agencies earned commendable Bs. Eleven of the 24 agencies, 46 percent, were not able to meet the March 1 reporting date in the Act. That is 5 months after the close of the Federal fiscal year.

As of today, four laggard agencies, the Department of Agriculture, the Department of Education, the Federal Emergency Management Agency, the Department of State, have yet to submit audited financial statements. The Federal fiscal year ended 8 months ago.

Many other agencies could not pass muster. The Agency for International Development, the Department of Defense, the Department of Justice, the Office of Personnel Management, they all received Fs. Two more agencies that reported late, the Department of Commerce, Department of Transportation, also wound up with Fs. Another six agencies failed at the D level.

Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin (Mr. NEUMANN), the author of this resolution, one of the most fiscally conservative and fiscally articulate Members of this body, and one of the handful of us who have spoken on the unfunded liabilities facing the Federal Government. The gentleman from Wisconsin looked at a lot of these documents and drew up the resolution we have before us today.

Mr. NEUMANN. Mr. Speaker, I rise today to talk about this because I come from the private sector. In the private sector, for our business, our small business, we literally had to go through an audit every year, so I come into this looking at it with some private sector experience. I bring with me the standards and the expectations that were required of us in our business in the private sector.

I have to say, after a brief review of this, it becomes very apparent that the management here in the government is set by an entirely different set of standards than what was expected of us out in the private sector. I would like to explain exactly how an audit works, so it is clear what has happened here in this audit.

What happens in an audit is the auditors come in and look at all of the assets and the financial statements, and where the money went in a given agency. So, for example, if you are the Forest Service, you would look for a list of all the roads that were controlled and managed by the Forest Service, and where they spent their $3.4 billion in the Forest Service management. So you would take this whole list of things and then go into it and pull a couple of the things out. You would go looking for them.

Let me give another example. In the military, for example, in the Navy, they went looking for 79 ships. 79 ships they went looking for.

□ 1500

Out of the 79 ships they went looking for, they found out that in fact they could not find 21 of them. Twenty-one out of 79 they could not find. I am in the home building business and when they did an audit in my company, I gave them the list of all the lots we were working with and all the houses we had built and all the money I spent on a given house, all the money we took in on a given house. We had to give our auditors that and they would pull those records on a particular house out of 120 homes that we were building in a given year. They might pull out three or four or five and see if the money that we said we spent to pay for drywall, for example, we actually had a check that we could document that we spent that money.

No, in the private sector if one fails an audit, effectively the bank shuts the business down and the company goes out of business. The businessman must go find something else to do. That is what happens in the private sector.

Our purpose for being here today is to, number one, disclose the results of this audit; and, number two, disclose how different the standards are that are being applied here in the government and what is happening here; and three, to make sure that we start doing something about the mess that has been created.

Mr. Speaker, I have brought a few pictures with me to help make this clearer. When the Navy went looking for these 79 ships, they found out they were missing tugboats. I think that is important. We are not talking about rubber duckies in the bathtub. We are talking about the tugboats, for heaven sakes, that the Navy has on their list that was not available when they went looking for it.

Another thing the Navy went looking for, they went looking for these two skiffs. These things are supposed to be out there. They are not there. They are on their list, they say where they are, they say they are supposed to be available. They are not there.

So when we go looking for 79 ships on the inactive list and 45 on the active list, 21 of the 79 could not be found. But think about this for a minute. On the active available military ships, 2 out of 45 were not available. That is to say if we were to go to some sort of a military conflict, assuming that these ships are available to move troops around or to do whatever they might do, 2 out of 45 could not be found.

I have some more examples here. As I go to the Air Force, and I go to this one that I think is very, very important, they went looking for missile launchers. In fact, they found out they could not find this particular missile launcher. Now, since the audit has been completed, they believe they have found the missile launcher. But the facts are when the time came for the auditors to go looking for this missile launcher that was supposed to be available, they could not find the missile launcher.

Now, in all fairness to the people in the uniform, and I want to make this very clear, this is not a reflection of our young men and women who are doing so much to defend our country. This is a reflection of mismanagement by bureaucrats in Washington, D.C. That is what we need to go after. This should not in any way reflect negatively on our military.

In fact, as we understand that these military parts and pieces of equipment that are so necessary for our military cannot be found, we should understand that it puts our young men and women in uniform in jeopardy and that is why it is so significant that we do something about correcting this problem.

Mr. Speaker, here is another one with the Air Force which is particularly disturbing. They said we had a C-130 transport plane. This is what it looks like. And again this is a huge plane. It is designed to move troops around. So if we were to have a military conflict and they went looking for this C-130, this troop transfer plane, it does not exist anymore.

It turns out when the auditors went to look for this C–130 plane, it had been destroyed 4 years ago in a test involving corrosion. So the military gave this list of available military equipment that if we were to have a military conflict of some sort they were expecting to be able to find, but when the auditors went looking for this particular plane, this C–130, and, remember, they just went looking for a small sample, when they went looking for this it turns out the thing had been destroyed several years back.

I do not want to stop at just the military. That would be very unfair. As we went through this audit, we found similar activities in virtually every agency we went into and looked at. Coming from the private sector, if we had ever been in this shape in the private sector, we would have been out of business instantaneously because there is not a bank in the world that would have loaned us money if we could not have found the houses we built or if we could not find the lots we were supposed to own to build the houses on in our company. That is just exactly how ridiculous this situation is.

I have here a picture of a computer. This thing weighs 825 pounds and is 5 feet tall. The Energy Department listed this $141,000 computer on their asset sheet. When they went looking for the computer, it was nowhere to be found. When people say we cannot control Washington spending and we have no more room to get spending under control in Washington, we do not have to look any farther than this waste and mismanagement to understand how far it is that we still have to go to get government spending under control.

I would like to give a couple more examples.

HUD. We hear so many cries that we have homeless people in America and HUD needs more money. It turns out the auditors went into HUD. This is the housing department and provides housing for homeless and poor people in this country. They have a budget of about $18 billion, and when they went looking for the money, approximately 1 out of the $18 billion could not be accounted for.

Let me put this in perspective. I live in Wisconsin and part of my district is a city of 85,000 roughly, Kenosha, and another city of 80,000 people called Racine. The amount of money that HUD was missing is enough to house all the people in the city of Kenosha and all the people in the city of Racine for an entire year. That is just the money they cannot find and cannot account for in HUD.

This one hit particularly close to home. We went over to the FAA, and in this audit they went looking for some of the assets that were listed on the FAA sheets and they said they had this building out there. Well, the auditors went to look for the building. The building had been demolished years ago. I guess we were not supposed to feel too bad about that because they went to another lot that was supposed to be vacant and they found out they had built a day care center on it, but it did not show up on the asset list.

The point again is just the total mismanagement of what is going on in these agencies and how far we have to go to get this government spending under control.

I would like to read specifically, and I had this prepared as a summary for my office on this GAO audit, I would like to read a couple of the different parts and I would like to start with Medicare. This is what it says and I quote, and this is a GAO summary prepared for my office.

Quote on Medicare: $23 billion, or about 14 percent of the total payments, this is for Medicare, for reasons ranging from inadvertent mistakes to outright fraud and abuse; $23 billion in Medicare is missing. And the responsibility for reasons ranging from inadvertent mistakes to outright fraud and abuse.

Here is a scary one. This is regarding the Air Force Logistics Systems and I want to read this word for word, what the auditors found: These databases included in the Air Force's Central Logistics System contained discrepancies on equipment, on the number of assets on hand, including ground-launched and air-launched cruise missiles, aircraft, and helicopters.

Let me say that once more. This is where there were discrepancies in this Air Force Logistics System, including ground-launched and air-launched cruise missiles. They are unaccounted for. The numbers that are actually existing out in the field versus the number that we are reporting that we have at the Pentagon are two different numbers. They are not accounted for.

Mr. Speaker, that is serious. That puts our Nation in jeopardy. We need to get this system under control.

Let me read just one more. Whenever anybody says to me, "Mark, you cannot do anything more with government spending, we need to spend more in the government, spending has to increase faster than the rate of inflation, we cannot get spending under control," I come back to this. And quote, word for word from the summary that was prepared for my office:

> The Forest Service could not determine for what purposes it spend $215 million of its $3.4 billion in operating and program funds.

They could not account for $215 million. We are not talking about a buck or two here out of our wallet; $215 million that they could not account for out of a $3.4 billion budget.

When we looked at overall Treasury, that is the cash flow of going from one agency to another agency and the billing back and forth, the Treasury was off by over $100 billion, some plus and some minus, and in the end a net of $12 billion.

Mr. Speaker, we need to pass this resolution, we need to move forward over the course of the summer and get this mess straightened out.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that every American agrees that we want fiscal responsibility and accountability. I think both sides of the aisle can agree on that. And I think what is important, as we set higher standards of accountability for our government is that we take an accounting of the measure of progress which has occurred under the Clinton administration, because the people of this country ought to know that before the Clinton administration took office there had never been a comprehensive review of how the government handles our tax dollars. As a matter of fact, after hearing a similar recitation to that just offered by the gentleman from Wisconsin (Mr. NEUMANN) in our Government Management, Information, and Technology Subcommittee, I questioned officials of the Department of Defense and found out that in fact for decades, for centuries, the Department of Defense has had its problems keeping track of their materiel. It does not excuse it for one year or one minute, but I think we have to establish a context of this discussion this afternoon.

When the Clinton administration began their efforts, there were no accounting standards for the Federal Government. Most Federal agencies had never issued a financial statement and there had been no governmentwide financial statement.

Furthermore, there had been no independent verification of the agencies' estimates of their financial positions. Now, thanks to the changes that have been put in place through the administration and, I might say with the help and the constant vigilance of people like the gentleman from California (Mr. HORN), we have more agencies than ever issuing financial statements and having them audited.

As Members of Congress are aware, the Subcommittee on Government Management, Information, and Technology headlined a series of hearings recently on the financial audits of the Federal Government. We conducted those hearings in a bipartisan manner because the issue of good financial management is not a partisan issue. And we need to continue to work in this manner. The sponsors of this particular resolution have accommodated our concerns, and while I may not completely agree with their positions, the need for increased attention to financial management and strong efforts leads me to support this resolution.

Without question, there is a need for intensified financial management by Federal agencies. The governmentwide audit and many of the agency audits shows that the Federal Government has a long way to go. House Resolution 447 is based on the results of the first governmentwide financial audit conducted in 1997. I want everyone to listen very carefully. In 1997, we had the results of the first governmentwide financial audit conducted that year. The law mandating this audit was passed by a Democratic Congress, with the active support of the Clinton administration. The Clinton administration is addressing financial problems at Federal agencies that date back decades. And I feel it should get credit for serious attention to this longstanding problem, just as we must place on their shoulders, because they are there now, the responsibility for making increased progress.

But real progress has been made by this administration. The key to a financial audit is whether the financial information presented in the balance sheets is reliable. When the financial information is reliable, auditors issue what is called an unqualified opinion or a clean audit.

As we can see on this chart right here, Mr. Speaker, in 1990, only two agencies had an unqualified opinion. But by 1997 under President Clinton, nine CFO agencies had unqualified opinions. Clearly, additional improvement is needed. Getting an unqualified opinion is not sufficient. Adequate internal financial controls and compliance with laws and regulations are two other areas where agencies must improve.

However, it is clear that the Clinton administration has come a long way. And by 1998, the goal, as can be seen from this chart, is to come further and to keep reaching what I think is the next plateau of 16 clean and unqualified opinions.

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The current administration is committed to these additional improvements and to achieving a clean governmentwide audit for fiscal year 1999. To that end, the President issued a memorandum to agency heads requiring that specific agencies prepare action plans to ensure that the government receives an unqualified opinion on its fiscal year 1999 audit. Federal chief financial officers now predict that at least 15 of the 24 Federal departments will receive clean opinions of their fiscal year 1998 financial statements.

Good financial management of taxpayers' money is too important for it to become bogged down in partisan warfare. There is simply too much to the done. For that reason, I am glad we have been able to address this issue in a bipartisan way.

Again, look at this, Mr. Speaker, 1997, how far we have come from 1990, and, again, when the administration began, there were no accounting standards for the Federal Government. Most Federal agencies never issued a financial statement. There had been no governmentwide financial statement, no independent verification of the agencies' estimates of their financial positions. So we have come a distance. We have a great distance to go.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I will not take a great deal of time on this debate, but I want to take this opportunity to commend the authors of this legislation, the gentleman from California (Mr. HORN) and the gentleman from Wisconsin (Mr. NEUMANN).

As amended, the resolution underscores the importance of sound financial management. The effort to promote sound financial management should be and is bipartisan. As amended, this resolution deserves bipartisan support.

The recent governmentwide audit shows that many Federal Government agencies do not have adequate financial management. This resolution sends an important message that we need to do more.

It is also important to recognize the progress that has been made by this administration, by the Clinton administration, and by Vice President GORE's reinvention efforts. In 1992, only one Federal agency had a clean audit. Due to the administration's efforts, nine agencies now have clean audits. Next year 15 agencies are expected to have clean audits. So it is clear that while we have a long way to go, we are making progress.

This resolution says that we want to build bipartisan support to push for more progress. In that effort I join my colleagues in urging all of the Members to vote for this resolution.

Mr. KUCINICH. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, I would like to thank the ranking member, the gentleman from Ohio (Mr. KUCINICH), for his hard work on this, and also the Chair on the subcommittee on which I had the honor to serve for many years, the gentleman from California (Mr. HORN), for working hard on this and for accepting some changes in the language from the Democrats to Resolution 447, which we are now supporting.

The bad news contained in this resolution is that the Federal Government, the world's largest financial entity, has financial problems. These problems are not new; they have existed for decades. We knew this when we decided to initiate reforms. When we began reforms, there were no accounting standards for the Federal Government. Most Federal agencies had never issued a financial statement, and there had been no independent verification of the agencies' estimates of their financial position. So in a bipartisan effort, a Democratic Congress crafted and passed the Government Management Reform Act along with the Republicans in 1994, and a Democratic President signed it into law.

The administration has worked hard to implement this law. Next year 15 of the 24 major agencies are expected to receive clean financial opinions. This year the administration met the bill's statutory deadline by completing the first governmentwide audit ever, the first in more than 200 years. We should congratulate them for this effort.

I commend the ranking member and all who have worked on this. As we have worked in the past for increased procurement reform, for increased debt management and position systems, I join my colleagues in supporting this.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

I think it is important for the American people to have a progress report at this moment as to Federal financial management, because that is what this resolution lends itself to. We have stated earlier that prior to the administration taking office, that there were no general standards, but now a structure has been put in place to assure fiscal accountability for the American people.

Qualified chief financial officers and deputy chief financial officers have been appointed so there is accountability and there is a system of command. Accounting standards have been issued. We have had a foundation for agency financial statements, the accounting standards that have been developed by the Treasury, the Office of Management and Budget and GAO, working together through the Federal Accounting Standards Advisory Board, and that was initially created in 1990 to fill a void. But so far, through the help of OMB, we have seen some real strength put into that process, and accounting standards have been issued. And that information has been transmitted down through the departments.

The OMB has issued financial system requirements, and the agencies are now issuing audited financial statements.

I would also like to point out that it was on March 31, 1998, that the Department of the Treasury issued the first ever audited, consolidated financial statement for the Federal Government.

The President's budget states the objective of having an unqualified audit opinion, a clean audit on the government's 1999 financial statements, so the President has firmly stated the administration's goal of receiving a clean opinion on the 1999 governmentwide financial statements, and also the administration has been very interested in identifying weaknesses in the audit as far as the first ever governmentwide statement for fiscal year 1999.

As I am sure many Members know, the President has directed agency heads to submit action plans to address impediments to an unqualified audit opinion on the government's 1999 financial statements.

Mr. Speaker, we could ask, as we are thinking of our financial status and whether or not the American people are getting a good accounting, we could look at a glass and say, is it half full or is it half empty. We can point today to deficiencies which do exist, and we could say the glass is half empty. But we could also say that with all the water that has gone under the bridge, we have a lot of progress that has been made towards rebuilding the financial accountability of the country.

I know with some testimony I heard in committee, it would seem as though the glass is neither half empty nor half full, it is missing. Wherever that is the case, we certainly want to make sure that our audits work to identify wherever there is waste and inefficiencies in the Federal Government, and we need to work to rid it out.

Again, Mr. Speaker, we have come a distance. We have a great distance to go to have the kind of accountability which the American people have a right to expect, but I think at this time a progress report has been in order.

Mr. Speaker, I reserve the balance of my time.

Mr. HORN. Mr. Speaker, I first thank both the former ranking member and the current ranking member. We have worked on a bipartisan basis. We have got a lot accomplished. I appreciate their kind words.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. ARMEY), distinguished majority leader, Ph.D. in economics, who also knows how to read a balance sheet.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Texas (Mr. ARMEY) is recognized for 5 minutes.

Mr. ARMEY. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to thank the gentleman from California (Mr. HORN) and the gentleman from Wisconsin (Mr. NEUMANN) for their persistence on this matter.

I listened with some interest to the remarks that were being made as I came in. It is always interesting to try to debate whether the glass is half full or half empty, but I think we would all agree that in any enterprise in America, other than the government, whether it be our family, whether it be our business, whether it be even a State or local government enterprise, everybody would understand that they have to have an audit to determine how much water is in the glass. Then we can debate whether it is half full or half empty, as long as we know that half of the capacity for the glass is taken up. And our problem with our government, Mr. Speaker, it does not know what it has. It does not know what it does. It loses things, sometimes things that would be fairly difficult to lose.

A missile launcher was identified as lost for 6 months, and it is not clear to us that they realized that it was lost until Congress encouraged them to have an audit, find out what they had and where it was.

They did finally find the missile launcher. I am not so sure that without the work of this committee they would have suffered enough embarrassment and awareness of their loss to have found the missile launcher. But the job is not done. We still are missing a tugboat, a crane and other large equipment.

Nobody here is seeking to be angry or nasty about this. We are not even particularly interested in criticizing or blaming. But the fact of the matter is that every organization in the world must know what it is doing with its money, and certainly the Federal Government of the United States, a government that is given the trust and confidence of the American citizens to spend literally $1.5 trillion of our money, should be willing to subject itself to the same auditing principles, the same accountability as any small enterprise that may, in fact, find itself subject to the audits of some of those very same government agencies that are not doing so well in these audits.

Jerry Jeff Walker has a wonderful song. The song is "The Pot Can't Call the Kettle Black." If the government will not accept the rigors of auditing, the rigors of accountability, how can the government have any moral basis by which they would themselves hold you and I accountable for these same rigors as they seek to regulate and invest in our lives?

The IRS might even come in and lock your doors, throw the business owners in jail for negligence, embezzlement or worse.

Now, I, as the gentleman from California said, I am an economist. I deal with all these things in theory. I am proud to tell colleagues that in theory my world is, as they like to say, tractable, all the pieces fit. That is very comforting to me.

My daughter, on the other hand, pity her, is an auditor. She understands that when she shows up, she is not going to be welcomed with open arms. As I said earlier before the committee, pity the poor auditor. They are always the skunk at the garden party.

□ 1530

But the auditor in any business will tell you, the audit department is absolutely imperative. I have made the homely observation before many times that ARMEY's axiom is, "Nobody spends somebody else's money as wisely as they spend their own." The auditor does that. The auditor comes in and says to the agency of the Federal Government that is not doing well, not showing up well on the books, "You and I are doing the same thing here. We're really quite the same. I spend that money like it's my money, and you spend that money like it's my money."

Everybody in every agency should be encouraged to take the rigor, face the hard recordkeeping, the disciplined process of knowing exactly what they are doing with the taxpayer's dollar, having a clear idea what their responsibilities are, how they intend to fulfill those responsibilities, and what and how they spend of the taxpayers dollars in the fulfillment of those responsibilities, and then just having the fundamental decency to be accountable in the expenditure of those dollars.

Where does the Congress come in in this process? The Congress of the United States is as if we were the board of directors. It is our job to see to it that the rigors and the disciplines, the protocols, the techniques and the methods are as rigorously adhered to in each and every agency of this Government as this Government in fact would require them to be adhered to by each and every business enterprise, each and every charitable enterprise that exists in our districts.

There is another old saying that maybe comes into play here: "What's good for the goose is good for the gander." The Federal Government of the United States in fulfilling its obligations and its duties to police the integrity of business practice and enterprise in America so that markets can work smoothly cannot possibly have a moral authority by which that is done unless they first accept that responsibility and fulfill that responsibility in full accountability in the manner in which they do their own job. That is really what this is all about. Will this Congress accept its responsibility, and by so doing so, can we assure our constituents that, in response, every agency of this Government fulfills its responsibility so that we can measure and we can judge and we can improve the extent to which the taxpayer gets something that is known in the private sector as value for your dollar.

Once again, I want to thank the committee for their hard work.

The SPEAKER pro tempore (Mr. UPTON). The time of the gentleman from California (Mr. HORN) has expired. The gentleman from Ohio (Mr. KUCINICH) has 5½ minutes remaining.

Mr. KUCINICH. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker, I am sure the gentleman from Ohio who supports this resolution, I appreciate that, and the ranking member on the committee, I have appreciated his support.

Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. NEUMANN) who did the craftsmanship of this particular resolution.

Mr. NEUMANN. Mr. Speaker, I would just say it is very important to me that we keep this from becoming a partisan issue. This is not about Republicans or Democrats, or even about the Clinton administration. This is about where we are right now today. In my opinion after reviewing this audit, we have a long way to go in this Government.

It is incomprehensible to me, coming from the private sector, to look at this situation and say it is okay. It is not okay. Before we go out and spend $1.7 trillion more of the taxpayers' money next year, I think we should put some things into place that force these agencies to at least know what it is they have, where it is located, and how they are spending their money. I would hope we proceed with that over the course of the next 6 months here yet this year.

Mr. HORN. Mr. Speaker, I think as the gentleman from Ohio knows and certainly as the gentlewoman from New York (Mrs. MALONEY) knows, the ranking member, the aim of our committee over time is to assure that the Federal Government not only has audits but also that the Federal Government can measure the effectiveness of its programs which has to be basic when the President has to make a determination between do I keep this program or do I reduce or do I add to it, and the same decision has to be made by the Congress. There is only one State in the union that has a system like that, that is the State of Oregon with its benchmarking of programs. There are only two countries in the world that have a fiscal system such as that, and that is Australia and New Zealand. We have a lot to learn from both of them.

Over the last 3 years, we have been holding various hearings on how this could be done so that the program analysis becomes part of the monetary cost of the particular unit of program. That is what is important if we really want to make sure that the taxpayer dollars are not wasted.

I do not think there is a person in this Chamber that wants to waste taxpayer dollars. I think sometimes by either our failure to be very specific in a law or the executive branch's failure to interpret the law, regardless of party, regardless of ideology, but you have got a culture there that when you get to the end of the fiscal year that says, "Well, let's spend it, and if we don't spend it, the Congress won't give it to us." I have seen that in universities, I have seen that in city government, I have seen that even in business, in large corporations. It is something that we have got to fight if we are going to be conscious of where the money comes from. It comes from the pockets, the hard-earned pockets of the American taxpayer.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to say how much I appreciate a chance to work with the gentleman from California (Mr. HORN) on issues of this import in the Subcommittee on Government Management, Information, and Technology. I congratulate him for his tireless dedication to the American taxpayer. I also want to congratulate the gentleman from Wisconsin (Mr. NEUMANN) for bringing this resolution forward and for working with us in crafting the language which would enable it to have bipartisan support.

I think it is important that we proceed in a bipartisan manner here, because the American people expect us to, and they know the only way we can make Government accountable is if we insist from both sides that Government be accountable. Certainly it needs to be said again that the Clinton administration has taken the lead in highlighting and addressing the problems that have been discussed here today.

In 1993, Vice President GORE recommended annual consolidated financial reports and comprehensive Governmentwide accounting standards as part of his Reinventing Government Initiative. The Federal Accounting Standards Advisory Board completed basic Federal Government accounting standards in record time. And as has been previously stated, the administration submitted the first Governmentwide financial audit by the statutory deadline of March 31, 1998. President Clinton has sent a memorandum to each agency head requiring that specific agencies prepare action plans to ensure that the government receives an unqualified opinion on its fiscal year 1999 audit.

Mr. Speaker, the administration needs both of us, needs all of us, to work with it to make Government work better. I remain dedicated to that cause. I know that is a dedication that I share with my colleagues, with the gentleman from California (Mr. HORN), with the gentleman from Wisconsin (Mr. NEUMANN) and with everyone else.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and agree to the resolution, House Resolution 447, as amended.

The question was taken.

Mr. HORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

LAKE CHELAN-WENATCHEE NATIONAL FOREST BOUNDARY ADJUSTMENT

Mrs. CHENOWETH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3520) to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington.

The Clerk read as follows:

H.R. 3520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTMENTS, LAKE CHELAN NATIONAL RECREATION AREA AND WENATCHEE NATIONAL FOREST, WASHINGTON.

(a) BOUNDARY ADJUSTMENTS.—

(1) LAKE CHELAN NATIONAL RECREATION AREA.—The boundary of the Lake Chelan National Recreation Area, established by section 202 of Public Law 90–544 (16 U.S.C. 90a-1), is hereby adjusted to exclude a parcel of land and waters consisting of approximately 88 acres, as depicted on the map entitled "Proposed Management Units, North Cascades, Washington", numbered NP–CAS–7002A, originally dated October 1967, and revised July 13, 1994.

(2) WENATCHEE NATIONAL FOREST.—The boundary of the Wenatchee National Forest is hereby adjusted to include the parcel of land and waters described in paragraph (1).

(3) AVAILABILITY OF MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the superintendent of the Lake Chelan National Recreation Area and the Director of the National Park Service, Department of the Interior, and in the office of the Chief of the Forest Service, Department of Agriculture.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over Federal land and waters in the parcel covered by the boundary adjustments in subsection (a) is transferred from the Secretary of the Interior to the Secretary of Agriculture, and the transferred land and waters shall be managed by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Wenatchee National Forest, as adjusted by subsection (a), shall be considered to be the boundaries of the Wenatchee National Forest as of January 1, 1965.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho (Mrs. CHENOWETH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to recognize the gentleman from Washington (Mr. HASTINGS) for all of his excellent work on this bill. The gentleman from Washington has spent numerous hours, working with the Departments of Agriculture and the Interior, finding a solution that all parties agree to. That is a monumental task, and he did it.

H.R. 3520 is a rather simple but very important piece of legislation. With this bill, 88 acres of land is placed under one jurisdiction, that of the U.S. Forest Service. Additionally and more importantly, this bill fulfills a longstanding commitment made by the National Park Service to Mr. George C. Wall, the private landowner whose acreage is within the Lake Chelan National Recreation Area. This legislation eliminates the confusion that was once caused when both the U.S. Forest Service and the National Park Service shared jurisdiction over this land. Finally, H.R. 3520 removes one of the many in-holding conflicts we currently have on our Federal lands.

This is a good bill, and it is the right thing to do. It has the support of the administration. It will help end the jurisdictional gridlock by consolidating the management authority under the U.S. Forest Service and let us keep the National Park Service's commitment to Mr. Wall. I urge my colleagues to support H.R. 3520.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. HASTINGS), the author of the legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentlewoman from Idaho for yielding me this time.

Mr. Speaker, I rise today to speak in favor of my bill, H.R. 3520, which would adjust the boundary line between the Lake Chelan National Recreation Area and the Wenatchee National Forest. This is a relatively simple, noncontroversial measure which is supported by both the U.S. Forest Service and the National Park Service.

This boundary line adjustment is meant to consolidate the property of Mr. George Wall under the jurisdiction of the U.S. Forest Service. Unfortunately, due to an original drafting error, a portion of Mr. Wall's property is included in the Lake Chelan National Recreation Area and a portion in the Wenatchee National Forest. This condition creates some confusion regarding the coordination of Federal land policy in this area.

First of all, let me make this point, that this is a very remote area of central Washington. It is several hours away by boat from the nearest city. It is primarily national forest and national wilderness lands with very little privately held land in this area. This bill is targeted to help not only one landowner but also the American people as a whole and will have no impact on any other private land.

In 1968 when the Lake Chelan National Recreation Area was created, Mr. Wall was assured that his property would remain within the Wenatchee National Forest. H.R. 3520 would uphold this original commitment to Mr. Wall by placing all of his property under the U.S. Forest Service jurisdiction.

This legislation is personally important to Mr. Wall and it is administratively important to the agencies involved. With the enactment of H.R. 3520, Mr. Wall's property would be entirely within the jurisdiction of the Forest Service, thereby alleviating Mr. Wall's continued need to respond to both Park Service and Forest Service management. Mr. Speaker, I would like to quote from a May 1995 letter from the Park Service to Senator SLADE GORTON of Washington regarding the need for this boundary adjustment. According to the National Park Service, changing the boundary would "contribute to enhancement of public service as well as more efficient administration of Federal lands and would be of benefit to the landowner in that it would eliminate the necessity of dealing with two separate Federal agencies with different congressional mandates and administrative procedures."

Mr. Speaker, Mr. Wall's property lies beside Lake Chelan, and the current border cuts through the lake and directly through his property. In order to adjust the border in the most efficient manner, H.R. 3520 would adjust the line starting on the opposite side of the lake toward the northern point of Mr. Wall's land. From there, the new border would wrap around Mr. Wall's property and back to the current border. This change would mean that 65 acres of the lake and 23 acres of Mr. Wall's property would now be outside the Lake Chelan National Recreation Area. All told, 88 acres would be transferred to the Wenatchee National Forest. I might point out that the 65 acres of Lake Chelan that will hereinafter be within the National Forest system will not affect the recreational use of the area.

Mr. Speaker, Mr. Wall has waited for nearly three decades for the Federal Government to address this situation.

□ 1545

He is now in poor health, and his family has asked that we might make this adjustment as quickly as possible. I urge my colleagues to support this legislation and uphold the original commitment made to Mr. Wall when the boundary was drawn in 1968, 30 years ago.

Mrs. CHENOWETH. Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation proposes to adjust the boundaries of the Lake Chelan National Recreation Area in the State of Washington to exclude 88 acres. Currently a private landowner is subject to dual jurisdiction by the National Park Service and the U.S. Forest Service. This bill in effect would place the lands in the Wenatchee National Forest, which is solely administered by the U.S. Forest Service. Both the National Park Service and the U.S. Forest Service support this legislation.

Mr. Speaker, I want to thank the gentleman from Washington (Mr. HASTINGS) as the chief sponsor of this legislation and for bringing this matter to the attention of the House, and I do urge the adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers, but I do want to commend the gentlewoman from Idaho for her management of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentlewoman from Utah (Mrs. CHENOWETH) that the House suspend the rules and pass the bill, H.R. 3520.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. CHENOWETH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3520, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT OF 1998

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1635) to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Underground Railroad Network to Freedom Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Underground Railroad, which flourished from the end of the 18th century to the

end of the Civil War, was one of the most significant expressions of the American civil rights movement during its evolution over more than 3 centuries.

(2) The Underground Railroad bridged the divides of race, religion, sectional differences, and nationality; spanned State lines and international borders; and joined the American ideals of liberty and freedom expressed in the Declaration of Independence and the Constitution to the extraordinary actions of ordinary men and women working in common purpose to free a people.

(3) Pursuant to title VI of Public Law 101–628 (16 U.S.C. 1a–5 note; 104 Stat. 4495), the Underground Railroad Advisory Committee conducted a study of the appropriate means of establishing an enduring national commemorative Underground Railroad program of education, example, reflection, and reconciliation.

(4) The Underground Railroad Advisory Committee found that—

(A) although a few elements of the Underground Railroad story are represented in existing National Park Service units and other sites, many sites are in imminent danger of being lost or destroyed, and many important resource types are not adequately represented and protected;

(B) there are many important sites which have high potential for preservation and visitor use in 29 States, the District of Columbia, and the Virgin Islands;

(C) no single site or route completely reflects and characterizes the Underground Railroad, since its story and associated resources involve networks and regions of the country rather than individual sites and trails; and

(D) establishment of a variety of partnerships between the Federal Government and other levels of government and the private sector would be most appropriate for the protection and interpretation of the Underground Railroad.

(5) The National Park Service can play a vital role in facilitating the national commemoration of the Underground Railroad.

(6) The story and significance of the Underground Railroad can best engage the American people through a national program of the National Park Service that links historic buildings, structures, and sites; routes, geographic areas, and corridors; interpretive centers, museums, and institutions; and programs, activities, community projects, exhibits, and multimedia materials, in a manner that is both unified and flexible.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To recognize the importance of the Underground Railroad, the sacrifices made by those who used the Underground Railroad in search of freedom from tyranny and oppression, and the sacrifices made by the people who helped them.

(2) To authorize the National Park Service to coordinate and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the Underground Railroad, its significance as a crucial element in the evolution of the national civil rights movement, and its relevance in fostering the spirit of racial harmony and national reconciliation.

SEC. 3. NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior (in this Act referred to as the "Secretary") shall establish in the National Park Service a program to be known as the "National Underground Railroad Network to Freedom" (in this Act referred to as the "national network"). Under the program, the Secretary shall—

(1) produce and disseminate appropriate educational materials, such as handbooks, maps, interpretive guides, or electronic information;

(2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (c); and

(3) create and adopt an official, uniform symbol or device for the national network and issue regulations for its use.

(b) ELEMENTS.—The national network shall encompass the following elements:

(1) All units and programs of the National Park Service determined by the Secretary to pertain to the Underground Railroad.

(2) Other Federal, State, local, and privately owned properties pertaining to the Underground Railroad that have a verifiable connection to the Underground Railroad and that are included on, or determined by the Secretary to be eligible for inclusion on, the National Register of Historic Places.

(3) Other governmental and nongovernmental facilities and programs of an educational, research, or interpretive nature that are directly related to the Underground Railroad.

(c) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—To achieve the purposes of this Act and to ensure effective coordination of the Federal and non-Federal elements of the national network referred to in subsection (b) with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, localities, regional governmental bodies, and private entities; and

(2) in cooperation with the Secretary of State, the governments of Canada, Mexico, and any appropriate country in the Caribbean.

(d) APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act not more than $500,000 for each fiscal year. No amounts may be appropriated for the purposes of this Act except to the Secretary for carrying out the responsibilities of the Secretary as set forth in section 3(a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1635, as amended, is a bill introduced by the gentleman from Ohio (Mr. STOKES), my colleague. Mr. Stokes and the gentleman from Ohio (Mr. PORTMAN) are to be congratulated on working very hard on this bill which would establish the National Underground Railroad Network to Freedom Program within the National Park Service. This program facilitates partnerships among the Federal, State and local governments and the private sector to assist in interpreting and commemorating the network of buildings, museums and routes that portray the movement to resist slavery in the United States in the decades prior to the Civil War. H.R. 1635 does not create any new units of the National Park system and caps appropriation at 500,000 per year to staff and to coordinate this program.

Commemorating the Underground Railroad Network, as H.R. 165 will do, is well-deserved and will help every American understand what the Underground Railroad was and how it helped thousands of slaves to secure their freedom and their place in history.

Mr. Speaker, this is a completely bipartisan measure that is also supported by the administration, and I urge my colleagues to support H.R. 1635.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud that the House of Representatives is finally considering legislation to honor the Underground Railroad. This bill, H.R. 1635, introduced by our highly respected colleague, the gentleman from Ohio (Mr. STOKES), would establish the National Underground Railroad Network to Freedom Program under the National Park Service. Mr. STOKES and my friend and colleague, the gentleman from Ohio (Mr. PORTMAN), worked together to establish this program to identify sites and areas important to the struggle for freedom known as the Underground Railroad. This bill is without a doubt a long and overdue recognition of an important piece of American history.

Mr. Speaker, the program will incorporate Underground Railroad routes and sites with interpretive information about the railroad and the people involved. The National Park Service will work in cooperation with State and local governments and the private sector to develop a comprehensive written history.

The Underground Railroad stretched for thousands of miles from Kentucky and Virginia across Ohio and Indiana. In a northerly direction it stretched from Maryland across Pennsylvania and through New York and through New England. This was not just a route north though, and the network this legislation establishes will link numerous locations and landmarks within the United States as well the Caribbean, Mexico and Canada.

It is estimated that in the decade before the Civil War, the Underground Railroad movement was responsible for helping approximately 70,000 slaves escape and journey safely to freedom. Many never made it to freedom, dying along the way or caught and forced to endure unspeakable punishments and torture. Attempts made through the Underground Railroad were made at tremendous risk for those fleeing slavery and anyone who helped along the way.

The movement involved Americans of many different backgrounds. Bringing its experience and lessons to bear on the present, it is inherently a multiracial process. Each generically different experience is grounded in race and personal wealth, but together they shared much in this experience of the freedom story that transcended race and echoed common commitments among fellow human beings.

Mr. Speaker, I wholeheartedly support the intention of this legislation, but as I mentioned throughout consideration of this bill, I am deeply concerned that a $500,000 authorization will not cover the costs of this most important program. I understand that the majority Members feel that this is all that would be acceptable to their leadership, and therefore I will not fight it. But I would be remiss if I did not raise my belief that it would be a terrible disservice to the memory of the tens of thousands who suffered and braved so much to be involved with the Underground Railroad if this Nation does not adequately fund this important endeavor.

Mr. Speaker, I urge my colleagues to pass this important legislation.

Mr. MILLER of California. Mr. Speaker, as a cosponsor of H.R. 1635, I am pleased that this legislation has finally come to the floor of the House of Representatives for consideration. Although it has been a long and overdue process, I am happy to note that H.R. 1635 now has the bipartisan support of 148 cosponsors.

This bill will establish a National Underground Railroad Network to Freedom program within the National Park Service, to facilitate partnerships among Federal, state and local governments and the private sector to identify and commemorate the Underground Railroad.

This bill comes at a time when divisiveness among our Nation's races and cultures seems to be on the rise. Through the program, structures, routes, and sites which were significant to the Underground Railroad will be identified. The National Park Service will create a logo to identify these sites and distribute interpretive information for visitors to understand the use of the Railroad.

The uplifting stories of the risks taken by all involved with the Underground Railroad put against the stark reality of our past with slavery, will provide visitors with powerful examples of the precious value of freedom and the strengthen of cooperation.

Mr. Speaker, the Underground Railroad is probably the best example of successful civil disobedience this nation has ever seen and the stories must be told. I commend our colleague, Mr. STOKES, for all his hard work on this legislation and I urge my colleagues on both sides of the aisle to vote for H.R. 1635 so that this powerful story may be preserved for generations to come.

Mr. FALEOMAVAEGA. Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, the gentleman from Ohio (Mr. STOKES) and the gentleman from Ohio (Mr. PORTMAN) worked diligently on this piece of legislation, and I yield 5 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding this time to me and mostly for all the help he has given us to this point. We would not be here this afternoon on the floor if not for the subcommittee Chairman's willingness to hold a hearing and then mark up this legislation, and I want him to know that both the gentleman from Ohio (Mr. STOKES) and I greatly appreciate that and moving it through the process.

I, of course, rise in very strong support of this historic legislation that will help preserve this powerful and often untold chapter in our Nation's history. I want to thank my colleague, the gentleman from Ohio (Mr. STOKES), who is seated on the other side of the aisle, for his leadership on this project. We have worked for the last few years on putting this legislation together and making this a reality. In addition to the gentleman from Utah (Mr. HANSEN), I also want to thank the gentleman from Alaska (Mr. YOUNG), the gentleman from California (Mr. MILLER), and the gentleman from American Samoa (Mr. FALEOMAVAEGA), who just spoke a moment ago, and the 150 other bipartisan cosponsors of this legislation.

Specifically the bill does three things. First it creates within the National Park Service a National Underground Railroad Network for the first time of all the existing sites, historic buildings, interpretive centers, research facilities, community projects and activities directly related to the Underground Railroad. The purpose is to commemorate and retell the future generations the important story of the Underground Railroad. So much of what we know, of course, about the Underground Railroad today has been handed down through oral traditions, and over the years as a result, as a recent Park Service study has told us, a lot of that tangible evidence is now in danger of being lost forever. So this bill will help collect, preserve and integrate all the pieces of this fascinating and important part of our history.

Second, it will require the Park Service to produce and disseminate educational materials, maps, handbooks, interpretive guides, electronic information; enter into cooperative agreements to help technical assistance facilities around the country that have a verifiable connection to the Underground Railroad; and will create a uniform official symbol for the national network and issue regulations for how that symbol can be used.

Third, and I think very importantly, it requires appropriate public-private partnerships so that we can facilitate strong private support for this important part of our history. I think this is perhaps one of the most significant parts of the legislation because it represents a way for us to maximize and leverage the resources from the private sector to enhance a national public network.

One brief example the gentleman from American Samoa (Mr. FALEOMAVAEGA) talked about, the funding in the bill, there is some funding in the bill, but in our own area of Cincinnati that I represent, we hope to raise up to $80 million for a National Freedom Center, which would be part of this linkage, and with those kinds of private sector funds we can do much more with regard to commemorating this part of our history.

The legislation, I think, really can foster a sense of racial harmony, and just as the Underground Railroad itself bridged a divide of race and religion and nationality, joined people together in common purpose, so has this bill. The powerful and largely untold stories of the brave men and women of the Underground Railroad can inspire us even today, and must, about racial cooperation, about reconciliation, about determination and about courage. In a very real sense this act, I think, is a tangible effort that is bringing together people of different races today that helps to advance our ongoing national dialogue we must have about race relations in this great country.

Like so many other people in this Chamber and around this country, I have a personal connection to the Underground Railroad. I knew about it before this project got started, but I learned a lot more about it. The family home of my namesake and grandfather, whose name was Robert Jones, was a stop on the railroad. His great-grandparents and grandparents were Quakers and abolitionists who lived in a farmhouse near West Milton, Ohio, just north of Dayton. In fact, I visited their home a couple of weeks ago with my family and was able to show my three children the attic above the kitchen where my grandfather told me that, in fact, slaves were harbored as they sought freedom.

Many of the prominent figures of the Underground Railroad, it turns out, lived and worked in the district I represent. Levi Coffin, considered by many to be the president of Underground Railroad, worked for most of the time out of Cincinnati, also a Quaker. Harriet Beecher Stowe was a native of Cincinnati who wrote portions of Uncle Tom's Cabin, which helped in Cincinnati, and of course that book helped galvanize antislavery forces in the 1850s and 1860s.

John Parker of Ripley, Ohio, in my district was a former slave who bought his freedom, was a successful inventor and foundry owner and entrepreneur, and became a major conductor on the Underground Railroad. We are now trying to restore his home in Ripley, Ohio.

The Reverend John Rankin, also of Ripley, sheltered over a thousand people fleeing slavery. His home is restored. It is a site that sits on the hill above Ripley, Ohio, and one of the people who he saved was the character of Eliza actually in Uncle Tom's Cabin.

Another town in my district, Springboro, Ohio, has a number of stations, they think 15 or 16 stops, on the Underground Railroad, and they are now doing more work to uncover and authenticate those sites.

One of the very exciting aspects of this bill is its encouragement of public-private partnerships. In the greater Cincinnati region I represent, a national Underground Railroad Freedom Center, which expects to raise about, as I said, $70 million of private sector money, has been started. The freedom center is expected to open in the year 2003 on the banks of the Ohio River, an appropriate place, the dividing line between free and slave States. It will employ state-of-the-art technology and advance interdisciplinary education to commemorate, educate, and inspire and promote reconciliation, assisted by a national advisory board of distinguished leaders in their number. I will just list a few: Desmond Tutu; Rosa Parks; Dick Cheney, a former Member of this Chamber, and others.

This center will be an international resource for scholarship, human relations education and genealogical study. It will be one of the first distributive museums around the country, meaning it will be in contact with this linkage that we are setting up through this legislation, the networking, and it will also be the first major museum focused exclusively on the Underground Railroad experience. The center will create cooperative programming and educational opportunities across the continent. It has already attracted substantial private sector support, and again it should be a critical and leading link in the network envisioned by the legislation.

I would like to give special thanks today to a friend and a fellow Cincinnatian, Ed Rigaud, who is leading that effort in Cincinnati and has taught me a lot about the national significance of the Underground Railroad. Also, Iantha Gantt-Wright is with the National Parks and Conservation Association, and that group has worked with the gentleman from Ohio (Mr. STOKES) and myself over the last couple of years, gave us a lot of input in the process of putting together the legislation.

□ 1600

Finally, I want to single out Jan Oliver of my staff and the staff of the House Committee on Resources for all their good work on the legislation. I urge bipartisan support of this important and I think landmark legislation, to preserve the story of the Underground Railroad, the lessons of which can guide us in our quest for racial cooperation and understanding even today.

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly want to compliment the gentleman from Ohio (Mr. PORTMAN), the cosponsor of this legislation, for his eloquent remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from American Samoa for yielding me time.

Mr. Speaker, I rise in support of H.R. 1635, the National Underground Railroad Network to Freedom Act of 1998. As an original cosponsor, I am pleased the House is considering this important legislation today.

Mr. Speaker, I would like to take this opportunity to talk about the important role that Oberlin, Ohio in my district played in this struggle for freedom. Oberlin is probably best known as the site of an historic uprising in which 300 residents of Oberlin and neighboring Wellington rescued John Price, an escaped slave from Kentucky, from arrest by a determined group of slave catchers led by a U.S. marshal in September 1858. This incident drew international attention to the plight of American slaves, contributing to an increasing awareness of the abolitionist movement. The participants in the rescue included students, freed slaves and townspeople of all classes. The open defiance of the residents of Oberlin led to the nickname "The town that started the Civil War."

In April, I was pleased to join Interior Secretary Bruce Babbitt in Oberlin to designate the Wilson Bruce Evans House as a National Historic Landmark which was home to Wilson and Henry Evans, two of the leaders in this historic uprising.

Additionally, the City of Oberlin is home to several other sites which played prominent roles in the Underground Railroad movement. First Church in Oberlin served as a meeting site for the Oberlin Anti-Slavery Society.

Erected in Martin Luther King Park are several monuments, including a memorial to the three African-American men, Shields Green, John Copeland and Lewis Sheridan Leary, who died with John Brown during his march on Harper's Ferry, Virginia, which served as a prelude to the Civil War. Additionally, several other homes of prominent abolitionists, including James Monroe and John Mercer Langston, still stand in Oberlin.

Mr. Speaker, we must ensure that future generations learn about the role that brave and righteous women and men in communities like Oberlin played in establishing and running the Underground Railroad and how their actions led to the end of slavery in the United States and the beginning of the civil rights movement.

Mr. Speaker, I add my support to H.R. 1635, thanking especially the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Ohio (Mr. STOKES) for their leadership.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio, (Mr. STOKES), a cosponsor of this legislation.

Mr. STOKES. Mr. Speaker, I want to thank the distinguished ranking member, the gentleman from American Samoa (Mr. FALEOMAVAEGA), for yielding me time.

Mr. Speaker, I rise in support of H.R. 1635, the National Underground Railroad Network to Freedom Act. I am proud to share authorship of this legislation with my friend and colleague, the gentleman from Ohio (Mr. PORTMAN). It has been a pleasure to work with him and his able staff in bringing this historic legislation to the floor.

I want to express my appreciation to the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), for his support and interest in this legislation. I also wanted to thank my good friend, the gentleman from Utah (Mr. HANSEN), chairman of the subcommittee, for his cooperation in conducting an excellent and outstanding hearing on this legislation and for also marking it up in the subcommittee.

Since its introduction, the Underground Railroad bill has enjoyed broad bipartisan support. We are pleased to bring this bill to the floor with 156 cosponsors from both sides of the aisle and congressional districts across America. I must also acknowledge the significant role that the National Park Service provided in working with me and the gentleman from Ohio (Mr. PORTMAN) at all stages of this legislative process. Their assistance has been invaluable.

Mr. Speaker, second only to the protests and martyrdom of abolitionists, the Underground Railroad was the most dramatic protest against slavery in the history of America. The Underground Railroad, which reached its peak from 1830 to 1865, spanned more than 22 States, crossed the Mexican and Canadian borders, and thrived in the District of Columbia and the Caribbean. The railways were back roads, waterways, mountains, forests and swamps. Its conveyances were mules, wagons and boats. In short, the railroad was every route escaped slaves took or attempted to take to freedom.

Last year when we introduced the National Underground Network to Freedom Act, we did so in memory of the contributions made by our ancestors, black and white, Quaker and Protestant, Native American and many others who played key roles in the quest of American slaves for freedom. As we debate this issue today, we realize that regardless of whether we trace our ancestry to those who were enslaved, those who were slave owners, or those who were abolitionists and freedom fighters, the Underground Railroad bill will allow us to engage in constructive dialog and memorialize an important period in American history.

Mr. Speaker, I am proud to have authored, along with the gentleman from Ohio (Mr. PORTMAN), this significant legislation, which will enable the National Park Service to identify routes, geographic areas and corridors associated with the Underground Railroad.

The Park Service will also be charged with linking historic buildings and structures relating to the Underground Railroad. Lastly, the National Park Service will provide technical assistance and support to museums, institutions and centers to facilitate the telling of the story of the Underground Railroad.

This bill also encourages the Secretary of the Interior to enter into cooperative agreements with the governments of Canada, Mexico and appropriate countries in the Caribbean.

Mr. Speaker, before closing, I want to commend two members of my staff for their work on this bill, Joyce Larkin and Minnie Kenney. Their service has been outstanding.

Mr. Speaker, H.R. 1635 is a good bill that each of us should be proud to support. I urge my colleagues to vote in its favor.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman from Ohio for his most comprehensive and eloquent remarks concerning this legislation.

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today as a cosponsor and supporter of H.R. 1635, the National Underground Railroad Network to Freedom Act. The act has 156 cosponsors and enjoys substantial bipartisan support. The act requires the Secretary of the Interior to establish a nationwide network of historic sites and museums dedicated to preserving the legacy of the Underground Railroad.

Mr. Speaker, the Underground Railroad was used during the 18th and first half of the 19th century to smuggle African-American slaves to freedom. Maine's citizens were active participants in the Underground Railroad. There are 59 possible Underground Railroad sites across the State of Maine. These safe havens were used to harbor runaway slaves and are located in or near towns like Portland, Biddeford, Kennebunkport, Machias, and Waterboro.

In particular, the Abyssian Meetinghouse in Portland was an important link in the Underground Railroad. Oral history verifies that the site functioned as a way station for slaves on their way to freedom.

Oral history is a useful tool to help determine what buildings were part of the Underground Railroad. Someone's grandmother may remember hearing stories about how slaves were hidden in the town church. Organizations in Maine are working to recover these oral histories in order to identify additional Underground Railroad sites. As people age and die, the stories and information they carry with them die as well. The National Underground Railroad Network to Freedom Act will ensure the preservation of this aspect of American history so that future generations can learn and benefit from it.

Mr. Speaker, I am proud that Maine people were an important part of the national effort to help slaves attain their freedom. Maine served as a final link between the United States and freedom in Canada. The people that comprised the Underground Railroad were motivated by the principles on which our Nation's democracy rests, that all men and all women are created free and equal.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding me time and for the support.

Mr. Speaker, I want to take this time also to congratulate the gentleman from Ohio (Mr. STOKES) and the gentleman from Ohio (Mr. PORTMAN) on bringing this legislation to the floor. I also want to thank the gentleman from Utah (Mr. HANSEN) and the gentleman from Alaska (Mr. YOUNG) for being cooperative and supportive of this piece of legislation in the committee.

My interest, Mr. Speaker, on this issue revolves around the great history and the struggle that is part of the Underground Railroad and the cooperation to make it happen, but also because I have in my district a place called the Spring Hill Farm. It is located in Shelby Township, and from 1850 to 1865 this farm served as a place where runaway slaves could come and get shelter.

This was out in the middle of the country. The slaves would see this huge cedar tree, over 100 feet tall. They would know that the spring-in-the-hill cave on this farm was a place where they could get refuge. They would go there, and within the cave by the spring in the hill would be food and blankets and necessities to keep them going on their journey. The farm was owned by Peter and Sarah Lerich. They had 10 children, and they were able to even keep the secrecy of this facility from their children for many, many, many, many years.

The significance of this particular farm revolves around a couple of things. Number one, the owners and their agents trying to intercept the slaves would often go to the Detroit River, thinking the slaves would cross over to Windsor. But what actually was happening, they would go to this farm and then move up throughout my county of Macomb and into Saint Clair County and cross up at the Saint Clair River into Canada, which was 30 or 40 miles north of the Detroit crossing, thereby avoiding the agents and owners.

Interestingly enough, this farm was purchased by the late and great humanitarian and heavyweight boxer, Joe Louis, years later in my district, before he sold the property. It is a wonderful memorial to bravery and to cooperation and to reconciliation.

The Underground Railroad is a story of great courage and determination and the struggle for freedom in this country. It is an American story, but it is a universal story in its relevance. It teaches us the important lessons about liberty, understanding, cooperation and reconciliation.

So it is with great pride that I rise this afternoon to support this wonderful idea, so that we can memorialize and understand and pass on to our children and our grandchildren the great struggle that ensued in this country, so that they will never, ever forget the sacrifices that were made and, of course, the cooperation and help that was given.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from the U.S. Virgin Islands (Ms. CHRISTIAN-GREEN).

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I rise today, delighted that we finally have the opportunity to consider this bill on the floor of the House. I am especially pleased because H.R. 1635 is a fitting tribute to its sponsor, the gentleman from Ohio (Mr. STOKES), and I am honored to be among the 156 Members of the House who have joined our esteemed colleagues, the gentleman from Ohio (Mr. STOKES) and the gentleman from Ohio (Mr. PORTMAN) as cosponsors.

Mr. Speaker, the Underground Railroad network is an important part of our Nation's diverse history and deserves to be celebrated. I am particularly pleased to note that the borders of the network went beyond the North American Continent to the Caribbean. I trust that when the program which will be established by this bill is completed, it will include the escape routes to freedom which my ancestors from the Virgin Islands used to nearby Puerto Rico.

I urge all of my colleagues to unanimously support this bill. Because of H.R. 1635, we will come to know the many heretofore nameless individuals and groups who made the Underground Railroad route come alive and the traditions that created its culture. As we continue the ongoing national dialogue on race and its impact on our past, present and future, the memorializing of this testament to the courage and sacrifice of many people of all persuasions and to the spirit, strength and determination of the Africans who had been forced into brutal slavery will be an important legacy.

The Underground Railroad Network to Freedom Program will have an unlimited potential to be a part of the education process in our country, and it will also be a source to further inspire and promote the healing of our diverse community, as well as serve as a source of strength, direction and hope for our children. I urge its passage.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

□ 1615

Ms. JACKSON-LEE of Texas. Mr. Speaker, I could not help but listen to the passion and compassion of the gentleman from Ohio (Mr. PORTMAN) for this very important bill, and we thank him not only for his collaboration but the history of his family. He has joined with someone that we hold in such high respect, the gentleman from Ohio (Mr. STOKES).

We know that the gentleman will not be in the Congress in the next session, but we are gratified of his vision and his ability to collaborate and to represent, as the Portman and Stokes H.R. 1635 I hope passes unanimously in this House, what America is all about.

The Underground Railroad should be commemorated and celebrated, for it is the recognition of what volunteerism in the face of adversity can bring about. It did not single out any culture or race, any religion. Everyone who was concerned about the degradation and the tragedy in this Nation were able to participate. Up south, north, down south, south, all parts of this Nation could in some way contribute either in spirit or in actuality.

I am proud of the many midwestern States and cities whose people rose to the occasion; the Eastern Seaboard who, along that route, that was not pretty and attractive and well focused. There were no nice railroad beds. There was no stopping for refreshments, where you would stop in some lovely train station. It was, in fact, the Underground Railroad, unpleasant, but yet spirited.

Harriet Tubman, who was called General Moses, had her own way of taking tickets, for if you felt a little fearful and were about to turn around, the story tells us that Harriet Tubman had a way of saying, "if you turn around, you will not live; if you go forward, you can go and live with me."

So this was a challenging time. But the most important aspect of this whole Underground Railroad was a collaboration of Americans, people who came together for good, who did not ask of your background, who did not ask what color you were, but believed in freedom, and believed that this country would be better when slavery was eliminated and helped those who wanted to seek freedom, to work for freedom to be able to go safely into the night and to go into the free North.

So I want to thank the cosponsors of this legislation and particularly would like to acknowledge those who did not survive, all of those heroes and sheros who provided the food and the support that we may not even have in our history books, all the religious leaders.

In Philadelphia, in fact, the AME Church was noted as one that took in the freed slaves from the Underground Railroad, providing them with clothes, food, and support and providing them work. Everyone who became free wanted to work, wanted to contribute to America, wanted to make it better and great. So this is befitting.

We thank the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Ohio (Mr. STOKES) for their vision on this. To those who are not here to hear their stories being told in the United States Congress, you are great Americans, you are great heroes and sheros; and for this, we salute you. The National Underground Network to Freedom Act will forever put in the annals to history our tribute to the Underground Railroad.

Mr. FALEOMAVAEGA. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. STEARNS). The gentleman from American Samoa (Mr. FALEOMAVAEGA) has 1 minute remaining.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to ask my good friend, the gentleman from Utah (Mr. HANSEN) if I could indulge in his acceptance of my request for 2 additional minutes from his time.

Mr. HANSEN. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from American Samoa or to one of his speakers.

Mr. FALEOMAVAEGA. I thank the gentleman.

The SPEAKER pro tempore. Without objection, the gentleman from American Samoa is recognized for an additional 2 minutes.

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I am pleased to speak today on this bill, H.R. 1635. This bill requests the National Park Service, number one, to produce and disseminate appropriate educational materials to inform people about the Underground Railroad, provide technical assistance to the Underground Railroad Partnership, which includes individuals, Federal, State, and local governments, and the private sector to ensure coordination.

Thirdly, to create and adopt a symbol to be placed at all sites designated along the network known as the Underground Railroad.

During perhaps the worst period in American history, the Underground Railroad emerged, an important historic coalition of black and white, religious and concerned citizens joined together to form the abolitionists movement.

Many of the people involved in the Underground Railroad were called conductors. Many of them were former slaves. The conductors led other slaves out of bondage to freedom.

They developed their own terminology to protect those persons involved in helping to secure freedom as well as the slaves. The slaves were known as packages or freight. The route from one safehouse to the next was called the line. The safehouses were called stations. Those who aided the fugitive slaves were conductors.

The most famous of these conductors was Harriet Tubman. It is said that she personally conducted approximately 300 persons to freedom in the North. Reportedly, she even threatened to shoot any of her charges who wanted to turn back. She felt that moving forward or death was the only way to keep the locations of the stations secret.

Without fear for her personal safety, Harriet Tubman would disappear for weeks at a time to provide safety for her passengers on the Underground Railroad. She did so even though she was hunted by slaveholders and slave hunters.

Harriet Tubman worked closely with abolitionists such as John Brown and Germain Logan, Frederick Douglas, and countless other named and unnamed Underground Railroad supporters.

After the outbreak of the Civil War, Harriet Tubman also served as a soldier, a spy, and a nurse. During the war, with her keen knowledge of the route from the south to Canada, she served as a guide to many black soldiers.

The importance of our debate here today is to begin a coordinated effort to mark some of the many sites along the route of the Underground Railroad for generations to come. The work of assisting fugitive slaves along the Underground Railroad is a critical piece of our collective history.

Before the Civil War, it is estimated that approximately 70,000 slaves escaped and made the journey safely to northern States and Canada and subsequent freedom through the Underground Railroad.

It is my hope that the designation of the sites along the Underground Railroad, along with the educational programs and information that follows, will allow Americans of all walks of life to understand the important contribution to the history of the Underground Railroad.

I would like to thank my colleague, the gentleman from Ohio (Mr. STOKES) and everybody that has been involved in making this a possibility.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to ask my good friend, the gentleman from Utah (Mr. HANSEN) for 1 additional minute.

Mr. HANSEN. Mr. Speaker, I yield 1 minute to the gentleman from American Samoa.

The SPEAKER pro tempore. Without objection, the gentleman from American Samoa is yielded 1 additional minute.

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I would just like to say again to the eloquence of my two good friends as cosponsors of this legislation, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Ohio (Mr. STOKES) for bringing this piece of legislation to the floor for consideration and to commend them both for the spirit of bipartisanship that we have this legislation, understanding the spirit behind it, the intention. Hopefully this will be one of those remarkable pieces of history that will be helpful not only for our generation but for future generations to appreciate what these people did as they participated in the Underground Railroad system.

Mr. Speaker, I also would like to say my personal tribute to my good friend and colleague who has certainly been an inspiration to me over the years that I have served in the House, my good friend, the gentleman from Ohio (Mr. STOKES), who will not be here since he is retiring, but just to let him know how much we really appreciate the service that he has rendered, not only to this body, to his district, and certainly to the American people.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today delighted, that we finally have the opportunity to consider this bill on the floor of the House, and I am honored to be among the 150 members of the House who have joined our esteemed colleague, Mr. STOKES and Mr. PORTMAN, as cosponsors.

Since he has announced that he will be leaving us when his team expires at the end of the Congress, it would be a fitting tribute for this House which Congressman STOKES has served so admirably, to pass H.R. 1635 unanimously.

I want to personally take this opportunity to publicly thank Congressman STOKES for taking me under his wing, as he has done for countless other new members, and guiding me through the complexities of this body, and to commend him for his leadership, not only on this issue before us today, but especially on health care and other matters importantly to the integrity of the Nation.

My colleagues H.R. 1635 is the result a Congressional study, mandated in 1990, which required the National Park Service to look at how best to interpret and commemorate the Underground Railroad. The bill before us would establish a program in the National Park Service to be known as the National Underground Railroad Network to Freedom.

Once established, the Secretary of Interior will produce and disseminate educational materials about the railroad and provide technical assistance to other governmental agencies, private entities or Governments of Canada, Mexico and the Caribbean to ensure coordination of the network.

As my district is located in the Caribbean, I am particularly pleased to note that the borders of the network will extend beyond the North American continent to the Caribbean.

I trust when the program which will be established by this bill is completed, it will include the escape routes to freedom which my ancestors used from the Virgin Islands to nearby Puerto Rico.

My colleagues the Underground Railroad Network is an important part of our nation's diverse history and deserves to be celebrated.

As we continue with the ongoing national dialog on race and its impact on our past, present and future, the memorializing of this testament to the courage and sacrifice of many people of all persuasions, and to the spirit, strength and determination of the Africans who had been forced into brutal slavery, will be an important legacy.

I urge all of my colleagues to unanimously support this bill. Because of H.R. 1635 we will come to know the many heretofore nameless individuals and groups who made the Underground Railroad route come alive and the traditions which created its culture.

In addition, The Underground Railroad Network to Freedom Network Program will have the unlimited potential to be a part of the education process in our country and to further inspire and promote the healing of our diverse community, as well as serve as a source of strength, direction and hope for our children.

Mr. POSHARD. Mr. Speaker, I rise today to register my strong support for H.R. 1635, the "National Underground Railroad Network to Freedom Act." This measure authorizes the National Park Service (NPS) to facilitate and coordinate federal and non-federal activities that honor and help people learn about the Underground Railroad. The bill establishes within the NPS the means to link Underground Railroad sites, produce educational materials and provide technical assistance to local organizations. In addition, H.R. 1365 encourages the Secretary of the Interior to enter into innovative public and private partnerships to tell the story of the Underground Railroad.

I am proud to count myself among the original co-sponsors of this important legislation. The Underground Railroad is one of the most significant events of the American civil rights movement, and although more than a century has passed since its inception, I feel that the stories of those who participated in the Underground Railroad remain vital sources of inspiration and can help promote racial understanding and cooperation. In my own congressional district, there is a building known as the "Old Slave House," which was built in 1834 and has served as a meaningful history lesson to those who have been fortunate enough to visit it. The Old Slave House is unique in that it is the only known remaining structure to have been used by kidnappers operating a kind of "reverse" Underground Railroad, and it is considered a key site by researchers and historians seeking to preserve relics of this critical time in American history.

Mr. Speaker, I am committed to ensuring that the Old Slave House and other sites receive the recognition and protection necessary for their preservation, so that future generations may benefit from the lessons they have to offer. The "National Underground Railroad Network to Freedom Act" represents a critical step in this process, and I urge my colleagues to vote for its passage today.

Mr. RUSH. Mr. Speaker, I rise today in support of an effort in the Senate to amend the Higher Education Bill. This amendment would give the Secretary of Education, in consultation with the Secretary of the Interior, the authority to provide grant money to create an educational center to research and celebrate the history of the Underground Railroad.

The Underground Railroad story is unique in American history. Tens of thousands of enslaved Black men and women risked their lives to pursue freedom. The common bond that led free Blacks, Whites, Native Americans and others to help secure safe passage for the fugitives was the firmly held belief that all human beings have an inalienable right to freedom.

Under the proposed Senate amendment, which may be considered in the next few weeks, the Department of Education would be authorized to evaluate proposals put forward by non-profit educational groups and select one that meets certain criteria, including the utilization of an existing public-private partnership and an on-going endowment to sustain the facility in the future.

In 1990, the Congress directed the National Park Service to conduct a study of alternatives for commemorating and interpreting the Underground Railroad. The Park Service found that there were numerous sites in several states involved in the Underground Railroad and, therefore, could not recommend a single site for an Underground Railroad memorial.

The effort in the Senate resolves the matter by providing funds for the development of a major "hub" site and the creation of satellite centers all across the country—as was the actual Underground Railroad operation. Including this bill in the Higher Education Bill also creates more than a historical monument; it provides an educational program dedicated to preserving, displaying and disseminating the history of the Underground Railroad.

Mr. Speaker, I hope the Senate will include this amendment and I encourage the House conferees to accept the language of the amendment in conference.

Mr. PAYNE. Mr. Speaker, I rise in strong support of H.R. 1635 the Underground Railroad Network to Freedom Act of 1998. With the passage of this legislation, which promotes the interpretation and commemoration of the path to freedom for escaped slaves, we will ensure that one of the most important stories in American history is told. It is a real-life drama, with all of the elements which make a compelling story—danger, courage, sacrifice and an undeniable longing for freedom which led to the establishment of the Underground Railroad. It is also a story which illustrates humanity at its best and worst, holding enduring lessons for present and future generations.

I am proud that the Underground Railroad's most famous conductor, Harriet Tubman, spent time in my home state of New Jersey carrying out her momentous mission. This brave African-American heroine, who was a fugitive slave, nurse, abolitionist, and social worker, risked her own life to lead hundreds of slaves to freedom.

Documented as an Underground Railroad Station is a home in Salem, New Jersey, which belonged to Abigail Goodwin, a Quaker and outspoken abolitionist, and her sister, Elizabeth. Under the initiative we are considering today, attention will be given to the stories of people like the Goodwin sisters and those they helped usher to freedom. As we continue a national dialogue on race, we cannot fail to remember such a critical period in our history and its impact on the development of our nation.

Mr. Speaker, as a former educator, I firmly believe in this effort to educate the public about the movement to resist slavery in the United States in the decades leading up to the Civil War. I commend my friend and colleague, Congressman LOUIS STOKES, for introducing this legislation and I look forward to working with the National Park Service and others to successfully implement thus effort to facilitate partnerships among federal, state and local governments and the private sector to highlight the Underground Railroad.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1635, as amended.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1635, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ESTABLISHING MEMORIAL TO HONOR GEORGE MASON

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 423) to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

The Clerk read as follows:

S. 423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF LEGISLATIVE AUTHORITY FOR MEMORIAL ESTABLISHMENT.

The legislative authority for the Board of Regents of Gunston Hall to establish a commemorative work (as defined by section 2 of the Commemorative Works Act (40 U.S.C. 1002)) shall expire August 10, 2000, notwithstanding the time period limitation specified in section 10(b) of the Commemorative Works Act (40 U.S.C. 1010(b)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 423 and urge its adoption. The bill grants a 3-year extension for the Board of Regents of Gunston Hall to construct a memorial to honor George Mason on Federal land within the District of Columbia.

In 1990, Congress passed public law 101–358 authorizing the Board of Regents of Gunston Hall to construct a memorial to George Mason, the American patriot who was the author of the Virginia Declaration of Rights that later served as the model for the Bill of Rights in the U.S. Constitution.

George Mason was a contemporary of George Washington, Thomas Jefferson, and James Madison. However, he died in 1792, years before his colleagues; and his contributions to the drafting of the U.S. Constitution are sometimes overlooked.

Mr. Speaker, section 10(b) of the Commemorative Works Act of 1986 provides that the legislative authorization to construct a memorial expires 7 years after the date the memorial was authorized by Congress. The date for the George Mason Memorial expired on August 10, 1997. This bill extends the legislative authority for the George Mason Memorial until August 10, 2000.

The Board of Regents of Gunston Hall, George Mason's historic ancestral home, have committed to raising the estimated $1 million necessary to construct this memorial and endow a maintenance fund.

The National Park Service has approved a site for this memorial garden on Federal land within the District of Columbia, adjacent to the span on the 14th Street Bridge, which has been named in George Mason's honor, and within site of the memorial dedicated to his renowned colleague, Thomas Jefferson.

Mr. Speaker, I urge my colleagues to support passage of S. 423.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 423 is a noncontroversial measure, passed by the Senate last year, that would extend for 3 years the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to George Mason.

Public law 101–358 authorized the Board of Regents of Gunston Hall to establish a memorial to George Mason, who is widely recognized for his role in events surrounding the drafting of the U.S. Constitution and its first 10 amendments known as the Bill of Rights.

Plans for the memorial provide for its location on Federal land in the District of Columbia, near the 14th Street Bridge, which was previously named in his honor.

A 3-year extension of the memorial authorization is necessary in order to allow planning and fund-raising to be brought to a successful conclusion. Senate bill 423 was favorably reported from the committee on Resources last October, without amendment. The bill does have the support of the administration. I ask my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in support of S. 423, legislation to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor a distinguished Virginian, George Mason.

In 1776, George Mason wrote the Virginia Declaration of Rights, the first document in America calling for freedom of the press, freedom of religion, proscription of unreasonable searches, and the right to a speedy trial. The Virginia Declaration of Rights not only served as a model for our national Bill or Rights; but historians believe that Mason's refusal to sign the Constitution for its failure, initially, to include a declaration of rights was a major impetus for eventual adoption of the first ten amendments of the Constitution.

George Mason sacrificed friendships by insisting that a strong national government could not be secured without also firmly establishing individual rights, and Mason inevitably chose his family over politics. He retired from public office following the Constitutional Convention and died just a few years later in 1792. His contemporaries, Thomas Jefferson and James Madison, lived decades longer and were elected presidents of the United States, and thus Mason's contributions were soon overshadowed.

During the 101st Congress legislation authorizing a private, nonprofit organization to establish a memorial to George Mason on federal land in the District of Columbia passed and was signed by then-President George Bush. In the 102nd Congress, a resolution passed concurring that George Mason was an individual "of preeminent historical significance to the nation," and authorized the placement of the memorial within select Area I lands, in sight of the memorials of two of Mason's closest friends: George Washington and Thomas Jefferson. The legislation was signed into law on April 28, 1992 and approved by the National Capital Memorial Committee in December 1993.

To pay homage to a man whose ideas played a prominent role in the founding of the American republic, a fitting memorial has been designed for this site, located between Ohio Drive and the 14th Street Bridge, overlooking the Tidal Basin. The memorial designs have been completed and submitted for review to all necessary advisory and review boards and by agreement, the United States Park Service is to maintain the memorial once completed. In accordance with the Commemorative Works Act of 1986, one million dollars must be raised in non-federal funds to construct this historic monument and ground breaking must occur no later than August 1998. The Board of Regents of Gunston Hall Plantation, a historical organization that oversees Mason's family home in Fairfax County, is dedicated to raising the necessary funds for the monument and seeing this important project through to its completion, however, the August 1998 deadline is rapidly approaching. At this time, fundraising efforts, while successful, will not be completed by the August 1998 deadline. That's why I support this necessary legislation granting an extension until August 2000.

The Commemorative Works Act requires two separate acts of Congress before a memorial may be placed in Area I lands. This monument has met both requirements. The final battle is a fundraising one and the Board of Regents of Gunston Hall has a plan of attack. Last year, they launched Liberty 2000, a campaign to share George Mason's legacy of liberty. The Board of Regents hope to build an endowment fund to ensure a secure future for Gunston Hall and attain the necessary non-federal funds to break ground and complete their efforts to bring George Mason's legacy to the Mall.

This is non-controversial legislation that passed the Senate and the House Resources Committee unanimously. I ask my colleagues to join me in supporting this three-year extension so we may properly commemorate this great statesman and Virginian, George Mason.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 423.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 423, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

□ 1630

U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3662) to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) 8 shall be private citizens, appointed by the President;

(B) 4 shall be representatives of the Department of State, the Department of Justice, the Department of the Army, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the minority leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the majority leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the minority leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) QUORUM.—11 members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop a historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System and any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from governmental institutions in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.—Assets described in this paragraph include—

(A) gold, including gold bullion, monetary gold, or similar assets in the possession of or under the control of the Board of Governors of the Federal Reserve System or any Federal reserve bank;

(B) gems, jewelry, and nongold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945, by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(4) INSURANCE POLICIES.—

(A) IN GENERAL.—In carrying out its duties under this Act, the Commission shall take note of the work of the National Association of Insurance Commissioners with regard to Holocaust-era insurance issues and shall encourage the National Association of Insurance Commissioners to prepare a report on the Holocaust-related claims practices of all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued any individual life, health, or property-casualty insurance policy to any individual on any list of Holocaust victims, including the following lists:

(i) The list maintained by the United States Holocaust Memorial Museum in

Washington, D.C., of Jewish Holocaust survivors.

(ii) The list maintained by the Yad Vashem Holocaust Memorial Authority in its Hall of Names of individuals who died in the Holocaust.

(B) INFORMATION TO BE INCLUDED.—The report on insurance companies prepared pursuant to subparagraph (A) should include the following, to the degree the information is available:

(i) The number of policies issued by each company to individuals described in such subparagraph.

(ii) The value of each policy at the time of issue.

(iii) The total number of policies, and the dollar amount, that have been paid out.

(iv) The total present-day value of assets in the United States of each company.

(C) COORDINATION.—The Commission shall coordinate its work on insurance issues with that of the international Washington Conference on Holocaust-Era Assets, to be convened by the Department of State and the United States Holocaust Memorial Council.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon receiving permission from any relevant individuals or entities, the Commission shall review comprehensively any research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) GOVERNMENTS INCLUDED.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) SUBMISSION TO THE CONGRESS.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) ADMINISTRATIVE SERVICES.—For the purposes of obtaining administrative services necessary to carry out the purposes of this Act, including the leasing of real property for use by the Commission as an office, the Commission shall have the power to—

(1) enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Commission is a party; and

(2) acquire, hold, lease, maintain, or dispose of real and personal property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

(1) IN GENERAL.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) QUALIFICATIONS.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) DUTIES OF EXECUTIVE DIRECTOR.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPLOYEE BENEFITS.—

(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 83, 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services, on a reimbursable basis, relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. ADMINISTRATIVE SUPPORT SERVICES.

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than $3,500,000, in total, for the interagency funding of activities of the Commission under this Act for fiscal years 1998, 1999, and 2000, of which, notwithstanding section 1346 of title 31, United States Code, and section 611 of the Treasury and General Government Appropriations Act, 1998, $537,000 shall be made available in equal amounts from funds made available for fiscal year 1998 to the Departments of Justice, State, and the Army that are otherwise unobligated. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3662, the United States Holocaust Assets Commission Act. The legislation enjoys broad bipartisan support, as well as the endorsement of the administration.

For nearly 3 years Congress and the administration have sought answers to questions about Nazi transactions and holdings in Switzerland and other neutral or occupied countries during World War II. The Committee on Banking and Financial Services has held a series of comprehensive hearings, really historical inquiries, on these issues. The research, including two interagency reports on U.S. and allied efforts to recover Nazi-plundered gold and other assets, revealed a broad pattern of neglect and denial of the truth.

The latest hearing, held last week, included thoughtful testimony from Under Secretary of State Stuart Eizenstat on the second of these interagency reports, which further documented the role of certain neutral countries in World War II.

Neutrality in the face of evil and on a personal and collective level is worthy of review by citizens of any age, particularly this one, where human relations had become complicated by unprecedentedly inventive instruments of war. If we as legislators are to discharge our public duties responsibly, we must develop an understanding of the evil of the Holocaust, and how many countries, including our own, responded at a time civilization was so violently challenged.

In the process of preparing reports on others, the United States has an obligation to look at its own record during the war. We have reason to take pride in the great sacrifices of American Armed Forces in combatting the Wehrmacht, but we also must remember that we did not open our doors to Jewish refugees during the war, even after our leadership had learned that Hitler had marked European Jews for extermination. We accepted only 21,000 Jewish refugees during the war, fewer than Switzerland in absolute terms, and fewer per capita than most other neutral countries.

In this context, one of the issues which remains unresolved and which H.R. 3662 is specifically designed to address is that of assets of Holocaust victims which may have been located in the United States. In the years following World War II, Congress recognized that some of the assets held in this country under nominal German or Swiss ownership may, in fact, have belonged to Jewish victims of the Holocaust who sent their assets abroad for safekeeping.

For that reason Congress, 35 years ago, authorized up to $3 million in claims for such heirless assets to provide relief and rehabilitation for needy Holocaust survivors. However, the political difficulties associated with such a commitment led Congress ultimately to settle on a $500,000 contribution. Although the document record and asset ownership was and still is sparse, it is likely that heirless assets in the U.S. were worth more than the 1962 settlement figure.

Today we have the opportunity to approve legislation which will resolve this question. It is fitting for the United States to undertake this task and practice what it preaches to others. To date, more than a dozen countries, including Switzerland, have formed historical committees or commissions to study their role and attitudes during the war period. H.R. 3662 would bring the United States into parity with other nations by creating a similar body.

The commission proposed under this bill would be composed of 21 individuals, including 8 Members of the House and Senate. Their mandate and responsibility would be to research and determine what happened to any Holocaust victims' assets that came under Federal Government control after January 30, 1933, the day Hitler came to power in Germany. The assets would be defined broadly to include everything from bank accounts and securities to real estate and rare books.

The commission would report its findings to the President and the Congress no later than December 31, 1999, with a goal as we enter the new millennium of helping to bring one of the darkest chapters in human history to a compassionate closure.

Moral quandaries are central to restitution issues. As one of our hearing witnesses, Professor Leora Baznitzky, noted, the Nazis robbed Holocaust victims not only of their possessions and lives, but also their memories of their existence on this earth.

Another witness, Professor Mark Larrimore, underlined this point. The map, he observed, with the help of which we try to orient ourselves as human beings, trying to live good and decent lives, is a map with Auschwitz on it. Inquiries into the nature of evil and how to behave in the face of it are not the normal stuff of governmental review.

In this case, however, such questions are relevant not only to the behavior of all countries involved in World War II, including our own, but to the question of establishing retrospective justice, and the broader responsibility of each generation of leadership to learn from the past.

Our century has been indelibly marked by the Holocaust, and our perception of human nature has been profoundly altered by it. It is imperative that every credible review effort be undertaken, of which this is one. Accordingly, I urge my colleagues to give this legislation broad bipartisan support.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on June 4, 1998, the Committee on Banking and Financial Services reported H.R. 3662 by voice vote. The bill allows the United States to continue its leadership in uncovering the truth about the disposition of Holocaust assets during and following World War II. This bill mirrors closely Senate 1900, which was passed unanimously by the Senate on May 1.

The Holocaust Assets Commission Act would establish a commission comprised of Members of Congress from the House and Senate, representatives from the executive branch, and private citizens to research archived documents and investigate the disposition of Holocaust-related assets in the United States.

The commission would create a historical record that is both necessary and overdue. There are more than 350,000 Holocaust survivors, and approximately 100,000 live in the United States. It is important for those survivors living in the United States to know and understand the extent of assets that may have come under control of the United States or within United States borders.

Mr. Speaker, the United States has already demonstrated outstanding leadership through Under Secretary of State Stuart Eizenstat, who has directed two groundbreaking studies on the disposition of Holocaust assets.

The first was released in May of 1997 and revealed the extent of looted gold flowing to and through Switzerland from Germany, along with evidence that some of that gold was stolen from Holocaust victims.

The second report, released last week, showed the extent of involvement of the so-called neutral countries in supporting the Nazi war machine by providing essential war materials. In the process, these neutral countries filled their reserves with tons of gold. Yet, Under Secretary Eizenstat's report also reveals the complexity of the neutral countries' activities and their support of the Allies' activities, and their acceptance of thousands of Jewish refugees.

I cite these two reports to demonstrate the unwavering commitment of the United States to uncover the truth about Holocaust-related assets and the role of various countries during this Nazi period.

Since the United States began its investigations into the disposition of gold and other assets, several countries have established commissions and committees to do similar research. Among these are Switzerland, the United Kingdom, France, Belgium, Canada, the Netherlands, Norway, Sweden, Portugal, Spain, Argentina, Turkey, and Croatia. The United States must do no less.

Under Secretary Eizenstat's efforts and reports have spawned considerable worldwide effort to reveal the truth. Discoveries are made monthly about previously unknown accounts and about activities on the part of banks and insurance companies. Class action lawsuits have been filed, and framework agreements and negotiations have begun between commercial banks and the aggrieved parties.

The establishment of a U.S. commission to investigate the disposition of Holocaust assets in the United States is the logical and necessary next step to uncovering the truth and righting past wrongs.

Mr. Speaker, I urge support of H.R. 3662, and urge each of my colleagues to do the same. It is the right thing to do, and it is important that we do so now.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from New York (Mr. GILMAN), a distinguished cosponsor of this particular bill.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I want to take this opportunity to commend our distinguished chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), who is also a senior member of our Committee on International Relations, for his ongoing leadership on this issue of Holocaust-era assets in Swiss banks, and his ranking member, the gentleman from New York (Mr. LAFALCE).

Having worked with the gentleman from Iowa (Mr. LEACH), Under Secretary of State Stuart Eizenstat, and the World Jewish Congress to resolve existing concerns, I am pleased to be able to support H.R. 3663, creating this U.S.-Holocaust Assets Commission.

In the past few years hearings, meetings, conferences, and negotiations have tried to reconstruct what happened to the assets of Jewish victims and others during the Holocaust period. As the gentleman from Iowa (Chairman LEACH) can attest, and as the gentleman from New York (Mr. LAFALCE) has noted, the dam has burst, and information is starting to seep forth on a variety of topics.

As a result, the disposition of Holocaust-era assets in our Nation needs to be reviewed as well. The proposed legislation seeks to empower a commission to discern the status of various types of Holocaust-era assets in our own Nation. These assets include gold, gems, jewelry, insurance policies, art books, manuscripts, religious objects, as well as bank accounts, domestic financial instruments, and real estate.

The measure before us would create a U.S. Holocaust Assets Commission, also to be known as the Presidential Commission on Holocaust Assets in the United States. This commission would be charged with reviewing Holocaust-era assets in our Nation to search for similar gaps as have been found in Europe.

The commission would be composed of private citizens, representatives of the Departments of State, Justice, and the Treasury, as well as Members of the House and Senate. The commission shall be charged with conducting a thorough study and developing a historical record in the collection and disposition of the assets that I have described.

It shall determine whether our government came into the control of any of these assets any time after January, 1933, and to determine the disposition of those assets through hearings, meetings, and the collection of information from a wide variety of sources.

I would like to note that the United States Mint is at West Point, in my district, or adjoining my district. I have been told there may very well be some gold bars that have been stored there that came out of that period of time, and I think that is worthwhile looking into.

The legislation proposes that the commission shall then make recommendations to the President regarding any legislative or administrative actions that should be undertaken as a result of their inquiry.

This commission is an important step in shedding much-needed light on what happened to billions of dollars of assets in the Holocaust era. Accordingly, I urge my colleagues to vote for the pending measure, and I want to commend the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE), both of whom worked hard on this measure, and for bringing it to the floor at this time.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FILNER).

☐ 1645

Mr. FILNER. Mr. Speaker, I rise today in strong support of the U.S. Holocaust Assets Commission Act. I believe this legislation is the most logical and responsible way in which to respond to the growing international appeals to address and resolve the issue of the ill-gotten bounty of the Holocaust.

The United States Federal Government must honorably and accurately determine what, if any, assets of Holocaust victims came into its possession and control and their current location and status. Only then, with this precise accounting, can we go about the duty of deciding what actions are necessary and appropriate to find the rightful owners or heirs to these resources.

The time is now to close this disturbing and unfinished chapter of one of the darkest periods in this century, and the U.S. Holocaust Assets Commission Act is the first step in the right direction toward achieving this just goal.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. FOLEY), who has worked so hard, particularly on related insurance issues and is an author of a principal part of this bill.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from New York (Chairman LEACH) for introducing this important legislation. I would also like to thank him for his skillful grace and intellect in holding the hearings that could have been highly charged and obviously deeply emotional. Chairman LEACH maintained decorum, a sense of calm, and a sense of purpose to resolve these critical issues.

Mr. Speaker, that is why we are here today with H.R. 3662, legislation that will help locate and eventually return assets confiscated by the Nazis. I especially want to thank the gentleman for accepting an amendment I offered in the Committee on Banking and Financial Services concerning what is perhaps the most important Holocaust asset issue: confiscated insurance policies.

At the end of World War II, many death camp survivors or their heirs attempted to collect on the insurance policies that were due. But because many of the policies had been paid out to the Nazis or because of the companies' unwillingness to honor the claims, there was no money for the rightful heirs.

Over the years as information about the war came to light, the insurance companies' collusion with the Nazis became evident. Some companies, namely Allianz and Generali, attempted a small amount of restitution, but the vast amount of money owed the Holocaust survivors has never been paid.

Today, many survivors and surviving heirs are still struggling to regain property that is rightfully theirs. Whether the property is in a Swiss bank or a life insurance policy, restitution must be made by the responsible parties and Congress must see that restitution takes place.

The amendment I offered in the Committee on Banking and Financial Services will ensure that at least we will begin to get to the bottom of the unpaid insurance claims. Specifically, my amendment will direct the U.S. Holocaust Assets Commission to work with the National Association of Insurance Commissioners to list all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued policies to any victim of the Holocaust. Included in the list will be the following information:

The number of policies issued by each listed company;

The value of the policies at the time of issue;

The total number of policies and the dollar amount that have been paid out; and

The present-day value of each listed company's United States assets.

Mr. Speaker, I thank the gentleman from New York (Mr. LEACH) for introducing the U.S. Holocaust Assets Commission Act, a bill that will help bring justice to the victims of the Holocaust. There is, however, another dynamic out of the jurisdiction of the legislation we are considering today that is also important to bring a full resolution to the problem of unpaid insurance claims.

While private insurers must be held morally and financially accountable to their obligations to Holocaust survivors and their heirs, so must the former Eastern Bloc Communist countries who control a substantial amount of the financial assets we are discussing today.

Following World War II, the Communists expropriated and nationalized insurance companies and their assets; countries whose governments, to this day, have not made an attempt to accept their responsibility in this situation.

Consequently, I have introduced a House Resolution to ask the U.S. State Department to raise the issue of insurance monies held by the Governments of Poland, Hungary, and the Czech Republic which rightfully belong to the Holocaust survivors.

Mr. Speaker, that is not a subject of today's debate. So I want to urge and ask my colleagues to strongly support H.R. 3662, and again thank the chairman, the gentleman from New York (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE), the ranking member, for their hard work and efforts on this vital, important legislation on the floor today.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say in conclusion that I want to thank the gentleman from New York (Mr. LAFALCE), my good friend, for his co-leadership of this issue and my two distinguished friends who have spoken today.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise in support of H.R. 3662, the U.S. Holocaust Assets Commission Act. There is no possible way that we could ever right all the wrongs of the Holocaust, but this legislation will allow us to recover various lost articles. H.R. 3662 would allocate 3.5 million dollars and all other privately received donations to examine the whereabouts of various assets lost during the World War II era.

This bill calls for a comprehensive search among private and public groups allowing us to redouble the efforts which are needed to provide much needed information on irreplaceable items including jewelry, art work, manuscripts and religious documents, along with other insurance policies. The universal feelings of love, comfort, and understanding that we associate with possessions accumulated from our loved ones past have been previously denied to many Holocaust survivors and their loved ones. This legislation will enable hundreds the opportunity to delve into previously untouchable treasures of the heart.

Six decades and more have passed since the confiscation of property began. We cannot return all that was lost, but we can try to return the hard-earned accounts, real estate and other such tangible items to their rightful owners.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 3662, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. LEACH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1900) to establish a commission to examine the issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) 9 shall be private citizens, appointed by the President;

(B) 3 shall be representatives of the Department of State, the Department of Justice, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the Majority Leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the Minority Leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) QUORUM.—Eleven of the members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop an historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System or any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from the central bank or other governmental treasury in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.—Assets described in this paragraph include—

(A) gold;

(B) gems, jewelry, and non-gold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945 by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already or being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon request by the Commission and permission by the relevant individuals or entities, the Commission shall review comprehensively research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) GOVERNMENTS INCLUDED.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) SUBMISSION TO THE CONGRESS.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

(1) IN GENERAL.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) QUALIFICATIONS.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) DUTIES OF EXECUTIVE DIRECTOR.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPLOYEE BENEFITS.—

(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access

to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. SUPPORT SERVICES.

During the 180-day period following the date of enactment of this Act, the General Services Administration shall provide administrative support services (including offices and equipment) for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. FUNDING OF COMMISSION.

Notwithstanding section 1346 of title 31, United States Code, or section 611 of the Treasury and General Government Appropriations Act, 1998, of funds made available for fiscal years 1998 and 1999 to the Departments of Justice, State, and any other appropriate agency that are otherwise unobligated, not more than $3,500,000 shall be available for the interagency funding of activities of the Commission under this Act. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

MOTION OFFERED BY MR. LEACH

Mr. LEACH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEACH moves to strike out all after the enacting clause and insert in lieu thereof the provisions of H.R. 3662, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, (H.R. 3662) was laid on the table.

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMEMORATING 100 YEARS OF RELATIONS BETWEEN PEOPLE OF UNITED STATES AND PEOPLE OF THE PHILIPPINES

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 404) commemorating 100 years of relations between the people of the United States and the people of the Philippines.

The Clerk read as follows:

H. RES. 404

Whereas 1998 marks 100 years of special ties between the people of the United States and the people of the Philippines and is also the centennial celebration of Philippine independence from Spain which initiated relations with the United States;

Whereas the people of the Philippines have on many occasions demonstrated their strong commitment to democratic principles and practices, the free exchange of views on matters of public concern, and the development of a strong civil society;

Whereas the Philippines has embraced economic reform and free market principles and, despite current challenging circumstances, its economy has registered significant economic growth in recent years benefiting the lives of the people of the Philippines;

Whereas the large Philippine-American community has immeasurably enriched the fabric of American society and culture;

Whereas Filipino soldiers fought shoulder to shoulder with American troops on the battlefields of World War II, Korea, and Vietnam;

Whereas the Philippines is an increasingly important trading partner of the United States as well as the recipient of significant direct American investment;

Whereas the United States relies on the Philippines as a partner and treaty ally in fostering regional stability, enhancing prosperity, and promoting peace and democracy; and

Whereas the 100th anniversary of relations between the people of the United States and the people of the Philippines offers an opportunity for the United States and the Philippines to renew their commitment to international cooperation on issues of mutual interest and concern: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the Philippines on the commemoration of its independence from Spain;

(2) looks forward to a broadening and deepening of friendship and cooperation with the Philippines in the years ahead for the mutual benefit of the people of the United States and the people of the Philippines;

(3) supports the efforts of the Philippines to further strengthen democracy, human rights, the rule of law, and the expansion of free market economics both at home and abroad; and

(4) recognizes the close relationship between the nations and the people of the United States and the people of the Philippines and pledges its support to work closely with the Philippines in addressing new challenges as we begin our second century of friendship and cooperation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to have introduced this resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines. I am pleased to bring it to the floor today for consideration, and I am pleased to be joined by our distinguished chairman of our Subcommittee on Asia and the Pacific of the Committee on International Relations, the gentleman from Nebraska (Mr. BEREUTER).

Mr. Speaker, it is right and fitting that the House of Representatives make note of the special relationship that our Nation and the Philippines have shared for nearly a century. The beginning of our country's relationship with the Philippines in 1898 also marks the beginning of our great interest in the Pacific and the development of strong, robust historical and cultural ties between the Philippines and the United States.

Mr. Speaker, though the United States and Philippines are literally an ocean apart, the large Philippine-American community, numbering over 2 million, has immeasurably enriched the social and cultural fabric of our Nation and serves as a sturdy bridge of friendship between our two countries.

Until the end of the Cold War, the United States maintained major military facilities in the Philippines which played a significant role in the maintenance of regional peace and stability. Today, the Philippines remains an important partner and ally in guarding the peace and maintaining stability in southeast Asia.

Our Nation is pleased with the flourishing of democracy in the Philippines. It is hoped that the Philippines will serve as an example to others in that region and will encourage progress and the furthering of democratic principles and practices, respect for human rights, and enhancement of the rule of law.

I am pleased to have had the opportunity to introduce this legislation and I urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution. I would like to commend the gentleman from New York (Mr. GILMAN) for introducing House Resolution 404 and moving it without delay through the legislative process. I am an original cosponsor of the resolution along with a number of our colleagues here.

Mr. Speaker, this is a constructive measure that recognizes the close partnership that we have enjoyed with the Philippines over the past 100 years, and voices support for a continuation of that partnership as we enter the second century of our bilateral relationship. I urge adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. BEREUTER) the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.Res. 404 and congratulate the distinguished gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, for introducing it today. I am pleased to be one of the bill's original cosponsors.

In the past 100 years, the Philippines at various times has served, and now serves, as a democratic counterpart, ally, trading partner, and friend to the United States. The Philippines is a republic basically patterned after our own democratic system and it continues to reshape and perfect its government in order to better uphold the ideals of democracy.

Since July 4, 1946, named Filipino-American Friendship Day in the Philippines, the U.S.-Philippines relationship has been largely characterized by cooperation. H.Res. 404 notes these cooperative efforts by citing our united forces in World War II and our efforts to promote peace and stability in the Asian-Pacific region. Though U.S. forces have not had a physical presence in the Philippines since 1991, the U.S. and the Philippines remain united by the 1951 Mutual Defense Treaty. This bond may be further strengthened by a newly negotiated Visiting Forces Agreement which is scheduled to go before the Philippines Senate for ratification later this year.

Despite the ongoing financial crisis in Asia, the Philippines has also become an increasingly valuable trading partner for the United States. The Philippines has demonstrated commitment to undertake economic reform, and this Member expects the new President-elect, Joseph Estrada, to continue to nurture this economic growth.

H.Res. 404 is timely legislation as its introduction coincides with the festive preparations now underway in the Philippines in anticipation of its centennial celebration of independence from Spain. It is altogether appropriate for this body to congratulate the Philippines on the centennial of its independence and applaud his accomplishments of the past 100 years. The Philippines has clearly become a positive role model for its Asian neighbors.

Mr. Speaker, I congratulate the gentleman from New York (Mr. GILMAN) on sponsoring this legislation and I urge all Members to support and approve H.Res. 404.

Mr. WEXLER. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. FILNER).

□ 1700

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in strong support of this resolution, H. Res. 404, which congratulates the Philippines on the 100th anniversary of its independence from Spain in 1898, supports their efforts to strengthen democracy and human rights, and thanks the Philippines for fighting on the side of the United States in World War II, the Korean War and Vietnam.

I have personally met with both the President-elect and the Vice President-elect recently, and I know that they will continue the strong relationship between our two countries.

Mr. Speaker, I would like to suggest to my good friends who are speaking on this and who have sponsored this resolution today that there are two additional concrete steps that this body could take to adequately express the high regard we have for the Philippines on this 100th anniversary of their independence.

The first concrete act we could do is pass the bill, H.R. 836, an act introduced by the distinguished chairman of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN), and myself. It is a bipartisan bill called the Filipino Veterans Equity Act. It has nearly 200 cosponsors at this time.

What the Filipino Veterans Equity Act says is that it is time to restore justice and honor and dignity to the veterans of World War II who fought side by side with us. These were soldiers of the Philippines who were drafted to serve in our Armed Forces by Executive order of President Roosevelt. They defended the American flag in the famous battles of Bataan and Corregidor. Thousands of them died during the Bataan death march, and many who survived were imprisoned under very inhumane conditions. The Filipino soldiers who fought under the American flag foiled plans for a quick takeover of the region and allowed the United States the time that we needed to prepare our forces for victory in the Pacific. But unbelievably after the war was over in 1946, the Congress of the time voted to take away the benefits and recognition that these Filipino veterans were promised. In the infamous Rescissions Acts of 1946, we said, thank you for all your work and help, but no thanks.

It is now 52 years later. Families who live in both the United States and the Philippines have been waiting for the justice, recognition and benefits that they deserve. H. Res. 404 thanks them for their service, but we need H.R. 836, sponsored by the gentleman from New York (Mr. GILMAN), to complete the job.

A second concrete step that we can take is to pass H. Res. 312, which was introduced by the gentleman from Guam (Mr. UNDERWOOD). This resolution outlines the compromise to return one of the famous Bells of Balangiga to the people of the Philippines. The two bells were brought to the United States early in the 20th century by American troops who were engaged in hostilities that had erupted between American and Filipino soldiers. These bells are currently on display at Warren Air Force Base in Wyoming.

The Republic of the Philippines has repeatedly requested the return of the bells. H. Res. 312 would return one bell and retain one bell in Wyoming. Two replica bells would be made so that each country would have one replica and one original bell.

On the occasion of the 100th anniversary of the Philippine Declaration of Independence, as a measure of friendship, another way to recognize this, in addition to the resolution we have on the floor now, let us share these priceless bells which are national symbols to the Filipinos.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California (Mr. FILNER) for his support of our Philippines veterans bill.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROHRABACHER), a member of our House Committee on International Relations.

Mr. ROHRABACHER. Mr. Speaker, it is my honor today to rise in support of this resolution remembering the Philippines 100 years as a nation.

It was 100 years ago when, during what is known as the Spanish-American War, the Philippines were liberated from their Spanish oppressors. Unfortunately sometimes we like to romanticize our own history and forget what happened a few years immediately after that liberation. Instead of doing what would have been consistent with our own philosophy as a country that believed in the Declaration of Independence, the United States decided instead of freeing the Philippines from foreign oppression, we decided to take control of the Philippines for ourselves, and, in fact, at the turn of the century there was a bloody war that went on in the Philippines that pitted the United States against many of the Filipino people who wanted freedom and independence, justifiably wanted their freedom and independence. In fact, tens of thousands of Filipinos were killed at that time by the superior firepower of American military forces. That is a stain on American history.

However, let us say that there were the best of intentions. The people who were involved in that and the decisionmakers felt that this would be a way to lead the Philippines to true democracy. And 50 years later, yes, in 1946, the Philippines were freed. I think it speaks very well of the Filipino people that they have forgotten that blight of what happened at the turn of the century and over the years became perhaps one of America's greatest friends in the Pacific, but also in the world.

The Filipino people are good friends and part of the American family and, since 1946, have always had a close relationship to us and during the Cold War stood with us. Unfortunately during the Cold War the Philippines reverted back during the time, and, again, which did not speak well of the United States, we recognized the demise of democracy under the rule of Mr. Marcos. President Marcos they called him, but one is not a President unless one is elected, so I will have to call him dictator Marcos. During that time corruption thrived, and again the United States did not live up to our own ideals, but yet the people of the Philippines know that we are a country of ideals, and, when we could, we stood with those people. Mr. Aquino, of course, who was assassinated by the Marcos gang, and we stood with the people of the Philippines to help reestablish democracy there.

I think, as a former member of the Reagan administration, that is one of the moments that I am the most proud of, where Ronald Reagan helped ease this dictatorship out of power in the Philippines and eased into place a more democratically oriented group of people. And then today, under President Ramos they have had a magnificently democratic country. We have had freedom of speech, freedom of the press and a growing economy. Under the past regime, they were so corrupt, they could not even grow. Today the Philippines stands as a jewel in the Pacific in the sense that its people are committed to freedom and democracy as we know it here in the United States. They are our good friends.

Unfortunately, here again at times we end up taking the Philippines for granted. We end up trying to give business advantages for our own businessmen to invest in countries like Vietnam that have had no democratic reform whatsoever, or in China, or in other dictatorial countries, even like Indonesia up until this current situation. Why should we ignore those people who are struggling to improve their lives, who are our best friends in the Philippines, and instead direct our people with grants and loans and subsidies for their investments from the IMF and from the Export-Import Bank; why should we direct them towards dictatorships when we should actually be helping our friends in the Philippines?

I am very proud to stand here today to say, I am a friend of the Philippines, and the people of the Philippines are good friends of democracy and freedom and good friends of the people of the United States.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly would like to associate myself with the compliments and statements made earlier by my good friend from California and certainly his support for the Philippines.

I rise in support of House Resolution 404, which commemorates 100 years of relations between the good people of the Philippines and the United States. I commend the chairman and ranking member of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON), for introducing and supporting adoption of this important measure. I am proud to join these gentlemen and our colleagues on the committee as an original cosponsor of the legislation and also my good friend, the chairman of the Subcommittee on Asia and the Pacific, the gentleman from Nebraska (Mr. BEREUTER).

Mr. Speaker, today we honor an old and enduring friendship that has linked the United States and the Philippines for almost a century. Our relationship dates back to 1898 when Commodore George Dewey sank the Spanish fleet in Manila Bay, ending three centuries of Spanish colonial rule and laying the foundation for Philippine independence from Spain.

For in the next 100 years, Americans and Filipinos have shared a special bond forged in war and strengthened in peace.

Mr. Speaker, the Philippines should be commended for being one of the most vibrant democracies in Asia. Since the people power revolt in 1986 that ousted Ferdinand Marcos, three Presidents have been placed in office by free and fair elections in the Philippines. Last month, Vice President Joseph Estrada was the runaway winner of the May 11 Presidential election against nine other candidates. On June 30, Mr. Estrada, an opposition leader, shall take office from President Fidel Ramos, again marking a smooth transition of power as befits a true democracy.

Under President Ramos' leadership, the Philippines has implemented economic reforms while embracing free market principles. The trade liberalization policy has led to an economic renaissance for the Philippines, going from zero growth in 1991 to an increase over 6 percent GNP in recent years. The United States has been and continues to be the largest trading partner and foreign investor in the Philippines. One-third of Philippines' exports come to America. Two-way annual trade between our two countries has exceeded over $12 billion.

Mr. Speaker, the people of the Philippines and the people of the United States have always had close relations. Today almost 2 million Americans are of Filipino descent, while close to 130,000 U.S. citizens presently reside in the Philippines.

People of the Philippines have always been a trusted ally of the United States in times of conflict. During World War II more than 100,000 Filipinos volunteered for the Philippine Commonwealth Army, fighting under American commanders alongside U.S. Armed Forces. Filipino soldiers also sacrificed their blood alongside U.S. troops in the Korean and Vietnam wars. This friendship and alliance continues today with our mutual defense treaty, which commits our nations to each other's defense in case of external attack, while preserving stability in the region.

Mr. Speaker, because of the deep and enduring ties that have traditionally bound the people of the Philippines and the U.S. together, I would strongly urge our colleagues to adopt this resolution before us. All Americans should honor our good friendship with the Philippines on this important commemoration of their independence, support their continued political and economic progress, and work to maintain the special and close relationship between our sister democracies.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise today in very strong support of House Resolution 404, which celebrates and commemorates the 100 years of relationship between the Philippines and the United States. I take particular pride in rising today to support this resolution as the Chair of the Asian Pacific Caucus for the House of Representatives. We are joined together as Members of this Congress with strong Asian Pacific constituencies, and we have approximately 20 members in our caucus and about 65 Members of the House that have 5 percent or more Asian Pacific individuals in their constituencies.

The Philippines have had an unusual relationship with the United States. One hundred years ago they freed themselves from Spanish rule and began an association with the United States which was not always friendly or pleasant. I am sure there were many torturous years prior to their development of a strong relationship, but the Philippines has always been a friend and an ally, and never more important was that relationship and dependence upon each other than during World War II, when the United States called upon nearly 100,000 Filipinos to join side by side with the United States to win the war in the Philippines and to conquer the enemy forces in the Philippines.

At that time the Filipinos that joined in to help the American forces in the Philippines were promised that they would be accorded recognition and veterans status. Regrettably, the Congress took away that promise in the Rescissions Act of 1946. And so today one of the gnawing difficulties we have in our constituencies in facing the veterans from the Philippines who now live in the United States is this question of when the United States is going to fulfill its honor and its promise.

□ 1715

I would hope that along with the celebration of our relationship of 100 years that we recognize that we have still some unfulfilled promises that we have made to the Philippine people.

The Filipinos in the United States who are living here as residents or as citizens constitute a very large portion of our population. Persons in the United States of Filipino ancestry number over 2 million currently under the estimates that we have received from the Census Office. In my own constituency, there are about 170,000 persons of Filipino ancestry. We celebrate their presence. I cannot think of any other segment in our society that are harder working, more creative, more energetic and more loyal to the United States than those who count as their ancestry the Philippines. And so I agree with the gentleman from California that we should be at this time thinking of ways that we could strengthen this relationship through trade and other kinds of formulations to build their economy and to indicate to the people of the Philippines that it is more than just a token relationship; that they are friends, stable, reliable, and of great economic importance. It is important for this country to extend a helping hand in every way that we can. Hawaii is special because we have elected as our Governor a person of Philippine ancestry of whom we are very proud, the Honorable Benjamin Cayetano.

Mr. Speaker. I rise today to pay tribute to an old and enduring friendship that has linked the United States and the Republic of the Philippines. Friday, June 12, 1998 marks the 100th anniversary of the U.S.-Philippines relationship. I am pleased to join my colleagues in strong support of H. Res. 404 which recognizes the special link that Americans and Filipinos have shared.

As we celebrate this important relationship let us not forget the supremely noble Filipino World War II veterans.

The U.S.-Philippines relationship was indisputable when over one hundred thousand Filipinos, of the Philippine Commonwealth Army, fought side by side with the United States during World War II. Under President Roosevelt's Executive Order of July 26, 1941, the Philippine military was called on to join forces with the United States. Without hesitation they fought with bravery, tenacity and honor along side American forces in the battle in the Pacific Theater. Philippine soldiers who served in regular components of the United States Armed Forces were considered members of the United States forces.

Filipino fighters heroic service prevented the enemy from conquering the Pacific and allowed the United States troops, under the command of General Douglas MacArthur to return to the Philippines. The contributions and valor of these Filipino veterans were instrumental in the United States preparations for the final assault on Japan.

Notwithstanding promises made to these Philippine soldiers in 1946, Congress enacted The Rescission Act which stripped members of the Philippine Commonwealth army of being duly recognized as veterans of the United States Armed Forces.

It was not until 1990 that Congress passed the Immigration Act of 1990 permitting Philippine veterans of World War II to apply for naturalization in recognition of their wartime service.

Today, CBO estimates that at least 28,000 veterans of the Commonwealth Army and Philippine Scouts are U.S. citizens. According to information from the Immigration and Naturalization Service (INS), about 15,000 who live in the United States became citizens between 1991 and 1995 under the authority of the Immigration Act of 1990.

H. Res. 836, The Filipino Veterans Equity Act introduced in February reinstates the benefits of the Filipino World War II veterans unjustly denied by our Act of Congress in 1946. I am pleased to be a co-sponsor of House Resolution.

This year the Congress has the opportunity to address this injustice. The House Committee on Veteran's Affairs will hold a hearing on H. Res. 836. The United States has an obligation and the Congress the responsibility to live up to the original promise made to these soldiers. This year, the 100th Anniversary of our relationship, is a perfect time to correct this wrong.

After answering the call without question and serving valiantly in the defense of the United States, Filipino World War II veterans deserve, their long-overdue benefits.

This year, in many communities in the United States and the Philippines, extensive celebration of the Philippine independence and the enduring friendship between our two countries will occur. I believe it is time to honor our friendship by providing full veterans' benefits to these Filipino World War II veterans, who fought and died side by side with us for freedom and democracy.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

The SPEAKER pro tempore (Mr. STEARNS). The gentleman from Guam (Mr. UNDERWOOD) is recognized for 4 minutes.

Mr. UNDERWOOD. Mr. Speaker, I commend the gentleman from New York (Mr. GILMAN), the chairman of the committee, for this measure, and I rise in strong support of H. Res. 404.

One hundred years ago, President McKinley, mulling over territories which included Guam as well as the Philippines in the Asia-Pacific region, spoke of the revelation indicating that there was nothing left to do but to take the Philippines and to Christianize them. Obviously, he had forgotten that this had already occurred, and that the process of acquiring the Philippines has become in the beginning of this century one of the great controversies which consumed this country and which actually resulted in a guerilla warfare in which some 4,000 Americans died, 200,000 Filipinos died and over $200 million were spent.

On June 12, 1898, which is on Friday, our time, General Emilio Aguinaldo first unfurled the Filipino flag amidst the strains of the inspiring Philippine National Anthem, declaring that the Philippines had become independent from Spain. In doing so, they became the first indigenous group in the Asia-Pacific region to break the bonds of European colonialism.

Despite that, they soon found themselves ignored in the process of the Treaty of Paris, considered as war booty and eventually ended up under U.S. sovereignty, thus confounding some of the efforts of many anti-imperialists at the time, including Mark Twain, who remarked, "I am opposed to having the eagle put its talons upon any other land."

Despite these inauspicious beginnings and conflicted beginnings, Filipinos have remained the strongest and closest ally of the United States throughout this entire century. Filipinos fought, fighting under the American flag in World War I, keeping alive their own resistance effort and participating in their own liberation from the Japanese during World War II under both the U.S. flag and the Philippine Commonwealth banner, and under their own flag the Sun and Stars during the Korean and Vietnam wars. They have been with us shoulder to shoulder like no other nation on earth.

As we mark the 100th anniversary of Philippine-American ties, I urge my colleagues to reflect upon our relationship with the Filipino people and their republic. As we commemorate and celebrate this important milestone, I would like to remind our colleagues that this would be an opportune time for us to act and resolve long-standing issues that have occurred during the past 100 years, including the Filipino Veterans Equity Act which has been so eloquently spoken to by both the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from California (Mr. FILNER) as well as the return of the Bells of Balangiga. These bells were taken in the course of the guerilla insurrection, a compromise measure has been suggested at the expense of the Philippine government, and we should bring closure to this issue.

This coming Friday, the Sun and Stars will once again be unfurled on the same balcony General Aguinaldo first proclaimed Philippine independence some 100 years before. I think for the Filipino community on Guam, and I am proud to say that my congressional district is the closest to the Philippines, for Filipino communities all over the United States and all over the world and for all people who love democracy and independence, June 12, 1998, is a day to celebrate.

Mr. Speaker, I would like to also bring attention and enter an article on the Philippine Centennial in the debate at this time.

The text of the article is as follows:

Mr. Speaker, this coming June 12, the Republic of the Philippines, Filipinos, and freedom loving people from all over the world will commemorate the 100th anniversary of the declaration of Philippine independence. On this occasion, I would like to share with my colleagues the thoughts of Dr. Eddie Del Rosario, a Filipino-American who has been a long-time resident of Guam. In his article, Dr. del Rosario includes a poem written by Apolinario Mabini, a turn of the century Filipino nationalist who spent two years as a political exile on Guam.

THOUGHTS ON THE PHILIPPINE CENTENNIAL

(By Eddie del Rosario, MD, MPH)

By any measure, a hundred years is a highly significant milestone in any chronicle of a group of people, especially if it marks a great victory after an epic struggle for freedom. The Filipino people, on June 12, 1898, proclaimed their independence from the heavy yoke of colonialism and slavery imposed on them for 377 years, 2 months, 14 days and some odd hours by monarchic Spain. Unfortunately, it was largely ignored by most nations, especially by the defeated foe (Spain) and the ambivalent ally, the United States of America.

On that day, the Filipinos earned the distinct honor of being the first indigenous people in Asia and Oceania to wrest their freedom and independence by force of arms from their European colonial masters. It must have sent shock waves among the imperialist nations of Europe and more than a tingle of delight and renewed hope among the disenfranchised peoples of Asia and the native islanders of Oceania. I venture to guess that the exiled Filipinos called "deportados" and their progenies as well as the indigenous people on Guam, Rota, Tinian and Saipan who were likewise subjects of Spain at that time, must have murmured approvingly and must have wondered about their own deliverance.

By all intents and purposes though, it was not a democratic form of government that the leaders of the victorious Filipino revolutionaries proclaimed that day. General Emilio Aguinaldo, 27 years young, was a de facto military dictator. It didn't matter much to the 7 million Filipinos at that time. What mattered most was that they were free from the shackles of the much-hated Spanish despots gathered in military uniforms, priestly cassocks and ostentatious period costumes of the "Ilustrados".

When the Philippine flag was finally displayed and raised for the first time from the balcony of that modest and now historic house in Kawit, Cavite, amid the soul-stirring strains of the new Philippine national anthem, the Filipino people broke in cheers and tears. Free at last! Or should it have been "Free Again!" since the pre-Conquest Filipinos were one of the freest societies in recorded Oriental history. Just like the pre-Conquest Chamorros in their flying proas, the itinerant and industrious Filipinos of yore cavorted freely among their 7,000 islands in their sleek and fast paraws and vintas. Their age of innocence was soon ended by the light-skinned conquerors from the other side of the world carrying swords and crosses and speaking in a strange tongue.

On that June day, the descendants of enslaved and conquered Filipinos who finally overthrew their masters in a rare, united effort, looked up with awe and reverence at their brown-skinned leaders who looked so young, so powerful, so determined and so trustworthy. The average age of the leaders of the Philippine-Spanish War was about 29 years. In the heady atmosphere of such jubilation marking the birth of a new, independent nation, no one even thought that 14 months later, these same citizen-soldiers would be fighting another foreign invader called "Americans". No one, except for a quiet, paraplegic intellectual sitting on his wheelchair by the name of Apolinario Mabini. He somehow knew that the Americans who were supposed to be friends and trusted allies harbored their own design, just like the other European powers, for these beautiful islands. On the last month of that fateful year of 1898, oblivious of the fact that an empowered group of self-determined Asian people overthrew and declared their independence from their powerful conqueror, the Americans pre-empted the Filipinos, the Chamorros, the Cubanos, and the Puerto-Ricanos in one fell swoop. In an arrogant display of naked imperialism and the power of international economics, culminating in the Treaty of Paris, millions of indigenous people found themselves vassals of another foreign power once more. How would colonial Americans have left felt if, right after July 4, 1776, the British sold their patrimony to the French for 20 million pounds sterling without their knowledge? Doubtless, there could have been second American Revolution. And that's precisely what happened in the Philippines 7 months and 22 days after the June 12, 1898 declaration of Phil. Independence and exactly 14 days after the First Phil. Constitution was promulgated, a product of the best Filipino minds in Congress Assembled in a stone church in the town of Malolos, province of Bulacan. All that time, Admiral Dewey knew that every act of self-determination that the Filipino freedom fighters did before and after the Treaty of Paris, consummated between Spain and U.S.A. on December 1898, were exercises in futility. It didn't matter that these brash islanders followed the "same script and recipe" that the Americans used in their earlier quest for independence and creation of a constitutional democracy. U.S. Pres. McKinley was determined to save his "little brown brothers" from paganism, inspite of the fact that most Filipinos had already embraced the Catholic Faith for hundreds of years.

On Feb. 4, 1899, the first skirmish marking the start of the Philippine-American War occurred on a narrow bridge in San Juan, Rizal adjacent to Manila, the home town of Joseph "Erap" Estrada, the newest and the 13th president of the Republic of the Philippines. Once again, true to the words of their national anthem, i.e., "Land dear and holy, Cradle of noble heroes, Ne'er shall invaders trample thy sacred shores," the Filipinos fought gallantly against all odds to repel the American invaders just as they did earlier with the Chinese, the Dutch, the British and the Spaniards. Much later, the Japanese also faced the wrath of the Filipino freedom fighters. Slow to anger, patient as Job, quick to forgive but unrelenting once he begins to fight—such was an apt portrayal of the Filipino by his enemy.

The Philippine-American War turned out to be "the most shameful episode in American history, worse than Vietnam and the Indian massacres", quoting noted Filipino columnist and writer, Hilarion Henares, Jr. Based on American official records, Henares noted that where the usual ratio between dead and wounded as 1 is to 5 in the Boer War, American Civil War, Spanish-American War and the World Wars, in the Philippine campaign, it was the exact reverse: for every one Filipino wounded in battle, five were killed. In some instances, "in Northern Luzon, 1,014 Ilocanos were killed and only 95 wounded, a ratio of 10 killed for everyone wounded." "Gen. Bell proclaimed: 'All able men will be killed!" "Gen. Smith ordered the Massacre of Samar * * * and further ordered that all persons—men, women, and children down to 10 years of age—were to be executed." The Americans paid a high price in this bloodly and protracted war. Henares wrote that the Americans had six times more casualties fighting the Filipinos than they had fighting the Spaniards; it took them 42 months to defeat the Filipinos versus 6 months to defeat the Spaniards; almost a year longer than it took them to beat the Japanese in World War II. At the height of the carnage, Pres. McKinley denounced the zona system which was instituted to kill all members of a neighborhood for crimes committed by a few. He said, "It was extermination. The only peace it could beget was that of the grave."

Apolinario Mabini, the "Brains of the Phil. Revolution" and the "Sublime Paralytic" who never even wielded a machete nor fired a gun, much like Dr. Jose Rizal whose writings and martyrdom in December 1896 sparked the Philippine Revolution, was considered, ironically, by Gen. Arthur MacArthur (the father of the "American Caesar", Gen. Douglas MacArthur) as the most dangerous Filipino alive. Nationalist to the core and extremely brilliant, his blistering disclosures and writings critical of the new American rulers made life miserable and derailed the pacification campaign of the Yankee warloads. Guamanian nationalists would have loved to engage Mabini in great conversations about the "American Conquistadors" and their misguided philosophy of "Manifest Destiny". On Jan. 15, 1901, Gen. MacArthur threw his hands up and exiled Mabini to Guam to silence him. He followed the footsteps of the Spanish despots who, for 300 years, exiled thousands of men and women to the Marianas because of crimes committed, real or imagined, against the State and the Church. Among them was

Melchora Aquino (Tandang Sora), the "Mother of the Katipunan." Mabini's voice was effectively silenced but no one can break his unconquerable spirit. During his two years of exile in "Fort Asan," he started to master the English language to better parry the thrusts of his new adversaries. Such was the steely resolve of this frail but courageous patriot. His voice may be silenced but not his mighty pen and his sharp mind.

Apolinaro Mabini, together with 52 other political exiles and "Irreconcilables" who refused to pledge allegiance to the American flag, made good use of their time to ingratiate themselves with the native populace whom they felt close kinship with. A veritable Who's Who among the Phil. intelligentsia and revolutionaries, they included such luminaries as Generals Pio del Pilar, Mariano Llanera, Artemio Ricarte, and Maximino Hizon; prominent lawyers such as Leon Flores (father of the late Archbishop Felixberto Flores of the Archdiocese of Agana), Pancracio Palting (father of the late Guam Senator Paul Palting), Pablo Ocampo and Julian Gerona; seasoned patriots such as Maximo Lorenzo Tolentino was stayed and lived in Santa Rita, and many others.

For the longest time until his death on May 13, 1964 at the ripe age of 88, Maximo Tolentino was the only living, direct link on Guam between the tempestous past and the idyllic present. He was a living witness of the Philippine Revolution. He consorted with the great and the near-great of that epoch. Tolentino married a Chamorrita, Tomasa Crisostomo Lizama from Julale, Agana and sired a son (who died at the tender age of three) and two daughters, Mrs. Maria T. Ignacio and Mrs. Carmen T. Cruz, both of Santa Rita. As of this writing, the reconciled patriot Tolentino's descendants include ten grandchildren, one of whom is Emilesia T. Anderson who provided valuable information to this writer, and thirty great-grandchildren.

According to Monsignor Oscar L. Calvo, a local clergy and historian, the "Irreconcilables" were suave and debonair ("caballeros" as they were described on Guam). Hardly a weekend passed where there wasn't party to which they were invited. They invariably charmed their way into the hearts of their hosts. They were also allowed to hold parties of their own to reciprocate for the local hospitality. Monsignor Palomo and the U.S. Navy officials often engaged Mabini in long conversations as they promenade in their horse and carriage. Local people and government officials sought their legal assistance and advice which were freely given. There was no record of any attempt by these "dangerous exiles" to foment civil disobedience nor rebellion among the native inhabitants. Tony Palomo, a local writer and historian, wrote in the May 7, 1961 issue of the Territorial Sun that according to Maximo Tolentino, Gen. Artemio Ricarte who chose to go to Japan instead after the "Irreconcilables" were sent back to the Phlippines, wrote to him to induce him to get the Filipinos in Guam to start an uprising against the Americans. Tolentino wrote back asking Ricarte not to write to him anymore about these things, citing that the Filipinos have adopted Guam as their new home and that they are happy and contented with their families.

After most of the exiles finally decided to swear allegiance to the American flag, they were allowed to sail back to their motherland on Sept. 21, 1902. On the eve of their departure, Marine Sgt. James Holland Underwood gave them a big farewell party. A day after they left, a powerful earthquake shook Guam and demolished the church in Hagatna as well as most of the stone houses on the island.

Mabini was unshaken nonetheless in his resolve not to reconcile with America. Inspite of the ministrations of his brother Prudencio and regular check-ups by an American doctor to ease the distress brought about by his disabilities, he pined for his beloved country as he wrote his "opus magnum," the political masterpiece entitled "The Rise and Fall of the Philippine Republic." Agonizing over his frailty and mortality and fearing that he might die without a country, Mabini finally gave in. He wrote a beautiful and plaintive poem entitled "Adios, Asan" which he handed to Maximo Tolentino before he sailed back to the Philippines with Juan Villanio, a Spaniard who fought on the side of the Filipinos. On Feb. 26, 1903, moments after he alighted from the U.S.S. Thomas on Philippine soil, he took the oath of allegiance to the Stars and Stripes. Refusing offers of money and a high government position from U.S. officials, he deigned to live quietly in his nipa hut along the Pasig River in Manila. Barely three months later, he died, a victim of the cholera epidemic of 1903. Thousands of friends and foes alike bade him farewell as a twelve-horse carriage carried his mortal remains along the streets of Manila.

His words ring true almost a century later to remind us that a nation's freedom comes at a great cost.

". . . Let us fight while a grain of strength is left us; let us acquit ourselves like men, even though the lot of the present generation is conflict and sacrifice. It matters not whether we die in the midst or at the end of our most painful day's work the generations to come praying over our tombs, will shed for us tears of love and gratitude, and not of bitter reproach."

I like to think that Mabini spent a lot of happy and peaceful moments on Guam. Even now, as one visits his memorial on the quiet and timeless sands of Asan, in between the sound of the breaking waves, I whisper to this great patriot that he did not die in vain; that the American regime, for the most part, showered great benevolence to his beloved people; that the cruelty of the Spanish rulers was not enough to kill the humanity of the Filipino race because their Faith in God sustained them; that the Americans opened up the hearts and minds of a subdued people through the wonders of universal education, that the Americans, through the military genius of Gen. Douglas MacArthur whose father caused him undue torment, more than compensated for their past sins by dying by the thousands alongside their true brown brothers in the defense and eventual liberation of his beloved Philippines from the cruel and avaricious Japanese; that the fruits and blessings of a true democracy are enjoyed everyday by everyone which allows each individual to be independent, productive and integrated with society as a whole; that the Filipinos are well on their way to accomplish greater things, aided and abetted by a government of the people, by the people and for the people, a form of government wished by him for his country and ultimately handed freely by the Americans whom he suspected as just another cruel taskmaster, that on the beautiful island of Guam where he was exiled, there are now tens of thousands of inhabitants of Filipino lineage engaged in nation-building, aware of their proud heritage, thankful to their noble heroes for restoring their dignity as Freemen, ever-conscious of what Dr. Jose Rizal wrote in affirming the inalienability of rights: "God gave each individual reason and a will of his or her own to distinguish the just from the unjust; all were born without shackles and free, and nobody has a right to subjugate the will and spirit of another.", and ever-vigilant in guarding the principle that All Men are Created Equal.

If Mabini were alive today, he would exhort us with one of the timeless gems he wrote a hundred years ago in his True Decalogue. "Contribute to the progress of humanity by developing your own talents, working, studying, honing your abilities, never leaving the path of righteousness and truth. By doing so, you will be honored and being honored, you will glorify God."

ADIOS ASAN

(By Don Apolinario Mabini)

(English translation from Spanish original)

Adios, Asan! Adios, Agana!
We bid thee adieu, We, the unfortunate victims of the love for a sacred ideal;
We vow thee our loyalty for thy humanitarian hospitality.
Adios, Asan! Our favorite village, on whose sands our pains have been sprinkled, and our tears spread;
Your name I shall Never forget.
Adios, Agana! Soon I shall leave thee;
May heaven shower Happiness on thee;
Adios, my brothers, sisters, of my soul
Adios! Farewell! Adios!

Mr. Speaker, I would like to point out that Guam's own role in the Philippine independence movement was significant in that ironically a number of Philippine insurrectionists were put in exile on Guam at the turn of this century and many ties have resulted from that. I urge again this body to pass the resolution and more importantly to address the issues of Philippine veterans equity.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I would like to thank the gentleman from New York (Mr. GILMAN) for providing me this opportunity to just add a couple of points to the statement that I made earlier about the Philippines. Of course I support the gentleman's position that we should return those bells. It is an insult to the people of the Philippines. There is no reason for a country that is so close to us now that we should not bend over backwards to be sensitive to their pride in those parts of their culture. But let us note when we talk about the Philippines that that is one of the lesser problems and challenges they face. They are working hard to develop their economy, they are working hard and struggling hard to make sure that they maintain a democracy, but one of the greatest threats to the Philippines now comes from mainland China.

The Chinese, the Communist Chinese, are in a territorial dispute with the Philippines, and we in the United States who support democracy, we in the United States who believe in a more peaceful world and a peaceful solution to the problems in the Pacific should stand very closely to the Philippines at this time and let the Communist Chinese know that we will not tolerate the use of military force the Chinese seem bent on doing in their intentions to grab the Spratley Islands.

Already we have been told that a permanent Chinese presence has been established in the last few years in the Spratley Islands. This is outrageous. We have found after just it seems like a few brief moments of not paying attention that the Communist Chinese have come into the Spratley Islands with their warships and established a presence in the Spratley Islands. This is an act of intimidation, it is an act of a bully, and our best friend in the Pacific, the Philippines, is being bullied by the Communist Chinese. We need to stand by the Philippines by giving them the means that they need at the very least to protect their own interests to their own territory.

To deter this type of aggression from China and belligerence from China, we need to move forward to ensure that as we have surplus ships and airplanes that we are taking out of service from the Cold War, we should be providing these to the Philippines, at no cost or at very low cost, because it does not cost us anything, we are just going to store them out in the middle of the desert, let us give these weapons that are surplus weapons, Cold War weapons, to the Philippines and let them defend themselves so that they can make sure that they deter any aggression in the future. This is what friendship is all about.

As we are now patting ourselves on the back and patting the Philippines on the back for being a democratic country, let us make sure we remember they are in need of somebody standing beside them in this confrontation with China.

Mr. WEXLER. Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important and a timely resolution recognizing the importance of the Philippines and their relations with our Nation. It is supported by the administration and has significant bipartisan backing. Accordingly, I urge my colleagues in the House to fully adopt this measure.

Mr. ABERCROMBIE. Mr. Speaker, I rise in support for enactment of House Resolution 404, regarding relations between the people of the United States and those of the Philippines.

It is significant that we enact the resolution to salute and congratulate the Philippines on the 100th anniversary of its independence from Spain and its achievement of the establishment of its democracy.

It is also noteworthy that the resolution also thanks the Philippines for aiding the U.S. in World War II, the Korean War and in Vietnam. It underscores the need for Congress to enact the Filipino Veterans Equity Act to extend full veterans benefits to Filipino soldiers who fought along side U.S. soldiers in World War II.

Mr. Speaker, approximately 200,000 Filipino soldiers were under the command of General Douglas MacArthur during the early months of World War II. During that period, our armed forces in the Philippines were isolated from food, medical and ammunition supplies. Filipino soldiers displayed exemplary loyalty and courage in the defense of their nation and fought in every major battle, including Bataan and Corregidor.

Beyond the outstanding conduct of the regular Army forces, after the islands fell to Japan, thousands of courageous Filipinos took up arms to continue the fight through guerilla warfare against enormous odds. Not only did they undermine the occupation forces, but they provided valuable intelligence to U.S. forces in the Southwest Pacific, rescued downed American pilots and diverted powerful enemy forces from deployment elsewhere.

An estimated 60,000 to 80,000 surviving Filipino veterans, however, have been denied the full range and extent of veterans benefits available to American veterans with whom they fought side by side. This is an intolerable situation and we must resolve to remedy this tragic and insensitive dilemma.

I urge my colleagues to review the provisions of H.R. 836, the Philippines Veterans Equity Act, and support the effort to bring the bill to the House floor for debate and enactment.

Mr. BERMAN. I rise in support of H. Res. 404 regarding American-Philippines relations, regarding Taiwan's positive role in the Asian financial crisis and affirming American support for peace and stability on the Taiwan Strait and security for Taiwan's democracy.

There is no more apt time than the centennial of American-Philippine relations to salute the enduring friendship between our two countries. It is a friendship which has flourished despite its tragic beginnings in a conflict first with the Spanish and subsequently with Filipino independince fighters. But we learned from that struggle and subsequently worked diligently to grant independence as quickly as possible. American teachers spread throughout the archipelago bringing the benefits of modern education to the majority of the country. In World War II, Filipino troops fought bravely side-by-side with American forces and Filipino guerrilla fighters were indispensable in the liberation of the Philippines from Japanese occupation. The Philippines continued, even after independence, to be America's most important ally in Asia, again contributing troops to the Korean Conflict and to the Vietnam War. We owe a debt of gratitude, if not more, to our Philippine friends. We all rejoiced when the Filipino "people power revolution" overthrew the Marcos dictatorship. The Mulitlateral Aid Initiative for the Philippines that the Amercian Congress launched following the fall of Marcos was an effort not only to demonstrate our support for Filipino democracy but also to show our lasting commitment to an enduring close relationship with the Philippines. This continues to be the basis for our policy and it is instructive that during the current Asian financial crisis it is the democratic country of the Philipines which has so far escaped the worst effects of the crisis.

I urge my colleagues to support this resolution of which I am an original cosponsor.

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of H. Res. 404 which commemorates the 100 years of relations between the people of the Philippines and the people of the United States.

As an original co-sponsor of this resolution and a Member who represents one of the largest Filipino communities in the Nation, I am keenly aware of the many contributions that Filipinos have made to this country and of the immense importance of continued good relations with the nation of the Philippines.

As President Clinton once said, the Philippines is our oldest friend in Asia.

This bill recognizes the great sacrifices that the Filipinos made in the struggle against Japanese imperialism in World War II where they fought alongside American soldiers, as they did again in Korea and Vietnam.

In addition to our historic ties, today our nations are also united by our strong economic ties. The Philippines is the twenty-first largest trading partner of the United States and absorbs a large amount of U.S. exports.

As the years pass, I am confident that our bilateral relations will only grow stronger—the bonds between our nations go beyond the diplomatic relations we have with most nations; these are bonds between people fostered by our historic relationship and maintained out of mutual respect and admiration for one another.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, House Resolution 404.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

ACKNOWLEDGING POSITIVE ROLE OF TAIWAN IN ASIAN FINANCIAL CRISIS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 270) acknowledging the positive role of Taiwan in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy, as amended.

The Clerk read as follows:

H. Con. Res. 270

Whereas the President of the United States has announced he intends to travel to Beijing in June 1998 to discuss the common interests of the United States and the People's Republic of China;

Whereas the American people desire strong relations with the people on both sides of the Taiwan Strait;

Whereas it is the policy of the United States Government to take all necessary action to ensure peace and stability on the Taiwan Strait, while continuing mutually beneficial trade relations with Taiwan's vibrant economy;

Whereas the American people have repeatedly welcomed and supported democracy for the people of Taiwan;

Whereas Taiwan set an example for democratization in the region having successfully held free and fair elections at the local and national level and encouraging the development of democratic institutions;

Whereas the American people seek to promote economic stability and growth amidst the current financial turmoil in the Asia-Pacific region;

Whereas Taiwan's economy has weathered the current Asian financial crisis better than others in the region;

Whereas Taiwan has proposed to use various means to help stabilize the economies of many of its neighbors, including possibilities for action by the Asian Pacific Economic Cooperation (APEC) forum of which it is a member;

Whereas Taiwan has expressed its willingness to provide financial assistance to its neighbors;

Whereas in the spring of 1996, the political leadership of the People's Republic of China used provocative military maneuvers, including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free, and democratic presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against the people on Taiwan;

Whereas the use of force, and the threat to use force, by the People's Republic of China against Taiwan undermines regional stability; and

Whereas a senior United States executive branch official has again recently called upon the People's Republic of China to renounce any use of force against Taiwan: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States abides by all previous understandings of a "one China" policy and its abiding interest in a peaceful resolution of the Taiwan Straits issue; and

(2) the President of the United States should seek, at the June summit meeting this year in Beijing, a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan.

Amend the title so as to read: "Concurrent resolution acknowledging Taiwan's desire to play a positive role in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, for introducing this timely resolution on Taiwan. I also want to thank the distinguished gentleman from Nebraska (Mr. BEREUTER), chairman of the Subcommittee on Asia and the Pacific, for his support of the measure. I am pleased to bring it to the floor today for consideration.

Mr. Speaker, it is particularly important that the House make a statement on Taiwan, especially in light of President Clinton's fast approaching summit with the Chinese in Beijing. Taiwan is of singular importance to our Nation. Taiwan plays a pivotal role in regional prosperity and stability. But this prosperity and stability can be threatened. We need only to remember back to the ominous period in the spring of 1996 when Chinese M–9 missiles flew across the Strait of Taiwan into international air and sea lanes in a heavy-handed attempt by Beijing to threaten the first democratic elections in 5,000 years of Chinese history. That sort of missile diplomacy on the part of China is unacceptable, and it is appropriate that we call on Beijing to renounce the use of force in settling the Taiwan question.

Finally, I want to commend Taiwan on the development of a vibrant democracy and a robust economy. I want to state my firm belief that the issue of one China must be settled peacefully and first and foremost by the Chinese people on both sides of the Strait of Taiwan, not by one side dictating terms to the other through missile diplomacy or otherwise. I support this resolution. I encourage my colleagues to do so as well.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 270, which acknowledges Taiwan's desire to play a positive role in the Asian financial crisis and affirms American support for peace and stability on the Taiwan Strait and security for Taiwan's democracy.

I commend the gentleman from New York (Mr. GILMAN) the author of the resolution and the chairman of the Committee on International Relations, also the gentleman from New York (Mr. SOLOMON) the chairman of the Committee on Rules, and other colleagues that have worked toward adoption of this important measure. I am proud to join our colleagues in support of this legislation. Again, Mr. Speaker, I want to also commend the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Subcommittee on Asia and the Pacific for his leadership and support of this measure.

Mr. Speaker, the people of Taiwan should be congratulated for the outstanding accomplishments of this thriving and prosperous democracy of 22 million people. Taiwan is one of the world's most compelling economic success stories, rising from the destruction of World War II to become a global trading power with foreign exchange reserves today second only to Japan.

Despite the financial crisis that has crippled many countries in Asia, Taiwan has shown great resilience. While South Korea, Indonesia, Japan and other neighbors have stagnant economies, Taiwan's gross domestic product is projected to increase by 6 percent in 1998. This maintains the momentum of the past three decades, where Taiwan's GDP growth averaged 9 percent.

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Taiwan's stock market has also survived very well with market capitalization of some $300 billion. Taiwan's stock market has surpassed Hong Kong's to rank second only to Japan's stock market in Asia.

Mr. Speaker, in light of Taiwan's relative prosperity, her offer to extend financial assistance to her Asian neighbors undergoing financial turmoil is welcome and highly commendable. Whether Taiwan's assistance be provided through APEC or another forum, the United States should recognize and support Taiwan's significant efforts to promote economic stability in the Asian Pacific region.

Taiwan must also be commended its significant progress towards democratization with free and fair elections being held at the local and national levels. This movement came to full bloom in 1996 with Taiwan's first Presidential elections. The historic elections were conducted democratically and peacefully despite the threats and provocations issued by the People's Republic of China.

In the spring of 1996, I supported the actions taken by the Clinton administration in sending the *Nimitz* and the *Independence* carrier groups to the Taiwan Strait to maintain peace. China's missile tests and threatened use of force contravened China's commitment under the 1979 and 1982 joint communiques to resolve Taiwan's status by peaceful means. The joint communiques along with the Taiwan's Relations Act are the foundation of our One China policy which fundamentally stresses that force should not be used in resolution of the Taiwan question. Clearly it is in the interests of the United States and all parties that the obligation be honored.

Mr. Speaker, in light of our understanding of the One China policy and its support of the peaceful resolution of the Taiwan Strait issue, I will join our colleagues in urging that the President raise this matter in his summit meeting with Chinese President Jiang Zemin.

I support this legislation and urge my colleagues to support it and to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. SOLOMON) the sponsor of this resolution and the distinguished chairman of our Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from New York (Mr. GILMAN) for yielding this time to me, and I certainly thank the chairman of the subcommittee as well.

Mr. Speaker, as the author of this very simple resolution, let me just say that it is necessary because of the continuing belligerent attitude of the Communist Chinese towards our great friends, the people in Taiwan, our stronger allies in the history of this Nation. We all know that Communist China has repeatedly and brazenly refused to renounce the potential use of military force to resolve its disputes with Taiwan, and it has shown on more than one occasion that it is willing to intimidate Taiwan with military force in these modern times, and that is terrible.

Let us recall that in March 1996, while Taiwan was conducting the very first free head of state elections in Chinese history, Communist China sought to intimidate the people of Taiwan by firing missiles just off Taiwan's coast. It was in anticipation of just this sort of rogue behavior which China is noted for by the Communist Chinese that induced those of us involved in writing the Taiwan Relations Act back 19 years ago to insert provisions designed to help defend Taiwan from Chinese military aggression. Go back and read the Taiwan Relations Act, and those provisions clearly state that the United States expects that the future of Taiwan will be decided by strictly peaceful means, and that any attempt by China to do otherwise would be considered a matter of grave concern to the United States of America while obliging the United States to maintain the capacity to resist any resort to force against Taiwan.

My colleagues, that is the law of the land, that is the American law, and it was in response to China's increasingly belligerent tone that prompted this House of Representatives in March of 1996 to pass the Cox resolution, which called on China to renounce force and explicitly informed Congress' views that the United States should, in fact, assist in defending Taiwan from invasion, attack or blockade by the People's Republic of China.

Regrettably this resolution today also seems necessary because of a disturbing trend in the Clinton administration's policy toward both countries. President Clinton has had in place a policy of unmitigated appeasement towards Communist China for 5 years now, but what is new, Mr. Speaker, is that in the past few months leading up to President Clinton's summit in Beijing, his administration has signaled in various ways that it may be ready to reach another Yalta accord with Communist China that would sell Taiwan down the drain. We have heard talk of yet another communique with the PRC. We have heard Secretary Albright talk of a strategic partnership with the PRC, and we have seen several former high-ranking Clinton administration officials, and I must say Republican administration officials as well that served under Reagan and Bush, touring China and Taiwan recently on what looks conspicuously like officially sanctioned missions and delivering the message that Taiwan cannot expect any help from the United States. If it declares independence, then China then invades.

These "blame the victim" statements are, of course, immoral, and they are outrageous. They remind me of the sole statements we heard in opposition to lifting the arms embargo from Bosnia from people who said that doing so would embolden the Bosnians. Imagine that. We might just have emboldened people who were being slaughtered, and now we just might embolden our friends, our staunch allies in Taiwan by pressuring the butchers of Beijing to renounce force.

Oh, no, Mr. Speaker, it is precisely because the approach of the China appeasers lacks moral depth that also makes it so strategically myopic and dangerous. Because the Communist leaders in Beijing also lack any morality, they are bound to interpret these emanations from the Clinton administration, if left unchecked, as a sign of dwindling U.S. commitment to the defense of Taiwan. These are exactly the kinds of green lights that Adolf Hitler received in the 1930s and Saddam Hussein and Slobodan Milosevic received in the early 1990s, and we will all know what happened each time that is. The fact is it is they, the Communists, the butchers of Beijing, who will be responsible if they invade Taiwan, and it is they who need to receive the message unequivocally and repeatedly that we expect them to resist using force.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I certainly want to compliment the gentleman from New York (Mr. SOLOMON) for his deep understanding of the relationship existing between our country and Taiwan, and certainly like to say for the record I think the Clinton administration took appropriate action in showing our friends in China that two naval embattled carrier groups was sufficient to show that we also meant business. So I think along those lines, Mr. Speaker, I think the administration did the appropriate thing.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN), a distinguished member of the Committee on International Relations.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from American Samoa for yielding this time to me.

Mr. Speaker, I rise in support of this resolution which calls upon the United States to support the people of Taiwan in their democratically-elected government in the face of uncertainties in this increasingly volatile region of the world. I do so, however, with reservations, since this resolution has been amended by the Committee on International Relations since its introduction to reaffirm our adherence to the One China policy.

Mr. Speaker, I would like to address a related injustice facing the people of Taiwan. Since 1972, the Taiwanese people have been denied membership in the World Health Organization. Young children and older citizens who are particularly vulnerable to a host of emerging infectious diseases are without the knowledge and the expertise shared among the member nations of the World Health Organization. With increased travel and trade among the members of our global village, these diseases surely do not stop at national borders and boundaries. So why should we erect boundaries to shared information which would help improve the lives and the health of the 20 million inhabitants of Taiwan?

Due to Chinese opposition Taiwan continues to be denied WHO membership. This hurts the people of Taiwan, and importantly it denies the WHO and all of us in the world community the benefit of Taiwan's knowledge and expertise.

Interestingly the world gains more from Taiwanese membership in the WHO probably than Taiwan gains from membership in the WHO.

The people of Taiwan and their democratically-elected government face many serious threats to their sovereignty. Chinese aggression and their continuing threat of force to settle their claim to Taiwan is a serious problem. Equally threatening are their efforts to continue to thwart Taiwan's efforts to help improve the health of its citizens.

I have introduced legislation urging the President to press Taiwan's case for membership in the WHO and to urge my colleagues to join in this effort. As a free people, we should support the will of the people of Taiwan to choose their own destiny.

Mr. FALEOMAVAEGA. Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H. Con. Res. 270 and thank the gentleman from New York for yielding me this time.

As everyone in this body knows, the Congress has long played a critical role in the Taiwan relationship. Together with the other body, we have worked with the various Presidential administrations over the years to ensure adequate U.S. arms sales to Taiwan to meet Taiwan's defense needs without provoking an arms race with the PRC or other countries in the region, and this body is, after all, the actual author of the Taiwan Relations Act. It remains the law of the land.

Taiwan and the U.S. now share numerous fundamental values both economically and politically. Last February Taiwan and the United States concluded a market access agreement which provides immediate market access for U.S. agriculture products in Taiwan, for example, as a way of loosening restrictions on U.S. telecommunications firms operating in Taiwan as well. This is important because really it paves the way for Taiwan's membership in the WTO.

Politically Taiwan is now a vibrant democracy characterized by free elections, a free press and dynamic political campaigns. Taiwan's political metamorphosis over the last decade has been fundamentally impressive and serves as a model for peaceful democratic change in the region and beyond.

H. Con. Res. 270, which was introduced by the distinguished gentleman from New York (Mr. SOLOMON) sends a clear message of Congress' deep respect and affinity for the people of Taiwan as well as a firm commitment to seeking a peaceful resolution regarding Taiwan's future. While it is true only the Chinese on both sides of the strait can determine their future, the United States must continue to play a role in ensuring the peace and stability of the region.

Mr. Speaker, this Member would commend the gentleman from New York for introducing H. Con. Res. 270 at this important point in U.S.-Chinese-Taiwanese relations. Mr. Speaker, I think it is particularly important that the Congress act on this legislation before the upcoming summit, and I urge adoption of H. Con. Res. 270.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), a member of our committee.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this resolution, which leaves no doubt on either side of the Taiwan Straits as to just what is American policy.

And it was not that long ago that this administration proclaimed strategic ambiguity as its position on certain issues concerning the China-Taiwan situation. More recently we have been told that President Clinton had some intention of proposing a strategic partnership to the Communist Chinese when he will visit Communist China later on this month. What we need to know is what is a strategic partnership; what does that mean?

When we talk about a strategic partnership with a Communist dictatorship, no wonder the democratic peoples around the Pacific begin to worry about whether or not the United States will stand strong with them against a belligerent totalitarian government like they have in Beijing. A strategic partnership? Well, I hope that President Clinton has put that one away and decided not to use that.

This resolution underscores the Shanghai Declaration that was put in place by President Nixon so long ago during the cold war at a time when it made a great deal of sense to try to make sure that we were not in a conflict with China or with Russia at the same time that that declaration made it very clear that we believe in a One China policy. That was our concession, and their concession was that they would only use peaceful means to settle any dispute with Taiwan.

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This resolution reconfirms that declaration so long ago. Some people have been trying to suggest this has been an evolution of our policy, that in some way the talk of strategic partnership may well mean that we have not really maintained this same stalwart position on opposing the use of force against Taiwan.

No, that is what this resolution is about. We again state for the record in this resolution that as far as the Congress goes, yes, there is one China, and, yes, we insist that no force be used against the free and democratic people of Taiwan.

By the way, one note about one China. I believe there is one China, and, just as in the basis of what most Americans believe to be legitimate government, legitimate government is that government that has the consent of the governed. Legitimate government is that government that respects the human rights of its people. That is what our Founding Fathers said, that is what George Washington fought for, and that is what we write in our own founding documents.

So if there is one China, which I believe in, that one China has only one elected government, because the government in Beijing is not an elected government. We have one elected government in China and that is in Taiwan. We have a group of gangsters on the mainland. We have to make sure there is not force or violence to make sure that those two do not go into dispute.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think, just for the clarity of the record, that the administration is quite clear as far as its policies concerning the one China policy. It is quite clear the administration policy is one of engagement with the People's Republic of China. It is quite firm also, the administration's policy towards Taiwan is to continue the current relationship as it has been in the past. So with regard to the comments of my good friend from California, I think there is no ambiguity about the policy of the administration.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important resolution stressing Taiwan's importance to our own Nation, and it is supported by the administration and deserves bipartisan support. Accordingly, I urge my colleagues in the House to fully support the measure.

Mr. BERMAN. Mr. Speaker, I urge my colleagues to support H. Con. Res. 270, the resolution on Taiwan. The Congress has always been a strong supporter of Taiwan. Taiwan's transition to a democratic state with a vibrant free market economy has solidified Congressional support. The emergence of a democratic Taiwan is indeed one of the most encouraging developments in Asia over the last decade. A democratic Taiwan is a shining example to all the countries in Asia which linger under the control of one man or one party. This resolution sends a clear signal of our continued interest in preserving Taiwan's achievement.

This resolution calls on the President to seek at his upcoming summit in Beijing a commitment by the Chinese to renounce the use of force against Taiwan. I think this is in China's interest. Sowing the seeds of fear in the Taiwan Strait benefits neither side given the growing trade, travel, and investment between both countries.

Let me also make clear that this resolution, while noting the United States' acknowledgement that China believes that Taiwan is part of China—the so-called "One China" policy, is not an endorsement by the Congress of the Chinese perspective. Taiwan no longer claims that it controls China. Only when China makes a similar declaration will both sides be able to move beyond their present conflict to its resolution. There is one China, but it does not include Taiwan.

I would also take this opportunity to urge the Administration to fulfill the commitment it made in its Taiwan policy review to seek membership for Taiwan in appropriate international organizations. Taiwan's singular political and economic achievement give it the potential to play a tremendous constructive role in the international community. As this resolution suggests, Taiwan has proposed to assist its neighbors in the recent Asian financial crisis. It could play more of a role if given the chance. I would urge special consideration be given to finding a role for Taiwan in the World Bank, International Monetary Fund, and World Health Organization. Just as it made no sense for the United States to pretend that China did not exist during the Cold War, it is equal nonsense to pretend that Taiwan does not exist in the post Cold War period.

I urge my colleagues to support this resolution of which I am a cosponsor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this resolution, which asks the President to seek to improve the relationship between Taiwan and China.

President Clinton's trip to China this month presents an opportunity to address a multitude of issues which will substantially effect the Pacific Rim, as well as American interests in the Pacific Rim. Taiwan's security is one such issue that should be discussed.

I understand that the relationship between Taiwan and the Chinese government is a tense one. This resolution seeks to reduce that tension by asking China to abstain from the use of military force in resolving the dispute.

In 1996, when China displayed a show of force in the Taiwan Strait, it was not just the people of China and Taiwan that were ill at ease, it was unsettling for the entire region. There is little doubt that the fragility of the situation poses a significant threat to American businesses that we want to protect.

I encourage the President to express to China our concerns for the stability of the region, and the importance that any dispute be resolved in a peaceful manner. And announce his support and America's support for the safety and security of the Democratic country of Taiwan—the Republic of China.

Mr. ORTIZ. Mr. Speaker, I rise today in support of H. Con. Res. 270, acknowledging the importance of the Taiwanese leadership in the current Asian financial crisis, as well as the importance of the stability of the Taiwanese Strait. I consider myself a good friend of Taiwan, and I am proud of the relationship that my Congressional District has with the government of Taiwan. Mr. Speaker, we all know that international trade is the essence of prosperity in this new economic era. There is perhaps no country which offers more promise for the United States and my home State of Texas than Taiwan.

I am proud of the role I have played in laying the foundation for our nation's relationship with Taiwan. It is my belief that the United States should embrace the people of Taiwan in matters of trade as the friends that they are.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 270, as amended.

The question was taken.

Mr. BEREUTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 457

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, with the Senate amendments thereto, and to consider in the House a single motion offered by the chairman of the Committee on International Relations or his designee that the House concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield my friend, the gentleman from Ohio (Mr. HALL), the customary 30 minutes, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate on this subject only.

Mr. Speaker, H. Res. 457 is a very straightforward rule designed to facilitate the last step in the legislative process for H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997.

Members may remember that this legislation was overwhelmingly approved by this House on a voice vote through the suspension process in November of last year. The other body considered the House bill and passed it on a 90 to 4 vote just a few weeks ago, changing only two dates in the legislation to reflect the passage of time and intervening events that occurred since the House first acted this past November.

Therefore, the purpose of this rule is to allow the House to concur in the action taken by the other body so we can send this measure on to the President, who will, we hope, sign it into law expeditiously.

In technical terms, Mr. Speaker, this rule provides for a single motion offered by the chairman of the Committee on International Relations or his designee to concur in each of the Senate amendments, which are as I have just explained. The rule provides that those Senate amendments and the motion shall be considered as read. The rule then provides for 1 hour of debate in the House, to be equally divided between the chairman and ranking minority member of the Committee on International Relations. It is a very simple rule, very straightforward, very fair, and, I believe, will get the job done quickly.

Mr. Speaker, in recent days and weeks Americans have been jolted back into reality from what has been a lulling period of complacency about the threat of weapons of mass destruction in this dangerous world. The President has said repeatedly and pointedly that tonight our children will go to bed with no nuclear weapons pointed at them. Unfortunately, he was wrong. The world is a more dangerous place today. Events in India and Pakistan, allegations about advances in the Chinese missile program, and the potential for serious danger to our national security dominate the news these days.

We have seen that nuclear weapons remain a tremendous threat to world security and peace, and we understand quite well that those who seek to proliferate in this deadly weapons race have not learned the terrible lessons of history.

Proliferation of weapons of mass destruction is a major issue of concern for the intelligence committees, for the Committee on National Security, for all the Members of the House and the other body, and, indeed, for every American. I must say that as chairman of the Permanent Select Committee on Intelligence, I continue to be more than disappointed in the Clinton administration's approach to dealing with this issue, especially as we have seen it unfold in the past few weeks.

I remain dismayed that time and time again it seems that the administration is willing to place perceived economic interests ahead of national security interests. The legislation we are bringing forward today is designed to send a strong signal to the world that we do not endorse such an approach and we specifically will not condone the transfer of missile goods or technology to Iran, a rogue nation that sponsors state terrorism and is actively engaged in weapons proliferation.

We know that Iran's intentions, with or without Khatemi, are clearly not in the best interests of our national security or our global stability. Yet that nation's capabilities are fast approaching the ability to produce medium- and long-range ballistic missiles. This legislation puts any foreign persons or entities who persist in providing missile technology to Iran on notice that their actions will result in stiff sanctions.

We are specifically interested in signaling to Russia and Russian firms that we expect their actions to speak as loudly as their words they used when, in January of this past year, the Russian Prime Minister issued a decree tightening legal controls on Russian exports of missile technology.

I think it is significant that the other body chose to use this January 22, 1998 date of that Russian decree as the effective date for the provisions of this legislation to underscore the importance of Russia implementing its stated policy. We are challenging them fairly and squarely to stop cheating, and we are saying to the Clinton administration, no more winking at violations, no more giving the benefit of the doubt to those who do not deserve it.

Mr. Speaker, this is a simple and fair rule, and I urge Members to support it and support the underlying bill, which is an important and vital message.

I also remain hopeful that the President will do the right thing and sign this legislation into law as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the gentleman from Florida (Mr. GOSS), for yielding me this time.

Mr. Speaker, this rule, House Resolution 457, provides for the consideration of Senate amendments to H.R. 2709. This is a bill that imposes sanctions on foreign individuals and companies to block Iran from acquiring the capability to build ballistic missiles. It is directed primarily at Russian companies. As my colleague from Florida described, this rule provides 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on International Relations.

Mr. Speaker, there is little disagreement in the House over the intent of this legislation. The House passed it by a voice vote last year, and there is support for the measure on both sides of the aisle. Though the Russian Government has taken a number of positive actions in the last year, including issuing several regulations, we need to see implementation of these regulations. We need to see the Russian Government increase border security and step up punishment of those who are involved in the illegal transfer of missile technology.

Despite the clear need for more action, I want to point out to my colleagues that there is some difference of opinion about bringing up the resolution at this moment. Later this month, U.S. and Israeli officials plan to get together and compare intelligence they have gathered regarding the transfer of missile technology to Iran. It may be more appropriate to wait until we have the benefit of that information.

Also there are new high-level discussions between our National Security Council and its Russian counterpart to address this very problem, and we need to coordinate with the administration on timing to make sure that we strengthen our position in dealing with Russia, not weaken it. Some observers argue that congressional action at this time is premature, when we are actually seeing some of the fruits of our efforts to stem the flow of technology to the Iranian government.

Mr. Speaker, despite these reservations about bringing the resolution to the floor at this time, I will not oppose the rule, so that the House will have the opportunity to fully debate the issue.

Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

□ 1800

Mr. GEPHARDT. Mr. Speaker, I rise today as a cosponsor and strong supporter of this legislation, but I do not think that it is the proper time to be holding a vote on this bill. I believe it is premature to act today on this legislation.

The intention in writing this bill was to influence the Russian Government's policy regarding the transfer of sensitive missile technology to Iran. This bill sought to demonstrate to Russia's leaders that we take these transfers very seriously and that we expected them to as well.

The development of ballistic missiles by Iran poses a threat not only to U.S. forces in the Middle East, not only to Israel and other U.S. allies in the region, but to Russia's national security as well.

There is evidence that Russia's leaders have received the message of this bill and have begun to address our concerns. The Russian Government has taken a number of steps to prohibit such exports and is working to implement measures that will effectively prevent them from occurring, but it needs to do more.

I believe that we must have action to stop these exports, not simply words and decrees. The Russian Government needs to convince us in a clear and comprehensive manner that it is exerting a 100 percent effort to prevent these transfers.

After an intense dialogue between some of our Nation's most senior diplomats and their Russian counterparts, we may be on our way to finally achieving this goal. In the past few months, we have begun to see evidence of Russia's leaders moving to close off channels of cooperation with Iran.

That is why I am concerned with the timing of this legislation today. The passage of this bill would, in effect, demonstrate an admission of defeat, that we have failed to influence Russia's government to this problem, and we are, instead, resorting to sanctions against individual companies that have engaged in these dangerous exports.

I am not ready to admit defeat. It is too early to throw in the towel, and neither is our closest ally in the Middle East.

Two weeks ago I visited Israel and met with Trade Minister Nathan Sharansky at his request regarding the transfer of missile technology from Russia to Iran. Minister Sharansky had just returned from Moscow where he had discussed this matter with senior Russian officials.

Minister Sharansky made two key points to me. First, he urged that the United States continue to press the Russian Government to take effective and tangible steps to stop the flow of missile technology to Iran. Second, he urged that we give the key players in the Russian Government an opportunity to implement what he thought were important measures to address this problem.

After visiting Israel, I then went to Moscow myself to discuss this and other issues with Russian officials. I met with Russia's new Security Council Director Andrei Kikoshin, who explained to me that the transfer of missile technology to Iran is as much a threat to Russia as it is to the United States or any other country in the world. He then described the steps that he and the Russian Government are taking to stem the flow of technology to Iran and laid out plans for additional steps in the immediate future.

Minister Kokoshin will visit Washington next week and has asked to meet not only with administration officials, but also with congressional leaders to update us on his government's actions to address our mutual concerns about these dangerous exports.

I also understand that in 2 weeks United States and Israeli intelligence officials will meet to compare information on the status of missile exports to Iran and to assess the effectiveness of steps the Russian Government is taking to stop them.

With all of these activities taking place right now, I am concerned that the passage of this legislation today will signal to Russia that we care more about sanctions than we do about the efforts it has made to address our concerns.

Passage of this bill would suggest that we do not want to work with them on cooperative efforts to stop future transfers, but, rather, are content to impose penalties on past transfers. It could very well create unintended obstacles for the efforts of Russian leaders to implement the very export controls needed to stop the flow of technology to Iran.

I also met with leaders in the Russian Duma, the Speaker of their Duma, the Deputy Speaker of the Duma. They both said that they were undertaking to pass legislation in the Duma that would be consistent with export flow legislation that has been passed by all of the G–8 countries.

I had hoped that we could monitor developments on this issue over the coming few weeks and then make an informed and reasoned determination about how to proceed. That is what I understand our friends in Israel wanted us to do as well. Consequently, I will be compelled to vote present today as an expression of my personal view that a vote on this bill today is premature.

Let me be very clear in conclusion, we may have to enact this legislation in the very near future if our collective judgment is that Russia is not taking adequate steps to address this issue. We do not want to repeat our experience with China where, despite repeated assurances to the contrary, they continued to proliferate missile technology to unstable or rogue regimes.

We will not repeat those mistakes when it comes to Russia. We must act decisively in the event that the Russian Government is unresponsive to our concerns. But I do not believe we are able to make such an informed judgment today.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to make a few remarks in response to the distinguished minority leader's information that he has shared with us on the floor.

It is true he has just been in Russia, and I admire the energies he has put into this process. I would suggest, however, that if the only problem is timing, that we are better going ahead now rather than waiting.

I would note that when we wait, bad things seem to happen. We waited in the Southeast Asia area after the Pakistanis flew a provocative missile, and we discovered that the Indians felt compelled to do some nuclear testing, which, of course, then led to the Pakistanis doing some nuclear testing, which then led to all the other proliferators in the area wanting to get in on the act.

I do not think now is a time to be sitting by waiting. I think now is a time to be making a very clear, strong statement. I do not believe there should be any doubt about where the United States Congress stands on the subject of proliferation between Russia and Iran or any other proliferation of weapons of mass destruction in the world.

Especially when Minister Kokoshin comes here, I think it would be most useful if we had a very strong vote so that there is a clear understanding that there are some matters in terms of cooperation that are not negotiable.

Cooperation means cooperation in a meaningful way. It does not mean more appeasement. It does not mean winking. It does not mean blinking. It does not mean nodding at nuclear proliferation. It means not tolerating it, period.

I believe this vote sends that message. I believe now is the right time. I am prepared to call for the vote after I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, will the gentleman yield.

Mr. GOSS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, the minority leader, the gentleman from Missouri (Mr. GEPHARDT) has indicated they need some more time in the Russian Duma and the Russian administration to meet some of the requests that we are making with regard to this measure.

Let me ask the gentleman in a colloquy, if we were to pass, and I hope we will pass, this measure today, it then goes to the President. The President has 10 days in which to act. In the time he acts, if he does veto it, as he says he may do, it comes back, we are talking at least 3 weeks, are we not, before the measure comes back before the House?

Mr. GOSS. It is possible that that is a correct scenario.

Mr. GILMAN. Mr. Speaker, it would seem to me, in that 3-week period, the Duma would have certainly sufficient time in which to accomplish whatever they want to accomplish.

Mr. GOSS. Mr. Speaker, I yield back the balance of our time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider is laid upon the table.

Mr. GILMAN. Mr. Speaker, pursuant to House Resolution 457, I move to take from the Speaker's table the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. GILMAN moves that the House concur in the Senate amendments to H.R. 2709.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, lines 15 and 16, strike out "August 8, 1995—" and insert "January 22, 1998—".

Page 6, lines 24 and 25, strike out "August 8, 1995—" and insert "January 22, 1998—".

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to House Resolution 457, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2709, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 2709, the Iran Missile Proliferation Sanctions Act, will make the world a safer place. It closes loopholes in our counterproliferation laws to address a matter of critical concern to our national security, the risk that Iran may soon obtain from firms in Russia and elsewhere the capability to produce its own medium- and long-range ballistic missiles.

Mr. Speaker, I introduced this legislation on October 23 of last year. Before we passed it by voice vote on November 12, it had over 240 House cosponsors, including both the Speaker, the gentleman from Georgia (Mr. GINGRICH), and the Democratic leader, the gentleman from Missouri (Mr. GEPHARDT).

The urgency of this legislation is apparent from recent press reports. As a result of critical assistance from Russian firms, Iran is making steady progress in developing medium- and long-range ballistic missiles. Unless something happens soon, Iran will be able to produce its own medium-range missiles within less than a year.

If the assistance from Russia continues, Iran is soon going to be able to produce long-range ballistic missiles as well, which will threaten not only the stability of the Middle East region, but the entire European continent as well.

For more than a year, our government has been in constant dialogue with Russia about stopping their assistance. Thanks in large part to the pressure brought to bear by this very legislation that we are considering today, some progress has been achieved, at least on paper.

Most importantly, on January 22 of this year, the Prime Minister of Russia issued an executive decree tightening legal controls on Russian exports of missile technology. That decree gave the Russian Government the legal authority it needed to block the transfer of missile technology to Iran. But in the nearly 6 months since that decree was issued, it has become apparent that the Russian Government is not fully committed to implementing it.

The fact is that even though there has been progress in some areas, the overall picture remains very discouraging. The evidence suggested that at least some elements of the Russian Government continue to believe that the transfer of missile technology to Iran serves Russian interests.

We in the Congress cannot change the misguided foreign policy calculations of some Russian officials, but we can give Russian firms that are in a position to sell missile technology to Iran compelling reasons not to do so. That is the purpose of the legislation presently before us.

□ 1815

I submit to my colleagues, the sanctions which this legislation threatens to impose will force such firms in Russia and elsewhere to choose between short-term profits from dealing with Iran and potentially far more lucrative long-term economic relations with the United States.

To those who say that we should rely on the good faith of the Russian government rather than enacting this legislation, I respectfully submit that the Russian government has nothing to fear if it acts in good faith. It is only if Russia does not enforce its declared policy that they need fear any sanctions under this legislation.

In fact, enactment of H.R. 2709 will complement the administration's diplomatic efforts, and will provide a valuable enforcement mechanism to ensure that the actual behavior of Russian firms conforms to declared Russian policy.

Mr. Speaker, we passed H.R. 2709 by a voice vote on the suspension calendar. On November 12 of last year we sent it over to the Senate, and on May 22 of this year the Senate passed that legislation by a vote of 90 to 4.

The Senate also adopted two amendments which require us to act on the measure once again. The Senate amendments are very straightforward. All they do, in effect, is insert a new effective date into the legislation. When we passed the bill last year our effective date was August 8, 1995, the date on which Russia joined the missile technology control regime.

I submit that the new effective date adopted by the Senate is January 22, 1998, the date of the new executive decree in Russia, and it has not made any other major changes. Because the House passed this legislation before that decree was issued, we naturally had a different effective date, but now that the Russian decree has been issued, I agree with the Senate that it provides an appropriate effective date for this legislation.

Accordingly, Mr. Speaker, I strongly support the Senate amendments, and I strongly urge the House to concur in them.

Mr. Speaker, I recently received the Statement of Administration Policy on this legislation, and was very disappointed to learn that the Administration does not support this bill.

One of the Administration's complaints is that "the standard of evidence is too low and could result in the imposition of an unknown number of erroneous sanctions on individuals or business entities."

What the Administration fails to understand is that they have forced us to lower the evidentiary standard in this bill by their hesitation under other laws to impose sanctions even in the face of overwhelming evidence that sanctionable activity has taken place.

The "credible information" requirement of this bill is intended to be a very low evidentiary standard. For purposes of this bill, "credible information" is information sufficient to give rise to a reasonable suspicion. It is information that is sufficiently believable as to raise a serious question in the mind of a reasonable person as to whether a foreign person may have transferred or attempted to transfer missile goods, technology, technical assistance, or facilities of the type covered by the legislation. "Credible information" is information that, by itself, may not be persuasive. It is information that, by itself, may be insufficient to permit a reasonable person to conclude with confidence that a foreign person has transferred or attempted to transfer missile goods, technology, technical assistance, or facilities subject to the legislation.

We have adopted this very low evidentiary standard because of our dissatisfaction with the way the evidentiary standard contained in other counter-proliferation laws has been applied. These laws, including the missile technology proliferation sanctions of section 73 of the Arms Export Control Act and the Iran-Iraq Arms Non-Proliferation Act, essentially contain a "preponderance of the evidence" standard. Under these laws, sanctions for proscribed transfers need not be imposed until the President determines that such a transfer in fact occurred. In practice, however, the Executive branch generally has delayed imposing sanctions until all doubt about whether a transfer occurred has been erased. In effect, the Executive branch has elevated the evidentiary standard of these laws to a requirement of "proof beyond a reasonable doubt." We believe that this practice has undermined the effectiveness of our non-proliferation laws by blunting their intended deterrent effect. Accordingly, in order to ensure the effectiveness of this bill, we have adopted a lower evidentiary standard.

We see no reason not to impose the sanctions provided by this bill, on foreign persons about whom there is credible information that they may have made a transfer or attempted transfer covered by the bill. The three sanctions that this bill would impose on such persons—prohibitions on providing U.S. assistance, exporting arms, or exporting dual-use commodities to such persons—are all matters within the sole discretion of the United States government.

No one has a right to receive U.S. assistance. Because our foreign aid resources are limited, decisions have to be made everyday about who should receive our assistance and who should be denied our assistance. This bill basically directs that in any case where there is any doubt about whether a potential recipient of U.S. assistance has transferred or attempted to transfer missile technology, that person will be denied U.S. assistance. The Administration may believe we are being too harsh with this approach, but in fact they would have a hard time explaining to Members why we should provide limited U.S. foreign assistance funds to persons who we suspect may have made or attempted to make improper transfers of missile technology.

The same is true with regard to exports of arms and dual-use commodities. No one has a right to receive such exports from the United States. And, as a matter of national policy, we seek to deny such exports to foreign persons who cannot be trusted with U.S. arms or dual-use commodities. Why shouldn't the President be required to deny such exports to persons who we suspect may have made or attempted to make improper transfers of missile technology?

Mr. Speaker, there is also one technical point with regard to title II of H.R. 2709 that Chairman HYDE of our Judiciary Committee has asked me make.

Section 273 of H.R. 2709 replaces the exceptions to the automatic stay in paragraphs (4) and (5) of 11 U.S.C. 362(b) with both a broader exemption for governmental units and explicit language embracing organizations exercising authority under the Chemical Weapons Convention. Although Members of this body were not involved in crafting this provision, we view it as important for the legislative history to emphasize that the new paragraph (4) relates only to enforcement of police and regulatory power—a term which cannot appropriately be given an expansive construction for purposes of interpreting the new Bankruptcy Code language. The automatic stay, for example, will continue to apply to the post-petition collection of pre-petition taxes because such collection efforts are not exercises of police and regulatory power within the meaning of new paragraph (4) of Bankruptcy Code section 362(b). The language of section 273 of H.R. 2709 also explicitly excludes the enforcement of a money judgment—and exclusion designed to ensure that an exemption from the automatic stay cannot successfully be asserted for such an enforcement effort.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill. I am fully aware, of course, of how the votes will go in a few minutes, but I think it is important to set out the reasons in opposition to the bill. I hope it is agreed upon by all of us in this Chamber that we want to stop the transfer of missile technology to Iran. I want to do that. I know the supporters of the bill want to do that. I think the real question before us is not whether we want to stop the transfer of missile technology to Iran. We certainly do. The question really is the most effective way to achieve that goal.

I oppose this bill for three principal reasons.

First, the bill takes some hostages. The consideration of this bill has delayed for over a year another very important bill. The bill before us links a missile sanctions bill, H.R. 709, to the very important Senate-passed chemical weapons convention implementing legislation, S. 610. I believe the House should take S. 610 from the desk today and pass it so that it can be sent to the President for his signature.

Secondly, if enacted, this missile sanctions bill, in my view, will make it harder, not easier, for the United States to stop missile technology transfers from Russia to Iran.

Third, this bill is seriously flawed. Let me spell out my opposition in more detail.

First, this bill is holding up action, and has held it up, on the completion of implementing legislation on the chemical weapons convention. The

Senate acted in May of 1997 on S. 610, the chemical weapons convention implementing legislation. That bill has been sitting at the House desk for over a year. By attaching it to this missile sanctions bill, the House has delayed action for over 1 year.

Because of that delay, the United States is now out of compliance with its obligations to the chemical weapons convention. It will continue to be out of compliance until this implementing legislation, S. 610, is enacted.

Without this legislation in place, the U.S. chemical industry has no legal basis for providing data to the United States government, as required under the convention. Without this data from industry, the United States has been unable to submit its industry declaration, as we are required to do under the convention.

The United States, then, is now in violation of its treaty obligations. I believe we are now in the second year of violation. If we are not in full compliance with the chemical weapons convention, the United States cannot use its substantial influence for full compliance by others. We cannot press other parties to live up to their treaty commitments until we live up to ours.

Our failure to complete action on implementing legislation provides excuses for other countries to avoid full compliance with the treaty. Out of the 110 treaty members, some 28 have failed to submit information required under the treaty on their chemical industries. We give comfort to those in Russia, China, and Iran, and elsewhere who want to slip out of treaty compliance when we ourselves do not comply.

So we should not act on this bill. We should take from the House desk and pass today S. 610 so that the President can sign it, so that the United States will be in compliance with a treaty to eliminate chemical weapons.

Secondly, I believe, as I have indicated, that the Congress and the executive branch share the same policy goal. Everybody in this Chamber wants to stop the transfer of missile technology to Iran. The question before us is the most effective way to achieve that shared goal. Stopping the transfer of missile technology to Iran requires cooperation between the United States and Russia and the United States and its allies. The United States cannot stop the transfer of missile technology to Iran without cooperation.

The administration, from the President on down, including every senior official on the national security team, has spent a great deal of time and effort over the past 10 months working to stop Russian missile technology transfers to Iran. Important progress has been made through cooperation.

The Russian Government has issued repeated, authoritative statements at the highest levels in opposition to the proliferation of weapons and the technologies of mass destruction. President Yeltsin is committed to stopping these transfers.

On January 22, the Russian Prime Minister issued a catch-all export control decree. That decree empowers Russian authorities to stop any technology transfer to an end user that is developing weapons of mass destruction. Regulations have been issued and the United States and Russia are working closely. Iranians involved in weapons programs have been expelled from Russia. Russian authorities are more vigorous in monitoring suspicious individuals and companies.

Of the 13 cases of concern to us, there has been significant positive action on half of the cases. This cooperative approach is not perfect, but it is producing results. If this bill is enacted, cooperation and results will diminish.

On the remaining cases that are before us, clearly more needs to be done. The administration is convinced that more can be done. National Security Advisor Berger has established an important dialog with his Russian counterpart, Kokoshin. The problem the United States faces today is not Soviet power, it is Russian weakness. The government of Russia cannot collect enough taxes, pay its soldiers on time, or, in the immediate problem before us, enforce effective export controls.

In March, the United States and Russia set up a working group on export controls. That group met in April. We have in this country long experience on export controls, and we are now sharing that expertise with Russia. We are giving briefings, we are providing advice, we are reviewing their regulations and procedures. We are helping Russia to establish a process that is transparent and that is consistent with international norms.

Right now Russian officials and representatives from the electronics industry are in the United States taking an export control workshop. Next, we will train Russians from the aerospace industry. The Russians welcome more export control assistance, and we are willing to provide more assistance. There is no way to build an effective export control system in Russia other than working with Russians to build that system.

Sanctions will not solve proliferation problems with Russia. Cooperation, close cooperation of our export control experts with their officials, offers the best handle to get at this problem. Russian leaders can say and do all the right things about stopping missile transfers to Iran, but it will take an effective export control system to turn those words into actions. Helping Russia develop that export control system I believe is in the American national interest.

The question we need to ask is whether we will make more progress with Russia by going ahead with this sanctions bill now. The threat of sanctions I agree has been helpful in focusing Russian attention and getting Russian cooperation. But when this bill is passed tonight, it goes directly to the President. The enactment of this bill and the applications of the sanctions will be harmful. It will mean less Russian cooperation, not more. That is, of course, not my view alone. It is the view of the President, the Vice President, the National Security Advisor, and the Secretary of State.

It is also the view of senior Israeli officials, who recently visited at the White House with congressional leaders, as we just heard from the minority leader a moment ago. Israeli officials see this bill as useful pressure, but they are content to wait for a number of weeks. They see a new government in Moscow. They want to give the new Russian team some time, and give them a chance to carry out their commitments. They are not pressing for action on this bill now.

Third, this missile sanctions bill I believe has several serious flaws. The bill establishes too low a threshold for the imposition of sanctions. It would require the President to report and impose sanctions based on credible information it receives about transfers or attempted transfers of missile-related goods and technology to Iran.

"Credible information" is not defined in the bill, and is subject to broad interpretation. One report or one phone call could trigger a requirement to report and impose sanctions. This credible information standard in this bill is unprecedented in nonproliferation sanctions laws. It would require sanctions even when information later proves inaccurate.

Every sanction law currently on the books leaves the evidentiary determination of sanctions to the executive. The executive historically has applied a high evidentiary standard. That standard is high because of the serious consequences of an error. An error would harm U.S. industry and it would harm our nonproliferation policy. Sanctions imposed in error could needlessly damage U.S. credibility with other governments and our efforts to prevent Iran from obtaining missile technology.

What is missing from this bill is any balancing of judgment. This bill has no requirement for weighing evidence. It has no requirement for the preponderance of evidence. On any complicated issue, there is bound to be conflicting information. There will be credible information pointing one direction and credible information pointing another.

□ 1830

But the bill allows for no judgment. One single bad report could trigger sanctions. The bill has no requirement that actions subject to sanctions be taken knowingly. Sanctions would be imposed on entities unaware that items are going to Iran or will be used in missiles. Such a provision is fundamentally unfair and will undermine U.S. credibility and the willingness of foreign entities to cooperate with the United States.

The bill sanctions U.S. subsidiaries of foreign firms, whether or not they participated in or were even aware of a transaction. The bill's standard for a waiver, essential to the national security interest of the United States, is a very high standard. It does not give the President sufficient flexibility to carry out his responsibilities under the Constitution for the conduct of American foreign policy.

Mr. Speaker, I believe this bill will have a strong negative impact on the American national interest. It will slow down our ability to get to the President a bill that he will sign so that we can meet our treaty obligations under the Chemical Weapons Convention. It will lead to less, not more, cooperation from Russia on stopping the transfer of missile technology to Iran.

Sanctions will not stop Russian firms from dealing with Iran. Some Russian firms are beyond the reach of U.S. sanctions. All of them are beyond the ability of the United States to control. Only the Russian Government can stop Russian firms from dealing with Iran.

Sanctions put at risk all the cooperation we have made working with the Russian Government to stop missile transfers to Iran. Russia's leaders agree with us. They are working with us. They have made some progress, but not enough progress. They say they want to make more progress. If we now turn around and sanction them, we put at risk all the progress we have made in stopping missile technology transfers.

The bill will also harm overall United States-Russia relations. The Duma is moving forward this month with hearings on START II treaty ratification. Russia is in the middle of a financial crisis. We should be sending a signal of support for Russia's actions in support of arms control and financial reform. So this bill sends the wrong signal to the Russian Duma and to financial markets. We send a chilling signal that will harm our own interests.

Mr. Speaker, I close by quoting the administration's statement of policy. "The administration strongly opposes H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997. The President's senior advisors would recommend that the President veto H.R. 2709, if it is presented to him in its current form. H.R. 2709 would not improve the ability of the United States to halt the transfer of missile technology to Iran. On the contrary, H.R. 2709 would weaken the U.S. ability to persuade the international community to halt such transfers to Iran. The bill's broad scope, retroactivity, and indiscriminate sanctions would undermine U.S. nonproliferation goals and objectives." End of quotation.

Mr. Speaker, I urge a "no" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to clarify one of the gentleman's statements. I want to respond to the suggestion that we hold back on this bill because of the alleged position of the Israeli Government. The fact of the matter is that passing this bill is important to American national security and to the security of all nations in the region and beyond it.

Because of the concerns that we have heard, and I have discussed this matter with the leaders of the Israeli Government, I wanted to be clear about the position of the Israeli Government at the current time. My staff spoke to Mr. Yitzhak Oren, Minister for Congressional Affairs, and we spoke just an hour ago to Uzi Arad, political advisor to the Prime Minister. They informed us that the Israeli Government has taken the following position, and I quote: "We felt that it was worthwhile to give more time for consultations; however, it is our view just like Americans, that what the Russians are doing is cover-up, which we view with serious concern. The problem here is that the Russian companies are violating Russian law. And since the Russians are unable to enforce their own law, we feel that it will be helpful to act in other effective ways."

So, Mr. Speaker, it would be my conclusion that if someone believes the Israeli Government is now requesting a delay, I believe that is a mistaken impression.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, let me just say to the gentleman that the precise statement we have from the Government of Israel's embassy in this town, and I quote it now, "It is not the clear position of the Government of Israel to pass this bill now." End of quote.

Mr. GILMAN. Mr. Speaker, reclaiming my time, we just spoke within the past hour and I just quoted his statement.

Mr. HAMILTON. Mr. Speaker, if the gentleman would again yield, the gentleman's statement that he just quoted said they wanted more consultation. That is precisely the point that the minority leader said and I agree it.

Mr. GILMAN. Mr. Speaker, again reclaiming my time, that was previous to this evening. Now they say they prefer we go ahead. They will have 3 weeks from the time we pass the measure, it goes to the President, the President vetoes it, it comes back here. There are 3 weeks of additional time which should be sufficient time.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WELDON), the distinguished chairman of the Subcommittee on Research and Development of our Committee on National Security.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentleman from New York (Mr. GILMAN) for yielding me this time.

Mr. Speaker, I respect the distinguished gentleman from Indiana (Mr. HAMILTON), ranking member, although I strongly disagree with him. The ranking member is correct. We should not have to have this bill on the floor of this body today. But let us for a moment stop and think about why we are here.

Mr. Speaker, what we have had over the pattern of the past 6 years, and even beyond that into the ending of the last administration, was a pattern of not enforcing arms control agreements. That is what this whole debate is about. If our bilateral relationship is based on arms control agreements, then we have to enforce them when violations occur.

It was just 3 years ago, Mr. Speaker, that we saw the case where the Russians were transferring guidance systems to Iraq. In fact, Mr. Speaker, I would like to hold up two devices because this is what we are talking about. We are not talking about some paper debate or discussion. We are talking about devices that can harm the American people and our friends and our allies.

Mr. Chairman, this is an accelerometer and this is a gyroscope. These were both manufactured in the former Soviet Union. In fact, they were taken from SSN–18's, Mr. Speaker. And, Mr. Speaker, on three occasions, Russian entities sent these devices to Iraq.

Now, why is that important to us? Mr. Speaker, the largest loss of American life in our military in this decade was when 28 young Americans were killed by the Scud missiles. What do these devices do? They give the Scud missile pinpoint accuracy. What did the administration do when they found out this violation occurred three times? Not once, but three times? They said: We will convince Russia that they should not do it again.

Mr. Speaker, last fall the Russians quietly ended the criminal investigation of this transfer. No charges were brought. No criminal proceedings were started, and the entire technology transfer took place. We then have to deal with the consequences.

Last summer, Mr. Speaker, we saw again Russia transfer technology; this time, technology to allow Iran to build a medium-range missile that will hit Israel and 25,000 of our troops from any place within Iran. We caught them dead in the water. We asked the administration to take action. To this date, no sanctions have been imposed.

Now, what do we have to do? This body passed legislation, with the other body, authorizing and appropriating 180 million additional dollars this year that could have gone for other purposes, to defend Israel, our Arab friends, and our troops against that Iranian missile proliferation. There is a real dollar that we have to pay because we could not control proliferation.

But the reason for this bill today is not just these instances. I did a floor speech 3 weeks ago, Mr. Speaker, and I documented in the RECORD 38 consecutive occasions of arms control violations in 6 years by China and by Russia to Iran, Iraq, to India and Pakistan. This administration imposed sanctions three times out of 38 and waived all three of those sanctions.

Do we wonder why we have a problem in the Middle East? Do we wonder why India and Pakistan are sabre rattling? Do we wonder why Iran and Iraq have medium-range capability now that threaten our allies? This is not about tweaking Boris Yeltsin or the Russian Government. If America has a company that violates our export laws and sends technology overseas, I want to prosecute that company. I want to make them pay.

What is wrong with our country saying to Russia if they have an entity that is proliferating technology, that entity must pay? We are not against the Russian Government. We are not trying to back Boris Yeltsin into the corner.

Mr. Speaker, I formed and I chair the Congressional Dialogue with the State Duma. I hosted eight of those leaders in this city 3 weeks ago, headed by the first deputy speaker. We are not about tweaking the Russian leadership. We want to work with them. I proposed, along with the gentleman from North Carolina (Mr. TAYLOR) a new housing mortgage financing mechanism. We are working with them to bring new economic development into that country. I want to empower the State Duma and we want to bring new markets into Russia. But we cannot tolerate this.

This administration has got to understand if the basis of bilateral relations is arms control, then we have to enforce those agreements. And if we cannot enforce those agreements, then they mean nothing. Our soldiers were killed in Saudi Arabia, 28 of them, young men and women, because of a Scud missile attack. They now have enhanced capability because of Russian technology. The Iranians will have that capability within 12 months.

Are we going to wait until Israelis are dead, until more Americans are killed, and then say we should take some action? I wish we were not here today. But unfortunately, because of this administration's lack of adherence to arms control agreements, we are where we are and this agreement needs to be passed.

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. BERMAN).

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I agree with the gentleman from Indiana (Mr. HAMILTON) on the question of timing. I agree with the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, on the merits of the bill.

Mr. Speaker, one cannot make the case that U.S. national interests are served by bringing up this bill this evening rather than 3 weeks from now when the security advisor of the Russian President is coming here next week, when the Senate majority leader held up a vote on this bill in the Senate for over 5 months in an effort to encourage the diplomatic pressure, and then say today is the day that U.S. national interests compel a vote on this bill. I would suggest it is political interests, not national interests.

But the fact is that the leadership decides when a bill is brought up. This bill is now before us. We are going to go to a vote on this bill and this bill is worthy of this body's support, and I urge its passage.

Mr. Speaker, this legislation sends an important signal to anyone considering assistance to Iran's medium- and long-range missile program. Iran is designing missiles with a range of 930 to 1,250 miles and may even be working on a multistage intercontinental ballistic missile with a range of 3,500 miles. How long will it take Iran to attain this capability? Some estimate as soon as 1999 for the shorter-range missiles.

They may have a new President. They might want to get rid of all the baggage between our two countries. They may want to promote cultural exchanges. They may want to increase dialogue with the United States, with its academics and with its people.

□ 1845

The Government of Iran persists in its pursuit of weapons of mass destruction. Nothing about the election in Iran has changed that practice. Nothing about the statements of its new leadership has indicated any effort to move in a different direction. The more sophisticated assistance Iran receives from abroad, the quicker it will realize its goal. We must stop this now.

More than 2 years ago Assistant Secretary of State for Near Eastern Affairs Robert Pelletreau testified that only by imposing a real and heavy price can we and other countries convince the Iranian leadership that changing its threatening behavior is in Iran's own interest.

The administration claims that this legislation would weaken our ability to persuade other countries to halt assistance. But this legislation, as amended by the Senate to change its effective date from August 1995 to January 1998, comports with the administration's claims of success in convincing Russia to prevent dangerous exports.

January 22nd is the day the Russian Government issued a decree tightening export controls on goods and services that could advance missile and weapons of mass destruction programs. The Clinton administration officials say they have raised 13 cases of concern with Moscow and are pleased with Russian progress in about half of them. More needs to be done. The administration views this legislation as reinforcing its effort to persuade countries to cut off all aid to the Iranian missile program and to enforce export controls.

Language has improved this bill; language we suggested in committee was included. There remains some concerns regarding the definition of credible information. It is my expectation that the administration would employ its rigorous standards in determining what constitutes credible information.

The administration is also concerned that the bill's standard of sanctionable activity is not tied to any definition of knowing and that companies could be sanctioned for unintentional transfers. Given the types of equipment and technology involved, it strikes me as unlikely that many companies will be unaware of the potential end users of the exports. And while some companies may be unaware of the end users of the exports, ignorance should not be an excuse.

The companies that sell this technology, these items, must know who the end users are, and if they do not, they should be sanctioned. We should not be required to prove some difficult intent standard when we thereby will promote recklessness, head-in-the-sand behavior, a lack of thorough efforts to check who the end users are. We need to do everything we can to prevent the spread of weapons of mass destruction and the development of delivery systems.

Sometimes this is a lonely fight in which few of our allies wish to join us. For them short-term economic gain outweighs long-term peace. We should not sacrifice our honorable objectives to their selfish ends, for in the end we will all pay too high a price for failing to be vigilant. I urge my colleagues to vote for this important bill.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, it is an interesting debate, I think, from two different positions. I think the term "the administration's national security advisors" is an oxymoron, that if you take a look at the history that that is based on, those advisors, I think you would fire them.

First of all, you take a look at the failed policies of an extended Somalia. Guess what? Aideed's son is still there. Billions of dollars in lost people in Haiti that could have stayed there for another 200 years and not been a threat, and guess what, Aristide is still there, and they still have the neckties. You look at Bosnia, arming the Muslims with Izetbegovic, and guess what, there is over 12,000 Mujahedin and Hamas there. If we ever pull out of there, it is going to be a tremendous disaster because then it is going to be Izetbegovic's forces.

"Expert control system" I think is another oxymoron. How do you define sanctions? What is too much to stop someone from shipping? I would think just a shipping company shipping AK-47s into California would stop us from using a shipping company. That same shipping company that ships chemical and biological weapons to Iran, Iraq and Syria, I would think that would be enough to sanction them and stop them. But, no, this administration wants to give them a former Navy security base right in the heart of California. Guess what? This same company just last week, shipping chemical nuclear weapons to Pakistan. Is that enough to bring on sanctions? No. So that is why I think that when we talk about export control system of the White House, it is an oxymoron.

Let us take a look at the Russian missile technology gone to Iran and Iraq. My colleague, the gentleman from Pennsylvania (Mr. WELDON), spoke of the technology that has gone to actually kill our friends. I have a business in my district. The gentleman invited me to a picnic. He was delighted to introduce me to a Russian scientist. That Russian scientist built and developed the SA-2 missiles that shot me down in Vietnam. But yet Russia is giving further technology to all of our allies, and yet that is not enough to have sanctions. Russia today is building, Mr. Speaker, a first strike nuclear site under the Ural Mountains. Why? The Cold War is over. They have one half its size to the northeast. But yet we need to just talk to them.

I say it is time that we do not walk softly and carry a big stick of candy, Mr. Speaker, because that is the White House's foreign policy, walk softly and carry a big stick of candy. Peace comes through strength. And can we engage Russia and China? Yes. Can we deal with them through business? Yes. But you need to hold them at arm's length, and you have to talk from a position of strength, not a position of candy.

I think unless we engage them with a dialogue that the gentleman is talking about, I think that is very healthy, but there is also time to draw a line in the sand, and we have not done that, Mr. Speaker. It is time. It is time now. It is always wait. It is always wait.

The worst thing, Mr. Speaker, at the same time we allow Russia and China to sell mass destructive weapons of chemical and biological and nuclear weapons and missile technology to foreign countries, we give it to them, we give it to them with Loral. I say, I ask you, what kind of policy is that? It is a failed policy, Mr. Speaker. We need to do something about it now, and we need to pass this bill.

Mr. BERMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, I do not believe that sanctions are the perfect foreign policy tool, and I wish we did not have to resort to legislating sanctions today.

Unfortunately, however, we can do no less. Many good points have been made in this debate, and I do not want to repeat them, but let me identify several that I do not think have been stressed adequately.

First of all, the administration has been negotiating on this issue for over 14 months. We have had visits and consultations and briefings and high level ambassadors and conversations between the President and President Yeltsin and Vice President and former Prime Minister Chernomyrdin and so forth. Yet all we have really had is talk leading to talk. Talk needs to lead to action.

Second, we have evidence that proliferation continues and that it may even be increasing.

Third, we know that Russia, and this has been mentioned, has implemented a new executive decree in January which gives it added authority to crack down on those who transfer technology. It has not used this authority. In fact, in a case that the gentleman from Pennsylvania (Mr. WELDON) mentioned of technology transfers to Iraq, it specifically disregarded the fact that gyroscopes were transferred, called them scrap metal and took no action. So Russia is specifically failing to act even with new executive authority.

Fourth, the United States already has adequate authority to act. In fact Vice President GORE, when he was a member of the other body, authored that authority, and yet the administration has failed to use it even with a concurrent resolution passed by both houses last fall, of which I was one of the authors, directing it to use that authority.

So finally we come to this, the necessity to pass stronger legislation. I would point out, as we do this, and I predict we will do it by an overwhelming margin in just a moment, I would point out to the administration that there is still time in the intervening weeks between passing this bill and action that may be taken to override a veto, should the President make one, to get the administration to act and/or to get the Russian Government to act. We need action; we need these transfers stopped. There is time to do this. If the negotiations are ever to conclude, they should conclude now.

We might view this bill as an opportunity. The Congress is taking this action so that the administration has no choice but to act and to cause our ally Russia to act as well. These transfers must stop now, or Israel, our allies in the region and our troops are at risk.

Mr. Speaker, with the world still reeling from the explosion of nuclear devices by India and Pakistan, we must stand firm on our commitment to stop the proliferation of weapons of mass destruction.

Let's send a strong signal of our commitment to nonproliferation. Let's pass H.R. 3709 as amended.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for her supporting remarks with regard to this measure.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Speaker, George Washington, our Nation's greatest military commander, said the most effective means of preserving peace is to prepare for war. Now, unfortunately, that is exactly what we must do today. There are those who say, let us pretend, let us pretend that if we do not defend ourselves against this missile threat from Saddam Hussein and others, that it simply won't happen. How novel, how naive.

I believe that the U.S. must diligently prepare to meet and repel any threat from any source from enemies around the world, and this includes protecting our U.S. troops and our allies from the threat of Iranian missile attack in the Gulf region.

We learned last summer, that has been debated today, that the Russians have helped the Iranians speed up the development and deployment of a missile capable of reaching U.S. troops. We have to act immediately. We know from the Gulf War that our troops are threatened by these. In fact, we lost more American lives because of a Scud missile than any other reason in the Gulf War. Israel also suffered from barbarous Scud attacks. Therefore I urge this House to learn from the tragic lessons of that war. Move to protect our brave men and women. Move to protect our allies. Support H.R. 2709.

This bipartisan bill imposes sanctions on entities that are aiding efforts by Iran to build a missile program that threatens our troops and our critical allies like Israel in the Gulf. I thank the gentleman for bringing this bill. I urge all of my colleagues on both sides of the aisle to support this effort.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of the Iran Missile

Proliferation Sanctions Act. This legislation closes loopholes that allow countries to export sensitive technology to Iran. And because of these exports, in short order, within 1 year, Iran may achieve long-range missile capacity.

Opponents of the bill characterize it as just another sanctions bill. In reality what we are doing is providing Russian and Chinese firms with incentives not to trade with Iran.

Those who see a new Iran in President Khatemi are being led astray by conciliatory words while Iran continues to seek weapons of mass destruction, including long-range missiles, nuclear weapons to top those missiles, and chemical and biological warfare agents. President Khatemi may be the hope, but at present he does not have the power. Iran continues to support international terrorist organizations such as Hezbollah, Hamas and the Palestine Islamic Jihad. It is a rogue state. We would be naive to sacrifice our own security and the security of allies based on a few conciliatory words.

Late last year satellite reconnaissance of a research facility not far south of Tehran had picked up the heat signature of an engine test for a new generation of Iranian ballistic missiles, each capable of carrying a 2,200-pound warhead more than 800 miles, within strategic range of our ally Israel. In January a senior Clinton administration official told the Associated Press that Iran's purchase of Russian missile technology is giving Iran an opportunity to leap ahead in developing new weapons.

□ 1900

That is why I have introduced the Iran nuclear proliferation provision which I think is a companion ultimately to this bill.

Tehran's unrelenting quest for nuclear weapons and ballistic missiles clearly attests that the clerical regime has no intention of moderating its behavior. Appeasement by the West will only provide the mullahs with more room to maneuver. We need a comprehensive policy that both protects us from the current threat and safeguards our future interests in that part of the world. I urge my colleagues to be strongly supportive of this bill.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. CAMPBELL), a member of our committee.

Mr. CAMPBELL. Mr. Speaker, I would like to engage the distinguished former chairman and ranking Democrat in a debate in at least the second half of my 3 minutes, because I believe that the bill does offer adequate protection of the concerns that the gentleman from Indiana had expressed. The bill provides a waiver of all sanctions if the President determines in the circumstances the individual suspected of transferring the technology in fact did not do so. That is under section 4. Then under section 5, the President has authority to grant a waiver on the basis of national security. As I read section 4, the President would be essentially making a judgment based on all the evidence, we attorneys might call it on a preponderance of evidence, that this transfer actually did not happen. And then the actual waiver as well as the underlying determination can be made in secret, it can be made in confidential form, in classified form, according to an amendment that was added to the bill between committee and when it came to the floor, and I refer to section 2(d) of the bill that all submissions can be made in classified form. So given that, I do not see the potential for embarrassment of U.S. foreign policy.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding. I think we have to look at two things here. One is the imposition of the sanctions. With the imposition of the sanctions, you have a very, very low standard. All you have to find is credible information. You can have a mountain of information on the other side, but if you have any credible information, the sanctions apply. At the same time that you have a very low threshold on the sanctions, you have a very high threshold with regard to the waiver, and it is a national security interest waiver.

In talking with people on White House staffs, not just with this administration but in the past, finding a national security interest is not always easy. That is a very high standard. The gentleman is right, it does give the President discretion there on the waiver, but not on the sanction.

Mr. CAMPBELL. Mr. Speaker, the waiver, though, to which I was addressing my remarks was section 4, not section 5. The gentleman responded referring to the national security waiver in section 5 arguing that that was a high standard, and he may well be right. Section 4, however, allows the President to waive the imposition, and I am reading it, where the President is persuaded that the person did not, and then it goes on, actually transfer. So in the hypothetical that the gentleman from Indiana gives us where there is credible evidence that the transfer did take place but to use his own words a mountain of evidence the other way, well, surely then the President would waive on the basis of additional information under section 4.

I have the highest regard for the gentleman from Indiana or I would not have engaged in this discussion. If he has concerns, then I have concerns, but I believe the concerns are more than adequately taken care of in the draft with reference particularly to section 4.

Mr. HAMILTON. If the gentleman will yield further, I think the imposition of the sanctions creates huge problems in and of itself regardless of what the President's action may be. The mere imposition of the sanctions is going to trigger the reaction in Russia.

Mr. CAMPBELL. That submission can be made confidentially, not in public. I support the bill.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Indiana for yielding me this time, and I rise in strong support of the legislation.

Mr. Speaker, the House Action Reports just this week state very clearly that last year both U.S. and Israeli intelligence reports revealed a significant technology transfer between Russia and Iran. Successive reports detailed contracts signed between numerous Russian entities and Iran's Defense Industries Organization to help produce liquid-fueled ballistic missiles. These enhanced missiles are expected to have a range of 1,300 to 2,000 kilometers, well within the range of Israel, Turkey, Saudi Arabia and U.S. forces in the Persian Gulf region. There is a wide consensus within the intelligence community that Iranian ballistic missile development has proceeded much more rapidly than expected. The Director of the CIA recently testified that while last year he offered the assessment that Iran would have medium range ballistic missiles within 10 years, he now believes the timetable to be much shorter, and Israeli officials say it could happen by 1999.

Many experts are saying that with Russia's cash-strapped technical institutes and research facilities eager to sell to Iranian weapons purchasers, Russia's effective adherence to the obligations of the Missile Technology Control Regime is open to serious question. I think U.S. relations with Russia are very, very important but frankly I am tired of the role that Russia has played in transferring technology to Iran. They are playing a destructive role there, they are playing a destructive role in the whole situation in Kosovo with the Albanians and I think the Russians ought to really understand that there is a limit to how much patience we have. I support this legislation.

Mr. Speaker, I want to also say that I am very concerned about Syria as well, that the Israeli Defense Minister says that Syria is continuing to develop all these kinds of strategic surface-to-surface missiles, and that of greater concern is that Syria is developing these capabilities with the aid of North Korean know-how and Russian raw materials. It is these technologies and material transfers on which the bill before the House focuses today.

I just wanted to say to the chairman of the committee that I would hope that the committee would be willing in the future to consider the issue of proliferation of ballistic missiles and weapons of mass destruction in Syria as it considers such other issues in the Middle East.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the comments of the gentleman from Indiana (Mr. HAMILTON), let me just emphasize that the credible information requirement of this bill is intended to be a very low evidentiary standard. We have adopted this low evidentiary standard because of our dissatisfaction with the way the evidentiary standard contained in other counter-proliferation laws has been applied.

There is no reason not to impose the sanctions provided by this bill on foreign persons about whom there is credible information that they may have made a transfer or attempted transfer covered by the bill. The three sanctions that this bill would impose upon such persons, prohibitions on providing U.S. assistance, exporting arms, or exporting dual-use commodities to such persons, are all matters within the sole discretion of our Government.

No one has any right to receive U.S. assistance. Since our foreign aid resources are limited, decisions have to be made every day about who should receive our assistance and who should be denied our assistance. This bill basically directs that in any case where there is any doubt about whether a potential recipient of U.S. assistance has transferred or attempted to transfer missile technology, that person will be denied U.S. assistance. The administration may believe we are being too harsh with this approach, but in fact they would have a hard time explaining to our Members why we should provide limited U.S. foreign assistance funds to persons who we suspect may have made or attempted to make improper transfers of missile technology.

I submit the same is true with regard to exports of arms and dual-use commodities. No one has a right to receive such exports from our Nation, and, as a matter of national policy, we seek to deny such exports to foreign persons who cannot be trusted with U.S. arms or dual-use commodities. Why should the President not be required to deny such exports to persons who we suspect may have made or attempted to make improper transfers of missile technology?

I submit to my colleagues that it is time we stop the spread of missile technology to Iran. Let us prohibit foreign aid to suspected missile proliferators, and let us prevent arms sales to suspected missile proliferators. Vote "yes" on the Senate amendments to H.R. 2709.

Mr. WELLER. Mr. Speaker, the United States has an obligation to support our very loyal and only democratic ally in the Middle East, Israel. We have a key responsibility to think long term—the long term security of Israel and the Middle East.

Some reports show that if the current flow of missile technology from Russia to Iran continues, Iran could, within a year, have the capability of developing ballistic missiles that could reach Israel and much of Europe.

The activities of Russian entities which are engaged in the transfers of these technologies threaten our own national security interests as well as those of Israel and much of Europe. Despite the resolution issued by the then-Russian Prime Minister earlier this year, which stipulated that Russian firms "should refrain" from such transfers, U.S. intelligence reports indicate that Russian entities have signed contracts with Iran to help produce ballistic missiles. There is also evidence that the sale of high-technology laser equipment and other supplies needed for the manufacture and testing of missiles has been negotiated. Beyond the technology transfers, thousands of Russian scientists, engineers and technicians are reported to be operating in Iran as advisors.

It is now time for the Congress to say that enough is enough. We need protect ourselves and our allies. The Government of Russia needs to understand that the United States will not stand idly by as entities under Russian authority assist a rogue nation in acquiring weapons of mass destruction. With this legislation, we will be giving Russian firms compelling reasons not to trade these important technologies with Iran.

Mr. Speaker, I urge my colleagues to accept the Senate Amendments so that we can protect ourselves, and our allies such as Israel, from the proliferation of Iranian weapons of mass destruction.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Senate amendments to the Iran Missile Proliferations Sanctions Act of 1997. I am currently a cosponsor of H.R. 2709 (H.R. 2930). The potential for a strategic arms race in Asia, evidenced by the nuclear tests conducted by India and Pakistan, means that we must redouble our efforts to combat the proliferation of nuclear weapons around the world.

H.R. 2709 would require the administration to publish periodic reports identifying companies or research institutes that have transferred, or have attempted to transfer, to Iran prohibited missile-related technology since August 8, 1995 (i.e., the date Russia signed the Missile Technology Control Regime, a multilateral agreement to prevent the spread of ballistic missiles). In other words, this sanctions bill is intended to close loopholes in the United States' counterproliferation laws in order to address the risk that Iran may soon obtain from firms in Russia, and elsewhere, the capability of producing its own medium- and long-range ballistic missiles, thus creating a threat to stability in the Middle East and southern Europe.

With respect to Russia, the proliferation threat seems to stem from two complex issues: (1) Since the dissolution of the former U.S.S.R., the Russian government has been unable to pay its scientists, engineers and academics whose former careers are virtually nonexistent today. Some have lent their skills, for pay, to help produce ballistic missiles. (2) Second, Russia is having difficulty enforcing its own arms control laws, which ban defense experts and scientists from selling their services abroad for at least five years, as effectively as it can.

For example, a columnist for The Washington Post reported in January that about $30 billion worth of illegal exports and imports flowed across Russia's once tightly sealed borders last year. In total, this smuggling and other underground activity account for 40 percent of the Russian economy today. In short, the threat is as much a human problem as it is an actual weapons problem. It should be clear to everyone that it is in the interests of the United States and Russia to prevent nuclear material and missile technology from being smuggled across Russia's borders. Thus, this problem encompasses both a human and material component.

Mr. Speaker, I encourage my colleagues to take a concrete step to halt the spread of weapons of mass destruction by supporting the Senate amendments to H.R. 2709.

Mr. LEVIN. Mr. Speaker, I rise in strong support of H.R. 2709, the "Iran Missile Proliferation Sanctions Act."

It is clear that Iran is seeking to improve its ballistic missile capability. In addition, it is clear that Iran's ballistic missile program is receiving outside assistance and support, most notably from Russia. Entities within Russia have supplied Iran's missile program with crucial technologies, materials and technical assistance. As a direct result of Russia's assistance, Iran may soon become self-sufficient in missile production; more ominously, Iran could be within a year or two of fielding an intermediate range missile capable of striking targets in Turkey, Saudi Arabia and Israel.

Mr. Chairman, this assistance to Iran's missile program must end. I can think of no greater threat to regional stability in the Middle East than Iran's coming into possession of weapons of mass destruction and the means to deliver them. These weapons would constitute a clear and present danger to American troops stationed in the Persian Gulf as well as Israel and our other allies in the region.

I appreciate that the Clinton Administration has been working with the Russian Government to curb the proliferation of missile technology to Iran. Real progress has been made, and the Administration is to be commended for its efforts. Unfortunately, while the flow of missile technology between Russia and Iran has slowed, it has not stopped. I was alarmed to learn that earlier this year a shipment of 22 tons of missile-quality steel was smuggled out of Russia bound for Iran, despite the fact that the Administration had alerted Russian authorities several days before the shipment left Russia. Fortunately, the steel—which is used to construct rocket fuel tanks—was impounded in Azerbaijan before it crossed the border into Iran.

The legislation before the House today would impose sanctions on foreign entities, wherever they may be, that contribute to Iran's efforts to develop ballistic missiles. H.R. 2709 , sends a clear message that the United States will not tolerate further proliferation of missile technologies to Iran.

I urge every member of the House to support this vital legislation.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BURR of North Carolina). All time for debate has expired.

Pursuant to House Resolution 457, the previous question is ordered.

The question is on the motion offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, the Chair will reduce to 5 minutes the minimum time for electronic voting on each of the motions to suspend the rules that were postponed earlier today, provided that those proceedings resume as pending business immediately after this 15-minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 392, nays 22, answered "present" 3, not voting 16, as follows:

[Roll No. 211]

YEAS—392

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)

NAYS—22

Brown (CA)
Conyers
Dooley
Furse
Hamilton
Hastings (FL)
Hostettler
Jefferson
Johnson, E. B.
Kanjorski
Kennedy (MA)
LaFalce
Lofgren
McDermott
Mink
Moran (KS)
Moran (VA)
Murtha
Obey
Paul
Rahall
Yates

ANSWERED "PRESENT"—3

Bonior
Fazio
Gephardt

NOT VOTING—16

Bishop
Deutsch
Farr
Gonzalez
Goodling
Houghton
Hunter
Inglis
Johnson, Sam
Leach
Lewis (GA)
Rush
Sabo
Schumer
Wexler
Young (FL)

☐ 1932

Messrs. RAHALL, CONYERS, DOOLEY of California, JEFFERSON, YATES, and MORAN of Kansas changed their vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 417, by the yeas and nays; House Resolution 447, by the yeas and nays; H.R. 1635, by the yeas and nays; and House Concurrent Resolution 270, de novo.

Pursuant to the order of the House of today, the Chair will reduce to 5 minutes the time for each electronic vote in this series.

REGARDING IMPORTANCE OF FATHERS IN RAISING AND DEVELOPMENT OF THEIR CHILDREN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 417, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (MR. MCINTOSH) that the House suspend the rules and agree to the resolution, H. Res. 417, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 212]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia

Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—18

Ballenger
Deutsch
Farr
Fawell
Gonzalez
Houghton
Hunter
Inglis
Johnson, Sam
Lewis (GA)
McDade
Rush
Sabo
Schumer
Snowbarger
Waxman
Wexler
Young (FL)

□ 1941

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution regarding the importance of fathers in the rearing and development of their children."

A motion to reconsider was laid on the table.

SENSE OF HOUSE REGARDING FINANCIAL MANAGEMENT BY FEDERAL AGENCIES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 447, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and agree to the resolution, H. Res. 447, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 213]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood

Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—18

Ballenger
Deutsch
Farr
Gekas
Gonzalez
Houghton
Hunter
Inglis
Johnson, Sam
Lewis (GA)
McInnis
Rush
Sabo
Schumer
Waxman
Wexler
Wicker
Young (FL)

☐ 1952

Messrs. BARRETT of Wisconsin, FATTAH, SMITH of Michigan. KANJORSKI and WATT of North Carolina changed their vote from "nay" to yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT OF 1998

The SPEAKER pro tempore (Mr. BURR of North Carolina). The pending business is the question of suspending the rules and passing the bill, H.R. 1635, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1635, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, not voting 16, as follows:

[Roll No. 214]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NAYS—2

Paul
Sanford

NOT VOTING—16

Ballenger
Deutsch
Farr
Gonzalez
Houghton
Inglis
Johnson, Sam
Lewis (GA)
Roukema
Rush
Sabo
Schumer
Waxman
Wexler
Wicker
Young (FL)

☐ 2001

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber for rollcall vote Nos. 211, 212, 213, and 214. Had I been present, I would have voted "aye" on rollcall vote 211, "aye" on rollcall vote 212, "aye" on rollcall vote 213, and "aye" on rollcall vote 214.

CELEBRATING THE BIRTHDAY OF THE HONORABLE DON YOUNG OF ALASKA

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute.)

Mr. BARTON of Texas. Mr. Speaker, the gentleman from Alaska (Mr. DON YOUNG) is 65 today and eligible for Medicare. Today is his birthday.

ACKNOWLEDGING POSITIVE ROLE OF TAIWAN IN ASIAN FINANCIAL CRISIS

The SPEAKER pro tempore (Mr. BURR of North Carolina). The pending business is the question de novo of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 270, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 270, as amended.

The question was taken.

RECORDED VOTE

Mr. BEREUTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 411, noes 0, not voting 22, as follows:

[Roll No. 215]

AYES—411

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ryun
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—22

Ballenger
Deutsch
Farr
Gonzalez
Houghton
Hyde
Inglis
Johnson, Sam
Lewis (GA)
Miller (CA)
Murtha
Riley
Roukema
Rush
Sabo
Sánchez
Schumer
Talent
Waxman
Wexler
Wicker
Young (FL)

□ 2010

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read:

> Concurrent resolution acknowledging Taiwan's desire to play a positive role in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy..

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2888, SALES INCENTIVE ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–572) on the resolution (H. Res. 461) providing for consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1988

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–573) on the resolution (H. Res. 462) providing for consideration of the bill (H.R. 3150) to amend title XI of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMENDING THE STUDENTS AND TEACHERS OF MARTINSVILLE MIDDLE SCHOOL FOR ACHIEVEMENT IN PROJECT CITIZEN

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODE. Mr. Speaker, I rise today to commend the students and teachers of Martinsville Middle School in Martinsville, Virginia, for their participation and achievement in the inaugural Virginia State competition for Project Citizen, which was held on May 15 in the Virginia General Assembly Building.

I include for the RECORD a statement of the accomplishments of the students and their teachers, Mr. Speaker.

The statement referred to is as follows:

PROJECT CITIZEN—WE THE PEOPLE

May 15 the inaugural Virginia state competition for Project Citizen was held in the Virginia General Assembly building. This competition is a civics education program for students in grades 6–9. This program promotes competent and responsible participation in government by engaging students in learning how to monitor and influence public policy. As a class project, students work together to identify and study a public policy issue, then try to develop a solution to an issue, and form an action plan to "solve" the problem. The final product is a portfolio displaying their work. This year there were seven portfolios on exhibit for judging at the state competition. After the judging was complete, Martinsville Middle School students in Mrs. Linda Cox, Mr. Richard Tobler, Mrs. Carolyn Turner and Mrs. Betsy Ivey's classes won first, second and third places in the competition. The winning portfolio entitled "Homeless" examined the homeless situation in Martinsville/Henry County. Since there is no full time shelter for the homeless, the students want the local governments to investigate the possibility of a shelter where not only are the basic needs of food and lodging provided but also job training to break the homeless cycle. The students on this team were Andrea Lawhorn, Tarieton Walmsley, Jennifer Ward, Caroline Titcomb, Demarcus Tarpley, Justin Knighton, Sarah Draper, Shelby Higgs, and Christina Chaney. The portfolio of the winning team will be sent to Las Vegas, Nevada for national competition during the National Conference of State Legislatures July 19–23, 1998.

The second place team from Martinsville Middle School studied "Recycling—More Needs to be Done". The third place group investigated "Activities for the Elderly".

Helen Coalter is the Virginia state coordinator for We the People from the Center for Civic Education.

□ 2015

REPORT ON NATIONAL EMERGENCY CONDERNING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–271)

The SPEAKER pro tempore (Mr. BURR of North Carolina) laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report on the national emergency declared by Executive Order 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

INTERNATIONAL CRIME CONTROL ACT OF 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–272)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on the Judiciary, the Committee on Commerce, the Committee on Transportation and Infrastructure, the Committee on Ways and Means, the Committee on Government Reform and Oversight, the Committee on Banking and Financial Services, and the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

I am transmitting for immediate consideration and enactment the "International Crime Control Act of 1998"(ICCA). The ICCA is one of the foremost initiatives highlighted in my Administration's International Crime Control Strategy, which I announced on May 12, 1998. The proposed legislation would substantially improve the ability of U.S. law enforcement agencies to investigate and prosecute international criminals, seize their money and assets, intercept them at our borders, and prevent them from striking at our people and institutions.

Advances in technology, the resurgence of democracy, and the lowering of global political and economic barriers have brought increased freedom and higher living standards to countries around the world, including our own. However, these changes have also provided new opportunities for international criminals trafficking in drugs, firearms, weapons of mass destruction, and human beings, and engaging in fraud, theft, extortion, and terrorism.

In response to these formidable threats to the American people, I have directed the Departments of Justice, State, and the Treasury, as well as the Federal law enforcement and intelligence communities, to intensify their ongoing efforts to combat international crime. In order to carry out this mandate most effectively, the many departments and agencies involved need the additional tools in the proposed ICCA that will enhance Federal law enforcement authority in several key areas, close gaps in existing laws, and facilitate global cooperation against international crime.

The ICCA's provisions focus on seven essential areas to improve the Federal Government's ability to prevent, investigate, and punish international crimes and criminals:

(1) INVESTIGATING AND PUNISHING ACTS OF VIOLENCE COMMITTED AGAINST AMERICANS ABROAD

—Broadens existing criminal law to authorize the investigation and punishment of organized crime groups who commit serious criminal acts against Americans abroad. (Current law generally requires a link to terrorist activity.)

—Provides jurisdiction in the United States over violent acts committed abroad against State and local officials while in other countries on official Federal business.

(2) STRENGTHENING U.S. AIR, LAND, AND SEA BORDERS

—Increases penalties for smugglers who endanger Federal law enforcement officials seeking to interdict their activities, introducing the Federal criminal offense of "portrunning" (i.e., evading border inspections, often through the use of force).

—Addresses gaps in current law relating to maritime drug interdiction operations, introducing the criminal offense of failing to stop ("heave to") a vessel at the direction of a Coast Guard or other Federal law enforcement official seeking to board that vessel.

—Provides clear authority to search international, outbound letter-class mail if there is reasonable cause to suspect that the mail contains monetary instruments, drugs, weapons of mass destruction, or merchandise mailed in violation of several enumerated statutes (including obscenity and export control laws).

—Broadens the ability to prosecute criminals smuggling goods out of the United States.

(3) DENYING SAFE HAVEN TO INTERNATIONAL FUGITIVES

—Authorizes the extradition, in certain circumstances, of suspected criminals to foreign nations in two separate cases not covered by a treaty: (1) when the United States has an extradition treaty with the nation, but the applicable treaty is an outdated "list" treaty that does not cover the offense for which extradition is sought; and (2) when the United States does not have an extradition treaty with the requesting nation.

—Provides for exclusion from the United States of drug traffickers and their immediate family members and of persons who attempt to enter the United States in order to avoid prosecution in another country.

(4) SEIZING AND FORFEITING THE ASSETS OF INTERNATIONAL CRIMINALS

—Expands the list of money laundering "predicate crimes" to include certain violent crimes, international terrorism, and bribery of public officials, thus increasing the availability of money laundering enforcement tools.

—Broadens the definition of "financial institution" to include foreign banks, thereby closing a loophole involving criminally derived funds laundered through foreign banks doing business here.

—Provides new tools to crack down on businesses illegally transmitting money, and to investigate money laundering under the Bank Secrecy Act.

—Toughens penalties for violations of the International Emergency Economic Powers Act.

—Criminalizes attempted violations of the Trading With the Enemy Act.

(5) RESPONDING TO EMERGING INTERNATIONAL CRIME PROBLEMS

—Enhances enforcement tools for combating arms trafficking, including requiring "instant checks" of the criminal history of those acquiring explosive materials from Federal licensees and clarifying Federal authority to conduct undercover transactions subject to the Arms Export Control Act for investigative purposes.

—Addresses the increasing problem of alien smuggling by authorizing the forfeiture of the proceeds and all instrumentalities of alien smuggling.

—Cracks down on the international shipment of "precursor chemicals" used to manufacture illicit drugs, primarily by authorizing the Drug Enforcement Administration to require additional "end-use" verification.

—Provides extraterritorial jurisdiction for fraud involving credit cards and other "access devices," which cost U.S. businesses hundreds of millions of dollars every year.

—Authorizes wiretapping for investigations of felony computer crime offenses.

(6) PROMOTING GLOBAL COOPERATION

—Expands the authority of U.S. law enforcement agencies to share the seized assets of international criminals with foreign law enforcement agencies.

—Provides new authority, applicable in cases where there is no mutual legal assistance treaty provision, to transfer a person in United States Government custody to a requesting country temporarily for purposes of a criminal proceeding.

(7) STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIME IN U.S. COURTS

—Authorizes the Attorney General to use funds to defray translation, transportation, and other costs of State and local law enforcement agencies in cases involving fugitives or evidence overseas.

—Facilitates the admission into evidence in U.S. court proceedings of certain foreign government records.

The details of this proposal are described in the enclosed section-by-section analysis. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AS AMERICA'S DEFENSE FORCES DWINDLE, SECURITY THREATS INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, having attended, like many of my colleagues, several Memorial Day services over the recent recess, I continue to become more and more concerned by America's dwindling national defense. By failing to maintain a strong military force, we are in effect dishonoring those who have served and died for our freedom. Please allow me to highlight some recent events.

Surprising the United States intelligence community, India conducted five underground nuclear weapons tests last month. Neighboring Pakistan has since conducted six nuclear weapons tests of its own. It has been reported that Iraq has enough deadly biological weapons to kill every human being on Earth. And despite administration claims that no nuclear missiles are aimed at American children, a CIA report released last month reveals that 13 of China's 18 long-range strategic missiles have nuclear warheads aimed at United States cities.

Mr. Speaker, we do not live in a safe world. America faces new threats and dangers each and every day, and yet we continue to cut our defense budget.

The President's request for the fiscal year 1999 defense budget represents the 14th consecutive year of real decline in defense spending. Our forces today are 32 percent smaller than they were just 10 years ago. In 1992, we had 18 Army divisions; we now have 10. And that same year we had 24 fighter wings; we now have 13. We also had 546 Navy ships in 1992; we now have 333.

Our forces are dwindling and yet threats to our freedom are ever increasing. Quite frankly, we seem to be taking our freedom for granted. This is a foolish thing to do. Just ask any veteran or any American who has lost a loved one in service to our Nation.

Mr. Speaker, in the name of all those who have fought and who have died for this country, we must continue to maintain a military readiness. We cannot throw away the security America has fought so hard for.

Right now while nuclear missiles are aimed at United States cities, our troops do not even have the basic ammunition they need. The Army is $1.7 billion short of basic ammunition and the Marine Corps has a shortfall in ammunition of over $193 million. I want to repeat that, Mr. Speaker. The Army is $1.7 billion short of basic ammunition and the Marine Corps has a shortfall in ammunition of over $193 million.

At the same time the President has cut defense nearly in half, he has deployed troops over 25 times during his tenure. Thirteen billion dollars-plus has been spent on these peacekeeping deployments, which have exhausted funds that would have otherwise been used to maintain our military readiness and have stretched our forces to the limit.

These peacekeeping deployments have also kept our men and women in uniform away from their homes and families for lengthy periods of time and have thereby decreased their morale. We cannot continue to ask our military to do more with less. This is why I was especially disappointed this year, to see that the President requested more than $100 billion in new domestic spending but failed to propose one dime in increased defense spending.

Mr. Speaker it is past time to once again provide our military with the resource its needs to do the very important tasks it faces of protecting America.

I urge my colleagues to help preserve our freedom and security and to support our Armed Forces. Thank you, Mr. Speaker, and may God bless America.

NATIONAL OCEAN CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, this week I will be participating in the National Ocean Conference in Monterey, California. This historic gathering is taking place just up the road from the district I am privileged to represent along the central coast of California. I am pleased to be joining the President, Vice President, several Members of the Cabinet, some of my House colleagues, and hundreds of scientists, scholars, and conservationists from around the world at this important event.

This conference will highlight the important role the ocean plays in the daily lives of all Americans. Today over half of the population in the United States lives and works in coastal areas.

Mr. Speaker, one of every six jobs in the United States is marine-related. This is particularly true in San Luis Obispo and Santa Barbara Counties, where our tourism, recreation, fishing, education, and business communities are all dependent on a clean ocean environment.

Mr. Speaker, last week I had the opportunity to meet one of the world's renowned ocean explorers, the 1998 National Geographic Society Explorer of the Year, Dr. Sylvia Earle. Dr. Earle, who will be speaking at the Ocean Conference, is part of an incredible undertaking: the Sustainable Seas Expeditions.

This 5-year project will explore, document, and provide scientific data on America's 12 national marine sanctuaries, including the Channel Islands National Marine Sanctuary in my district. To do this, she will be using a deep-ocean submarine that is able to go thousands of feet underwater to explore uncharted territories.

I am one of the Members of this body who often speaks in this Chamber about the marvels of space exploration. Well, there is another world out there to be explored and instead of going up, we must go down. Down to the depths of the vast oceans to discover the wonders of the sea where we might find new resources, cures for diseases, and answers to scientific questions. But all of these diverse uses of our ocean's abundant resources are dependent on a clean and healthy ocean.

Mr. Speaker, I am very proud to be the sponsor of a bill, the Coastal States' Protection Act, which ensures the protection of our Nation's fragile coastline from new, unnecessary offshore oil and gas development. This is a bill that respects States' rights. The legislation stipulates that when a State establishes a moratorium on new oil drilling in State waters, this protection should be extended to adjacent Federal waters. Oil knows no boundaries and it does little good to protect coastal State waters without simultaneously protecting our adjacent Federal waters.

After all, as we in Santa Barbara know too well, an oil spill in Federal waters will not stop there. It will contaminate State waters and ultimately our shores. It will spoil our majestic beaches, devastating the tourism, recreation, and fishing industries that all depend on a clean organization.

I urge my colleagues here in the House to support this important legislation. I also hope the President takes the opportunity at the ocean conference to support this legislation and protect our Nation's coastlines.

To this end, I intend to bring with me to the conference evidence of the strong local support for this proposed moratorium. I will be presenting to the President letters from a wide variety of constituents including the business, fishing, and tourism community as well as local elected officials all united in expressing their strong opposition to any new offshore oil development off the spectacular coastline of California.

If Members think this opposition to offshore development is just a position taken by environmentalists, think again. A recent report issued jointly by the San Luis Obispo County Chamber of Commerce and the Environmental Center of San Luis Obispo County demonstrates the unified community position against offshore oil development.

The study points out that in 1998, the tourism industry is expected to generate over $60 billion in the State of California. Mr. Speaker, I quote from this report: "The travel industry is healthy and growing in San Luis Obispo County, with total visitor expenditures in 1997 in the county of $394 million. This would all change if offshore oil and gas development occurred in our community."

As policymakers, we must emphasize our commitment to the research, exploration, sustainable use, and protection of our oceans. Our economy and, indeed, our future depends on it.

As a representative of the central coast of California, I must do all I can do to protect our beautiful and valuable coastline. I look forward to participating in the exciting landmark conference which will recognize this as the International Year of the Ocean.

TRIBUTE TO LEROY COLVIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise today to pay tribute to a member of my staff, Leroy Colvin of Burlington, Washington. Leroy passed away suddenly on Sunday, May 17, 1998. His death was a great shock to those of us fortunate enough to have known and worked with him.

When I first met Leroy, he was a caseworker in the Bellingham, Washington office of my predecessor, Al Swift. I had always respected Leroy, so when I was elected in 1994, I asked if he would like to continue working for me in that office, and he did.

Leroy was one of the people that make the programs created in Congress work for the average American. If a person was having trouble with Social Security, veterans' affairs, or any other program, they could not have a better advocate than Leroy Colvin. He was the person on my staff that one could go to if they had a really tough case that needed a positive solution.

Leroy was born February 2, 1935 to a farming family in Skagit County, Washington State. During his days as a farmer, Leroy grew 120 acres of strawberries, 20 acres of raspberries, and 100 acres of cucumbers annually.

□ 2030

As a farmer, Leroy was unique for his time in that he provided day care for the children of the migrant farm workers that would come way up North each year to harvest his crops. He was concerned with their welfare and always tried to do the right thing by them. He also operated a restaurant and lounge in Burlington for about 10 years.

My staff all have their own favorite stories and observations of Leroy, but one truth has come through consistently. Leroy loved a challenge. Like most Americans our age, Leroy was not used to the great many things that computers could do to provide information to help him do his case work. When he was shown the great wealth of information that was available on the Internet, Leroy was fascinated. He would often provide information on obscure topics to other members of my staff while they were on the telephone with a constituent talking about that subject. He would get on that thing and go while they were talking and bring them information. He loved a really hard case or a request for the most obscure fact or figure. He would work at it every day until he came up with the answer.

When a member of my staff wanted to reunite her husband with his son after a 30-year absence, it was Leroy that was able to search America via the Internet and finally locate him. The end of that story, they plan to meet later this year.

Leroy was also fascinated by genealogy. He was sort of a self-appointed family historian for the Colvin family of Skagit County. He had friends and relatives in the Ozarks, and he loved to travel to Branson, Missouri. Leroy had friends all across the country. He had lived in many places in America as a younger man and still had contact with the friends he made from this time of his life. He was a stranger to no one he met.

Mr. Speaker, on behalf of myself, my wife and my staff, I wish to convey our heartfelt condolences to the Colvin family on the passing of Leroy. No building or program will ever bear his name, but few have done as much on a daily basis with as much heartfelt caring to make American government work for the average person than Leroy Colvin.

I, along with my wife and staff, as well as the people in need of help from their government, will miss him deeply.

REMEMBERING EDDIE RABBITT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, a few years ago I was riding on an airplane, and I sat down next to a fellow who was a little reluctant to start talking to me initially. But we had about a 3-hour flight, and, as the flight progressed, I got a chance to get to know this fellow. His name was Eddie Rabbitt, and he was a country and western singer who over the last 20 years had 26 number one country hits. And Eddie and I became very good friends, and we talked on the phone quite frequently. We did not get together very much, but we talked on the phone on a regular basis.

And about a year ago I found out that Eddie was suffering from lung cancer. He was 55 years old at the time, and he had part of his lung removed, and he went through chemotherapy and all the other things that people go through when they suffer from cancer of almost any type anymore. And Eddie was a very courageous fellow. He fought very, very hard to whip cancer, and they thought that they did have it whipped but, unfortunately, a couple of weeks ago Eddie Rabbitt passed away.

He was one of the finest men I had the opportunity to know. He was a good family man. He feared God. He cared about his country, and he believed that entertainment, country and western entertainment, should be very clean and free from obscenities. And he talked about that quite frequently.

He was one of the nicest guys that I had the opportunity to know over the past several years, and he will be missed by me and by a lot of other people across the country who really loved and admired his work.

At the height of his career, he decided to cut back on his performances because he had a son Timothy who had liver disease, and his son died in 1985, 1 month shy of his second birthday. It was very difficult for him, and he decided to cut back on his work so he could spend more time with his family. Rabbitt and his wife Janine had two other children, daughter Demelza, 16, and son Tommy, 11. They lived in the Nashville suburb of Franklin, Tennessee.

He was a wonderful man. He was a man who was loved by people all across this country. He was a great entertainer, a great artist, and he will be missed by people all over this country and all over the world.

REGARDING RELATIONS BETWEEN THE PEOPLE OF THE UNITED STATES AND THE PEOPLE OF THE PHILIPPINES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, today I rise in support of H. Res. 404 regarding the relations between the people of the United States and the people of the Philippines. In light of the Philippines 100th anniversary of its independence from Spain, this measure appropriately acknowledges the Philippines' efforts to improve its democracy and human rights, rule of law and expansion of the free market. Such accomplishments are reflective of a nation striving to fulfill its potential as a future leader in international diplomacy.

As a nation on the rise, the Philippines has made significant strides to uphold and promote democratic ideals. From open elections to establishing diplomatic relationships with free world nations, the Philippines has accepted its role as an emerging power in the international forum. This role has been further established by its efforts to promote human rights both domestically and abroad.

In the annals of U.S. military history, the Philippine people have made incredible contributions to the preservation of world democracy. Fighting side by side with American troops in World War II, the Korean War and Vietnam, Filipino troops demonstrated both valor and fighting prowess in all these engagements. In the constant face of adversity, these men and women endured and prevailed. The accomplishments of Philippine Americans have not only been noticed in military endeavors, but have also been noteworthy for their contributions to the United States.

As U.S. citizens, Filipino Americans have made great contributions to the growth and prosperity of our Nation. In the 37th Congressional District of California, the Filipino American community has contributed immeasurable leadership and vision. As a result of these contributions, the Filipino American community deserves the respect and gratitude of this country's government.

Unfortunately, some members of the Filipino community have not been accorded such respect. Amerasian children, children of mixed heritage borne by Philippine mothers and U.S. servicemen, have been denied the right to immigrate to the U.S.

In the spirit of today's House resolution, I would ask my colleagues from both sides of the aisle to join me in sponsoring my bill, H.R. 2540, the Amerasian Reunification Act. This legislation would help reunite families and children born in the Philippines. Your support of this legislation will send a resounding message to the citizens of the Philippines that Americans are willing to stand behind their democratic beliefs in assisting those less fortunate in need.

ON NIGERIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, none of us should take comfort or have joy when someone loses their life. So I do not stand today on the floor of the House to celebrate the death of the despotic leader of Nigeria, Sani Abacha, for a human life has been lost.

Immediately upon his death, however, a military major general was appointed. I do think it is important that we look upon this opportunity for all of us who believe in human rights and human dignity and the full promise of a country like Nigeria with 115 million citizens, the largest nation on the continent of Africa. I do believe this is a time that we stand up and ask for democratic free elections, the respect of human rights and human dignity, and the assessing of the needs of the people of Nigeria and their needs being the highest priority over the greed of despotic leaders.

As I watch the news unfold, tragic that someone has lost their life, but it gives us an opportunity to speak up and stand up and be counted. Otherwise we all can turn our backs and our heads and we can say, well, there has been a nonviolent transition of government. Of course, it has. Military leaders selected another military leader.

The question is, will there be free elections in Nigeria? Will there be the opportunity for the people of Nigeria to have jobs, for the oil-rich Nigeria to translate some of those dollars into the education of their children, the health care, the opportunities for employment, or will business be as usual?

I for one think it is important that Nigerians around the world, people of goodwill who want their country to be restored to its natural promise of leadership on the continent of Africa and in the world, the place where it has been in the past and the place where it has been in recent years, when it helped America in the Persian Gulf War, even Africa today looks to Nigeria to be a leader.

How tragic it was that the President of the United States in his visit to the continent could not include on his list the largest African nation to be part of that historic journey because it had not accepted the principles, the basic tenets of human dignity and human respect.

So Nigerians across the world, and particularly those in this great Nation, and to my good friends in Houston, Texas, it is time now for your voices to be raised and demand the transition that will transition the Nigerian Government into democracy, free elections into the fall. The major general who has now been despotically appointed by dictators themselves must commit himself to free elections. Our corporate friends who enjoy the largess of a country with respect to the businesses that are done there, their voices, too, must be raised.

I do know that overall sanctions at the drop of a hat do not necessarily work, but I think it is now high time for Nigeria to unshackle itself from despotic leadership, punitive measures towards its constituency base, the mass killings of writers, poets, activists and adversaries of the government, and stand up and be counted for the democracy of which its promise can fulfill. Nigeria can be a leader on the African continent and in the world. We should be ashamed to allow the despotic leadership to continue.

Those of us who care about the continent in Nigeria, someone who has studied, as myself, in Nigeria, traveled in Nigeria, appreciate and love the people of Nigeria, have strong constituents who are in fact citizens or past citizens of Nigeria, I would simply say that now is the time for all voices to be heard. No one's head should be turned. No one should say, I am afraid that my name can be counted because the despot in Nigeria may haul me over from the United States or they may harm my family. What kind of country is that?

So it is so extremely important that we call upon this newly appointed new leader, self-appointed, if you will, not democratically elected, to bring about democracy to his people, freedom to his people, free elections to his people, human dignity to his people. And we in the United States of America must be in the front of the line demanding that kind of justice for the Nigerian people.

My friends who are Nigerians in this country, your voices must be the loudest, and you must join us in ensuring that there is, yes, a good atmosphere for doing business, but good opportunity for living a better quality of life in a democratic society. Nigeria deserves nothing less. This country should call upon it to do what is right.

□ 2045

HOUSE PASSES LEGISLATION TO STIFFEN SANCTIONS REGARDING MISSILE PROLIFERATION

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight in the House to congratulate my colleagues for joining with myself and the gentleman from New York (Mr. GILMAN) in passing historic legislation which will stiffen sanctions against Russian organizations that have provided missile hardware and technology to Iran. The legislation imposes a minimum of 2 years of sanctions against Russian organizations and companies identified as having provided missile materials or technology or have tried to since January 22, 1998 when the Russian government issued a decree banning such activity.

The urgency of this legislation is apparent. Thanks to critical assistance from Russian firms, Iran is making steady progress in developing medium- and long-range ballistic missiles which is not in the best interests of the United States or in world peace. Unless something happens soon, Iran may be able to produce its own medium-range missiles within less than a year. If the assistance from Russia continues, Iran soon will be able to produce long-range ballistic missiles as well.

For more than a year, the Clinton administration has been in dialogue with Russia about stopping this assistance. Thanks in large part to the pressure brought to bear by the very legislation we have considered today, some progress has been achieved, at least on paper.

On January 22, the Russian government issued a decree to block the transfer of missile technology to Iran but in the nearly 6 months since this decree was issued it has become apparent that the Russian government is not fully committed to implementing it. Despite progress in some areas, the evidence suggests that at least some elements of the Russian government continue to believe that the transfer of missile technology to Iran serves Russian interests. Congress cannot change the misguided foreign policy calculations of some Russian officials but we can give Russian firms that are in position to sell missile technology to Iran compelling reasons not to do so. The sanctions contained in our legislation will require such firms in Russia and elsewhere to choose between short-term profits when dealing with Iran and potentially far more lucrative long-term economic relations with the United States.

As this legislation was adopted here in the House today, by a 392–22 vote, we hope that we will have similar support in the Senate and the President will sign it. Frankly this is a step in the right direction for protecting this country and for world peace.

I would like to thank the Speaker for this time to address my colleagues and to thank them for their support of this important legislation which came from the Committee on International Relations chaired by the gentleman from New York (Mr. GILMAN).

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1704

Mrs. MALONEY of New York. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor from H.R. 1704.

The SPEAKER pro tempore. The unanimous consent request of the gentlewoman to remove her name as a cosponsor of H.R. 1704 cannot be granted because H.R. 1704 has been reported to the House and referred to the Union Calendar.

2000 CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker I rise today to discuss the 2000 census and in particular the two lawsuits that have been generated because of the 2000 census.

As many of my colleagues know, Speaker GINGRICH and the gentleman from Georgia (Mr. BARR) each have filed a lawsuit challenging the constitutionality of the use of statistical methods when conducting a census. What my colleagues may not know is that 25 other Members of Congress who support the use of statistical methods when conducting a census have joined those two lawsuits to make sure that our position is represented in the court system.

As a Member of that group of 25, I want to give the Members of this House a status report on the two lawsuits. On Monday, April 6, 1998, the administration moved to dismiss both lawsuits on the constitutional grounds that the plaintiffs, GINGRICH and BARR, lack standing to sue the Census Bureau because they will not be harmed by the proposed plan and that the cases are not yet ripe for adjudication because the census is 2 years away.

The rhetoric from Members opposed to an accurate census suggests that the administration is hiding behind the procedural issues of standing and ripeness. This is simply not the case. As everyone knows, each case brought before a court must be reviewed procedurally before it can be reviewed on its merits. A case cannot go forward if it is not procedurally sound. The administration has repeatedly stated that it is eager to argue the merits of the case; however, it believes it has a legal obligation to also argue standing. Even if the administration did not bring up the issue of standing, a court has an obligation to dismiss a case if it is not procedurally sound, regardless of what the parties to the lawsuit allege.

My colleagues should remember that standing is also a provision of the Constitution. You cannot violate the Constitution, even with a wink and a nod, in order to get a ruling on the use of modern technology in the census.

What is not mentioned by my friends opposed to a fair and accurate census is that the administration in its motion to dismiss also argued the case on the merits, stating that the statistical method plan is both constitutional and in accord with the Census Act. Therefore, in addition to the procedural issues, the administration points out that the two cases should be dismissed on substantive issues as well.

Some of my colleagues may remember that there was a court challenge to the Line-Item Veto Act by some Members of Congress in January 1996. Congress passed the Line-Item Veto Act effective January 1996. Within the act, Congress created the right of expedited judicial review and attempted to create standing for Members of Congress.

Therefore, shortly after the effective date, some Members of Congress filed a lawsuit challenging the constitutionality of the Line-Item Veto Act. The defendants in the line-item veto case filed a motion to dismiss on procedural grounds. In that case, the Supreme Court upheld the Federal court's dismissal of the January 1996 Line-Item Veto Act challenge stating that the Members did not have standing to sue.

Likewise, with regard to the 2000 census, we have the 1998 Commerce, Justice, State Appropriations Act creating the right to expedited judicial review and attempting to create standing for Members of Congress to sue. Just like the January 1996 line-item veto case, these two lawsuits are being challenged on procedural grounds.

Constitutional scholars agree that these two cases lack the necessary procedural requirements to move forward. The courts cannot give advisory opinions as these two cases request. My anti-accurate census friends continually point to the Constitution when discussing the sampling details of the 2000 census but ignore the part of the Constitution that states that there must be a case in controversy in order for it to proceed and considered on the merits. The Constitution is very clear on that point.

I am as eager as anyone to have the courts review the substantive issues surrounding the use of modern statistical methods when conducting a census. I believe that if these cases reach the merits, the courts will determine, and the Supreme Court will uphold, that the 2000 census plan is constitutional and in accord with the Census Act. I would love to have these issues decided by the courts which are in the business of interpreting statutes and the Constitution.

In the meantime, I think it is imperative to set the record straight. Neither the administration nor the 25 Members who have joined the two lawsuits are afraid of discussing the merits of the two cases. We have said it before and we will say it again and again. The Census Bureau will obtain a fair and accurate count only by using statistical, modern methods.

This week in both the District and Virginia courts, there will be hearings at which each side will plead its case. On Thursday, arguments will be heard in Washington, D.C. and on Friday in Virginia. I am confident that we will prevail in the courts and in the court of public opinion. The American people deserve a fair and accurate census in which every person, rich or poor, black or white or Hispanic or Asian, is accounted for. The President has put forward a plan that will account for all Americans. The opponents of this plan want to repeat the errors of the past because they believe it is to their political advantage. The President's plan is true to the Constitution in both word and spirit, and it is the only plan that is fair to all people.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, tonight I want to talk about the issue of managed care reform. This issue has without question become one of the most important issues on the minds of Americans today. Accordingly, it has also become one of the most pressing issues before Congress. In the last few weeks, there have been front page articles in the New York Times and in the Washington Post on the fever pitch the debate has assumed on Capitol Hill. This debate, as I will discuss tonight, has assumed a clear and identifiable framework. The debate is now one between supporters of managed care reform and the Republican leadership and insurance industry who are fighting tooth and nail to undermine the various managed care reform proposals that have been introduced. The issue has reached the dimensions it has because patients are being abused within managed care organizations. Patients today lack basic elementary protections from abuse and these abuses are occurring because insurance companies and not doctors are dictating which patients can get what services under what circumstances.

Within managed care organizations, or HMOs, the judgement of doctors is increasingly taking a back seat to the judgment of insurance companies. Medical necessity is being shunted aside by the desire of bureaucrats to make an extra buck and people are literally dying because they are not getting the medical attention they need and ironically enough are, in theory, paying for their premiums.

Mr. Speaker, this is not an exaggeration. I decided tonight to bring a few examples. Actually there are a number of examples of some pretty horrific examples that have been put together from news clips from various newspapers nationwide to just give some examples of some of the awful stories that have come forward about abuse by managed care organizations. I just wanted to give a few tonight. I have in front of me about 140 of them and I am certainly not going to go through all of them but I would like to give just a few.

This one is actually from the New York Post, September 20, 1995. It describes a 4-year-old girl who ran a high fever following a 5-hour hospital stay for a tonsillectomy, which is considered an outpatient operation by HMOs. Her mother took the girl to her HMO pediatrician who did not take the girl's temperature, did not examine her throat and did not refer the girl back to the surgeon, a routine procedure for postoperative problems. Unfortunately the girl died of a hemorrhage at the surgical site.

I have another example. This is from the Long Island Newsday, February 11, 1996. A mother in Atlanta called her HMO at 3:30 a.m. to report that her 6-month-old boy had a fever of 104 and was panting and limp. The hot line nurse told the woman to take her child to the HMO's network hospital 42 miles away, bypassing several closer hospitals. By the time the baby reached the hospital, he was in cardiac arrest and had already suffered severe damage to his limbs from an acute and often fatal disease and both his hands and legs had to be amputated. A court subsequently found the HMO at fault.

I do not like to give these examples because they really are horrific, but there are so many of them. I am just going to give another couple because I think that it is important for all of us to understand some of the problems that people face out there on a daily basis. This one is from the Enterprise Record from January 21, 1996. It describes a 27-year-old man from central California who was given a heart transplant and was discharged from the hospital after only 4 days because his HMO would not pay for additional hospitalization, nor would the HMO pay for the bandages needed to treat the man's infected surgical wounds. Well, the patient died.

A lot of these examples do not necessarily involve people who have died but who have had severe problems and severe handicaps, lifelong handicaps that have resulted from their experience with HMOs. I have said because of the importance of this issue there are a number of legislative proposals that have been introduced to give patients the protections that they deserve. Working with our Democratic Caucus Health Care Task Force, which I cochair, the gentleman from Michigan (Mr. DINGELL) introduced legislation which would provide patients with a comprehensive set of protections for managed care abuses. This is the Patients' Bill of Rights, as it is called, that so many Democrats have now cosponsored, and also some Republicans.

I should say that the Patients' Bill of Rights is not an attempt to destroy managed care. It is an attempt to make it better. Some have suggested that in reforming managed care and putting forth a bill like the Patients' Bill of Rights that somehow we or those of us who support this legislation do not like managed care. That is simply not true. We are simply trying to make managed care better because of the problems that we have faced with managed care and HMOs in the last few years.

□ 2100

Mr. Speaker, I cannot emphasize that point enough. Supporters of managed care reform want just that, reform, not a dismantling of managed care. The Patients' Bill of Rights would help bring about that reform by putting medical decisions back where they belong, with doctors and their patients, and we have, as I said, seven Republican cosponsors for our bill, so it really has become a bipartisan bill.

Unfortunately the Patients' Bill of Rights does not enjoy the support of the Republican leadership, and that is really the rub here. In fact, if we are to believe what we read in the paper, it is not just the Patients' Bill of Rights that the Republican leadership opposes, they appear to oppose the larger notion of managed care reform. They are simply not willing to cross the insurance industry in order to give patients better protections and doctors greater power over medical choices.

The week before Congress broke for Memorial Day, the chairman of the Republicans' health care task force, the gentleman from Illinois (Mr. HASTERT) announced that he would have a outline of a proposal before the recess, the day before the Congress adjourned for the Memorial Day recess, and Speaker GINGRICH quashed the managed care reform proposal that was put forward by his own Republican task force, the Hastert task force, and I have to say I think this move even surprised some of the Republicans who favored some kind of managed care reform. But following the Speaker's rebuke the Washington Post reported that, and I quote, "Gingrich's foot soldiers realize that they did not know exactly what he wanted. They weren't quite sure, said Representative HARRIS FAWELL. The Speaker did not like what he saw and sent his fellow Republicans," to use their words, "back to the dugout."

So now we know it is clear that the Speaker has rejected the Republican proposal, the Republican Task Force on Managed Care Reform proposal, because it had too many patient protections on it, and I have to repeat that. His own task force, speaking here of his own task force, presented him with a proposal that included patient protection similar to the Democrats' Patient Bill of Rights, and he rejected the proposal because of their inclusion.

Last week we had the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means' Subcommittee on Health and a member of this Republican health care task force, call some of the ideas for patient protection being pushed by his fellow Republicans asinine. What the Speaker and Mr. THOMAS are after here is what I call a cosmetic fix. They understand that the public is clamoring for managed care reform, that the public wants something like the Democratic Patient Bill of Rights, but what they are probably going to do is come up with something that sounds like a patient bill of rights or a patient protection bill without any real patient protections. And that is why I think it is so important for us to keep coming to the floor on a regular basis explaining why patient protections are needed, why we need this managed care reform, and demanding that this House take up this issue and pass it in time before we adjourn and before this Congress runs out of time.

I have a lot more that I could say on this issue, but I do not know, and I see that my colleague is here from the Committee on Commerce, the gentleman from Pennsylvania (Mr. KLINK), and I know that he has been out there on a regular basis talking to his constituents, having forums on this issue of managed care reform, and as I have. We have gotten a tremendous response from our constituents, who really are demanding that we take up this issue. I yield to the gentleman.

Mr. KLINK. Mr. Speaker, I thank my friend from New Jersey for sticking with this message.

The point that I would make is that it does not matter who comes into our office either here in Washington, D.C., or our offices back in our districts. No matter what the issue is that they want to talk to us about, whether it is child care or whether it is farm subsidies or whether it has something to do with an industry, the conversation always gets back to health care and dissatisfaction that people have today across the board in this country that they themselves no longer have the ability to make the choices as it pertains to health care. People today are not empowered to have a conversation with their doctor and make medical decisions. It is someone with an insurance company who too often is making those decisions for them.

And I was very interested yesterday in seeing on the ABC Evening News an interesting look at HMOs. They said forget about the fact that you now have bureaucracies within insurance companies making medical decisions as to whether you can go to a doctor, which doctor you can go to, whether you can go to a hospital, whether you can go to a physical therapist, if you can to go a hospital, how long you can go to the hospital. Forget about all that.

The one thing they promised us they were going to do with HMOs is control costs. Guess what? They have not even controlled costs. Their costs are going through the roof. People cannot afford it. They are not even doing the one thing that they have promised us they were going to do.

My friend from New Jersey is right. The one fear that everyone has is that those of us who want to hand control back over to patients again, back over to the citizens of this country, hand control to them and their doctors to make these decisions, the one thing that everybody is saying against us is, well, it is going to cost more money.

The fact of the matter is it is already costing us more than we can afford to pay, and we are still losing lives. And I have said it on this floor before, and I will say it again. If you are prolife, you cannot agree with a medical delivery system that causes people to lose their lives because we do not let them go to a hospital when they need to, and the gentleman is right. He has a hundred plus stories; I have got as many from my district.

People are dying, and we are not saying it to be dramatic. It is a point of fact. When I go back to my district, we hold these fact-findings. Someone walks in and says, "My mother died. They wanted to keep her at the Cleveland Clinic, the doctor wanted to keep her, she wanted to stay, we wanted her to stay, but the insurance company wouldn't let her stay. She was released prematurely, and now she is dead."

So people are dying. There is case after case where that happens.

So if you are prolife, you cannot be for that. If you are prochoice, you have to want to give people the choice of the doctor that they are comfortable with, the choice of the medical treatment they are comfortable with. Call it healing. It is what is between our ears is that mind. It is feeling safe and secure in who is treating us. And now we have that gatekeeper, that primary care physician who we may not know, we may not have any knowledge of, and there is increased evidence that those primary care physicians too often, not always, but too often are put in those positions with the feeling in the back of their own mind, and maybe it is not so subtle the way it is put to them, if you give too many recommendations out of the network, you will not be in that position very much longer.

And we have got time after time where people are being denied insurance because of preexisting conditions; time after time when doctors are being told you cannot be in the system, and they are not told why they cannot be in the system, just their insurance company said, we already have enough doctors. I would ask is that not restraint of trade if a doctor is not able to see their patients anymore?

What about the providers of other services? What about the visiting nurses who are not included in that system anymore? What about the people who make the prosthetics, the artificial limbs, the artificial legs, and you are told you cannot go to that prosthesis manufacturer anymore, you have to go to somebody 2 hours away, an hour and a half away, 3 hours away that you never heard of before. Why? We do not understand why.

What about the formularies that these HMOs have created where you cannot get the medicine that is the latest, the best medicine? You have to take the cheapest drug in that classification of drugs. Why are we working in this House of Representatives as Republicans and Democrats together to get the latest pharmaceutical products safely on the market again if our constituents do not have access to those drugs?

These are all questions that we have to answer, and what our Patients' Bill of Rights is saying is put that control back in the hands of the patients again. Empower the people of this country to participate in the decisions of their medical care. Do not leave it in the hands of those insurance companies alone.

When the Clinton health care plan was being chastised, when it was being ripped apart, when insurance companies were spending tens of millions upon tens of millions of dollars to talk about the fact that, 'oh, you do not want the Federal Government to control your health care, well, Mr. Speaker, now you do not have the Federal Government in control, you have the insurance companies in control, completely in control. How does it feel? How does it feel now that we have completely lost control?

My dear friend from New York, I think, was looking for a moment of time, and if the gentleman would continue to yield, we might be able to accommodate her.

DAYS OF REMEMBRANCE

Mrs. MALONEY of New York. Well, I really join the gentlemen with their concern on the Patient Bill of Rights, and I am a strong supporter of it, but I really rise with these few seconds today to remember the more than 6 million men, women and children who perished during the Holocaust.

On Thursday, April 23, we remembered the victims of the Holocaust at the United States Holocaust Memorial Museum's 1998 Days of Remembrance. This year's theme, Children of the Holocaust, their memories, a legacy, paid tribute to the more than 1.5 million children who lost their childhoods, their friends and their families throughout one of the darkest periods in our history.

It is particularly fitting that this year's theme centers on children because of the U.S. Holocaust Memorial Museum's exhibit, the Story of Daniel. The museum has collected the stories of numerous children through their diaries and poetry written throughout World War II and compiled them into one story of a young boy, Daniel. This exhibit was designed to teach our children what the children in World War II experienced. It tells and retells the stories of those children so we may never forget their stories of the Holocaust.

On behalf of the Days of Remembrance Committee of the United States Holocaust Memorial Museum, I would like to submit into the RECORD the speeches delivered in the memory of more than 1.5 million children that lost their lives in the Holocaust.

Mr. Speaker, I enter into the CONGRESSIONAL RECORD the following speeches:

CHILDREN OF THE HOLOCAUST: THEIR MEMORIES, OUR LEGACY

Remarks of Benjamin Meed, Chairman Days of Remembrance Committee, United States Holocaust Memorial Council

Members of the diplomatic corps, distinguished members of the United States Senate and House of Representatives, members of the United States Holocaust Memorial Council, distinguished guests, fellow survivors and dear friends, welcome to the 19th national Days of Remembrance commemoration.

First, let me take this opportunity to express our gratitude to the members of the United States Congress for their strong support of the Holocaust Memorial Museum. The enormous success of the Museum and its educational and Remembrance programs is due, in large part, to your efforts on our behalf. Thank you.

We gather together again to remember those whom we loved and lost in the pit of hell—the Holocaust. We dedicate this commemoration to all the precious children of the Holocaust, their memories, our legacy. More than a million and a half children—almost all of them Jewish—were struck down without pity. They were murdered simply for who they were, Jews.

The young ones, who were silenced forever, were the hope and future of our people. We will never know the extent of human potential that was destroyed—the scientists, the writers, the musicians—gifted talent burned to ashes by German Nazi hate.

At such tender ages, our children grew old overnight. They quickly learned how to conceal pain and how to cover up fear. More importantly, with natural compassion, they comforted those around them. The writer and educator Itazek Katznelson was so touched by an abandoned little girl caring for her baby brother in the Warsaw Ghetto that he composed a poem about her. And I quote:

> Thus it was at the end of the winter of 1942
> in such a poor house of shelter for children,
> I saw the ones just gathered from the streets.
> In this station, I saw a girl about five years old.
> She fed her younger brother—and he cried.
> The little one was sick.
> In a diluted bit of jam, she dipped tiny crusts of bread
> and skillfully inserted them into his mouth.
> This my eyes were privileged to see—
> to see this mother of five years, feeding her child
> and to hear her soothing words.

How can we survivors forget these martyred children? Their lives, their laughter, their gentle love, their strength and bravery in the face of certain death are still part of our daily lives. Their acts of courage and resistance remain a heroic inspiration. Their cries to be remembered ring across the decades. And we hear them. They are always in our thoughts, in our sleepless nights, in our pained hearts.

Like all survivors, there are many horrible events that I witnessed, but one particular event deeply troubles me and hounds me. It was in April, fifty-five year ago, almost to this day. Passing as an "Aryan" member of the Polish community, I was Krasinski Square near the walls of the Warsaw Ghetto. Inside the Ghetto, the uprising was underway. Guns and grenades thundered; the ghetto was ablaze. From where I was standing, I could feel the heat from the fires. There were screams for help from the Jews inside the walls. But the people surrounding me outside the walls went about their daily lives, insensitive to the tragedy-in-progress. I watched in disbelief as, across the Square, a merry-go-round spun around and around to the joy of my Polish neighbor's children, while within the Ghetto only a few yards away, our Jewish children were being burned to death. To this day, that scene still enrages me. How can one forget the agony of the victims? How can we explain such moral apathy of the bystanders?

Many of us were children in the Holocaust. Whether by luck or by accident, we survived. Liberation by the Allied Armies restored us to life, and our gratitude to the soldiers will always remain. The flags that stand behind me from the liberating divisions of the United States Army and from the Jewish Brigade are far more than cloth. In 1945 and today, they are the symbols of freedom and hope for us survivors. Today we are bringing history together.

Liberation offered new opportunities and we seized them. The transition was very brief. We helped to create a new nation—the State of Israel, which celebrates its 50th anniversary this year. Our history might have been very different if only Israel had existed 60 years ago. Nevertheless, we are here, and Israel is our response and Remembrance of the Holocaust. Mr. Ambassador Ben Elissar, please convey to the people of Israel our commitment and solidarity with them.

Many survivors became part of this great country that adopted us, and we are grateful Americans. Although we are now in the winter of our lives, we look toward the future, because we believe in sharing our experiences—by bearing witness and educating others—there is hope of protecting new generations of men, women and children—who might be abandoned and forgotten, persecuted and murdered. We remember not for ourselves, but for others, and those yet unborn. Knowing that the impossible is possible, there is the chance that history can be repeated—unless we are mindful.

The task of preserving Holocaust memory will soon pass to our children and grandchildren; to high school and middle teachers; to custodians of Holocaust centers; and, most importantly to the United States Holocaust Memorial Museum. But monuments of stone and well-written textbooks are not enough. Personal dedication to Remembrance—to telling and retelling the stories of the Holocaust with their lessons for humanity—must become a mission for all humankind, for all generations to come.

In these great halls of Congress, we see many symbols of the ideals that America represents—liberty, equality and justice. It was the collective rejection of such principles by some nations that made the Holocaust possible. Today, let us—young and old alike—promise to keep an ever watchful eye for those who would deny and defy these precious principles of human conduct. Let us remember. Thank you.

AMBASSADOR BEN-ELISSAR'S ADDRESS

In the late 20s and early 30s of this century no one really paid attention to Hitler. In spite of his growing influence over the masses in Germany, no one really cared to take a good look at his ideas and plans described in detail in Mein Kampf. When the general boycott of the Jews was declared in Germany on April 1, 1933, and subsequently, all Jewish physicians, lawyers, and professionals were prohibited to practice their professions, no one thought it was more than a temporary measure taken by an interim government. No one really reacted when, in 1935, the infamous laws on race and blood were adopted in Nurenberg.

No country in the world declared itself ready, at the Evian Conference on Refugees, in July 1938, to take in a significant number of Jewish refugees from Germany and the recently annexed Austria. The Kristalnacht, in November 1938, opened the eyes of some, but then, when gates to a safe haven were rapidly closing, when for the first time in history Jews were denied even the "right" to become refugees, the world remained silent. The only country to recall its ambassador from Berlin was this country—The United States of America.

There is a lesson to be learned—Whenever a potential enemy wants to kill you—Believe him. Do not disregard his warnings. If he says he wants to take away what belongs to you—Believe him. If he claims he will destroy you—Believe him. Do not dismiss him and his threats by saying he cannot be serious—He can!

In 1945, the world was at last liberated from the yoke of the most evil of empires ever to exist in the annals of human history. But for us it was too late. We were not liberated. By then we already had been liquidated.

In 1948, we actually arose from the ashes. Destruction was at last ending. Redemption was at hand. After two thousand years of exile, wandering and struggle the State of Israel was reborn.

We look back with indescribable pain on the terrible tragedy that has left its mark on us forever. Had the State of Israel existed during the 30s, Jews would not have had to become refugees. They could have simply gone home to their ancestral land. They would have not been massacred. They would have had the means to defend themselves.

Yesterday, the general staff of the Israeli army convened in Jerusalem at the Yad Vashem Holocaust memorial. Tough soldiers vowed that the Jewish people will never be submitted to genocide again.

Today, while we are celebrating the 50th anniversary of the State of Israel and commemorating the Holocaust, in the presence of United States senators and representatives, survivors, members of my Embassy and commanders in the Israel Defense Forces, may I state, that for us, statehood and security are not merely words, for us, they are life itself—and we are determined to defend them.

MILES LERMAN'S REMARKS

Distinguished ambassadors, honorable Members of Congress, ladies and gentlemen.

As the Honorable Ambassador, Eliahu Ben Elissar pointed out to you, the State of Israel is celebrating its 50th anniversary of independence.

The United States Holocaust Memorial Council was pleased to mark this occasion by including the flag of the Jewish brigade in the presentation of the flags of the American liberating units.

On behalf of the United States Holocaust Memorial Council, I would like to extend our best wishes on this special anniversary to the people of Israel and to the State of Israel.

It is our most fervent hope that the peace negotiations between the State of Israel and the Palestinian Authority will come to an understanding which will bring peace to this troubled region.

Happy anniversary and may your efforts for a permanent peace agreement be crowned with full success.

The theme of this year's national days of remembrance is remembering the children and fulfilling their legacy.

So let remembrance be our guide.

One of the expert witnesses called to testify at the trial proceedings of Adolf Eichman in Jerusalem was the world renowned historian Professor Salo Baron.

In his expert testimony, Professor Baron made the case not only for the terrible losses that the Jewish people suffered at the hands of the Nazis but he more specifically underscored the great loss that humankind at large has suffered for having been deprived of the potential talents and brain power of the one and a half million children who perished in the Holocaust.

Professor Baron stressed a point that the world is much poorer today because of these great losses.

He was bemoaning the losses of the future scientists and scholars who did not get to research. He was bemoaning the future composers who did not get to compose; the teachers who did not grow up to teach; and the doctors who never got to heal.

One and a half million murdered children is such a staggering number that it is most difficult to comprehend. This is why I thought that perhaps singling out and remembering the tragedy of one child would symbolize the great loss of all the children who were annihilated by the Nazis.

So today let us remember Deborah Katz.

In the Holocaust archives there is a letter written in 1943 by a Jewish girl by the name of Deborah Katz. She was nine years old when she and her family were taken out of the ghetto and loaded into cattle trains destined for the death camp of Treblinka.

Her parents managed to pry open a small window of the box car and threw the child out hoping that a miracle would happen and she would survive.

A Catholic nun happened to pass by and found the injured child. She brought her to the convent and hid her among the sisters who gradually nursed Deborah back to health.

The child was in comparative safety and she had a good chance to survive.

One morning, however, the nuns woke up and found a letter on Deborah's bed and this is what the nine year old child wrote.

It's bright daylight outside but there is darkness around me. The Sun is shining but there is no warmth coming from it. I miss my mommy and daddy and my little brother, Moses, who always played with me. I can't stand being without them any longer and I want to go where they are.

The following morning Deborah Katz was put by the Gestapo on the next trainload * * * destination * * * the gas chambers of Treblinka.

Today, I want to say to little Deborah, if you can hear me, poor child, and I know that you can. I want you to know that there is no more darkness, thank God. The Sun is shining again and warming little children like you. And what is most important, dear child, I want you to know that you did not die in vain. You have touched the hearts of many decent people, far, far away from the place where you lived and died.

There is a museum in Washington where within the last five years more than 10 million visitors came to remember the horrors of those dark days.

You are not forgotten, little Deborah, and you will serve as an inspiration to many children throughout the world to make sure that in years to come, no child of any people, in any country, should ever have to go through the agonies and pains that you have suffered.

"BLESSED IS THE MATCH * * *"

(Keynote Address by, Richard C. Levin)

The main camp at Auschwitz was situated, not in remote isolation, but in a densely populated region. To the east, immediately adjacent to the camp, was a pleasant village, complete with a hotel and shops, built to house SS troops and their families. One mile farther east was the town of Auschwitz, intended by the very men who worked the construction of the camps to be a center of industrial activity, a focus on German resettlement at the confluence of three rivers, with easy access to the coal fields of Upper Silesia.[1]

In his chilling work on the origins of Auschwitz, Robert-Jan van Pelt documents the Utopian vision that drove the systematic planning for German colonization of the East. In December 1941, Hans Stosberg, the architect and master planner, sent his friends a New Year's greeting card. On the front he wished them "health, happiness, and a good outcome for every new beginning." The card's central spread depicted his drawings for a reconstruction of the central market place in Auschwitz. The inspiration on the back of the greeting card connected Stosberg's current project with National Socialist mythology:

"In the year 1241 Silesian knights, acting as saviors of the Reich, warded off the Mongolian assault at Wahlstatt. In that same century Auschwitz was founded as a German town. After six hundred years [sic] the Führer Adolf Hitler is turning the Bolshevik menance away from Europe. This year, 1941, the construction of a new German city and the reconstruction of the old Silesian market have been planned and initiated."

To Stosberg's inscription, I would add that during the same year, 1941, it was decided to reduce the space allocated to each prisoner at the nearby Auschwitz-Birkenau camp from 14 to 11 square feet.

How, in one of the most civilized nations on earth, could an architect boast about work that involved not only designing the handsome town center depicted on his greeting card but the meticulous planning of facilities to house the slave labor to build it?

This is but one of numberless questions that knowledge of the Holocaust compels us to ask. In the details of its horror, the Holocaust forces us to redefine the range of human experience; it demands that we confront real, not imagined, experiences that defy imagination.

How can we begin to understand the dehumanizing loss of identity suffered by the victims in the camps? How can we begin to understand the insensate rationality and brutality of the persecutors? How can we begin to understand the silence of the bystanders? There is only one answer: by remembering.

The distinguished Yale scholar, Geoffrey Hartman, tells us, "the culture of remembrance is at high tide. * * * At present, three generations are preoccupied with Holocaust memory. There are the eyewitnesses; their children, the second generation, who have subdued some of their ambivalence and are eager to know their parents better; and the third generation, grand-children who treasure the personal stories of relatives now slipping away."[2]

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[1] Robert-Jan van Pelt, "Auschwitz: From Architect's Promise to Inmate's Perdition," Modernism/Modernity, I:1, January 1994, 80-120. See also Deborah Dwork and Robert-Jan van Pelt, Auschwitz: 1270 to the Present, New York: W.W. Norton, 1996.

The tide will inevitably recede. And if there are no survivors to tell the story, who will make their successors remember and help them to understand?

Holocaust Memorial Museum in Washington, along with those of sister museums in other cities, are educating the public about the horrors of the Shoah. Museums, university archives, and private foundations are collecting and preserving the materials that enable us to learn from the past, and it is the special role of universities to support the scholars who explore and illuminate this dark episode in human history. Our universities have a dual responsibility: to preserve the memory of the Holocaust and to seek a deeper understanding of it.

This is a daunting and important responsibility. To confront future generations with the memory of the Holocaust is to change forever their conception of humanity. To urge them to understand it is to ask their commitment to prevent its recurrence.

In the words of Hannah Senesh, the 23-year-old poet and patriot executed as a prisoner of the Reich in Budapest, "Blessed is the match that is consumed in kindling a flame." May the act of remembrance consume our ignorance and indifference, and light the way to justice and righteousness.

REMARKS BY RUTH MANDEL

The most vulnerable of victims, the children of the Holocaust speak to us in a very special way. Some of the most powerful echoes to survive that terrible time come to us from their voices. Captured in diaries, in poetry, in art, and later, in the reminiscences of those few who survived, their memories still engage and teach us. Their struggle and their spirit document their time, but serve as a poignant lesson for our own. Among us in the Capitol Rotunda are many reminders of them, and of the importance of securing a different future for the children of today.

In a few moments you will hear readings from diaries kept by children even as the safe, predictable world they knew shattered in the face of the Nazi onslaught. Their authors, exhausted and hungry, terrified and lonely, and certainly bewildered by their fate, were sometimes too desperate to write, then, having found some small reason for hope, recovered to write again, their words tell us that they were also resourceful, courageous, defiant, and, even at times, humorous.

You will hear these words from young people themselves—a young man who has worked intensively for two years with the Museum's Fannie Mae Holocaust Education Project, and a young woman, whose grandparents' rescuers were recognized by Yad Vashem as righteous among the nations at the time or her Bat Mitzvah last year. As they read from these diaries, another young woman will assist the memorial candle lighters and place a rose amid the tapers. Romani herself, she is here to commemorate the tragic fate of those gypsies, who, along with their children, were murdered by the Nazis and their collaborators.

And, you will hear from a Roman Catholic high school teacher whose growing engagement with Holocaust history led to his appointment to the museum's Mandel Teacher Fellowship Program which develops a national corps of highly skilled secondary teachers to serve as community leaders in Holocaust education.

Also gathered here are some of those who survived the Holocaust as children and teenagers—in ghettos, in camps, in hiding or by fleeing as my parents did with me. As we listen to the voices of children from over 50 years ago, we who survived are heartened that their voices are joined by those of the students and teacher with us today who are representative of the millions of students and thousands of teachers served by the United States Holocaust Memorial Museum in its first five years. With this joining of voices, we forever link the children of the past to the children of the future in a solemn pact of memory and education and charge you with that most sacred task, remembrance.

THE HARDEST STORIES TO TELL

By Daniel C. Napolitano

My daughter is four years old. Her name is Elena. Each night when I put her to bed she asks, "Daddy, tell me a story". So I tell her stories. I tell her stories of heroes and villains; of wise and foolish animals; of good hearted people and of people who know too much for their own good. Sometimes she'll interrupt me and say, "no, no, Daddy, just tell me a story about what you did at work today", and that is always the hardest story to tell.

You see, I am a teacher, and I teach a course on the Holocaust. Everyday I go to work and tell the story of how a society forgot about the importance of honoring the individual life and dignity of every human being; about how the vanities of nationalism superseded the moral wisdom of the ages, and about how people became so concerned with their own welfare that they failed to consider the welfare of their neighbors.

As a child I never heard the story of the Holocaust. In fact for the first thirty years of my life I heard very little about the Holocaust, and absolutely nothing about the history of antisemitism. Then 8 years ago my life changed. I was asked to teach a course on the Holocaust, and, suddenly, found myself immersed in courses and books on the Holocaust. I began to hear the story, Hearing and telling the story of the Holocaust over the past 8 years has radically altered the way I see my life as a Catholic and as a teacher. As a Catholic I have come to realize that the history of antisemitism and the history of The Holocaust are essential to understanding ourselves as Catholics, Christians and humans; and to appreciating the fullness of Judaism and its rich heritage.

Hearing and understanding the legacy of our antisemitic actions and teachings gives us a more complete picture of ourselves as Catholics and Christians. Through the study of our ancient and modern failures, our students come to see the import of their moral choices in our own times. In turn they become more committed as individuals, and more committed as people of faith dedicated to bearing witness to the redeeming presence of God in the world.

As a teacher I have learned the value and power of telling the whole story of life's most tragic events. James Carroll of "The Boston Globe" recently noted that "memory is less a neutral accident of the mind than a conscious interpretation of history, marked as much be deletion as by selection. How a community remembers its past is the single most important element in determining its future." I believe that it is in telling the whole story of the Holocaust that we most honor those who lived their lives with dignity, and it is in hearing the whole story that our students and children will learn to live their lives with integrity.

When my daughter calls out in the middle of the night and I run to her room, she sometimes says, "I had a bad dream. Will you hold me?" As I hold her I think about the mothers and fathers who died in the Holocaust, and were not able to hold their children in the middle of 'the night. I think about the children who called out and waited for parents who did not come.

As I hold her I am reminded of the young girl in "Schindler's list"; the one in the red coat. As she crawls under the bed, she knows that if she can just hide long enough her father and her mother will come take care of her. She knows that parents take care of their children; She knows that adults love children, and want them to be safe. As she crawls under the bed she thinks of the stories her father has told her, and she waits for her daddy to come.

Sometimes our children are four years old; sometimes they're twelve or sixteen. Regardless of their years, our children long to hear the stories we have to tell them. Do we know enough about the story of the Holocaust and the History of antisemitism to tell it to our children? Do we have the courage to tell them the whole story? We are here not only to remember the lives of those who perished in the Holocaust, but also to reflect upon the lives our children will live. The lives they lead will build upon the stories we decide to tell them. At times these stories will be easy to tell. At other times they will not. Let us not forget that sometimes the most important stories are the ones that are the hardest to tell.

Thank you very much.

Mr. KLINK. I thank our friend and would also wish to focus on that, but you know, as you were talking, I am also thinking, you know, we have got a very shameful situation in our own country right now. This is, you know, we kind of call ourselves the land of the free and home of the brave, we stand up for the lowest among us, and now we find ourselves here in the greatest democratic institution in the world, and we cannot get the leadership on the other side to work with us on solving this problem so that Americans can have access to the kind of health care that they deserve; in fact, the kind of health care that we have invested in with our tax dollars, the tax dollars on the appropriations bills that we vote on each year whether the Republicans are in charge or the Democrats are in charge.

We are putting funding into medical research. We are putting funding into NIH so that we can develop new and great methods of healing. And in the Pittsburgh area where I happen to come from, we were able to see tremendous successes back in 1950's. Jonas Salk, the University of Pittsburgh, Dr. Sabin and others cured polio. What a phenomenal day that was. And Dr. Thomas Starville and others led the world and pioneered in transplant surgery so that now some body parts are changed like automobile parts.

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[2] Geoffrey Hartman, "Shoah and Intellectual Witness," Partisan Review, 1998:1, 37.

It is absolutely amazing. Yet my constituents, who may live almost across the street or around the corner from these wonderful medical institutions, cannot have access to those places of healing. Our constituents cannot get access to those new miracle drugs that are finding their way into the marketplace because there is a formulary within the HMO that says you cannot have those drugs.

And here we stand, and we cannot get, and we have, I will say, some of our friends on the Republican side have done yeoman work on this duty, but they, like us, are foot soldiers; they, like us, are voices in the wilderness if we cannot get the leadership to work with us to say enough is enough.

We stand for the lowest people that cannot be here on the floor of the House themselves, that their children, their spouses, their parents, their neighbors, everyone in their community deserves to have access to that medical care. They deserve to make the choices, not the insurance company, not a manufacturing plant somewhere who comes in to see us to say, "Well, we don't want the medical costs to go up."

I would ask them are they not concerned when their employees are on the phone managing an illness in their family? They cannot be productive when they are doing that, and people are forced to do that today. There are hidden costs because we are not providing people with adequate choices where they and their doctors can make the right choice to heal them, to make them and their family better.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman so much for his comments because I know how strongly he feels, and there is no question that he is absolutely right about what is going on out there.

□ 2115

I just wanted to give two examples, if I could, following up on what the gentleman mentioned. I do not have the specific physician, but there was something on TV that I watched one night, and I do not even remember what channel now, but the gentleman was talking about in Pittsburgh how so many medical breakthroughs took place, polio and some of the other things a few years ago.

In many cases, what is happening now with managed care and the way that it is operating is that those physicians who are on the front line and who are coming up with new ways and new techniques of doing things are almost penalized.

We had the example with the physician, and I do not have his name in front of me, unfortunately, who had grown up with a deformed ear or deformed ears, and he had gone to medical school and made it his life's ambition that he was going to develop a way of cosmetic surgery to do cosmetic surgery to make particularly children's ears so that they would look normal, so to speak, again. He had developed this surgical method, and was doing a great job and handling these specialty cases, and all of a sudden found that the HMOs would not pay for it. They would rather send someone, a young person, to another physician who had perhaps not developed this breakthrough technique because it was costing less to do so.

He actually ended up spending most of his time on cosmetic surgery, not to denigrate it, but with people who were trying to lose weight or take material off their thighs or whatever to make themselves look better, and could not devote his time to cases of children who had these kind of deformities.

This is what we are seeing now. We are seeing those physicians who have developed new techniques, new technologies, who are the best of the bunch, basically not allowed to practice their profession anymore because of decisions that are made by these insurance companies. It is an awful thing.

Mr. KLINK. If the gentleman will yield further, then it goes even deeper. The gentleman hit the nail so squarely on the head. It even gets worse than that.

I have heard from doctors in my area who say, in their forties, "We are walking away from the practice of medicine. We are going to go do something else. Not because we made so much money, but because we cannot afford, with the education that we have, to continue to work at this profession.

"Not only that, we are in this healing profession because we believe in it, we think it is a calling, it is an art, it is a healing art, it is a science. We would like to encourage other young people, the best and the brightest coming up through high school, to go to college, and those in college, go to medical school, become healers." They can no longer in good conscience recommend to the young people coming up to do that.

I am saying this: We are in danger of losing a generation and a half of what would potentially be our finest healers in this Nation. They are walking away from the field of medicine, or not even getting in it.

Mr. PALLONE. The other thing the gentleman mentioned that I wanted to bring up is this whole issue of cost, because we know that those who are against the managed care reform and the patient protections keep talking about costs.

We have numerous studies that show that legislation like the Patients' Bill of Rights will not result in any additional costs. To be honest, even if it did cost an extra dollar or two a month, which is probably the most it would cost, I do not think the average person would even care. But, interestingly enough, these same health insurance executives that are out there talking about the costs of managed care reform are the ones that are benefiting so much and getting these huge salaries.

It will not take too much time, but I had this document given to me that was put out by Families USA, called Corporate Compensation in America's HMOs, and it is long, but I just wanted to give you some of the summary here.

It says in keeping with the industry's extenuated focus on costs, this report analyzes the very different facets of managed care cost, namely the costs associated with compensation for high-level HMO executives. The report examines 1996 executive compensation for the 20 for-profit publicly traded companies that own HMOs with enrollments over 100,000.

These were the key findings. The 25 highest paid executives in the 20 companies studied made $153.8 million in annual compensation, excluding unexercised stock options. In 1996, the average compensation for these 25 executives was over $6.2 million per executive. The median compensation for the 25 was over $4.8 million.

Of the 25, the one with the largest unexercised stock option package in 1996 had stock options valued at $337.4 million. The average value of unexercised stock options for these 25 executives was $13.5 million.

The last thing it says, in conclusion, which I thought was interesting, it says that publicly traded for-profit managed care insurance companies are considerably more cost conscious when they oppose the establishment of consumer rights than when they approve compensation for their top executives. For a publicly traded managed care company, remuneration in annual compensation and unexercised stock options for top executives routinely reaches millions of dollars; indeed, for many, reaches tens of millions of dollars. The managed care insurance industry's protestations about costs appear to be highly selective. While they argue they will need to raise premiums to be able to provide basic protections for consumers, their top executives make millions of dollars each year.

I am not trying to begrudge anybody making $1 million. The economy is good, so be it. But in the case of the managed care organizations, the bottom line is more and more of the premiums are going to pay for profits and for top executives' salaries, and the squeeze is coming in terms of the quality of care provided. So they have no business complaining about costs, which I do not think are really going to go up anyway. But it is interesting, I think, the selectivity and the way they go about it.

I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the gentleman for yielding, and I thank the gentleman from Pennsylvania for his passion, but also his insight, into this extremely crucial issue. I appreciate his leadership.

As well, I do believe that we are, in essence, doing important work, for I think we must cease and desist the trend of moving away from health care and basically providing Americans with tolerance care.

In our community, sometimes we have a phrase that is used not so much as it will sound tonight. Sometimes mothers will say it about their children, or a child that has gone astray, or sometimes someone will say it about an incident that has occurred. But I am going to say it tonight. Managed care for Americans will be the death of us. Sometimes someone says this incident or this child's behavior, or something happens, it is going to be the death of me.

I think managed care as it is now presently structured in America is, frankly, going to be the death of us. Although that declaration may sound a little bit far stretched, let me share with you that it is actually not.

It is comforting, yet it is distressing, to find so many physicians in my community raising their voices about managed care. No matter what community they serve in, each one says repeatedly, I cannot treat my patients.

We are in a country where we were used to the friendly doctor that came to our homes. He may not have or she may not have had all of the most extensive technology and science at their fingertips, but we knew when we called Dr. Jones or Dr. Smith, Dr. Jackson, Dr. Pallone, any manner of doctor, that they would come and give us the very best that they could. If we needed admitting to a hospital, we would get that.

I do not know if those doctors of early years filled their pockets with dollars. Some of the accusations that are made, doctors are the most wealthiest or wealthy population; every doctor is not. I know good doctors who are in county hospitals in rural communities, and they are not raking in the dollars. They truly took the oath because they believed in being nurturers and healing people and helping people to fulfill the good health promise of their life. Managed care now stands not as the gatekeeper, but the actual block to good health care in America.

I think I read a report that my good friend from Pennsylvania might have mentioned, or the gentleman was also commenting on. We have in this country good science. We have in this country good medical technology. In fact, every day someone is discovering some new medical technique in order to make us better. But I was listening to a late night television program where a physician was saying the reason why our health care system is not competitive as it relates to other countries around the world is because we have the technology and the medical research, but it does not translate to care for Americans.

Why? Because there is a block. And the block now has gotten stronger and uglier with HMOs. Constantly physicians are having to ask the bureaucrats lodged somewhere, where no one knows where they are, whether or not she can stay an extra day in the hospital, whether or not this mother with a C-section can stay 72 hours to 4 days or 5 days because of complications. There is no longer the decision to be made by that patient and physician relationship.

I had a member of the Federal staff say to me that they had to leave and fly down to Florida where their father was discharged from a hospital. He was under managed care. That person was calling long distance here in Washington trying to make arrangements for the care for their parent. The only thing they could get was we are sending him home out of the hospital in a taxi. We are giving him a walker and sending him home to his trailer.

That person had to fly down to Florida simply to ensure that that father had the kind of day-to-day care that was necessary, because the HMO sent him out of the hospital, threw him out, literally, if you will, did not provide him with any home care, did not provide him with the kind of physical necessities that he needed for someone who was suffering from a broken hip. Simply a walker, a taxi ride, and dropped off.

What about the elderly person who was in need of staying the extra days in the hospital? Yet because of their attitudes about not being in hospitals when the physician came, the elderly person said "Oh, I do not need any more care." What was written down hastily? "Refused service." Out of that refusal of service came a dastardly ailment that could have been detected if someone said, I am not governed by the HMO, I think this person needs more testing.

So we have to find a way to fix this broken system. We are one of, or at least considered, the richest country in the world, the United States of America, one where physicians have the best training. And I agree with my good friend from Pennsylvania, we may be discouraging a generation of nurturers, because they cannot practice their trade and their talent.

I believe that we have to fix the managed care system. It is long overdue. We must put the physician and patient relationship, as Humpty Dumpty, back together again. Otherwise, we are going down, down, down, and managed care will in fact be the death of us.

I think the legislation that we are looking at at this point, I would say to my good colleagues that managed care and good health and good managed care, if you will, is a bipartisan issue. Helping out physicians is a bipartisan issue. Dealing with senior citizens who cannot help themselves, children who cannot help themselves, people needing transplants who cannot help themselves, needs good bipartisan leadership.

So I would thank the gentleman for this special order and for his leadership, and ask my colleagues in the House to join unanimously, if you will, to raise their voices to get the managed care legislation that would fix a broken system, so that we could save more lives, and not be known as a country that has a system that is the death of those of us who are attempting to make a better quality of life.

Mr. PALLONE. I want to thank the gentlewoman again. I know that she has spoken out on this issue many times and how important it is to her, and I appreciate her joining us again this evening.

The gentlewoman mentioned the bipartisan nature of this. We have an example here on the other side of the aisle, the gentleman from Iowa (Mr. GANSKE), who is a physician, who has been outspoken on this issue of the need for patient protections. I would like to yield to him at this time.

□ 2130

Mr. GANSKE. Mr. Speaker, I appreciate joining my colleagues from Texas and from New Jersey on this important issue. As the gentlewoman mentioned, this should be a bipartisan effort. This is not something for Republicans or Democrats. It cuts across every segment of our society. Everyone needs health care.

What we are dealing with right now is that about 5 percent of the people who receive their insurance from their employer are now in managed care organizations. Very frequently, they are not given a choice. They are simply told by their employer, here it is. This is our plan. It is the cheapest we could find on the market. Take it or leave it.

So when I hear from my colleagues about, well, just let the market work out the problems in this, I just have to say, you know, the market is not working. There is a disconnect between who buys the insurance and who uses the insurance.

When you are only offered one choice from your employer, then it turns out that your only choice for health insurance may be that you have to quit your job and find a different one.

I am reminded of the fact that there is a very popular movie going around the country now. It is As Good As It Gets. In this movie, we had a waitress, Helen Hunt, who had a boy with asthma. She was in an HMO. She was not getting the proper care, having to take her child to the HMO all the time. Her appeals for specialist care were denied.

So in the movie, Jack Nicholson, who is an elderly gentleman who is squiring this waitress, very kindly gets her an appointment with a private physician to find out what is wrong with her son with asthma.

The physician says, well, what were the results of his skin tests? Standard procedure to find out what may or may not be causing asthma. Helen Hunt's face is blank. She says, well, it was not authorized. The doctor kind of looks at her, and then it is like a light bulb goes on. She gives a string of expletives about her HMO.

All across the country, this happened in Des Moines when I saw the movie, people cheer and clap. It is the most amazing phenomenon. I have never seen it in another movie.

Why would that be? Why would you get that type of universal response to mismanagement by managed care? It is because the public is realizing that there are some serious problems that need to be fixed in managed care. As an example of that, humor, which needs a universal medium, is being applied to HMOs.

Here is a cartoon that was in a newspaper. Here we have a medical reviewer for an HMO. The medical reviewer is on the telephone taking a call from somebody phoning in with a problem from the HMO.

The medical reviewer says, Kuddlycare HMO. My name is Bambi. How may I help you?

You are at the emergency room, and your husband needs approval for treatment?

Gasping, writhing, eyes rolled back in his head? Gee, does not sound all that serious to me.

Clutching his throat, turning purple, uh-huh. Have you tried an inhaler?

He is dead. Well, then, he certainly does not need care, does he?

Then she finishes up after she has hung up by saying: Gee, people are always trying to rip us off.

Does that seem overly harsh to you? Let me give you a real-life example. This is a woman who is 28 years old who was hiking in the Shenandoah Mountains. She fell off of a 40-foot cliff. She fractured her skull, was comatose, broke her arm, broke her pelvis. This is a picture of her just before she is airlifted to a hospital. She is taken to the hospital where she is in the intensive care unit, comatose, for weeks.

When she finally gets better, she is presented with a $12,000 bill by her HMO. They refused to pay for her care. Can you guess why? Because she did not phone for prior authorization. I mean, can you believe that? What was she supposed to do? Wake up from her coma when she is lying at the bottom of that cliff, reach into her pocket with her nonbroken arm, pull out a cellular phone, and make a phone call to an HMO a thousand miles away, say, oh, by the way, I just fell off a 40-foot cliff? I broke my skull, my arm, and my pelvis, will you authorize me to go to the hospital?

Then the HMO would not pay later on because they said that she did not give them timely notice when she got to the hospital. She was in the ICU on a morphine drip for weeks.

This is the type of problem that affects real people. These are not just anecdotes. The reason that this issue resonates with so many people is because almost everyone has had either a family member or a friend who has had an outrageous denial of treatment or delay in treatment or other problem related to their HMO.

Here is an anecdote. This is a woman who is no longer alive today because her HMO denied her the care that she needed. Talk to her two children and her husband about how she is just an "anecdote."

I mean, I am reminded of a scene from Shakespeare where a character says, "Do these anecdotes not bleed if you prick their finger?"

This is a real problem that we are facing in this country, and I am very glad to be able to join my colleagues on this. There are two bills before Congress right now. One is called the Patient Bill of Rights, and the other is called the Patient Access to Responsible Care Act. Both of them are very similar in many regards, and they are both bipartisan bills. Yet, we have a situation where, as my colleagues have outlined earlier tonight, we cannot get these bills to the floor, even though one of them has more than enough votes just from the sponsorship to pass.

Let me tell you about a bill that I have had for 3 years; 3 years I have had a bill in this House that has nearly 300 cosponsors, bipartisan bill, dealing with an aspect of managed care that would ban gag clauses.

Do you know what gag clauses are? These are contractual arrangements that HMOs have on provider contracts that say, before you can tell a patient what their treatment options are, you first have to get an okay from the company.

Think about that. Let us say that a woman has a lump in her breast. She goes in to see her doctor. He has got a gag clause in his contract. We know that these clauses exist all across the country, because we had congressional testimony before our committee on this.

So the doctor does her history and physical exam. She has got three options, one of which might be more expensive than another, but he has got a gag clause in his HMO contract. What does he have to do? He has to say, excuse me, leave the room, get on the phone and find out if it is okay with the HMO if he tells that lady all of her treatments.

That is an infringement upon first amendment rights. It is also a terrible infringement on doctor/patient relationships. Patients need to trust their physicians that their physicians are going to tell them the whole story, not just what their HMO wants them to tell the patient. Doctors should be patients' advocates. They should not be the company doctor.

Both of these bills have protections for patients in them that even some of the nonprofit HMOs have said are very good pieces of legislation and have called for Federal legislation.

I would just like to enter into this discussion with my colleagues because I think we need to explain to our colleagues here why we need Federal legislation. Why can we not just leave this to the State insurance commissioners or the State legislatures? I wonder if my colleague from New Jersey would like to address that issue.

Mr. PALLONE. Absolutely.

Mr. Speaker, if I can comment on that, and one other thing that the gentleman said so eloquently, the reason is because when we talk about insurance plans that are basically for the self-employed, if you will, we have the ERISA preemption.

Essentially what that means is that if the State, like my home State of New Jersey, passes a patient protection act, if they will, which they did, I should say, is now law, it does not apply to the majority of people who have health insurance in the State because of the Federal preemption, so to speak.

So if we do not pass a Federal bill like the two that you have mentioned, then the majority of people in New Jersey are not actually impacted by the State Patient Protection Act. So that is why we need Federal legislation.

Mr. GANSKE. Mr. Speaker, I know my colleague from Texas is an attorney, and I wonder, is this not a result of prior Federal law that we have this exemption, this exclusion?

Ms. JACKSON-LEE of Texas. Mr. Speaker, we have to correct it. Part of the additional reason, unlike my good friend from New Jersey, I am not sure of your State, Doctor, I like to call you doctor, because you have clearly outlined for us the real crux of the problem, my State as well has dealt with the question on a State level.

I think the problem is and why this is raised to a level of a Federal need is, one, because there is a lot of interstate commerce, if you will, between HMOs. Frankly, there needs to be consistency on the Federal level as far as the problem that was mentioned by my good friend in New Jersey. But because we created a problem federally, we now have to fix it federally.

It is much more apropos because, in many instances, our physicians are calling out of State for approval because they are under this HMO or that HMO. Many HMOs have put their offices in different States. Some have moved to the more popular States. But many times, they are calling out of State.

To add to the consistency and not be subject to the individual State laws, we need the Federal correction of this problem, which is the problem of how you deal and protect the patient/physician relationship. It is key.

Mr. PALLONE. Mr. Speaker, my understanding is that the self-insured that come under the Federal law are actually a majority in many cases. The gentleman can tell us a little more about that.

Mr. GANSKE. Mr. Speaker, the problem that we have is that 25 years ago Congress passed a law primarily to deal with uniformity of pension standards that was then applied to health plans. An exemption from State insurance regulation was in that, that legislation.

So what we have happen is we have had a large amount of our health care now delivered by health plans that are not under State insurance quality regulation, and there is no Federal legislation. So they are basically totally unregulated.

That is why I and others who, in a bipartisan fashion, have supported this type of legislation, that 300 or so that are signed onto the Patient Right to Know Act which would ban gag clauses, are getting so frustrated with the leadership of this House and of the other body for not bringing this to the floor when it could pass overwhelmingly this type of legislation. It is why I think that it is very important that our constituents demand that Congress deal with this problem.

We are not talking about something radical here. We are simply talking about some uniform quality standards so that, when you have insurance and you get sick, that it actually means something, that you can actually use it.

I hear my colleagues say, just let the market work. Competition. I would liken this to buying an automobile. All of us buy an automobile that has Federal standards related to headlights, brakes that work, turn signals, seat belts. These are minimum safety standards that we know when we go out and buy a car, that is what we are going to have. Has that resulted in a nationalized auto industry? For heaven's sakes, no. There is tons of competition out there.

It is just that you know, when you buy your car, you are going to have some minimum safety standards. The same thing should apply, doggone it, for health insurance when you have got health plans that are making life and death decisions. It may be even more important in some respects than safety standards for some of the other things that Congress has legislated on.

Mr. PALLONE. Mr. Speaker, the reason that I was so impressed with the gentleman's comments earlier is because he was pointing out, really, how basic these patient protections are. I think that we cannot emphasize enough how this is really a floor. We are not doing anything radical here. These are basic patient protections that I think most people probably think are already there until they are faced with the reality of how to deal with the managed care organizations in certain circumstances.

I loved the gentleman's analogy of the emergency room situation, because that is really so typical. I do not think people can imagine that, if they need a hospital or other kind of care in an emergency, that they have to get prior authorization.

What we do in the Patient Bill of Rights, and I think that the Parker bill does the same thing, is to basically say that you use the prudent layperson standard. In other words, if I am in an emergency situation, I have to go to an emergency room, then the standard about the level of care that should be ensured is what the average layperson would think should be ensured in those circumstances.

□ 2145

Of course, the average person is not going to think that they have to have prior authorization or that they have to go to a hospital that is 40 miles away, the example I used before. The average person would think that they would go to the closest emergency room, and they would just walk in and get the care, because it is an emergency. It is a pretty simple phenomenon. It is very basic. It is nothing really abstract.

Those are the kinds of patient protections, the sort of floor, if you will, of patient protections that we are talking about here which make sense, I think, to the average person. That is why, I think, we are getting so much support from our constituents saying, do something about this, because it is not acceptable, what we have to face now.

Ms. JACKSON LEE of Texas. If the gentleman will continue to yield, Mr. Speaker, the gentleman raises the obvious. That is what we hear when we go home. I just want to raise a Texas issue.

Many of the Members are aware that there were fires burning in Mexico. There was the glaze that was reported in the news, I think the national news, a small glaze that was covering Texas, and it may come back again, with heavy air, and causing a lot of symptoms for our asthmatic citizens down there and our constituents down there.

Under HMOs, the other point of their fiscal responsibility is to limit the number of visits one can go to a physician for during a certain period of time. There are certain regulations along those lines. You are then interfering, because of an environmental problem that was exacerbating those people with asthma or respiratory illness. They were filling up the emergency rooms. They were not heart attack cases, they were not accident cases, not the comatose case, which obviously rings a bell with everyone, but they were coming in because they were in a confined situation, a bad haze, and it was exacerbating their problem.

In those instances, the questions of whether or not they would be accepted as having an HMO service because they were in there repeatedly, or they did not seem to be really an emergency case, this is what is happening around the country when we have a system that is not responsive to the physician treating the patient, the responsible physician treating the patient.

My Indian doctors from India, doctors who treat a particular clientele in Houston, a very diverse community, have raised concerns about them being on an HMO list. I do not know if we have discussed that this evening, about the difficulty, sometimes, of physicians being able to get on a list, and particularly a lot of physicians in the inner city.

These physicians who treat a certain patient clientele have had difficulty in maintaining their names on HMO lists so they can treat their patients and their patients can choose them; all kinds of problems that I believe reasonable men and women can come together and fix, so that the tragedies that the gentleman has mentioned, the humor that the gentleman has mentioned, that does not make it funny, can stop.

Because the question becomes, who are we as a Nation if we cannot provide the kind of health care to live up to our own reputation, with the excellent physicians? My own doctor, Michael DeBakey, traveled to Russia, and I think President Yeltsin is as fine and fit as I have seen him. That was a United States physician, trained in America, Dr. Michael DeBakey, who left here to supervise that open heart surgery. Today the President of Russia is considered healthy and robust physically, as Dr. DeBakey shared with me after his last check-up.

I think it is extremely important that we do not diminish what we have here in this country. We have it. We have the ability to be fiscally responsible with health care, and I understand that is important, and at the same time using the resources that we have to make our country one of the healthiest around.

What a tragedy, and the gentleman is a physician and he knows, that we have such a high death rate in certain instances because we are not getting the care and the technology and the expertise to the patient. If the doorkeeper is in there diminishing that access, that is why people cry out for universal access. They throw up their hands.

Mr. GANSKE. Mr. Speaker, if the gentleman would yield further, let me relate another example. I recently had a woman pediatrician in my office. She left her medical practice, which involved running a pediatric intensive care unit, partly because she could no longer handle the types of things, the demands that were being placed on her from managed care. Let me give an example that she told me about.

One day she had a 5-year-old boy come into her ICU. The boy was a victim of drowning, so he was attached to a ventilator. He had his IVs running. All the medicines were being given. He had been in the ICU, been in the hospital, about 4 hours. This team of doctors and nurses and other health professionals were standing there, doing everything they could for this little 5-year-old boy, with the parents standing there.

Think of how you would feel if this were your 5-year-old boy who had been in that hospital for about 4 or 5 hours. They were basically standing around the bedside holding hands, praying for a sign of life, and the telephone rings. It is an HMO reviewer from some distant place.

So this pediatrician gets on the line and she tells this nonphysician reviewer what the situation is, and how it does not look very promising. Do you know what that reviewer suggested? The reviewer said, well, if the prognosis is so bad, have you thought about sending the child home on a ventilator in order to save money?

Mr. PALLONE. That is incredible.

Mr. GANSKE. That is an incredible but true story. It shows that that reviewer did not know what she was talking about, or he was talking about, I do not know which.

But I know how it happened. This reviewer was sitting at a computer terminal, and she saw "Respiratory distress"; moved up the algorithm, "Ventilator"; moved up the algorithm, "Poor prognosis." The next question you ask is, have you thought about home ventilation?

Let me tell the Members, that is a situation where this little boy's life was hanging in the balance. There is nobody that I know of, including myself or my wife, who is a physician, that could take a child in that situation home without all the technology that you would need in that intensive care unit and have a chance of that little boy surviving. Yet that is the kind of recommendations that we are getting from people that should not be giving the recommendations.

That is why part of this legislation we are talking about says that if you are going to deny care, the denial of care has to come from somebody who is legitimate and qualified to understand the situation in order to deny the care.

Then the legislation says that if you do not agree with that denial of care, you can appeal it, but the appeal has to be adjudicated on a timely basis, not 6 months from now, when, like this poor unfortunate lady, you may no longer be in this world.

Mr. PALLONE. What the gentleman is bringing up again is so important, because we had a forum in New Jersey with Senator TORRICELLI and myself in my district, and the people that came and talked about the problems they had with managed care, their biggest concern was the bureaucracy of having to deal with a denial; in other words, denial of certain services, denial of certain equipment, and how they had to go about appealing that or finding someone who would hear their case.

I just could not believe the hours and hours parents or a relative would spend trying to get through that bureaucracy to try to have someone hear their case on appeal, or whatever the grievance procedure is. I think that that is a very important part of the legislation that we are talking about here today, because how many people can do that? A mother maybe can do it for her child if she is not working, but most of the time you have to call during the day, and a lot of people just cannot take the time to go through the morass that has been set up in these organizations.

Again, I just want to say to the gentleman from Iowa (Mr. GANSKE) that the reason it is so valuable to have the gentleman here tonight if he is just pointing out how common-sense these patient protections are.

The gag clause, again, I think most people would not believe that their physician is not allowed to tell them what the proper treatment should be or make recommendations because of some gag clause, or the circumstance the gentleman just described. We are only talking about things that I think most people would expect would be the norm, but unfortunately, they are not. That is the problem.

Mr. GANSKE. If the gentleman will yield further, Mr. Speaker, we always hear from opponents to this that this legislation will cost so much. It is going to make premiums double.

Phooey on that. As far as I know, there is one independent study that has been done by Coopers & Lybrand, a well-respected actuarial firm, by a nonpartisan group that has looked at the cost of a Patient Bill of Rights, exclusive of the liability provision, and the cost to a family for a year would be about $31. All sorts of surveys across the country have shown people would be willing to have their premiums go up more than that in order to have their insurance mean something.

Mr. PALLONE. Mr. Speaker, I want to thank everyone for joining us. This was certainly worthwhile. We have to keep pressing to have patient protection legislation brought to the floor.

Ms. JACKSON-LEE of Texas. I thank the gentleman. I think America deserves it.

GROWING THREAT TO NATIONAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, I came to the floor on April 30 as the chairman of the Subcommittee on Space and Aeronautics. As someone who holds that title, I have the responsibility to oversee NASA and America's space effort.

My purpose in that April 30 speech was to disclose what appeared to be a horrible threat to our national well-being. American companies, I charged, may have upgraded Chinese strategic missiles, compromising the safety of the American people, putting every man, woman, and child in our country in greater vulnerability to nuclear attack, a nuclear attack launched from the mainland of China.

Technology transfers, at the least, may have undercut our country's ability to deal with an aggressive Chinese Communist regime in the future. Even worse, of course, our gallant defenders in the future may be shot out of the sky or die in their submarines, victims of weapons researched and developed by the American taxpayer and delivered to our potential totalitarian foe by greedy American businessmen.

Since my initial warnings in that April 30 speech, information that has emerged suggests the horror story that I described of our country being more vulnerable to nuclear attack from the Communist Chinese and the upgrading of other weapons systems, that horror story that I described is much worse than I originally imagined, as I have continued to look into this matter.

That is what I would like to report tonight to my colleagues and the Members in the House, to those people watching on C-Span and reading the CONGRESSIONAL RECORD. I thought I would give them a little update of what has happened since the last time I gave a special order on the floor of this House concerning this, what I consider to be the worse scandal not only of this administration, but perhaps the worst scandal in terms of the transfer of deadly technology to a potential enemy of the United States since the Rosenbergs transferred the atomic bomb secret to Josef Stalin back in the late 1940s.

As I have continued to look into this, I and others have heard testimony and discovered evidence that not only verifies the serious charges that I have made, those charges in general that we have upgraded the missile system and other weapons systems, but suggest that there is even a greater threat to our safety.

In that April 30 speech, I suggested, number one, that as a Presidential candidate, Bill Clinton chastised President

Bush for coddling Communist China and granting the despots in Beijing most favored trade status, which is what he opposed during the election, coddling the Communist dictators in Beijing and opposing most favored trading nation status.

I thought President Clinton would probably be easier to work with than President Bush was. After being sworn in as President, Bill Clinton did an immediate about-face. He boldly, or perhaps the better word is brazenly, decoupled any linkage between human rights and trade negotiations in our dealings with the Communist Chinese. This was the worst single setback to the human rights movement in my lifetime.

I remember when it happened, I was out of town. All of us in Congress were out of town. The President expected that all of the controversy would just sort of pass over by the time Congress got back into session.

□ 2200

In the years since the decoupling, in the years since he, and we can only use the word "betrayed," the human rights movement and betrayed our fundamental principles in doing so, the brutality against religious believers and against democracy advocates in Communist China has intensified. The regime in Communist China, since the decoupling of trade negotiations with any human rights considerations, the human rights situation has gotten worse. The genocide in Tibet is worse. The killing of the Muslims in the far reaches of the western part of China has gotten worse.

President Clinton, even seeing this, has done nothing to rectify his precipitous decision to decouple those negotiations.

As a result, the tough guys in Beijing are confident that anything that is said by this administration about human rights is a hollow gesture for domestic consumption only. In fact, the Chinese Communist rulers have used the upcoming Presidential visit to China, with its opening ceremonies scheduled to be held in Tiananmen Square, they have used this in their callous campaign to stomp out the memory of those who were slaughtered in 1989, those hundreds of democracy activists who were slaughtered in that very same square.

On the recent June 4 anniversary of that tragedy, and it was just 10 years ago June 4 when the gallant democracy advocates were mowed down in Tiananmen Square and their papier-mache copies of the Statue of Liberty crushed under the treads of the tanks. On that anniversary, Communist China claimed the Communist Party and government made a correct conclusion, end of quote, to order that slaughter. And they ruled out any revision of that official judgment.

And this morning, this very morning, scoffing at congressional requests that Clinton not be received in Tiananmen Square, the U.S. Ambassador, our Ambassador to China, James Sasser, told the Chinese press that the President, quote, will be pleased to be welcomed in the Great Hall of the People, which of course is right next to Tiananmen Square. And that gesture on the part of our President will further the concept that we have heard recently coming from this administration of a, quote, strategic partnership, end of quote, between our two countries. That is what our Ambassador is suggesting.

In that mind-boggling atmosphere, if the President even mentioned human rights there while he is in Tiananmen Square or right next to Tiananmen Square in his upcoming visits, if he mentions human rights it will only be making things worse because the ruling clique in Beijing will know that it is just for show and that even our own President is willing to make a cruel joke, a mockery out of what many of us have been raised to believe is the essence of America, that being a sincere belief in democracy and freedom.

Is that not what our country is supposed to be about? Is that not what that flag is supposed to stand for? We are not just a geographic location. We are people who came here from all parts of the world, every race and ethnic background and every religion. We came here because our Founding Fathers and the people who came before us believed in freedom. That is what separated us from the rest of the nations in the world and that was our responsibility, to carry the torch when they put it down that they had so gallantly fought for, this freedom in the last 200 years.

Well, that is not what going to Tiananmen Square will signal the world. It will signal the world that America no longer holds that dear to our hearts. And maybe in times of trial and in times of the Cold War we had to compromise and associate ourselves with such dictatorships, but in a time of peace there is no excuse for this.

But most alarming, it appears that this administration's flawed strategic partnership view towards this brutal dictatorship in Beijing has even permitted the Communist Chinese to have access to the most sophisticated weapons that we built during the Cold War for our own domestic protection.

This idea of a strategic partnership has permitted sophisticated weapons related to aerospace technologies and defense technologies to be made available to a brutally harsh Communist dictatorship, a belligerent country that some day may be our enemy and may kill Americans. And even while making these technologies available, the administration cast a blind eye toward Beijing's role in spreading these weapons of mass destruction and the components of these weapons of mass destruction to other unstable areas of the world, making a mockery not only of America's fundamental beliefs in freedom and democracy and human rights, but also making a shambles out of our efforts to contain the proliferation of nuclear weapons technology so that countries like India and Pakistan do not face each other and possibly ignite a horrific conflagration that could cost millions of lives.

So this administration even turns an eye while Chinese Communists ship these weapons to these countries, causing great instability and causing a cycle of violence and a cycle of weapons advancement that will only put the entire world in greater threat.

In my April 30 speech, I outlined how our own country's elite has maintained a policy that has steadily shifted resources and power to China at the detriment of our own people. Not only the security of our own people, but to the economic well-being of our people.

What are we doing this for? Why are we making the Chinese better off, stronger, more capable of military aggression, more capable of beating us economically, putting our own people in jeopardy not only from nuclear weapons but also from being taken and shoved into the cold without a job, being shoved out of their jobs because of slave labor being used in China?

We have been watching a policy, an intentional policy that has been to the detriment of our people and building up China as a competitor and an adversary. Who is watching out for the American people? Is this not the fundamental job that we have as elected representatives? Who is watching out for the interests of our people?

First, we have obscured the trade relationship that allows China to charge 30 and 40 percent tariffs on American goods, so when we manufacture something here and want to sell it in China, they charge us 30 and 40 percent tariffs on the goods that are imported from the United States, while under Most Favored Nation status the Chinese goods which they produce over there flood into the United States with a mere 3 percent duty. How unfair is that to our own people? How about those people who are manufacturing those goods in the United States who are put out of work? It is one thing to say then Americans can buy low-cost Chinese commercial goods, but if our companies cannot sell over there without a large or huge tariff, then there are not any other jobs being created for these people who are put out of work.

Again, Mr. Speaker, this is a betrayal of the interests of our own people and it has been going on year after year after year. And when we try to fight against Most Favored Nation status, we are being told that it creates jobs. Yet we are using taxpayer dollars to subsidize the building of factories in

China that will end up exporting goods to the United States in competition with our own people, the people who pay those tax dollars to begin with.

This is the reason that we have this $50 billion annual trade deficit with Communist China. Fifty billion dollars. And that is a minimum every year that we have had for many years now with Communist China. That puts our money into their pockets. Fifty billion dollars a year.

What do they do with those $50 billion? First of all, it builds up their own dictatorship. It permits the Communist dictatorship to keep a stranglehold on anybody who would want democracy in that country. We upgrade their police techniques. We have trained their policemen for a totalitarian country. What do those people do when they go back? They throw Christians and other people in jail. They use their techniques to find out who wants democracy and to persecute them. We have them over here training in our country.

And that $50 billion, what is it used for? Yes, it pays for some of that training. Perhaps we might charge them a little. And it finances their arms buildup and puts our own people out of work. More than putting dollars in their pockets, the trade relationship is so unbalanced and we have permitted them to have this 30 and 40 percent tariff against our goods, which is unfair to us because their goods come in at 3 and 4 percent. But we have also permitted them to make outrageous demands over and over again of our own business community. And again these demands have been to the horrible detriment of thousands of American working people.

For instance, in order to sell airplanes to China, and there will be someone in my office tomorrow from Boeing Corporation, the largest employer in my district, to tell me why we have to make sure that we have those airplane deals to China. But in order to sell those airplanes to China, in the past the Communist Chinese leaders have demanded that we build airplane manufacturing and spare parts factories in Communist China. That means 10 years from now, they will have a modern aerospace industry to rival our own. It is short-term profit and even medium-term selling out our economic interests, not to mention the national security interests.

We even use U.S. tax dollars when they make these demands. "If we are going to buy your planes, you have to set up the wing manufacturing facility here in China," and we even use tax dollars through the IMF, through the Export/Import Bank and OPIC and other government subsidized agencies with our tax dollars, we use this tax money to guarantee the deal which builds those manufacturing operations in China.

We are building manufacturing units in China that will rival our own and put our own aerospace people out of work. In the medium run, again, a few fat cats may get rich. The Chinese will get a few more freebies. They get the technology and the American people will end up getting the pink slip.

With the wealth of technology that Bill Clinton and the corporate power brokers are transferring, China is steadily building a state-of-the-art Army, Navy, and Air Force and strategic missile force. This is a power that will threaten anyone who gets in their way. And we are financing it. We are subsidizing it. We are facilitating it. And this administration is celebrating it. And when the party is over, as I say, a very few rich Americans are going to be better off and a multitude of our own working people will be displaced by low-tariff imports.

And something else to consider: Our military personnel will be in grave danger and our country vulnerable to nuclear attack and high-tech warfare attack. All of this from this nonsensical policy. And it goes on and these are easy to calculate. They are easy to see.

What spurred my interest in this area was a few months back when I stumbled upon evidence that American technology was being used to upgrade Chinese rockets. It actually took my breath away to learn that U.S. aerospace companies may have flippantly violated lawful safeguards provided by previous administrations by providing the Chinese with technology they needed to upgrade their rockets and interballistic missiles putting millions of Americans in danger of incineration by a nuclear ballistic missile launched from China.

Recently, I have had a series of meetings with aerospace workers and I would invite anyone listening to this who has information about this to contact my office, because a number of aerospace workers, patriots in the aerospace industry, had information about this and contacted me and I met with them. They were disgusted that as patriotic Americans, technology was being used, American technology was being used in a way that would put our own country in jeopardy.

These workers that I have already talked to have firsthand knowledge of security breaches that put our country in jeopardy. I was told that U.S. technology to ensure stage separation of Chinese rockets had been addressed. Guidance systems and control systems were upgraded. There was MIRVing that was not possible by the Chinese before, and yet on May 2 the Chinese launched a Long March rocket.

□ 2215

Three out of four of them used to blow up. This is a perfect launch. And not only did it get up there, but once it was up, it was able to spit out two satellites instead of one because it now has MIRVing technology, the same technology that permits that very same rocket to carry multiple warheads, warheads that could be aimed right at Los Angeles or Chicago or Detroit or anywhere, anywhere in the United States.

I was also told about the laser ring magnetic gyroscope, this system that was so important that Americans discovered and built to make us the technological leader of the world, a stabilizing system that is absolutely essential for MIRVing and for submarines and other launch rockets launched from other places, and for airplanes. If these things do not have this type of high-tech gyroscope, they cannot really fire their weapons as accurately, and the fear is that the Chinese Communists now have that gyroscope.

All of these items, I was told, of course, are built at taxpayer expense. These aerospace workers knew all along they were working for the taxpayers. This was money that we spent during the Cold War to give us the edge. This was things that we spent billions of, hundreds of billions of dollars we spent to make sure that our people had the qualitative edge.

While talking to these aerospace people, I was told that among those involved in this diabolical betrayal of America's security was a senior vice president from Loral Corporation. Some of his fellow workers had been appalled years ago by this very same man's breach of routine security procedures, yet the company had inexplicably sided with the security violator instead of the whistleblower. Now we are told that this same top executive, who is now even higher in the company than he was then, was the point man in getting U.S. missile technology and know-how into the hands of the Communist Chinese.

In the investigating of this controversy, much attention has been paid to what occurred after the explosion of the Communist Long March rocket in February of 1996 and the 200-page technical review report given to the Chinese by a U.S. technical team. We have heard the claim that this report concerns a simple soldering problem; a soldering problem, that is what we are being told. Yes, that is it, a few bad solders is what caused two out of every three Chinese rockets to explode at launch, a few bad solders.

Some of the aerospace engineers I have been talking to about this told me when they heard that, they almost fell off their chairs laughing. To say that was not a believable explanation to these engineers who spent a lifetime building rockets.

After the explosion in 1996, Loral apparently went forward and intentionally and systematically upgraded the Chinese rockets, and we are not just talking about a few bad solders. As is clear in a letter from this very same Loral vice president, who they complained about years ago for not following security procedures, that Loral vice president, a man named Wah Kun, stated in a letter, and I believe that this letter is a smoking gun, if there ever was a smoking gun, of evidence of a crime, in this letter from Dr. Wah Lim the vice president of Loral to Lou Jiyuan, to the chairman of the China Aerospace Corporation, which is a part of their government and a part of their military, that Loral Vice President Lim states that an important goal for this review was, quote, using the failure, that means the 1996 blowup, as an opportunity to ensure that the Long March vehicles have the best reliable record in the future. We at Space Systems Loral would like China to be a strong supplier of launch services, and we will do everything in our power to help you, end of quote.

And to ensure that, he says, your company, and I quote, your company will take their share of the world market for satellite launch services, end of quote.

Only a week and a half earlier, in a committee strategy report, Lim outlined, that is vice president of Loral Lim outlined the objectives for the review team that has gotten so much attention these last few weeks, including recommending to China Aerospace and its launching subsidiary, the Great Wall, any other areas of improvement. So thus they will give them any advice they need in any areas of improvement for their system so that they can capture a share of the world's launch services. I am including, and I will include in the CONGRESSIONAL RECORD tomorrow, a copy of the full text of the letter from Mr. Lim to the Chinese aerospace leader.

In May of 1996, before the draft committee, this is after the work of this committee, and it had a 200-page report on this blowup of this Chinese missile, but before that report was submitted to the State Department for security review, the security review is mandated under export control law, Vice President Lim of Loral faxed a copy of that report to the Chinese. Lim did this knowing full well that China Aerospace Company, which controls all space launches, is the same military-owned company that builds China's ballistic missiles, the same company that builds the missiles that would land atomic weapons in our country and incinerate our people. It is the same company that builds the satellite launching rockets, almost the same technology.

According to U.S. intelligence, at least 14 of these missiles that the Chinese already have are targeted at the United States. That was denied by this administration, of course. And just as the President has sometimes mentioned things that sort of do not make sense and we disagree with, in this particular case the President suggested that there are no missiles aimed at the United States in Communist China. Of course, we all know that it takes about a half an hour to retarget a missile, and I am not so sure how much credence you have to put in a situation like that in terms of people's statements that we do not have much to be worried about.

The New York Times published this story that we are talking about in terms of the Loral upgrading of the Chinese missile, and to its credit that paper and several other publications have done a diligent job in providing this all-important information to the American people.

This past Sunday, for example, 60 Minutes, the news program on CBS, did a compelling report on a story concerning the transfer of deadly weapons and technology to Communist China. The 60 Minutes program, which was also covered by the Washington Post, described how in 1993, the McDonnell Douglas Company was blackmailed by the Chinese Communists into selling at fire sale prices sophisticated machine tools for the building of jet fighters, the B-1 bomber and the cutting edge C-17 transport airplane. And like a scene out of a movie, the American workers at the Columbus, Ohio, factory who had offered to buy the equipment, they wanted to keep that plant going, and they were willing to buy it for $10 million, twice the price which the Chinese Government offered. those workers were turned down by the company, and like right out of a movie, they were there yelling epithets and attempting to block, quote, dark-suited Chinese officials, end of quote, who came there to inspect these huge machine tools which were used to produce sophisticated weapons.

And yes, our working people wanted those jobs, and they deserved the jobs that those tools could provide, but they also knew that those tools were going, Communist China would produce things that would kill Americans. But unlike management, the workers knew, I guess, and that plant, that when you see the term "U.S.," that means not just United States, it also means us. Who is the United States? When we are talking about America, the U.S. security interests, we are talking about us, all of us together, e pluribus unum. We are all together in this, and we believe in freedom. That is what ties us together. They knew they were being betrayed, and their interests were being betrayed. They could not even offer more money than the Communist China expected to get those pieces of equipment that would permit them to earn a decent living. They had only given half their lives in service to building weapons during the Cold War to protect our country.

The aerospace workers, the unsung hero of the Cold War, the aerospace workers are the ones who developed the technology we needed to deter war with Russia until it collapsed in its own evil. They were the ones that gave us that technological edge because we could not have matched them man for man. Now when it is all over, we sell our tools to Communist China, and they give their jobs away.

Although the sale of these tools was opposed by the Defense Department in the end, it had the support of the Clinton administration, and the Chinese got these tools, of course, and when they were buying the tools, they said they were going to use them to build civilian aircraft. Of course, guess what? Many of these same tools ended up in a Chinese factory that produces Silkworm missiles, missiles that will threaten American ships if we ever try to protect Taiwan again, thousands of our sailors put in jeopardy with American technology.

And in 1996, the U.S. Justice Department opened up a criminal investigation into whether McDonnell Douglas knew or should have known that the Chinese commitment to using these tools for civilian use was bogus. To their credit, the McDonnell Douglas officials reported that Chinese treachery immediately upon discovering that the tools had gone to the wrong location. However, neither the administration nor the company should have succumbed to the Chinese blackmail in the first place.

Even if the Chinese would not buy the civilian airplanes, we should not have told them we were going to build them a plant to build airplanes themselves. And even if those tools would have been used to build civilian airplanes rather than military planes, we should not have made that as part of our deal in the first place. Even if it did not put our national security in jeopardy, it certainly put our working people in jeopardy. Their jobs were in jeopardy.

In the end the Chinese, here is the hook on this whole thing, in the end the Chinese had promised to buy billions of dollars worth of planes from McDonnell Douglas if they sweetened that deal, if they could get their hands on all that defense-related technology, those tools and machine things that would permit them to build these weapons, but as soon as they got their hands on that technology, guess what, the rest of the deal fell apart. McDonnell Douglas did not even get the sale of their airplanes. They cut the deal short and only give them a minor, a minor purchase of McDonnell Douglas airplanes, while at the same time they not only now have all this technology at their disposal, but 1,000 skilled American workers were denied the chance to rescue their factory.

They wanted to buy it for $10 million, and they were denied that and denied the decency of earning a living and owning part of the company, which they wanted to do out of some scheme that they thought would bring them untold riches from the China market.

□ 2230

Even if the deal was kept, the American workers would have had the shaft in the long run. The company sold out the ability of its own workers to compete by giving that technology to the Communist Chinese. And as I say, even in the short term, that profit was not realized because the Communists reneged on their agreement to buy all those airplanes.

In response to the public disclosure of these type of reckless export deals, the Clinton administration has reacted with its typical obfuscation and evasion, and this is what we have come to expect from this administration. This administration and its media allies have turned on the confusion machine now that this missile upgrade situation has reached a national controversy. Their confusion machine is designed to get the American people confused and mixed up.

First of all, the first purpose of the administration's strategy for confusing the American people is to minimalize the facts. We have been told, of course, that these technology transfers by Loral and others to the Communist Chinese were a little more than a few solderings, which we have already discussed. So you minimize. "Don't worry about it. We're just talking about a few solderings."

This is parallel to the FBI file scandal when President Clinton himself claimed that it was only a few FBI files that were mistakenly sent over to the White House by a Defense Department detailee. Remember those words? We all remember that being said on the White House lawn, only a few FBI files, and it was made by accident by a detailee from the Defense Department. Of course later we found out that that detailee was not just a detailee, after all. He was someone who had been placed at the Defense Department by the Clinton administration and sent back to the White House intentionally, and he was one of their people. He happened to be an opposition researcher for the Democratic Party, and he did not have just a couple of FBI files, he ended up with hundreds of FBI files in his possession. Of course this is all about just a few solders. Remember, just a few solders in a Chinese missile. That is all this is about.

Another tactic being used by this administration is to sidetrack the growing public rage over this scandal with an obvious attempt to confuse the public about what is the central issue that we are all upset about. If President Clinton and his apologists, his allies in the media, of course, if they can confuse the people, this incredibly serious issue might just be shrugged off as yet another attempt by Republicans to get this guy, as my good friend Geraldo Rivera implied on television and has implied several times, we are just out to get the President. No matter what, we want to get him.

No, that has nothing to do with what is going on in this case. I cannot talk for the other issues because I have not participated in these other scandals that have been talked about over this last year, but I can say this issue is very serious and deals with the survival or perhaps the death of millions of Americans who otherwise would not die, dying at the hands of Communist Chinese tyrants who have American technology.

So let me warn everyone about what they are facing, this tactic to try to confuse them. This administration and its liberal allies are trying to get you to believe that what we are upset about is nothing more than a decision to permit U.S. satellites to be launched on Chinese rockets. You will hear that over and over again. U.S. satellites launched on Chinese rockets, that is what everybody is upset about. Any newspaper or radio or television journalist or administration spokesman, or whoever, who starts talking about U.S. satellites on Chinese rockets as being the crisis or the scandal, at that moment, understand that that person is intentionally trying to lie by confusing you. So put that in the back of your head, if you hear someone say that, they are trying to confuse you, they are trying to lie, to get you not to understand the magnitude of what is going on. They know exactly what they are doing. It is called deception. So, please, my friends, do not be deceived.

Besides all the administration spokesmen who are trying to use this deceptive tactic, of course, the liberal left media troopers have been mobilized to throw dust into our face. Let me read to my colleagues a story from the Los Angeles Times from Monday, June 8:

> Republican leaders have charged that Clinton satellite exports may have jeopardized national security by helping China develop its missile capabilities.

It goes on.

> I am also worried if we can continue to play patty cake with China while they continue to be involved in weapons of proliferation, said Senator Majority Leader TRENT LOTT.

It goes on.

> Administration officials have countered that they were merely continuing the policy of satellite exports initiated by Presidents Reagan and Bush and that the satellites were exported under procedures that protected American technology.

Then the last sentence says,

> The Loral controversy is now the subject of congressional investigations.

Oh, all right. So we are talking about satellites here. Listen to the wording. You end up thinking that we are talking about a satellite controversy. And if you listen to the President or his paid spokesmen or his unpaid spokesmen or the spin masters, one thinks the issue is about satellites. And then it was pointed out that the Republicans, including Presidents Reagan and Bush and, by the way, including yours truly, Members of Congress like yours truly, suggested that U.S. satellites could be permitted to be launched on Chinese rockets. Thus if you listen to this and get confused enough by it, you believe that President Clinton is just acting consistently with everybody else and he is being unjustly attacked, that we are just out to get him and that everything is justified in what has happened and there is no grave danger.

> Reagan and Bush approved it, so forget it. Go to sleep. Have a good night's rest. Don't even ask any questions about it.

No, I am afraid that is not it. When the deception brigade starts talking about satellites, keep telling yourself, no, this is not accurate, these people are not concerned about satellites, that is not what they are upset about. In reality the core issue is not satellites. The core issue that people are upset about is the upgrading of Chinese Communist missiles. Let me repeat that. The upgrading of Communist Chinese missiles that can launch nuclear weapons at the United States and upgrading the Communist Chinese missiles puts millions of Americans at risk who would not otherwise have been at risk. All the others trying to talk to you about the satellite deal and the rest are doing their best to confuse the issue. Remember, when they talk about it, to tell yourself that. We are concerned about warheads landing in our country and incinerating our neighborhoods and with the incredible, just incredible thought that this could be happening and made more likely to happen with the use of American technology developed for our own defense.

The decision to let American satellites be launched on Chinese rockets may or may not have been a good idea. At the time of Reagan and Bush, they had strict enforcement provisions to ensure that there was no transfer of technology. The Chinese would not even gain any information from that. However, that was also at the time of before Tiananmen Square when China was evolving toward a more democratic society. The fact is that that may or may not have been a good decision, but that is not what is being called into question. Because no one who decided that those American satellites could be launched, no one believed that it was at all permissible and it would ever justify the upgrading of Chinese rockets. No one ever believed that. No one believed that the military capabilities of these rockets and missiles would ever be changed. This idea that we had some knowledge of that or Reagan or Bush thought that that could happen is absurd. I believe that what we have got here is a Chinese nuclear weapons delivery system that has been made more efficient with the use of American technology. Is that enough? Is that not enough? So let us not confuse it by talking about satellites. Even though we did not think that could ever happen, it apparently happened.

We also know that some Federal watchdogs, Federal employees that were watching out for our security, they were minimalized during this whole situation. They were not permitted to do their job by pressure from on top. We also know that when an attempt was made to prosecute Loral for illegally transferring this technology, for upgrading this Communist Chinese missile, that President Clinton, against the advice of his own Justice Department, personally signed a waiver that he was warned would undermine any prosecution of Loral. In effect he was signing a retroactive permission for this deadly weapons of mass destruction technology and know-how to be given to the Communist Chinese. It is all a bit mind-boggling. There will soon be a House Select Committee to investigate the issue. It will be chaired by the gentleman from California (Mr. Cox), a man of impeccable credentials and character. Each and every American is now in greater danger from Communist Chinese missiles and our defenders in military uniforms will find their lives in greater jeopardy.

We should, and this will be true if we ever, ever confront the Chinese if they become belligerent, this is something that makes the magnitude of the investigation of the gentleman from California (Mr. Cox) many degrees more important to our country than any of the other charges that have ever been leveled at President Clinton. But let us not overlook that the upgrading of Communist Chinese nuclear weapons and delivery systems is just the most significant of the betrayals of our country's national interest in this administration's dealings with Communist China.

Businessmen, blinded by the prospects of fast megabucks, have been manipulated and used by the Communist Chinese over and over again. Not only Chinese rockets but a widening arsenal of high tech weapons have been provided to the Communist Chinese. These high tech weapons and the machines needed to build those weapons are now in the hands of the Chinese. We are upgrading their entire arsenal one way or the other. Economic cooperation with the Communist Chinese made sense at one time because the Communist Chinese were loosening their grip. It looked like the country might evolve. But that was reversed 10 years ago in the bloody action that took place in Tiananmen Square. That was almost 10 years ago exactly. The country had been seeming to move toward freedom. However, since that Tiananmen Square massacre, China has been sinking deeper into the vice grip of gangsters and thugs who are responsible for more tyranny, more terror, more human rights abuses, more belligerence than ever before. Even as they have broken promise after promise on their weapons of mass destruction program and even as they have transferred technology to other dangerous nations, this administration continues to lavish favors on its buddies in Beijing.

For the past 2 months, this administration has been suggesting that President Clinton would be proposing a, quote, strategic partnership and even more aerospace technology deals with this regime during his upcoming visit in Beijing. It was also leaked to the press that the President might even propose a greater cooperation in space efforts. When I heard the administration official at the International Relations Committee call for a strategic partnership, I could not help but ask, Against whom? Who are we going to have this strategic partnership against? Against India that has a democratically elected government? Against Taiwan with a democratically elected government? Against South Korea with a democratically elected government? Thailand with a democratically elected government? The Philippines with a democratically elected government? Or how about Japan with a democratically elected government?

We are going to have a strategic partnership with the one massive Communist dictatorship in a region filled with democracies? Give me a break. And then the administration official said,

> Well, partnership doesn't mean you're against anyone.

I said,

> Well, what does the word strategic mean if it doesn't mean you're putting yourself in juxtaposition with someone else and it has something to do with a military and economic power?

We should not be in a strategic partnership with a bloody Communist dictatorship. We should be encouraging people to invest in the democracies of the area instead of giving them an unequal trade relationship and subsidizing our businessmen when they want to do business in those areas. We should be directing them to the Philippines that are struggling for democracy, or some other country. If we are going to direct them anywhere, it should be to a democratic country. But not to a dictatorship where if a union person wants to form a union, he is thrown in jail or he is sent to the gulag, their laogai which is the equivalent of the gulag and worked to death so that they can export products here without any unions and without any labor legislation and without any dignity and without any ability to complain, without any ability to change your job, without any ability to worship God or have a day off.

□ 2245

So this administration wants to have a strategic partnership with that kind of regime.

So this looks a little bit, what we see happening and seen happening looks a little bit like parallel to what happened and was described in Gerry Aldrich's book, "Unlimited Access." The standards have broken down. This administration has blurred the lines, have violated the standards right from the beginning, the standards of being right and wrong, of good and evil, of democracy versus tyranny, of patriotism versus globalism. The standards have been broken down.

Unlimited access; there is unlimited access to the White House and unlimited access to American technology, and one cannot, and we must recognize, and this is what we are seeing right now, one cannot give up one's standards, one cannot give up time-honored principles without paying a serious price. And today we are increasingly in jeopardy. American national security has been undermined by political leadership without principles, and of course businessmen are blinded by the dream of a fast buck in the so-called China market. And we have been put in jeopardy because we have left our principles behind.

This fantasy of this fast buck in the Chinese market has made idiots out of executives who should have known better. There are cases, the McDonnell-Douglas fire sale and transfer of defense machine toolery to China, where much of it landed in this weapons factory. Motorola built a computer chip factory there, and now there are these chips being used. Guess where? Guess what we found the latest? The latest we found Motorola chips in land mines that have been built by the Chinese and put all over Southeast Asia. In Cambodia we have a U.S. Army team trying to deactivate some of those mines, and they found out that the new mines were blowing up, and they were killing the people who were trying to diffuse them. And why were they blowing up? Because these were different kinds of mines. These were smart mines, and when they finally got them open, what did they find out? They were smart mines; they were killing the people who tried to diffuse them. They were designed that way because they have a computer chip inside these mines, a computer chip made that came from a factory, a Motorola factory that had been built by Motorola in Communist China.

Is that what we want? And is that making people in the United States, are the workers at Motorola any better because we built that factory over there? Nobody is any better, nobody is any better.

What about airplane wings? They are now being manufactured for transport planes. They were supposed to be, you know, for civilian aircraft. Yes, in order to have a deal to sell more airplanes, we set up the factory to build the airplane fuselages and their wings. And guess what? Now that factory is producing wings and fuselages for cruise missiles and Chinese fighters that will be sent against American forces if we ever have to confront them in the Taiwan Straits again.

American military personnel put at risk. We closed our eyes against even as Israel has transferred war technology, and AWACs technology was sent over there as well as other sophisticated radar communications gear has been sent by Israel to the Communist Chinese. We have closed our eyes to that.

Over and over again we see our technology paid for by billions of dollars just for our own security, and the American people believed we should give our military a qualitative edge so we would not have to fight, we could deter war. Like the C–17; the C–17 was developed for what? To give our military the most efficient and reliable military transport plane in the world, and now they are talking about turning it into a civilian model and selling it to the Communist Chinese. Of course the civilian model will be painted in pastels rather than that military green.

It is absurd. We did not develop the C–17 with all its incredible capacity to fight a war in order to help the Chinese Army move into Tibet, to destroy the Tibetan people, or to fight the Muslims in the far reaches of their country or to put down Christians in some part of their country. We did not do that. We did not build a C–17 for that. We built the C–17 to transport our own military in the defense of our country, and we were willing to put the research and development into that plane.

It is not just the C–17, but all of these equipment that we are talking about, all of this gear that we are talking about. We invested in it willingly. The American taxpayers did this because it would give us the edge to preserve our precious freedom, and we wanted our defenders to have that qualitative advantage so they could win and come home safely.

Well, today these weapons are being handed over for nothing, for nothing, to the Communist Chinese, and nothing maybe perhaps except for campaign contributions, some political campaign contribution. We will never get to the bottom of that. I wonder where all those Buddhist monks who gave those $5,000 contributions in that Buddhist monastery, where did they get that $5,000 from? They were impoverished Buddhist monks. They did not get it themselves. Where did it come from? We will never find that out.

We permitted an unfair trade relationship to provide Communist China with $50 billion in hard surplus and hard currency and their trade surplus to purchase high-tech weapons and tools and machines needed to produce these weapons. At a tiny fraction they are getting them of the cost that we invested in those weapons and those machines in the first place. They are getting the weapons at a bargain-basement rate, and the taxpayers are ending up through the Export-Import Bank financing some of these sales, some of the sales from manufacturing units. And what are the Communist Chinese—this is practically giving them this technology that will put us in danger and endanger the lives, endanger the lives of our military personnel if there is ever a confrontation with this bloody and belligerent Communist regime.

I think this is a scandal of monumental importance.

America's future is at stake. Our young people will live in a dangerous world, and what will they think when they learn that we made it more dangerous because we provided the world's most dangerous military power with weapons as well as tools and machines to produce their own tools and their own weapons. What will they think? And what will America's military personnel think when they find that their fellows and their brothers and sisters at arms are being wiped out and being torn apart, I mean blown out of the sky with weapons that were perfected by U.S. technology?

The 40 pieces of silver in the pockets of our corporate leaders will not just weigh upon their consciousness and their consciences if we let this happen, because it will not be just the corporate elite who is at fault, although they must bear the burden of making immoral decisions as well and decisions that hurt our country. But we ourselves will have to bear some of that responsibility. We ourselves will have to bear that responsibility if we do not put a stop to this, because today we are aware of the erosion of our national security, and if we do nothing to stop it, we must bear some of the blame.

We cannot afford to surrender the future of our country, the future of peace, forfeit the survival and freedom of America's next generation. It is impossible that the Chinese military could attack the United States; is that right? It is impossible; that is, we have heard that. It is not going to be impossible. Let me tell you in the future it will not be impossible for them to attack the United States.

We could confront, we could confront the Chinese in the Taiwan Straits a few years ago when they were launching the rockets across Taiwan trying to intimidate them. We confronted them with our aircraft carriers, confident that the aircraft carriers could defend themselves, all those thousands of our sailors on those carriers, and confident that our homeland would not be attacked by atomic bombs and missiles launched from the mainland of China. That is not true anymore, and every day what we are seeing is our American technology is making not true, and, if we have to confront them in the future, we will be doing so at great risk and perhaps lose thousands of our military peoples' lives.

In 1996, a Chinese publication, in a Chinese publication, a major general of the Chinese, in fact, it was the vice commander of the Academy of Military Services in Beijing, was quoted as saying, and I quote:

> As for the United States, for a relatively long time it will be absolutely necessary that we quietly nurse our sense of vengeance. We must conceal our abilities and bide our time.

End of quote.

They are biding their time. They are biding their time until we are vulnerable.

Finally, if a decade from now a crazed or power-hungry Chinese general even by mistake or perhaps unintentionally or even intentionally launches a missile attack on the United States, perhaps it will be just one rocket or maybe two, but they launch it over toward our country, millions of our people will be incinerated. The horror of it, and it is unthinkable, and if that happens at that ghastly time, we will have to remember that President Clinton opposed developing a missile defense system, and even worse, we may remember that the upgrades of those Communist Chinese missiles happened with American technology under President Clinton's watch. We cannot defend ourselves, and we have given the technology to kill us.

50TH BIRTHDAY OF THE STATE OF ISRAEL

The SPEAKER pro tempore (Mr. GIBBONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York (Mr. OWENS) is recognized for 32 minutes, approximately one-half the time remaining until midnight.

Mr. OWENS. Mr. Speaker, I hoped to have a complete hour, but was going to be divided in two parts anyhow. One part I wanted to utilize to congratulate the State of Israel on its 50th birthday. I wanted to do that some time ago, but it has been very difficult to get time on special orders recently. So I am a little late, but it is still the year of the celebration of the 50th birthday of the State of Israel, so I think that it is appropriate that I make these remarks. And I want to make the remarks in the spirit of comparison of Israel with many other nations and draw some lessons from the conduct of the leadership of Israel.

Second part of my presentation I wanted to deal with leadership in the United States as compared to leadership of Israel and other parts of the world on the vital issue of education, and I hope that I will be able to do that. I know the rules are that I cannot do that if the majority Representatives show up to claim the last 30 minutes. But I do hope to have the time to do that. If not, I will settle for just using the first 30 minutes to discuss the birthday of Israel and the significance of that in this modern world.

Mr. Speaker, I want to wish Israel a happy birthday and state that it is 50 years old, and among nations that is really an infancy, it is an infant nation. You know, the United States is 222 years old, and we are considered quite a young Nation at 222 years. Israel at 50 years is an infant nation.

But Israel is not alone. There are a lot of new nations in the world nowadays. There are many nations that are younger than Israel, and it is very interesting to compare some of the nations about the age of Israel, some of the nations that are younger than Israel, and some of the nations that are much older than Israel and look at the performance.

Israel has done a great deal. The leadership of Israel is to be congratulated on the achievements that they have accomplished in the 50 years of the State of Israel's existence. It is a tribute to leadership, and by leadership I do mean large numbers of people, not just the prime ministers and the Cabinet ministers. Israel has had layers and layers of leadership. As we say in basketball or football, the bench; they have a lot of people on the bench whose names you never know among the civil servants and the deputies and the assistants across a broad range of agencies and activities developing policies to maintain civility, a balanced civic life in the nation. At the same time for the entire existence of Israel, they have been under pressure and fighting for survival.

□ 2300

So I salute that leadership and want to talk about leadership. Sir Arthur Lewis, who was a Jamaican and shared a Nobel Prize in economics with a colleague of his, sir Arthur Lewis's major theme in his book on developing nations was that the key was leadership. The key was not natural resources. The key was not location, geographic location. The developing nations prospered and advanced in accordance with the leadership that they had, and that was the critical item.

If you look at the recently established nations, nations who received their independence even after Israel, you see a pattern where if natural resources and geographical location was a determining factor, they should be much further along than Israel.

For example, if you look at Nigeria, and I think of Nigeria because Nigeria is in the news today, Nigeria's strongman ruler, the dictator who has been in the position for 5 years, but they have had a lot of other military dictators, he died today. Sani Abacha died, and I do not care to comment on his death or his life. I certainly do not think it is the time to launch a critical analysis of his regime, but I would like to say that he leaves nothing behind that we can be proud of in history. He leaves a record of a sovereign predator who used his enormous powers, and we can see nothing good that came of his great use and abuse of his enormous powers.

Nigeria is a country blessed with natural resources. Nigeria is a country blessed with the particular natural resource which guarantees wealth. Nigeria has not only fantastic oil deposits, but they have a type of oil which is much sought after all over the world. So Nigeria has had oil wells pumping for a long time, and if natural resources alone could determine the faith of a developing nation, Nigeria would be among the leaders of the developing nations.

Nigeria is 37 years old. It was granted its independence by the United Kingdom October 1, 1960, so it is 37 years old. Israel is a little older, May 14, 1948. But Israel has no oil, no uranium, no gold, no great deposits of diamonds. Natural resources certainly do not exist in any significant abundance in Israel, so they did not have that boost.

Nigeria is 37 years old, and its oil wealth has been squandered by its leadership. The oil wealth has not been utilized to really build a prosperous country. It is a large country, more than 100 million people. It is the most densely populated country on the African continent. It has more population and more people. It is not the largest in size, but it has more people, 100 million. South Africa, has many fewer people, less than 30 million people. Nigeria has 100 million. But it has vast land resources and many other natural resources, but oil is the key, because it is the cash crop, the generator of cash in hard currency. The cash that can buy anything you want anywhere in the world, Nigeria had that. But it has all been squandered by the leadership of Nigeria.

The leadership of Israel is a great contrast. Having no natural resources, the only oil well Israel ever had was the oil wells in the Sinai Peninsula, and they developed the oil there while they were occupying the peninsula, and then they gave it up. The leadership decided at a critical moment that in order to make peace with Egypt, that they would agree to surrender the oil wells in the Sinai Peninsula. So their very short period of wealth by oil was ended.

So the leadership of Israel stands out even more when you take a look at the nature of the land that they occupied. It is land that had been given as desert, where nothing great was going to happen there, certainly nothing in the area of agriculture and self-sustaining food production. Yet they transformed that land into an agricultural giant. They became an agricultural giant, not only for production of food in the Middle East, but they exported large amounts of food to Europe.

At one point, agriculture was their major industry. It is no longer the major industry in Israel. Agriculture is not the major industry. High-tech industries, high technology industries based on brain power and the development of complex industrial operations to take advantage of the knowledge that is produced in the Israeli educational system and other parts of the world, because Israel does benefit from the fact that the leadership is drawn from a diverse group of people who came from all over the world.

The diversity in their leadership probably explains some of the reason it has been so effective. They have a great deal of wisdom they bring as a result of years and years of the Jewish people, centuries of the Jewish people suffering, but they also have a knowledge of all the cultures in the world. People came to Israel from all parts of the world. So Israel is a premier example of what great leadership can do. Nobody else has accomplished this.

No other Nation can say in 50 years they have accomplished as much as Israel. It is basically a self-sufficient society at this point, as much as any society is. Even the great United States of America, we depend on export markets and various other things, where if they were to collapse in other parts of the world, it would have an impact on us here also. So nobody is totally self-sufficient, but in 50 years Israel is about as self-sufficient as a Nation can become. Yes, they receive large amounts of aid from other countries, particularly from the United States, but they have made good use of that aid.

Let us examine the age of some of the other countries that are in existence now. One of the youngest, probably the youngest, is South Africa. I do not know of any country that has come into existence since South Africa reestablished itself May 10, 1994. So South Africa, the new South Africa, the democratic South Africa, the South Africa where all of its people, black and white, are allowed to participate in its government, is only four years old. So it is among the youngest.

The Congo is 37 years old. The new Congo that came into existence after the Belgians were forced to give it up is

37 years old. Most of that time it has been under one leader, the leader was installed after the death of Patrice Lumumba. He, of course, recently died also, and there was a whole new leadership that has taken over.

But since then the Congo, with the vast natural resources, vast wealth, huge land mass, the Congo is an impoverished country right now. It can barely feed its own people. It cannot even feed its own people. All of the potential that exists there in terms of its wealth and its minerals, tin and diamonds, very few things you do not have in terms of natural resources are there that do not exist in the Congo. Yet the Congo is a miserable place. The leadership of Mobuto established by the CIA, the Central Intelligence Agency, helped to over throw the Lumumba government and install Mobuto, and Mobuto reigned for many, many years with the help of the CIA and aid from this country, and he did nothing but pilfering the country. He was a sovereign predator with all of the power, and he did nothing but make himself and his cronies wealthy.

Some countries that came into existence recently include Guyana here in this hemisphere. Guyana is 32 years old. Jamaica is 35 years old. Trinidad is 35 years old. I remember being quite happy when the independence was granted to Trinidad and Jamaica and Guyana and Grenada, because in my Congressional district, you have large numbers of people from all of these countries. The West Indian population outside of the West Indies, the greatest concentration is in the 11th Congressional District in Brooklyn.

□ 2310

So I have experienced the joy of independence with all of these different groups. I also experienced the sadness that set in as a result of the various problems that each one of these nations has experienced. They have varying degrees of success in this hemisphere. But, generally, it is not a good picture when you look at the economics of these various nations.

Trinidad and Tobago have a great deal of oil. They had tremendous oil resources. They still have substantial oil resources. They were not utilized properly. The leadership did not utilize that wealth properly in the early days of independence.

If Trinidad and Tobago had made some decisions about utilizing their wealth to build a first class education system, if they had educated their populace and prepared for the complexities of this century and the kinds of economies that we have now, they might have done what they did in Bangalore, India, begun to develop a large pool of people who are educated in the area of computer science.

Bangalore, India is considered the computer programming capital of the world, because they have this tremendous pool of people, young people constantly being produced from their education system who are computer experts. Many American companies send their computer work over there by contract.

When they import professionals, people in the computer industry, into this country, they come from Bangalore, India in large numbers. In fact, there is an issue right now on the table concerning the new American Competitiveness Act which was passed by the Senate.

That act provides for us to solve our problems in terms of the shortage of personnel in the information technology industry by bringing in foreign experts, foreign computer workers, information technology workers. The greatest percentage of those workers would come from India.

Right now, there is a dispute because some people are wondering how can we have an American Competitiveness Act which is designed to make us more competitive by relying on outside workers to come in? Why do we not train our own workers? Why do we not build up our capacity here and make certain that large cities, the big cities, inner cities with large numbers with unemployed people, train the people who are able to take these jobs, and we would have the resource here in the Nation.

One fallacy of relying on outsiders is we are building the capacity of countries like India to create their own nuclear bombs and their own nuclear weapons. Many of the Indians that helped to create the nuclear bomb which was exploded recently and for which they have endured sanctions from our government and indignation from the rest of the world, many of those experts were trained right here in this country. They were trained here.

As you train more and more, you bring them in to work here, and you pay them, you are increasing the pool of people who come from India to be able to do that kind of thing.

I am not going to single out Indians and say we should not import more computer workers and information technology workers from India and discriminate against them, import them from other countries instead, I am saying we should not be importing them from anywhere because we have the potential pool right here.

The failure of leadership, to get back to my concern tonight, the failure of leadership in places like Trinidad, Jamaica, Guyana, Grenada, the failure to invest more in their own education systems places them outside the possibility of the realm of being able to have workers come from their countries with the same expertise as the workers who are trained in India or some other central European countries that will be soon exporting workers to this country, instead of us developing our own.

The answer to the problems is to develop our own. But if you are not doing that, this is an opportunity that the countries of this hemisphere had, but I do not think it is going to be there much longer.

So we have some countries that are younger than the Nation of Israel, and some have done very poorly in terms of their years of existence and foundations they have laid. I think Israel is to be congratulated for having done far better than the Soviet Union, which came into existence in December 1922.

Russia, Ukraine, a number of countries that made up the Soviet, existed long before the Soviet Union. The Soviet Union was 75 years old when it died. The Soviet Union is no more. It is dead. That is very interesting. Modern nations can die. Modern nations. A superpower we have watched die.

So Israel is not invulnerable. It will not go on forever. It is always going to need what they have now, and that is excellent leadership.

At 50 years, Israel is much further along than the United States was at 50 years. At 50 years, we had endured some pressure from the outside. We had to fight for survival. There were a number of different challenges to the new Nation. Of course we came into existence only after fighting a war with Great Britain. This new Nation was struggling along.

Thanks to Thomas Jefferson, we have doubled our size on to his presidency. When he died, the Nation was 50 years old. When John Adams died, the Nation was 50 years old. Thomas Jefferson, John Adams, James Madison, James Monroe, they all left a legacy which guaranteed that the Nation was strong enough to resist the greatest challenge that it faced in the 1800s when civil war erupted and the Nation had to fight for its life.

If we had had two nations resulting from the Civil War, history would be very different, I assure you. So we have had, after our first 50 years, we were much further along when the greatest challenge that the nations ever faced came along; that is, the Civil War.

Israel is not immune to some new catastrophe. They have suffered one catastrophe after another, one challenge after another, one war after another where everybody who is not familiar with the Israelis themselves counted them out and said they will never survive.

They were attacked from all sides at one time before they made peace with Egypt. Then they were attacked even after that later on, and they are under constant pressure.

If you take a look at the physical nature of Israel, you can understand why they are always at risk. Israel looms very large in the minds of most of us because of the fact that they play a major role in terms of war and peace and the world. They have a large population in this country that, of course, keeps us very much aware of the problems of Israel and the achievements of Israel. So it looms large in our minds.

But when you go to Israel, the first shock that I had when I landed at the airport was that it is a very tiny country. You really begin to feel how tiny it is when you land at the airport in Israel.

I began immediately to feel it, even before we started traveling around the country and found that the country's dimensions physically are astounding. It is so tiny in that it is hard to conceive of the fact that its total area is 20,770 square kilometers. But you cannot really envision that.

Stop and think about the State of New Jersey. The State of New Jersey, which too many New Yorkers think of as sort of a suburb of New York, the State of New Jersey is a State in itself, but Israel is smaller than the State of New Jersey.

As of July 1997, you were talking about a population of 5,534,000. That is a great increase. When I first went to Israel in 1983, the population was about 3 million. So they have a great increase in population by bringing in groups from all over. But it is still only 5,534,000.

They occupy a very tiny strip of land. The width of Israel is a very narrow waist. Of course the length also is very short. The preoccupation of the Israeli leadership with land is very easy to understand. They have taken the little land that they have, and they have transformed it. The greening of the desert is discussed often.

□ 2320

They have used their knowhow, their ingenuity, to make good use of all the land available. But when it comes to their defense in military terms, the fact that it is so easy to penetrate with even short-range rockets or short-range artillery gives the Israelis a well-understood concern always about their survival in terms of land.

But the leadership, despite all these problems, has maintained itself, and everybody knows the military machine that the Israelis were able to build was a remarkable one, indeed. They have earned high praise for that.

But most people do not understand how at the same time the Israelis were under such military pressure, they have built a nation with a strong education system, they have built a nation with institutions of culture, they have built a nation that has a great deal of compassion and humanity.

In the midst of all their troubles, the Israelis rescued 40,000 black Jews, Ethiopian Jews, from Ethiopia and brought them into Israel. In the midst of all their troubles they made special provision for black Jews from Ethiopia. The Israeli leadership decided to undertake this very difficult job of assimilating people who have a different skin color.

They were not stupid. They knew very well that in the modern world color is very important, and that it is a new kind of problem. When I visited Israel the last time, I visited a school called Yemin Ord, where half of the 500 students there were Ethiopian. They deliberately reached out to bring in the Ethiopian youngsters in this village school setting.

They have tremendous achievements there. The Ethiopians have come from a pastoral society, and have been able over a short period of time to rise to the level and the challenge of Israeli education. The graduates from that school who were Ethiopian performed at an equal level to the other graduates from that school.

Since then, they have had some difficulties. We have had some headlines about Ethiopians rioting in the streets of Tel Aviv, and being very upset about the fact that some bigoted people in the Israeli blood supply system separated their blood out and threw it away without telling them because they thought there was something wrong with their blood, and some other incidents have taken place.

So they have had, as a result of reaching out to the black Jews of Ethiopia and recognizing that they were Jews, first of all, and color had to be secondary, they have had some special problems. The Israeli leadership is to be congratulated for taking on those problems with all the other problems that they have.

If I had to call names, of course, and I do want to call some names, David Ben-Gurion, the first Prime Minister of Israel; Golda Meir, the American schoolteacher who went to Israel and became Prime Minister; Menachem Begin.

Menachem Begin was labeled by the British as a terrorist, and he was in that sense a terrorist. He led the violent uprisings which helped to force a critical situation which led to the creation of the State of Israel.

Yitzhak Rabin and Shimon Perez. It is interesting that Begin and Yitzhak Rabin were both military people, they were coordinators of violence. They were successful generals and successful commanders of violent activities, of wartime activities, military activities. But Menachem Begin and Yitzhak Rabin were the greatest peacemakers of Israel. Men who have faced war and understood war were the ones who understood the necessity for peace.

Menachem Begin invited Anwar Sadat to come from Cairo to Israel and open the doorway to the peace agreement which Jimmy Carter presided over, and led to an agreement with Egypt and Israel which in many ways has done more for the security of Israel than any other action taken by the leadership of Israel since its existence.

They eliminated one front. They eliminated their largest and most effective enemy, Egypt, by negotiating peace at the proper time. They gave up some oil wells, some real estate that was very popular with the Israeli population. They gave up a lot, but they got peace and security as a result. Menachem Begin, Yitzhak Rabin.

Shimon Perez was very interesting individual, in the background for a large part of his life. If one person can be credited with building the Israeli military machine in terms of the equipment and the organization of it, and even the creation of the Israeli Air Force, and the creation of the series of activities which probably led to Israel developing a nuclear weapon of their own, and I cannot document this and nobody admits it, but certainly the Air Force and the military machine of Israel was built mostly through the ingenuity and leadership of Shimon Perez, who operated behind the scenes and never fully got the credit. It is important that there are unnamed Israelis that we will never know who helped to make Israel what it is.

Leadership means more than the people on top. The leadership in Nigeria, the leadership in Trinidad and Jamaica, et cetera, the problem often is that the leadership is too scarce. There is only one layer of leadership, and that layer of leadership, if they have errors and faults, there is nobody to balance them off. There are no people to criticize them.

Leadership in a nation means that you have to have newspaper editors, judges. The whole set of modern functionaries have to be present, and they have to sort of play off each other and keep each other in line, and you create something which, by trial and error, becomes a stable Nation.

The absence of this kind of leadership in most of the nations that have been newly formed is a serious shortcoming. If there is any remedy for underdeveloped nations or developing nations that we ought to look at, it ought to be some way to give them more and more aid to create more and more leaders. That means that education in other developing nations ought to take priority.

There are some nations which are pitiful. Somalia destroyed itself completely. Somalia is 37 years old, but they have completely destroyed themselves. There is no Nation of Somalia anymore. There is something on the map. They have no government at all, it is completely gone.

This is a nation where most of the people are of African descent. This is a nation where most of the people speak the same language, most are the same religion. We cannot understand quite what happened to Somalia, but because of faction fighting, they destroyed themselves completely. Israel exists because they have been able to deal with each other. They have had this pool of leadership drawn from all over the world. They have been able to compromise and negotiate when necessary.

There are some very serious problems internally within the Nation now. At 50 years old, its existence is not guaranteed, I assure the Members, but certainly when we think of the pressure on the Jewish populations of Europe, which is part of what helped to create Israel, the man who created those pressures, Adolph Hitler, said that the Third Reich would reign for a thousand years. The third Reich is gone, it is no more, but Israel is very much alive with a lot of promise for growth in the future.

I salute the State of Israel on the occasion of its 50th birthday. The Jewish people have defied numerous catastrophes and they have survived for thousands of years. Now Israel has become a harvesting place for all of these centuries of suffering and the wisdom accumulated from that suffering. Happy birthday to the State of Israel.

Mr. Speaker, if the majority is not here, I would like to claim the other 30 minutes that is left for the second portion of my presentation.

The SPEAKER pro tempore (Mr. GIBBONS). The time of the gentleman from New York (Mr. OWENS) has expired. In the absence of a member of the majority party, the gentleman from New York (Mr. OWENS) is recognized for the remainder of his hour.

Mr. OWENS. Mr. Speaker, I want to talk about leadership again. The theme of leadership now shifts to the United States. It shifts to the Congress of the United States.

Last week on Friday we voted the majority budget into existence. That majority budget completely ignored a major need of this Nation. This Nation needs to reform its education system. At the heart of that reform process is a need for the construction of new schools.

In the Republican budget there are no funds allocated for the construction of new schools. In fact, the Republican budget represents an attack on education. They are going to wipe out Title I programs as we know them, and they will proceed to turn the dollars for Title I into vouchers.

They are going to completely ignore the major problems. The problems have been clearly delineated by the President, who started with his State of the Union Address delineating the problem of the schools, when he said we need $22 billion for the construction of new schools. That is his program. I wish we had a more direct way to deal with the problem of the schools, and not through a loan program.

□ 2330

He offers a $22 billion loan program where States and localities may borrow the money and the Federal Government would pay the interest. So they are interest-free loans. That is better than nothing, of course. It is significantly better than nothing. But I wish we would dedicate some portion of the funds that we have at the Federal level to the building of schools, grants outright to schools, especially in the inner-city communities and the rural communities where schools are in atrocious condition.

All over America, in the inner cities in the suburbs, and in the rural areas, we are beginning to find these schools that are 75, 85 and 100 years old. They need repairs at least. Many of them need extensive renovations. Then we find many situations where we need totally new schools and they are just not there. The Federal Government should take leadership and this Congress should take leadership.

We are facing a situation at this point where there is going to be a budget surplus of no less than $50 billion. No matter how they play with the numbers, there will be no less than $50 billion more in revenue collected than there will be expenditures. So with a surplus of $50 billion, now is the time. We have a window of opportunity to act and deal with the most pressing needs of our school systems.

Education reform needs a lot of different things, but what it needs most is the basics such as classrooms and safe schools; safe schools and classrooms in those schools which will allow us to then move to the President's second point.

His second point is that we need to use Federal resources to fund more teachers and decrease the student-teacher ratio so that teachers do not have so many students to teach, especially in the early years.

That makes a lot of sense and the education pedagogy, the surveys and studies, everything supports the fact that we would get a more effective and more efficient school system if in the early grades we had classrooms that are smaller; probably even in later grades too, but start with the early grades.

The President's proposal to provide Federal aid to reduce the number of children per class is the next step and it is very sensible, but it cannot take place in areas like New York City. Even if we had the money for more teachers, there is no place to put the classes. We have to have more classrooms if we are going to make use of the money for smaller classes.

The State of New York, the legislature, recently passed legislation which guarantees that in 5 years, every child will have a right to a pre-kindergarten education. Pre-kindergarten education will be universal in 5 years in New York, theoretically. Theoretically, it is going to be done. The money will be available for the State to fund a large part of it. But if we do not have the classrooms, and in the places where we do not have the classrooms like New York City, where are we going to put the pre-kindergarten kids when we have situations where we cannot take care of children who are already there?

We have situations like PS-161. And I had a group of students from PS-161 visit me last week. It is a great school, and I had been there to visit their school about a month ago. I was very much impressed with their school. Their school has been cited nationally. Even Diane Ravitch, who has very little positive to say about inner-city schools, cited this school as being an excellent school. Diane Ravitch is a former assistant secretary for OERI, the Office of Education Research and Improvement.

PS-161 is located about seven blocks from my district office on Crown Street in Brooklyn. PS-161 has a school building that was built for 500 students. They now have almost a thousand. They have twice as many students than they were built to hold. PS-161 has a coal-burning furnace. The school still has a furnace that burns coal, not only polluting the air around the school, but polluting the internal school building.

We cannot have coal-burning furnaces and not have coal dust escape. The first house I ever owned had a coal-burning furnace. I got a bargain because of that. No matter what filters we put in there or what steps we took, some of the coal dust escaped in the house. And after a while one can see the coal dust settling around.

Mr. Speaker, if a child sits in a school with a coal-burning furnace, and an old one at that because these premises are 50 years old or older, and the walls of the cellar and the walls in the area around the furnace, all of those are problem areas, the chimneys are problem areas, I assure my colleagues that if a child sits there for 6 years, day after day, year after year, his lungs will receive enough coal dust to affect his health in some way. They may never know.

But as I told the PS-161 students who came to visit me, they achieve despite it all. They are high achievers in reading and high achievers in math scores, among the highest in the city. They achieve no matter, despite all of this. But I hate to see one of those young people so gifted, and they are not necessarily gifted, but so well educated. They are normal children. They do not pick and choose them. They are not picked for gifted and talented attributes. They are just normal children. Most of them are poor. Ninety-five percent of the PS-161 students are eligible for school lunches. They are eligible for the school lunch program, which means they are poor. They are coming from low-income families. Nevertheless, they achieve at a very high rate despite it all.

I would hate to see one of those high-achieving students have their life cut short or their career made difficult because they develop aggravated asthma later in their teen or early college years. I would hate to see one of their lives cut short because they have lung cancer because they have sat in a building provided by the city fathers and the Board of Education that was unsafe.

We cannot control the environment that poor children come from. We do not have enough humanity yet to make certain that every child gets three meals a day and has a decent place to stay, and food, clothing, and shelter. We do not have that kind of society yet. But certainly when a child goes to school they ought to expect to have a safe place, a place free of harm to study, not a place which is a danger to their health.

So the coal-burning school, PS–161, is an abomination. The fact that we have 285 such schools in New York, out of 1,100 schools in New York, 285 have coal-burning furnaces. That is an abomination. That is cruel and inhuman treatment to children.

On top of that we add the fact that these same children are in a school that is overcrowded, so that some of them have to eat lunch at 10 o'clock in the morning. At PS–161 where despite it all they perform brilliantly, they have an excellent principal and they have teachers who care, somehow the reading scores, the math scores, any barometer we utilize shows that they are given an excellent education. But they are subjected to force feeding at 10 in the morning. To make a child eat lunch at 10 in the morning is a cruel and inhuman treatment. Some have to eat later on at 1 and 2 o'clock, and they are hungry. That is cruel also.

That has to happen, they tell me, because the lunchroom is not big enough to accommodate all the students. After all, the school was built for 500 students and it is accommodating almost twice that number.

If PS–161 was by itself, I would not be here today discussing this. But this is the rule, the pattern almost, in certain areas of the city. All of the schools have a problem that forces them to have very early lunches and very late lunches. Most of the schools have some problem there. Some are as bad as PS–161, and they have children eating lunch at 9:45 or 10 o'clock in the morning.

□ 2340

In PS–161, they have a very tiny library room, but it was filled with eager youngsters. They even have put in two sections where they have a ring of computers where the youngsters can practice on computers. The principal himself went out and begged and borrowed and got the money together, it did not come in the budget. Whatever has to happen he makes happen there.

He has a skilled staff that he keeps there because they like working there. Some of his teachers come in from the suburbs where they pay more money, and they could get jobs in the suburbs as teachers. They come there because they like what they are doing. They are in an environment with great leadership, to keep the theme of leadership going, because the principal is a great leader. They get things accomplished.

But in that library, they pack one on top of the other. The kids sit one next to the other. They can barely turn the page. But as a mark of what is happening in that school, you do not hear a single sound in terms of children complaining about not being able to turn the page because they are so close to one student, right next to another. They work; they read. They achieve despite it all.

I am here to salute PS–161 and all the people involved, the principal, the teachers, parents. They have an afterschool program where the parents run it. The parents finance it. It is amazing what they do at PS–161.

But why should the leadership of the school system in New York, the leadership at city hall, we have a $2 billion surplus. This year we have a $2 billion surplus projected in the city budget. None of that has been proposed as a way to get rid of some of the coal-burning furnaces. At the State level we have more than a $2 billion surplus projected.

The Governor vetoed a bill recently which would have given $500 million to help alleviate the worst conditions in school buildings. So I cannot complain only about the Republican majority here in this body. We have a situation in our State and our city which shows that there is no compassion. The leadership wants to subject the children to cruel and inhumane treatment.

We have an American Competitiveness Act that is going to be on the floor soon, where the Senate has said the only way we can get the people we need for information technology, the only way we can meet the problem of Y-2000, you heard of that, where our computers are going to go wild, lots of things are going to happen if we do not get those computers changed which cannot deal with the year 2000. There is a mad race on behind the scenes to deal with the year 2000. We cannot get the people to do it. We do not have the personnel.

One of the reasons we are going outside the country to get personnel is because we are confronting that problem. But there is an ongoing need for information technology workers; 300,000 vacancies exist right now in the information technology industry. The Department of Labor projects that over the next 5 or 10 years we will have 1.5 million vacancies in the information technology industry, because they do not see the colleges and universities and the other places which produce these information technology workers, they do not have the capacity, they do not have the students in there now. Unless something radical happens, we are not going to be able to take care of those positions.

We have the American Competitiveness Act. If ever there was a misnamed piece of legislation, it is the American Competitiveness Act, which the House will be acting on soon, which calls for the importation of an extra 30,000 people in the category of professionals. We are going to lessen the quota in some other areas for immigrants and increase the quota for professionals in order to deal with this problem; 30,000 more in the first year and over a period of 2 or 3 years, 20,000 each year more.

Many of them are going to come from Bangalore, India. There is a special company over there which sends us large numbers, the same company that sends large numbers of Indian workers here for our information technology industry, that same company also has a large number of contracts to work on the Indian nuclear weapons. As I said before, you have a circle there where we are training people who can make the bombs, which we deplore, the proliferation of nuclear weapons.

So we have a problem of leadership in America. We have a problem with leadership in this House. There is no compassion for poor children out there who need the help of the Federal Government.

The Federal Government cannot do it all, but if we make the first step, we take the first step, we can push the States and the cities to use some of their surplus or more of their surplus or, if not the surplus, to find a way to meet us somewhere. Somebody has to have the compassion to see that you are putting children at risk in unsafe and dilapidated buildings.

I have not covered all of the hazards. Some of the schools still have lead pipes that are unhealthy. Some schools have lead paint. Some of the schools have top floors where there is deterioration as a result of too many leaks, and there are so many problems with the leaking that they cannot find it anymore. The walls are just caving in.

I am sure that this is not unique to New York. Other big cities and rural areas have similar problems with respect to defectiveness of school buildings. I want to salute the United Federation of Teachers, the affiliate of the American Federation of Teachers in New York. They took the case to court with respect to safety in school buildings, and they recently won a victory. A judge has ordered that all school buildings in New York have to be inspected for violations.

We inspect other buildings. Landlords are held to standards with respect to health and safety. But we have never had a situation where schools have been held to the same standards. They have been exempt from inspections from the health or the buildings departments. The judge has now ordered that.

We remember what happened in Washington when they began to look at certain kinds of shortcomings in the schools. For 3 weeks they had to delay the opening of schools here in Washington, D.C., because roofs had to be repaired. We hope that we are going to confront this problem and really get down to admitting that we have a crisis and are subjecting children to a crisis.

We are endangering and injuring the national security of the United States. Our national security is now tied up with the degree to which we educate our population.

I am not going to belittle the need for a strong Air Force or a strong Navy, the need for the most effective modern weapons, but in addition to that and in order to keep that going, you need an educated population on a scale we have not yet recognized to keep everything going.

We have these surveys that have been done about the shortages of information technology workers in business. They only look at businesses. They surveyed businesses. They have not surveyed the nonprofit sector and their needs for information technology workers. They have not surveyed schools, which are trying to get going with more and more information technology, and they need personnel. When you look at all of the ways in which we are going to be utilizing information technology workers, the problem mushrooms. Our Nation's national security, our leadership economically, all is being jeopardized by the blind manner in which we insist on proceeding by not recognizing the importance of education.

The budget that has been submitted by the majority Republicans in this House does not recognize the educational crisis at all. It plays games with education. It is dangerous, the budget that has been submitted by this House.

We are ignoring a window of opportunity. We have a $50 billion surplus we can contemplate. And anybody who says that none of that surplus is going to be spent on anything but Social Security, that is a lie. That is a big lie, because we have left certain things undone. We have not fully funded the transportation bill, not fully funded the agriculture research bill. A number of places have not been fully funded.

You watch, as we go into the latter part of this session, we get to the last days of October, you watch them pull the rabbits out of a hat. You watch and understand that part of that $50 billion surplus is going to go toward meeting some of these needs, as it ought to. I am all in favor of some of the money being dedicated to Social Security.

When the President made his State of the Union address, we anticipated $8 billion. Certainly if you only had an $8 billion surplus, it should go to the Social Security contingency fund, rainy day fund. But if you have $50 billion, why not divide it the way that I propose. One-fourth of it can go to Social Security, $50 billion or more, one-fourth Social Security contingency fund. One-fourth should go to the reduction of taxes on people, families that earn $50,000 or less. And one-fourth should go to a direct grant system for school construction and repair and renovation and improvement. Another fourth should go to other education matters such as reduction of class sizes, the purchase of equipment, education technology.

□ 2350

We can spend $50 billion in ways that would be an investment for national security. If you put it into education, it is an investment for national security, unlike any other expenditures. We are going to spend it on something, we might as well put on the table a discussion right now of how we are going to spend the $50 billion, how we are going to invest the $50 billion and not play games.

I put a statement in the RECORD on the budget where I said the following last week at the time of the discussion of the budget:

It is highly likely that there will be a budget surplus of no less than $50 billion for the coming budget year. For the first time in many decades, there will be a window of opportunity to make meaningful Federal investments in education. Unfortunately, the Federal share of the overall expenditures for education is merely 7 percent at present. This budget surplus offers an opportunity to bolster our national security by increasing the pool of brainpower to operate our increasingly complex society. I propose that the new budget surplus be divided in accordance with the priorities that I have just stated. This represents a worthy budget deal. Let us make a deal. Let the deal be on the table in respect to how we should spend the dollars, one-fourth for direct emergency for school funding, one-fourth for Social Security, one-fourth to reduce taxes for people at the bottom, and one-fourth for other education priorities. This represents a worthy budget deal which should immediately be placed on the table for discussion and debate. We need an open debate on the best use for the surplus. What American voters should fear most is a closed-door, smoke-filled room, a deal made in October with only representatives of the Republican-controlled appropriations committees and representatives from the White House present. There will be a compromise which will leave out very important, basic national security concerns, especially as they relate to education. School construction will be tossed aside in that kind of compromise. Let us talk about it. Let the American people hear the possibilities. Let the focus groups and the polling show us where they are and let the parties respond to that. The common sense of the American voters cannot go into play if they do not know what the issues are, if they do not know what the possibilities are. We have an option. We have a $50 billion plus option, a window of opportunity, and the public ought to know about it. A multibillion dollar deal is going to be made. Let this deal be done in the sunshine. Let us do a deal for the children of America.

Start acting real.
Right now do a democratic deal.
Do this magic surplus deal.
Upfront right away.
Chase infected cynics
Off the political highway.
Make humane rules.
Build safe schools.
Start acting real.
Right now do the deal.
Sunshine is now okay.
Act fast in the light of day.
Invest it the people's way.
Stop pushing the no touch lie.
In four pieces cut the pie.
Start acting real.
Right now do the deal.
Vote for children's justice fast.
Make up for the stupid past.
The budget is on keen keel.
Upfront right away.
Do this magic surplus deal.

Do the deal now. Let us not have a situation similar to the one we had in 1990 when they all went to the White House under George Bush and the leadership of the Congress and they made a deal that was not in the best interests of the American people. At that time I wrote a piece called the Budget Summit where I said:

In the great white D.C. mansion
There's a meeting of the mob.
And the question on the table is
Which beggars will they rob?
There's a meeting of the mob.
Now, I'll never get a job.
All the gents will make a deal.
And the poor have no appeal.
There's a meeting of the mob.

It is still relevant. I do not want the mob to meet at the White House or any appropriations room and decide behind the scenes how to use the surplus without the input of Members of Congress. We all get elected, the same number of constituents in the districts. We should all have input. The American people should have an input. The columnists and the analysts, everybody should have an input. They should not suddenly wake up and find the deal is done and is done badly, we have used the money in ways that are really not consistent with what voters think are the priorities. Education is an ongoing priority.

Within the education priority, there is no priority more important than construction. Safe schools, safe schools where students can study safely and in peace and with the necessary equipment and supplies. They should come first. In our national security, nothing is more important than education. We have a window of opportunity. We need the leadership in this House, we need the leadership in this city, in Washington, leadership that understands this. Nations rise and fall on the basis of their leadership.

As I said before, superpowers can fall, too. The Soviet Union died at age 75 because its leadership was just not responsive. Its leadership closed its circle. They would not listen to anybody from the outside. They would not even let the outsiders know what they were deciding.

Nothing is worse than going into the backroom and making a deal without the input of the American people. Nothing is more anti-democratic. Nothing is more destructive. We need leadership. We are a great Nation. We are called, as President Clinton said, the indispensable Nation. We have a pivotal set of decisionmakers in this pivotal Nation. This year is a pivotal time of decision-making. Let us make decisions that are in the interest of the children of America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rush (at the request of Mr. Gephardt) for today, on account of business in the district.

Mr. Deutsch (at the request of Mr. Gephardt) for today, on account of personal reasons.

Mr. Farr of California (at the request of Mr. Gephardt) for today and the balance of the week, on account of official business.

Mr. Sam Johnson of Texas (at the request of Mr. Armey) for today, on account of attending a funeral.

Mr. Houghton (at the request of Mr. Armey) for today and until 6 p.m. on Wednesday, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Pallone!) TO REVISE AND EXTEND THEIR REMARKS AND INCLUDE EXTRANEOUS MATERIAL:)

Mr. Conyers, for 5 minutes, today.

Mr. Underwood, for 5 minutes, today.

Mrs. Capps, for 5 minutes, today.

Mr. Goode, for 5 minutes, today.

Mr. Sherman, for 5 minutes, today.

Ms. Millender-McDonald, for 5 minutes, today.

Ms. Jackson-Lee of Texas, for 5 minutes, today.

Mrs. Maloney of New York, FOR 5 MINUTES, TODAY.

(The following Members (at the request of Mr. Fox of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. Riggs, for 5 minutes, on June 10.

Mr. Metcalf, for 5 minutes, today.

Mr. Burton of Indiana, for 5 minutes, today.

Mrs. Linda Smith of Washington, for 5 minutes each day, on June 10 and 11.

Mr. Scarborough, for 5 minutes, today.

Mr. Fox of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at her own request) and to include extraneous material notwithstanding the fact that it exceeds two pages and is estimated by the Public Printer to cost $1,172.00:)

Mrs. MALONEY of New York.

(The following Members (at the request of Mr. Pallone) and to include extraneous matter:)

Mr. McGovern.
Mr. Kind.
Mr. Skelton.
Mr. Sherman.
Mr. Hamilton.
Ms. Norton.
Ms. Eshoo.
Mr. Schumer.
Mr. Brown of California.
Mrs. Maloney of New York.
Mr. Berman.
Ms. Furse.
Mr. Barrett of Wisconsin.
Mrs. Meek of Florida.
Mr. Visclosky.
Mr. Lantos.
Mr. Abercrombie.

(The following Members (at the request of Mr. Fox of Pennsylvania) and to include extraneous matter:)

Mr. Gilman.
Mr. DeLay.
Mr. Burton of Indiana.
Mr. Radanovich.
Mr. Duncan.
Mr. McKean.
Mrs. Morella.
Mr. Walsh.
Mr. Packard.
Mr. Gingrich.
Mr. Thomas.
Mr. Nethercutt.
Mr. Collins.

(The following Members (at the request of Mr. Owens) and to include extraneous matter:)

Mr. Ballenger.
Mr. Upton.
Mr. Hastings of Florida.
Mr. Clyburn.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1150. An act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, June 10, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9529. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Department's final rule—Peanut Crop Insurance Regulations; and Common Crop Insurance Regulations, Peanut Crop Insurance Provisions (RIN: 0563–AA85) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9530. A communication from the President of the United States, transmitting his requests for FY 1999 budget amendments totaling $294 million for programs that are designed to strengthen our ability to deter and respond to terrorist incidents involving the use of biological or chemical weapons, pursuant to 31 U.S.C. 1107; (H. Doc. No. 105—270); to the Committee on Appropriations and ordered to be printed.

9531. A letter from the Deputy Secretary of Defense, transmitting a report entitled "Report to Congress on the Use of the DoD Laboratory Revitalization Demonstration Program," pursuant to Public Law 104–106; to the Committee on National Security.

9532. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Leverage Capital Standards: Tier 1 Leverage Ratio [Regulation Y; Docket No. R–0948] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9533. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 87F–0162] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9534. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9535. A letter from the Director of Congressional Affairs, Central Intelligence Agency, transmitting reports on uncontrolled treaty-limited equipment, pursuant to section 2, paragraph 5(e) of the Resolution of Ratification of the CFE Flank Document; to the Committee on International Relations.

9536. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Inspector General for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9537. A letter from the Secretary of Education, transmitting the semiannual report to Congress of the Inspector General of the Department of Education for the period October 1, 1997, through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9538. A letter from the Secretary of Transportation, transmitting the semiannual report of the Inspector General for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9539. A letter from the Interim District of Columbia Auditor, District of Columbia, transmitting a copy of a report entitled "Reveiw of the Financial and Administrative Activities of the Boxing And Wrestling Commission For Fiscal Years 1996 and 1997," pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform and Oversight.

9540. A letter from the Chairman, District of Columbia Financial Responsibility and Managment Assistance Authority, transmitting the Financial Plan and Budget for the District of Columbia for Fiscal Year 1999, pursuant to D.C. Code section 1–732 and 1–734(a)(1)(A); to the Committee on Government Reform and Oversight.

9541. A letter from the Secretary of the Treasury, transmitting the Department's fiscal year 1997 financial report on the Treasury Forfeiture Fund, pursuant to Public Law 102–393, section 638(b)(1) (106 Stat. 1783); to the Committee on Government Reform and Oversight.

9542. A letter from the Acting Comptroller General, General Accounting Office, transmitting a monthly listing of new investigations, audits, and evaluations; to the Committee on Government Reform and Oversight.

9543. A letter from the Chairman, Consumer Product Safety Commission, transmitting the report from the Acting Inspector General covering the activities of his office for the period of October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9544. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report of final actions of the Office of Inspector General for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9545. A letter from the Chairman, National Credit Union Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9546. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Reduction In Force Retreat Right (RIN: 3206–AG77) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9547. A letter from the Secretary of Labor, transmitting the semiannual reports of the Pension Benefit Guaranty Corporation and the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9548. A letter from the Commissioner, Social Security Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9549. A letter from the Director, United States Information Agency, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997 through March 31, 1998, also the Management Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9550. A letter from the Chairman, United States International Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9551. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Blowout Preventer (BOP) Testing Requirements for Drilling and Completion Operations (RIN: 1010–AC37) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9552. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a proposed plan related to the use and distribution of the judgement awarded to the Little River Band of Ottawa Indians in Docket Nos. 18–E, 58 and 364, before the Indian Claims Commission, pursuant to 25 U.S.C. 1403 (b); to the Committee on Resources.

9553. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Data Collection [Docket No. 980513127–8127–01; I.D. 050598A] (RIN: 0648–AL15) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9554. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Regional Nonindigenous Species Research and Outreach and Improved Methods for Ballast Water Treatment and Management: Request for Proposals for 1998 [Docket No. 980415097–8097–01] (RIN: 0648–ZA40) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9555. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Community Development Quota Program [Docket No. 970703166–8129–03; I.D. 060997A] (RIN: 0648–AH65) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9556. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Disclosures [Docket No: 960828235–8109–02] (RIN: 0651–AA88) received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9557. A letter from the Assistant Secretary and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Revision of Patent Cooperation Treaty Application Procedure [Docket No.: 980511124–8124–01] received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9558. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting the Department's prison impact assessment (PIA) report for 1996 and 1997, pursuant to 18 U.S.C. 4047(c); to the Committee on the Judiciary.

9559. A letter from the Director, National Legislative Commission, The American Legion, transmitting a copy of the Legion's financial statements as of December 31, 1997, pursuant to 36 U.S.C. 1101(4) and 1103; to the Committee on the Judiciary.

9560. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates [HCFA–1878–F, formerly BPD–878] (RIN: 0938–AH55) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9561. A letter from the Acting Deputy Secretary, Department of Housing And Urban Development, transmitting three new reports on the HUD 2020 Management Reform Plan; jointly to the Committees on Banking and Financial Services and Government Reform and Oversight.

9562. A letter from the Director, Corporate Audits and Standards, General Accounting Office, transmitting a report of their opinion on the financial statements of the Congressional Award Foundation for the fiscal years ended September 30, 1997 and 1996; jointly to the Committees on Government Reform and Oversight and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3069. A bill to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council (Rept. 105–571). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 461. Resolution providing for consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees (Rept. 105–572). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 462. Resolution providing for consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes (Rept. 105–573). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on Science. H.R. 3824. A bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft; with an amendment (Rept. 105–574 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Commerce discharged from further consideration. H.R. 3824 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3824. Referral to the Committee on Commerce extended for a period ending not later than June 9, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. STUMP (for himself and Mr. Evans):

H.R. 4016. A bill to amend title 38, United States Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans; to the Committee on Veterans' Affairs.

By Mr. Dan SCHAEFER of Colorado (for himself and Mr. Hall of Texas):

H.R. 4017. A bill to extend certain programs under the Energy Policy and Conservation Act and the Energy Conservation and Production Act, and for other purposes; to the Committee on Commerce.

By Mr. BLUMENAUER (for himself, Mr. Neal of Massachusetts, Mr. Baldacci, Mr. McGovern, Mr. Fattah, Mr. Faleomavaega, Mrs. Morella, Ms. Furse, and Mr. DeFazio):

H.R. 4018. A bill to identify the current levels of savings and costs to telecommunications carriers as a result of the enactment of the Telecommunications Act of 1996, to require accurate billing by telecommunications carriers with respect to the costs and fees resulting from the enactment of the Telecommunications Act of 1996, and for other purposes; to the Committee on Commerce.

By Mr. CANADY of Florida (for himself and Mr. Nadler):

H.R. 4019. A bill to protect religious liberty; to the Committee on the Judiciary.

By Mr. GUTIERREZ (for himself, Mr. Becerra, and Mr. Menendez):

H.R. 4020. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to eliminate the requirement that spouses and children of aliens eligible for adjustment of status under such Act be nationals of Nicaragua or Cuba; to the Committee on the Judiciary.

By Mr. HASTINGS of Washington:

H.R. 4021. A bill to provide for the exchange of certain land in the State of Washington; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. Ryun, Mr. Leach, Mr. Moran of Kansas, Mr. Crapo, Mr. Hastings of Washington, Mr. Boehner, Mr. Nussle, Mr. Stump, Mr. Gutknecht, Mr. Skeen, Mr. Bonilla, Mr. Cunningham, Mr. Walsh, Mr. Combest, Mr. Dickey, Mr. Graham, Mr. LaHood, Mr. Wamp, Mr. Chambliss, Mr. Deal of Georgia, Mr. Norwood, Mr. Pomeroy, Mr. Horn, Mr. Kingston, Mr. Barrett of Nebraska, Mr. Dooley of California, Mr. Hill, Mr. Hastert, Mr. Sessions, Mr. Bereuter, Mr. Latham, Mrs. Linda Smith of Washington, and Mr. White):

H.R. 4022. A bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities; to the Committee on International Relations.

By Mr. THOMAS:

H.R. 4023. A bill to provide for the conveyance of the Forest Service property in Kern County, California, in exchange for county lands suitable for inclusion in Sequoia National Forest; to the Committee on Resources, and in addition to the Committees on Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD:

H.R. 4024. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Commerce.

By Mr. BACHUS (for himself, Mr. Leach, Mr. McCollum, Mr. Bereuter, Mr. Hinchey, Mr. Sanders, Mrs. Thurman, Mr. Solomon, Mr. Clement, Mr. Shaw, Ms. Kilpatrick, Mr. Jones, Mr. Oxley, Mr. Klug, Mr. Tauzin, Mr. Blunt, Mr. Traficant, Mr. Dan Schaefer of Colorado, Mr. Nethercutt, Mr. Kucinich, Mr. Whitfield, Mrs. Fowler, Mr. Forbes, and Mr. Castle):

H. Con. Res. 288. Concurrent resolution expressing the sense of the Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions; to the Committee on the Judiciary.

By Mr. PACKARD (for himself, Mr. Bonilla, Mr. Hoyer, Mr. Linder, Mr. Norwood, and Mr. Porter):

H. Con. Res. 289. Concurrent resolution recognizing the 50th anniversary of the National Institute of Dental Research; to the Committee on Commerce.

By Mr. SOLOMON:

H. Res. 463. A resolution to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China; to the Committee on Rules.

By Ms. NORTON:

H. Res. 464. A resolution amending the Rules of the House of Representatives to provide a vote in the Committee of the Whole to the Delegate to the House from the District of Columbia; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

334. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 171 memorializing the Congress of the United States to enact legislation to abolish the Internal Revenue Code by December 31, 2001, and replace it with a new method of taxation; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. Cummings.

H.R. 96: Mr. Pickering.

H.R. 192: Mrs. Bono.

H.R. 303: Mr. Hayworth.

H.R. 306: Mrs. Capps.

H.R. 616: Mr. Matsui.

H.R. 766: Ms. Pelosi.

H.R. 814: Mrs. Capps.

H.R. 864: Mrs. Thurman, Mr. Cramer, Mr. Brady of Pennsylvania, Mr. Greenwood, and Mr. Bonior.

H.R. 880: Mr. Hilleary.

H.R. 979: Mr. Pallone, Mr. Lampson, Mr. Hamilton, Mr. Skeen, and Mr. Rothman.

H.R. 1009: Mr. Ryun.

H.R. 1061: Mr. Quinn.

H.R. 1126: Ms. Ros-Lehtinen, Mr. Mica, Mr. McKeon, Mr. McCrery, Mr. Leach, and Mrs. Roukema.

H.R. 1165: Mrs. Morella.

H.R. 1166: Mr. LaFalce.

H.R. 1290: Mr. Burr of North Carolina.

H.R. 1301: Mr. Delahunt and Mr. Dixon.

H.R. 1354: Mr. Pickering.

H.R. 1378: Mr. Bereuter and Mr. Smith of Oregon.

H.R. 1452: Ms. Millender-McDonald.

H.R. 1715: Mr. Leach and Mr. Shays.

H.R. 1766: Mrs. Bono, Mr. Bryant, Mr. Edwards, Mr. Inglis of South Carolina, Mr. McGovern, and Mr. Price of North Carolina.

H.R. 1863: Mr. Pickering.

H.R. 1995: Mr. Hutchinson, Mr. Kingston, Mrs. Cubin, Mr. Houghton, Mr. Sisisky, Mr. Oberstar, Mr. Skaggs, and Mr. Gordon.

H.R. 2023: Ms. Jackson-Lee.

H.R. 2094: Mr. Abercrombie.

H.R. 2409: Mr. Andrews.

H.R. 2504: Mr. Kennedy of Rhode Island.

H.R. 2524: Mr. Matsui and Mr. Moran of Virginia.

H.R. 2541: Mr. Wolf.

H.R. 2568: Mr. Jenkins.

H.R. 2613: Mr. Hinojosa, Mr. Baker, Mr. Sanders, Mr. Strickland, Ms. Hooley of Oregon, Mr. Hastings of Florida, Mr. Delahunt, Mr. Boucher, Mr. DeFazio, Mr. Skeen, and Mr. Stupak.

H.R. 2701: Mr. LaFalce.

H.R. 2804: Mr. Bonior and Mr. Delahunt.

H.R. 2828: Mr. Jackson.

H.R. 2923: Mr. Rothman and Ms. Eshoo.

H.R. 2931: Ms. Pelosi.

H.R. 2938: Mr. Snowbarger.

H.R. 2995: Mr. Baldacci, Mr. Dooley of California, and Mr. Clement.

H.R. 2998: Mr. Davis of Illinois.

H.R. 3081: Ms. Furse and Mr. Towns.

H.R. 3107: Mr. Norwood.

H.R. 3110: Mr. Kolbe, Mr. Hall of Ohio, Mr. Blagojevich, and Mr. Mascara.

H.R. 3125: Mrs. Lowey.

H.R. 3139: Mr. Luther.

H.R. 3181: Mr. Lampson and Mr. Davis of Illinois.

H.R. 3205: Mr. Clement, Ms. Roybal-Allard, and Mrs. Capps.

H.R. 3240: Mr. Torres, Mr. Underwood, and Mr. Romero-Barcelo.

H.R. 3248: Mr. Barr of Georgia.

H.R. 3267: Mr. Martinez.

H.R. 3293: Mr. Thompson.

H.R. 3304: Mr. Herger and Mr. Ramstad.

H.R. 3320: Mr. Pomeroy, Mr. Costello, Mr. Wynn, Mr. LaFalce, Mr. Brown of Ohio, Ms. McCarthy of Missouri, Mrs. McCarthy of New York, and Mr. Kildee.

H.R. 3396: Mr. Crapo, Mr. Kildee, and Ms. Rivers.

H.R. 3459: Mr. Bonior.

H.R. 3466: Mr. Moran of Virginia, Mr. Pallone, and Mr. Davis of Illinois.

H.R. 3514: Mr. Fox of Pennsylvania.

H.R. 3531: Mr. Baldacci.

H.R. 3553: Mr. Towns, Mr. Engel, Mr. Pascrell, Mr. Clay, Mr. LaFalce, Mr. McGovern, and Mr. Berman.

H.R. 3572: Mr. McNulty, Mr. Oxley, and Mrs. Kelly.

H.R. 3583: Mr. Bryant.

H.R. 3598: Mr. Stump, Mr. Brady of Texas, Mr. DeLay, Mr. Green, Mr. Gillmor, Mr. Bentsen, Mr. Frost, Mr. Romero-Barcelo, Mr. Torres, Mr. Turner, Mr. Sessions, Mr. Archer, Ms. Granger, Mr. Rodriguez, Mr. Smith of Texas, Mr. Thornberry, Mr. Ortiz, Mr. Hinojosa, Mr. Hall of Texas, Ms. Sánchez, Mr. Bonilla, Mr. Gonzalez, Mr. Lampson, Ms. Eddie Bernice Johnson of Texas, Mr. Duncan, Mr. Skelton, Mr. Spence, Mr. Stenholm, Mr. Sandlin, Mr. Clay, Mr. Pastor, Mr. Serrano, Mrs. Mink of Hawaii, Mr. Gutierrez, and Mr. Underwood.

H.R. 3602: Mr. English of Pennsylvania, Mr. Matsui, and Mr. Oxley.

H.R. 3610: Mr. Nethercutt, Mrs. Johnson of Connecticut, Mr. Sisisky, Mr. Meehan, Mr. Rangel, Mr. Klug, Mr. Ballenger, Mr. Doyle, Mr. Schumer, Ms. Carson, Mr. Camp, Mr. Lazio of New York, Mr. Rothman, and Mr. Goodlatte.

H.R. 3636: Mr. Walsh, Ms. Eddie Bernice Johnson of Texas, Mr. Wexler, and Mr. Brown of Ohio.

H.R. 3644: Mr. McDermott.

H.R. 3648: Mr. Fox of Pennsylvania.

H.R. 3652: Mr. Martinez, Mr. Filner, Mr. Ortiz, Mr. Skaggs, Mr. Yates, and Ms. Brown of Florida.

H.R. 3662: Mr. Castle, Mr. Ehrlich, Mr. McCollum, Mrs. Kelly, Mr. Cook, Mr. Metcalf, Mrs. Roukema, Mr. Snowbarger, Mr. Sessions, Mr. Foley, Mr. Campbell, Mrs. Maloney of New York, Mr. Sanders, Mr. Redmond, Mr. Hinchey, Mr. Ackerman, Mr. Bentsen, Mr. Bachus, Mr. Meeks of New York, Mr. Weygand, Mr. King of New York, Mr. Adam Smith of Washington, and Mr. LaFalce.

H.R. 3725: Mr. Talent.

H.R. 3747: Mr. Camp and Mr. Castle.

H.R. 3751: Mr. Goodlatte.

H.R. 3775: Mr. Moran of Virginia.

H.R. 3779: Mr. DeFazio, Ms. DeGette, Mr. Gejdenson, Ms. DeLauro, Mr. Dooley of California, Mr. Hinchey, Mr. Evans, Mr. Jackson, Mr. Bishop, Ms. Furse, Mrs. Morella, Mr. Brown of Ohio, Mr. Leach, Mr. Frank of Massachusetts, Mr. Frost, Mr. Davis of Virginia, Ms. Lofgren, Mr. McNulty, Mr. Coyne, Mrs. Tauscher, Mr. Menendez, Mr. Lampson, Mr. Clement, Mr. Green, Mr. Horn, Mr. Engel, Mr. McIntyre, Mr. Maloney of Connecticut, Mr. Ackerman, Mr. Baker, Mr. Sununu, and Mr. Bentsen.

H.R. 3792: Mr. Bateman and Mr. Bartlett of Maryland.

H.R. 3795: Mrs. Emerson.

H.R. 3855: Mr. Ney and Mr. Gejdenson.

H.R. 3858: Mr. English of Pennsylvania and Mr. Nethercutt.

H.R. 3862: Mr. Filner, Mr. Costello, Mr. Sandlin, Mr. Payne, and Mr. Olver.

H.R. 3875: Ms. Eshoo.

H.R. 3879: Mr. Manzullo, Mr. Paul, Mr. Rohrabacher, and Mr. Pombo.

H.R. 3897: Mr. Kennedy of Rhode Island.

H.R. 3938: Mr. English of Pennsylvania and Mrs. Northup.

H.R. 3948: Mr. McIntyre.

H.R. 3949: Ms. Danner, Mr. Lewis of Kentucky, Mr. Tiahrt, Mr. Hayworth, Mr. Ballenger, Mrs. Emerson, Mr. Peterson of Pennsylvania, and Mr. Sessions.

H.R. 3968: Mr. Davis of Virginia.

H.R. 4007: Mr. LoBiondo, Mr. Lantos, Mr. Sherman, and Mr. Doyle.

H. Con. Res. 125: Mr. Sherman.

H. Con. Res. 229: Mr. Cramer and Mr. Frelinghuysen.

H. Con. Res. 249: Mr. Rothman, Mrs. Emerson, and Mr. McDermott.

H. Con. Res. 267: Mr. Calvert.

H. Res. 218: Mr. Adam Smith of Washington, Mr. Pascrell, Mr. Hoyer, Mrs. Tauscher, and Mr. Rothman.

H. Res. 313: Ms. Slaughter and Mrs. Maloney of New York.

H. Res. 417: Mr. Aderholt.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Submitted June 5, 1998]

H.R. 1766: Mr. Doggett.

H. Con. Res. 240: Mr. Doggett.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

Offered By: Mr. Gekas

Amendment No. 60: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) In General.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"Sec. 324. (a) Transfer to Commission.—

"(1) In general.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) Information included with transferred contribution or donation.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) Establishment of escrow account.—

"(A) In general.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) Disposition of amounts received.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) Use of interest to cover administrative costs.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) Treatment of returned contribution or donation as a complaint.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) Use of Amounts Placed in Escrow To Cover Fines and Penalties.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) Return of Contribution or Donation After Deposit in Escrow.—

"(1) In general.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 61: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 62: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 63: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

“(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.”.

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

“(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.”.

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

“(22) DONATION.—The term ‘donation’ means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).”.

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

“(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.”.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Obey)

AMENDMENT NO. 64: Insert after title V the following new title (and redesignate the succeeding provisions accordingly):

TITLE VI—TREATMENT OF REFUNDED DONATIONS

SEC. 601. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 301 and 402, is amended by adding at the end the following new section:

“TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

“SEC. 325. (a) TRANSFER TO COMMISSION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

“(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

“(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

“(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

“(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

“(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

“(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

“(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

“(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

“(i) deposit the amount in the escrow account established under subparagraph (A); and

“(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

“(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

“(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

“(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

“(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

“(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

“(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

“(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

“(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

“(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.”.

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

“(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 325, the amount of the donation involved shall be treated as the amount of the contribution involved.”.

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

“(20) The term ‘donation’ means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).”.

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

“(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 325.”.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 325 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 65: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

“TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

“SEC. 326. (a) TRANSFER TO COMMISSION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) Information included with transferred contribution or donation.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) Establishment of escrow account.—

"(A) In general.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) Disposition of amounts received.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) Use of interest to cover administrative costs.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) Treatment of returned contribution or donation as a complaint.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) Use of Amounts Placed in Escrow To Cover Fines and Penalties.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) Return of Contribution or Donation After Deposit in Escrow.—

"(1) In general.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) No effect on status of investigation.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) Amounts Used to Determine Amount of Penalty for Violation.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) Donation Defined.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

"(22) Donation.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) Disgorgement Authority.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

Offered By: Mr. Gekas

(To the Amendment Offered By: Mr. Tierney)

Amendment No. 66: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—TREATMENT OF REFUNDED DONATIONS

SEC. 601. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) In General.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 401 and 402(d), is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"Sec. 326. (a) Transfer to Commission.—

"(1) In general.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) Information included with transferred contribution or donation.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) Establishment of escrow account.—

"(A) In general.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) Disposition of amounts received.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) Use of interest to cover administrative costs.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) Treatment of returned contribution or donation as a complaint.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) Use of Amounts Placed in Escrow To Cover Fines and Penalties.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) Return of Contribution or Donation After Deposit in Escrow.—

"(1) In general.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by section 402(c), is further amended by adding at the end the following:

"(22) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Farr)

AMENDMENT NO. 67: Add at the end of title VII the following new section (and conform the table of contents accordingly):

SEC. 704. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 305(a), is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 325. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 325, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 133 and 301(b), is further amended by adding at the end the following:

"(32) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 325.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 325 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Doolittle)

AMENDMENT NO. 68: Add at the end the following new section:

SEC. 7. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 323. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 323, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 323.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 323 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Snowbarger)

AMENDMENT NO. 69: Add at the end the following new section:

SEC. 9. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 6, is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2888

OFFERED BY: MR. FAWELL

AMENDMENT NO. 1: Page 4, strike lines 8 through 13 and insert the following:

"(B) the employee's—

"(i) sales are predominantly to persons or entities to whom the employee's position has made previous sales; or

"(ii) the position does not involve initiating sales contacts;

H.R. 2888

OFFERED BY: MR. OWENS

AMENDMENT NO. 2: Page 6, line 9, strike the period, quotation marks, and the period following and insert a semicolon and insert after line 9 the following:

except that an employer may not require an employee who is exempt from overtime payment under this paragraph to work any hours in excess of 40 in any workweek or 8 in any day unless the employee gives the employee's consent, voluntarily and not as a condition of employment, to perform such work.".

H.R. 3494

OFFERED BY: MRS. KELLY

AMENDMENT NO. 1: Add at the end the following new title:

TITLE V—CHILD HOSTAGE-TAKING TO EVADE ARREST OR OBSTRUCT JUSTICE

SEC. 501. CHILD HOSTAGE-TAKING TO EVADE ARREST OR OBSTRUCT JUSTICE.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1205. Child hostage-taking to evade arrest or obstruct justice

"(a) IN GENERAL.—Whoever uses force or threatens to use force against any officer or agency of the Federal Government, and seizes or detains, or continues to detain, a child in order to—

"(1) obstruct, resist, or oppose any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ, process, or warrant of any court of the United States; or

"(2) compel any department or agency of the Federal Government to do or to abstain from doing any act;

or attempts to do so, shall be punished in accordance with subsection (b).

"(b) SENTENCING.—Any person who violates subsection (a)—

"(1) shall be imprisoned not less than 10 years and not more than 25 years;

"(2) if injury results to the child as a result of the violation, shall be imprisoned not less than 20 years and not more than 35 years; and

"(3) if death results to the child as a result of the violation, shall be subject to the penalty of death or be imprisoned for life.

"(c) DEFINITION.—For purposes of this section, the term 'child' means an individual who has not attained the age of 18 years.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1205. Child hostage-taking to evade arrest or obstruct justice.".

EXTENSIONS OF REMARKS

GENERAL SCOWCROFT ON CHINESE SATELLITE LAUNCHES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. HAMILTON. Mr. Speaker, Gen. Brent Scowcroft, the former National Security Advisor, and Mr. Arnold Kanter, the former Under Secretary of State for Political Affairs, wrote an excellent article in the Washington Times on June 5, 1998 on the topic of Chinese satellite launches: "What Technology Went Where and Why."

Their article treats this issue fairly and dispassionately, and goes a long way toward dispelling much of the misinformation in current public discussion.

I commend this article to the attention of my colleagues.

[From the Washington Times, June 5, 1998]

WHAT TECHNOLOGY WENT WHERE AND WHY

(By Brent Scowcroft and Arnold Kanter)

The last few weeks have seen an avalanche of melodramatic charges about American "technology transfers" to China and claims that these actions have enhanced the capabilities of nuclear missiles aimed at the United States. In combination with confusing—and confused—media reporting and inept responses by the Clinton administration, these accusations threaten both to do needless damage to important U.S. national security interests and to impede the investigation of serious allegations of wrongdoing.

A great deal hangs in the balance. The consequences, if these allegations are proven, would be substantial. But the costs of accusations which turn out to be ill-founded—if not reckless—also can be great. Nowhere is this more clear than in the case of our relations with China. Not only is the character of our strategic relationship with China of fundamental importance to U.S. national security, but that relationship also is at an unusually critical and formative state both bilaterally and with respect to larger issues ranging from North Korea to South Asia.

The investigative congressional committees that are being established will have the responsibility for sorting out this complicated affair. Meanwhile, however, the protagonists in this controversy need to cool the rhetoric, get some basic facts straight and identify the real issues before more harm is done to U.S. security, political and economic interests.

Much of the confusion arises from the fact that four different issues are being lumped together:

U.S. government waivers to permit American commercial satellites to be launched on Chinese space boosters.

The unauthorized transfer to China of technical information by two U.S. satellite manufacturers, Loral and Hughes.

Large campaign contributions to the Democratic Party by Loral's chairman, Bernard Schwartz.

Alleged contributions to the Democratic Party by Chinese citizens with ties both to the Chinese military and the Chinese company that launches American commercial satellites.

SATELLITE WAIVERS

The current controversy has its roots in the 1986 Challenger disaster. There was serious concern that the loss of U.S. launch capability that resulted from the ensuing moratorium on shuttle flights would jeopardize America's pre-eminence in space. The Reagan administration responded by adopting a policy that opened the way for U.S. commercial satellites to be launched on Chinese space boosters on a case-by-case basis. The sanctions imposed by the Bush administration following the Tiananmen Square massacre in June 1989 blocked satellite launches by the Chinese but included a provision for case-by-case presidential waivers.

Last February, the State and Defense Departments recommended, and President Clinton approved, such a waiver to allow a commercial communications satellite built by Loral to be launched into orbit by a Chinese booster. This was the eighth waiver—covering eleven launches—approved by the Clinton administration. Previously, the Bush administration approved three waivers covering the launch of nine satellites.

The satellites in question are civilian, not military. More important, no "technology transfer" is permitted in connection with these satellite launches, which are the space-age equivalent of having Federal Express deliver a package across the country. On the contrary, there are strict safeguards designed to confine Chinese access to the most basic information about the U.S. payload these rockets carry—for example, size, weight and other mating data needed to ensure that the satellite will fit on top of the rocket and can be boosted into the correct orbit. (The waivers in question relate to the application of Tiananmen sanctions—which are designed to punish the Chinese for human rights abuses—not the safeguards against technology transfer.)

In principle, these safeguards mean that the Chinese learn no more about the "package" they are launching than FedEx knows about the package it is shipping, and that no information is provided which would improve the capabilities of their civilian space boosters, much less their nuclear-armed missiles. The March 1996 transfer of responsibility for licensing commercial satellite exports from the State Department to the Commerce Department likewise should not have had any effect on the strictness or application of the safeguards because a separate State Department license typically is still required to permit the Chinese to launch U.S. satellites, and the Defense Department continues to review all proposed waivers to ensure they are in the national security interest of the U.S.

ASSISTANCE TO THE CHINESE ROCKET PROGRAM.

The Justice Department is investigating the unauthorized transfer of information to China by Loral and Hughes in connection with a 1996 review of the explosion of a Long March rocket launching a U.S. satellite. Because of the virtual identity between these Chinese "space boosters" and military missiles, assistance to the former could lead to improvements in the latter.

Experts from Loral, Hughes and other companies became involved in this review at the insistence of the international insurance industry, which refused to insure more Long March launches until an "outside" team reviewed the Chinese analysis of, and remedies for, the malfunctions their rockets had been experiencing. Ironically, the Chinese initially resisted this proposal, and allowed the international team of experts to conduct their review only when they became convinced that these insurance problems would jeopardize their commercial space launch business.

According to news reports, a Pentagon agency has determined that the information which Loral and Hughes transferred to the Chinese caused "harm" to U.S. national security, but the nature and extent of whatever harm was done is not yet clear. The congressional investigating committees will try to get the answers to that question. What does seem clear at this point is that the Chinese government never requested information or other assistance from our government to improve the space boosters they use to launch satellites. What is even more clear is that in 1996 the U.S. government did not provide, or approve Loral and Hughes providing, information which would improve Chinese space launch or missile capabilities.

Indeed, Loral and Hughes are under investigation for unauthorized transfer of information. The Justice Department's reservations about the February 1998 satellite waiver stemmed not from the waiver itself, but from a concern about how it might affect a jury's psychology should Justice decide to prosecute these two satellite manufacturers for what they may have done in connection with their review of the 1996 Long March rocket failure.

LORAL CAMPAIGN CONTRIBUTIONS

According to news reports, Mr. Schwartz—Loral's chairman and CEO—is the largest single contributor to the Democratic Party. Loral also was the beneficiary of the waiver which President Clinton approved in February. In addition, Loral successfully sought (along with other U.S. satellite manufacturers), presidential approval for the transfer of authority over the licensing process from the State Department to the Commerce Department. Many have suggested a relationship between the Schwartz campaign contributions and these Clinton decisions.

The question not only is legitimate, but goes to the heart of the larger issue of the impact of campaign fundraising and contributions on the American political process. But even if suspicions prove correct, the fact remains that no "technology transfer" is authorized when Loral (or any other American) satellites are launched by Chinese rockets. Moreover, there is no current indication that any of the laws, policies and other safeguards against such technology transfers were relaxed as a result of campaign contributions. The issue of whether campaign contributions influenced presidential decisions in this case is of profound seriousness

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and should be pursued by the congressional investigative committees, but appears at this point to be essentially unrelated to the issue of technology transfer to China.

CHINESE CAMPAIGN CONTRIBUTIONS

Democratic fundraiser Johnny Chung reportedly has told investigators that he served as a conduit for political contributions from the Chinese government. Specifically, he claims that Liu Chaoying, who is an officer in the Chinese army and an executive in the Chinese company which (among its many business enterprises) launches satellites, gave him money with instructions to donate a portion of those funds to the Democratic Party.

If substantiated, these assertions could have serious implications. That said, it also should be noted that, provided the safeguards described above do their job, even if a quid pro quo were sought and given, a satellite waiver might work to the commercial advantage of Liu's company, but would not have contributed to China's military capabilities.

In sum, several of the issues being raised in the current controversy are real and serious. Others, particularly those related to charges that satellite launch waivers somehow enhanced Chinese missile capabilities, may be based on fundamentally mistaken premises. Key to making that determination is an assessment of the practical effectiveness of the safeguards policies and practices that apply to these satellite launches.

If careful analysis determines that these safeguards have substantially achieved their objectives, then the imposition of blanket prohibitions on satellite launches by China would largely miss the point. On the one hand, it would not deal with concerns about how campaign contributions—from Americans, to say nothing of Chinese—might influence government decisions in ways which produce commercial advantage. on the other hand, it could prove to be worse than redundant with the safeguards already in place, because it would both place American industry at a competitive disadvantage and do needless damage to our critically important relationship with China.

One fact, however, already is abundantly clear: A great deal is at stake in the answers to the questions being raised in the current controversy. It therefore is essential that we get it right—that all of the charges be thoroughly investigated, that penalties be levied where appropriate, and that remedial actions be taken where required. But we should let the congressional committees do their jobs before a rush to judgment that may harm rather than advance our interests.

HOW TO BUILD A BETTER SCHOOL SYSTEM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GINGRICH. Mr. Speaker, the attached editorial from the Washington Times illustrates why we should help parents send their children to schools of their choice. Mayor Stephen Goldsmith of Indianapolis uses the situation in that city to demonstrate why Catholic schools have been able to perform better than the public schools. I submit the editorial to the CONGRESSIONAL RECORD.

HOW TO BUILD A BETTER SCHOOL SYSTEM

(By Stephen Goldsmith)

President Clinton found ardent supporters of his proposal to invest in public school buildings at a recent meeting with members of the U.S. Conference of Mayors. More money for schools—without having to raise local taxes—is a no-brainer for many mayors seeking an answer to failing urban schools.

Yet there are a handful of mayors from both parties who believe that more than federal dollars are needed to address the real problems facing urban schools. As cities have experienced the downward spiral of rising taxes, declining enrollment and abysmal students performance, increasingly city leaders are recognizing that lack of money is not what ails our public school systems.

The Indianapolis Public School system is the largest of eleven in this city, responsible for approximately 43,000 students from the central part of the city. During the 1990s the district raised its taxes more than a third, even as enrollment dropped by 10 percent. Not including teacher pensions, IPS spends more than $9,000 per child—as much if not more than the city's most expensive private schools. If money were the key ingredient for quality schools, students at IPS would rank among the best in the world. Instead, student test scores are among the worst in Indiana—a state that consistently ranks in the bottom 10 percent in the nation.

As the district's declining enrollment makes clear, dissatisfied parents are seeking out alternatives to public schools. While middle and upper class families often either move to the suburbs or pay private school tuition, many less affluent parents have turned to a less expensive choice: Catholic schools.

Like IPS, inner city parochial schools in Indianapolis are racially diverse and serve primarily low income, non-Catholic kids. At St. Philip Neri, a Catholic school on the city's near east side, nearly three quarters of all students qualify for the federal school lunch program, and a similar proportion are not Catholic.

Unlike IPS, tuition at these schools averages a mere $2700 per child. Yet each year parochial students demonstrate a better grasp of learning fundamentals than students in the public school system. Perhaps even more telling, student performance improves for each year spend in Catholic schools, while scores at IPS decline. In a recent evaluation of standardized test scores, Catholic school third graders held relatively small advantages over IPS students in math and English. By the eighth grade, however, Catholic school students scored nearly twice as high as students in the public system.

There are two important reasons why Catholic schools outperform their public counterparts.

First, they are allowed to succeed. Catholic schools are free from the bloated education bureaucracies that divert tax dollars away from public classrooms. The Friedman Foundation estimates that as little as 30 cents out of every dollar spent on education in Indianapolis actually make their way to the places where children learn. The rest is lost on the layers of bureaucracy between Indiana's Department of Education and teachers. For example, over the next three years the IPS Service Center, which houses support services such as vehicle maintenance, media services, and a print shop, will undertake a nearly $7.5 million capital improvement project. The task: constructing a new kitchen.

In addition to siphoning off dollars, the school bureaucracy undermines public education by dictating in great detail how principals can run their schools and teachers can teach their students. The morass of regulations governing public education prevents teachers from tailoring their teaching to the diverse needs of students and taking innovative approaches to educating. Not coincidentally, some of the best IPS schools are those at which teachers routinely disregard many of these rules, using their own choice of textbooks, curricula, and teaching methods to ensure that kids learn.

The other reason that Catholic schools succeed is equally simple: they have to. If St. Philip Neri fails to satisfy its customers, parents will take their tuition dollars elsewhere. In contrast, customer satisfaction is irrelevant to public schools, especially those serving low income families. Government simply tells these parents which school their children must attend, and parents who cannot afford a private alternative have no choice but to send their children there, regardless of how poorly that school performs.

If we are committed to giving all our children an opportunity, we must apply to the public school system the same simple principles that enable private and parochial schools to succeed.

In Indianapolis, our experience with allowing public employees and private companies to compete for contracts to provide city services has consistently demonstrated that competition improves government-run enterprises. For each of the 75 services subjected to competition, marketplace pressure has exploded bureaucracies, reducing layers of management, empowering workers, and refocusing these agencies on satisfying their customers. In order to win business, public employees have cut their own budgets while improving service quality, dramatically outperforming their previous, better-funded monopoly.

The same competitive forces can empower public schools to succeed. Committed reformers have offered numerous proposals to break up the government school monopoly and empower public schools to educate more effectively, including vouchers, charter schools, and the education savings accounts currently before Congress. Unfortunately, the president's threatened veto of the education savings proposal demonstrates that this administration continues to believe that any problem can be cured with more federal dollars.

Forcing lower income parents to send their children to poorly performing schools (even in nice buildings) will not improve the prospects of urban youths. What our cities' mayors should be advocating for in Washington is not simply more money to support a failing school bureaucracy, but more help for parents to send their children to the schools of their choice.

MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

SPEECH OF

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22 1998

Mr. BROWN of California. Mr. Speaker, the Committee on Science whose jurisdictional area of expertise includes transportation research and development once again is pleased to have worked closely with the Committee on Transportation and Infrastructure in efforts to strengthen the research program of the Department of Transportation by first developing a comprehensive research title for the House version of this legislation and later by serving as conferees on the research title.

I would like to thank Chairmen SHUSTER and PETRI as well as Ranking Democratic Members OBERSTAR and RAHALL for their cooperation in bringing a research title to the floor which incorporated most of the significant provisions reported by the Committee on Science and for working with us to ensure that the House comprehensive research program prevailed in conference to the extent possible. I believe our cooperative efforts in 1992 contributed significantly to the strengthening of Department of Transportation surface transportation research in the ensuing years; I am equally convinced that our efforts during 1997 and 1998 will take these research programs to a higher level. While I am deeply disappointed with how a handful of provisions turned out, overall I feel this legislation is an improvement over existing law.

Unfortunately, the Statement of Managers for the bill before us omitted the explanation of all of the research title except for the Intelligent Transportation System. While many of these provisions are clear on their face, I feel in other instances, an explanation of Congressional intent should be included in the legislative history. Therefore, at this point, I would like to discuss a number of these provisions for which the Science Committee leadership served as conferees and where Science Committee members had concerns.

Section 5108, entitled Surface Transportation Research Strategic Planning, makes it clear that the Secretary is to oversee an integrated planning process in consultation with all other Federal agencies involved in surface transportation research, State and Local governments, and private sector organizations involved in surface transportation research to make sure that the Department's efforts have a strategic focus, clear goals, and measurable results. This section builds on the work the Department has begun under the guidance of the Deputy Secretary. The language retains other important features from our Committee's work product including tie-ins to the Government Performance and Results Act, outside review of Department plans, emphasis on merit review, and tying in the plans, research and results of each Departmental research program to this planning effort.

Section 5102, Surface Transportation Research, ended up containing programs which originated in Committee-passed sections dealing with research, technology development, and technology transfer. Among the items of importance to the Committee on Science are the new 23 USC 502(c)(2) and (f) which provide for research, development, and technology transfer related to surface transportation infrastructure such as enhancing emphasis on seismic research and on demonstrating innovative recycled materials, especially the use of paper and plastics to replace metal mesh in reinforced highway concrete. The Committee also placed strong emphasis on increasing the knowledge base necessary for state and local governments to do contracting based on life cycle cost analysis including the development of standardized estimates for the useful life of advanced highway and infrastructure materials. The Committee is well aware that if the useful life of the average highway could be extended by just one year, that the entire surface transportation research program of the Federal government could be paid for many times over and is interested in stopping the phenomenon of the products of advanced research sitting on the shelf because local contracting officers are either unfamiliar with them or do not know how to evaluate their usefulness.

Section 5104, Training and Education, continues a variety of training and scholarship programs of the Department. The Committee through language now included at 23 USC 504(b)(2)(A)(i) had interest in strengthening undergraduate training and technical assistance to local transportation agencies through programs such as the Middle Tennessee Graduate 2000 program which was designed in conjunction with the concrete industry and state officials to assure an adequate supply of bachelor level professionals who are knowledgeable about the concrete industry and capable of making decisions related to the adoption of new technologies. We feel this is a necessary complement to our changes in Section 5102. Even if we are successful in getting the Department to fund research on life cycle costing and to develop standardized estimates of useful lives for new technologies, these are unlikely to be utilized in the absence of a technologically educated workforce.

Section 5107, the Surface Transportation-Environment Cooperative Research Program, is an idea promoted both by the Senate and by the Committee on Science. Its goal is to promote an increased awareness of the environmental and social impacts of transportation decisions through research to better understand factors related to transportation demand, by developing indicators of economic, social, and environmental performance of transportation systems, and by establishing an Advisory Board to recommend environmental and energy conservation research, technology and technology transfer activities related to surface transportation.

Section 5110, is one section with a disappointing final form. While we appreciate the Conference Committee's retention of our emphasis on merit selection of University Transportation Research Centers, we feel it is a mistake to list 21 recipients of earmarks and to mandate those earmarks in specific amounts for six years. This defeats both the principle of awarding contracts to the most qualified institutions and of continuing funding only for those institutions which perform satisfactorily under the grants. The House version of this legislation listed a number of other locations which Members of Congress considered to have meritorious programs and required the Secretary to consider applications for these institutions while not requiring actual rewards. For instance, under the House provision, which we considered to be preferable, the Secretary would have considered applications from schools like Middle Tennessee State University, Tennessee Technological University, and the University of Maryland which our membership considers to have sophisticated transportation programs, but the Secretary would only have awarded and renewed grants to these institutions if the applications from the school was meritorious and its performance under existing grants was satisfactory.

We are in agreement with the Statement of Managers language on the Intelligent Transportation System Subtitle and were pleased to be able to make a contribution to it. Our Committee's main emphases were expedited standards development for the intelligent transportation systems (ITS) program to decrease the chance of deployment of incompatible systems, increased data collection and information sharing responsibilities for recipients of grants for ITS operational tests or deployment, making sure that adequate attention is paid to the basic and human factors research related to ITS, and making sure that the special needs of ITS in cold climates were addressed.

I would like to close by commenting on the bill's removal of the deadline for conversion of highway construction to the metric system of measurement and its deferring to the states in this matter. This modification does not change the basic underlying facts that metric is still by law the preferred system of measurement in the United States, that U.S. government procurement and business related activities are to be conducted in metric, and that the rest of the world is moving to metric at a very rapid clip. Metric is the official system of measurement throughout Asia; all regulations in the European Union are being written in metric. Metric measurement is the standard throughout the Americas including Mexico and Canada. Metric measurement is rapidly becoming predominant in U.S. highway construction. Fortunately, this provision is not expected to bring much change. A quick survey of the states has shown that 90 percent of them do not plan to exercise this option and revert to the English system of measurement.

HONORING LORI PARCEL

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BURTON of Indiana. Mr. Speaker, Ms. Lori Parcel of Greenwood, Indiana in my District is the winner of the 1998 Voice of Democracy broadcast scriptwriting contest for Indiana. I am pleased to present her winning script for the RECORD.

> Who hasn't solved a jigsaw puzzle? We all have been faced with the task at one time or another. I remember the last time I tried to solve one. After hours of work, the puzzle was nearly complete . . . and then I realized that some of the pieces were missing. I scoured the area in search of the missing pieces, but I was unable to find them. The puzzle remained incomplete. In many ways, our democracy is a puzzle that consists of over 250 million pieces. Over 250 million voices which are inextricably bound. And interlocked within this tapestry, the tapestry of democracy, is my voice.
>
> I realize that all of the pieces of the puzzle must be present for our government to be fully effective. However, looking around, I

can't help but notice gaps in democracy's tapestry. Gaps which surely weaken the entire structure. I raise my voice to cry out to the missing pieces, to tell them to join the majority of Americans, to exchange ideas and strengthen our government, but my cry does not reach some. They do not understand that by discounting their own voices, and by ignoring my plea, they are hurting both themselves and our government. They do not realize that a democracy such as ours cannot effectively operate without their input. I use my voice to tell them about the time I was paging in the state legislature. I tell of a man who came into the statehouse and observed me tallying opinion surveys. The man, presumably a stray piece, was surprised that the surveys were tallied. He expressed his astonishment by saying, "That's where those surveys go. You actually read these. I did not think anyone listened, or that it was worth spending money for a stamp." The man did not understand that the absence a single voice, a solitary note in the symphony of our government, can throw harmony into discord.

I plea to the stray pieces once again. I tell them that, during my experience paging, I learned that legislators are people. They have pictures of their families on their desks, and they even drink coffee. They are no different from the rest of us except they have decided to make a career out of using their voices to build our democracy, to add more pieces to the puzzle in hope of solving our nation's problems.

But certainly one does not have to hold public office to have a voice in our government. Rosa Parks provided the impetus for the Civil Rights movement by simply refusing to give up her seat on the bus. She did not even have to open her mouth to have her voice heard throughout the nation.

My voice will not be the missing piece of the puzzle or the chord absent in the symphony. I may speak loudly and run for public office. Or I may speak softly by writing to my representative to tell him my opinions on an issue. But regardless of how I speak, my voice will always be audible. It must be, in order for me to be a fully participating member of our democracy. It is my duty to those who have sacrificed and those who continue to work for freedom throughout the world to exercise my right to participate in our government.

I realize that using my voice is critical to the continuation of democracy. Our government consists of millions of voices. Those of politicians and those of voters, but all of which are American voices. Exercising our voices through voting is our privilege, right, and duty as American citizens. In order to truly have a government of, by, and for the people, we must all work to build it. We must all contribute our piece of the puzzle, our voice, to our democracy. When I cast my vote a year from now, I will be doing far more than choosing one candidate from the ballot. I will be contributing my voice to the extensive puzzle which depicts the tapestry of our government. And I will be raising my voice, in harmony, to contribute to that symphony we call democracy.

A TRIBUTE TO ANTHONY BELSKI

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to a dedicated and devoted friend of Southwest Michigan; Mr. Anthony Belski. This month he is retiring after thirty-six years of service to St. Joseph Public Schools. For twenty-nine of those years, Mr. Belski presided over Lincoln Elementary School as its principal.

During his tenure, Mr. Belski has seen a lot of change but through it all, one thing remains the same—his enduring dedication to the kids. Principals are in a unique position to touch so many lives and to help mold so many futures. As an educator, Mr. Belski is in a unique position to have his hard work live on in each of his students—clearly southwest Michigan is a better place thanks to his efforts.

Mr. Speaker, please join me in thanking Mr. Anthony Belski for all of his work and wishing him a long, productive, and happy retirement.

TRIBUTE TO FRAN PAVLEY

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Fran Pavley, for her leadership and efforts to improve the quality of life in our community. Fran is a determined, hard working individual who is a shining example of a model citizen, and has been rightly named as the recipient of the Citizen of the Year Award by the Las Virgenes Homeowners Association.

Fran's unwavering dedication to the Agoura Hills community spans back to the incorporation of the city in 1982. Serving as one of the first members of a budding, tightly-knit community, Fran has served continuously on the Agoura Hills City Council since it was created, the same year as the incorporation of the city. In addition, she was elected and served as the City's first mayor. Currently, in her fourth term as mayor, Fran continues to consider legislative, environmental and planning issues as top priorities.

One past achievement that has highlighted a bright career was Fran's authoring the "Transit Needs Study," which led to the creation of such programs as regional Dial-A-Ride and the Beach Bus. Currently, Fran is involved in planning and constructing a community center to serve the citizens of Agoura Hills and Calabasas. In recognition of these and other projects, she recently received the "Distinguished Leadership Award" by the American Planning Association.

In addition to Fran's participation in politics at a local level, she currently serves on the California Coast Commission, which plays a critical part in regulating land-use issues along California's 1100 miles of coastline. In 1996, the council member served as President of the Los Angeles County Division of the League of California Cities. Currently, she represents eighty-seven cities in the Los Angeles County of Statewide Board of Directors for the League of California Cities. Fran has also served on the Santa Monica Mountains Conservancy Advisory Committee, representing Agoura Hills and Westlake.

Growing up in Southern California and completing a Master's Degree in Environmental Planning, Fran has voluntarily offered her personal abilities to enhance and augment our community.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Fran Pavley. She has shown an unwavering commitment to the community and deserves our recognition and praise.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BALLENGER. Mr. Speaker, had I been present for rollcall vote 208 (the Neumann amendment in the nature of a substitute or the so-called Conservative Action Team "CATs" budget) and rollcall vote 210 (the Republican budget resolution or the Kasich budget) last week, I would have voted in favor of these measures. On the Spratt substitute, rollcall vote 209, I would have voted "no." I regret that I was unable to be in Washington, D.C., when the House cast these important budget votes.

CONGRATULATIONS TO JAMES L. DANDURAND

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. VISCLOSKY. Mr. Speaker, it is with the greatest pleasure that I pay tribute to an exceptionally dedicated and benevolent member of Indiana's First Congressional District, Mr. James L. Dandurand, of Schererville, Indiana. After thirty-nine years of continuous service with the institution, Jim retired on March 3, 1998 as Chairman of the Board and President of the Merrillville Market of Bank One.

Jim graduated from the University of Illinois with a Bachelor of Arts degree. After graduating, he served his country as a First Lieutenant of Infantry in the United States Army. Beginning his employment with the bank in February of 1959 as a Management Trainee, Jim started his extraordinary rise through his office's employment ranks. Jim was quickly promoted to President on July 18, 1969 and Chairman of the Board on March 14, 1985. Though employed and serving the community through various civic organizations, Jim continued his education through enrollment and completion of American Institute of Banking courses in Chicago, the Harvard Business School's Senior Bank Officers Seminar, Indiana University's Management Course. In addition, he graduated from the University of Wisconsin's Graduate School of Banking.

Jim's remarkable climb up the corporate ladder was accompanied by an ever-increasing group of civic, religious, and philanthropic organizations in which he participated. Jim served in a leadership role as Director of the Lake Area United Way, Director of the Boys and Girls Clubs of Northwest Indiana, Honorary Director of the American Red Cross, Lake County, Indiana Chapter, Director and

Chairman of the Northwest Indiana Forum, Director of the Northwest Indiana Local Initiatives Support Corporation, Director of the Hospice of the Calumet Area, Inc., and Director of the Gary Educational Development Foundation, Inc. He also gave his time to the Lay Advisory Board for Catholic Charities, Diocese of Gary, Indiana University Northwest Chancellor's Associate, Purdue University Calumet Chancellor's Associate, Robert Morris and Associates, and the University Club.

While serving the community has always been an extremely important part of Jim's life, there can be no comparison to the dedication Jim has for his family. Jim and his loving wife, Prudy, have four wonderful, grown children, Lisa, Jeff, Jill, and John. Their seven grandchildren are an eternal source of joy and love for Jim and Prudy. Now that he is retired, Jim plans to visit and spend much of his time with his family. Jim's future plans include extensive traveling with his wife, many rounds of golf, and visiting his children and grandchildren.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Jim Dandurand for his lifetime of service, success, and dedication to Indiana's First Congressional District. Jim serves as an excellent example of a true American. His unending service to his country, community, and family has rewarded the people of Indiana's First Congressional District with one of the real heroes of our time.

RECOGNIZING THE 75TH ANNIVERSARY OF THE NAVAL RESEARCH LABORATORY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. SKELTON. Mr. Speaker, it is an honor for me to bring to the attention of the House of Representatives and the American public the distinguished contributions of the Naval Research Laboratory on the occasion of its seventy-fifth anniversary.

The Naval Research Laboratory was officially founded in Washington, District of Columbia on July 2, 1923 after Thomas Alva Edison recommended that a modern research facility for the Navy be established. In the following seven decades, research efforts have expanded from the 2 original areas of scientific endeavor—radio and underwater sound—to 19 broad areas that encompass many diverse fields.

The Naval Research Laboratory's early research achievements include the discovery and explanation of radio skip distance, the development of the fathometer and early sonar, and the development of the first operational American radar.

During World War II, the Naval Research Laboratory's scientific activities focused on applied research in direct support of combat forces. The Laboratory devised ship electronic countermeasure systems, developed the first application of cryptography in radar identification, and invented the first Identification Friend or Foe (IFF) radio system in the United States.

After World War II, the Naval Research Laboratory greatly expanded its pre-war research program in radio, radar, underwater sound, chemistry, metallurgy, optics, nuclear science, and cosmic rays.

The Naval Research Laboratory pioneered naval research into space launching atmospheric probes with V–2 rockets through the direction of the *Vanguard* project—America's first satellite program. The laboratory also produced the first satellite communication system by using the Moon as a reflector and receiving the returned signals on the Earth's largest parabolic antenna. More recently, the laboratory developed the Navy's Global Positioning System and built the Clementine satellite that conducted the most comprehensive lunar mapping to date. Since the late 1950's, the Naval Research Laboratory's scientists and engineers have designed, built, and launched more than 80 satellites that have expanded our understanding of the vast frontier of space.

The Naval Research Laboratory's facility for the structure of matter has become internationally famous for its groundbreaking work in using electron and x ray diffraction methods for understanding the structure of complicated organic molecules. For his work in this field, the laboratory's Dr. Jerome Karle received the 1985 Nobel Prize in Chemistry.

The Naval Research Laboratory's current research program spans the scientific spectrum—including studies in areas such as advanced materials technology, electronic warfare, infrared countermeasures, fire suppression, information technology, radar technology, monitoring the solar corona and its impact on the Earth's atmosphere, biomolecular engineering, artificial intelligence, remote sensing, meteorology, and oceanography.

Today, the Naval Research Laboratory is well-positioned to enter the 21st century with a strong technical program and all the tools necessary to continue its mission as the United States Navy's corporate laboratory.

Mr. Speaker, I am proud to recognize the Naval Research Laboratory, and I am certain that the Members of the House will join me in congratulating this distinguished research institution on the celebration of 75 years of scientific achievement.

A TRIBUTE TO SANTA CLARITA, CALIFORNIA'S HERO OF THE WEEK PROGRAM

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. McKEON. Mr. Speaker, today I rise to proudly recognize a wonderful program that exists in the city of Santa Clarita called the "Hero of the Week" and those individuals honored under this program.

Started by Maria Fulkerson and Lorraine Grimalde of Santa Clarita Anti-Gang Task Force, the Hero of the Week program focuses on more of the positive actions of our youth rather than the negative that most of the media covers. The program honors students for their positive actions and choices they have demonstrated. The students from the Santa Clarita Valley Junior and Senior High Schools are recommended by teachers and principals based on their observations of the student exhibiting positive behavior.

The students that are selected exhibit the qualities that we are looking for in future leaders of our nation. These students, many of whom have had previous problems of one sort or another, have made remarkable improvements in many different areas. I am proud to honor these students today here on the House floor.

On June 3, 1998, the Hero of the Week program honored 29 members of my community for their outstanding activities that truly made them heros in our neighborhood. These children have faced serious obstacles and in many cases faltered in the face of adversity. However, none of these students gave up. Their hard work and determination have truly earned them the title "Hero of our Community."

Mr. Speaker, I would like to conclude these remarks by listing the 29 students honored by the city last week. I congratulate them and the city for such a wonderful program helping our students in promoting positive activities.

HERO OF THE WEEK HONOREES

José Acosta—Canyon High School
Gilbert Avalos—Arroyo Seco Jr. High School
Andrew Brown—Canyon High School
Tom Chaney—Sierra Vista Jr. High School
Dionna Curtis—Sierra Vista Jr. High School
Mario de la Torre—Canyon High School
Colleen Dillingham—Saugus High School
Rusmir Dzidic—Hart High School
Jenny Embelton—Placerita Jr. High School
Rigoberto Garcia—Placerita Jr. High School
Kimberly Goff—La Mesa Jr. High School
Chrissy Hambel—Saugus High School
Michael Hardash—La Mesa Jr. High School
Brandi Huff—Canyon High School
Jin Kim—Sierra Vista Jr. High School
Karla Martinez—Bowman High School
Martina Mendez—Hart High School
Eva-Maria Onesto—Saugus High School
Rafael Orellana—Placerita Jr. High School
Ashley Palmer—La Mesa Jr. High School
Angel Rodriguez—Saugus High School
Olivia Sanchez—Bowman High School
Steven Santana—Arroyo Seco Jr. High School
Erik Sayer—Arroyo Seco Jr. High School
Diana Dimone—Valencia High School
Jennifer Sorge—Valencia High School
Joseph Taylor—Saugus High School
Federico Valle—Hart High School
Leopoldo Yepez—Sierra Vista Jr. High School

IN MEMORY OF JUDGE DAVID W. DYER

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. HASTINGS of Florida. Mr. Speaker, it is with a great sense of sadness and bereavement that I rise today in order to mark the passing of Judge David W. Dyer.

Judge Dyer began his Federal judicial career when he was appointed by President Kennedy to the bench of Florida's Southern District Court in 1961. The following year he was named its chief judge. In 1966 he was appointed to the circuit court of appeals, where he served until his retirement in December of 1997.

Community leaders across south Florida are at a loss today because they have lost their leader, mentor, and role model. For many, Judge Dyer is nothing short of a hero. During a time of great national struggle, he consistently advocated and maintained that the Constitution guaranteed equality for all Americans—no matter what their race. To put it simply, he was Florida's most respected jurist.

I would like to take a moment, Mr. Speaker, to share with my colleagues two of Judge Dyer's most important achievements. The first was his landmark decision to desegregate the restaurants which serve travelers on Florida's turnpike. The second was his decision, while sitting on a three judge panel, to reapportion Florida's voting districts on the basis of "one man, one vote." In both instances, he demonstrated his ability to do not only the right thing, but also the just thing.

In April of last year, I had the high honor of introducing H.R. 1479 to this body. Senator BOB GRAHAM introduced companion legislation in the Senate. That legislation, which went on to become public law, renamed Miami's Federal Building and Courthouse in honor of Judge Dyer.

Of course, Mr. Speaker I also rise today to mark the passing of a very dear and close friend. I do not think that it is very often in our lives that any of us are able to say that we had the privilege of knowing a 'great man'. But, in this case I think that I am uniquely blessed. During the time that we spent together, he demonstrated what it meant to defy racial stereotypes.

His loss is not only a personal one, but one to the entire U.S. Judiciary. How long will it be until someone else with his compassion and understanding will grace our presence again? Mr. Speaker and my fellow colleagues, I ask you to join me in hoping that that day will be very, very soon.

SYRACUSE CHILDREN'S CHORUS REPRESENTS U.S. AT INTERNATIONAL FESTIVAL IN CHINA

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. WALSH. Mr. Speaker, I rise today to ask my colleagues to join me in praising the Syracuse Children's Chorus, a group of young singers who will represent not only my home district of Central New York, but in fact, our entire nation when they travel to the International Children's Choir Festival and World Conference in China July 31 through August 14.

The group, directed by Dr. Barbara Marble Tagg, is one of three such groups invited by the Government of the Peoples Republic of China, and the only one from the United States.

They will perform in Hong Kong and three mainland cities—Shenzen, Guilin, and Guangzhou. This is a unique honor and a wonderful opportunity. I've known about the Syracuse Children's Chorus since our own children participated and their reputation is outstanding. I know they will represent central New York and the U.S. very well. I am proud and excited for them and their families.

Since its founding in 1981 by Dr. Tagg, the Syracuse Children's Chorus has become an international model for music education. The SCC has been the recipient of grants from the National Endowment for the Arts and has been heard on National Public Radio. They performed at the 1996 International Society for Music Education World Conference in Amsterdam, following a concert tour of Belgium and Holland that year.

They were also featured at the Walt Disney World Children's Holiday Choral Festival as well as Carnegie Hall in 1991.

The Syracuse Children's Chorus has commissioned more than 50 works for children's choruses by composers from the U.S., Canada and China.

Dr. Tagg is artistic director and founder. She is an Affiliate Artist at Syracuse University where she is a member of the choral music education faculty. She is a remarkable person who has done much for our community.

I ask my colleagues to join me in wishing them well in their performance and their experience.

The chorus members are: Jessica P. Ashooh, Rachel O. Bass, Elena de la Garza-Bassett, Andrea L. Bess, Erin L. Canavan, Shawna L. Carrigan, Heather N. Charlton, Courtney J. Chiavara, Stacey L. Condolora, Jeffrey B. Corbishley, Elizabeth M. Corcoran, Andrea E. Dunuwila, Brendan E. Dunuwila, Kristen W. El-Hindi, Sarah T. Esgro, Jill R. Evans, Abigail M. Freeman, Rebecca L. Fullan, Christina Hollenback, Jessica L. Keating, M. Amaris Kinne, Caroline T. Manolakos, Michelle M. Michalenko, Erin M. Molnar, Sidra S. Monreal, Amber L. Moriarty, Marissa H. Mulder, Michelle M. Ostrowski, Kathryn L. Palange, Johanna C. Pingel, Kathryn M. Pratt, Amanda J. Schofield, Katharine J. Suddaby, Elana S. Sukert, Sarah A. Tiedemann, Richard D. Udicious and Carolyn D. Woiler.

The chorus staff are: Stephen Paparo, conducting intern; Jackie Pickard, chorus manager; Teresa Hudson, chorus administrator; and Michael Weslowski, director of PR/marketing. Accompanist is Glenn Kime.

CBO'S FRACTURED CRYSTAL BALL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GINGRICH. Mr. Speaker, the attached editorial from the Washington Times puts the problems with the Congressional Budget Office in the proper perspective. Stephen Moore's suggested remedies merit serious consideration. I submit the editorial to the CONGRESSIONAL RECORD.

CBO'S FRACTURED CRYSTAL BALL

(By Stephen Moore)

Speaker Newt Gingrich announced last week that Congress should begin to "review the accuracy [sic]" of the economic and budget forecasting of its internal think tank: the Congressional Budget Office. It's about time.

Mr. Gingrich and his GOP colleagues are finally catching on to a problem that many supply side economists have recognized for years. Since at least 1995 the CBO has been dramatically low-balling its economic estimates, and thus overstating the budget deficit. On average CBO has understated GDP growth by 1 percentage point per year—which is a large forecasting error.

One implication of this underestimate of GDP growth has been that the government's official budgeting agency has missed the biggest fiscal story of the last quarter century: a balanced budget with very rapidly rising budget surpluses.

Consider the legacy of error detailed in the attached table. Two years ago, in May 1996 the CBO forecast a 1998 deficit of $174 billion. Instead, now we are told that we will have a surplus of $35 billion. This means the CBO's 1996 deficit forecast for 1998 was off by more than $200 billion. The five year (1998–02) estimated deficit was $1,167 billion. The latest CBO forecast now sees a surplus over that period of at least $200 billion. In two years, CBO has revised upward its budget estimate by almost $1.4 trillion. Incredible.

But the CBO's crystal ball may still be cracked. The latest CBO report that came out in early May 1998 continues to underestimate surpluses. Larry Kudlow of American Skandia and I have estimated that the surplus for this year will be closer to $70 billion and that future surpluses will be at least twice as high as CBO says.

The CBO has long been bearish on the American economy even as employment, stock values, and business profits soar, inflation approaches zero, and interest rates dip to 20-year lows. The long-term CBO estimate for real GDP growth is a turtle-paced 2.1 percent growth rate for as far as the eye can see. Yet the average GDP growth over the past 16 years has been 3.0 percent. In fairness to CBO, the Clinton Treasury Department is predicting an equally anemic rate of future growth.

Economic forecasting is at best an inexact science. Some might even call it voo doo. The best—and perhaps the only—semi-reliable forecast of the future is the past. CBO continues to assume that the economy will grow at substantially below its historical trend.

The logical question is: Who cares if CBO is wrong? The answer is that bad forecasts make for bad policies. Republicans in Congress continue to budget as if we are in a deficit environment. In fact, revenues are going to be at least $500 billion higher from 1998–2002 than they thought last year. This explains why Congress is now pondering a niggardly tax cut of less than $100 billion when in fact a better economic forecast would demand tax cuts 3–5 times higher than that. Yes, bad numbers lead to bad policies.

Faulty number crunching is also a big problem at CBO's sister agency, the Joint Tax Committee. Last year when the Republican Congress cut the capital gains tax rate from 28 percent to 20 percent the JTC scored this as a five and ten year revenue loser for the government. This ignored all historical evidence to the contrary. For nearly 40 years every capital gains tax cut has yielded more revenues. Every capital gains tax increase, including most notably the 1986 increase, has lowered federal tax receipts. Preliminary tax return data indicate that in the first 10 months since last year's cap gains cut, capital gains receipts are surging. Has JTC learned its lesson? Hardly. The JTC is now scoring a proposal to cut the cap gains tax to a uniform rate of 15 percent. Rather than admitting its error, JTC chooses to stick with it's discredited story.

The GOP has no one to blame but itself for these faulty forecasts. The GOP runs Congress nowadays and hence it hires and fires the number-crunchers. But JTC and CBO appear to be using the same Keyensian models the Democrats invented 40 years ago.

It is time for the GOP to launch an assault against the CBO and the JTC. The assault should be based on the fact that CBO's models are broken. The goal is not ideology, but simple accuracy. Newt Gingrich and the Budget Committees should ask these agencies to:

(1) Raise GDP forecasts through 2008 from 2.1 percent to a more realistic 3.0 percent.

(2) Raise revenue growth estimates. CBO (and Treasury) predict 4 percent revenue growth. We've been averaging 7 percent revenue growth since 1982. This year revenues are up an enormous 11 percent. A reasonable revenue growth estimate is 10 percent for 1998 and 7 percent thereafter.

(3) Revise the surplus estimates. Because revenues will be much higher, so will surpluses. With 7 percent revenue growth, the surplus by the year 2002 reaches roughly $300 billion.

(4) Make dynamic economic estimates of capital gains tax changes. A 15 percent capital gains rate will be extremely bullish for the economy and increase wealth and tax collections.

Most important of all, once armed with these new forecasts, the GOP must abandon its austerity budget strategy and enact a very, very large tax cut. It is time to harness the surpluses in a way that creates more prosperity, not bigger government. American workers and businesses, not politicians, created this prosperity and the expected tide of budget surpluses. Now we deserve a substantial tax cut dividend.

TRIBUTE TO INLAND EMPIRE HIGH SCHOOL VALEDICTORIANS, SALUTATORIANS AND STUDENT SPEAKERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BROWN of California. Mr. Speaker, I rise today to recognize the achievements of an outstanding group of young men and women from my district in Southern California. The 68 students I have listed below have the distinguished honor of being selected as the valedictorians, salutatorians and student speakers of their graduating classes and deserve to be recognized for this laudable achievement.

Representing some of the best and brightest of the Inland Empire's future generation, these students have already accomplished a great deal and stand to reap even more success as the years go by. Education is the most important foundation we can have for life, and these students have realized that potential.

I would especially like to acknowledge those students who have risen above adversity and overcome disadvantages and obstacles that may have threatened to hinder their path to success. I offer my congratulations to each of the graduating seniors and my best wishes for the future. I am very proud to represent such a fine group of young men and women.

Cum Laude Speakers

Alta Loma: Michael Hubbard; Rancho Cucamonga: Cecilia Mo.

Senior Class Speakers

Alta Loma: Kim Anderson; Rancho Cucamonga: Brian Church.

Valedictorians

Etiwanda: Shin' Ning Duh; Ontario: David Lazzara, Daniel Quesada, Mujtaba Saifuddin; Bloomington: Keyla Lee; Fontana: Sambath Oum; A.B. Miller: Doan Nguyen; Eisenhower: Lisa Briones; Rialto: Lee Aleksich, Cristin Manary; Cajon: Shana Baumgartnar, Leah Donahue, Khoa Nguyen; San Bernardino: Cristina Rose Brower; San Gorgonio: Karl Robert Haley, Denney Huynh, Jason Thomas; Pacific: Lien Dang; Chaffey: Tin Diep; Bloomington Christian: Racquel Jefferson; Ambassador Christian: Johnny Stegall; Aquinas: Frank Kreikebaum; New Life Academy: Arlene Romero.

Salutatorians

Etiwanda: Mitesh Popat; Ontario: Heather Davies; Bloomington: Eric Aguirre; Fontana: Thomas Voden, Eric Arthurton; A.B. Miller: Nawal Badran; Eisenhower: Jeannie Huh; Rialto: Sirine Adlouni; Cajon: Alia Little, Andrew England; San Bernardino: Celeste Ruby L. Lim, Sean R. Corley; San Gorgonio: Minh Ly Luu; Pacific: Chad Milan Timko, Taryn Michelle Harp, Jacqueline Ann Servin; Chaffey: Jung Min Yang, Jessie Stevens; Bloomington Christian: Nicole Miller; Ambassador Christian: Tina Willis, Rochelle Williams; Aquinas: David Colella; New Life Academy: Arlene Romero.

Student Speakers

Valley View: Melissa Ramirez, Hector Morales; Washington: Gilbert Granado, Linda Young; Eric Birch: Carina Higareda; Citrus: John Felila, Berenice Medina, Gregory Smith, Corey Value; Milor: Angel Venegas, Clarice Lopez, Danielle Patterson; Zupanic: Therese Johnson; Sierra: Jamelle Jones, Azucena Molina, Erik Valadez; San Andreas: Anna Valdez, Mandy McPherson.

LAWRENCE CENTRAL HIGH SCHOOL IS CENTRAL STATES WINNER IN WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS 1998

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BURTON of Indiana. Mr. Speaker, Lawrence Central High School of Indianapolis competed in the 1998 National Finals of "We the People . . . The Citizen and the Constitution" contest in Washington, DC after winning the Indiana competition.

Lawrence Central students competed with more than 1250 students representing 49 states and was the Central States winner. Their teacher was Drew Horvath and the list of students is as follows:

Kari Amos, Robert Baker, Kari Buis, Julie Burton, Sheila Cardinal, Haley Carney, Mark Davis, Justin Gray, Amber Gross, Shawn Haislip, Kristen Halligan, Seth Higgins, Megan Iott, Les Jahnke, Kelly Khoury, Ted Kieffer, Justin Lane, Jolene McClusky, Joyce McCoy, Courtney Mills, Aaron Moberly, Galan Moore, Jon Owens, Chris Recktenwall, Eric Reissner, Kelly Richardson, Lisa Schubert, Tara Sheets, Jennifer Staresnick, and Shane White.

Congratulations to Mr. Horvath, who has sent previous Indiana winners to this competition, and to all of these outstanding students.

A TRIBUTE TO DR. CHARLOTTE WENHAM

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. UPTON. Mr. Speaker, I rise today to recognize the contributions of a great educator, community leader, and good friend to all of Southwest Michigan, Dr. Charlotte Wenham. After thirty years of dedicated service to the students and community of St. Joseph, Michigan, Char is stepping down from her position as Assistant Superintendent of St. Joseph Public Schools.

Since 1968, Dr. Wenham has helped to shape young minds in the St. Joseph Public Schools. First at the head of the class as teacher, then at the head of a school as principal, finally spending the last few years heading an effort to develop innovative and creative programs, curriculum, and policies for the district.

While her talents will be missed, I am happy to report that she will be pursuing other interests in our community and will continue to lend her vast knowledge. While she may be changing roles, her dedication to students, to learning, and to creating a brighter tomorrow won't change.

Mr. Speaker, I know that all of my colleagues join me in wishing her many more happy and healthy years. On behalf of southwest Michigan, I would like to thank her for all of her service, dedication and commitment to St. Joseph.

HONORING CAROLE S. POWERS ON HER RETIREMENT FROM TEACHING

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mrs. MORELLA. Mr. Speaker, it is my great pleasure to congratulate my constituent Carole S. Powers on her retirement from the Charles E. Smith Jewish Day School, and from teaching, after more than twenty years of service. Her dedication and commitment to JDS students is not only testimony to her strong commitment to the school and the community, but also to the profession of teaching. Her work has contributed to the high regard in which the Jewish Day School is held by the community.

Over the years, Carole Powers has touched numerous lives and helped shape a multitude of futures. She is one of those teachers to whom former students return years after their graduation to share their successes, and whose influence and impact students remember long after they have left high school. One of those former students reflected on her importance in his education in a letter to the school paper, and I'd like to share just a part of that letter:

"Next week, as I graduate from law school and don the old cap and gown for the last time, I'll have an opportunity to reflect on my 20 years of formal education.

"By my own rough count, I've had well over 100 teachers—from nursery school to JDS, from college to law school. None was as effective as Carole Powers. None came to class every day with as much commitment to her students, and none stretched her student's minds the way she did.

"All of her students were enriched by her career, and we hope to be able to continue to learn from her and draw inspiration from her for many years to come."

Carole Powers has touched numerous lives and helped shape a multitude of futures. I know her colleagues join me in recognizing her many years of service and in wishing her health, happiness and personal fulfillment in her future endeavors.

A SALUTE TO ERWIN J. HEINZELMANN

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, I am pleased to recognize one of the hardest working and effective social reformers in Wisconsin. As friends and colleagues gather to honor Erwin J. Heinzelmann on the occasion of his retirement from Wisconsin Correctional Service (WCS), after thirty-five years, I would like to take a moment to reflect on his years of service to my home town.

After a stint as a brewery worker, Erv began his public service career as a police aide. Feeling the call to create nonviolent options for offenders, he took a job as a probation officer in Children's Court. During his tenure at Children's Court, Erv correctly observed, before it was commonly acknowledged, that criminal behavior could be generational; that many of his youthful clients came from homes where parents were also involved in the correctional system. Erv joined WCS as a caseworker where he focused on breaking that cycle of violence through the development of innovative rehabilitation programming for offenders.

After just two years on the job, Erv became Executive Director of WCS. He worked tirelessly to secure both private and public resources to fund projects designed to help offenders become responsible citizens. Under his leadership, the staff of WCS grew from five to two hundred and fifty employees. Motivated by his belief that people can change, given professional assistance, Erv and his staff developed an array of creative, justice oriented programming for offenders of all ages, including the first narcotics treatment program in Milwaukee, the oldest correctional halfway house, and even the first private prison in the State of Wisconsin.

Throughout the years, Erv and WCS have received scores of honors and awards, including recognition from the Federal Office of Juvenile Justice, the Juvenile Justice Delinquency Prevention Advisory Committee, and the National Institute of Justice. Now Erv is prepared to pass the torch to a new administrator. We can only hope that he will also pass on his well known enthusiasm, as well as his profound commitment to respect for the law, the reparation of harm, and dignity for all.

I ask my colleagues in the House of Representatives to join me in extending my appreciation to Erwin J. Heinzelmann for over three decades of service to the people of Wisconsin. Congratulations, Erv, and best wishes for future successes.

"HATE ON THE INTERNET"—REMARKS OF JERRY TURK

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. LANTOS. Mr. Speaker, while the Internet is a wonderful technological tool providing information on a host of subjects and permitting the rapid dissemination of great deal of information on an incredible variety of topics, the Internet is also being used by hate mongers and bigots to peddle their nefarious lies.

A few days ago, my dear friend Mr. Jerry Turk, the President of the Las Vegas Office of the Anti-Defamation League (ADL), delivered an excellent speech at the ADL's Distinguished Community Service Award Dinner in Las Vegas. His remarks "Hate on the Internet" are an excellent introduction to the problem of the abuse of the Internet by racist fanatics and a discussion of the difficulties that we face in attempting to deal with this serious issue.

Mr. Speaker, I submit Jerry Turk's remarks to be placed in the THE RECORD, and I urge my colleagues to give them thoughtful consideration. This is a matter of considerable importance, and we in the Congress need to be aware of it.

"HATE ON THE INTERNET," REMARKS BY JERRY TURK, PRESIDENT OF THE LAS VEGAS OFFICE OF THE ANTI-DEFAMATION LEAGUE (ADL)

Just for the moment this evening, I would like to ask each one of you for a favor. Please imagine yourself sitting at your computer, accessing the Internet—whether through America On Line, Netscape, Microsoft's Explorer, or whatever—and being told you have E-mail. Then, upon checking your mail, you read the following message:

Subject: "Idiotic Jews who waste their lives away.

Message: All you worthless Jews should go to hell, together with your lame-ass skull caps.

Die, you worthless, good for nothing, Christ-killers."

This is a portion of an actual E-mail that was sent to thousands of people, which was turned over to the Anti-Defamation League by a recipient that was a subscriber to a Jewish issues publication.

The ADL, which was founded 85 years ago, is in the forefront of the struggle for civil rights in America. ADL, through its many offices, combats all forms of prejudice, bigotry, anti-semitism, discrimination and hate.

Our Las Vegas offices has existed for about two years, and because of the help of many of you who are here this evening, it has made great progress in carrying out its mission. However, in spite of all of our accomplishments, Hate on the Internet is posing a new, very formidable challenge. ADL is working towards meeting this challenge. However, this task is not easy, as "High-Tech Hate" is not only growing, but is becoming more diverse. Let me give you some examples:

On one of a number of Ku Klux Klan web sites, one can play the Klan's version of hangman. The user gets to hang a character called, and I quote, "Leroy", an African-American male. Once you have completed the lynching, the computer screams, "you win"; or

Perhaps you are aware that the holocaust was a fraud and it never happened. Allow me to quote from a notorious holocaust denier's web site: "For fifty years the press, Hollywood, radio, television, and public schools have saturated us with the story that the National Socialist government of Germany carried out an extermination program against the Jews. This is the famous Jewish Holocaust, in which Jews claim six million of their kind were gassed, burned, and made into soap and lamp shades by the Germans. European and American historians and researchers, mostly non-Germans, have shown conclusively that the Holocaust story is a complete fraud.

"Why would such a monstrous fraud be attempted in the first place? The answer is billions of dollars in extortion money, political power, and Jewish racial/cultural solidarity. The Holocaust is used to extort hundreds of billions of dollars from American and German taxpayers"; or

The following passage from the same site, which site by the way, runs in excess of 10 pages:

"The Diary of Anne Frank was shown in 1980 to be another crude example of hate propaganda. In a series of court cases the entire diary was definitively shown to have been written by the same person, but that person often used ball-point pen ink which was not manufactured until 1951, years after Anne Frank's death from disease! The fact that many people still believe this hoax shows the effectiveness of Jewish control in our media and schools, where children in America, Germany and elsewhere are still forced to read this Jewish hate propaganda.

Finally, from David Duke on Tiger Woods from his extensive web site:

"A number of White men will be suckered in by a wave of admiration and emotion for one Black golf player into believing that the Black race can fit in and do well among the White race. That is simply untrue. Some individual Blacks obviously can. But, as a whole, the race cannot. For the mental abilities that go into the making and maintaining of a civilization are not the same as the requirements for a great golf player. The qualities that account for the advancing and maintaining of a scientific and civilized society are simply not the same as the qualities to run a 100 meters under 10 seconds or dunk a basketball, or for that matter, break the Masters record as a rookie.

With the avalanche of equality propaganda, millions who admire Woods might pleasantly imagine that an unknown Black young man who wants to move into the apartment next door will be like a Tiger Woods. The truth is that he is exponentially more likely to be like a Willie Horton or a Rodney King."

As you can see, the World Wide Web is fertile ground for hate-mongers with hate ideas. Our children are especially vulnerable to these materials, because they are most likely to accept them as fact. At the end of 1997, there were an estimated 56 million people in the United States using the Internet. It is estimated that by the end of 1998 this number will grow to 75 million.

Anyone can legally start a site on the Internet, and once started they can published anything they please. There is no requirement that the author of a web site accurately identify him or herself. The same is true of a user of a web site. Hate messages on the Internet have been likened to anonymous phone calls or letters, except these messages can be sent simultaneously to hundreds of thousands of people. These bigots can spew their hatred without ever running the risk of being identified. Unlike traditional media, where publishers, editors and reviewers are able to separate out lies and distortions, the Internet makes all kinds of information available.

As these individuals and organizations spread their venom across the World Wide Web, what can we do—what can the ADL do? I can tell you the ADL is struggling on how to combat this hate in whatever form it takes. The dilemma here, however, is how to expose this filth and help protect people from it, without violating our first amendment rights.

One approach ADL is taking is working with America On Line to design software that will filter out all sites it considers to be engaged in the spread of hate. However, all ADL can do is make a recommendation to the user, because in the final analysis, each individual user will have to make their own choice.

ADL, nationally, as well as here is Las Vegas, is working diligently to address these and other equally important issues. But it cannot do so without your help. We need your help now to build our Las Vegas ADL office into the leader it has to be for our community.

If you truly care about the Las Vegas Valley; if you truly care about the intellectual environment our children are exposed to; if you truly care about the future of our community, you will support the Anti-Defamation League. I need you, ADL's board needs you, the community needs you, but most importantly, your family needs you—to help. Please help. Please be there. Remember, if not you—then who?

TRIBUTE TO JOHN BELFORTE

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. ESHOO. Mr. Speaker, I rise to honor John Belforte, upon his retirement as an extraordinary educator for forty-three years.

John Belforte served for three years during the Korean War before choosing to pursue a career in education. He earned his Bachelor of Arts and Master of Arts degrees from San Francisco State University and embarked upon a life dedicated to education. He was an elementary school teacher for five years, and an elementary, intermediate and middle school administrator for a combined thirty-eight years.

Under John Belforte's guidance, numerous projects were undertaken and accomplished at Bowditch Middle School, including a TV/Radio Broadcast Studio, three computer labs, a planetarium, tennis courts, technology work stations in each classroom, an enlarged intramural sports program, a conflict resolution program, student selected scheduling and programing, and the highly successful Bowditch Means Business, an innovative business and school partnership.

During his tenure as Principal of Bowditch Middle School and as a result of John Belforte's efforts, the school was designated by the U.S. Department of Education as a Blue Ribbon School and a California State Department of Education Recognized School of Excellence.

John Belforte served as President of the Jefferson Elementary School District Teachers Association, president of the San Mateo County Teachers Association, Regional President of the Association of California School Administrators, a member of Phi Delta Kappa and the College of Notre Dame Faculty Advisory Committee.

John Belforte has given generously of his time and talents to our community, serving as a Commissioner on the San Mateo County Juvenile Justice and Delinquency Prevention Commission, and as a Board Member of the Human Investment Project and Beresford-Hillsdale Homeowners Association. He's been recognized by the Foster City Rotary and Toastmasters International for his outstanding achievements and contributions, and San Francisco State University for his distinguished service as a member of the Advisory Committee to the Department of Education. His extensive involvement was recognized by the City of Foster City which issued a Proclamation naming May 31, 1990 as John Belforte Day.

Throughout his distinguished career, John Belforte has earned the respect and admiration of his colleagues and peers for his dedication and his effectiveness in improving our educational system. He has touched the lives of countless students and served as an inspiration to many. I ask my colleagues to join me in congratulating John Belforte on his retirement, thanking him for his tireless efforts and dedication, and wishing him all the best in the years ahead.

CONGRATULATIONS TO MICKEY COX ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Clovis Unified School District's Mickey Cox Elementary School for being recognized as a "California Distinguished School." Mickey Cox Elementary has educated students with great success over the years and has served as a tremendous catalyst to the community. The faculty and students of Mickey Cox Elementary exemplify excellence in student achievement and are very deserving of this recognition.

At its inception, in 1980, Mickey Cox was built by the Clovis Unified School District in an outlying rural area in the northern section of Clovis. From the outset, Mickey Cox came together as a school community with a definite vision rooted in a district philosophy and goals.

The foundation of Mickey Cox lies within the concept of being a community-centered school. The strength of their community lies within its diversity—socially, economically and ethnically. Mickey Cox enjoys an unusually high degree of volunteer support from the community. Parents are encouraged and feel comfortable in participating as classroom helpers and participants in a variety of school activities. The community helps to provide the financial support to sustain the curricular activities offered by the school. Community expectations for high academic standards, co-curricular participation and traditional values have been framed within the context of a caring community. All members of the school community work toward developing sustained achievement and social development in their students.

Mickey Cox prepares all students for the challenges of the 21st century by developing confidence and skills in critical thinking through participation in a wide range of goal-oriented experiences. The concept of nurturing the whole child is emphasized through monthly award assemblies of selected students who demonstrate strength in mind, body and spirit. They believe student recognition is essential in helping students strive toward mastery of academic, physical, and social-emotional development. The school motto is: "If it's to be, it's up to me." Mickey Cox maintains a rich tradition of recognizing student achievement and school involvement deemed important by the entire community.

Mr. Speaker, it is with great honor that I congratulate Clovis Unified School District's Mickey Cox Elementary School for being recognized as a "California Distinguished School." I applaud both the school and the community for their commitment to our children's lives. I ask my colleagues to join me in wishing Mickey Cox Elementary many more years of success.

THE RETIREMENT OF JOHN WARD, "THE VOICE OF THE VOLS"

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. DUNCAN. Mr. Speaker, as many people here in Washington know, I am a tremendous fan of the University of Tennessee Athletic Teams.

For more than thirty years, John Ward has been known throughout the Nation as the "Voice of the Vols." During that time Mr. Ward has made millions of fans feel like they were sitting in the stands even though they were only able to listen over the radio.

He has been acclaimed with a reputation as one of the finest sports announcers in the history of this Nation.

Even more importantly, he has become one of the most respected and admired men in East Tennessee and has been a true friend to many many people throughout our part of the Country.

John Ward has now announced his retirement as the football and basketball broadcaster for the Tennessee Volunteers after one more season. When he leaves he will certainly be missed by countless numbers of Tennessee sports fans and will be almost impossible to replace.

I would like to offer my congratulations to John Ward on a job well done and wish him the best for the future.

I would like to call to the attention of all my colleagues and other readers of the CONGRESSIONAL RECORD several articles and editorials from the Knoxville News Sentinel.

A LEGEND STEPS DOWN

JOHN WARD, BILL ANDERSON WILL END LONG BROADCASTING STINT NEXT YEAR

At the University of Tennessee, student-athletes come and go with regularity. Less frequently, the school changes presidents, vice presidents, deans, coaches and even athletic directors. And life goes on.

What has not changed in the past 30-plus years at UT is the person broadcasting football and basketball games, John Ward.

When Ward steps down as the "Voice of the Vols" after the 1998 football season and the '98–99 basketball season, life will go on but will be very different. Bill Anderson, the former UT football player who has been the color commentator and sidekick to Ward's play-by-play announcing, also will bow out next year. They are the longest-running broadcast pair in Division 1-A college football.

Ward, who has broadcast UT football games for 30 years and Vols basketball games for 34 years, called a press conference last Wednesday to announce that he will retire following one more season behind the microphone. Succinctly he said, "It's time."

Edwin Huster, Vol Network general manager, promises a national search by the university, the athletic department and the network for Ward's replacement. The new broadcast team likely will be named by May of next year.

But how does UT or the network replace an institution? University President Joe Johnson said he would prefer the headache of picking head coaches, athletic directors or chancellors to finding a successor to Ward.

As much as Ward's longevity and steady voice at the mike, he will be remembered for the detail, the fairness and, most of all, the colorful way he announced UT's games.

Ah, yes, the color. How does one improve on, "Give him six"? Or dragging out the last five yards of a long touchdown romp as though the runner suddenly lapsed into slow motion: "He's at the five, the four, the three, the two, the one . . ."? Or, with field goals, expanding the word "good" to about 10 syllables?

In basketball, Ward might not have patented the term "bottom," but can anyone deliver it any better? And who can forget the basketball glory days of "Ernie G. of Tennessee" or "Bernard KING of the Volunteers" from the mid-1970s?

Such are the things of legend, and, in the world of college football and basketball broadcasting, Ward's legendary status is assured. We wish him and Anderson the best in retirement.

Meanwhile, thanks for giving us one more year.

JOHN WARD, VOICE OF THE VOLS, TO RETIRE

(By Mike Strange)

John Ward revealed his scenario Wednesday, envisioning the aftermath of his retirement as the voice of University of Tennessee athletics.

"Game one," Ward said, "people listening will say, 'That sure doesn't sound like John Ward.'

"Game three, people will say, 'I wonder what John Ward's doing today?"

"Game five, people will say, 'What was the name of that guy who used to broadcast Tennessee games?' "

That's one call Ward will blow.

The man revered as "The Voice of the Vols" announced he will retire following one more football and basketball season behind the microphone. However, it's not likely he will be forgotten by UT fans until well into the 21st century, if then.

After 30 seasons of broadcasting Tennessee football and 34 describing basketball, Ward called a press conference that ended several years of speculation as to when he would step down.

"It's time," he said.

Because of his commitment to sponsors who already had signed on for the coming year and to allow for a more deliberate search for his replacement, Ward agreed to one more season.

Bill Anderson, his color commentary sidekick for all 30 football seasons, also will bow out with Ward. They are the longest-running broadcast tandem in Division I-A college football.

"He's seen head coaches come and go, and he's seen athletic directors come and go," said UT head football Coach Phillip Fulmer. "And John has remained the rock that has always been there."

"That won't change for a number of years. He may retire from being there every day, but he won't leave the minds of Tennessee people."

Ward, who has always been secretive about his age, is believed to be 68. He said he had considered retirement "for three or four years" before arriving at what finally seemed to be the right time.

"I didn't make this decision all by myself," Ward said. "My wife was involved, the university, some of the sponsors we visited with."

He added, "I know the decision now is correct, and the time is correct."

Why? Ward said he had jotted down a list of 22 factors, ranging from health to commitment to the travel to the hours of preparation to the quality of the product.

"It's not a matter of where I think I've slipped very much," he said. "I did a great job this year, compared to other years."

UT President Joe Johnson said he preferred the dilemma of hiring head coaches, athletic directors or chancellors to the daunting prospect of replacing an institution of Ward's stature.

Doug Dickey, men's athletics director since 1985, was the Vols' head football coach when Ward slid behind the microphone in 1968.

"When 107,000 show up for football games or 24,000 come for basketball games, part of that legacy and building that goes to John Ward and Bill Anderson," Dickey said.

Dickey said before the search process for Ward's replacement begins, UT must renegotiate its broadcast rights. The current contract with Host Communications expires in July 1999.

Edwin Huster, Vol Network general manager, said a national search will be conducted by the university, the athletic department and the network. A new broadcast team will be named by May 1999.

"This is the day I and all Tennessee fans hoped would never come," Huster said. "Where do we go next? Good question."

Ward prefers to sit out that process.

"I think it would be better to have a detached, methodical search," Ward said.

The two most often-mentioned candidates among UT fans are WBIR-TV's Bob Kesling and Mike Keith, who recently left WNOX/WIVK radio to become broadcast director for the NFL Tennessee Oilers.

Both are UT graduates and Vol Network veterans who got their respective starts under the Ward regime.

"John set such a high standard," Kesling said. "And he gives the Tennessee fans exactly what they want, so the next guy who follows him is going to have it pretty tough."

Keith said he was "shocked" by Ward's announcement, adding, "It's neat that he set himself up to go out on top of his game. The last year, when basketball was good again, you got to hear what really made him special."

Kesling was recently named top play-by-play man for the Jefferson Pilot SEC weekly football telecasts for 1998. He has made no secret of the fact that he considers the UT job a desirable career move.

Keith said he would "certainly pick up the phone and listen" if UT called, but added, "I'm very happy where I am."

WARD HAS TAKEN UT FANS ON A GREAT RIDE

Ed Balloff lost his job Wednesday.

Don't worry, he has another one, and he doesn't need the money. He is a retired LaFollette, businessman who eight years ago began a second career as a hotshot 72-year-old public defender.

You might know him as a credit line at the end of John Ward's University of Tennessee basketball broadcasts: "Transportation provided by Ed Balloff."

Balloff, 80, was in court Wednesday morning. Otherwise, he would have been at Ward's press conference.

Ward called Balloff on Tuesday to tell his longtime friend that this would be his last year as the voice of UT football and basketball. "It's time," said Ward, announcing succinctly, dramatically that the next season would end 35 years of basketball and 31 of football.

And thousands of miles on the road with Ed Balloff.

Balloff and Ward became friends in the mid-'70s. In the more than 20 years that followed, they realized they shared more than a passion for Tennessee basketball.

"I couldn't have a better friend than John Ward," Balloff said.

They aren't just friends. They are as much a team as Ward and Bill Anderson, Ward's radio sidekick on UT football broadcasts for the last 30 years. Their booth is Balloff's car.

Balloff, who doesn't fly, began driving Ward to SEC basketball games during the glory days of Ernie Grunfeld and Bernard King (1974–77). They once drove all the way to New York for a National Invitation Tournament game. They have driven home from games in Baton Rouge, La., and Oxford, Miss., when they didn't make it back to Knoxville before dawn's first light.

But their landmark trip was to Lexington, Ky., in January of 1976. After that, their return-trip conversations were never the same.

As Balloff watched the game from the UT bench, he became more and more nervous. When the game went into overtime, he couldn't take it.

He went into a men's room, turned on all the faucets and began flushing the toilets—anything to muffle the roar of the crowd that only could mean bad news for UT. Finally, when he detected a silence beyond the men's room, he ventured outside to see all the sad Kentucky faces. The Vols had won in overtime, 90–88.

The games didn't get any easier for Balloff after that. Watching made him too nervous, so he either paced the corridors of the arena or dropped Ward off at the game, returned to the hotel and picked him up afterward. Ward told him what happened on the way home.

So, in effect, Ward did for Balloff what he did for Vols fans everywhere. He gave him a front-row seat at a UT basketball game.

"He's great at painting a picture of a game," Balloff said. Former Knoxville Journal sports editor Ben Byrd said the same thing.

Byrd remembers the first time he heard Ward broadcast a high school game. "From the first day; you knew then he would be good," Byrd said, "because he could keep up with the action of a basketball game."

In football, Ward has made a point of trailing the play, of prolonging the call emphatically past the TD run: "5 . . . 4 . . . 3 . . ." That countdown is as much a part of Ward's distinctive repertoire as "Give him six" and "It's footballtime in Tennessee."

Bob Pob Prince was one of my favorite broadcasters. Never mind that his station was in Pittsburgh, and my radio was in Clinton, La. Sandwiched between a rock'n roll station in Meridian, Miss., and a Spanish-speaking station from who knows where, KDKA still could be heard on most nights in the early and mid-'60s. Even now, I think I could pick out that longago voice of the Pirates amidst static and song.

In Prince's vernacular, a flyball to Roberto Clemente was a "can of corn," a Pirate on the basepaths was a "bug on the rug." Those lines, that voice, assured me that all was right with the world.

For more than three decades, Ward has done as much for Tennessee football and basketball. There's no mistaking his voice or call. The voice has bridged generation gaps and taken its listeners from high school to the high point of their careers.

"I listened to him as a high school athlete," UT football coach Philip Fulmer said. "We used to have to drive to the top of a hill late on Saturday night to get the signal.

"I remember a particular (broadcast), the UCLA game when Kenny DeLong made a big catch. The energy and enthusiasm (of Ward) affected me because he was in the process of deciding where I wanted to go to school."

It was Ward's time to make a decision Wednesday, and UT fans shouldn't be saddened by it. Like Peyton Manning, he gave them one more year.

Balloff gladly will provide the transportation.

POSTHUMOUS TRIBUTE TO MR. STEVEN J. CRANMAN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mrs. MEEK of Florida. Mr. Speaker, I want to take this opportunity to pay tribute to one of Miami-Dade's indefatigable leaders, Mr. Steven J. Cranman. His untimely demise last Wednesday, June 3, 1998 leaves a deep void in our community.

Mr. Cranman was attending the Annual Conference of the American Economic Development Council in Nashville, Tennessee when he was felled by a massive stroke. He was barely 42 years old.

A rare South Florida native, Steven was born in Miami Beach. He virtually consecrated his life to public service, and represented the best and the noblest of our community's leadership. He was one selfless hero who dedicated everything he got to the residents of South Dade, who were rendered homeless and almost hopeless by the 1992 devastation of Hurricane Andrew, the deadliest disaster ever to wreck havoc on any community in the United States. Known as a man of limitless passion for the well-being of his fellowmen, he was the leader par excellence who went out of his way to create a convergence of community leaders and common folks alike to focus in on the socio-economic recovery of countless families through the infusion of employment opportunities.

The Perrine-Cutler Ridge community deeply feels the loss of a truly decent and caring man who made it his personal business to reach out to the needs of his neighbors. His relentless efforts in helping South Dade rise from Hurricane Andrew's ashes through economic development and job creation garnered him a prestigious award from the International Association of Personnel in Employment Security. He was also recognized as the 1997 Florida Economic Development Council's District 9 Professional of the Year for his dogged determination in recruiting companies, which subsequently led to the creation of new employment opportunities for the people of South Dade.

The numerous accolades with which various organizations and agencies have honored him through the years symbolize the unequivocal testimony of the utmost respect and admiration he enjoyed from a grateful community. He truly epitomized the resilience and compassion of a community leader whose life served as an example of how much difference each of us can make in behalf of our community's well-being.

This is the legacy Steven Cranman bequeathed to us. I am greatly privileged indeed to have known him as my good friend.

IN HONOR OF MARSHALL W. "MAJOR" TAYLOR

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. McGOVERN. Mr. Speaker, today I rise to honor Marshall W. "Major" Taylor, a champion cyclist during the late 1800s and early 1900s, for his unyielding perseverance and strength in the face of discrimination.

In recognition of his excellence in the sport of racing and his personal struggle for justice and equality, the Seven Hills Wheelman bicycle club of Worcester renamed its annual 100-mile ride the Major Taylor Century. I stand before you today to pay tribute to an outstanding athlete and admirable citizen.

In spite of widespread racism, the "Worcester Whirlwind," as he was nicknamed by his fans, valiantly pursued his passion for cycling. Taylor endured threats and physical assaults, yet rose to excellence in defiance of Jim Crow segregation laws that permeated the country as well as the sport of cycling.

In 1900, Taylor won the American sprint championship race, ultimately proving that hard work and perseverance can have glorious rewards.

Mr. Speaker, I ask my colleagues to take a moment to join me in honoring Major Taylor for his athletic ability and his sportsmanship in the face of intolerance.

IN HONOR OF ARTHUR BROWN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor Arthur B. Brown who celebrates his 90th birthday this week.

Mr. Brown was born on the Upper East Side of Manhattan in 1908 to Hungarian immigrants. After the death of his father when he was only 17 years old, Mr. Brown was forced to quit high school and work to support his family. At 20, he became the youngest person to become a licensed plumber in the city of New York.

Mr. Brown's successful business and his genuine understanding of the plumbing profession lead to his invention of the Holby Tempering Valve, an instrument which is now used around the world.

The success of Mr. Brown's business has enabled him to acquire considerable real estate on the Upper East Side, as well as an off-Broadway theater called Theater East which he has owned since 1954.

Beyond his professional life, his commitment to his community is remarkable. Mr. Brown is one of the longest members of Community Board #8 in Manhattan, a board he has been a part of since 1967; he is also a member of the East Manhattan Chamber of Commerce; the 19th Precinct Community Council; the 17th Precinct Community Council; the Central Park Community Council.

Mr. Brown has long been an advocate for the elderly in New York City, most notably as vice president of the New York Foundation of Senior Citizens. In light of these impressive credentials, it is only fitting that the senior citizen housing located at 225 East 93rd Street was named the Arthur and William Brown Gardens after himself and his brother.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Mr. Arthur Brown. He has faithfully served his family and his community for decades and his work for Manhattan is without question worth recognizing. I am proud to have Arthur Brown as a constituent.

STATEMENT ON THE 50TH ANNIVERSARY OF THE NATIONAL INSTITUTE OF DENTAL RESEARCH

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. PACKARD. Mr. Speaker, I rise today to commemorate the 50th anniversary of the National Institute of Dental Research. The National Institute of Dental Research (NIDR) was established on June 24, 1948 by the National Dental Research Act. I am pleased to have this opportunity to recognize all NIDR researchers and scientists for 50 years of hard work and dedication.

The NIDR has had a leadership role in improving and promoting dental health. As a former dentist myself, I know first-hand how important this research is for every American. The NIDR supports biomedical and behavioral research in its own laboratories and in public, private, and academic research centers across the nation. It also promotes oral health worldwide through its sponsorship of international meetings and information changes.

The NIDR has dedicated 50 years to researching tooth loss and other related diseases and disorders, including AIDS, osteoporosis, oral cancer, arthritis, and diabetes. Through its research on preventive and diagnostic strategies, the NIDR has contributed to a dramatic improvement in the oral health of the American people. This research saves Americans over four billion dollars in dental expenses every year!

Mr. Speaker, the National Institute of Dental Research has been instrumental in the nationwide decline of oral and dental disease. I wholeheartedly support the NIDR and appreciate its many contributions to dental health over the past 50 years.

IN HONOR OF GRAND CHANCELLOR SIR WILLIAM D. RUBIN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. SCHUMER. Mr. Speaker, I ask my colleagues to join me today as we commend our dear friend and leader, one of the pillars of our community, Grand Chancellor William Rubin.

Born and raised in Brooklyn, Grand Chancellor Rubin was educated in the New York Public School System, graduating from New Utrecht High School, and completing Hunter College. Upon his graduation he began what would become an eighteen year career at a prestigious major building and real estate organization, moving up to the position of supervisor of construction.

Sir William, a self-motivated individual, was also employed for many years as President of Sabil Management and Bilken Construction Corporation, companies specializing in many different areas, such as real estate investment and general contracting. His expertise in these fields led him to become President of various corporations, including Seabreeze Associations. In 1958, Bill married Zelda Schwartz, also a loyal Pythian, and they now have three beautiful children, all of whom have completed prestigious universities and are flourishing professionals.

Through the years, Mr. Rubin has also been an active participant in community affairs. He has served in many leadership positions for various organizations such as the United Democratic Organization, the NYS Senate Staff, and the Hadassah and Deborah Hospitals. He has also been an extremely active member of the Genesis Lodge. These time and effort consuming activities were all in addition to his involvement in the Pythian Organization as Grand Chancellor and member of the Grand Lodge Committees.

Grand Chancellor Rubin's determined and altruistic personality makes him a natural leader in community affairs. His various involvements have not gone unnoticed; he has been rewarded with various distinguished awards and honors, including the Man of the Year Award, the Distinguished Service Award, Humanitarian Award, Life Membership Memorial Award, and the most coveted of all honors, the Degree of the Golden Spur.

We are proud and honored to welcome home the Grand Chancellor of the Pythian Knights, William Rubin. His leadership abilities and qualities, as well as his concern for the community make him a true role model and friend.

DEMOCRACY TRANSITION PACKAGE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. NORTON. Mr. Speaker, today, I introduce the third bill in my Democracy Transition Package, a resolution that would return the District's limited right to vote on the House floor in the Committee of the Whole to the rules package for the 106th Congress. I ask Congress to return the delegate vote that I won in the 103rd Congress out of respect for the more than half million taxpaying residents whom I represent. This vote was withdrawn from all five delegates in the 104th Congress, but, as I will indicate, I do not believe the withdrawal was an act focused on the District and its unique circumstances as the home of the only taxpaying residents without full congressional representation. The repeal was wrapped in a package of rules, and the District was never considered individually. On behalf of my constituents, to whom the vote is deeply meaningful, I ask my colleagues to support this important measure.

Without disparaging the rights of the other delegates to seek the return of their votes, I base my request on the unique responsibilities and equities particular to the District of Columbia. I supported the rationale of the decision that gave all the delegates the vote in the Committee of the Whole, namely that, historically, delegates have been accorded the same treatment. At the same time, there are important differences between the District and the territories, most notably, that the District is subject to federal income taxes.

The unique circumstances and equities that argue for a vote for the District can be embodied in four principles.

Principle No. 1—I represent the only Americans who pay federal income taxes but have no vote on the House floor; my constituents pay $1.7 billion annually in federal income taxes, making them third per capita among the 50 states and the District of Columbia. The District is the only territory under the jurisdiction of the United States whose citizens are subject to every obligation of citizenship, notably federal taxation, but remain barred from sending a voting representative to the House and Senate. Unlike the delegate from the District, the delegates from American Samoa, Guam, Puerto Rico, and the Virgin Islands do not represent citizens who pay federal income taxes. Yet, fortunately, they enjoy full self-government and the District does not, and they are afforded the same representation in Congress as the District.

Principle No. 2—I represent the only Americans whose budget governing the expenditure of their own locally raised tax dollars must be enacted by the Congress. The passage of the President's Revitalization package ensures that nearly all of the District's local budget will now be D.C. taxpayer-raised revenues. As the first measure in my Democracy Transition package and with the support of the President, I introduced a bill that would eliminate the D.C. Appropriations subcommittees in the Congress to reflect this important change.

Principle No. 3—I represent the only Americans who do not enjoy full democratic self-government. The four territories, like the states and localities, are self governing under accepted principles of democracy without interference from the Congress. Under the Home Rule Act of 1973, the Congress reserves and exercises the right to revoke and change the laws and budget of the District consisting of locally raised revenues. As the second measure in my Democracy Transition package, I introduced a bill that would allow the District to enact its own laws free of Congressional approval.

Principle No. 4—I represent more than a half million residents, a population more than some Congressional districts.

The District Court of the District of Columbia and the Court of Appeals for this circuit have ruled that there is no constitutional impediment to extending voting rights to delegates in the House to the Committee of the Whole. Article I, Section 5, Clause 2 which states that, "Each House may determine the Rules of its Proceedings" is the constitutional basis for this ruling. Had the case gone against the House, an extraordinary precedent for intrusion by the courts into the Rules and proceedings of this body that no one in the House desires would have resulted.

The House granted a limited right to delegates to vote in the Committee of the Whole on the basis of a legal memorandum that I prepared that was factually grounded in the

District's taxpaying status. The other territories were granted the vote at the same time to avoid differential treatment, although, of course, taxpaying status legitimately sets the District apart from the residents of the territories, who do not pay federal income taxes to the federal treasury. Subsequently, the courts approved delegate voting as granted by the Rules of the House, removing any legal or constitutional question.

My vote in the Committee of the Whole still left taxpaying District citizens without a vote in the formal House and without any vote in the Senate. To avoid any constitutional question, a re-vote requirement provided that a delegate's vote would never decide an issue before the Committee of the Whole if the delegate's vote provided the deciding margin.

The work of the Committee of the Whole is no more final than that of standing committees, such as Transportation and Infrastructure and Judiciary, where Delegates have long had the vote. Therefore, nothing done in the Committee of the Whole is final until the full House acts. My constituents do not assert that they yet meet the constitutional requirements for full voting membership in the House, inasmuch as the District is not a state. What my constituents do meet each and every day is each and every obligation of citizenship, including paying every federal tax paid by other American citizens, serving in the armed forces, and being subject to all obligations required by the nation's laws. District residents have fought and died in every war since the American Revolution and sent more citizens to fight the nation's most recent war, Operation Desert Storm, than did 47 states.

Most Americans today would almost surely agree that citizens who are third per capita in federal income taxes should have the right to vote in the Committee of the Whole if that is constitutionally permissible. Denying me my vote in the Committee of the Whole punishes hard working taxpaying Americans. The House gains by adherence to its often expressed democratic principles while losing nothing if my vote is returned. It would mean a great deal to the people I represent at this critical time in the life of the nation's capital. Disempowering me cannot help in my work to help dispel the District's current problems.

A vote in the Committee of the Whole would give District residents a vote on most matters—several steps up from being a representative confined to debating while other Members vote on her local laws and her local taxpayer raised budget and revenues. In a body that justifiably gives great deference to taxpaying Americans, allowing a vote to a jurisdiction that ranks higher in federal income taxes than almost all others is a matter of simple justice.

The unique taxpaying status of my constituents, the unique privilege this body assumes of appropriating locally raised taxpayer revenue, the unique requirement to bring each and every action taken to the local city council to a body in which residents have no voting representation, and the significant population of the District makes the District's case unique. The vote in the Committee of the Whole should be granted to the District, considering the principle that produced the nation itself: no taxation without representation. Under these circumstances, the House should do all that is constitutionally permissible. I ask my colleagues to restore my limited voting rights in the House and afford the respect that the residents of the nation's capital are due.

TRIBUTE TO PAUL HEFNER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my good friend Paul Hefner, who has just completed a remarkably successful tenure as President of the Greater San Fernando Chamber of Commerce. In 1997, Paul began his one-year term as Chairman of the San Fernando Chamber of Commerce. Under Paul's able leadership, the Chamber has grown and engaged in a series of successful outreach efforts, which led to changing the name to the "Greater" San Fernando Chamber. Paul's affable personality and business experience proved to be of tremendous value in this effort.

For 25 years, Paul worked with First Interstate Bank of California. He began as a branch operations officer, and rose through the ranks to hold a number of senior positions, including Senior Vice President and Chief of Staff, Los Angeles Metro Division. He played a major role in creating the first multi-state First Interstate image and several automation projects, including Cirrus, the national automated teller machine network.

In 1989, Paul left First Interstate and formed his own business, Words in Motion, which he established in his hometown of San Fernando. Words in Motion is a unique business, one that reflects the strong spirituality of its founder. Paul's company specializes in the resolution of Christian church disputes, offering assistance to those seeking to resolve disputes in a biblically faithful manner.

I don't know whether Paul put this training to work as President of the San Fernando Chamber. What I do know is that by common consensus 1997–98 was one of the most productive years in Chamber history. In August, a few weeks after Paul assumed the chairmanship, The Chamber entered into a consulting services agreement with the City of San Fernando to conduct four key economic development programs for the business community. And under Paul's leadership the Chamber has changed from a primarily volunteer-based organization to one with a full-time, professional staff.

I ask my colleagues to join me in saluting Paul Hefner, a great Chamber Chairman, an exceptional businessman and an extremely nice guy. I salute him for his extraordinary efforts on behalf of the business community of San Fernando and the Northeast San Fernando Valley.

HONORING DANIEL CARTER BEARD

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GILMAN. Mr. Speaker, today I rise to recognize Daniel Carter Beard, the founder of the Boy Scouts of America, for his contributions to the young people of our country. I wish to call to the attention of our colleagues the outstanding achievements of Daniel Carter Beard, who made his home in my Congressional District in Suffern, which is located in Rockland County, New York. This year Rockland County, as part of its celebrations of its bicentennial, is honoring this distinguished former resident of our county.

On June 14th, the Hudson Valley Boy Scout Council/Rockland District of the Boy Scouts of America will be honoring Daniel Carter Beard with the dedication of a new bronze plaque. This dedication coincides with the Rockland County Bicentennial Celebration.

Born in Cincinnati, Ohio in 1850, Daniel Carter Beard enjoyed camping and exploring the wilderness as a child. This early interest sowed the seeds of a later passion for the outdoors and a career as an illustrator. Beard studied engineering at Covington, Kentucky and art at the Art Students League in New York City. By 1900, Beard had received national recognition for his illustrations in many wildlife and outdoor magazines.

In 1905, Beard became the editor of Recreation, a sportsmen magazine, which under his direction became a voice in wildlife conservation. Daniel Carter Beard also founded the Sons of Daniel Boone; a group dedicated to conservation, to the outdoor life, and the pioneer spirit. By 1909, he founded the Boy Pioneers of America. This group, like the Sons of Daniel Boone, was a way to improve the lives of urban youths, according to Beard.

Following the success of a youth movement in England, Beard worked to start the Boy Scouts of America which were chartered in 1910. As founder of the BSA, Beard designed the hat, shirt, and neckerchief to be worn as a symbol of the American frontier.

Beard appreciated the importance of preserving the dwindling frontier and felt it was important to stop the deterioration of the wilderness. He recognized that the frontier way of life was rapidly disappearing forever, and recognized the importance of preserving this rich heritage for future generations. He taught our young people how to camp, hunt, fish, and to appreciate their environment. The Boy Scouts of America continue to instruct these ideals and to preserve the teachings of Daniel Carter Beard.

Subsequently, Beard's personality made him a folk hero to many young men who attended his camp in Pennsylvania and read his articles in Boys Life. He became known as "Uncle Dan," with his public appearances wearing a buck skin suit, and his monthly columns describing his experiences in the wilderness.

Daniel Carter Beard died at the ripe age of 90, after living a life full of many experiences and accomplishments. His legacy lives on through his books, illustrations, and stories.

Board was laid to rest at the Brick Church Cemetery, not far from his home, Brooklands, in Suffern. He has continued to touch the lives of America's youth with his contributions to scouting and wildlife conservation.

Mr. Speaker, I urge my colleagues to join me in honoring Daniel Carter Beard. The Boy Scouts of America has been an important part of my of my life since my youth, and I recognize that it is an important outlet for young men to learn to appreciate their natural surroundings and to value all that nature has given us, and to hold character as they learn the importance of integrity, hard work, and brotherhood.

AMERICANS DON'T NEED SPEECH NANNIES

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. DELAY. Mr. Speaker, I submit to the RECORD Douglas Johnson's insightful and valuable analysis of campaign regulation proposals and their impact on freedom of speech. I hope my colleagues will examine it prior to supporting so-called campaign "reform" measures.

[From National Right to Life News, Sept. 30, 1997]

DO AMERICAN VOTERS NEED SPEECH NANNIES?

(By Douglas Johnson)

Many incumbent members of Congress are eager to provide America's voters with a new government service—a federal law to protect them from messages about politicians that may "manipulate" simple-minded voters, especially those communications that are "negative" in tone, or that will result in "unhealthy" debate.

Yes, if Senator John McCain, Senator Russ Feingold, Common Cause, and their allies get their way, federal legislators, political appointees, and FEC career speech regulators will become the political speech nannies for the rest of us. They will do their utmost to shield their fellow citizens from an excess of information and claims about politicians—conflicting messages that may confuse and befuddle them, or even trick them into voting for the "wrong" candidates.

If you do not regard yourself as being in need of such a service from your government, then maybe it's time for you to take a closer look at the McCain-Feingold bill. The latest revision, currently on the Senate floor, contains speech-nanny provisions that are even stronger than those found in earlier versions, and astonishing in their brazenness.

In recent days, the media have reported that the new bill would restrict broadcast ads that mention candidates within 60 days of an election. However, the bill actually contains multiple speech restrictions that sweep far more broadly than the 60-day provision.

The other, less publicized provisions encompass both print and broadcast communications—and apply year around. The bill would generally prohibit unions and corporations—including issue-advocacy groups such as National Right to Life, the ACLU, or the Sierra Club—from paying for communications to the public at any time of the year that federal regulators consider to be "for the purpose of influencing a federal election," if the sponsoring organization is deemed to have any of ten broad categories of links (direct or indirect, actual or presumed) to a candidate, including the mere sharing of professional vendors. "Candidate" includes all incumbent members of Congress, unless they have announced their retirement, starting the day after any election.

AND "EXCEPTION" THAT PROVES THE RULE

Sen. McCain has made much of what he calls an "exception" which he claims would protect the right to disseminate certain printed information about the voting records of Members of Congress and the positions of candidates, including so-called "voter-guides."

Actually, however, the so-called "exception" amounts to an elaborate set of "speech specifications," spelling out what type of information on politicians' votes and positions the Congress would deign to permit. Among other specifications, such printed material would be verboten unless it is solely presented "in an educational manner," which is federal speech-regulation jargon meaning "no explicit or implicit value judgments allowed." The bill also contains an additional requirement that the communication must not contain "words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates."

This so-called "exception" would really operate as a ban on the sort of congressional voting "scorecards" and voter guides that are commonly disseminated by many issue-oriented citizen groups and unions. Typically, such materials reflect a viewpoint on the issues covered by the scorecard or voter guide. This viewpoint may be evident, for example, in the selection of issues and the way that they are characterized, through "positive" or "negative" rates of "grades," and through explicit commentary.

Such commentary is not an "abuse" or "evasion" of federal law. Rather, it is fully protected by the First Amendment, which is not a "loophole" but, among other things, the nation's paramount "election law."

Under the so-called "exception," however, a citizens' group such as NRLC, Inc., could not at any time of the year issue a brochure that contains the value-laden statement, "On May 20, 1997, Senator Russ Feingold voted to allow the brutal partial-birth abortion procedure to remain legal," without risk of facing an FEC investigation for engaging in advocacy against and "candidate." In addition, for 60 days before the primary or general election, NRLC, Inc., could not run an ad on the radio or TV that said simply, "Senator Russ Feingold voted against the Partial-Birth Abortion Ban Act, H.R. 1122, on May 20, 1997."

Isn't this really "incumbent protection," big time? One of the few disadvantages of being an incumbent is the possibility of being called upon to defend one's actual votes on any of hundreds of issues. But the incumbents will have to do a lot less such defending, if the McCain-Feingold speech restrictions were in effect.

These restrictions would apply even to communications that ask citizens to take action with respect to approaching votes on critical issues in Congress. For example, prior to the September, 1996 votes in the U.S. House and U.S. Senate on whether to override President Clinton's veto of the Partial-Birth Abortion Ban Act, NRLC published brochures that asked readers to contact specific members of Congress (i.e., "candidates") who had previously voted against the bill in order to urge them to switch sides and vote to override the veto. Some did so. Other groups ran TV ads with similar messages.

ONLY PACS CAN SPEAK

Under the bill, it would remain lawful for a Political Action Committees (PAC) to utter the name or depict the likeness of a candidate before an election, so long as the PAC was able to avoid inadvertently violating the bill's Byzantine provisions defining impermissible "coordination," which include such things as merely paying for "the professional services of any person that has provided or is providing campaign-related services in the same election cycle" to a candidate who the PAC wishes to support. Running afoul of these "coordination" rules automatically limits the PAC's speech on behalf of a candidate to $5,000.

A law that allows only PACs (and the news media) to speak about politicians would silence countless citizens' groups across the nation that do not have the resources to meet the complex regulatory demands that are involved in operating a PAC (e.g., hiring accountants and lawyers with expertise in federal election law, filing complex reports, reporting the names and occupations of donors to the government, etc.).

Moreover, even groups that have connected PACs, such as NRLC, would be able to engage in far less politician-specific speech than now, which is precisely the goal of the speech-regulators. Current law places stringent rationing restrictions on PACs. Such PACs may solicit and accept donations only from individual members, donations are limited to $5,000, and the names of all donors of over $200 (under the bill, $50) must be reported to the government, among other restrictions.

However, the Supreme Court has held that such government regulations may be applied only to communications that contain explicit words urging a vote for or against a candidate. The Court has held that "issue advocacy"—meaning citizen groups' commentary on politicians and their positions on issues—is core political expression and enjoys the highest degree of immunity under the First Amendment.

The Supreme Court's decisions do not allow this definition to be adjusted by federal or state legislative bodies, because that would allow precisely what is being attempted now—government control of the content and the amount of speech regarding the matters that are at the very core of the First Amendment's protections.

The Supreme Court did not adopt its narrow definition of "express advocacy" based on some native misperception that only messages that explicitly urge a "vote for" or "vote against" a specific candidate would influence voters. Rather, the Court explicitly recognized that many other types of speech regarding the merits of the positions and votes of candidates may sway voters (that's why they're called "voter guides"), but rejected limitations on such speech as alien to the First Amendment.

As the Court said in Buckley v. Valeo, "As long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want *to promote the candidate and his views*." [emphasis added] But under the McCain-Feingold bill, they cannot "spend as much as they want to promote the candidate and his views"—or even mention his name on the radio.

CONTROLLING POLITICAL DEBATE

Many of the arguments being offered to justify restrictions on private speech about politicians seem to flow from a preconception that certain political elites should define the proper parameters for political discourse—by force of law.

Burt Neuborne, legal director the Brennan Center for Justice (an organization devoted to seeking the overruling of *Buckley* v *Valeo*), displayed this elitist mindset at a February 27 hearing before the House Judiciary Constitution Subcommittee. Neuborne commended the panel's chairman, Congressman Charles Canady (R–Fl.), "for the disciplined way the hearing has been run, and how carefully you maintained the ground rules that allowed real free speech to come out here. And I'm really saying that the same idea has to be thought of in the electorial process. * * * In a courtroom speech is controlled. In this room speech is controlled, and the net result is good speech."

Here, indeed, is a new vision of democracy—elections in which the government sits on high as a judge, decreeing who will speak, at what time, and for how long.

Or consider the words of Sen. McCain himself, who explained on September 26, "These groups run ads that even the candidates who benefit from them often disapprove of. Further, these ads are almost always negative attacks on a candidate and do little to further healthy political debate." [emphasis added]

Where does Sen. McCain think he gets the authority to suppress commentary on politicians that he considers "negative" or "unhealthy"? And does he really imagine that it is constitutionally relevant whether or not candidates "disapprove of" the speech of citizens' groups?

Even more haughty are the words of Congressman Scotty Baesler (D–Ky.), who says that unless restrictions are placed on independent communications, "the candidate risks losing control over the tone, clarity, and content of his or her own campaign."

Whatever gave Mr. Baesler the outlandish notion that he has authority to control the tone or content of the debate that precedes an election? Elections are not the sole property of the candidates. The right to seek to persuade fellow citizens of what issues they should weigh heavily at election time is as fundamental as the right to vote itself. As the U.S. Court of Appeals for the Second Circuit put it in *FEC* v. *CLITRIM*—one of the innumerable federal court decisions striking down various speech regulation schemes put forward by the Federal Election Commission—"the right to speak out at election time is one of the most zealously protected under the Constitution."

PROTECT THE DIMWITS?

We are told that ads and voters guides put out by citizens' groups influence elections"—but just what does that mean? After all, none of the communications being debated—voter guides, scorecards, TV ads—can "influence elections" at all, except to the extent that they are given weight by registered voters.

Doesn't our constitutional system of government ultimately rest on the general premise that these people—grownups, American citizens—should be allowed to sort out the competing political messages (including those presented by the news media) without government-imposed filters or government-imposed counterspeech?

Restrictions on speech such as those contained in the McCain-Feingold bill seem to grow out of a "protect-the-dimwits" mindset—a usually unspoken premise among many members of certain political and media elites that we need laws to protect the poor perplexed voters from being manipulated by independent political voices.

For example: in an August 19 interview on CNN, Alan Baron, chief Democratic counsel for the campaign finance investigation of Sen. Fred Thompson's Governmental Affairs Committee, suggested that there is something improper or illicit about the voter guides that the Christian Coalition distributes by the millions. These leaflets typically summarize the positions of two or more candidates on from five to fifteen issues.

These voter guides "are manipulated," Mr. Baron complained. "Certain issues are emphasized in one election and then deemphasized in another election. They are clearly intended—based on everything I have discovered about them—they are intended to manipulate the voter into voting a certain way, usually for very conservative Republican candidates."

(This is pretty sinister stuff—"manipulating" voters into looking more favorably on certain types of candidates by talking about their positions on certain issues and not other issues. What will happen if the AFL–CIO, Handgun Control, the Sierra Club, and the National Abortion and Reproductive Rights Action League—or, for that matter, the League of Women Voters—find out about this trick?)

Clearly, in Mr. Baron's eyes, the Christian Coalition voter guides "in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates," and are deficient in maintaining the proper "educational manner" that would be required by law under the McCain-Feingold bill.

But mind you, when Mr. Baron says that the Christian Coalition's voter guides "manipulate voters," he does not mean sophisticated voters such as himself. No, if a smart Washington insider like Mr. Baron received a Christian Coalition voter guide, he would decide whether or not the issues discussed were the issues he considered salient, compare the information presented there to the information available from other sources, and reach his own judgment. But there are so many other voters out there in the hinterlands who Mr. Baron knows lack his powers of discernment, and it is they who are in need of the speech nannies that McCain-Feingold would provide.

This is a very steep and slippery slope. Those who hold or seek office are human, which means they don't like to be criticized. If speech-regulating legislators can get the courts to back off and use legal restrictions to reduce the amount of unpleasant stimuli to which they are subjected—and be applauded for their unselfish "reform" efforts to boot—we can expect that the scope and duration such restrictions will rapidly expand in all directions.

For example, Congressman Sam Farr (D–Ca.), author of the "campaign reform" bill sponsored by the House Democratic leadership, wrote that "material that is written in such a way that the recipient is left with the clear impression that the material advocates support or defeat of a particular political candidate or party—even without naming that candidate or party—would constitute express advocacy and would fall under the scope of campaign expenditure laws." (emphasis added)

In the same vein, Senator Max Cleland (D–Ga.) recently complained to the Associated Press about what he call "independent expenditure" ads on TV that asked his constituents to urge him to vote for the Partial-Birth Abortion Ban Act, shortly before the Senate passed the bill on May 20. (He didn't.) These ads demonstrated the need for "campaign reform" legislation such as the McCain-Feingold bill, Sen. Cleland fumed. Sen. Cleland is not up for re-election for 5½ years.

On ABC This Week for September 28, George Will asked Democratic National Committee General Chairman Roy Romer if the National Right to Life Committee should be able to buy pre-election newspaper ads that decry partial-birth abortions, if the ads do not name a candidate. The Colorado governor replied, "I think you ought to separate that from the time of the election. You've got twelve months during a year." Only when challenged by an incredulous Will did Romer graciously allow that "if it doesn't mention the candidate's name, you could probably leave it unregulated."

Rather than go down this path, we should heed the words of the Supreme Court in *Buckley* v. *Valeo:* "In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

In other words, let's respect our elected officials and the demanding offices that they hold. But let's not be such dimwits that we allow them to start telling us when, how, or how much we can talk about their voting records.

TRIBUTE TO TREVOR OLSON

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. THOMAS. Mr. Speaker, I rise today to tell you about a child in my congressional district in Bakersfield, California who is battling chest and lung cancer at the young age of eleven. His name is Trevor Olson. Trevor's parents, John and Karen, and younger brother and sister, Taylor and Leanne, have been a special source of love and support during this ordeal. However, it is Trevor's courage and heroism that provide an example to all of the people that know him and learn his story, that even the youngest of us can respond to extraordinary circumstances with bravery. I believe this young American's story needs to be shared.

On June 13th the people of Bakersfield will respond to Trevor's battle by granting a wish Trevor has had for a long time. That wish is to ride in a race car. Hospice, a local health-care clinic for the critically ill, and Young-Woolridge, a local law firm, will sponsor the televised event. Gary Collins, an internationally known race car driver, will drive Trevor. I am pleased that Hospice, an organization known for their compassion and assistance to those who are critically ill, is the organizer of this event.

To Trevor, we all hope as your wish comes true, that it is everything you dreamt it would be.

God bless you.

IN APPRECIATION OF JUDGE AARON COHN

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. COLLINS. Mr. Speaker, I rise to express my most sincere congratulations to and appreciation for Muscogee County Juvenile Court Judge Aaron Cohn.

Columbus, Georgia, which falls within the boundaries of Muscogee County, shares many of the juvenile crime problems faced by cities around the nation. Drugs, gangs, and violent crime are serious challenges that parents, teachers, and law enforcement officers are forced to address every day. When the efforts of these individuals fall short, however, we rely on the juvenile justice system to assist troubled youth and to protect our communities.

Boot camps are one approach that has proved particularly effective in Muscogee County. While some federal bureaucrats have suggested that boot camps are too severe a punishment, Judge Cohn's use of the program has been a very effective "last resort" for some of the area's most difficult cases. I congratulate Judge Cohn for utilizing successful local approaches to juvenile crime such as the boot camp program.

Boot camps are not, however, Judge Cohn's only approach to the juvenile crime problem. Judge Cohn understands that every child represents a unique set of circumstances and is in need of a personalized approach. I am sure I speak for many Muscogee County residents in expressing my appreciation for Judge Cohn's sensitivity to the needs of both children and the communities in which they live. The "tough love" that he provides the children of Muscogee County is saving taxpayers millions of dollars in future adult correctional costs, providing a safer environment for all children in their schools and neighborhoods, and insuring that even the most difficult children are given a fighting chance to succeed in life. Thank you, Judge Cohn, for your love of children and for your dedication to the communities of Georgia.

A FEW WORDS WITH . . . AARON COHN
MUSCOGEE COUNTY JUVENILE COURT JUDGE

Monday's paper carried a story that said more than 16,000 juveniles have been sentenced to boot camps since the program began four years ago. As juvenile judge, what is your assessment of that program?

I think it is a wonderful program for some children. Juvenile justice has to be individualized justice: One kid may react better to probation than to incarceration; another kid may require incarceration. It's not an exact science. You just never know sometimes.

One thing we do know: I don't think you can mix 11-year-olds with 15- and 16-year-olds. If the kid is real young I try to steer away from boot camp.

But with the boot camps, we're dealing with children who would never know what the word "discipline" is. And most of the kids going there, the ones we're sending there, are kids we've adjusted, we've talked to them, we've done everything we could to avoid it.

I think the first year, we may have led the pack (in boot camp sentences) for all I know. But we used it only as a last resort, based on the type of offense the person has committed.

What have the results been, in your experience?

The program does work for lots of people. It's like a baseball game—some you win, some you lose, some get rained out. Not every program works with every child, but they'll get something from this program.

I read the article saying the feds think it's a bad program . . . I don't know about any child who's been mistreated. I do know one thing—you couldn't just get some drill instructor at Parris Island. He's got to have tough love, but not so he just scares kids to death.

It's a good plan, but sometimes you may have the wrong person in there. You can't get away from the human equation.

What kind of youthful offender most benefits from a military program of that kind?

I like a child to be around 15 years old or older. We as a general rule do not send the 11- and 12-year-olds because they haven't even reached the age of criminal responsibility.

The bad part is that in any of our work, we can take a kid from a home that has no discipline, that's so fragmented and dysfunctional the family can't handle him. So even after we send him (to boot camp), what does he come back to? The same home, because we don't have enough foster homes, group homes to take care of him.

If we save one kid, if we turn him around, we save taxpayers about $250,000. You pay now or you pay later, and if we can get him early enough where he doesn't go into the adult system . . . it's the only place we're going to save them is in the juvenile justice system.

The thing we have to do is make sure there's no favoritism, because not every child is treated alike. Some have a good support system, some have no support system.

You walk a tightrope. I want what's in best interest of the children, but we have to protect our friends and neighbors in the community.

There's nothing wrong with that program as long as it's handled right.

AGRICULTURAL COMMODITIES SHOULD BE EXEMPT FROM SANCTIONS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. NETHERCUTT. Mr. Speaker, today, I am introducing legislation on behalf of more than thirty original cosponsors to exempt federally guaranteed agricultural commodities from the application of sanctions under the Arms Export Control Act. Recent nuclear tests in India and Pakistan forced the Administration to impose sweeping economic sanctions on both countries, with potentially devastating consequences for American agricultural exports to South Asia.

Under the terms of the Arms Export Control Act, the President has very little flexibility in the imposition of sanctions. When a non-nuclear weapon state detonates a nuclear device, the U.S. government is required to terminate sales of defense articles, end foreign military financing, oppose all loans from international financial institutions, and prohibit all commercial loans from U.S. banks, except for the purchase of agricultural commodities. The Act also requires the government to deny any credit guarantees or financial assistance by any department or agency.

This sanction could effectively cut off any federally guaranteed agricultural exports to either India or Pakistan. These new sanctions come at a difficult time for many American farmers, who are experiencing historically low grain prices, and who could now be locked out of a market of 1.1 billion consumers.

Some of these sanctions may have a place, and U.S. interests are certainly served by limiting the flow of technologies and financing that contribute to weapons proliferation. But having failed to deter nuclear testing, what continued purpose do the broader, unilateral sanctions serve? If international competitors quickly fill the market that the U.S. has unilaterally abandoned, the effects of most sanctions will be negligible. In a classic case of unintended consequences, the sanctions on both India and Pakistan may severely impact certain sectors of the American economy while having relatively little consequence on the target nations.

I am particularly concerned about sanctions which deny all U.S. credit guarantees to both nations, a prohibition which could unintentionally punish American agricultural producers. Export credit guarantee programs administered by the Department of Agriculture are a critical tool for foreign agricultural sales, but the Arms Export Control Act could effectively cut off any federally guaranteed exports to either India or Pakistan. Such sanctions come at a difficult time for many American farmers, who are experiencing historically low grain prices, and who could now be locked out of a market of 1.1 billion consumers.

The issue goes beyond the specific programs guaranteed through the Department of Agriculture by undermining American's reliability as a supplier. Sanctions introduce an uncertain element that makes our trading partners reluctant to do business with us when more consistent, reliable trade partners are available. International competitors have already indicated a willingness to fill orders for American agricultural commodities. Our farmers lose twice in this situation—we miss the first sale and will have difficulty convincing the governments of India and Pakistan to buy from us in the future.

This legislation provides a necessary clarification of applicable sanctions under the Arms Control Export Act. While I believe that the Secretary of Agriculture has the authority to make this determination, the terms for an exemption remain unclear and require codification. This effort must be part of a larger process of reviewing the effectiveness and hidden costs associated with unilateral sanctions. Legislated, mandatory sanctions force diplomatic flexibility to the side in favor of a chainsaw approach to carving out foreign policy positions. The Arms Export Control Act has forced the President into a corner and marginalized the role of the United States in South Asia. Pulling India and Pakistan away from the precipice of armed confrontation will require an element of delicate maneuvering that should be accommodated in the U.S. Code.

TALENTED HIGH SCHOOL STUDENTS REPRESENTING OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. FURSE. Mr. Speaker, on May 2–May 4, 1998, more than 1,200 students from 50 states and the District of Columbia competed in the national finals of the We the People . . . The Citizens and the Constitution program in Washington, D.C. I am proud to announce that the class from Lincoln High School from Portland representing Oregon and the First Congressional District won an honorable mention as one of the top ten finalists. These young scholars worked diligently to reach the national finals by winning local competitions in their home state.

The distinguished members of the team representing Oregon are:

Alyssa Anne Aaby, Rebecca Mae Allen, Milo Twohy Dochow, Ian James Dunlap, Joshua Josef Hansen, Andrea Marina Hart, Thomas Hugh Hendrickson, Misha Andrew David Isaak, Laura Elizabeth Kanter, Aaron Matthew Lande, Andrew Benjamin Lauck, Dugan Alan Lawrence, Marcus Page Lindbloom, Brenna Rose McMahon, Maren Christine Olson, Galway Peter O'Mahony, Nicholas Albert Peters, Emma Rachel Pollack-Pelzvner, Jennifer Lewis Rosenbaum, Jay Boss Rubin, Karen Deborah Rutzick, Margaret Suzanne Schouten, Kennon Harris Scott, Andrew Patterson Sheets, Meghan Marie Simmons, Kristin Kiele Sunamoto, Evan Miles Wiener.

I would also like to recognize their teacher, Mr. Hal Hart, who deserves much of the credit for the success of the team. The district coordinator, Mr. Daniel James, and the state coordinator, Ms. Marilyn Cover, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizens and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People . . . program, now in its ninth academic year, has reached more than 75,000 teachers, and 24 million students nationwide at the upper elementary, middle and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I congratulate these students in the national finals and look forward to their continued success in the years ahead.

TRIBUTE TO HERBERT AND SALLY BOYKIN

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a couple celebrating their 50th wedding anniversary, Herbert and Sally Boykin of Rembert, South Carolina.

Mr. Boykin worked first as a janitor and then as a custodial supervisor in the Sumter County schools. He also served as a Deacon for more than forty years at Union Baptist Church and recently retired as a Chairman of the Deacon Board. Mr. Boykin is also a Mason.

Mrs. Boykin returned to school after having five children to continue her education at Morris College where she became a certified classroom teacher. She taught in Kershaw County and the City of Sumter for more than thirty years. Mrs. Boykin is still an active member of the Deaconess Board and the National Council of Negro Women.

Mr. & Mrs. Boykin were married on July 11, 1948. After ten years of marriage, the couple had five children. The Boykins worked hard to provide a college education for all five of their children. They remain active members of Union Baptist Church, where their children were baptized.

Mr. Speaker, I ask you and my colleagues to join me in honoring Herbert and Sally Boykin, as they celebrate their Golden Anniversary.

RECOGNIZING "MATHCOUNTS" CONTEST STAR

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. NOTRON. Mr. Speaker, I rise today to recognize Sarah Gilberg, one of the many achievers of the D.C. public schools. Sarah Gilberg, an eighth-grader at Alice Deal Junior High School, recently finished first nationwide among all female participants at the national "Mathcounts" competition here in Washington. Her hard work has won her a $3,000 scholarship from the American Association of University Women. Today I rise to offer Sarah much-deserved recognition from the entire city and from this body.

Sarah Gilberg placed first in the state level of "Mathcounts" before moving on to lead the small D.C. team to a 25th-place finish in the national competition. Her performance, which surpassed that of all other young women in the competition nationwide, shows that achievement is not limited to private schools. An eighth-grade student in Mr. Guy Brandenburg's geometry class, Sarah has taken the initiative and has met with great success. Sarah pursues interests in astronomy, art and music, in addition to her ongoing work in mathematics. Under the able and dedicated coaching and encouragement of a generous leader, Guy Brandenburg, she has risen to excel, and has added this latest award to many others held by Alice Deal Junior High School. Sarah truly represents the well-rounded D.C. student, combining her intellectual, academic and personal interests to achieve larger and larger honors. Across this city, DCPS students work hard and achieve excellence each and every day. Like Sarah Gilberg, many D.C. students build exemplary records but most go unnoticed.

Members of the House have been quick to criticize the District's public school system for its considerable failures. I know that Members would want to recognize one of the many achievers produced by the D.C. public school system. I urge every Member to take note of the stars of the District of Columbia's public school system, beginning with Sarah Gilberg. I invite members and staff to participate in helping our youngsters to improve by mentoring, tutoring, and finding other ways to help our public schools. Public education needs our personal attention in order to blossom and reach for the stars. I am happy to represent Sarah Gilberg, one of these bright stars.

TRIBUTE TO STERLING HAALAND

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. THOMAS. Mr. Speaker, on July 2nd, the United States will lose 30 years of defense research experience and program management skills when Mr. Sterling Haaland, the Executive Director of the Naval Air Warfare Center, Weapons Division, takes retirement. His knowledge and experience are going to be sorely missed.

If you consider the measure of our nation's ability to defend us to be an ability to accurately deliver force, Sterling Haaland's work stands out. His expertise and accomplishments have produced more accurate weapons systems, better flight software for pilots and state of the art facilities for weapons development and testing at the Navy's China Lake and Pt. Mugu ranges into the Naval Air Warfare Center, Weapons Division.

More than senior executive, program manager or researcher, Sterling Haaland's work embodies the skill and dedication this country has come to depend on getting from its defense professionals in times of crisis. When called upon to ensure our troops in Desert Storm had the best equipment we could provide, Haaland's organization made critical improvements to the AIM–9M Sidewinder missile, adapted the HARM anti-radar missile to Persian Gulf conditions, adjusted fuzes, missiles and bomb subsystems to meet new conditions and delivered improved electronic warfare systems to Navy and Marine pilots.

The legacy Sterling Haaland leaves behind him is one of accomplishment. A new generation of professionals is assuming the responsibilities he has carried. His example and the premier defense research organization he leaves behind are blueprints his successors will be able to follow in keeping the Naval Air Warfare Center, Weapons Division, in the forefront of defense technology development and testing.

SENATE—*Wednesday, June 10, 1998*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have told us that You are for us and not against us. Help us to receive Your correctives as well as Your guidance as signs of Your faithful love. In the same way, free us to befriend the struggling, sometimes anxious and insecure person inside of each of us. Encourage us to say with Lincoln, "When I lay down the reins of this administration, I want to have one friend left and may that friend be inside myself."

Make us so secure in Your unqualified grace that we reach out to others with good will and encouragement. Free us from thinking of people in the other party, Republican or Democrat, as opponents.

Father, You know that these are pressured times in the Senate. Grant the Senators a renewed commitment to agree whenever possible, to debate fairly when agreement is not easily reached, and when votes are taken neither gloat over victory nor be discouraged by defeat.

Our times are in Your hands. Shape our destiny as planned. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Georgia, is recognized.

SCHEDULE

Mr. COVERDELL. Mr. President, this morning the Senate will immediately proceed to a second attempt to invoke cloture on the pending tobacco bill. Assuming cloture is not invoked, it will be the leader's intention to try to reach an agreement similar to the agreement reached yesterday with respect to the drug issue. If an agreement can be reached, Members should expect two votes on the marriage penalty issue at 1 or 2 p.m. That would be this afternoon. Following those votes, it is hoped that Members will come to the floor to offer and debate remaining amendments to the tobacco bill. Therefore, votes will occur throughout Wednesday's session of the Senate, with the first vote being on the second attempt to invoke cloture on the tobacco bill.

I thank my colleagues for their attention.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute for S. 1415, the tobacco legislation.

> John Kerry, Bob Kerrey, Kent Conrad, Harry Reid, Paul Wellstone, Dick Durbin, Patty Murray, Richard Bryan, Tom Harkin, Carl Levin, Joe Biden, J. Lieberman, John Glenn, Jeff Bingaman, Ron Wyden, and Max Baucus.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under rule XXII is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute for S. 1415 shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The yeas and nays resulted—yeas 43, nays 55, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—43

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—55

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Gregg
Specter

The PRESIDING OFFICER (Mr. HUTCHINSON). On this vote the yeas are 43; the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Arizona.

Mr. McCAIN. Mr. President, on behalf of the leader, I ask unanimous consent that the bill remain in status quo until 12 noon, for the purpose of debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, let me just say that may even go until 12:30. The problem is the amendment we had agreed to take up next—that would have been Senator GRAMM, Senator DOMENICI, and Senator ROTH—they have not completed the language so the other side is able to examine this language, which is a courtesy, obviously, that is expected around here. But we do expect to move forward with the Gramm amendment and debate on it either within a half-hour or an hour.

Mr. President, let me just say again, it is my understanding that Senator

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HATCH had a substitute he wanted considered, that Senator GRAMM and Senator DOMENICI had a substitute, and there is also the very important issue of the farmer aspect of this bill to which the Senator from Kentucky, Senator FORD, is obviously very involved in and committed. There is also the issue of attorneys' fees that would be the subject of an amendment.

I also am aware that there are several hundred, maybe, other amendments that have been—quote—filed. Those are amendments which I know in the view of the sponsors are important amendments, but I have to say I do not believe that they are vital to the progress of this bill. Many of them we could accept. Many of them I think could be dispensed with in a short period of time.

After the disposition of the Gramm amendment, which I understand there will be a time agreement on, I hope then that would be an appropriate time to determine not only where we go for the rest of the day, but for the rest of this bill. We are in the middle of the third week of consideration of this legislation. I thought the passage of the drug amendment yesterday was important. A tax cut, as we may enact today—although there certainly are some concerns I have about the size of it—if it passes, then I think it is important for us to determine on both sides of the aisle as to where we want to go after that.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. McCAIN. I will be glad to yield at any time to the Senator from Kentucky.

Mr. FORD. I thank my friend. When you go to the marriage penalty amendment, or at least the minority has an opportunity to visit with it, and then you indicate that you want to go maybe to the substitute—you have at least one, possibly two—would it take a unanimous consent agreement to set aside the pending amendments, then, in order to go to the substitutes?

Mr. McCAIN. It is my understanding, if I could respond to the Senator from Kentucky, that we have been conducting this whole procedure on a sort of agreement basis. I would like to say in response to the Senator from Kentucky, I understand what he is getting at here. The Senator from Kentucky wants the issue of the farmers in his State, and throughout America——

Mr. FORD. And I prefer it not to be under cloture, when my time is limited.

Mr. McCAIN. I understand. I think it is important the Senator's concerns be satisfied. I think the Senator from Massachusetts and I, along with the leaders, should sit down with him and try to address this very important concern that he has.

Mr. FORD. I will be more than happy to do that. As the majority leader set out the sequence of getting this bill out of here, that we would have to pull a bill from the calendar in order to have a tax bill to put this one on to get it back to the House, there are a lot of slips between the lip and the cup before this bill will leave the Chamber as it relates to the farmer question.

I thank the Chair.

Mr. McCAIN. As I mentioned yesterday, after we passed the drug bill and had an agreement to move forward with tax cuts, I felt a lot more like Bob Hope felt——

Mr. FORD. He is alive.

Mr. McCAIN. In that the bill is alive, than I did some sense of exhilaration.

So I also am very aware of how difficult this agriculture—tobacco farmer issue is to the Senator from Kentucky. He and I have worked together for many, many years on many, many issues. I know the Senator from Kentucky and I have such a relationship that he will not be mistreated, given the consideration which he deserves on this issue.

Mr. FORD. I thank my friend. I will not mistreat him until I tell him I am going to.

Mr. McCAIN. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. If I could just add to the list the Senator from Arizona just ran through, in addition to the amendments that he mentioned is also an amendment by the Senator from Rhode Island, Senator REED, on advertising, and there is an amendment of mine, joined with a number of different colleagues on both sides of the aisle, on the issue of children. So those are two other issues. Time agreements on both of them, however, will be easily arrived at, and they should not delay us as I think most of the issues the Senator listed will be subject to time agreement. Obviously the issue of the Senator from Kentucky is more contentious, and one we need to work on over the course of the next days. And we will.

With that said, we are waiting for the language from Senator ROTH to add to the language from Senator GRAMM. Then, hopefully, we will be able to proceed. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair.

(The remarks of Mr. DURBIN pertaining to the introduction of S. 2152 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURBIN. Mr. President, I yield back the remainder of my time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, as we speak, there is work going on on redrafting the Gramm-Roth amendment to add what I think is a vitally important provision to provide tax relief through full deductibility of health insurance for the self-employed. To me that is another very, very significant step that we should take for the purpose of fairness, the purpose of assuring that all people in this country have health care, to ensure that those who may suffer illnesses or disability as a result of the use of tobacco have adequate care when they become ill.

The revised amendment has not yet been offered, but I rise in strong support of the Gramm-Roth amendment, because it will return a portion of the revenues raised from the tobacco tax to taxpayers who are bearing the burden of this tax increase. I am pleased to be a cosponsor.

The objective is to discourage use of tobacco by raising the price, and certainly tax increases will do that, but the purpose of the bill should not be to raise the taxes and produce massive new Government spending. I think it is appropriate that we use this bill to provide tax relief to the people who are going to be paying increased taxes on tobacco.

The amendment's phaseout of the marriage penalty for couples with incomes of less than $50,000 is a solid first step to eliminating the marriage penalty completely. We should be encouraging people to marry and raise their children in a marriage.

Under current law, many two-income wage earners, particularly if they are both earning good wages, are penalized by paying higher taxes as a result of being married than they would be paying if they were single. In addition, I think it is fitting that part of the tobacco tax revenues will be used to ease the burdens of the tax increase which will be borne by Americans in the lowest tax brackets.

I am also extremely pleased that part of these revenues will be used to eliminate another inequity in the Tax Code—the deductibility of health insurance for the self-employed. This amendment will finally—finally—make full deductibility a reality beginning next year.

Again, it is fitting to use tobacco revenues for this purpose since two-thirds of families headed by a self-employed individual with no health insurance earn less than $50,000 a year. That is from a March 1997 Current Population Survey. I don't have in hand the statistics on the number of those people who may be tobacco users, but I suspect that it is a significant number who would be taxed by the increased cost of cigarettes who would find it difficult to make commitments, like buying health insurance, if they don't have this relief.

Today, while the self-employed, as a result of our actions in the last couple of years, which I led and strongly supported, can deduct 45 percent of their health insurance costs, they are still not on a level playing field with large businesses which can deduct 100 percent.

While the self-employed are slated to have full deductibility in 2007, and I am very grateful to the Members of this body who supported our efforts to get that goal, what self-employed person or family members can wait 9 more years to get sick? It just isn't going to happen. Nobody is willing to wait 9 years to get their health insurance, and we should not wait 9 years to give them fair tax treatment for buying health insurance for themselves and their families.

An immediate increase in the deduction to 100 percent would make health insurance more affordable and accessible to 5.4 million Americans in families headed by self-employed individuals who currently have no health insurance. Full deductibility will also help bring insurance to 1.5 million children who live in households headed by self-employed individuals where there is no health insurance.

Coverage of these self-employed individuals and their children through the self-employed health insurance deduction will enable the private sector to address the health care needs of these individuals rather than having an expensive, intrusive, and burdensome Federal bureaucracy to do it.

It has long been my goal that the self-employed have immediate 100 percent deductibility of health insurance costs. I have sought every opportunity to achieve that goal.

In 1995, my amendment to the Balanced Budget Act, which President Clinton vetoed, would have increased the health insurance deduction for the self-employed to 50 percent.

In 1996, I worked with Senator Kassebaum and Senator KENNEDY to include in the Health Insurance Portability and Accountability Act an increase in the self-employed health insurance deduction incrementally over 10 years to 80 percent.

In 1997, provisions of my Home-Based Business Fairness Act were included in the Taxpayer Relief Act of 1997, finally increasing the deduction to 100 percent in 2007 and accelerating the phase-in over existing law.

This year, I and others who have been strong supporters, on a bipartisan basis, of this measure worked with Chairman DOMENICI to include language in the budget resolution calling for funds to be available to accelerate the 100-percent deductibility of health insurance by the self-employed.

If this tobacco bill is signed into law without full deductibility, I intend to be back—and I will be back as many times as it takes—to finish the job. Right now, full deductibility is available in 2007. I intend to be here to see it move up to an immediate deductibility to end the glaring unfairness of the discrimination against people who have to buy their own health insurance who are not provided health insurance by their employer.

The goal of providing full deductibility of health insurance costs for the self-employed has long enjoyed broad bipartisan support. My colleague who was just on the floor has long championed it. We do have support on both sides of the aisle. We have support from small business, we have support from agriculture, because it is right, it is necessary.

We are talking about health care. We are talking about eliminating a penalty, a tax penalty that discourages people from being able to acquire their own health insurance for themselves and their families.

Let us continue the spirit of bipartisanship by adopting this amendment and not miss an opportunity to help the self-employed get the insurance coverage they need and deserve. I look forward to working with my colleagues on this amendment when it comes to the floor. I intend to be a cosponsor. And I trust that we will have a strong bipartisan majority for the amendment when it is offered.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Robin Buhrke, who is a fellow in my office, be allowed to be on the floor while I speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES C. HORMEL

Mr. WELLSTONE. Mr. President, I rise today to speak again—and I shall be relatively brief—about the nomination of James C. Hormel to be United States Ambassador to Luxembourg.

I point out to colleagues that it has now been more than 8 months that his nomination has languished, awaiting an opportunity for us to consider this on the Senate floor. I have spoken on the floor before about Mr. Hormel.

Let me just make one point. We in fact have voted before on Mr. Hormel when we made the decision as to whether or not he would be a representative to the U.S. delegation to the 51st U.N. General Assembly. As I look at his qualifications, he has had a tremendous amount of success as a businessman, a tremendous amount of success as a lawyer, a tremendous amount of success in philanthropy, a tremendous amount of success from the point of view of very, very moving, very personal testimony by his former wife, his children, his family members, people who really know him well—and, I say to the Chair, people who know him not from the point of view of formal credentials, not from the point of view of any political fight, but from the point of view of kind of measuring the character of a person.

My feeling is, colleagues can have different views about this nomination, but I believe it is extremely important that this nomination be brought to the floor. I've said it before. I have spoken any number of different times on the floor about Mr. Hormel. What I have said is that if there is a debate about his qualifications, that is quite one thing. If so, then let us have that debate.

But I do not want the Senate to deny a nomination to anyone because of their sexual orientation. I think that would be discrimination. It's not just that I think that would be discrimination; it would be discrimination. And I think it is terribly important that the Senate take a long, hard look at itself and, at the very minimum, we have the debate. I think to be silent about this is a betrayal of what the Senate stands for, which is a fundamental respect for the dignity and worth of each and every person.

The reason I come to the floor is just to say, colleagues, we have the tobacco bill before us. And we have had a number of amendments. We have still got a long ways to go. I do not know that I will bring an amendment to the floor on this bill or not, in any case. But certainly if not the tobacco bill, on the next bill—or the next appropriate vehicle, as soon as possible; the sooner the better—I will have an amendment which in some way puts a focus on this whole question of judging a person by the content of his or her character, judging them by their qualifications, judging them by their leadership, and in no way, shape, or form making any kind of judgment based upon any form of discrimination.

Understand me, because I am talking—and a friend of mine is presiding, a good friend, someone whom I disagree with, but whom I really like a lot. And I hope it is mutual. I am not arguing that different people can't have different views, and I am not arguing that there are some who in very good faith may oppose this nomination. Absolutely not. But I just think that there are some big questions to be resolved here.

It is terribly important we not just block this. It is terribly important we have an honest discussion and an honest debate and we have an up-or-down vote. I think my role as a Senator is to bring some amendments to the floor on pieces of legislation to put this into very sharp focus.

PRIVATIZATION OF SOCIAL SECURITY

Mr. WELLSTONE. Mr. President, I also, if I could, want to take just a few minutes to speak about Social Security, about its future, and about a campaign under way to trade it in for a privatized system like the one we have in Chile.

President Clinton has called for a nationwide debate on Social Security for the balance of this year, to be followed by a White House conference in December and legislative action early next year. I think it is time—perhaps well past time—for the defenders of Social Security to speak up and be heard.

As far as I am concerned, Social Security is one of America's proudest accomplishments of the 20th century. It has given retirement security to Americans of all ages and has rescued millions of seniors from the scourge of poverty. Everyone says they want to protect and preserve this remarkably efficient and effective program which is so beloved by the American people. But you would never know it, judging from the direction the debate is taking.

The premise of the debate is that Social Security is on the verge of bankruptcy and must be transformed in order to survive. I strongly disagree. Social Security is not in crisis. It is not broke. It is not facing bankruptcy. It may need some modest adjustments, but the greatest dangers facing Social Security today are the many misguided proposals to "fix" it.

You can hardly open a newspaper these days without reading about the impending collapse of Social Security. This is nonsense. Social Security is now taking in $101 billion more each year than it pays out in benefits.

In April, the Social Security trustees reported that the trust funds will be able to cover benefits for the next 34 years, until the year 2032. After that, without any changes to the system, it will still be able to pay out 70 to 75 percent of the promised benefits, virtually indefinitely without any change whatever in the system. There is no reason why Social Security should come to an abrupt end in 2032 or any time thereafter.

Some would seize upon this projected funding imbalance decades from now as an excuse to undermine the program. They want to replace Social Security with a privatized system in which retirement security depends solely on success in playing the financial markets. But why would we want to get rid of a program that has worked so well? Why should we want to "end Social Security as we know it?" In fact, that's what I think some of these proposals should be called—"ending Social Security as we know it."

If we really want to protect and preserve Social Security, we should be guided by two principles. First, we should focus all of our energies on the real problem, which is a possible imbalance in the trust funds after the year 2032. Second, under no circumstances should we allow funding for Social Security to be squandered on the fees, commissions, and overhead of Wall Street middlemen.

There are a number of ways to go about this. Several prominent economists have come forward with detailed reform packages that would guarantee long-term balance of the trust funds. Other proposals will be coming out soon. These are relatively minor adjustments to the current system. They are not radical surgery.

Privatization, on the other hand, is radical surgery. And it doesn't even solve the problem. In fact, it actually takes away money from the trust funds.

How could that be? The answer is so-called "transition costs." They are really going to be a huge problem. Right now, over 80 percent of payroll taxes are used to pay benefits for current retirees. Under a privatized system, those payroll taxes would be diverted into individual retirement accounts. But younger workers would still have to pay payroll taxes to fund benefits for current retirees. In effect, they would be paying twice. There is no way of doing that without increasing taxes, cutting benefits, or depleting the trust funds.

Here is an idea: Instead of paying unnecessary transition costs, what if we used that money to restore the trust funds? The same goes for the more modest steps toward privatization now being discussed in Congress. Some members have proposed diverting 1, 2 or 3 percent of the 12.4-percent payroll tax into new individual accounts. Others would use a budget surplus to do the same thing. Instead of setting up private accounts, we could just as easily use that money to shore up the trust funds. That is the problem we are supposed to be fixing, isn't it? It's hard to explain how you are saving the trust funds when you're taking money out instead of putting money in.

The important thing, Mr. President, is to stay focused. As our guiding principle, we should insist that any legislation purporting to save Social Security actually live up to its billing. It should reserve for the trust funds any new savings or revenues. We shouldn't let some speculative shortfall, 34 years from now, be used as an excuse to force through a very different—and, I would add, a very radical—agenda.

Why are we getting sidetracked with individual accounts and privatization schemes that don't actually solve the problem? The reason is simple—money. Wall Street money, and lots of it. Mutual fund companies, stock brokerages, life insurance companies and banks are all salivating at the prospect of 130 million potential new customers coming their way. Privatization of Social Security could bring them untold billions of dollars in extra fees and commissions. That is why they have invested millions of dollars in a massive public relations campaign promoting privatization, and they are doing a heck of a good job of it. That is one reason why they have contributed so heavily to congressional and Presidential campaigns. The heavy hitters, the big givers, they are heavily involved in this campaign.

Let me read from a story in the Washington Post on September 30, 1996. The headline says, "Wall Street's Quiet Message: Privatize Social Security."

It reads:

> Wall Street is putting its weight behind the movement in Washington to privatize Social Security . . .
>
> Lobbyists for Wall Street are trying to stay behind the scenes as they argue for privatization because they and their firms so obviously stand to profit by the changes they are promoting, according to financial industry executives. Representatives of mutual funds, brokerages, life insurance companies, and banks are involved in a lobbying effort to have the government let Wall Street manage a slice of Social Security's money . . .
>
> Representatives of investment firms have begun lobbying Capitol Hill and the White House to advance their agenda, according to financial service industry executives . . .
>
> Wall Street officials want to avoid or at least deflect accusations that they are seeking to transform Social Security to line their own purses.

And, I might add, their own purposes.

There has been some very good reporting in the Post, in the Wall Street Journal, and elsewhere on exactly who is paying how much money to whom.

It is absolutely unbelievable the way in which these Wall Street interests have hijacked this debate. It is time for those of us who want to protect this system to stand up and begin to speak out and fight back against these very radical efforts to privatize a social insurance program that has been such a huge success, not just for senior citizens, but for our parents and our grandparents.

I think it would be a tragedy if we stood by and let the trust funds be squandered by Wall Street—and squandered on Wall Street. In Chile, where they privatized Social Security in 1981, an estimated 19 percent of worker contributions gets skimmed off the top by pension companies. That's 19 percent skimmed off the top by the middlemen.

Social Security in our country, by contrast, has administrative costs of less than 1 percent with no fees, no commissions. One percent administrative costs, no fees, no commissions, not going to the big Wall Street interests. And now we have these efforts to privatize the system and turn over a large part of the surplus to Wall Street? Unbelievable.

Champions of privatization like to brag about higher returns on the stock market as compared to Social Security. I think those claims are exaggerated. But even if they were true, you don't need individual accounts managed by Wall Street campaign contributors to capture the higher yields. You would get the same average returns if Social Security did the investing itself. And that way, seniors would still be guaranteed a monthly benefit indexed for inflation.

I'm not saying we should do that, necessarily. Stock markets go down as well as up. With all the financial turmoil in Asia and Russia right now, we might want to think twice about betting the future of the trust funds on go-go emerging markets. But whatever we do, we should insist that the trust fund money not be siphoned off to Wall Street middlemen.

I want to say that again to my colleagues. We might want to think twice about betting the future of the trust funds on go-go emerging markets. But whatever we do, we should insist that this trust fund money not be siphoned off to the Wall Street middlemen, which is actually what the privatization proposals do.

Our immediate focus should be on fixing the problem at hand—a projected shortfall in the trust funds 34 years in the future. We should not be diverting resources to half-baked schemes that would only make the problem worse.

We should not let Wall Street campaign contributors push through a "reform plan" that would only give them a slice of the trust funds. Privatization is a phony solution to a phony crisis.

Social Security has been phenomenally successful for over a half a century—60 years. It ensures millions of Americans against disability, death of a spouse, and destitution in their old age. Compared to private retirement plans, it is a very good deal. And it is the most successful antipoverty program America has ever devised.

It is simple. You reach the age of 62 or 65, you get older, you are no longer working, your earnings decline. There was a time when probably half of the poverty population in our country were the elderly. That was a national disgrace. That is no longer the case. This is a very successful program.

While all of us should be saving more, the fact is that there will always be millions and millions of Americans who depend solely on Social Security for their retirement security. In fact, as fewer and fewer Americans have employer-provided pensions and as businesses are rapidly shifting from defined benefit plans to defined contribution, we need Social Security now more than ever. This is no time to end "Social Security as we know it."

We now have proposals, privatization schemes, to "end Social Security as we know it." That is what this is all about. I am amazed that we have not had more discussion about how to modify and support Social Security as opposed to the privatization schemes that dismantle Social Security.

I will give some of my colleagues credit. They have been able to take, 34 years in the future, a potential shortfall and reduce it to an agenda that dismantles the Social Security system as we know it.

We need to have a major discussion and debate over this. In the coming weeks and months, I plan to be talking at great length about how we can correct the projected shortfall 34 years from now without ending Social Security as we know it. Right now, friends of Social Security are generating a number of proposals that do not amount to radical surgery. Those ideas deserve to be heard. Advocates for the privatization plan favored by Wall Street should not have a monopoly over this debate. If we have a fully informed discussion and all options are really on the table, I am very confident that the American people will support a progressive solution that does not end Social Security as we know it.

I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I ask unanimous consent that the bill remain in the status quo until 1 p.m. today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAVING THE E-RATE

Mr. DASCHLE. Mr. President, I have been concerned over the last few days to hear growing attacks against the so-called e-rate—the program Congress created just 2 years ago to help schools, libraries and hospitals connect to the information superhighway.

I am concerned because of the timing of these attacks. Only last month, the Senate approved a bill increasing immigration quotas for highly skilled workers from other countries. Why? Because there are not enough American workers with the technological skills to meet the needs of our economy. If that is not an acknowledgment that we need to do a better job of teaching technological skills in this country, frankly, I don't know what is. I supported raising the quotas for skilled workers, but that was a one-shot emergency response to a crisis.

By the year 2000, 60 percent of all jobs in our country will require technological skills that only a fraction of Americans now have. In the longrun, the only way we can keep America's economy growing is by giving our own workers the skills to compete and win in a high-skills economy. That is why the sudden course of criticism of the e-rate is so alarming.

Today, only 27 percent of the classrooms in America are connected to the Internet. In poor communities, rural and urban, only 14 percent of classrooms are linked to the Internet. If we don't take the opportunity now to address this problem, we simply will not have enough skilled workers to retain America's position as the world's strongest economy. We will also consign our children to two very different futures, separate and unequal.

It seems like every week we hear more and more talk about the year 2000 problem. What about the "year 2010 problem"?

That is when—if we do nothing—children who are in kindergarten now will be graduating from high school without the technological skills they need to get a decent job or get a good college education. We simply can't allow that to happen. We can't do that to our economy, and we can't do that to our kids.

Congress understood that two years ago. That's why we created, on a strong bipartisan basis, the e-rate program as part of the Telecommunications Act of 1996.

The e-rate program gives crucial discounts to schools and libraries to establish or upgrade Internet connections. The steepest discounts going to the neediest communities. All commercially available telecommunications services are eligible for discounts.

Across the country, 30,000 schools and libraries have already applied for help from the e-rate program to establish or upgrade Internet connections.

In my own state of South Dakota, 280 schools have already applied.

Educational technology is critical in rural states like ours, Mr. President. Through teleconferencing and other kinds of long-distance learning, students in South Dakota can take all kinds of classes they never would have had the chance to take.

If we pull the plug on the e-rate, we will slam the doors to countless educational opportunities—not just in South Dakota, but all across America.

The United States is the most prosperous nation on earth. We are currently enjoying incredible economic growth. It is a travesty to say we can't afford to give our children access to the tools they need to share in this economic miracle.

Yet, if we kill the e-rate program—as some would clearly like—that is exactly what we will be saying to children in poor rural and urban communities.

How have we reached this sad state?

In a nutshell, some telecommunications companies are not playing straight with the American public. They are trying to use schoolchildren as an excuse for costs they themselves choose to pass on to consumers.

Mr. President, the big long-distance companies have reaped a $3 billion windfall in the last 18 months.

That is $3 billion!

That's how much long-distance carriers saved in reduced access charges they paid to local telephone companies in the past year and a half. Because of the direct actions of the FCC, these companies have received more than enough money to pay for the entire e-rate program.

Over that same period, they have been asked to collect only $625 million for the e-rate.

But the long-distance carriers want to retain the $3 billion in savings and insist consumers should pay for connections for schools and libraries.

They would have us believe that the e-rate is driving up the cost of long-distance phone service.

They say they intend to add a new line-item to their customers' bills telling them just that.

The strategy is clear: Opponents know they can't attack the e-rate on its merits—because Americans care deeply about their children's education.

So they call the e-rate a new tax—and hope people get so mad about another tax that they demand an end to it.

The problem with their rhetoric is: it's not true.

The FCC is not requiring long-distance phone carriers to line-item the costs of the e-rate program on to their customers. The carriers made that decision themselves.

In addition, only a small part of the amount the carriers want to include in that line item actually goes to schools and libraries.

Most of it is used to provide phone service to rural America and other hard-to-reach customers. This is not a new responsibility. Phone companies have had that legal obligation for 60 years. It's called "universal service."

In 1996, Congress expanded universal service to include schools and libraries. We should keep our word—and keep the e-rate program.

That's why I have asked the Chairman of the FCC, Bill Kennard, to require strong truth-in-billing standards for long-distance companies. Those that choose to place line-item charges on their phone bills should also tell their customers about savings they have reaped from reduced access charges. We should not allow these companies to mislead their customers by charging for certain costs without disclosing savings they gain from other governmental actions.

This issue has sparked an important debate in Congress and the FCC about the future of universal service. The FCC's top priority must now be to secure the long-term viability of the high-cost fund as well as the e-rate.

Learning how to use the basic tools of modern communications is not a luxury for our children. It's not a frill. It is a necessity.

The e-rate was created with strong bipartisan support. It deserves our continued bipartisan support. And I hope it will receive it.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I wonder if the Senator will yield for a brief question.

Does the Senator remember the debate on the telecommunications legislation where at least there was an understanding that the major carriers were going to be favorably disposed, as a result of the competitiveness, to give those assurances to schools, to libraries, and to rural public health settings around the country?

Telemedicine is extremely important, I know, in many regions of the country. It provides extraordinary upgrading of quality health in terms of diagnosis and treatment and care for many of those who live in remote areas, whether it is in urban areas that might benefit from the museums and libraries or educational centers, or those kinds of facilities that exist in rural America, or the public health facilities, small clinics, that provide in many instances life support services for people who live in those communities. It seems to me that many of us were under the understanding that there was an agreement to provide for those kinds of services.

I am just wondering whether the leader shared my impression that this was something they had every reason to expect to go into effect, that they had planned on it and made provisions for it, and in many instances are very dependent upon these kinds of services.

Mr. DASCHLE. Mr. President, I think the senior Senator from Massachusetts makes a very important point in his question. I believe that not only people all over the country made that assumption but many of us in the Senate did as well, as we contemplated our vote on that bill. That was not an easy vote, as I know the Senator from Massachusetts remembers. That was a very, very difficult vote. I ultimately decided that, on balance, this bill merited my support. I give great credit to many Senators who put a lot more time in bringing that product to the Senate than I did. But I voted for it in part because of the assumptions that we made about the opportunities and services it would provide to people across this country, especially in improving education and information in schools, libraries and rural health care centers.

So the Senator is right. We made some promises. We made some commitments. We also made a deal that said as a result of all of this, the long distance carriers would ensure proper collections for the schools and libraries program. They knew they were going to see some reduced costs. Indeed, according to figures I have been provided, $3 billion in reduced access charges has already been achieved. Now all we have done so far with regard to the e-rate is collect about $625 million, a fraction of that $3 billion. Some of these companies have now indicated that they are fighting a small increase, the amount that, as the Senator says, has been assumed would be available for the schools and libraries across this country to improve the technological skills of every child in our schools.

I hope they will come forth with an explanation. If they are going to put in this new line item indicating the e-rate cost to people across this country, why aren't they going to show equally the $3 billion in reduced costs they have already reaped? There has to be some fairness here. There has to be truth in billing.

I think the Senator from Massachusetts has made a very important point. We made a commitment when we passed that bill, and I hope it can be realized.

Mr. KENNEDY. If the Senator will yield further, it seems to me that we have been talking about whether it has been in the area of education, the area of health care, about partnerships. We have understood that we don't have all the resources given the budgetary considerations, but we are talking about the partnership that exists between the public and the private sector.

We also listened, I thought with very strong approval, to the excellent presentation that the President made up in my own State of Massachusetts at the Massachusetts Institute of Technology.

I see the chairman of the Foreign Relations Committee. If I could yield for whatever interventions he would like to make, I see an outstanding guest who honors us and who made a wonderful speech that many of us had the chance to listen to a short time ago. It is a great pleasure to yield at this time.

The PRESIDING OFFICER. The distinguished Senator from North Carolina is recognized.

VISIT BY HIS EXCELLENCY KIM DAE-JUNG, PRESIDENT OF THE REPUBLIC OF SOUTH KOREA

Mr. HELMS. Mr. President, the distinguished Senator from Massachusetts has made my speech for me. The distinguished and honored guest from the Republic of Korea is with us, and I ask unanimous consent that the Senate stand in recess for a couple minutes so that Senators and others may greet him.

RECESS

There being no objection, the Senate, at 12:30 p.m., recessed until 12:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS)

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. No amendments are in order until 1 o'clock.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I would like to ask unanimous consent to be able to proceed maybe for 20 minutes, 10 minutes for myself and the other 10 minutes for our friend, the Senator from Minnesota.

Mr. GRAMS. I would like to request 15 minutes.

Mr. KENNEDY. I will.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The Senator is recognized.

Mr. KENNEDY. I thank the Chair.

Mr. President, the Senate has been considering the comprehensive tobacco legislation offered by Senator MCCAIN for three weeks.

In fact, since the Senate began to debate the tobacco bill on May 18, 69,000 children have begun to smoke, and 23,000 will die prematurely from a smoking-caused disease.

In the past day, however, we have made significant progress in moving forward in a bipartisan manner to resolve our differences and bring this bill to final passage.

The Senate should once and for all reject the dilatory tactics of the opponents of this legislation, who care more about protecting the profits of Big Tobacco than they do about protecting the health of the nation's children. They have used every strategy in the book to delay and obstruct this important legislation while thousands of children begin a lifetime of nicotine addiction and smoking-caused illness. But the pressure is starting to build in every corner of this nation, and the American voters are demanding that the Senate take quick and decisive action to bring this bill to a vote.

The stakes have rarely, if ever, been higher on any public health issue. Tobacco use is the leading preventable cause of death and disability in the nation. Of the 48 million smokers in the United States today, it is estimated that 20 million adults and 5 million children will die prematurely from a tobacco-induced disease.

In fact, tobacco products are responsible for a third of all cancers, and 90% of all lung cancers. 170,000 new cases of lung cancer are expected in 1998. 90,000 men and 65,000 women are expected to die of the disease in this year alone.

Tobacco use is also linked to a wide variety of other illnesses. Smoking by children and adolescents is associated with higher cholesterol levels which can significantly increase the risk of early development of cardiovascular diseases.

New research also indicates that tobacco use is a risk factor in alcoholism, depression, hearing loss, and vision loss among the elderly.

The use of smokeless tobacco products is associated with cancers of the mouth, gum disease, and tooth loss.

The dangers of secondhand smoke are also becoming increasingly clear. It is linked to low birthweight, respiratory distress syndrome, and sudden infant death syndrome. A recent report by the Agency for Health Care Policy and Research says that secondhand smoke is responsible for as many as 60% of cases of asthma, bronchitis, and wheezing among young children.

It is also clear that smoking-related illnesses impose an enormous burden on the United States economy. According to the Department of Treasury, smoking will cost society $130 billion this year, of which $45 million is attributable to medical costs due to smoking-caused diseases.

Smoking during pregnancy, which results in increased costs from complicated deliveries, medical care of low-weight babies, and developmental disabilities, adds up to a $4 billion loss for the U.S. economy.

The damage resulting from smoking-caused fires is $500 million a year, which does not even account for the 2,000 lives lost in these tragic accidents.

$500 million is attributable to lost productivity, since smokers miss 50% more work days than nonsmokers. In addition, smokers tend to die younger and retire sooner, which costs society an astounding $80 billion in lost output and wages.

Much higher priority is obviously needed for smoking cessation programs and tobacco prevention initiatives, which are among the most cost-effective means available to reduce health care costs while, at the same time, improve the lives of millions of Americans.

The pending amendment by the Senator from Texas seeks to divert approximately $47 billion over the next ten years away from smoking prevention, away from smoking cessation, away from medical research, and away from reimbursing states.

When we add the combined impact of the pending Gramm amendment and the Coverdell amendment which was approved yesterday, no funds would be left for programs which are essential to reducing youth smoking and to helping current smokers quit. In fact, the Gramm amendment alone would result in roughly 4 million fewer Americans served by smoking cessation programs, 20 million fewer people discouraged from smoking by counteradvertising campaigns, and 48 million fewer children participating in school-based smoking prevention activities.

These numbers speak for themselves. Reasonable marriage penalty relief makes sense. But the Gramm amendment goes too far. It would destroy the underlying smoking prevention legislation.

All of the money raised by the cigarette price increase contained in the legislation is currently earmarked for smoking related purposes: 22 percent is directed to smoking prevention and cessation, 22 percent is to be used for medical research, 16 percent is for transitional assistance for tobacco farmers, and 40 percent is to compensate states for the cost of medical treatment of smoking related illnesses.

Which of these smoking related initiatives would the Senator from Texas eliminate? Does he propose to eliminate all compensation to the states for their tobacco related health costs? After all, it was the state lawsuits which provided the genesis for this legislation and which exposed the most dramatic evidence of industry wrongdoing. That would not be fair. Even if every dollar intended for the states was taken to fund the Gramm amendment, it would not be enough to cover the cost.

Does he propose to eliminate all transition assistance for tobacco farmers and communities? It would not even cover one-third of the cost of the Gramm amendment.

All of the remaining dollars are directed to smoking prevention, to smoking cessation, and to medical research. These initiatives are the heart of the legislation, yet both the pending Gramm amendment and the Coverdell amendment approved yesterday will deny needed resources to prevent teenagers from beginning to smoke. If we are serious about stopping children from smoking and saving lives from tobacco-induced diseases, we have to make these investments.

These programs work. Let me give you a few examples:

Every dollar invested in a smoking cessation program for a pregnant woman saves $6 in costs for neonatal intensive care and long-term care for low birth weight babies. In addition, smoking cessation programs have an added benefit of reducing tobacco use among children. According to Michael Fiore, Director of Tobacco Research at the University of Wisconsin Medical School, children who smoke have twice the risk of becoming smokers than children of nonsmokers have. By helping parents to quit, the risk of children becoming smokers is reduced as well. The effect of the Gramm amendment would be to reduce funds for these programs, and that makes no sense.

The Gramm amendment would deny funds needed to help states and communities conduct educational programs on the health dangers of smoking. The tobacco industry spends $5 billion a year—$5 billion—on advertising to encourage young people to smoke. Shouldn't we spend at least one tenth of that amount to counteract the industry's lethal message?

Counteradvertising is a key element of an effective tobacco control strategy. We know that children are easily swayed by the tobacco industry's marketing campaigns, which promise popularity, excitement, and success for those who take up smoking. We can use counteradvertising to reverse the damage by deglamorizing the use of tobacco among children.

Both Massachusetts and California have demonstrated that paid counteradvertising can cut smoking rates. It helped reduce cigarette use in Massachusetts by 17 percent between 1992 and 1996, or three times the national average. Smoking by junior high students dropped 8 percent, while the rest of the nation has seen an increase. In California, a counteradvertising campaign also reduced smoking rates by 15 percent over the last three years.

The Gramm amendment also would take money from law enforcement efforts to prevent the sale of tobacco products to minors, even though young people currently spend $1 billion a year to buy tobacco products illegally. According to Professor Joseph DiFranza of the University of Massachusetts Medical Center, "if $1 billion in illegal sales were spread out evenly over an estimated 1 million tobacco retailers nationwide, it would indicate that the average retailer breaks the law about 500 times a year."

The Gramm amendment will diminish funding for medical research on tobacco-related diseases, which kill 400,000 Americans each year and incapacitate millions more. Given the damage that smoking inflicts on the nation's public health, it makes little sense to deny funds that should be directed to finding a cure for cancer and other tobacco-induced illnesses.

In essence, the Gramm amendment would destroy much of the public health benefit this legislation is designed to achieve. The goal of eliminating the marriage penalty for low and moderate income families is a worthy one. It is shared on both sides of the aisle. However, it must be accomplished in a way that does not imperil our primary goal—preventing youth smoking and helping smokers overcome their addiction.

The Daschle amendment, which offers relief from the marriage penalty without imperiling our smoking prevention efforts, will cost far less than the Gramm amendment, and it does a much better job of targeting tax relief to those most in need.

The Daschle amendment will cost only $27 billion over the first ten years. That is the most which can be accommodated without damaging our ability to achieve the legislation's core antismoking purposes. The cost of the Gramm proposal mushrooms after the fifth year. Thus, over ten years, the cost of the Daschle amendment is approximately $20 billion less than the Gramm amendment. This is the difference between preserving a viable youth smoking reduction effort and destroying it. That is the difference between helping millions of smokers quit and leaving them at the mercy of their addiction. That is the difference between advancing medical research that can cure tobacco induced diseases and indefinitely delaying it.

Because it is carefully targeted, the Daschle amendment actually provides more tax relief to those two income families earning $50,000 a year or less who currently pay the marriage penalty. By contrast, more than half the tax relief provided by the Gramm amendment would go to families that are not subject to the marriage penalty. Senator DASCHLE's proposal will do more to achieve tax fairness at a much lower cost.

Once this issue is decided, there is little excuse for further delay. The remaining amendments can be considered in a few days if we move conscientiously forward. There is no valid reason why the Senate cannot vote on final passage soon. If we do not, the American people will know why. A small group of willful defenders of Big Tobacco will have succeeded in obstructing the work of the Senate on this vital issue of public health. On an issue of this importance, our constituents will not tolerate such obstruction. Now is the time for the Senate to act.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

HOLDING CONGRESS TO ITS TAX CUT PROMISE

Mr. GRAMS. Mr. President, I rise today to make a few brief remarks about tax cuts and the budget, and the promises that have so tightly entwined the two.

The House passed its budget resolution last Friday by a vote of 216 to 204. The House budget plan would cut $101 billion in government spending over the next 5 years. It would also repeal the marriage penalty tax, which has unjustly punished 21 million couples just for getting married.

However, the House-passed budget plan failed to provide reconciliation instructions for achieving this tax relief, and failed to provide clear guidance on how to use any budget surpluses.

While the efforts by our colleagues in the House represent a move in the right direction, Congress must do better by the taxpayers. It now falls to the conference committee to ensure we keep our promise to offer meaningful tax relief to working Americans.

That promise must provide the framework for the budget resolution produced by this Congress.

Thanks to the exceptionally healthy economy, our short-term fiscal condition has greatly improved in the past few years, not because of what Congress did—in spite of what Congress did. But it is the economy.

In fact, we will soon see a unified budget surplus for the first time since 1969.

On May 26, President Clinton announced that this year's budget surplus would be $39 billion.

His figure is significantly less than the $43-to-$63 billion surplus forecast by the CBO and contradicts the President's own Treasury report, which revealed that through April, revenues were surging into the Treasury even faster than CBO thought.

Treasury officials forecast that the surplus could be as large as $100 billion if the revenue flow follows last year's pattern. According to some estimates, the budget surplus could reach $1.34 trillion over the next 5 years.

The question is, what do we do with the surplus? Basically, what Washington has done is overcharged our American workers and industry.

I would just like to show in the Washington Post, yesterday's edition, June 9, it says: Virginia Power Agrees To Rebates.

Why is this similar? I would like to read this. It says:

> Virginia's largest power company agreed today to $920 million in refunds and rate cuts for 2 million residential and business customers who have been overcharged for electricity, the biggest rate adjustment in State history [and that is under a] deal with utility regulators.

If a company overcharges its consumers, the Government steps in and says: You have to pay it back. You took a surplus. You have to pay it back to the customers. Also, you have to drop the rates so we do not have surpluses in the future.

But what does Washington do when it has a surplus? It starts to make plans on how to spend it. There is nobody that tells Washington you have to give it back, and they should.

Comparing these numbers with the $100 billion tax cut, when we talk about a projected budget surplus, there could be as much as $1.3 trillion or more; or if we even look at just this surplus, it would be less than 10 percent of that projected surplus. I can assure you, there are plans already being made around this Congress of what to do and how to spend the other 90 percent.

Americans, I believe, should be outraged, and a growing number are. They do not want Washington to grow even bigger—they want their money back.

Mr. President, regardless of all these different surplus estimates, one thing is clear: it is not any action by the Federal Government that is producing this budget surplus. We must credit that turnaround to the working men and women who are fueling the robust American economy. These unexpected dollars have come directly from working Americans through taxes paid by corporations, individuals, and investors. This money belongs to the people. Washington should not stand first in line to take this money. It is only moral and fair to return it to them. Washington again, has no right to spend it on their behalf.

With total taxation at an all-time high, it is critical that Congress cut taxes for working Americans. Taxes consumed about 19 percent of GDP when President Clinton took office. It now stands at 21.5 percent, the highest rate since World War II. This means every American, not just the rich, are paying more in taxes today than they did just 5 years ago.

As proof of just how heavy the tax burden has become, taxpayers did not mark the arrival of Tax Freedom Day this year until May 10.

That is the day on which working folks stop punching the clock just to pay Uncle Sam and begin working for themselves, and that is a full week later than when President Clinton took office. We all gave the Government another week of our time and money in the last 5 years to pay those higher taxes. This year, the taxpayers had to work 129 days before they could count a single penny of their salary as their own. In fact, it marks the latest-ever arrival of Tax Freedom Day.

And that is not the whole picture, because if the cost of complying with the tax system itself were included in the calculations, Tax Freedom Day would be pushed forward another 13 days.

As proof of just how far we have traveled—in the wrong direction—Tax Freedom Day in 1925 arrived on February 6. This year it was May 10.

After 16 major tax increases over the past 30 years, the need for tax relief has never been more pressing.

Do I need to remind my colleagues that Republicans gained control of Congress in 1994 and retained control in 1996 because we were the champions of the taxpayers, the champions of the American workers?

Did not the taxpayers elect us with the expectation that the new Congress would seize every opportunity to lessen the tax burden on America's families and shrink the size of Government?

They did not elect a new majority expecting that Congress would be a collaborator in the President's tax-and-spend policies, that Congress would build a bigger, more expensive Government at the first chance it got and completely give up on its promise of significant tax relief.

Unfortunately, that is exactly what Congress did. And if we do not slow it down now by providing some larger tax cuts, the Federal Government is going to explode in both size and cost. Again, that is not what I believe working Americans are asking for.

Last year, after spending by the way, the $225 billion unexpected revenue windfall and busting the 1993 spending caps, Congress cut a deal with President Clinton and delivered tax cuts only one-third as large as what we had promised and worked for in 1994.

The tax relief amounted to less than one cent of every dollar the Federal Government took from the taxpayers.

With its measly $30 billion in tax cuts over five years, this year's Senate-passed budget resolution is no better.

It spends more taxpayer dollars while continuing the path of the flawed budget deal struck between the Congressional leadership and President Clinton last year.

Tax relief I believe is the right solution because it takes power out of the hands of Washington's big spenders and puts it back where it can do the most good and that is with America's families and job providers.

When the much-bragged about Clinton tax increase of 1993 was passed by the Democrats, again, no Republican votes, but with this much-bragged about tax increase no one was out there asking working Americans how they were going to survive with less money in their paychecks. They were evidently going to have to try to do more with less, or go without. Congress did not go out and ask working Americans, if we raise your taxes, how are you going to do with less money? Americans were expected to do more with less or go without.

But now, when we talk of even taking one penny for every $10, Congress says "We cannot go without." To borrow a phrase from Ohio Congressman TRAFICANT, "Beam me up, Scotty!"

I am proud that during this year's budget debate, five Senators, myself included, reached agreement with the Senate leadership to include more tax relief in the budget for hardworking Americans.

We agreed to take the higher tax relief number in either the House or Senate-passed resolution. We also agreed there should be reconciliation legislation to achieve those tax cuts.

Carrying out these principles will improve the FY 1999 budget resolution, and it will help to forge a compromise between those who want massive tax relief and those who want massive spending.

This will eventually help us not only to balance our budget and keep it balanced, but to reduce the size of the government and also let the American taxpayers keep a little more of their own money. With our improved fiscal condition and a large budget surplus, it should not be hard to achieve these goals.

Then why is tax relief such a battle?

Mr. President, there is a special interest group to represent every disgruntled, oppressed, and persecuted group of Americans to plead their case in the media and in the Halls of Congress.

But where is the special interest group that represents the taxpayers? Where is the chorus of voices speaking up for the discontented multitude? Who will come to the Senate floor and plead the case of the taxpayers?

I submit, Mr. President, that the American taxpayers are poorly represented by their Congress. Not only are the taxpayers heavily burdened, but their burden has been imposed by their own Government.

Congress takes the taxpayers' precious dollars and spends them lavishly, at times recklessly. Congress demands more and more with little consideration for the sacrifices of those it taxes. Congress never seems to be satisfied.

So is it any wonder that when the opportunity arises to give something back to the taxpayers, Congress balks? The taxpayers fuel the fire of government spending, and Congress demands that the furnace remain fully stoked.

These are real people we are talking about, not faceless Social Security numbers. Yet Congress chooses not to see the faces of the families it taxes.

By a single vote, this Congress can tell working Americans that it is going to take even more, and you can either work more—both spouses, overtime, two jobs—or go without, without money for your children's education, without health care insurance or child care, without a family vacation, without a night out.

"But wait," you can just hear Congress say, "maybe we can create a new government program to help you. By the way, we will have to raise your taxes a little to pay for it."

Mr. President, my colleagues and I who demanded that tax relief be an integral part of the Senate budget must not and will not back off from our commitments.

We made those commitments in good faith, not only to each other, but most importantly, to America's taxpayers. Senators ASHCROFT, BROWNBACK, INHOFE, SMITH, and myself are prepared to vote against any budget that fails to provide the full $101 or more billion in tax relief called for in the House budget resolution.

We have made our intentions known to the Senate leadership. It is time that this Congress delivers on its promises to the taxpayers. We must not forget the lessons we learned in the past.

In the 1950s, the Republican Party leadership deviated from the basic principles that distinguish us from the Democrats by adopting a fiscal policy of "Republican austerity."

This slowed the economy and therefore, the voters tossed out the Republican Congress and declined to elect a Republican president. The American people instead chose John F. Kennedy, a Democrat who promised tax cuts—and kept that promise.

President Ronald Reagan also promised tax relief, and he delivered by proposing tax cuts totaling $747 billion. That equals $1.6 trillion in today's dollars. These massive tax cuts propelled the economy forward. President Reagan stood with Republican principles, and today we are still benefiting from his sound economic policy. This was done while the Congress faced deficits, not surpluses that we are enjoying today.

In 1990, President Bush, unfortunately, reached a budget compromise with the Democrats to spend more and tax more. As a result, the American voters tossed him out for abandoning his promise not to raise taxes.

Finally, history is a mirror. If we cannot keep our promise to the American people, we will lose a Republican Congress, and more importantly, a unique opportunity to create a sustainable economy, increase real income, and improve the living standard for working Americans.

Mr. President, I am deeply disappointed and frustrated by the reluctance of the Congress and the congressional leadership to provide substantial tax relief, despite projections of huge surpluses. Nothing I believe, can justify this.

This Senator intends to stand firm on his promise to work for lower taxes that allow the working men and women of Minnesota and the 49 other states to keep more of their own money. I urge our leadership to follow.

Thank you very much, Mr. President. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Arizona is recognized.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that we remain in status quo until the hour of 2 o'clock, and then I will have additional remarks after the Senator from Texas speaks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, excuse me——

Mr. McCAIN. Just status quo until 2 o'clock.

Mrs. HUTCHISON. We will have time to talk?

Mr. McCAIN. Yes.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, at 2 o'clock, we should have distributed our amendment to both sides of the aisle. We will have given everybody an opportunity to look at it. We are in the final stages of getting the amendment done by legislative counsel. We went over it this morning with Senator McCAIN's staff.

I think probably the best part of valor is to get it over here in a few minutes, distribute it widely, get everybody to look at it, and then be ready to begin at 2 o'clock. At that time, it will be my objective to offer the amendment. There is an open spot on the tree. I will offer the amendment. Hopefully, we will have support from both sides, it will be adopted, and we will take a major step toward repealing the marriage penalty and giving tax equity to the self-employed on health insurance.

This is a good amendment. I think it will serve a good purpose, and I hope my colleagues on both sides of the aisle will vote for the amendment. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I assume from our previous conversations, too, that the Senator from Texas is agreeable to a time agreement?

Mr. GRAMM. I am agreeable to a time agreement on this amendment, yes.

Mr. McCAIN. Mr. President, I thank the Senator from Texas. I think it is an important amendment as well. I hope we can negotiate time and move forward on this amendment and others throughout the remainder of the day. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, thank you. I want to talk about the tobacco bill in the context of where we started and where we are now.

I was on the Commerce Committee, and although I thought the bill had flaws in the Commerce Committee, nevertheless there was a balance to the bill. Our purpose in the tobacco bill is to try to keep teenagers from experimenting and getting hooked on cigarettes before they have the full judgment to understand that nicotine is addictive.

That has been everyone's stated purpose. The President said that. Every Member who makes a speech on the floor says that. Everyone agrees. What we came out of the Commerce Committee with was a bill that I felt had a good chance of reaching the goal of severely limiting the amount of teen smoking in this country.

Here is what the bill did, in a broad generalization. It had an agreement from the tobacco companies that they would not advertise. That is a key component to curbing youth smoking, not making it seem attractive to smoke. If you are not advertising with the Marlboro Man, it may not be nearly as appealing to smoke. So the tobacco companies voluntarily agree that they are not going to advertise provided a huge part of the balance of this bill.

The second part, and what the tobacco companies needed, I suppose, or asked for in order to give up a major right that we could not take away from them—their constitutional right under the first amendment to advertise. Congress could not pass a law saying they could not advertise. We had to have something to which they would agree. What they wanted was some limitation on the liability in any 1 year.

So in the bill that came out of committee, there was a limitation of about $8 billion. And if someone sued, and it was above that limit, their claim would not be thrown out but it would roll over until next year. I thought that was a fair balance because it would allow us to go for the target of stopping teenagers from starting to smoke because of advertising, which we now know has been targeted toward them, in return for having what I think is a huge liability limit. Nobody at this point has even come close in this country to $3 or $5 billion in any year from a lawsuit on liability. So I thought we had a balance.

What has happened on the floor is, I think—a combination of people who had different purposes in addition to stopping teen smoking, removed all the liability limits, therefore, you lose the tobacco companies agreeing to give up their constitutional right to advertise. I think we lost track of the major target.

In the meantime it was also decided that we would tax the people who legally smoke, at least $1.10 a pack, so that the price of a pack of cigarettes would go toward $5 a pack. So now you have what I think is a terrible principle; and that is, that you are taxing one sector of the population to have new programs that may or may not be effective in curbing teen smoking.

So now we have an amendment that is going to be offered in the next hour that would say, "Well, we've got this huge tax increase and I don't like where the spending is going, so let us give it back in tax cuts to somebody else." I do not like that principle. I do not want to tax a working person who is making $20,000 a year in order to give money back to a working family making under $50,000. I do want to give money back to the working family that is making under $50,000, but I want to do it in the context of our budget, like we do every other tax cut or every other tax increase, for that matter.

This bill violates both principles that we would tax or give tax cuts within a budget and that we would tax one person to give it to someone else.

I am the sponsor of the bill that would eliminate the marriage tax penalty. It is my bill. Senator FAIRCLOTH and I are cosponsoring this bill together because we believe the highest priority for tax cuts in this country should be eliminating the marriage tax penalty.

So given the choice that I am going to have before me of not wanting to tax one person in order to give it to someone else, but my choice being we are going to have the tax increase, what do we do with it? Go spend money on new Government programs or give it back to people who make under $50,000, I am going to choose the latter. I am going to choose to try to start eliminating the marriage tax penalty by giving a higher level of exemption before you have to start paying taxes.

So I am going to make the tough choice in favor of giving money back to the people who work for it. But I do not like this bill. And I hope and I urge my colleagues not to continue to try to put this bill in shape but instead to go back and start all over. I think we can pass a responsible bill in this Congress that would severely limit the number of teenagers who start smoking. That is a worthy goal.

I also think in this Congress that we should pass the elimination of the marriage tax penalty because it hits people who make $30,000, $40,000, $50,000, couples who get married, who want to make that downpayment on their first home; and when they do, they are hit with a $1,000 or $2,000 tax increase just because they got married.

So I want to do both of these things. I do not like the choices that we are looking at in the bill before us. And I do not like the choices being given to us by the amendment. But as the lesser of two evils, I am certainly going to support a tax cut when we already have a tax increase on the floor. But what I would suggest is that we scrap the whole thing and try to do this right.

Doing it right means two things: It means, first of all, eliminating the marriage tax penalty in the budget; and, secondly, coming back with a balanced bill that will have the purpose of stopping or severely curtailing teen smoking, but not on the back of a person who is working for a living, not making much money, and is smoking, unfortunately, but nevertheless by his or her own choice. That is a choice that a person makes. I do not think that we should be taxing someone at this level—it is a regressive tax—when we are not sure that the purpose is going to be achieved.

So I hope my colleagues will look at this issue, step back—first of all, pass Senator GRAMM's amendment because at least we can take the first step towards eliminating the marriage tax penalty—then I hope we will bring this bill down and start from scratch and try to put forward a bill that will stop teen smoking or at least put a big dent in it. I think we can do that with the balance that we had in the original bill before it got worked over by the U.S. Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Iowa is recognized to speak as in morning business for 6 minutes.

UNITED STATES-MEXICAN COOPERATION ON DRUG CONTROL

Mr. GRASSLEY. Mr. President, I am puzzled. In the last week or so, we have seen U.S. Customs' agents wrap up one of the most successful undercover operations in history. This effort, Operation Casablanca, has nailed a bunch of international bankers, mostly in Mexico, who have been laundering drug money. These white collar drug thugs have violated United States law, Mexican law, and international law. They have violated their trust. They have abetted one of the nastiest businesses on the planet. And they have conspired to do all of this to make an illegal dollar. Drug traffickers are bad enough. But their financial advisers and bankers are truly despicable. Thus, the Customs' undercover operation that exposed some of these low lifes is to be celebrated. My hat is off to the agents and informants that risked their lives to help defend our institutions and bring these pinstripe bandits to justice.

But I am still puzzled. What has me scratching my head is the reaction of the Mexican Government to this event. Instead of joining hands in congratulating efforts to protect the integrity of our international banking institutions and our shared concern to stop drug trafficking, what have they done. The Foreign Minister of Mexico has called the law enforcement people the criminals. She has raised the banner of so-called national sovereignty to provide cover to criminal activities of Mexican nationals. Mexico has called for the extradition of the law enforcement people in this operation, claiming they have violated Mexican law. What is wrong with this picture? Let me count the ways.

First, money laundering is the illegal act we are talking about. It is, by its nature, an activity without borders. It is also illegal in every legitimate country on the planet.

Second, the bankers in Mexico who engaged in laundering drug money, did so with knowledge of the illegality of their acts. They did so in a manner aimed at avoiding detection. They did so in defiance of bank regulations and Mexican law.

Third, these bankers engaged knowingly in using their expertise to violate United States law. And they provided the facilities of their banks to move money around the globe in violation of international law.

Fourth, we know they did this because it's on tape. We know they did it knowingly because the indictments spell it out.

Fifth, they used their expertise to try to improve the ease with which the money was laundered. They provided advice on how to avoid Mexican law.

They acted with criminal intent and used the interconnectivity of the modern banking system to hide their acts. They committed these acts in this country, in Mexico, and elsewhere, either in person or by using computers.

Now, the Foreign Secretary in Mexico would have it that in exposing these activities and in tracking the process, United States agents violated Mexican sovereignty and law. It would seem, in her view, that this means the undercover operatives committed criminal acts by engaging in money laundering. But in this country and most others, a criminal act involves intent. There is no criminal intent involved here by U.S. law enforcement. Just the reverse. Thus, law is not offended.

As to sovereignty, well, if we insist on this point, whose sovereignty is violated? Sovereignty is not meant to be a shield for criminality. It would be a fine world if that were the principle. It is not. I can think of few more useful tools for drug traffickers, money launderers, and thugs of every description than to find a safe haven in some country willing to use its sovereignty to harbor international criminality. What has happened here, is that bankers have violated the laws of this country by using the international banking system to freely commit crimes. They have done this in person in this country and they have done it electronically across borders. These are the criminals, not the law enforcement people who have corralled this gang of crooks.

But according to the Foreign Secretary of Mexico, it is the law enforcement folks who are to be labeled villains. In some of the most intemperate rhetoric I have seen from a senior government official, the Foreign Secretary not only castigates the good guys, but is calling for their extradition. I find this situation outrageous. I am equally concerned about the response from our own State Department. I have a letter here that our Secretary of State has sent to the Secretary of the Treasury. I will submit this for the RECORD. Instead of congratulating the law enforcement effort and joining hands with Secretary Rubin, Secretary Albright complains about inadequate consultation with Mexico. What is wrong with this picture?

Given the important steps Mexico and the United States have taken to improve bilateral cooperation and to go after the real thugs in the story, I hope we can get past this case quickly. I hope the Foreign Secretary of Mexico and Secretary of State of the United States wake up and smell the coffee.

Mr. President, I ask unanimous consent that the letter from Secretary Albright to Secretary Rubin be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, May 22, 1998.

Hon. ROBERT RUBIN,
Secretary of the Treasury.

DEAR MR. BOB: I know that both you and Attorney General Reno are aware of the negative reaction in Mexico to the announcement of Operation Casablanca and have had contact with Mexican officials about this. I spoke May 21 with Foreign Secretary Rosario Green who expressed her government's deep resentment for not having been informed of the operation prior to the public announcement. Other Mexican officials have voiced concern that the activities undertaken by U.S. agents in Mexico may have been illegal under Mexican law or contrary to understandings between the United States and Mexico.

Mexico's reaction is a product of many factors, not least of which is great sensitivity within the Zedillo government to preexisting charges from the opposition that it is attempting to bail out a corrupt banking system. However, I am concerned about the negative tone this development introduces into the relationship and that Mexican cooperation on several fronts, particularly counternarcotics, may be affected.

We might have achieved more favorable results if we had brought Attorney General Madrazo and a few others into our confidence a few days before the public announcement. In this regard, I believe State should have been consulted. We would have been able to offer some advice that could have ameliorated the negative reaction.

I would appreciate being kept personally informed of developing investigations in Mexico and other foreign countries that could have a significant foreign policy fallout. I do not wish to interfere with your law enforcement work, but I do believe we need to do a better job of coordination.

It is essential that in the coming days you find ways in your public statements and private contacts with Mexican officials to indicate that we are actively working to avoid similar difficulties in the future. I hope to discuss this with you soon.

Sincerely,

MADELEINE K. ALBRIGHT.

Mr. GRASSLEY. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Texas.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2686 TO AMENDMENT NO. 2437

(Purpose: To eliminate the marriage penalty reflected in the standard deduction, to ensure the earned income credit takes into account the elimination of such penalty, and to provide a full deduction for health insurance costs of self-employed individuals)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. DOMENICI, Mr. ROTH, Mr. FAIRCLOTH and Mr. BOND, proposes an amendment numbered 2686 to amendment No. 2437.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert:

SEC. . ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the excess (if any) of—

"(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

"(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2008' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage shall be—

"(1) 25 percent in the case of taxable years beginning in 1999,

"(2) 30 percent in the case of taxable years beginning in 2000, 2001, and 2002,

"(3) 40 percent in the case of taxable years beginning in 2003, 2004, and 2005,

"(4) 50 percent in the case of taxable years beginning in 2006,

"(5) 60 percent in the case of taxable years beginning in 2007, and

"(6) 100 percent in the case of taxable years beginning in 2008 and thereafter."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) FULL DEDUCTION FOR HEALTH INSURANCE FOR SELF-EMPLOYEDS.—The table contained in section 162(l)(1)(B) is amended—

(1) by striking "and 1999",

(2) by striking the items relating to years 1998 through 2006, and

(3) by striking "2007 and thereafter" and inserting "1999 and thereafter".

(e) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(f) Reduction in Transfers to National Tobacco Trust Fund.—

(1) In general.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the amount credited to the National Tobacco Trust Fund under section 401(b) of this Act for any fiscal year shall be reduced by the amount of the decrease in Federal revenues for such fiscal year which the Secretary of the Treasury estimates will result from the amendments made by this title. The Secretary shall increase or decrease the amount of any reduction under this section to reflect any incorrect estimate for any preceding fiscal year.

(2) Limitation on reduction after fiscal year 2007.—

(A) In general.—Except as provided in subparagraph (B), with respect to any fiscal year after fiscal year 2007, the reduction determined under paragraph (1) shall not exceed 33 percent of the total amount credited to the National Tobacco Trust Fund for such fiscal year.

(B) Special rule.—If in any fiscal year the youth smoking reduction goals under section 203 are attained, subparagraph (A) shall be applied by substituting "50 percent" for "33 percent".

(g) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. GRAMM. Mr. President, I apologize to my colleagues that it took so long to get this amendment together. We were trying to do several things, to bring together several provisions of different Members into one amendment. We also were trying to deal with a concern that the authors of the bill have about their trust fund and how much money we will take out of the trust fund in each ensuing year as a result of the amendment. We are still looking at some of those provisions.

The net result is that we have the amendment together. What I would like to do in offering it is to outline the problem with the existing bill in terms of the impoverishment of blue-collar workers who dominate the ranks of smokers in the country.

I would like to talk about the need to rebate some of the tax money we are getting, in an effort to raise the price of cigarettes, to the very people who are going to be impoverished by this confiscatory tax. I would like to talk about why the marriage penalty is a good choice for that tax rebate. I would like to then talk about how this marriage penalty repeal works and how the numbers work out in terms of the budget. And that will constitute the relevant information in offering the amendment.

First of all, the problem. We have heard now for weeks and weeks a running debate about tobacco companies and their conspiracy to induce people to smoke. With just cause, those tobacco companies have been denounced on the floor of the Senate over and over again. However, people have become so fixed on these tobacco companies, they have totally lost sight of the fact that a giant bait and switch has occurred. In reality tobacco companies are not paying taxes under this bill, consumers are paying taxes under this bill. In fact, the provisions of this bill make it illegal for a tobacco company to refuse to pass the price through to the consumer. So they are held harmless in terms of the tax, but blue-collar Americans who smoke are devastated economically by this tax.

So the problem with the bill is that, in the name of raising the price of cigarettes to discourage smoking, we are, if this bill goes unamended, imposing one of the most regressive taxes in American history. And "regressive tax" means that poor people pay an increasing share of the tax burden.

Why do I say that? Well, I say it basically because in America smoking is primarily a blue-collar phenomenon. Obviously, people at all income levels smoke, but if you look at who will pay this tax, it really brings home the fact that in our country most of the people who smoke are moderate-income, blue-collar workers.

Of all of the tax collection that will occur under this bill, in an effort to drive up the price of cigarettes, 34 percent of those taxes will be paid by Americans who make less than $15,000; 47.1 percent of these taxes will be paid not by tobacco companies but by Americans who make $22,000 a year or less; 59.1 percent of these taxes will be paid for by Americans in families with incomes of $30,000 a year or less.

So whether it is the intent of the underlying tobacco bill or not, the net result is that this bill imposes no taxes on tobacco companies whatsoever. It shields tobacco companies by requiring that they pass the tax through to their consumers, and it squarely hits moderate-income, blue-collar workers right in the wallet and in the pocketbook.

Those who favor this bill have said over and over again that their objective in this bill is, not to raise money so they can spend it, but their objective in the bill is to drive up the price of cigarettes to discourage smoking. So recognizing the problem, that while the proponents of the bill vilify the tobacco companies, in reality they are taxing blue-collar workers. While they say they are not imposing the tax to get money to spend, in truth they are spending all the money. I have offered this amendment with Senator Domenici, Senator Roth, and others, to achieve what the bill proponents claim they want to do. My amendment gives a part of the money that is collected in this tax back to the very people who are going to bear the burden of this tax.

Let me give some examples. In my State of Texas, we have 3.1 million Texans who smoke. If this bill drives the price of a pack of cigarettes up by $2.78, which is the general estimate that is given, a Texan who smokes one pack of cigarettes a day would pay $1,015 in new Federal taxes and would see their Federal tax burden grow by over 50 percent as a result of this tobacco tax.

Under this bill if a moderate-income family made up of two blue-collar workers, one might be a local delivery person and one might be a waitress, each smoke a pack of cigarettes a day and are earning less than $30,000 a year, they are going to pay $2,000 in additional Federal taxes.

So Senator Domenici, Senator Roth, other Senators and I, have offered an amendment that says: Let us target people who make $50,000 or less because they are going to pay some 75 to 80 percent of these taxes, and let us take a portion of the taxes, roughly a third, and give that money back to the people who will be paying the taxes in the form of repealing the so-called marriage penalty.

Mr. KERRY. Would the Senator yield for a question?

Mr. GRAMM. I would be happy to yield.

Mr. KERRY. I agree with the Senator that some people who pay the marriage penalty will also buy cigarettes, but I am sure the Senator has to acknowledge, and would acknowledge, would he not, that some people who will buy cigarettes, who are called sort of the "victims" here, will not get a benefit by this necessarily and some people who do not smoke will get a benefit by this? Is that a fair statement?

Mr. GRAMM. Let me reclaim my time to say it is true that moderate-income Americans who do not smoke will benefit from this tax cut, if they are married. It is true that high-income people who smoke will bear a burden from the bill, and they will not get a benefit from this tax cut. But it is also true that Americans who pay 80 percent of the tax that will be imposed in the name of discouraging smoking, they are in families who earn less than $50,000 a year, and they will get a benefit from this bill. There is no way we can target it just to smokers, nor does anybody want to.

The point that we are making is, if we are trying to raise the price of cigarettes to discourage consumption, that is one thing. But many of the critics of the bill have viewed this as a tax and spend bill, and with great justification, in my opinion. Therefore if we are raising the price of cigarettes to fund tens of billions of dollars of new Government spending, then why not give part of it back? There is no perfect tool in giving it back. The best we have found is to repeal the marriage penalty and to make health insurance tax deductible for the self-employed.

Let me explain how the marriage penalty works and how our amendment will work.

Many Americans are surprised when they learn that we have roughly 31 million families in this country who pay higher taxes because they are married than they would have paid had they remained single. In fact, the average tax burden that is incurred by these couples is about $1,400 a year higher. They pay the Federal Government $1,400 a year for the privilege of being married rather than continuing to file as single individuals. In fact, during a Finance Committee hearing, we actually had the startling testimony from a young woman who said she was living with her boyfriend and would like to get married but, because of the burden of the marriage penalty, they had delayed that decision.

I think we all understand that the family is the most powerful institution for progress and happiness in history. Strong families, I think we would all agree on a bipartisan basis, represent the solution to everything from drugs and gangs and violence, and for the perpetuation of the basic values that we all treasure as Americans. And so I think anyone would want to get rid of a provision of tax law that discourages people from getting married.

Our amendment does not try to get into a position of discriminating for or against couples based on the decisions they make about whether both parents or just one of them work outside the home. Some people have criticized our amendment, and perhaps will do it today, by saying that this marriage penalty provision will benefit families where only one of the couple works outside the home. But our objective is to have a provision that corrects the marriage penalty but doesn't do so in such a way as to discriminate against stay-home parents. A vast majority of the time, that is stay-home moms. We don't believe the Tax Code should treat people differently based on whether they decide to stay home and raise their children or whether they decide to work in the marketplace.

My mama worked my whole life because she had to. My wife has chosen to work the whole life of our children because she wanted to. But we believe, those of us who are authors of this amendment, that it is not the business of the Government to try to dictate through the Tax Code that very important personal family decision. We want to be sure that for those who do choose to give up the income by having one parent stay at home and raise the children, that we don't see them discriminated against in the Tax Code.

So here is how our provision works: What our provision will do is give every couple who makes less than $50,000 a year relief from the marriage penalty. We chose $50,000 a year because we really are rebating part of the revenue from the cigarette tax back to those people who pay 80 percent of the taxes. It is my goal, in the tax cut that I believe will flow from the budget, to repeal the marriage penalty for every American, no matter what their income. But we have targeted $50,000 and below here because that is where the smokers in America are, in the middle- and moderate-income range. We are using this to rebate part of the money collected in this bill due to the increase in the price of cigarettes to them.

What we will do for every married couple is, compared to the tax return they filed last year, they will get a $3,300 deduction above the line, before they calculate what their income is for taxation purposes. This will repeal the marriage penalty. In addition, it will save the average family about $1,400 a year in taxes. For low-income people who are still working to try to get ahead and trying to become self-sufficient, we will let them deduct this $3,300 from their income before they calculate their eligibility for the earned-income tax credit. As Senator DOMENICI knows, some of the heaviest tax penalty burden falls on moderate-income people who are getting an earned-income tax credit if they stay single, but if they get married, which is part of the solution to their problem in terms of helping to put together a strong family, they end up losing their earned-income tax credit. So under our amendment we will give a substantial tax cut to the very Americans who are bearing the burden of this increased price of cigarettes.

Finally, we deal with a problem related to the self-employed by immediately making health insurance deductible for the self-employed. If I work for General Motors and they buy my health insurance, it is fully tax deductible. But if I quit working for General Motors and go into business for myself, not only do I have to pay both sides of my payroll tax, but my insurance is not tax deductible and I have to pay it with after tax money. We have started the process of phasing this out over an extended period of time. What this bill will do is it will immediately give full tax equity to those Americans who are self-employed.

So the net result of our amendment will be to give back $16 billion in the first 4 years, to give back $30 billion over the ensuing 5 years, to the very people who pay 80 percent of the cigarette tax under this bill. We will give about a $1,400 tax break to working couples in that income category by repealing the marriage penalty, and we will make health insurance fully tax deductible for the self-employed.

We have crafted the bill carefully so that we take about a third of the revenues that flow from the tax that is collected on cigarettes. Quite frankly, in the final bill I believe this number should be bigger. This is a number we picked when we introduced the amendment. We have tried to structure it to stay with that through the end of the budget cycle, which will terminate in 2007, and we tried to stay faithful to that agreement in the drafting of the amendment.

I think this is an important amendment. I believe that it does provide some degree of tax relief for the people who are going to pay this confiscatory tobacco tax. I hope my colleagues on both sides of the aisle will support this amendment. I do believe that we have gone to great lengths to try to make the amendment fair. We have listened to the concerns that have been raised by our colleagues who are in support of this bill. I think this is a good amendment. I commend it to my colleagues.

It does not correct the many wrongs in the bill that is before the Senate. It does not eliminate the marriage penalty for all Americans. It is a major step in that direction. This is not the end of the marriage penalty debate. This is the beginning of it.

By the end of this year we will have repealed the marriage penalty for every American family. This will allow us to do it immediately in this bill for those in moderate-income areas who pay the bulk of the cigarette tax. We will do it for the rest of Americans in the budget, in my opinion. I commend this amendment to my colleagues.

I want to thank Senator DOMENICI for his leadership in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I don't intend this afternoon to repeat much of the explanation which was made by the distinguished senior Senator from Texas but I just will emphasize it as I see it.

First of all, it is very important to me that when we articulate an American policy and say we are for this or we are for that, that sooner, rather than later, we look at what our laws are and see if we can make them match the policy that we would like for our country.

No. 1, everybody on the Senate floor, it seems to me, from time to time has been concerned about families in America. Obviously, the marriage tax penalty works against families, because if a married couple with two or three children are penalized to the extent of $1,400 a year in taxes that they pay—just because they are married, which they would not pay if they had their exact same earnings and filed separately or were not married—that is clearly an American policy out of step with a profamily position of the United States and certainly of this Senator and most Senators I associate with in the U.S. Senate.

Secondly, maybe it isn't articulated as precisely as the previous one tenet of philosophy, but I say we, as a nation, ought to espouse marriage and we ought to look with favor upon the relationship that is called marriage historically and traditionally.

As my friend from Texas says, of all the institutions around, it seems to be that marriage is the one that has endured. It also seems to be one that when marriage does not endure or work properly it causes a lot of other problems within a family and throughout society. So to put an extra tax on that institution is wrong.

In the United States of America, 24 million married couples have endured and paid through the nose because of this marriage penalty.

I don't think they really thought when they said, "I do," that they were also saying, "and we shall pay." I don't believe that is what they thought they were doing when they took their marriage vows.

The average penalty is about $1,400. I think everybody knows what an average means. Plenty of couples are paying much more. Obviously, there are plenty paying somewhat less.

In my State of New Mexico, 203,00 New Mexican families will be helped by this change. We are a State with just a little bit over 1,600,000 people. That is a pretty significant benefit we are passing on to people who are married and raising families, and both spouses are working.

By way of an aside, the second portion of our bill has to do with businesses that are self-employed people. Let me just give you that number. In New Mexico, 222,000 businesses are going to find that health insurance is going to be available to them now and be more affordable because under this provision they are going to be able to deduct the entire health cost, as do corporations and as do many others that are not self-employed.

So if anybody is interested in how we got into this mess with the marriage penalty, I will put in some facts about it later.

Obviously, this has come about with each major change we have made in the Tax Code, either to phase something out or to phase something in. There are about 63 provisions in the code, where couples are penalized for being married. The standard deduction and the progressive tax brackets are two of the major contributors to the marriage penalty. So many of these provisions in the code vary, as I indicated, with marital status. The provision that primarily is responsible for the marriage penalty, the standard deduction for married filing jointly, is not two times the standard deduction for filing if you are single. That is the major reason that we have a problem.

Having said that, I want to relate this proposal to the bill that is before us. Every time we discuss a budget of the United States, or the economy of the United States, somebody talks about—and quite properly—what the level of taxation on the American people is. It is relevant to America's future, in my opinion and in the opinion of most economists looking at our country, that our tax on the American people, the total tax, be at the lowest possible level. Now, this bill before us, whatever its other interests are, is a very large tax imposition on the American people. Although it is not paid by everybody, you add it to the myriad of other taxes, and then you find out America is paying a higher total tax level than it was before this bill was passed.

So, to me, it is very simple. If this is a tax bill—and clearly there are many people who want to spend every penny of it on some kind of program. In spite of a budget that said we would not spend any more, there are scores of programs on which people would like to spend money. It seems to me that the forgotten people would be the taxpayers who would get no benefit unless we reduce taxes and charge the reduction to the tax income coming under this bill.

I think it is very logical and very reasonable—$16 billion in the first 5 years, $30 billion in the second 5 years, coming from the taxes raised in this bill from cigarettes. It will ultimately come from consumers. People think the tobacco companies are paying, but actually it will be added to the price of cigarettes and consumers will pay it.

We are saying give $16 billion back to the taxpayers and $30 billion back in the form of these two tax reductions over ten years. That is a third of the tax take in the first 5 years and about 37 or 38 percent in the second 5 years. Under the bill, about 40 percent of the program goes to the States. I am not sure I favor that much going to the States, but we are not amending that provision here. That is to be considered at another time if the Senate wants to consider it. But so long as the states are expected to get 40 percent of the overall trust fund, Senator GRAMM and I have agreed we won't offer any more tax cuts. But if indeed that 40 percent is reduced and we attempt to take some of that money back to the Federal Government and spend it, then obviously we reserve the right to offer some additional tax rebates or reductions or reforms at that time.

I am hopeful that the Senate will adopt this amendment. There may be other tax measures, but I think essentially we are going to be separating Senators into two groups—Group One: Those Senators who want to spend all the money and group two who are Senators who want to give some of it back to the people. That is the issue. Do you want to give some of this back to the people, or do you want to spend it all for one program or regime or another that costs money, or a series of programs by which we give money back to the States for them to spend it?

I think the American people are going to judge us very, very precisely on this and I don't think the judgment is going to be a difficult one. They are pretty astute. When we have just crowed about a balanced budget with caps on expenditures and we come and say now we found a new source of revenue, all those ideas about keeping Government under control can go out the window. We will spend all of this on new programs. I think they will understand very easily. They will focus quickly that those who vote no on this amendment will be saying they want to spend all the money; those who vote yes on this amendment are saying we ought to give some of it back to the American taxpayer—in this case, to that huge number of Americans who are married, with both couples working, wherein they are being penalized by the adverse effect of our tax laws, and that they must pay a penalty for being married and for earning a living and filing jointly.

I am rather confident this is the right approach. Why do we stop at $50,000 worth of wage earnings? I will agree that is just an arbitrary number. But we can't fix everything in one bill. If there is a tax bill this year—and there probably will be one—I would think high on the list would be to repair the marital tax problem so the higher brackets of earners are entitled to receive that benefit also. I thank Senator GRAMM for his untiring efforts on behalf of this. It is a privilege to work with him. I believe we will have a victory today.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, let me begin with some comments about where we find ourselves, and then I will come back a little bit later and go into greater detail about it.

At the outset of the presentation of the amendment as originally filed by the Senator from Texas to repeal the marriage penalty, I and Senator MCCAIN and others said at that time that we were prepared, because we are supportive in principle of the notion of reducing the marriage penalty—we said we are prepared to embrace in this bill a component of marriage penalty reduction, provided that it doesn't strip away so much money that we are unable to accomplish the other purposes of the bill. And we have gone through a long week now—maybe a little bit more than a week—and the Senate has essentially been in a stalemate position as we have negotiated around the concept of how much is appropriate and how do you arrive at how much is appropriate.

During the course of that week, the Gramm amendment as originally filed has undergone several changes. We are very pleased with that. I think there has been a bona fide effort here to try to arrive at some kind of sensible approach to the marriage penalty issue. The original Gramm amendment presented us with an estimated cost of $113 billion over 10 years. That would have represented over that 10-year period 80 percent of the costs of all of the tobacco revenues. In other words, all of the tobacco revenues that would have come in, 80 percent of them under Gramm I, as we should call it, would have gone out to the marriage penalty rebate as he had designed it at that time.

Last week, at the end of the week, Senator GRAMM revised his proposal to what we would call Gramm II. Gramm II made mostly some sort of cosmetic changes that took the full measure of the cost, the $113 billion I have just described, the 80 percent of the revenues, and rather than have them all show up within the first 10 years, it took those revenues and pushed a significant portion of them outside of the 10-year budget window. In other words, we look at the budget of the country in these 5-year periods, and we are looking at a 10-year budget window within which we have an ability to measure what we are doing. Beyond that, it becomes relatively more speculative.

Under Gramm II, the Senator from Texas would have still spent nearly 80 percent of the tobacco revenues in years 11 through 25 of the bill. So there would have been a reduction for the years 1 through 10 within the budget process, and outside of that, knowing that we are looking at a 25-year revenue stream as we measure the tobacco bill, that would have then taken the better part of the 80 percent. So you would have taken funds that were intended for public health, research, farmers, and the States, and that would have been significantly reduced. That clearly was also unacceptable. So we stayed locked in sort of a status of essentially negotiating with not a lot happening.

We then responded. We responded with an alternative that would have reduced the marriage penalty for most families. But it would have been done at a fraction of the cost of both Gramm I and Gramm II, which brings us now to Gramm III. Gramm III is what we were presented with just a few moments ago as we began this debate when the Senator filed this particular amendment. Under Gramm III, there is now an expenditure of approximately one-third of the funds under the tobacco funding. So it has been significantly reduced in the road that we have traveled as to tobacco funding.

In other words, from the revenues raised, if and when this bill passes, no more than a third of that can be taken for the purposes of reducing the marriage penalty. But that is only half the story, because what the Senator from Texas does is maintain a level of benefits. In other words, he has geared his marriage penalty reduction in a way that there are still significant resources necessary in order to fund the benefits that he wishes to give, and he chooses not to take them all as part of our negotiating process from the tobacco bill.

But the question then has to be asked, Where does the Senator from Texas take them from? I respectfully submit that as a result of the fact that he has left in the breadth of generosity of benefits that he seeks to return in the form of the marriage penalty, while not taking it from the tobacco bill, he nevertheless seeks to fund it and take it from the other available funds of the Federal Government. That means that he will have to tap a new source of revenue; i.e, the general budget surplus of the country.

That means that the Senator from Texas will now look to Social Security, which is where we had originally designated that those funds would go. We have said as a matter of budget policy that we are going to preserve the budget surplus to take care of Social Security. But since the Senator is agreeing that only one-third of this revenue will come from the tobacco bill, the rest of it can only come from the surplus, unless, of course, the Senator has a bunch of offsets he is willing to offer up to suggest where that funding is going to come from.

A vote for the Gramm amendment in its current form, Mr. President, is a vote to take $90 billion to $125 billion of surpluses away from Social Security. This is $90 billion to $125 billion that will not be available for the long-term reform of Social Security, because once this tax cut of the Senator becomes law, assuming it does, it is law outside of the budget process. The Tax Code is not part of the budget process. That is then a right that has been created, an expectation as to what people will pay. And it has to be funded. The only place you can turn to fund it is to the general revenues and, therefore, to the surplus.

That is one side of what is being offered here. But I want to speak about another side.

I would like to ask my colleagues whether or not it is possible to take away the label "Democrat and Republican," take away the contentiousness of this bill, and just look at these two alternatives as a matter of good public policy and of common sense in terms of the budgeting of the country. The alternative that Senator DASCHLE and others of us on our side are offering, and we would hope with good common sense apply to the analysis that a number of colleagues on the Republican side of the aisle would say is really better policy—and I will say why I believe it is better policy—the fact is that the alternative we will offer provides a greater marriage penalty relief than the Senator from Texas, but it does so with less cost to the Federal Treasury and to the tobacco bill. I want to repeat that. The alternative that we offer will give more marriage penalty relief than the Senator from Texas, but it will do so with less damage to the capacity of the tobacco legislation to be able to provide for public health for research for the States, and so forth.

The question is obviously, How do you do that? How do you avoid—is that some kind of a shell game and flimflam artistry, or is it real? I will tell you why it is real. The Senator from Texas, by his own admission, has agreed that he will reward those people who do not smoke. Or let's talk about the targeting. He says it is impossible to target this to accomplish a goal where you would actually wind up targeting nonsmokers versus smokers. I would agree with that. He is absolutely correct. That is pretty hard to do. But you can easily target this marriage penalty reward so that it is actually dealing with the marriage penalty. If the purpose of this is to fix the marriage penalty, then it is possible to target this benefit in a way that it goes to the people who pay a penalty, not paid to the people who get a bonus.

The Congressional Budget Office will tell you that 51 percent of American married taxpayers get a bonus. And there is absolutely nothing in the approach of the Senator from Texas that limits them from getting rewarded above the bonus. There is no practical policy here given the difficulties we face of taking from the Social Security surplus, or taking from the tobacco bill, which we have now agreed we don't want to take more than a third from—there is no rationale for coming in and rewarding those people who already get a bonus. So what we have done is guarantee that we are going to give the tax relief to the people who are actually penalized. Senator GRAMM's amendment costs 50 percent more than the Democrat alternative, and it gives less marriage penalty relief.

The reason is that we have focused on giving about 90 percent of our tax cut to those families that are actually penalized, whereas Senator GRAMM is only 40 percent—90 percent versus 40 percent. Sixty percent of the people who are going to get a reward under Senator GRAMM's approach don't even pay a marriage penalty. It is not even fixing the marriage penalty. It seems to me as a matter of public policy what we ought to do is guarantee that we reach the maximum number of people who pay the penalty with the maximum amount of dollars back to those people.

Our alternative would provide a 20-percent deduction against the income of the lesser-earning spouse. The way the marriage penalty works, as I think most people know by now, is that either on a standard deduction or on the earned-income tax credit or on the marginal rate you pay more or less according to what the income of both members of the household, both married partners pay. But it depends. The vagaries of the Tax Code are such that you could be a married couple with one person working, earning a big salary, one person not working at all, and you won't be affected the same way: you would actually have a bonus versus the two married partners who are both working, both earning sort of a similar amount of money. So if you have two income earners each earning about $25,000, they wind up paying a penalty versus the high-income earner, single earner within the family and the other partner who is not, and there are other aberrations like that as you go through the various levels of income earning.

It makes no sense to jeopardize this legislation and to place pressure on the surplus, which we have now decided we ought to reserve to save Social Security in order to reward people who are already rewarded. There is simply no matter of public policy of common sense in doing that, and that is why there is a very significant difference between the two approaches here.

Let me give as an example a couple making $35,000. Let us split the $35,000, $20,000 to the husband or vice versa, $15,000 between the two spouses—you have 20 to one and 15 to the other, making $35,000. Under the Gramm approach, that couple would receive an average additional deduction of about $1—$1. By comparison, under the 20-percent, second-earner deduction alternative that we propose, the couple would receive an additional deduction of $3,000—$3,000 deduction versus $1 under Senator GRAMM, 20 percent of the $15,000. That represents about twice as large a tax deduction, and it would provide twice as much actual tax relief without any of the negative downside that is carried with the proposal of the Senator from Texas.

Let me give you another example. For a couple making $50,000, let's split it evenly between both spouses—$25,000 husband, $25,000 wife. And that is a very realistic, very realistic division in the kind of two-person income of the families that we are trying to reach. Again, under Gramm, the couple would receive an average additional deduction of $1.

By contrast, under the 20-percent, second-earner deduction alternative that we propose, the couple would receive an extra $5,000 deduction representing more than three times as much tax relief.

So that is the choice here, Mr. President. You can have a reward to people who are already getting a benefit by getting married, which is not a marriage penalty fix at all; you can structure it so that you wind up having to take the money from the general revenues, from the surplus; or you can come in with much greater tax relief that goes to the people who really need it, and you can do so without the negative impact on Social Security and without the negative impact on the tobacco bill itself.

I think the choice is very clear. The difficulties presented to the overall budget situation by Senator GRAMM's current approach are very significant. It was the understanding, we thought, that we were not going to take more than one-third of the revenues in total, in whatever form they were going to come, that the Senator was going to structure his benefits so that no more than a third was represented in them.

What is happening here is the Senator is giving the guarantee that no more than a third comes out of the tobacco bill, but he goes elsewhere to look for the rest of the larger sum of money that he is going to give back by not structuring the benefits downwards. So, in other words, it is essentially outside of the notion that you have an agreement that is going to restrict the total benefits of the marriage penalty to one-third of the level of the tax bill.

Now, he can come back and argue: Wait a minute; we are just taking one-third of the tax bill.

Well, that is true, except that in total for the marriage penalty they are looking to one-third, significantly more than one-third from these other sources, which is a very different consideration from that with which I think most of us thought we were going to be presented.

The bottom line is that the amendment proposed by the Senator from Texas costs 50 percent more in the first 10 years than the Democrat alternative—that is $46 billion total in the first 10 years—versus about $31 billion. But it delivers far less in marriage penalty tax relief.

Finally, at this point—I would reserve some time later—but at this point in time, if you have $30 billion taken out of this bill in the first 10 years—9 years, 10 years—added to the 40 percent that goes to the States, and add to that the component of the drug plan that came through yesterday, which takes 50 percent of the public health money, and we all know this bill is not leaving the floor of the Senate unless there is some kind of fix for the farmers, and we are going to look at somewhere between $9 and $18 billion—that is what you have, $9 billion; $18 billion, Senator LUGAR, I believe; $9 billion, the Senator from Kentucky.

All of a sudden the question has to be asked: Where is the money to stop kids from smoking? Where is the fundamental notion that this is a bill directed at children in order to stop those kids from smoking? And everyone has come to understand that you need counteradvertising, cessation, professional training, and other kinds of things in order to do that. So it is simply unacceptable that suddenly all of the fundamental purpose of the legislation could be stripped away in a manner that would be unacceptable.

Now, obviously, if this were to pass, I think everyone knows it is not going to be able to stay that way. There is no way. So the choice before the Senate is very clear: Do we want to make good policy about the marriage penalty, which I support fixing, but I have said all along it has to be done within the confines of reasonableness as to how much is available in this overall package so that we can still accomplish the fundamental purposes of the legislation. We are going to have to clearly visit that a little more over the course of the afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, the pending amendment begins to address tax relief in two important areas. The first is the marriage penalty that exists in the code. The second is health care costs. This amendment begins to give back to the people some of the money that is raised through the tobacco tax in the bill. And for these reasons I intend to support the pending amendment.

Personally, I think the spending is still too high in the tobacco bill. More of the revenue should be returned to the taxpayer.

In addition, there are many measures that the Finance Committee recommended which are not adequately included in the final bill. For example, the tobacco bill is inconsistent with the work of the Finance Committee, which has jurisdiction over the Medicaid program. The tobacco bill also reopens the Balanced Budget Act by increasing spending beyond the $24 billion we have already provided for the State Children's Health Insurance Program. Another aspect of the overall bill which concerns me is the way that the international trade provisions are drafted.

Mr. President, there have been media reports that the tobacco bill is in trouble because the managers have to accommodate so many factions within the Senate and that today they have to accommodate the tax-cutters to make progress on the bill. I take exception with the suggestion that tax relief is just another nuisance to be accommodated. My perspective on this bill is quite different.

It is repeatedly asserted that this bill's purpose is to reduce teen smoking. That is a very desirable goal. I support that goal. However, in the bill I find only two policies that bear on that goal.

The first one—the tax increase—is said to bring in $65 billion over 5 years. The second one—under $1 billion in the President's budget—is a cessation program for teenagers.

In my opinion, we have accomplished the goal with $64 billion left on the table. That money should be returned to the people, not be used as a slush fund to make government bigger. Making government bigger is not the goal of this legislation. But it seems to be the effect.

In my opinion, the debate on this bill should center on how we rebate excess revenues to the people not on how we can fund government spending increases that cannot survive the traditional discipline of the budget and appropriations process. I support this amendment because it is philosophically the only legitimate course, in my opinion, for the Senate to take.

The pending amendment provides tax relief in two specific ways. First, it partially reduces the inequity of the marriage tax penalty.

As my colleagues know, this penalty places an unfair burden on two-earner married couples.

According to a recent Congressional Budget Office study, a married couple filing a joint tax return in 1996 could face a tax bill more than $20,000 higher than they would pay if they were not married and could file individual tax returns. The same study estimated that according to one measure of the marriage penalty more than 21 million married couples paid an average of nearly $1,400 in additional taxes in 1996 because they filed jointly. Marriage tax penalties totaled $29 billion in 1996.

Let me take a few minutes to describe the history of the penalty—which has been around for almost 30 years. Before 1948, all taxpayers filed as single individuals. In that year, Congress gave taxpayers the ability to file jointly—meaning that a couple had the benefit on income splitting. The tax bracket for married couples was double the bracket for single individuals. Because of complaints that singles were being unfairly penalized, in 1969, Congress devised a special rate schedule and standard deduction amounts for singles. This new rate schedule created a marriage penalty for some taxpayers.

Because of changing demographics and the prevalence of two-earner couples in America, the marriage tax penalty has become an even greater concern. Moreover, after being reduced during the 1980s, the tax increases and creation of additional tax brackets in 1990 and 1993 have made it much worse today.

In the current tax code, there are over 65 examples of provisions causing the marriage tax penalty. The most obvious and dramatic one is the rate structure itself.

But there are numerous others, all of which can have a significant effect on the pocketbook of a married couple. The penalty provisions are built into deductions, exemptions, credits, and other facets of the code.

What the pending amendment does is take a step toward providing some relief for this inequitable condition. It provides a deduction, up to an amount of roughly $3,400, for married couples. This deduction is phased in over 10 years. It will partially alleviate the burden, and toward doing this, I am a strong advocate. However, I regret that this relief does not go far enough.

The phased-in deduction is only available to couples with an adjusted gross income of less than $50,000. In other words, Mr. President, someone who works in the Chrysler or GM plant in Delaware and whose spouse is a school teacher would have too high an income to qualify for marriage penalty relief. That doesn't seem fair. I would have liked to see us give relief from the marriage penalty to many more Americans. Frankly, I would like to see us get rid of the marriage penalty altogether.

The second major component of tax relief in this amendment is in the area of health care. The amendment provides self-employed individuals next year with a 100 percent deduction for their health insurance. This is long over-due. It will help farmers, small business people, and others who buy their own health insurance. Because of this amendment, 3 million taxpayers and their families will have more affordable health care, and you cannot overstate how important this is.

This is a good first step. But I want to be clear that I do not consider it to be everything we must do. There are 18 million other Americans who lack health insurance, some are unemployed, others are elderly, and many have jobs. Simply put, I would like to see these individuals receive an above-the-line deduction for the cost of their health care. This is something I have worked on for some time.

When the Finance Committee marked up the tobacco legislation I placed before the committee a two-part proposal in the area of health care.

The first part was an immediate increase to 100 percent deductibility for health insurance for the self-employed. The second part provided the same benefit to the other 18 million Americans who need health insurance. This attempt was a natural follow-on to my successful efforts in 1995 to raise the deductible percentage from 25 to 30 percent and to make it permanent. Unfortunately, this time my tax cut proposal was not approved by the Finance Committee.

I intended to offer the same tax cut amendment on the floor, and I was pleased that several members—Republicans and Democrats—agreed to support it.

This proposal was also supported by farmers and small business, and I am pleased that it is reflected in the amendment before us now. Though, again, I want to go further. This is a good start, but I hope that in the future we revisit this with a mind to making health insurance more affordable for millions more of American workers.

It is the same with the marriage penalty. It is egregious that married couples are penalized by our tax code. I believe this sends the wrong message in more ways than one, and it must be addressed. We have attempted to do this in the past. For example, in 1995, in the Balanced Budget Act, Congress approved a proposal to phase out the marriage penalty in the standard deduction. Our legislation was vetoed by President Clinton.

I realize that at this point we are constrained by financial limitations and other priorities, and I compliment my colleagues for moving as far as they have with this bill. But I want all of my colleagues to agree with me that this should be seen as only the beginning. There is no justification for a married couple to be penalized just because they are married.

Mr. President, though it is not perfect, and while it does not go as far as I would like, I intend to support this amendment. It sends the right message.

It does provide partial relief. And it is a step in the right direction. I encourage my colleagues to support this effort.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Alaska is recognized.

VISIT TO THE SENATE BY ANSON CHAN, CHIEF SECRETARY OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Mr. MURKOWSKI. Madam President, it gives me a great deal of pleasure to introduce to this body, the U.S. Senate, Mrs. Anson Chan. Anson Chan is the Chief Secretary of the Hong Kong Special Administrative Region, known to many Senators in this body.

Anson Chan is the head of Hong Kong's 190,000-strong Civil Service. She was appointed to the position back in 1993 by then-Governor Chris Patten and has continued to serve in this capacity under C.H. Tung, the Chief Executive of the Hong Kong Special Administrative Region.

RECESS

Mr. MURKOWSKI. Madam President, I ask unanimous consent the Senate stand in recess for 5 minutes, so colleagues may greet Anson Chan, our dear friend.

There being no objection, the Senate, at 3:10 p.m., recessed until 3:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. COLLINS).

Mr. MURKOWSKI. I thank the Chair for recognizing Anson Chan. I thank my colleagues who visited with her, as well as the pages.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. GRAMM. Madam President, I think somewhere I heard the old saying, "No good deed goes unpunished." In trying to see if we might find some consensus on this issue, I tried to write our marriage penalty repeal amendment in such a way as to limit the amount of resources that it took from the underlying bill.

I did it recognizing that the underlying bill is as full of fat as any bill could possibly be. It is a bill that provides funding for a Native American antismoking campaign that will spend $18,615.55 per Native American who will be served. It is a bill that pays trial lawyers $92,000 an hour. It is a bill that pays tobacco farmers $23,000 an acre, and they can keep the land and go on farming tobacco.

With all of these gross expenditures, our colleagues say that if we take more than a third of the money we are raising in taxes—which they say they are not increasing the tax to raise money—but if we take any more than a third of it and give it back, then somehow the bill is going to collapse.

Then I try to adjust the amendment to keep it within those constraints, and our dear colleague from Massachusetts accuses me of taking money from Social Security. And it goes on and on and on. "No good deed goes unpunished."

I have the ability to modify my amendment. I want my colleagues to understand that if we don't work out something on this amendment pretty soon, I am going to modify my amendment, and I am going to take every penny of this money out of this larded bill. So I can solve all of these problems. I tried to help somebody. I tried to work out a consensus, and now we are not able to do it. But I can fix that problem. I can fix the problem by taking the money out of this bill, and I am prepared to do that. I am not going to do it right now. I am going to wait and see if we can work something out. But I am prepared to do it. I have a modification. I have a right to modify my amendment, and I will modify my amendment at some point if we don't work something out.

Madam President, I want to address a number of issues that our colleague from Massachusetts raised.

Our colleague from Massachusetts says, "Well, I have a marriage penalty correction device, but mine doesn't cost as much and gives more relief."

So the question is, How is that possible? Well, the answer is that it gives no relief to one particular kind of family. That is a family where one of the parents decides to stay at home and work within the home—one of the hardest and most difficult jobs in America and one of the most important jobs in America.

We have not seen their amendment, but the way our Democrat colleagues could give a marriage penalty for so much less money is that it is a marriage penalty correction that you get only if both parents work outside the home. That is not the way we have done it. We have not done it that way because I do not want the Government to be making the decision as to whether a parent works outside the home or works inside the home.

Let me say, it is a tough decision for people to make. Some people make it based on economics; some people make it based on their careers. And I think families need to make it, not the Government. My mama, as I have said earlier, worked all my life because she had to. My wife has worked all my children's lives because she chose to. She had a career. She wanted to do it. But the point is, the Tax Code should not discriminate against parents who choose to make an economic sacrifice to have one of the parents stay home and raise the children.

So the magic in this Democrat alternative, if such an alternative exists, is they can do it for less but the way they do it for less is, they say if you have a stay-at-home parent, you get no relief from the marriage penalty.

They are going to complicate this issue. But, fortunately, I understand this issue. So let me try to straighten it all out before they waste all the time trying to complicate it, because I can answer it and will save everybody time.

There is something called a marriage bonus. If there has ever been a totally fraudulent concept, it is the marriage bonus. This thing that we call in the Tax Code a marriage bonus is, if you marry—and let me just speak from the point of view of a male—if you marry a lady and she comes and lives with you in marriage, you get to take her personal exemption and you also get an adjustment to your standard deduction.

So I am sure that people will laugh at this, but since our colleagues are going to go to great lengths to talk about it, let me just destroy it, and we will not waste our time.

Something is called a marriage bonus when—let us say you have John and Josephine who fall in love. And Josephine is just getting out of college. Her father and mother have been taking a personal exemption for Josephine. She marries John. And John is already working. Josephine is getting ready to go into the labor market. They went to the graduation and she got her diploma. Then they walked down the aisle and said, "I do." And sure enough, John gets to declare $2,700 on his tax return for her personal exemption. And John gets $2,850 added to his standard deduction. But does anybody believe that John can feed, clothe, and house Josephine for $5,550? Some bonus. That is no bonus.

Let me show you what has happened. In 1950, the Tax Code of America was such that for the average family of four—husband, wife, two children—75.3 percent of their income was totally shielded from any Federal income tax. This meant that by the time they took their personal exemptions—and they got four of them—that shield was 65.3 percent of their income. Then they got their standard deduction, and that shielded 10 percent of their income, for a total of 75.3 percent.

So in 1950, the cold war had heated up, we were going into Korea, defense spending was rising, but we still shielded 75.3 percent of the income of the average family of four in America from any income taxes because of the personal exemptions and the standard deduction.

The personal exemption was $500 in 1950. To be the same level today, the personal exemption would have to be $5,000. But it is $2,700. So today, the same family of four, making the average income in the country in 1996, has only 32.8 percent of their income shielded. Every bit of the additional income is being subject to income taxes.

So what happened between 1950 and 1998? What happened between 1950 and 1998 is that the real value of the standard deduction and the personal exemption declined dramatically because it did not keep pace with inflation. So whereas in 1950, 75.3 percent of the income of the average working family in America was totally shielded from income taxes, now the average family in America, family of four, making the average income, has only 32.8 percent of their income shielded from taxes.

So since 1950, what has happened? Rich people paid a lot of taxes in 1950, and rich people pay a lot of taxes today. Poor people paid no income taxes in 1950, and they do not pay any income taxes today. What happened to the tax burden between 1950 and today? It almost doubled. Who paid it? Middle-class families. Today, the number that just came out showed that 20.4 percent of all income earned by all Americans is taken by the Federal Government, and when you take State and local taxes, the tax burden today is at the highest level in the peacetime history of the United States of America. No American has ever lived with a peacetime tax burden higher than today. Even though we won the cold war, tore down the Berlin Wall, cut defense by 50 percent, we still have the highest tax burden in American peacetime history because of passing bills like the one that is before us today.

What is the amendment that I have offered with Senator DOMENICI and Senator ROTH trying to do? What it is trying to do is address the problem, shown on this chart, where working families end up paying more and more of their income. When you have a working spouse today, that working spouse is paying 60 percent of their income in taxes that did not exist in 1950.

What Senator DOMENICI, Senator ROTH, and I are trying to do is to correct that. We are trying to take a first step to correct this marriage penalty, which is basically a penalty that falls on 31 million Americans where they actually pay an average of $1,400 a year more because they are married than they would pay if they were single. We want to give them an additional $3,300 deduction. We want to put it above the line so it applies to the earned-income tax credit. And our Democrat colleagues say, "No, we don't want to do it that way."

Let me tell you what they want to do. No. 1, they want to say that if a family chooses to have one of the parents stay at home with their children, that that parent is worthless and therefore they should get no correction for the marriage penalty at all.

What Senator DOMENICI, Senator ROTH, and I are trying to do is to not tilt the Tax Code against stay-at-home parents.

I am not trying to make a judgment. In the two families I have had the privilege to live in my parents'; and now my own family—both parents have worked. I am not trying to stand in judgment on whether both parents should work or they should not work. Families should do what works for them. But we should not have a Tax Code that penalizes people who give up income in order to have one parent stay at home with the children. That is the proposal that the Democrats are making.

The second proposal they are making is, do not give any of this to moderate-income people. I did not hear anything in their proposal about making it a rebate to people who are getting the earned-income tax credit.

Let me tell you why that is so important. You have a lady who is washing dishes and you have a man who is a janitor in a school. They might be about as well off on welfare as they are working, but they are proud, they are ambitious, they want to be self-reliant. So every morning they set the alarm for 6 o'clock. When the alarm clock goes off, their feet hit the ground. They get up, they get dressed, they go to work. They often work more than one job. They meet and fall in love. It looks like their dream has come true because together they can have more.

But under the existing Tax Code each of them making very low income qualifies them for an earned-income tax credit. They lose the earned-income tax credit if they get married. So they face a huge penalty, often more than $1,400 a year if they get married.

In our amendment, we apply the correction to this perversion in the Tax Code called the marriage penalty so that even people that are getting the earned-income tax credit can deduct this $3,300 before they gauge their eligibility. Why? First of all, we are for love. Secondly, if a lady washing dishes and a man who is a janitor in a school fall in love, we want them to get married. What society would want to discourage that from happening? They may get married, have a child, their child may become President of the United States.

The alternative being offered is so much cheaper. One of the reasons it is cheaper is that it doesn't apply to these very low-income people. We thought it should apply to very low-income people. The reason is 34 percent of the money they are taking out of the pockets of working Americans through this tobacco tax come from people that make $15,000 a year or less. They should not be excluded from this provision.

To sum up the points I wanted to make, I want the marriage penalty to be corrected. I want this tax deduction to apply to families, whether they both work outside the home or whether they decide they will sacrifice, take less income, and one of them will stay home and raise their children. I am not trying to make a judgment as to whether that is better or worse. I think it depends on the people and what they want. But I don't think the Tax Code should treat people differently based on that decision. Our colleagues who supposedly are offering an alternative think it should. Our colleagues say, look, if you don't work outside the home, you don't work. If you don't work outside the home, you are not due any correction for this penalty.

Then as the final absurdity they say, after all, John, by marrying Josephine, he already got $5,550 tax deduction by getting her personal exemption and part of her standard deduction. But who can live on $5,550? What kind of bonus is that? It just shows you the absurd language we have developed to defend a provision in the Tax Code which is absolutely indefensible.

I want, in this amendment, to give at least a third of the money we are taking from working Americans back to them. Our colleagues try to get us to focus on these terrible tobacco companies and forget about the fact that tobacco companies are paying no taxes at all under this bill. In fact, this bill makes it illegal for the tobacco companies not to pass through the tax to consumers. Who is paying this tax? A majority, 59.1 percent of this tax is being paid by families that make less than $30,000 a year. So I have made the modest proposal to give a third of the money back to moderate-income families so that those who were in favor of the bill can say, well, we raised tobacco prices. Hopefully, that will discourage children from smoking. Hopefully, it will discourage other people from smoking. Just don't impoverish blue-collar workers in America who smoke and who, paradoxically, are the victims of this whole process.

The incredible, unthinkable, virtually unspeakable truth about this bill is it doesn't penalize the tobacco companies. It penalizes the victims. We tell everybody you have been victimized by the tobacco companies. They knew you would get addicted to nicotine, and they conspired to get you to smoke. Then this bill says we are going to do something about it; we are going to tax you, not the tobacco companies.

Always seeking to do good, I had this modest amendment to take a third of the money and give it back to moderate-income families in repealing the marriage penalty and making health insurance tax deductible for the self-employed. I tried to do it in such a way as to protect some of their huge trust funds. Now they say, no; you can't do that. So at some point, if we don't work this out, I am going to modify my amendment and I am going to take all the money out of the bills trust fund.

The truth is we should be giving back about 80 percent of this money in tax cuts. We should be using the other 20 percent—10 percent of it on antismoking, 10 percent of it on antidrugs, and that ought to be it.

In any case, if we are going to debate this issue, I think our colleagues are going to be a long time explaining why, if mom or dad decides to stay at home, they are discriminated against under this Tax Code. I don't think people are going to be in favor of that and I hope something can be worked out.

Finally, at the end of the budget cycle in the year 2007, we have a choice: We can repeal these marriage penalty provisions and take all of it out of this trust fund, or we can set a portion of it out of this trust fund. I can do it either way.

I am beginning to be convinced, as my dear colleague from Arizona has been convinced throughout this debate, that no good deed goes unpunished, even when you try to do what you believe is a good work. If you try to do something good and you try to be reasonable and you try to make things work, something is going to happen to punish you for it. I think that is a shame for the process.

I wanted my colleagues to be aware, when we are talking about giving a $3,300 tax deduction for working families, that you have to wonder why is that reasonable? Well, in 1950, 75.3 percent of their income was totally shielded from income taxes because of the standard deduction and the dependent exemption. Because of inflation since that time and because the personal exemption has not been raised to equal inflation, now only 32.8 percent of their income is shielded from taxes.

I am not going to apologize for trying to let working families keep more of what they earn. Nor am I going to apologize for having a provision that says to parents you can get this tax deduction if both of you work or you can get it if one of you works and you have to make the decision about what works for you and your family. I don't think doing it any other way is going to be successful. I hope we can work this out. But it may be preordained somewhere at a higher level than we are and maybe for some good purpose that this can never work out and this might never be done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I will speak for a moment and then spend a moment to visit with the Senator from Arizona.

Let me correct one thing the Senator from Texas said. The Senator knows just a little while ago I was talking to him and I offered him a compromise which includes the capacity to raise the level of benefit to the spouse—working mom or pop—who stays home with kids.

But what the Senator is ignoring also is that under the marriage penalty, so-called, the mother who stays home, or father who stays home today and isn't working and that he wants to reward, is, in fact, already rewarded because the structure of tax is such that with a single earner and one parent staying home, they get a marriage bonus.

So we have a tax structure that already rewards the very person the Senator from Texas is talking about. In addition to that, I suggested to him that we ought to be able to work out some way to augment that a little bit. I think that is reasonable. So let's not get into a notion that somehow people want to be more protective of mom and pop who want to stay home with the kids. This debate is about whether or not we are going to be able to have enough money to do the things this tobacco bill must do, which is to reduce the number of kids smoking.

You never hear the Senator from Texas talk about how we are going to save lives in America. We hear him talking about saving taxes, but not saving lives. We never hear him talk about the 400,000 people a year who die because they smoke. You also don't hear him refute the tobacco company's own memoranda, which talks about how they know that when the price goes up, the number of people who buy their cigarettes goes down. That is tobacco company fact; it is not made up on the floor of the Senate.

So let's begin to deal with the reality here. The reality is that if you don't have the ability to affect the behavior of our kids in this country, we are not doing the job on this legislation. And while it is all well and good to want to restore some money back to people to take care of the marriage penalty—and I am for that—we want to do that in a way that is reasonable within the other obligations of this legislation. That is what we are fighting for here—to maintain common sense in this.

I am happy to work out some kind of compromise with the Senator. I think it is important to understand that has to be fair. If we take 80 percent of this bill in order to rebate people who are already getting benefits, we will have departed from all common sense and fairness.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I am interested to see that at a time when the tobacco bill is on the floor of the Senate, we are debating the marriage tax penalty. It is unique, I suppose, that in the U.S. Senate one does not have to talk about the subject that is on the Senate floor at that time. We experienced, earlier in this session, the majority leader bringing to the floor a piece of legislation which created a parliamentary situation where no one could offer any other amendments except those he would prefer to have offered because he was afraid someone on this side of the political aisle would offer an amendment not related to the subject. So we had a legislative logjam on a number of pieces of legislation. That was his right, and I complained about it at the time. And at the same time, the majority leader was complaining that somebody might offer an amendment that had nothing to do with the bill on the floor of the Senate.

Well, here we are. We have a tobacco bill on the floor of the Senate and what have we been talking about now for a number of days? The marriage tax penalty. We had a tax bill on the floor of the Senate some long while ago and we debated that. But now, on the tobacco bill, we are talking about the marriage tax penalty.

I don't think the Senator from Texas will get anybody to swallow the bait here that a marriage tax penalty is justifiable. The Congress has worked on the marriage tax penalty attempting to fix it, to reduce it, to abolish it, and to otherwise change it for a long, long time. Long after this debate is over, there will be discussion about this so-called marriage tax penalty. Should it be abolished, should it be fixed? Of course, it should. Easier said than done, but we ought to do it.

But we are now on a tobacco bill. I bring this discussion back to the reason that we have a bill on the floor of the Senate dealing with tobacco. I want to read again, for some of my colleagues and those who are interested, what persuades those of us in the Senate who support this tobacco legislation and think this legislation is necessary.

I was on the Senate Commerce Committee when we passed the legislation out of the committee. I voted for it, and I supported it. Senator McCAIN was the principal author of the bill, and Senator CONRAD, my colleague from North Dakota, has also written a piece of legislation which found its way, or at least in large part, into the McCain legislation. I compliment both of them, and others, including the Senator from Massachusetts, and a number of others who have worked hard on this legislation.

But why tobacco legislation? Because many of us believe that it is inappropriate in this country to allow the tobacco industry to continue to try to addict America's children to nicotine. Some say, "Well, gee, that is not what has been happening." Of course it has been happening. Several court cases have now unearthed the memoranda and the information from the bowels of the tobacco companies that they didn't want to disclose but were required to disclose. This information showed exactly what their strategies were in recent decades to try to addict America's children to tobacco.

Almost no one reaches adult age and discovers that what we really wanted to do and have failed to do is start smoking. Does anybody know a thoughtful adult who scratches their head and says, "Gosh, what have I missed in life? I know what it is. I need to start smoking. That is what I am missing. That is what will enrich my life." Did you ever hear of anybody doing that? I don't think so. The only way you get new smokers is to get kids to smoke.

On Friday, I described for my colleagues some of the data and the memoranda that were in the files of the tobacco companies. I want to read some of them again, because I want us to be talking about the subject of tobacco on the floor of the Senate.

But why do we want to do something to tell the tobacco industry they can't addict America's children to nicotine when it is legal to smoke, and it will always be legal to smoke. It is an adult choice. But it is not legal, and ought not be legal nor morally defensible for anyone to say we are going to try to addict 15-year-old kids, or 13-year-old kids, to our cigarettes in the name of profit.

So let me proceed to describe some of the documents, that we have unearthed in various court cases and elsewhere, that describe what the tobacco industry has done. At the end of that, I will ask my colleagues if they think this behavior is defensible. If you don't, then we ought to pass this kind of legislation and stop talking about other subjects.

In 1972, Brown & Williamson, a tobacco company: "It is a well known fact that teenagers like sweet products. Honey might be considered."

In 1972, they are talking about adding honey to cigarettes. Why? Because kids like sweet products. Does that sound like a company that is trying to addict kids to cigarettes? It does to me.

In 1973, RJR, a tobacco company, says: "Comic strip type of copy might get a much higher readership among younger people than another type of copy."

They are talking about advertising. Does this sound like a cigarette company that is interested in trying to get kids to smoke? It does to me.

In 1973, Brown & Williamson: "Kool"—

This is a quote. The cigarette brand Kool:

> Kool has shown little or no growth in the share of the users in the 26 and up age group. Growth is from 16- to 25-year-olds. At the present rate, a smoker in the 16- to 25-year-old age group will soon be three times as important to Kool as a prospect in any other broad age category.

This is a company that is talking about 16-year-olds and how attractive it is that 16-year-olds are using their cigarettes.

Philip Morris, 1974: "We are not sure that anything can be done to halt a major exodus if one gets going among the young."

"This group"—now speaking to the young, according to Philip Morris—"follows the crowd, and we don't pretend to know what gets them going from one thing or another. Certainly Philip Morris should continue efforts for Marlboro in the youth market."

Is this a company looking at selling cigarettes to kids? I think so.

In 1974, R.J. Reynolds, they write, speaking of kids: "They represent tomorrow's cigarette business. As this 14- to 24-age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years."

This is a company talking about the 14-year-old smoker.

In 1975, a researcher for Philip Morris writes: "Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers 15 to 19 years old. My own data, which includes younger teenagers, even shows higher Marlboro market penetration among 15- to 17-year-olds."

Does anybody who reads believe after reading this that the tobacco companies weren't vitally interested in selling cigarettes to these kids? Of course they were.

In 1975, RJR-Nabisco talks about increasing penetration among the 14- to 24-year-olds: "Evidence is now available to indicate the 14- to 18-year-old group is an increasing segment of the smoking population. RJR Tobacco must soon establish a successful new brand in this market if our position in the industry is to be maintained."

In 1976, that is RJR saying about 14- to 18-year-olds that we have got to get a new cigarette out there to attract these people if we are going to retain our position.

In 1978, the Lorillard Cigarette Company said the following: "The base of our business is the high school student."

"The base of our business is the high school student!" This from a tobacco company.

In 1979: "Marlboro dominates in the 17 and younger category capturing over 50 percent of the market," Philip Morris writes proudly.

In the name of profit, they say: Our cigarettes dominated the 17-year and younger category. We capture over 50 percent of the market.

They make it sound like a county fair, don't they? A blue ribbon—a fat steer gets a blue ribbon. We were able to get 15-, 16-, and 17-year-old kids to smoke. We win.

Now tell me that this industry doesn't target young kids to smoke.

Marlboro Red, a derivative of Marlboro, I guess—I have not seen a Marlboro Red cigarette. But a Marlboro Red in 1981, a Philip Morris researcher writes: "The overwhelming majority of smokers first begin to smoke while in their teens. At least part of the success of our Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it."

I think maybe "stuck with it" is a misnomer. I think maybe "who were addicted to it" rather than "stuck with it." The whole purpose, of course, is you attract a 15-year-old to start smoking and you have got a customer for life.

Smoking is legal in this country, and it will always be legal. Adults have the right to make the choice to smoke. Three hundred thousand to four hundred thousand people a year die in this country from choosing to smoke, from smoking and smoking-related causes. Three hundred thousand to four hundred thousand people a year die from having made that choice. You have heard the statistics: every day, 3,000 kids will start to smoke; 1,000 of them will die from having made that choice.

The question for us is, will we as a country continue to sit on our hands and say to the tobacco industry, "It is all right, we understand your future customers are our children; it is all right, our sons and daughters are available to be a marketing target for you? Should it be all right to say that you can advertise to them; you can make pitches to them; you can provide all kinds of subtle approaches to our kids that smoking is cool, smoking is something you ought to do, smoking tastes good, smoking feels good, your peers smoke so you ought to smoke"? Is that something this country wants? Is that something this country is going to allow to continue? I don't think so.

Let me continue.

The tobacco industry in 1983, says Brown & Williamson, will not support a youth smoking program which discourages young people from smoking. In 1983, you heard all of the references that I used about the pitches that were made by the industry to the children and the importance they placed in having those children as their customer base.

And then in 1983 they say this tobacco company "will not support a youth smoking program which discourages young people from smoking."

Well, I guess that is because they knew who their customers were. They knew where their future profits would come from.

"Strategies and Opportunities," a memorandum, 1984, from R.J. Reynolds, and I quote:

> Younger adult smokers have been the critical factor in the growth and decline of every major brand and company over the last 50 years. They will continue to be just as important to brands [and] companies in the future for two simple reasons: The renewal of the market stems almost entirely from 18-year-old smokers. No more than 5 percent of smokers start after age 24. . . . Younger adult smokers are the only source of replacement smokers. . . . If younger adults turn away from smoking, the industry must decline, just as a population which does not give birth will eventually dwindle.

Let me read again what the tobacco industry understood.

> No more than 5 percent of the smokers start after the age 24.

If you don't get them when they are kids, you are not likely to get them. If you don't addict someone in childhood to nicotine, you are not likely to be able to addict them when they become adults.

In 1986, R.J. Reynolds—they were talking about their advertising for Camels:

> [Camel advertising will create] the perception that Camel smokers are non-conformist, self-confident, and [they] project a cool attitude, which is admired by their peers. . . . [They aspire] to be perceived as cool [and] a member of the in-group is one of the strongest influences affecting the behavior of [young adults].

It is pretty clear. And this is just a smidgeon of the evidence that has come from the tobacco industry about what they have been doing over the years to appeal to a customer base coming from our children.

Now, they have always insisted they have not been doing this. In fact, until a couple of years ago the CEOs of tobacco companies insisted that nicotine was not addictive. Nicotine was not addictive. They are the last Americans, apparently, to be willing to testify under oath that nicotine was not addictive. But, of course, now most of them admit they understand nicotine is addictive. And we raised the question in a piece of tobacco legislation whether this country wants to continue to countenance this behavior. Smoking is legal, but should we allow tobacco companies to target children to become addicted to nicotine? The answer clearly ought to be no, and the answer ought to be delivered with some urgency on the floor of the Senate.

We have a tobacco bill that was brought to the floor of the Senate which had a number of very important goals, the most important of which, in my judgment, was to interrupt, intercept, and stop the tobacco industry from appealing to our children. Among other things, it will raise the price of a pack of cigarettes. But what will happen as a result of that price increase and the revenue that comes from it will be a range of programs such as smoking cessation programs, so that those who are now addicted to cigarettes and want to get off of that addiction will have the opportunity, the resources, and the wherewithal to do that.

Also, the bill had a prohibition on advertising directed at children and a prohibition on vending machines in areas that are available to children. The smoking cessation programs will be supplemented by counteradvertising programs. Counteradvertising programs that tell America's children that smoking does not make sense, smoking can injure your health, smoking can cause death, smoking is a contributing factor to causing heart disease and cancer and more. Counteradvertising will be very helpful, it seems to me, to warn kids away from cigarettes.

Additionally, the resources will be used to invest in the National Institutes of Health where research occurs every single day to try to respond to the health consequences of not just the addiction to cigarettes, but cancer and heart disease, and a range of other problems as well. I cannot think of anything that gives me more pride than to decide that we are going to take substantial new resources and invest them in the National Institutes of Health which will result in exciting, wonderful, and breathtaking new changes in health care and medicines.

That is the subject for the Senate: Do we want to stop the tobacco industry from trying to addict our children? Do we want to put together an approach that does all of these things, counteradvertising, smoking cessation, investment in the National Institutes of Health, and a whole range of things? I think most people would say, absolutely, this legislation makes a great deal of sense?

And so the bill comes to the floor of the Senate, and to describe the pace in the Senate as a glacial pace is to describe a condition of speeding. I mean, glacial doesn't begin to describe the pace of the Senate when we have a bunch of people who are determined to slow something down. Glaciers at least move forward by inches. You bring a tobacco bill to the floor of the Senate and then we have somebody who wants to speak for 46 hours on the Tax Code. Well, God love them, they have every right under the rules of the Senate to talk about whatever they want. We could talk about almost anything that anybody wants to come and talk about on the floor of the Senate, and so today we are talking about the marriage tax penalty.

The Tax Code is a fascinating subject, and if ever there was anything in need of reform it is America's Tax Code. It seems to me that there is a time and a place for us to work together in a thoughtful way to reform the Tax Code, to fix the marriage penalty, and to do a whole range of other things that decrease its complexity, make the code much more understandable, and much fairer. But I wonder if we ought not keep our eye on the ball this afternoon and see if we can't pass the tobacco bill, see if we can't do what this piece of legislation that we designed will do, and that includes the five or six steps I have just described.

If one thinks they are unimportant, I suppose you can conceive of a dozen other things that you want to do to change the subject. We could have a discussion, I suppose, this afternoon about the space station. Gee, that is a controversial subject. You could have an amendment here and we could debate the space station for the next 4 or 5 hours. Or we could have a discussion about the nutrition of canned soup from the grocery store shelves or our trade problems with Australia.

There is no end to the subjects if somebody wants to change the subject. There is no end to the other things to ruminate about or talk about if one doesn't like the subject of this bill, which is producing a piece of legislation that deals with the tobacco issue the way I have just described it.

Let me go back to where I started. After having read the evidence and information that comes from the files of the tobacco industry, if anyone does not yet believe that these companies were targeting children because they knew the only opportunity for them to profit in the future would be to get a customer base among young people, if anyone doesn't yet believe that, they are not prepared to believe anything about this subject.

The evidence is clear. It is not debatable. It is in black and white. The industry didn't want to give it up. They were forced to. And this country now should make a decision: is this behavior tolerable or should we stop it? I hope at every desk of this Senate when the roll is called and the Senator is named, I hope they would stand up and say that we ought to stop it. No company in this country has the right to try to attract a 14-year-old son or daughter in an American family to become addicted to tobacco. No company has that right. Tobacco is a legal product for those age 21 or over. It ought not be right for any company to try to addict our children to tobacco.

That is what this is all about. It is not about the marriage tax penalty. It is not about the space program. It is not about Food for Peace. It is not about the Food Stamp Program. It is not about any of that. It is about the tobacco issue.

I am as patient as anybody. I can be here 2 weeks from now and we can be talking about new discoveries in the habits of earthworms or whatever it is somebody wants to talk about 2 weeks from now.

But in the end, this Congress will have to deal with this bill. Are we going to pass a tobacco bill? And to those who do not want to pass it, those who do not want to vote for it, I would say: Just give it your best shot and then stand up and vote against it. If you don't like it, vote against it. But don't thwart the will of the American people to pass legislation that will stop the tobacco companies from addicting our children. Don't do that. You will be on the wrong side of history on this question.

Ten years from now, 5 years from now, you will look back at that vote, you will look back at this debate, and you will have to ask yourself, if you vote the wrong way—How on Earth could I have been so out of step with common sense? How on Earth could I have been so out of step with what this country needed to have done at that time?

I notice my colleague from North Dakota is on his feet, waiting patiently to speak. I have only 25 more minutes—I am, of course, only kidding. Senator CONRAD from North Dakota has been a principal author of a piece of legislation that has become a part of the bill that is now on the floor of the Senate. I mentioned the role that Senator MCCAIN and Senator CONRAD and others have played. I think it has been very important. I know there are people outside this Chamber who watch this debate and whose teeth you can hear gritting a mile away, they are so upset about what is going on here. Tough luck. Just tough luck. Times have changed.

With Senator CONRAD's help and Senator MCCAIN's help and the help of others who have done, I think, remarkable work on this kind of legislation, we will in the end—whether the opponents like it or not—pass this tobacco bill. There will be enormous pressure on the House of Representatives to pass a similar piece of legislation. We will have a conference. I predict we will have a new law in this country before the end of this session of Congress that does something that we can be proud of and should be proud of on behalf of our children.

So as I yield the floor, let me compliment my colleague, Senator CONRAD, for the work he has done for so many months on this legislation. And, as I do, let me also pay a compliment to the chairman of the committee on which I serve, Senator MCCAIN, who similarly has done some wonderful work on this legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes the distinguished Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague from North Dakota for his strong advocacy, because this is an important issue. It is an issue that is going to affect the lives of the American people for years to come. We all know the statistics—over 400,000 people a year die in this country from tobacco-related illness. As we have held hearings all across the country, we have heard from the people affected by those deaths very moving testimony. I still remember very clearly in Newark, NJ, hearing from a coach, Pierce Frauenheim, a big, tough, strong guy who is a football coach and assistant principal.

When he testified, you could barely hear him talk. He described how after a lifetime of smoking he was diagnosed with cancer of the larynx, and he described to us the terror that he felt when the doctor told him that his life was threatened and that the only hope for him was a laryngectomy in which his larynx would be taken out. He went through that procedure, and thank God it did save his life. But he is left now as somebody who can barely talk. You can barely hear him. He told us of how much he hoped his message would influence others and that perhaps by his experience and his suffering others could avoid the fate that he had experienced. How often we heard that story.

Most recently, when the task force met we heard from a former Winston man. He would go around to parties and events, representing Winston. Now he has lung cancer. He described to us what it is like to be under a death threat.

And we heard from a woman who was a model for Lucky Strike, who has also had a laryngectomy, and also had other forms of cancer. She was required by the terms of her contract to smoke. She took up the habit as a very young woman and now describes the pain and suffering she has experienced.

So many of these witnesses have actually broken down and cried at our hearings, moved by the emotion of what they have experienced. I wish my colleagues could have been there through every hour of what we heard, because I don't think there is a Member of this Chamber who could have remained unmoved. But we know the history of this industry.

We had a representative of the industry come and see me and tell me we are unfairly vilifying this industry. I said to him, frankly, this industry has done a great job of vilifying itself. They came before Congress. They said under oath their products didn't cause these diseases. They said their products were not addictive. They said they had not targeted kids. They said they had not manipulated nicotine levels to foster addiction.

We now know each and every one of those statements was false. We do not know it by somebody else's words, we know it by the industry's own words, because we have now seen the documents. I have read hundreds of pages of these documents that reveal how this industry testified falsely, knowing full well what they were saying was untrue.

I was kind of struck by this cartoon by Herblock that was just in the Washington Post on May 27. The headline is, "Have I Ever Lied To You?" It is a picture of the tobacco companies. This man in the fancy suit has a button on saying "tobacco companies." He is a representative of the tobacco companies. Here is a person who is reading a tobacco industry ad and watching a tobacco message on taxes on television, all with the headline, "Have I Ever Lied To You?" We know the tobacco industry has lied to us. They have done it repeatedly. I regret to say they are doing it in this debate.

I would like to focus now on the question that is before us, the amendment of the Senator from Texas, because during the budget debate the Republicans on the Budget Committee repeatedly said: The tobacco funds should go to Medicare and should not be used as a piggy bank for unrelated spending or tax priorities. That was the position they took in the Budget Committee.

The Senator from Texas serves on the Budget Committee. Now he is sponsoring an amendment that uses the money substantially in a way that is at variance from what he said in the Budget Committee. He said, and I quote:

> The fundamental issue is going to be that we want to dedicate the tobacco settlement to saving Medicare, and the minority wants to spend the money on a myriad of programs, many of which have absolutely nothing to do with the tobacco settlement.

That is what the Senator from Texas said in the Budget Committee. He said all of the money ought to go to Medicare. Now we look at his amendment—not a dime of the money goes to Medicare. My, what a change a few months has made. We in the Budget Committee debated this issue for an entire day, and over and over and over the Senator from Texas said: All of the money ought to go to save Medicare. Now he offered an amendment on the floor of the U.S. Senate and guess what? There is not one penny for Medicare. What happened? We were supposed to be using this money, he said in the Budget Committee, to save Medicare. Now all of a sudden Medicare gets nothing.

Under the bill I introduced, Medicare got a chunk. We also gave a substantial chunk to the States because they are the ones that brought the suits that are before us. We also used the money for health research and for public health care campaigns—countertobacco advertising, smoking cessation, smoking prevention. Under the amendment of the Senator from Texas, not only is there no money left for Medicare, which he said all the money should go to just a few months ago, but you know what? There is no money left for public health programs—none—zero. This is a bill that is supposed to be protecting the public health. There is no money left for public health and there is no money for Medicare, which just a few months ago he said was the absolute priority.

This chart shows the effect of the Gramm amendment which really does turn the tobacco bill into a piggy bank for unrelated matters that our colleagues on the other side of the aisle were decrying during the Budget Committee deliberations. Look what has happened here: 35 percent of the money, if we agree to the Gramm amendment, goes for an unrelated tax cut. We have the Coverdell amendment that takes 13 percent of the money, so now half the money is for matters that are unrelated to tobacco legislation—half the money.

There is no money for Medicare. Research will get 13 percent of the money. Veterans will get 4 percent. Farmers will get 9.8 percent. The States, boy, they are going to be in for a big surprise. The States were going to get 40 percent of the money. They are the ones who brought the lawsuits. They were given 40 percent of the money because that is the amount of the money they got in the settlement with the tobacco industry. If we adopt the Gramm amendment, they are going to get 24 percent of the money.

Tobacco control and public health gets zero. Medicare gets zero, which they argued in the Budget Committee hour after hour ought to get all the money and now gets no money. And public health gets no money—nothing for smoking cessation, nothing for smoking prevention, nothing for countertobacco advertising.

I thought this was a public health bill. I thought that is what this was about. Our friends on the other side said it was a bill to help save Medicare. That is when we were in the Budget Committee. Now they come up with nothing for Medicare, not a penny. What a difference a few months makes.

The Gramm amendment, in conjunction with the Coverdell amendment, will spend tobacco money on programs that have nothing to do with the tobacco settlement.

Frankly, I am in favor of using some of the funds for drug control. I am in favor of using some of the money to address the marriage penalty. But the way they have done it, there is nothing left for Medicare and there is nothing left for public health. I just don't think that makes sense. I don't think that can stand the light of day. I don't think that can stand scrutiny. I think our colleagues are going to have some explaining to do if these amendments are adopted.

Every single public health expert has testified that if we are going to be serious about protecting the public health and reducing youth smoking, then we have to have a program that is comprehensive in nature, and part of that has to be smoking prevention programs, smoking cessation programs to help those who are addicted get off the products, and we also need countertobacco advertising to warn people of the dangers of using these products, to warn them of the cancer risks, to warn them of the risks to their heart, the risks of heart disease, the risks of emphysema and the other diseases which cost so many people in our country their lives.

I can remember very well a young woman who came and testified at our hearing, again, in New Jersey, a young woman named Gina Seagrave. She told about her mother who took up smoking at a young age and died at a very young age from a smoking-related illness. This young woman broke down and cried. She described to us the devastating effect this had on her whole family, because losing their mother really hurt the entire family. It hurt it very badly. She described what they had been through since their mother had passed away.

In every town and in every State I have gone to, to listen to witnesses, they have described to us the trauma that they have experienced because of the addiction and disease caused by the use of these products.

I grew up in a household where my grandparents raised me. My grandfather was a smoker. It probably shortened his life. I think of all those families we have heard from who told us of what it meant to have a father taken, a mother lost, a brother who died because of the addiction and disease caused by these products. This is the only legal product in America, when used as intended by the manufacturer, that addicts and kills its customers. Those are pretty harsh words, but it is the truth, and it is the reason we have a challenge and an opportunity. The challenge is to overcome the power of this industry that wants nothing done. The opportunity is for us to act and to make a difference in the lives of the people we represent.

The Senator from Texas talks a lot about this being a huge tax on low-income Americans. He doesn't tell the other side of the story. The other side of the story is that there is a huge tax already being placed on low-income Americans, and it is because of the use of these products. There is a massive shift that is going on in this country because of the costs of this industry.

Mr. President, $130 billion a year is the consensus calculation on what this industry costs Americans—$60 billion in health care costs, $60 billion in lost productivity, $10 billion in other costs. Nobody gets hurt worse by those facts than low-income Americans. Low-income workers' payroll taxes are paying about $18 billion a year in Medicare costs.

Our friends on the other side talked about that incessantly in the Budget Committee, that it is costing Medicare $18 billion a year and that all of the money ought to go to protect Medicare. That was their argument in the Budget Committee. Now they come out here on the floor and offer an amendment that gives zero for Medicare. How do they justify that? What caused this dramatic transformation? What caused this incredible change from being the defenders of Medicare to now not caring about Medicare at all? I don't know what happened. It is amazing what occurs in this body, the inconsistency. One month, Medicare is the priority; in fact, it is the only priority. The next month, it matters not at all. What a difference a few months makes.

The fact is, smoking is a huge tax on low-income Americans. The average pack-a-day smoker will spend $25,000 on cigarettes over his or her lifetime. The average pack-a-day smoker is being affected in many ways. Not only are they paying $25,000 for cigarettes, but they are paying $20,000 in medical costs over their lifetime—$25,000 for the cigarettes, $20,000 for medical costs. That is $45,000 tobacco use is costing the average pack-a-day smoker. We talk about a heavy economic impact on low-income folks; that is the heavy impact. It dwarfs anything that is being done here to counteract it.

Mr. President, the biggest tax cut we could give low-income Americans is to reduce that cost. The McCain bill will cut smoking by about one-third. That will produce a savings of $1.6 trillion over the next 25 years. That is the smart way of helping low-income Americans.

When we look at the Gramm proposal with respect to the so-called marriage penalty, we see that he is not really just addressing the marriage penalty. In fact, a lot of folks are benefited in the Tax Code by being married. Maybe we can put that next chart up that shows what I am talking about.

This is something we know with great certainty, because we can study married couples and we can see who would benefit by filing as single individuals, who gets helped and who gets hurt by filing as a married couple. What we find is, for adjusted gross incomes of under $20,000, the significant majority of people get a bonus by filing as a married couple. We see a very small group—those are in red—who are actually penalized. A little over 10 percent of couples with combined income under $20,000 have a penalty by being married. The significant majority of people, almost two-thirds, receive a bonus by filing as a married couple, those who have adjusted gross incomes of under $20,000.

If we go to AGIs—adjusted gross incomes—of $20,000 to $50,000, over 50 percent benefit. They pay less filing as a married couple than they would pay filing separately. About 40 percent have a marriage penalty.

From adjusted gross incomes of $50,000 to $100,000, more of those, as a percentage, are penalized. About 50 percent have a marriage penalty; about 40 percent have a marriage bonus.

That is also true of those with adjusted gross incomes of over $100,000. About 50 percent have a penalty; about 40 percent have a bonus.

Given this information, it is relatively easy to put together a remedy that delivers the relief directly to those who actually have a marriage penalty. That is what the Democratic proposal does.

Unfortunately, this is not the approach of the Senator from Texas. He has opted instead to take a scattershot approach that benefits equally those who are helped and those who are hurt. The result is, those who are hurt get less help than they really deserve. That is why the Democratic alternative is superior for those who really have a marriage penalty.

I believe that this is unfair. We ought to give those who actually experience the marriage penalty the help they really need to overcome it. It does not make sense to me to give the help to those who are benefited by being married in the same way that you help those who are being hurt. The result is, you do not give enough to those who are being hurt. That is not fair. I just do not know what sense it makes.

The Senator from Texas has told us on the floor that the average family would save about $1,400 in taxes under his proposal. Let us look at an example. A couple earning $25,000 is in the 15 percent tax bracket. Under the Gramm proposal, this couple would get a $3,300 above-the-line deduction, but only when fully phased in. In actual tax savings, this couple would realize 15 percent of that deduction, or $495. That is a far cry from the $1,400 advertised on the floor of the Senate. A couple earning $50,000, in the 28 percent bracket, would get a savings of $924—again, a far cry from the $1,400 advertised here on the Senate floor.

Bear in mind that those calculations are based on the $3,300 deduction being fully phased in. The $25,000 couple waiting to realize its $495 savings is going to have to wait until the year 2008, because that is when it is fully phased in. What they will get next year, under the Gramm plan, is not the $1,400 that has been advertised, but $125. That is what they are going to get next year, not $1,400; they are going to get $125. For the year 2002, that savings goes up to almost $150. Well, that is a whole lot less than $1,400. By 2007, the savings is up to $297.

So millions of families, who think of themselves as average hard-working people, are going to be wondering where their $1,400 of savings are. The fact is, they are not going to see it, because it has been overstated here on the floor of the Senate what the savings actually will be.

I am hard pressed to decide what is the worst feature of the amendment of the Senator from Texas: The reckless reductions it will require in public health programs or the downright stinginess of the remedy it purports to deliver to couples who actually incur a marriage penalty.

If we are going to do something about the marriage penalty, we ought to focus the benefit on those who are being hurt. That would be dealing with the marriage penalty. But to spread it around to people who are helped and hurt by the marriage penalty denies those who are actually penalized from getting the help they deserve.

Mr. President, I think what we have before us is an important choice. The Democratic alternative focuses its relief on those taxpayers who are actually being penalized. By contrast, the proposal offered by the Senator from Texas dilutes that relief to provide for couples paying a marriage penalty as well as those who are actually receiving a marriage bonus.

You hear a lot of talk about the marriage penalty. We do not hear much talk about the marriage bonus. But the fact is, at many income levels many more are being benefited by the marriage bonus than are being affected by the marriage penalty. Because the Democratic alternative is targeted to low- and moderate-income couples, we can make their relief much greater. I think that makes sense for those who are actually experiencing a marriage penalty.

In addition, we can save money to use to promote the public health. After all, that is what this bill is supposed to be about. I must say, I have viewed with some concern the developments on the floor over the last week, because now we have an amendment before us that, amazingly enough in a public health bill, provides no money for public health.

And after the arguments of our friends on the other side of the aisle that were so strenuous in the Budget Committee—they said we had to take every dime of this money and use it for Medicare—now we are about to vote for an amendment that does not give one dime to Medicare. What a transformation. They have gone from 100 percent of the money going to protect Medicare to none of the money going for Medicare. While they are at it, there is not going to be a dime of money to protect public health, either, in a public health bill.

Let us defeat the Gramm amendment and stay on course with a public health bill that addresses the real concerns and the real challenges facing the American people.

I thank the Chair and yield the floor.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, while we are waiting, I thought I would just go through what I call the top 10 tobacco "tall tales" that we have heard from the tobacco industry during this debate.

Tall tale No. 1 was that tobacco has no ill-health effects. Remember that? They came up to the Capitol, and they put up their hands, and they swore under oath that these products did not cause ill-health effects. But then we got the documents. We got them because of court action. We got access to the documents, and we found out, in the industry's own words, what the truth is.

Here is the truth on that claim that tobacco has no ill-health effects:

> Boy! Wouldn't it be wonderful if our company was first to produce a cancer-free cigarette. What we could do to the competition.

This is from a mid-1950s Hill & Knowlton memo quoting an unnamed tobacco company research director.

That is tall tale No. 1.

Tall tale No. 2 is, again, tobacco has no ill-health effects. Again, we have an industry document that reveals the falsity of that claim. This is from a 1978 Brown & Williamson document that says: "Very few customers are aware of the effects of nicotine, i.e., its addictive nature and that nicotine is a poison."

Again, that is not from the public health community. That is from the tobacco industry's own documents.

Tall tale No. 3: Nicotine is not addictive.

The truth, from a 1972 research planning memo by RJR Tobacco: "Happily for the tobacco industry, nicotine is both habituating and unique in its variety of physiological actions."

This industry, I tell you, these guys come up here, they don't come with a lot of credibility because they have told a lot of tall tales.

Tall tale No. 4, again, the claim that nicotine is not addictive.

This is from a 1992 memo from the director of portfolio management for Philip Morris' domestic tobacco business: "Different people smoke cigarettes for different reasons. But, the primary reason is to deliver nicotine into their bodies . . . similar organic chemicals include nicotine, quinine, cocaine, atropine and morphine."

Now, again, this is the industry—their documents—revealing what they know and what they think of their own products. They say it is not addictive and yet they say it is the same as cocaine, the same as morphine, the same as atropine.

Tall tale No. 5: The tobacco companies did not manipulate nicotine levels.

The truth, again, from an industry document, a 1991 RJR report: "We are basically in the nicotine business . . . effective control of nicotine in our products should equate to a significant product performance and cost advantage."

Tall tale No. 6: Tobacco companies did not manipulate nicotine levels.

This is from a 1984 British-American Tobacco memo: "Irrespective of the ethics involved,"—that is an interesting statement—"Irrespective of the ethics involved, we should develop alternative designs which will allow the smoker to obtain significant enhanced deliveries [of nicotine] should he so wish."

They have been manipulating nicotine levels for a long time.

Tall tale No. 7: Tobacco companies don't market to children.

This is from a 1978 memo from a Lorillard Tobacco executive: "The base of our business are high school students."

They didn't market to kids? They didn't target kids? Here you have a major tobacco company executive saying the major business is high school kids, the same kids tobacco companies don't market to—children.

This is from a 1976 RJR research department forecast: "Evidence is now available to indicate that the 14- to 18-year-old age group is an increasing segment of the smoking population. RJR must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term."

Well, I don't know how it can be more clear.

Tall tale No. 9: Tobacco companies don't market to children.

This is from a 1975 report from a Philip Morris researcher: "Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data . . . shows an even higher Marlboro market penetration among 15–17-year-olds."

You wonder what they thought when they went home at night.

Tall tale number 10, again, the claim tobacco companies don't market to children.

This is from "apparently problematic research," a Brown & Williamson document:

"The studies reported on youngsters' motivation for starting, their brand preferences, as well as the starting behavior of children as young as 5 years old . . . the studies examined . . . young smokers' attitudes toward addiction and contain multiple references to how very young smokers at first believe they cannot become addicted, only to later discover, to their regret, that they are."

That kind of sums it up. That is the issue before the Senate. Are we here to protect kids or are we here to protect the bottom line of the tobacco industry?

The Wall Street analysts that came before my task force indicated that, indeed, if this legislation were passed, it would reduce the profits of the industry, but not dramatically. In fact, the industry would still enjoy very, very high profit levels. Remember, this industry has a profit margin that is three times the profit margin of most companies that are in packaged good industries in America. They have a profit margin of 30 percent. Other package goods average a profit margin of 10 percent. They would still enjoy dramatic profits, even if we passed this legislation according to the analysis of the people who should know best, the Wall Street analysts that report on this industry.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, thank you.

With this amendment we are debating today, which is a critical amendment, we will bring the last significant aspect of our Federal Tax Code that is of particular concern to Idahoans, and I think really all Americans, and that is the marriage tax penalty.

I ask myself one fundamental question before I make up my mind on any issue we deal with on the floor of the U.S. Senate. That is, Does this policy make sense for the American people?

Let's apply this question to our current Federal Tax Code which, quite simply, penalizes a working couple for getting married. Should folks pay more tax because they are married? Absolutely not.

The marriage tax penalty raises revenue for the government—no question about that. It raises revenue. But it is bad public policy. It most often raises taxes on lower and middle-income families who claim the standard deduction. Now, that is wrong. We must strengthen the bonds of family to strengthen the fabric of our society. If we believe in family, we believe in marriage. So why in the world do we have a public policy on the books that somehow creates a penalty for being married? That is totally counterproductive to our values of this society, of this Nation.

Before 1969, marriages were treated by the Federal Tax Code like partnerships, allowing husbands and wives to split their income evenly. In 1969, however, this practice of income splitting was ended, and thus was created the marriage tax penalty.

Since that time, with our Nation's progressive tax rates, tax laws have meant that working married couples are forced, forced to pay significantly more money in taxes than they would if they were both single. Currently, 42 percent of married couples suffer because of the marriage tax penalty.

Let me provide an example. A single person earning $24,000 per year is taxed at a 15 percent rate. Now, if two people, each earning $24,000, get married, however, the IRS, by taxing them on their combined income, taxes them in the 28 percent bracket, not the 15 percent that they would be taxed as individuals, but 28 percent because they have joined in holy matrimony.

It is also important to be aware that the marriage tax penalty hits the American people not only at the Federal level but also on their State taxes. Idaho generally conforms its State tax code to the Federal law. If the Federal Government alters its standard deduction levels, for instance, Idaho most likely will as well. While the focus of ending the marriage tax penalty has been primarily at the Federal level, we cannot discount the fact that this is, in essence, a double hit for working American couples who are trying to fulfill what this country believes in.

I think that we can all agree that the Federal Government should not be penalizing marriages, a sacrosanct institution and the bedrock of our social structure. It is time for the Federal Government to end this injustice to the American family.

I urge my colleagues to support the amendment of the Senator from Texas, Senator GRAMM. I commend him for his efforts.

Mr. President, just to reiterate, we think about this society and we think about all the problems and challenges that are facing America today. Senator FRIST of Tennessee was chairman of a task force on education in America. He pointed out many of the statistics, many of the problems that we are having with regard to our children. He pointed out how many of these children, more and more, are coming from families where there is not both a father and a mother. That is a significant problem—a significant problem.

How do we respond with public policy? Well, if you are married, there will be a penalty. I happen to be the chairman of the Military Personnel Subcommittee of the Armed Services Committee. We are starting to have problems with recruitment of young people to the military services. We need 176,000 young people every year to join the military—the finest military in the world. At one of the hearings, I asked the generals and admirals testifying this: "Tell me, is there something about this issue of values that we are hearing about?" And they said: "Yes, there is; there is very much a problem with values among all people." In fact, all branches of the military services have now added 1 week to the basic training to try to somehow instill in them core values—knowing right from wrong. A three-star general of the Marine Corps said, "We now have a new category of young person; we just call them 'evil,' and there is nothing we can do with them."

As the occupant of the Chair knows, it used to be that if you had a troubled youth, in all likelihood if you could send them off to the military, they would be straightened out. That is not the case anymore. I mention these challenges because it comes back. Do any of us believe that 1 week of basic training with 17- and 18-year-olds is somehow going to instill in them the values they should have learned many, many years ago, that they should have been raised upon, knowing right from wrong? That comes from a family environment, a family environment where a mother and father are there, where mother and father will tuck the child into bed, where mother and father will listen to their prayers—a mother and father, a married couple.

Yet, we have public policy on the books today that penalizes married couples. That is wrong; that is flawed public policy. It is time that this Nation correct that. That is why I am proud to stand in support of this amendment that will correct this. It is a clear signal, a loud signal, that we are going to reclaim this society and the fabric of this society by affirming that marriage is positive; we will not penalize those who choose to go into marriage.

So, again, I urge all my colleagues to support this amendment by the Senator from Texas.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I wanted to respond to some comments. I was over in a conference on the IRS reform bill when several of our colleagues came over to comment on the pending amendment. I want to try to address briefly some of the issues that they raised.

Let me begin by trying to delineate between the marriage penalty that is pending in the amendment before us and some of the alternatives that appear to be supported by opponents of this amendment.

The principal feature of the amendment before us is an effort to give back roughly a third of the money that is collected in the cigarette tax embodied in the bill before us. A tax that is very regressive in its impact. As I noted earlier, 59.1 percent of the taxes are collected from people who make less than $30,000 a year.

This amendment gives a rebate to moderate-income Americans, who will be devastated by this bill which will raise the tax by $1,015 per year, for the average smoker who smokes one pack of cigarettes a day. If the objective of the tax is to discourage smoking, if we hope to get a 50-percent reduction in smoking among teenagers as a result of raising the tax, if the objective is to discourage smoking and not to take money away from blue-collar workers to give to the Government to spend, then the logic of the amendment that is now pending is that we should take roughly a third of the money we collect and give it back to people and families who make less than $50,000 a year by repealing the marriage penalty.

Some of our colleagues have come to the floor with very pretty charts with my name on them. I appreciate the free advertising. I hope my mother saw them. They were beautiful charts. But they refer to something called a marriage bonus, and I think what is happening is this whole debate is getting skewed by people who do not want to focus on the issue. So let me explain what we are doing. Then I want to say a little bit about this marriage bonus, and then talk about why doing the marriage penalty in the way that is being suggested by the minority will discriminate against stay-at-home parents.

First of all, under the current Tax Code there are 31 million families that end up paying an average of $1,400 a year more in income taxes because they fall in love and get married than they would pay if they stayed single. I think it is a uniform position in the country as a whole and in the Senate in particular that it cannot be prudent tax policy, even in the economy of the greatest nation in the history of the world, to have a tax policy that discourages people that fall in love from getting married.

I think our colleagues on both sides of the aisle would agree with the premise that the family has been the most powerful institution in the history of mankind in terms of promoting progress and happiness. Those are two important things. So what I am trying to do in this amendment is to repeal that marriage penalty so we do not discourage people who fall in love from getting married and forming families and achieving the stability and the happiness and the fulfillment that comes from being married.

Now, I think there is a general view that we should do that. Not everybody wants to pay for it. Not everybody supports the fact that I am taking a third of the money from this bill which was going to things like paying lawyers $92,000 an hour, or paying farmers $23,000 an acre when they do not have to give up the land and do not have to stop farming tobacco, or paying $18,615.55 for smoker cessation programs for every Native American who smokes. They would rather spend the money on those things than to correct the marriage penalty. But I do not think philosophically anybody objects to the thesis that a tax policy that discriminates against marriage is counterproductive, in this Nation or any other nation.

Now, there are two issues that have been raised by opponents. One issue has been that we could do it cheaper if we excluded couples where one of the parents does not work outside the home. That is, if we only gave the marriage penalty correction to those couples that make roughly the same income.

Now, when we put our amendment together, we looked at that. We thought about it for about a microsecond, and we rejected it because if you do it the way the minority wants to do it, you end up giving a tax break only to those couples where both have roughly equal incomes. But for families that make a decision to sacrifice so that one of them can stay home and work in the home, which is real work, maybe the most important work on the planet, for those who choose to do that they would be discriminated against by the provision that the minority is proposing to offer.

Under our amendment, you get $3,300 of deductions whether or not both parents work outside the home.

Now, why did we do that? We did it because we do not believe the tax policy of the country should discriminate against people based on whether or not they both work outside the home. And let me make it clear. I am not trying to tilt the Tax Code one direction or the other. My mother worked all my life because she had to work. My wife has worked all our children's lives because she wanted to work. And I am not making a judgment about whether it is better for both parents to work or one parent to stay at home. I think that is something each family has to make a decision on based on what they want for themselves, their children and what they can afford. But the point I want people to understand is that the amendment that is before us treats couples exactly the same whether they both work outside of the home or whether one works outside the home and one stays home to be a homemaker, to raise the children. I do not believe the Tax Code should discriminate against people based on the decision they make about whether to work inside or outside the home.

The way we have written the bill we do not discriminate. You get the benefit if both parents work and you get the benefit if only one parent works because we give a $3,300 tax deduction. We do it above the line so you get to deduct it before you calculate what your taxable income is.

So that very modest-income people who get an earned tax credit, but who still work, can still take the credit. For example: a lady who is washing dishes and a man who is a janitor are both working. They are trying to get ahead, they are trying to be self-sufficient, they both get an earned-income tax credit, and they each have two children. They meet and say, "I have found the solution; I am going to form a family." They find if they get married, they lose the earned-income tax credit and they suffer a substantial decline in income. So they decide not to get married.

Well, one of the things we wanted to do in our amendment was to assure that we made this adjustment so that people at very low-income levels who in many cases are penalized most by the marriage penalty would get the relief. That is why we did our amendment the way we did, and it does cost more to do it that way. But if you do not do it that way, you discriminate against families where one parent stays at home and works at home, and you discriminate against very low-income people who are working and often working two or more jobs, but are still getting some assistance in the earned-income tax credit.

I think when our colleagues criticize this they do not really understand that what they are saying is if you stay home and raise your children, you should be discriminated against. I think when people understand the distinction they are not going to be for doing it their way.

The second issue I wanted to address because it did come up while I was gone is the so-called misnomer of a marriage bonus. If there has ever been a fraudulent concept in the history of American taxation, it is the so-called marriage bonus.

Now, let me define this marriage bonus. You have a guy named John, and he has a job, and he is out working. He is a sales representative, and he is traveling all over the country selling school supplies. And you have a girl named Josephine, a young lady who is graduating from high school. Now, she graduates from high school and then the next day she and John walk down the aisle and get married.

What the minority is calling a tax bonus is that Josephine's father was taking a dependent exemption because he was supporting Josephine while she was living in the family home, going to school. He was paying her expenses, and he got to write off on his income taxes every year or deduct $2,700.

Now, what is being called a marriage bonus is that by marrying Josephine and forming this family, before Josephine goes out next year and gets a job herself, John is going to be able to write off $2,700 in a dependent exemption. He is also going to be able to raise his standard deduction, because he is married, by $2,850. So that he is going to get a deduction by marrying Josephine of $5,550.

I want to pose this question to our colleagues who think that is such a terrible thing and that anybody who is getting that should not get the benefit of eliminating the marriage penalty. How many fathers go to the wedding and when they get to the point where they say, "Is there anybody here who objects?" Bill, Josephine's father, stands up and says, "Wait a minute, I object to this marriage, because if Josephine gets married, I'm going to lose $2,700 of deductions and, as a result, it is a bad deal for me"? I never heard of that happening.

How many people rush out to get married because, by marrying someone with no income, you get $5,550 of deductions? That is not that much less in taxes; that is just the amount you get to deduct. Does anybody believe that you can feed, clothe, and house a spouse for $5,550?

But to listen to our colleagues talk, you get the idea that this is some big bonus, that this is some unfair provision in the Tax Code, because by John marrying Josephine and forming a couple and filing jointly, his deductions go up by $5,500, and that is a "marriage bonus." Some bonus. Does anybody believe that John can pay for having a wife for $5,550? No. It is not a bonus; it is simply the way the Tax Code works.

Why should we give more protection to family income? This chart really tells the whole story. This chart shows 1950 and 1996, the last year when we have complete data on how much of the income of average-income working families with two children was shielded from Federal income taxes by personal exemptions and by the standard deduction. Basically, what this chart shows is that in 1950 the personal exemption and the standard deduction for a family of four making the average income in the country shielded 75.3 percent of their income from any Federal taxes. In fact, in 1950 the average family with two children was sending $1 out of every $50 it earned to Washington, DC; $1 out of every $50. Because of inflation not keeping up with the rise in real income and because the standard deduction and personal exemption didn't keep up with inflation, today they shield only 32.8 percent of the income of the average family of four. So, whereas in 1950 the average family making the average income, with two children, was sending $1 out of every $50 it earned to Washington, today the average family with two children is sending $1 out of every $4 it earns to Washington, DC.

Under these circumstances, is it obvious that one of the things we need to do is to shield more family income from Federal taxes? That is what this amendment is about. In 1950, rich people paid a lot of taxes. Today, rich people pay a lot of taxes. In 1950, poor people paid no income taxes. And in 1996, poor people pay no income taxes.

How did the tax take double? How did taxes, as a percentage of the economy, double the Federal level between 1950 and 1996? It doubled by raising the burden on families with children from $1 out of every $50 to $1 out of every $4. So, under these circumstances, it makes perfectly good sense to me that we would want to do something to help working families shield more of their income and, in doing so, end the starvation of the one institution in America that works, and that is the family. We are feeding Government, and we are starving families.

What the amendment I have offered, with Senator DOMENICI and Senator ROTH, tries to do is to give some of this money that is being taken from working families in this confiscatory excise tax back to working families. So while raising the price of tobacco products and hopefully discouraging people from using it, we do not impoverish people who are, in this case, the victims by having become addicted to tobacco products.

That is what this debate is about. So I hope people do not get confused about this silly business about a marriage bonus. The idea that somehow you are getting a bonus when you take a spouse, by the fact that your tax deductions go up by $5,500 ridiculous. Nobody ever got married thinking that they were going to benefit with a $5,500 is deduction when they have to pay for the expenses of their spouse. That is not a bonus. In fact, that is inadequate. That is outrageous. It ought to be higher.

Finally, to suggest that we want to fix the marriage penalty but only if both parents work is ludicrous. I want to fix the marriage penalty, but I don't want to tilt the Tax Code against families where one parent decides to stay at home. That is really what the debate is about.

I hope reason will prevail here. Sometimes it does; sometimes it doesn't. But, I hope it will in this case. And I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I oppose the Gramm amendment. It is an attempt to distract the Senate's attention from what should be the focus of our attention. It is a thinly veiled ploy to kill this bill, the only vehicle this body has had to address the epidemic of teen smoking and the disastrous effects on the health and well-being of generations of Americans who were lured into smoking by tobacco companies.

This amendment has no place as a part of this bill, and because of the way it is financed, it has no place in any bill. I strongly agree we ought to face the marriage penalty issue as soon as possible, and I also would like to accelerate full deduction of health insurance expenses for the self-employed. I do not think, however, that we can address these issues by adding to one of the greatest problems facing our country's future economy—the solvency of the Social Security system.

Just two months ago, this body agreed that the budget surplus should be reserved for reforming our Social Security System. It was a wise decision, for no one can honestly deny that the Social Security Trust Fund faces long-term problems. Based on information from the 1998 Social Security Trustees' report, it appears that, by the year 2013, Social Security benefit payments will begin to exceed the payments into the Social Security Trust Fund from employers and employees. By the year 2032, the Trust Fund will have used up its accumulated surpluses and will be unable to fully meet its obligations to American retirees. In order to guarantee the viability of the Trust Fund for our children and grandchildren, we must focus on its long-term future and begin the process of making necessary changes.

Workers, the very workers that Senator GRAMM seeks to help under his amendment, pay into the Trust Fund all their lives and expect—rightfully so, I might add—Social Security to be there for them when they retire.

Because Congress has not yet acted to preserve the long-term viability of Social Security, I cannot support any proposal that would exacerbate the financial difficulties facing the Social Security Trust Fund. This amendment, however, will do exactly that. I cannot, in good conscience, vote for this amendment.

I want to be clear that I am extremely troubled that some married couples are being taxed at a higher rate than they would be if they were single filers. I find it appalling that 20.9 million couples, some 42% of all American couples paid penalties totaling $28.8 billion just last year alone. Senator GRAMM's right—we ought to fix this problem. But it is wrong to do it at the expense of further damaging a retirement security component that is so vital to the American people.

Fortunately, we have another option. The Democratic alternative would address the marriage penalty problem without further endangering Social Security. This alternative targets more tax relief directly to the couples who are actually penalized by the tax code. The Gramm amendment, on the other hand, would not only provide less relief to the 42% of couples who currently pay a penalty, but would also provide a windfall to the 51% of married couples who currently receive a bonus (on average of $1,380 per couple) under our tax code. In addition, the Democratic alternative addresses the need to accelerate the health insurance deduction for the self employed in an manner that is sensible and sound.

Overall, the Democratic alternative is a more thorough, more targeted, and more sound proposal, and in any event, it is better tax policy.

I do not believe that it is wise to try to solve one problem by creating another, and I believe that the Democratic alternative avoids that pitfall, whereas the Gramm amendment does not. I urge all my colleagues to vote against the Gramm amendment, and for the Democratic alternative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Mr. President, anyone who has been listening to this debate on the Senate floor in the last few weeks is now familiar with the painful but very real statistics. Each day, 3,000 young Americans begin smoking and eventually 1,000 will die. I can think of no issue on the floor of this Congress which could more directly affect the lives of Americans for a generation to come to finally deal with the reality of tobacco and its assorted dangers.

Legislation offered by Senator MCCAIN, which I enthusiastically support, makes a contribution in several important ways to dealing with this problem: First, it requires a warning label and restricts advertising designed to attract children to smoking cigarettes; second, it grants broad authority to the Federal Drug and Food Administration to regulate tobacco products, their advertising, and their distribution; third, it establishes a national tobacco trust fund for smoke cessation programs, health research, and compensation for States and farmers as a result of tobacco smoking and the program; and, finally, it also penalizes companies up to $3.5 billion per year if they fail to meet their targets to reduce youth smoking.

There is, however, a less addressed but equally significant impact of this legislation that also needs to be addressed. It has been raised by the Senator from Texas, Senator GRAMM, and now by the Senator from South Dakota, Senator DASCHLE, that there are unintended tax consequences of this legislation. I am relieved that my colleagues joined in the judgment not to raise the tobacco tax to $1.50 per pack but cast their votes, as I did, to keep this tax $1.10. It is, nevertheless, the reality that this taxation upon cigarettes could be the most regressive tax ever passed in American history. This tax burden is falling disproportionately on the working poor and, indeed, on poor families themselves.

It has been noted that the total tax burden of families who earn under $10,000 a year would increase by 40 percent as a result of this tobacco tax. Indeed, three-quarters of the tax would be paid by families who earn under $50,000 per year. This would add a tax burden to an American population that is already excessively taxed.

I understand that it is President Clinton's priority that a new Federal surplus be used primarily to deal with the future obligations of Social Security. I support him in that initiative, as I believe there are important initiatives of education and health care that are unaddressed in our country. But the tobacco legislation brings into focus another reality: The average American family is still paying too much taxation. Indeed, the CBO reports that taxes on the American public have recently reached 20 percent of the gross domestic product. Not since the Second World War has the total tax burden on the American people, as a percentage of our economy, been so high. According to the Joint Committee on Tax, Americans earning $30,000 and less will pay 59 percent of this new tobacco tax, which is being added on this already heavy burden.

The answer of the Senator from Texas is to primarily deal with this new burden by dealing with what is known as the marriage penalty. Indeed, in 1996, 21 million couples encountered an average penalty because of their joint filings as a result of their marriage of $1,400. That represents 42 percent of the American people—married couples—are paying more as a consequence of their marriage.

A proposal by Senator GRAMM combines a phase-in of tax relief for the marriage penalty, with tax credits for the self-employed to purchase health insurance, for costs of upwards of $16 billion during the first 5 years, and $30 billion in years 6 through 10.

Responding to criticism that earlier versions of his amendment would have completely drained the public health funds in this bill, Senator GRAMM now proposes to limit the use of the tobacco trust fund from one-half to one-third of the revenues in the outyears for dealing with this elimination of the marriage penalty. He does so, however, by using the general revenues of the Federal Government. The consequences of using these general revenues for the admittedly important objective of eliminating the marriage penalty is that it contradicts President Clinton's goal of first using Federal surpluses to deal with Social Security.

Indeed, on a bipartisan basis, I could not understand and it would be difficult to accept that this Congress would not want to first deal with ensuring the financial safety of Social Security before dealing with other admittedly important tax objectives. Specifically, the Gramm amendment potentially would remove $90 to $125 billion worth of Federal revenues that the President has designed to deal with the future security of Social Security, specifically for the baby boom generation.

I think Senator DASCHLE has a better idea. He offers an alternative which allows this Congress to remain focused on securing Social Security for the next generation while dealing with this admittedly high tax burden and the unintended consequence of regressivity of the tobacco tax.

First, Senator DASCHLE would ease the tax burden on American families by providing full deductibility for health insurance premiums for the self-employed. No issue could be more important for people starting their own businesses, for middle-income families, than dealing with this full deductibility of health insurance.

Second, it maintains the integrity of the tobacco bill and still protects Social Security. So the programs now envisioned in the tobacco bill would remain—dealing with public health, tobacco farmers, reimbursement to the States—while at the same time allowing us to provide this tax relief.

The difference, of course, between Senator DASCHLE's proposal and Senator GRAMM's proposal is that Senator GRAMM did not simply deal with the marriage penalty—because only 40 percent of all married couples are paying a marriage penalty, he was providing tax relief beyond this and thereby causing this financial strain. The alternative offered by the Senator from South Dakota, Senator DASCHLE, deals simply with those families who are actually paying the marriage penalty and thereby allows us to do so in a more responsible fashion.

This, I believe, is the better alternative, but I hope the Senate does not simply deal this year with the question of the tax burden on the American people by only addressing the question of the marriage tax penalty. That will suffice for the tobacco legislation. I hope and I trust by the time the Senate is finished dealing with tobacco legislation that we have dealt with deductibility for the self-employed of their health insurance and the elimination of the marriage penalty.

Before yielding the floor, I hope that the Senate would follow the debate that has now begun as a consequence of the important analysis offered by the Senator from Texas, Senator GRAMM, on both the overall national tax burden and its regressivity by dealing with other tax issues in the remainder of this session.

First, if not in this legislation, then before this session adjourns, the Senate should deal with the fact that there are too many Americans of modest means who are finding themselves in the highest tax bracket. Today, a single individual is paying a 28 percent Federal income tax with a salary of $25,300, and a married couple with only $42,350 in income is paying a Federal tax of 28 percent in income taxes. Therefore, we are applying the highest rate to people of genuinely modest means.

I believe we would make a real contribution to tax fairness in the Senate in this year if the 15 percent bracket could be expanded to $35,000 for individuals and $70,000 for married couples. This would move more than 10 million Americans from the 28 percent tax bracket to the 15 percent tax bracket and genuinely ensure that middle-income people are able to take advantage of a lower 15 percent bracket. No single proposal would grant tax relief on a broader, more comprehensive basis to middle-income Americans.

Second, before this Congress adjourns this year, I hope the Congress will return to the issue of capital gains simplification. I have joined with Senator MACK and Senator BREAUX to encourage that savings and investment income be restored to a 12-month holding period in order to avail ourselves of the lower capital gains tax rate that was instituted by this Congress on an earlier date.

Third, return again to the issue of estate taxes by building on the $1 million exemption from the estate tax in last year's tax bill by slashing the estate tax rate by 25 percent. We made real progress last year by raising the exemption to a $1 million, but the Federal tax rate and the State tax remain confiscatory at an unbelievable 55 percent.

Fourth, and finally, I hope this Congress, before concluding its work this year on the Federal Tax Code, will return to the incredibly poor savings rates in this Nation. The United States now suffers from the lowest savings rate in nearly 60 years. I believe this Senate should exempt the first $500 in interest from taxation, ensuring that any family in America that saves $10,000, whether in equity or bonds or savings accounts, would not pay taxes on that first $10,000. Nothing would do more for Americans to prepare for their own retirement, to provide security for American families, than transforming every $10,000 in savings in America by every family instantly into a tax-free account. This could be done simply by exempting the first $500 in interest. For those 60 percent of American families that have no equity, no savings other than their house, and live in the dangerous position of paycheck-to-paycheck, this, for the first time, would provide a real incentive for those families to save money.

Mr. President, my purpose today primarily was to draw attention to the worthwhile objective of providing some tax relief in the tobacco legislation for those families, primarily of low and moderate means, who will disproportionately be shouldering this burden of increased tobacco taxes. But I wanted to take advantage of the opportunity both to demonstrate the relative advantage of Senator DASCHLE's proposal, to provide this tax relief within the tobacco bill, thereby not jeopardizing the revenues available to deal with providing some safety for Social Security, but also to point out to the Senate that, beyond dealing with the tax burden of families because of the tobacco legislation and thereby providing relief in the marriage penalty and the self-employment full deductibility on health insurance, the Senate should be setting its sights on other areas as well in the remainder of this year—an encouragement in savings, general income tax relief for middle-income families, and on the inheritance tax. The Senate has a larger obligation of easing the tax burden, and I believe the debate that has begun in the Senate has begun to outline the possible components, beyond the tobacco legislation, of broader tax relief for the American families.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2686, AS MODIFIED

Mr. GRAMM. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2686), as modified, is as follows:

At the end of the amendment, insert:

SEC. . ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the excess (if any) of—

"(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

"(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2008' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage shall be—

"(1) 25 percent in the case of taxable years beginning in 1999,

"(2) 30 percent in the case of taxable years beginning in 2000, 2001, and 2002,

"(3) 40 percent in the case of taxable years beginning in 2003, 2004, and 2005,

"(4) 50 percent in the case of taxable years beginning in 2006,

"(5) 60 percent in the case of taxable years beginning in 2007, and

"(6) 100 percent in the case of taxable years beginning in 2008 and thereafter."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) FULL DEDUCTION FOR HEALTH INSURANCE FOR SELF-EMPLOYEDS.—The table contained in section 162(l)(1)(B) is amended—

(1) by striking "and 1999",

(2) by striking the items relating to years 1998 through 2006, and

(3) by striking "2007 and thereafter" and inserting "1999 and thereafter".

(e) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(f) REDUCTION IN TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the amount credited to the National Tobacco Trust Fund under section 401(b) of this Act for any fiscal year shall be reduced by the amount of the decrease in Federal revenues for such fiscal year which the Secretary of the Treasury estimates will result from the amendments made by this title. The Secretary shall increase or decrease the amount of any reduction under this section to reflect any incorrect estimate for any preceding fiscal year.

(2) LIMITATION ON REDUCTION AFTER FISCAL YEAR 2007.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any fiscal year after fiscal year 2007, the reduction determined under paragraph (1), shall not exceed 33 percent of the total amount credited to the National Tobacco Trust Fund for such fiscal year.

(B) SPECIAL RULE.—If in any fiscal year the youth smoking reduction goals under section 203 are attained, the limitation under subparagraph (A) shall not apply.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. GRAMM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, the pending business, I believe, is the Gramm amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. Mr. President, I move to table the Gramm amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 2686, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—48

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mack
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Torricelli
Wellstone
Wyden

NAYS—50

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Biden
Specter

The motion to lay on the table the amendment (No. 2686), as modified, was rejected.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2686, as modified.

The amendment (No. 2686), as modified, was agreed to.

AMENDMENT NO. 2688 TO AMENDMENT NO. 2437

(Purpose: To provide a deduction for two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 2688 to amendment No. 2437.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

The provisons of Senate Amendment No. 2686 are null and void.

TITLE —TAX BENEFITS FOR MARRIED COUPLES AND SELF-EMPLOYED INDIVIDUALS

SEC. 01. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

"(2) TRANSITION RULE FOR 1999 AND 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

"(c) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws."

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)), "(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___02. DEDUCTION FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent (75 percent in the case of taxable years beginning in 1999 and 2000) of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___03. REDUCTION IN TRANSFERS TO NATIONAL TOBACCO TRUST FUND.

Notwithstanding any other provision of this Act—

(1) the amount credited to the National Tobacco Trust Fund under section 401(b) of this Act for any fiscal year shall be reduced by the amount of the decrease in Federal revenues for such fiscal year which the Secretary of the Treasury estimates will result from the amendments made by this title, and

(2) for purposes of allocating amounts to accounts under section 451 of this Act, the reduction under paragraph (1) shall be treated as having been made proportionately from the amounts described in paragraphs (1), (2), and (3) of section 401(b) of this Act.

The Secretary shall increase or decrease the amount of any reduction under this section to reflect any incorrect estimate for any preceding fiscal year.

Mr. DASCHLE. Mr. President, I want to explain this particular amendment because I believe it is very important that everyone understand the juxtaposition of the Democratic amendment and the so-called Gramm amendment.

A vote for the Gramm amendment was a vote either to take about $120 billion of budget surpluses away from our effort to shore up Social Security or to drain 80 percent of the money out of the tobacco trust fund, money that would otherwise be going to States' antismoking efforts, medical research and farmers. That is the choice presented by the Gramm amendment from 2008 through 2022.

That was the problem we had with the Gramm amendment. In the out years, after 2008, it either took so much money out of Social Security and out of the surplus, or it took 80 percent of the tobacco money. We were not satisfied with this choice. We were not supportive of, first, the overall amount of money to be taken, and, secondly, the pots from which it was to be taken.

That is only the first problem—where the money to fund the tax cut would be drawn from in the out years. The second problem is that, in the first ten years, the revised amendment costs 50 percent more than the Democratic alternative; that is, $46 billion versus about $31 billion. But, here is the catch: it actually delivers far less marriage penalty tax relief. So while it costs more, it does far less with regard to the marriage penalty itself. The reason for that is about 60 percent of the Republican tax cut goes to couples who have a marriage bonus in the sense that they pay less if they are married than if they filed single returns.

Keep in mind that today about 52 percent of those who are married get a marriage bonus. There is actually an incentive built into the Tax Code to be married. The other 48 percent incur a marriage penalty. Sixty percent of the Gramm amendment goes to those who have a marriage bonus. So, in addition to the current marriage bonus, they will get a Gramm bonus. In our view, given the fact that this additional bonus costs so much and comes from either Social Security or tobacco, the additional Gramm bonus does not make a lot of sense.

The Democratic alternative, by contrast, focuses about 90 percent of its tax cut on families who are actually penalized by providing a 20% deduction against the income of the lesser-earning spouse, phased out between $50,000 and $60,000 of family income. If the Republicans were genuinely interested in the marriage penalty relief problem as Senator GRAMM and others have proclaimed, they would vote for the Democratic amendment. It would provide a bigger cut in the marriage penalty for most couples than the Gramm amendment over the next 10 years.

Let me give a couple of examples. A couple making $35,000, with income split $20,000 and $15,000 between the two spouses, would see the following circumstances if this amendment were to pass. In the year 2002, under Gramm the couple would receive an average additional income of about $1,000. By comparison, under our 20-percent second earner deduction alternative, the couple would receive an additional reduction of $3,000, that is, 20 percent of $15,000.

Mr. President, that represents about three times as large a tax deduction and would provide nearly three times as much tax relief—three times more tax relief under the Democratic amendment than under the so-called Gramm amendment. Next, take a couple making $50,000, split $25,000 and $25,000 between the two spouses. Again, under the Gramm amendment the couple would receive an average additional deduction of about $1,000 in 2002. By contrast, our amendment would provide an extra $5,000 deduction, representing five times the amount of relief as under the Gramm amendment.

So because we target our benefit to those who are actually penalized by the penalty rather than spread it across those who now enjoy a tax bonus for being married, we are able to deal with the penalty in a far more consequential way over the next ten years.

To recap, the Gramm amendment costs 50 percent more over the first 10 years than the Democratic alternative and gives far less marriage penalty relief during this period. It makes more sense to redirect the additional $15 billion that Senator GRAMM spends on bigger marriage bonuses to the original purposes of this bill—to public health, to research, to state programs, and to farmers.

That in essence is the difference between our two approaches. Let's spend and invest those resources on the things that this bill is designed to do. Let's do as Senator GRAMM suggests, focus on the problem he has described, that is, the marriage penalty, and try to deal with it as effectively as we can. By following that counsel, by taking that approach, we should pass the Democratic amendment, we should ultimately accept this compromise and the balance that it reflects, a balance between investments in public health and tax reductions. This is a prudent balance that recognizes the importance of this tobacco legislation as it was originally intended.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—55

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Biden
Specter

The motion to lay on the table the amendment (No. 2688) was agreed to.

PRIVILEGE OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent that the following members of my staff: Scott Bunton and Dave Kass, and Gregg Rothschild of the Small Business Committee staff be granted privileges of the floor during the pendency of the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 35TH ANNIVERSARY OF THE EQUAL PAY ACT

Mr. DASCHLE. Mr. President, 35 years ago, President Kennedy took the bold first step to secure equal pay for women. Although there has been much progress since 1963, women continue to earn less than men. That is why we mut take action to improve and strengthen President Kennedy's landmark law and ensure that America's working women and families are paid the wages they deserve.

In 1963, President Kennedy signed the Equal Pay Act prohibiting employers from paying women less than men for the same job. Knowing that the legislation was merely a first step in the right direction, President Kennedy noted that "much remains to be done to achieve full equality of economic opportunity."

While the Equal Pay Act prohibited discrimination against women in terms of wages, substantial pay disparities continue to exist. Women still earn, on average, only 74 cents to a man's dollar.

That's why fair pay continues to be a major issue for American women and working families. In fact, the dramatic increase in the number of women in the work force and the number of families who depend on women's earnings make fair pay a matter of justice and necessity now more than ever. My state of South Dakota has the highest percentage in the nation of working mothers with children under the age of 6. These families need and deserve both parents to be paid fairly for an honest day's work. Now is the time to take another step toward fair pay and equal treatment for all people.

Last year, I introduced the Paycheck Fairness Act to address the glaring inequities between men's and women's earnings. The bill seeks to eliminate the wage gap by beefing up enforcement of the Equal Pay Act, increasing penalties for pay discrimination, and lifting the gag rule imposed by many employees who forbid employees from discussing their wages with their coworkers. The bill would also ensure that employers who make real strides in establishing fair and equal workplaces would be recognized and celebrated.

As we commemorate the 35th anniversary of the passage of the Equal Pay Act, I join my colleagues, the President, and the Vice President in calling on Congress to schedule a vote on the Paycheck Fairness Act, and renew our efforts to advance the principles of equal pay for equal work. Through the Paycheck Fairness Act, Democrats honor and continue President Kennedy's legacy of equality for a better workplace economy, and country.

THE 50TH ANNIVERSARY OF McCARRAN INTERNATIONAL AIRPORT

Mr. BRYAN. Mr. President. I rise today to recognize a milestone in Nevada history. This weekend, Nevadans will celebrate the 50th anniversary of McCarran International Airport and on Monday the opening of the new "D" gates.

Seventy-eight years ago, in 1920, pilot Randall Henderson landed his plane on a makeshift dirt runway marking Las Vegas' first flight. I am sure that Mr. Henderson had no idea that some 78 years later the McCarran International Airport would be one of the fastest growing airports in the country.

That runway was later used by such famous people as Amelia Earhart, Clarence Prest, and Emery Rogers and came to be named Rockwell Field.

Rockwell Field was sold in 1929. Fortunately, P.A. "Pop" Simon bought the land northeast of Las Vegas, the site of today's Nellis Air Force Base, and built the Las Vegas Airport. It was later named Western Air Express Field. In 1948, Clark County purchased an existing airfield on Las Vegas Boulevard South and established the Clark County Public Airport.

That year, the airport was renamed McCarran Field, after Nevada's senior Senator, Senator Pat McCarran, who authored the Civil Aeronautics Act and played a major role in the development of aviation not only in Nevada but in the country. McCarran Airport was at that time already servicing 12 flights a day, by four airlines. Later, the growth of Las Vegas necessitated the move of the airport terminal from the Las Vegas Boulevard South location to Paradise Road, and the present McCarran Field Terminal was opened in 1963. At this time the airport was serving nearly 1.5 million passengers. Three short years later, the annual passenger volume exceeded the two-million mark for the first time in the airport's history. By 1978, tourism to the Las Vegas area had increased dramatically, and the McCarran 2000 master plan was established to respond to the burgeoning tourism industry. This plan brought the addition of more terminals, parking, runways, and passenger assistance facilities. After Phase I of the McCarran 2000 project was completed, the size of the airport quadrupled, adding 16 more gates. Later, a fourth runway was added along with major renovations to the runways and terminals, and in 1994, a 1,400-foot extension was added, making it one of the longest civilian runways in the United States.

This Monday, McCarran will celebrate the opening of the new "D" gates, which will ultimately consist of 48 gates throughout four concourse wings. The completion of the "D" gates will enable the airport to serve a total of 55 million passengers per year, nearly double the current capacity.

The growth of Las Vegas is a fact that has been recorded on many occasions. It has been dramatic. That growth could not have occurred if McCarran International had not kept pace and indeed anticipated the phenomenal tourism growth in southern Nevada. We salute McCarran on the 50th anniversary of its establishment. It has become an international gateway to the entertainment capital of the world. We are sure it was the far-sighted leadership that has been provided in the past and its present expansion that will allow McCarran to continue to enjoy another 50 years of service to the community and to the millions of people who arrive by air each year making Las Vegas their destination.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 9, 1998, the federal debt stood at $5,493,569,839,079.81 (Five trillion, four hundred ninety-three billion, five hundred sixty-nine million, eight hundred thirty-nine thousand, seventy-nine dollars and eighty-one cents).

One year ago, June 9, 1997, the federal debt stood at $5,348,704,000,000 (Five trillion, three hundred forty-eight billion, seven hundred four million).

Five years ago, June 9, 1993, the federal debt stood at $4,300,363,000,000 (Four trillion, three hundred billion, three hundred sixty-three million).

Ten years ago, June 9, 1988, the federal debt stood at $2,534,222,000,000 (Two trillion, five hundred thirty-four billion, two hundred twenty-two million).

Fifteen years ago, June 9, 1983, the federal debt stood at $1,309,407,000,000 (One trillion, three hundred nine billion, four hundred seven million) which reflects a debt increase of more than $4 trillion—$4,184,162,839,079.81 (Four trillion, one hundred eighty-four billion, one hundred sixty-two million, eight hundred thirty-nine thousand, seventy-nine dollars and eighty-one cents) during the past 15 years.

TEST BAN TREATY—35TH ANNIVERSARY

Mr. KENNEDY. Mr. President, thirty-five years ago today, in his commencement address to the graduating class of The American University in 1963, President Kennedy announced his support for a comprehensive nuclear test ban. As he said on that occasion:

> The conclusion of such a treaty, so near and yet so far, would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms. It would increase our security—it would decrease the prospects of war. Surely this goal is sufficiently important to require our steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on vital and responsible safeguards.

In the weeks that followed, President Kennedy secured one of the most important of successes of his New Frontier—the signing of the Limited Test Ban Treaty.

But, today, 35 years later, we still have not achieved the larger goal of a Comprehensive Test Ban Treaty. Especially in the wake of the recent nuclear tests by India and Pakistan, we need to do all we can to achieve the rapid ratification of this important treaty.

The arguments in favor of the CTBT are stronger and more important than ever. The recent tests are a reminder that the greatest threat to humanity is still the danger of nuclear war.

The end of the Cold War has presented us with a unique opportunity to step back from the nuclear brink and end nuclear testing worldwide. A Comprehensive Test Ban now would also end the current discrepancy between the world's recognized nuclear states which are permitted to test and the rest of the world's countries which are not. The Senate can take the lead in creating a more secure world by putting the United States in the front of the international effort to achieve a Comprehensive Test Ban.

This is the right time for the CTBT. We no longer need to develop more powerful or more accurate nuclear weapons to deter the nations of the former Soviet Union, or any other nuclear-capable state. Through the Stockpile Stewardship Program, we are learning more each day about how to keep our nuclear arsenal safe and reliable without testing.

One-hundred and forty-nine nations around the world have already signed the CTBT, including all five of the recognized nuclear states. The United States signed it in September 1996, but the Senate has not yet ratified it.

President Kennedy said it best 35 years ago when he told the students at American University, ". . . in the final analysis, our most basic common link is that we all inhabit this small planet. We all breathe the same air. We all cherish our children's future. And we are all mortal."

I urge the Senate to act on the ratification of the Comprehensive Test Ban Treaty. The most important single step we can take today to reduce the dangers of nuclear war.

MESSAGES FROM THE HOUSE

At 2:05 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1635. An act to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes.

H.R. 3520. An act to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1990. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 270. Concurrent resolution acknowledging Taiwan's desire to play a positive role in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy.

The message also announced that the House has passed the following bill, without amendment:

S. 423. An act to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement to obligations of the United States under the Chemical Weapons Conventions.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2709. An act to improve certain sanctions on foreign persons who transfer persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement to obligations of the United States under the Chemical Weapons Conventions.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1635. An act to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 270. Concurrent resolution acknowledging Taiwan's desire to play a positive role in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times, and placed on the calendar:

H.R. 3520. An act to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 10, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-449. A resolution adopted by the St. Augustine Beach City Commission relative to funding of a shore protection project; to the Committee on Appropriations.

POM-450. A resolution adopted by the Nevada Legislature's Committee on Public Lands relative to the Interior Columbia Basin Ecosystem Management Project; to the Committee on Energy and Natural Resources.

POM-451. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Environment and Public Works.

HOUSE JOINT RESOLUTION 23

Whereas, the state of New Hampshire has continued to decrease air pollution emissions in accordance with the federal Clean Air Act Amendments of 1990; and

Whereas, certain regions of the country, including the state of New Hampshire, are currently victims of air pollution emitted upwind from the region, but are being held responsible for that pollution by the federal Clean Air Act; and

Whereas, section 126 of the federal Clean Air Act allows states to petition the Administrator of the federal Environmental Protection Agency (EPA) to find that any stationary source or group of stationary sources emits any air pollutant in amounts which significantly contribute to levels of air pollution in excess of the national air quality standard outside of the state; and

Whereas, the state of New Hampshire filed a petition to section 126 before the EPA in August 1997; now therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the New Hampshire Senate and House of Representatives support the section 126 petition filed by the state of New Hampshire in August 1997; and

That the federal Clean Air Act should be amended so that section 126 petitions may refer not only to stationary sources and groups of stationary sources, but also to nonstationary sources and groups of non-stationary sources; and

That the EPA should exercise its duty under section 110 of the federal Clean Air Act to require states to submit plans consistent with attainment of the national air standards in their own state and in all areas downwind from them; and to refuse to accept plans containing emissions which significantly contribute to non-attainment of the national air standards in areas downwind, by determining what total reductions are needed to attain the standards and then apportioning the responsibility for reductions in a cost-effective equitable manner among all states that contribute significantly to non-attainment; and

That copies of this resolution be sent by the hours clerk to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the chairpersons of committees of the United State Congress having jurisdiction over the Clean Air Act, the Administrator of the United States Environmental Protection Agency, and each member of the New Hampshire congressional delegation.

POM-452. A resolution adopted by the Senate of the Legislature of the State of Tennessee; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION NO. 132

Whereas, This General Assembly acknowledges the importance and emerging dependence of business, government and society on the Internet as a growing part of our system of communications and commerce; and

Whereas, The members of this legislative body also recognizes that the Internet as a medium of free speech contains, in addition to its many salutory features, potential dangers for society and especially our youth, in that it can provide uncontrolled and instantaneous access to obscenity, child pornography and other adult-oriented materials that are harmful to youth; and

Whereas, in 1996 Congress attempted to place restrictions on the Internet to curb these dangers by the passage of the Communications Decency Act of 1996, which was declared unconstitutional in part by the United States Supreme Court in the case of *Reno* v. *ACLU;* and

Whereas, The Internet is in a developing stage and software developments and other market forces may eventually allow Internet providers to provide clean Internet services or products that will protect children from the harms of the Internet and permit users to block out offensive materials and services without compromising the beneficial aspects of the Internet; and

Whereas, The technology currently exists to more readily control these problems by the use of a designated top-level domain site for web sites that contain pornographic and adult-oriented materials and services which, if employed, will expedite and facilitate the development of clean Internet materials and services by the lawful classification of web sites; and

Whereas, In October of this year, the United States Department of Commerce plans to set up a private not-for-profit corporation whose directors will create five new top-level domains that will register web sites by subject type; and

Whereas, A federal requirement that an adult-oriented domain site be created and that all adult-oriented web sites be registered to such domain would greatly aid Internet users, parents and teachers in shielding America's youth from the harms of pornography and adult-oriented materials and services that are available and proliferating on the Internet, and

Whereas, The states are somewhat limited in the regulation they can provide in this area because of the federal Commerce Clause; and

Whereas, Congress and the Executive Branch are the appropriate governmental branches to provide leadership in this area and may lawfully act to resolve quickly this issue in a responsible manner that comports with the ideals of the First Amendment; now, therefore, be it

Resolved by the Senate of the One-Hundredth General Assembly of the State of Tennessee, That this Body hereby urges the United States Congress to establish and maintain a uniform resource locator system that contains a top-level domain for all Internet web sites providing pornographic or adult-oriented materials or services so as to facilitate and assist Internet users, service providers and software developers to manage the problem of uncontrolled access to obscenity, child pornography and other adult-oriented materials and services via the Internet. Be it

Further Resolved, That this Body respectfully urges the President and Vice President of the United States and the Secretary of the Department of Commerce to use their offices and considerable influence to bring about the aims of this resolution by the means of executive order or department regulation, or the promotion of federal regulation, as they deem appropriate. Be it

Further Resolved, That the Clerk of the Senate deliver enrolled copies of this resolution to each member of the Tennessee delegation, to the United States Senate and the United States House of Representatives, to the Chairmen of the United States Senate Commerce, Science and Transportation Committee and the United States House Commerce Committee, and to the President and Vice President of the United States and the Secretary of the United States Department of Commerce.

POM-453. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Finance.

HOUSE RESOLUTION NO. 212

Whereas, Housing credits are the primary state-federal tool for making affordable rental housing available for low-income people. Since 1987, state agencies have allocated housing credits that have helped finance nearly 900,000 apartments for low-income families; and

Whereas, The cap on the amount of housing credits was set ten years ago. Over the past decade, less and less housing is becoming available. As a result of the impact of inflation, demand for this highly successful program exceeds supply by a three-to-one ratio; and

Whereas, The Congress of the United States is considering two bills that would rectify the problem of inadequate housing credits by adjusting the cap to reflect inflationary growth. These bills, H.R. 2990 and S. 1252, will reopen doors to more low-income housing. In Michigan, it is estimated that the legislation will result in enough credit authority to create another 1,000 units of much-needed housing. Another key to the bills is a provision to index the cap for housing credits to reflect inflationary change. This is an appropriate strategy to ensure the continuing availability of low-income housing; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to increase the cap on low-income housing credits; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–454. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

SENATE RESOLUTION NO. 171

Whereas, The Internal Revenue Code is beyond repair; and

Whereas, The Internal Revenue Code is the core of the distrust of government the American people feel; and

Whereas, the current tax code is 7 million words, compared to Lincoln's Gettysburg Address of 269 words and the Declaration of Independence, which is 1,337 words; and

Whereas, The IRS's "simplest" return, the EZ Form 1040, has 33 pages of instructions, and the IRS Form 1040 has 76 pages of instructions; and

Whereas, Individual taxpayers spend 1.7 billion hours and American business will spend 3.4 billion hours each year simply trying to comply with the tax code. That effort is equivalent to a "staff" of 3 million people working full time, year round, just on taxes; and

Whereas, Taxes are too high, but any steps to lower taxes by modifying the existing tax code would make it even longer and more confusing; and

Whereas, A proposal to abolish the Internal Revenue Code by December 31, 2001, embodies a prudent method and provides adequate time for developing a new tax code; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact legislation to abolish the Internal Revenue Code by December 31, 2001, and replace it with a new method of taxation. The new tax code must:

—Lower taxes—to create job opportunities;

—Foster growth—by encouraging work and savings;

—Be fair—for all taxpayers;

—Be simple enough for all taxpayers to understand;

—Be neutral—allowing people, not government to make choices;

—Be visible, so people know the cost of government;

—Be stable, so people can plan for the future; and be it further

Resolved, That we request the other states to urge Congress to enact this proposal; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate the Speaker of the United States House of Representatives, to members of the Michigan congressional delegation, and to the legislatures of the other states.

POM–455. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 65

Whereas, The California Legislature and the Governor, on a bipartisan basis, enacted Assembly Bill 1126 and other conforming legislation to establish the Healthy Families Program; and

Whereas, The Healthy Families Program embodies the Governor's vision of providing private insurance to the children of working parents whose employers do not provide dependent health insurance coverage and whose family income is insufficient to purchase private health care coverage for their children; and

Whereas, It was the Legislature's intent, in enacting the Healthy Families Program, that children of low-income parents who work receive the same beneficial treatment, with regard to income disregards, as families applying for Medi-Cal; and

Whereas, The state government expressly requested the use of income disregards to establish eligibility for the Healthy Families program, similar to the disregards applied to low-income persons applying for Medi-Cal coverage for their children; and

Whereas, The federal government accepted the plan developed by the administration, including the provisions of the plan which protect against crowd out; and

Whereas, The delay and potential elimination of families who want and need to participate in the program, since they do not have the means to purchase insurance without financial assistance, would place a great hardship on these families and their children; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the federal Health Care Financing Administration, and the Congress and the President of the United States to preserve the state plan to implement the Healthy Families Program in its current approved form; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States.

POM–456. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Commerce, Science, and Transportation.

HOUSE JOINT RESOLUTION 98–1036

Whereas, The Aircraft Repair Station Safety Act of 1997 pending in the federal congress would require all aircraft maintenance facilities, whether domestic or abroad, to adhere to the same safety and operating procedures; and

Whereas, The Aircraft Repair Station Safety Act of 1997 would provide for more stringent standards for certification of foreign aircraft repair stations by the Federal Aviation Administration and would revoke the certification of any repair facility that knowingly uses defective parts; and

Whereas, There are over five hundred fifty persons with a combined annual income of over twenty-nine million dollars employed in the aircraft repair industry in Colorado whose jobs are at risk of being moved out of the United States unless foreign aircraft repair stations are required to adhere to our safety and operating procedures; and

Whereas, On January 9, 1997, House Resolution No. 145 was introduced in the House of Representatives of the United States by Representative Robert Borski; and

Whereas, On July 30, 1997, a companion bill, S. 1089, was introduced in the Senate of the United States by Senator Arlen Specter; and

Whereas, H.R. 145 and S. 1089 both propose to enact the Aircraft Repair Station Safety Act of 1997: Now, therefore, be it

Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein: That the General Assembly requests the United States Congress to enact and the President to sign the Aircraft Repair Station Safety Act of 1997, be it further

Resolved, That copies of this Joint Resolution be sent to the President and Vice-President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to each member of the Congressional delegation from Colorado.

POM–457. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION NO. 13

Whereas, the Republic of Poland is a free, democratic, and independent nation with a long and proud history, being the first nation in Central Europe to stand up for democratic values and to undergo a systematic transformation; and

Whereas, the North Atlantic Treaty Organization is dedicated to the preservation of freedom and security of its member nations; and

Whereas, Poland and its Central European neighbors the Republic of Hungary and the Czech Republic recognize their responsibilities as democratic nations and wish to exercise such responsibilities in concert with members of NATO; and

Whereas, Poland will bring to the alliance its defense potential, its stabilizing role in the region, and its good relations with its neighbors; and

Whereas, Hungary and the Czech Republic have also shown their commitment to democracy and its preservation throughout the world; and

Whereas, the Republic of Poland, Hungary, and the Czech Republic desire to become a part of NATO's efforts to prevent the extremes of nationalism and to spread democracy and stability; and

Whereas, the security of the United States is dependent upon the stability of Central Europe. Therefore, be it

Resolved, That the Legislature of Louisiana does respectfully urge the United States Senate to support the establishment of a timetable for the admission of the Republic of Poland, Hungary, and the Czech Republic to the North Atlantic Treaty Organization. Be it

Further Resolved, That a copy of this Resolution be transmitted to the president of the United States Senate, to each member of the Louisiana congressional delegation, and to the ambassadors of the Republic of Poland, the Republic of Hungary, and the Czech Republic to the United States.

POM–458. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION NO. 33

Whereas, the Republic of Poland is a free, democratic, and independent nation with a long and proud history, being the first nation in Central Europe to stand up for democratic values and to undergo a systematic transformation; and

Whereas, the North Atlantic Treaty Organization is dedicated to the preservation of freedom and security of its member nations; and

Whereas, Poland and its Central European neighbors, the Republic of Hungary and the Czech Republic, recognize their responsibilities as democratic nations and wish to exercise such responsibilities in concert with members of NATO; and

Whereas, Poland will bring to the alliance its defense potential, its stabilizing role in the region, and its good relations with its neighbors; and

Whereas, Hungary and the Czech Republic have also shown their commitment to democracy and its preservation throughout the world; and

Whereas, the Republic of Poland, Hungary, and the Czech Republic desire to become a part of NATO's efforts to prevent the extremes of nationalism and to spread democracy and stability; and

Whereas, the security of the United States is dependent upon the stability of Central Europe. Therefore, be it

Resolved, that the Legislature of Louisiana does respectfully urge the United States Senate to support the establishment of a timetable for the admission of the Republic of Poland, Hungary, and the Czech Republic to the North Atlantic Treaty Organization. Be it

Further Resolved, That a copy of this Resolution be transmitted to the President of the United States Senate, to each member of the Louisiana congressional delegation, and to the ambassadors of the Republic of Poland, the Republic of Hungary, and the Czech Republic to the United States.

POM-459. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 41

Whereas, congress, through the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act), mandated that the Secretary of the United States Department of Agriculture consolidate the then existing thirty-two federal milk marketing orders into not less than ten nor more than fourteen orders by April 4, 1999; and

Whereas, the FAIR Act also authorized the Secretary of the United States Department of Agriculture to review and reform the pricing and other provisions of the consolidated orders; and

Whereas, on January 23, 1998, the Secretary of the United States Department of Agriculture issued proposed rules for federal milk order consolidations and reforms; and

Whereas, these proposed rules included two options for pricing milk used in Class I (fluid milk products), which are noted and referred to as Option 1A and Option 1B; and

Whereas, Option 1A is similar to the present geographic price structures; however, Option 1B would reduce the minimum federal order prices in Louisiana by more than one dollar per hundredweight; and

Whereas, while demand has been rising due to increasing population, milk production in Louisiana and the entire Southeast has declined during each of the past seven years; and as a result, larger quantities of milk are imported from other regions at higher cost than local milk; and

Whereas, implementation of Option 1B, even with the highest transition option, would aggravate the loss of dairy farms and local milk production; and

Whereas, such loss will be devastating to the dairy farmer, the rural communities, and the consumers. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United Stated to support, and urges and requests the United States Secretary of Agriculture to incorporate, Option 1A as the pricing procedure in all federal milk marketing orders in his final decision on consolidation and reform of these orders. Be it

Further Resolved, That a copy of this Resolution shall be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America, each member of the Louisiana congressional delegation, and the Secretary of the United States Department of Agriculture.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 2614. A bill to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes (Rept. No. 105–208).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amended preamble:

H. Con. Res. 131. A concurrent resolution expressing the sense of Congress regarding the ocean (Rept. No. 105–209).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S.J. Res. 41. A joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital (Rept. No. 105–210).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1683. A bill to transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Ms. Snowe, Mr. Gorton, Mr. Wellstone, Ms. Mikulski, Mrs. Feinstein, Mr. Chafee, Mrs. Boxer, Mrs. Murray, Mr. Grassley, Mr. Wyden, Mr. Bingaman, Mr. Kerry, Mr. Robb, Mr. Inouye, Mr. Torricelli, Mr. Levin, Mr. Bumpers, Mr. Johnson, Mr. DeWine, Mr. Kohl, Ms. Collins, Mr. Cleland, and Mr. Moynihan):

S. 2152. A bill to establish a program to provide credit and other assistance for encouraging microenterprises in developing countries, and for other purposes; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself and Mr. Reid):

S. 2153. A bill to require certain expenditures by the Federal Reserve System to be made subject to congressional appropriations, to prohibit the maintenance of surplus accounts by Federal reserve banks, to provide for annual independent audits of Federal reserve banks, to apply Federal procurement regulations to the Federal Reserve System, to reform the pricing practices of the Federal Reserve System for services provided to the domestic banking system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER:

S. 2154. A bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN:

S. 2155. A bill to provide restitution of the economic potential lost to communities dependent on Spanish and Mexican Land Grants in New Mexico due to inadequate implementation of the 1848 Treaty of Guadalupe Hidalgo; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself, Mr. Baucus, Mr. Grassley, Mr. Lott, Mr. Breaux, Mr. Burns, Mr. Mack, Mr. Bingaman, Mr. Frist, Mr. Murkowski, Mrs. Murray, Mr. Roberts, Mr. Hollings, Mr. Dodd, Mr. Faircloth, Ms. Collins, Mr. Jeffords, Mr. Thomas, Mr. D'Amato, Mr. Hatch, Mr. Shelby, Mr. Ashcroft, Mr. Kempthorne, Mr. Robb, Mr. Leahy, Mr. Cleland, Mr. Craig, and Mr. Santorum):

S.J. Res. 50. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. Byrd, Mr. Rockefeller, and Ms. Mikulski):

S.J. Res. 51. A joint resolution granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. Daschle):

S. Res. 246. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. Helms, Mr. Leahy, Mr. Mack, Mr. Wellstone, and Mr. Feingold):

S. Con. Res. 103. A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. Snowe, Mr. Gorton, Mr. Wellstone, Ms. Mikulski, Mrs. Feinstein, Mr. Chafee, Mrs. Boxer, Mrs. Murray, Mr. Grassley, Mr. Wyden, Mr. Bingaman, Mr. Kerry, Mr. Robb, Mr. Inouye, Mr. Torricelli, Mr. Levin, Mr. Bumpers, Mr. Johnson, Mr. DeWine, Mr. Kohl, Ms. Collins, Mr. Cleland, and Mr. Moynihan):

S. 2152. A bill to establish a program to provide credit and other assistance for encouraging microenterprises in developing countries, and for other purposes; to the Committee on Foreign Relations.

MICROCREDIT FOR SELF-SUFFICIENCY ACT OF 1998

Mr. DURBIN. Mr. President, I rise to introduce a bill today which is cosponsored by at least 20 of my colleagues in the Senate, a bipartisan offering on an issue which I came to be familiar with over 10 years ago. I traveled to the country of Bangladesh. It is not exactly on the itinerary of favorite congressional trips because it is a country which, although it is large and very interesting, has had its share of misfortune. It seems whenever any natural disaster would strike in the world it would stop in Bangladesh. We, of course, conjure an image in our mind of people who have suffered through typhoons and tornadoes and flooding and all sorts of deprivation. It is a very poor country.

Then Congressman, the late Mike Synar, and I went to Bangladesh. One of the reasons we went was to explore an issue which we had heard a lot about. There is an institution created in Bangladesh known as the Grameen Bank. Grameen means "people's bank." It is an extraordinary institution because it is an unusual bank; it is a bank designed to provide very small loans to very poor people. So Congressman Synar and I joined with people from the American Embassy and got in our four-wheel drive vehicle and drove out from Dakar into the countryside until the road ended, and then our four-wheel vehicle could go no further and we got out and started hiking a few miles into the brush and came upon a tiny little village. In this village we were invited to a bank meeting, a meeting of the board of directors of the Grameen Bank, in this tiny, obscure, almost nameless Bangladesh village. The bank meeting was unlike any meeting of any board of directors one would ever imagine.

Seated in a little shelter were about 30 or 40 women, all dressed in brightly colored saris, with a third eye in their foreheads, many of them holding babies in a typical Asian squatting position and looking up at these visitors who had come to see them.

Our host, a professor from a university in Bangladesh who was familiar with the program, Dr. Huk, introduced us to the women in the audience. He said at one point, "Is there anyone here who has ever heard of the United States of America?" Not one of them had. And here we were, these two Congressmen standing before them, looking like creatures from some other planet I am sure, wanting to know more about this little bank.

This bank has grown in size and scope in an effort to provide microcredit, small loans, to some of the poorest people in the world. What does $100 mean to an American? For us, it might be a nice trip shopping or a trip to a restaurant. But for a woman living in Bangladesh, $100 might mean that she can buy some tools and develop a skill and a craft to feed her family; $100 might mean that she can buy a milking cow that she can then use, not only to feed her family, but to sell the products and to make some money for her future.

How does this work, that people who are so poor, with literally no earthly possessions, can be debtors, can borrow money from a bank? It works because the concept is that when they undertake this debt, several other villagers will sign up with them, cosign the note, if you will, in a guarantee that the payment will be made because, you see, the cosigners cannot get a debt of their own until the original debt is paid off. So they look very carefully to make sure that the debt is repaid on a monthly basis. The payback rate on Grameen Bank is over 95 percent.

Why in the world would I raise this question here on the floor of the U.S. Senate in the great country that we live in, with all of our wealth and opportunity? Because I, frankly, think that this is a model that we should encourage and follow around the world. We do not spend an extraordinarily great amount of money on foreign aid compared to other nations, but we do spend billions of dollars. The bill that I introduce suggests that we should take a portion of that money each year and dedicate it to microcredit projects, projects like the Grameen Bank around the world.

Many Americans might say, "Well, Senator, it sounds like a great idea, but why should we worry about a woman in Bangladesh?" One of the women in this meeting I attended came up to me afterwards and, with an interpreter—she had a baby in her arms—she told me her life story.

She was 18 years old. The baby she was holding was her third child. She told me, quite proudly, that she was not going to have any more children. She was practicing birth control. She said, "My other two children are alive." Now, that is an amazing statement in the United States. You think, "Well, of course, why would you bring that up?" But in a developing country, it is a very serious concern: Will my baby survive? Do I need to have another baby? That is why many of the developing countries have such high birth rates.

She had decided that because of good health techniques, which the United States and United Nations had encouraged, that her babies had a chance to live, and with the Grameen Bank, she had a chance to improve their livelihood. She said, quite proudly, "I'm going to have a family of three and that is all we need and Grameen Bank has really helped to make this possible."

A tiny loan of $100, a family planning program, some public health techniques and this woman is going to limit her family to three. Is that important to us in the United States? It is, because in Asia, in Africa and around the world, the problem of overpopulation is one that is not local or regional, it is a global problem.

Overpopulation leads to many problems—economic instability, political instability, environmental degradation. Look at the nation of India today. India is in the headlines because of its recent nuclear test, its fears of China and Pakistan. Yet, India is going to be in the headlines in a few years because it will be the most populated nation in the world. It will pass China. As that teeming population grows and creates political pressures, it becomes a concern in the United States.

I hope we will make modest investments in those foreign aid programs that really can improve the quality of life in developing countries and can really cope with some of the problems such as overpopulation. Microcredit enjoys broad bipartisan support.

An organization known as RESULTS, which is nationwide but has a very significant chapter in Chicago, has encouraged me to introduce this legislation, which I am happy to do. There are many people who are strong supporters of this. One of them is well known to many of us who grew up watching "The Mary Tyler Moore Show." Her name is Valerie Harper, also known as Rhoda.

For some reason, this has become a passion for her, a commitment to helping women around the world receive basic credit so that they can lift their lives and improve their families. I salute Valerie Harper for her leadership on this. Microcredit encourages entrepreneurship and free market economic development.

The repayment rates on these loans are over 95 percent, and it is found that $1 million put into microcredit can generate $15 million in small loans over 5 years as people get better off and start building their own livelihoods. It gives poor people, and especially women, the means to meet the needs of their family in areas of health, education, and nutrition.

Our First Lady Hillary Rodham Clinton spoke in Chicago a few years ago, and I thought she made a very important observation. She said, if you will look at the underdeveloped nations and wonder if they have a chance to move toward democracy or toward a free market economy, the first place you should look is how they treat women. Are women given an opportunity to be educated? Are they given an opportunity to work outside the home and develop their skills? How are they treated? I think we are finding in countries where microcredit is becoming an important part of the program that women are given that chance.

This bill in particular requires the U.S. Agency for International Development to spend $160 million for fiscal year 1999 on its Microenterprise Assistance Program, with at least 50 percent of that amount dedicated to serving the poorest in the world with microcredit loans under $300. We know that these loans are repaid, and we know that they are recycled, so we are creating a stock, a basic pool of money that can be reinvested in nations around the world to bring them up to higher living standards.

One-fifth of the world's population lives in extreme poverty. Microcredit is one of the most effective antipoverty tools in existence. I talked to one of my colleagues and asked him to cosponsor this bill the other day and he said, "You know, I like this bill. There are so many things we do in foreign aid that end up creating more bureaucracies and agencies and studies; this is real, this gives to people who need a helping hand the kind of help that they really need."

Unfortunately, AID has had this program, even though it has not been specifically authorized, and they have not funded it at levels that I think are adequate. So this legislation will set a standard for how much we invest in this program each and every year. Many of my colleagues have joined me on this legislation. I hope that others who have not will take a look at it. I think they will find that this is a reasonable approach, a successful approach, and one where the investment in America's foreign aid dollars will not only be in our best interest, but in the best interest of people around the world who just need a helping hand and opportunity. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Microcredit for Self-Sufficiency Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) More than 1,000,000,000 people in the developing world are living in severe poverty.

(2) According to the United Nations Children's Fund, the mortality for children under the age of 5 is 10 percent in all developing countries and nearly 20 percent in the poorest countries.

(3) Nearly 33,000 children die each day from malnutrition and disease which is largely preventable.

(4)(A) Women in poverty generally have larger work loads and less access to educational and economic opportunities than their male counterparts.

(B) Directly aiding the poorest of the poor, especially women, in the developing world has a positive effect not only on family incomes, but also on child nutrition, health, and education, since women tend to reinvest income in their families.

(5)(A) The poor in the developing world, particularly women, generally lack stable employment and social safety nets.

(B) Many women turn to self-employment to generate a substantial portion of their livelihood.

(C) These poor entrepreneurs are often trapped in poverty because they cannot obtain credit at reasonable rates to build their asset base or expand their otherwise viable self-employment activities.

(D) Many of the poor are forced to pay interest rates as high as 10 percent per day to money lenders.

(6)(A) On February 2-4, 1997, an international Microcredit Summit was held in Washington, D.C., to launch a plan to expand access to credit for self-employment and other financial and business services to 100,000,000 of the world's poorest families, especially the women of those families, by 2005.

(B) With an average of 5 people to a family, achieving this goal will mean that the benefits of microcredit will reach nearly half of the world's more than 1,000,000,000 absolute poor.

(7)(A) The poor are able to expand their incomes and their businesses dramatically when they have access to loans at reasonable interest rates.

(B) Through the development of self-sustaining microcredit programs, poor people themselves can lead the fight against hunger and poverty.

(8)(A) Nongovernmental organizations such as the Grameen Bank, Accion International, and the Foundation for International Community Assistance (FINCA) have been successful in lending directly to the very poor.

(B) These institutions generate repayment rates averaging 95 percent or higher.

(9)(A) Microcredit institutions not only reduce poverty, but also reduce the dependency on foreign assistance.

(B) Interest income on a credit portfolio can be used to pay recurring institutional costs, assuring that the long-term development is sustained.

(10) Microcredit institutions leverage foreign assistance resources because loans are recycled, generating new benefits to program participants.

(11) The development of sustainable microcredit institutions that provide credit and training, and mobilize domestic savings, are critical to a global strategy of poverty reduction and broad-based economic development.

(12)(A) In 1994, AID launched a Microenterprise Initiative in consultation with Congress.

(B) The Initiative was committed to expanding funding for AID's microenterprise programs, provided funding of $137,000,000 for fiscal year 1994, and set a goal that, by the end of fiscal year 1996, half of all microenterprise resources would support programs and institutions providing credit to the poorest with loans under $300.

(C) In fiscal year 1996, total funding for microenterprise activities fell to $111,000,000 of which only 39 percent was used for programs benefiting the poorest with loans under $300.

(D) Increased investment in microcredit institutions serving the poorest is critical to achieving the Microcredit Summit's goal.

(E) AID's funding for microenterprise activities in the developing world should be expanded to $160,000,000 for fiscal year 1999 to parallel the growing capacity of microcredit institutions in the developing world.

(13) Providing the United States share of the global investment needed to achieve the goal of the Microcredit Summit will require only a modest increase in United States funding for international microcredit programs, with an increased focus on institutions serving the poorest.

(14)(A) In order to reach tens of millions of the poorest with microcredit, it is crucial to expand and replicate successful microcredit institutions.

(B) Microcredit institutions need assistance in developing their institutional capacity to expand their services and tap commercial sources of capital.

(15) PVOs and other nongovernmental organizations have demonstrated competence in developing networks of local microcredit institutions that can reach large numbers of the very poor, and help the very poor achieve financial sustainability.

(16) Since AID has developed very effective partnerships with PVOs and other nongovernmental organizations, AID should place a priority on investing in PVOs and other nongovernmental organizations through AID's central funding mechanisms.

(17) By expanding and replicating successful microcredit institutions, AID should be able to assure the creation of a global infrastructure to provide financial services to the world's poorest families.

(18)(A) AID can provide leadership among bilateral and multilateral development aid agencies as such agencies expand their support of microenterprise for the poorest.

(B) AID should seek to improve the coordination of efforts at the operational level to promote the best practices for providing financial services to the poor and to ensure that adequate institutional capacity is developed.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the continuation and expansion of AID's commitment to develop microcredit institutions;

(2) to make microenterprise development the centerpiece of the overall economic growth strategy of AID;

(3) to support and develop the capacity of United States PVOs, and other international nongovernmental organizations to provide credit, savings, and training services to microentrepreneurs; and

(4) to increase the amount of assistance devoted to providing access to credit for the poorest sector in developing countries, particularly women.

SEC. 3. DEFINITIONS.

In this Act:

(1) AID.—The term "AID" means the United States Agency for International Development.

(2) MICROCREDIT, MICROENTERPRISE, POVERTY LENDING; POVERTY LENDING PORTION OF MIXED PROGRAMS; MIXED PROGRAMS.—The terms "microcredit", "microenterprise", "poverty lending portion of mixed programs", and "mixed programs" have the meaning given such terms under the 1994 Microenterprise Initiative of AID.

(3) PVOS AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—The term "PVOs and other nongovernmental organizations" means—

(A) private voluntary organizations (including cooperative organizations), and

(B) international, regional, or national nongovernmental organizations,

that are active in the region or country where the project is located and that have the capacity to develop and implement microenterprise programs that are oriented toward working directly with the poor, especially the poorest and women.

SEC. 4. MICROENTERPRISE ASSISTANCE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President, acting through the Administrator of AID, is authorized to establish programs to provide credit and other assistance for microenterprises in developing countries.

(2) USE OF PVOS AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Programs to provide credit for microenterprises and related activities under this section shall be carried out primarily by United States PVOs and other United States and indigenous nongovernmental organizations, including credit unions, cooperative organizations, and other private financial intermediaries.

(b) ELIGIBILITY CRITERIA.—The Administrator of AID shall establish criteria for determining which entities described in subsection (a)(2) are eligible to carry out the purposes described in section 2(b). Such criteria shall include the following:

(1) The extent to which the recipients of credit from the entity lack access to the local formal financial sector.

(2) The extent to which the recipients of credit from the entity are among the poorest people in the country.

(3) The extent to which the entity is oriented toward working directly with poor women.

(4) The extent to which the entity is implementing a plan to become financially self-reliant by charging realistic interest rates to its borrowers.

(c) FUNDING LEVELS FOR FISCAL YEAR 1999.—

(1) IN GENERAL.—Of the amounts made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $160,000,000 of the funds made available for fiscal year 1999 shall be used to provide assistance under this Act. The funds authorized under the preceding sentence shall be in addition to any funds made available in fiscal year 1999 for microenterprise activities in the former Soviet Union and Eastern Europe pursuant to the FREEDOM Support Act and any funds for special assistance initiatives within Europe, the newly independent states of the Former Soviet Union, Asia, and the Near East.

(2) ADDITIONAL REQUIREMENTS.—

(A) POVERTY LENDING.—Of the funds made available under paragraph (1), not less than $80,000,000 shall be used to support poverty lending.

(B) SUPPORT OF PVOS AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Of the funds made available under paragraph (1), not less than $35,000,000 shall be provided through the central funding mechanisms of AID for support of United States PVOs and United States and indigenous nongovernmental organizations.

(C) MATCHING GRANT PROGRAM.—Of the funds made available under paragraph (1), not less than $10,000,000 shall be used for the private voluntary organizations matching grant program of AID for support of United States PVOs.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TO SUPPORT POVERTY LENDING.—The term "to support poverty lending" means—

(i) funds lent to members of the poverty target population (as defined in subparagraph (B)) in low-income countries in amounts equivalent to $300 or less in 1997 United States dollars; and

(ii) funds used for institutional development of an entity described in subsection (a)(2), that is engaged in—

(I) making loans of $300 or less in 1997 United States dollars to members of the poverty target population; or

(II) the poverty lending portion of a mixed program.

(B) POVERTY TARGET POPULATION.—The term "poverty target population" means the poorest 50 percent of those individuals living below the poverty line, defined by the national government of the foreign country to which funds are being provided.

SEC. 5. PROGRAM PERFORMANCE CRITERIA.

(a) STRENGTHENING OF APPROPRIATE MECHANISMS.—The Administrator of AID shall—

(1) strengthen appropriate mechanisms, including mechanisms for central microenterprise programs, for the purpose of strengthening the institutional development of the entities described in section 4(a)(2); and

(2) develop and strengthen appropriate mechanisms for the purpose of gathering and disseminating the best practice for targeting microcredit to the poorest segment of the population.

(b) MONITORING SYSTEM.—In order to sustain the impact of the assistance authorized under section 4, the Administrator of AID shall establish a monitoring system that—

(1) establishes performance goals for such assistance and expresses such goals in an objective and quantifiable form;

(2) establishes performance systems or indicators to measure the extent to which projects are achieving such goals; and

(3) provides a basis for recommendations for adjustments to such assistance to enhance the benefit of such assistance for the very poor, particularly women.

(c) ADDITIONAL MONITORING REQUIREMENTS.—As a part of the monitoring system established under subsection (b), the Administrator of AID—

(1) using data provided by lending institutions, shall monitor the actual amount of microenterprise credit and the number of loans made available to the poverty target population as a result of each project or program carried out pursuant to this Act;

(2) using data provided by lending institutions, shall monitor the amount of funding provided pursuant to this Act which is allocated to organizations engaged in making loans of under $300 to the poverty target population, or to the poverty lending portion of mixed programs;

(3) shall report to Congress annually on the progress in implementing AID's institutional plan of action to achieve the Microcredit Summit goal of expanding access to credit and other financial and business services to 100,000,000 of the world's poorest families, especially the women in those families, by 2005; and

(4) shall include a summary of the information collected under paragraphs (1) and (2) in AID's annual presentation to Congress.

Ms. SNOWE. Mr. President, I am pleased to be the lead cosponsor of the Microcredit for Self-Sufficiency Act of 1998. This bipartisan measure is an excellent means of fighting poverty and allowing the world's enterprising poor to escape it.

Microcredit programs extend small loans to very poor people for self-employment projects that generate income to allow them to care for themselves and their families. These loans are provided without collateral to poor people so they can start or expand small businesses. Microcredit encourages entrepreneurship and productivity among the poorest people in the world and allows them and their families to escape from poverty with dignity.

I have always believed that the foreign assistance expenditures made by the United States should provide the maximum benefit in a cost-efficient manner. Microcredit meets this most important test. Microcredit loans are repaid by borrowers at commercial interest rates or higher, and repayment rates reach 95% and above. The money invested in microcredit programs is continually recycled, allowing lenders to reach more people over time.

This assessment is borne out by the Foundation for International Community Assistance (FINCA) which is a non-governmental organization working in Latin America, Africa, Asia and the United States. It estimates that, over 5 years, $1 million invested in one of their microcredit programs generates $15 million in new loans.

The microcredit concept has been a great success. Around the world, small investments have allowed an estimated 10 million poor people to begin self-employment ventures as opposed to relying on government handouts. Far more families could benefit from microcredit, but do not yet have access to such opportunities as this type of lending is not typically done by most financial institutions. It is microcredit institutions that will undertake such opportunities to provide a poor woman in Bangladesh, for example, with the funds to buy an extra cow or goat to increase her modest farming output.

Indeed, one real-life illustration of the success of this program has been the Grameen Bank in Bangladesh. In 1976, a man named Muhammad Yunus conducted an innovative research endeavor to examine the possibility of designing a credit delivery system to provide banking services to help the rural poor. These are individuals who want to escape poverty but find that conventional sources of lending are unavailable to them because they lack the collateral to get a loan.

The Grameen Bank Project began with the goals of extending banking facilities to poor men and women, and creating opportunities for self-employment. It also aimed to reverse the vicious cycle of low income, low savings, and low investment by providing these individuals with credit that would yield greater investment and income.

Today, the Grameen Bank is the largest rural credit institution in Bangladesh. It has over two million borrowers—94 percent of whom are women. The Grameen Bank covers more than half of all villages in Bangladesh and the repayment of its loans, which average $160 in United States dollars, is over 95%. The Bank has also helped train approximately 4,000 individuals from about 100 nations over the last 10 years. There have been 223 Grameen style programs replicated in some 58 nations in the last decade. This success story demonstrates what an individual is capable of when given the opportunity to help himself or herself escape poverty.

Take the instance of Amena Begum, who in 1993, lived in poverty with her family in a village in Bangladesh. She and her family survived by living as squatters and earning money as day laborers or by operating micro-businesses in constant debt to loansharks. That same year, she convinced her husband to move the family to another village and joined the Grameen Bank. A neighbor told her "We're all poor—or at least we all were when we joined. I'll stick up for you because I know you'll succeed in business."

Well, she was elected secretary of her Grameen Bank group and repaid a loan she received to start a chicken and duck raising business. Grameen then gave her a second loan and, today, her business is growing and providing for her family's basic needs.

A continent away in Ethiopia another woman, Alemnesh Geressu, her landless husband, and their seven children were also struggling. For several years, she bought grain from a trader and sold it in the local market. However, most of her profit went back to the lender who charged more than 10 percent interest per month. With loans from a Catholic Relief Services Program, she was able to buy grain at a lower price from nearby farmers and make higher profits. Her business grew dramatically and she now sells a local beverage, grows vegetables and even raised a cow—all in addition to her grain marketing activities.

Alemnesh now pays back her loan at a commercial rate that is ten times less than she used to pay to the local money lenders. She has enough to feed her family well and to send two of her children to school. Alemnesh says she now has "more confidence and skills in myself and I wish the program could accommodate more women to improve their lives."

More families need to be touched by such programs. Just last year, at the 1997 Global Microcredit Summit, donor nations and international institutions established the goal of reaching 100 million of the world's poorest families, especially the women in those families with microcredit loans by the year 2005. I believe that this bill, the Microcredit for Self-Sufficiency Act of 1998, puts the United States on track to provide its share of funding to help achieve this worthwhile goal.

This bill authorizes not less than $160 million in Fiscal Year 1999 for the United States Agency for International Development's microenterprise program. To ensure that microcredit assistance goes to those most in need of assistance, the bill targets at least half of these resources to institutions serving the world's poorest families, with loans under $300. Further, the bill channels a larger proportion of microcredit assistance through effective nongovernmental organizations that promote the development and expansion of microcredit programs worldwide.

Mr. President, microcredit programs enjoy broad bipartisan support not only because they help millions to work their way out of poverty but because they also recycle foreign aid dollars through loan repayments. Microcredit programs are self-sustainable, can be replicated, and are powerful vehicles for social development.

This bill would increase the number of families that have access to such programs. Microcredit programs would be raised to a higher priority among our nation's foreign aid initiatives. And the investments called for in this bill will help bring the possibility of financial independence to millions of potential entrepreneurs who struggle to survive on less than $1 a day.

By Mr. DORGAN (for himself and Mr. REID):

S. 2153. A bill to require certain expenditures by the Federal Reserve System to be made subject to congressional appropriations, to prohibit the maintenance of surplus accounts by Federal reserve banks, to provide for annual independent audits of Federal reserve banks, to apply Federal procurement regulations to the Federal Reserve System, to reform the pricing practices of the Federal Reserve System for services provided to the domestic banking system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FEDERAL RESERVE FISCAL ACCOUNTABILITY ACT OF 1998

Mr. DORGAN. Mr. President, today Senator REID and I are introducing legislation to help address a number of budgetary excesses and accountability lapses at the Federal Reserve Board.

When the General Accounting Office (GAO) released its comprehensive and historic report about the management of the Federal Reserve system—which took over two years to assemble —we learned about disturbing financial practices and management failures within the Federal Reserve system. The report is packed with examples of where the Fed could substantially trim costs, and it makes specific recommendations for changes in Fed operations. Unfortunately, the Federal Reserve dismissed most of the GAO's recommendations as irrelevant or unnecessary.

The GAO report shows that during the late 1980s and early 1990s, Federal Reserve expenditures jumped by twice the rate of inflation, while the rest of the federal government has been downsizing. This runaway spending is remarkable given Chairman Greenspan's advice about the need for belt-tightening in the rest of government.

The gold-plated hood ornament of the Federal Reserve System's questionable practices is, in my judgment, its huge cash surplus account that's funded with billions of dollars in taxpayer money to protect against losses, despite the fact that the Fed hasn't suffered a loss for more than 80 consecutive years. When the GAO's report was released a couple of years ago, the Fed had squirreled away some $3.7 billion into the surplus account, which was up some 79% from its level in the late 1980s. Now the Fed has increased the surplus account by another 40% to about $5.2 billion—even though the GAO concluded that "it is unlikely that the Federal Reserve will ever incur sufficient annual losses such that it would be required to use any funds in the surplus account."

Our bill, the "Federal Reserve Fiscal Accountability Act of 1998," includes many of the changes recommended by the GAO. It would do the following:

First, the Federal Reserve is required to immediately return to the general fund of the federal Treasury the $5.2 billion of taxpayer's money that has unnecessarily accumulated in the Fed's surplus fund. In addition, the bill asks the GAO to determine the extent to which the Fed's future net earnings should be transferred to the federal Treasury each year.

Second, the GAO, in consultation with the Federal Reserve, will identify and report to Congress a list of the Federal Reserve System activities that are not related to the making of monetary policy. After the report is completed, all non-monetary policy expenditures, as identified by the GAO, would be subject to the congressional appropriations process.

We do not intend to inject politics into monetary policy with this provision. However, over 90 percent of the Fed's operations have nothing to do with interest rate policy according to the GAO. And there is simply no good reason why the Fed's non-monetary expenditures are immune from the same kind of oversight and review required of other federal agencies.

Third, the regional Federal Reserve banks and the Board of Governors will be subjected to annual independent audits. This provision merely codifies what the Federal Reserve has been doing for the most part in recent practice. The detection of any possible illegal acts must be reported to the Comptroller General.

Fourth, the Federal Reserve will be required to follow the same procurement and contracting rules that apply to other federal agencies. These rules should help to prevent the examples of favoritism highlighted in the GAO report and increase competition among contract bidders with the Fed. This requirement ought to substantially reduce procurement costs on a systemwide basis.

Finally, we've made some changes to require the Fed to compete more fairly with the private sector in providing a variety of payment system services, such as check clearing and transportation to banks and other financial institutions.

I invite my colleagues to join us as cosponsors of this much-needed legislation.

Mr. REID. Mr. President, I rise today with the Senator from North Dakota to introduce legislation which we believe will improve fiscal management within the Federal Reserve System and will allow private-sector competitors to compete fairly in "priced services." We assure you that nothing in this bill affects monetary policy of the Federal Reserve.

Back in September 1993, Senator DORGAN and I requested a GAO investigation of the operations and management of the Federal Reserve System. We were concerned because no close examination of the Fed's operations had ever been conducted before. The GAO report that was issued in 1996 raised serious questions about management within the Fed which this bill will address.

One of the most astonishing findings in the 1996 report was the Fed had squirreled-away $3.7 billion in taxpayer money in a slush fund. As of January 1998, this amount has now grown to $5.2 billion. This money could be used for deficit reduction. The Fed claims the slush fund is needed to cover system losses. Since it was created in 1913, however, the Fed has never operated at a loss. This bill prohibits maintenance of surplus accounts and the surplus funds must be sent to Treasury.

The bill requires the Comptroller General of U.S. and the Fed Board of Governors to identify the functions and activities of the Board and each Fed bank which relate to U.S. monetary policy. After six months after enactment, all non-monetary policy expenses of Federal Reserve System, will be subject to congressional appropriations. The Fed will now have to justify its use of operating expenses.

Because of the Fed's self-financing nature, its operating costs have escaped public investigation. In order to be fiscally responsible, all activities regarding government finances need to be scrutinized. Surprisingly, the GAO study was the very first look into the internal operations of the Fed. We think that oversight is needed on the workings of this large and influential public entity. While the rest of Federal government has tightened its belt and down-sized, the Fed enjoyed enormous growth in its operating costs and questionable growth in its staffing.

Clearly, the Fed could do much more to increase its fiscal responsibility, particularly as it urges frugal practices for other agencies. The picture the GAO report painted of the internal management of the Fed is one of conflicting policies, questionable spending, erratic personnel treatment, and favoritism in procurement and contracting policies.

To date, there has never been an annual, independent audit of the nation's central banking system. This bill provides for annual independent audits of the banks, the Board of Governors and the Federal Reserve System. The detection of any possible illegal acts must be reported to the Comptroller General. The bill requires an annual audit of each Federal reserve bank, the Federal reserve board of governors and in turn, an audit of the Federal reserve system. This Auditor must be a certified public accountant who is totally independent of the Fed. An annual audit is fiscally sound policy which would instill greater public confidence in our banking system.

This bill would also would reform the pricing practices of Federal Reserve System so that fair competition with private businesses would exist. It will eliminate the possibility of accusations of favoritism and conflict of interest in procurement and contracting. This examination will ensure that the Federal Reserve is competing fairly with its private-sector competitors. This matter of fairness becomes very important when the agency both competes with the private sector and also regulates their competitors.

The Federal Reserve operates several lines of business, which compete with the private sector. These businesses are referred to as "priced services." This legislation will ensure that the Federal Reserve is accountable for the manner in which these businesses are run and how the prices for these services are calculated. The Federal Reserve is required by the Monetary Control Act of 1980 to match its revenues with its costs so that the prices for services it sells are not subsidized.

We want to make sure that no accounting or pricing policy hides any subsidy. This legislation will benefit anyone who cashes a check in this country because it promotes a fair and competitive market place for those who provide the many services necessary to process the collection of checks. Costs should be fully recovered in the Federal Reserve's pricing. These annual audits will ensure that they are recovered and will level the playing field for those who can offer competitive services

We usually think of the Federal Reserve in the terms of monetary policy, of setting interest rates. I want to make it very clear, I'm not attempting to interfere with, or impugn, the monetary policy of the Fed. I am simply seeking greater accountability in the operating expenses and internal management of one of our most influential institutions. I believe that the Federal Reserve could do more to increase its cost consciousness and to operate as efficiently as possible. This bill will ensure that this happens and I look forward to greater discussion of this issue by Congress. I encourage the committee to give favorable consideration to our legislation.

By Mrs. BOXER:

S. 2154. A bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants; to the Committee on Labor and Human Resources.

SILICONE BREAST IMPLANT RESEARCH AND INFORMATION ACT

• Mrs. BOXER. Mr. President, today I am introducing a bill that will make a significant difference in the lives of millions of American women—the Silicone Breast Implant Research and Information Act. There is one basic reason for this bill: to make sure women have accurate and complete information so they can make informed decisions about their health.

Each year, nearly 180,000 women are diagnosed with breast cancer in the United States. In total, approximately 2.6 million Americans live with breast cancer. When a women undergoes a mastectomy, she faces the decision of whether to have reconstructive surgery, and one important option she has is to have a silicone breast implant.

Between 1 and 2 million women in the United States have received silicone breast implants over the last 35 years, as part of reconstructive surgery after mastectomy, or for cosmetic purposes.

Many women with silicone implants have come forward with a variety of symptoms and atypical illnesses. Although research over the years has attempted to get to the bottom of this, we still don't have the answers women need and deserve.

In 1992, the Food and Drug Administration restricted the availability of silicone breast implants because it had not received enough evidence to prove that these implants are safe. Currently, silicone breast implants are only available to women who have had breast cancer surgery or who have other special medical needs, such as a severe injury or birth defect. Women who need to have an implant replaced for medical reasons, such as rupture of the implant, are also eligible.

These women should have access to the broadest possible treatment options—including breast implants. But it is just as essential that women can count on sound scientific research regarding the safety of implants. It is essential that the Federal Government coordinate its efforts on this issue to maximize the use of limited resources.

This bill contains three components women need to make informed decisions about silicone breast implants—research, information, and coordination. It gives women not only options, but information and peace of mind.

I am proud to introduce this bill in the Senate, and to be joined by Congressman Gene Green, who is introducing this bill in the House of Representatives. I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Silicone Breast Implant Research and Information Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Institute of Medicine, it is estimated that 1,000,000 to 2,000,000 American women have received silicone breast implants over the last 35 years.

(2) Silicone breast implants have been used primarily for breast augmentation, but also as an important part of reconstruction surgery for breast cancer or other conditions.

(3) Women with breast cancer or other medical conditions seek access to the broadest possible treatment options, including silicone breast implants.

(4) Women need complete and accurate information about the potential health risks and advantages of silicone breast implants so that women can make informed decisions.

(5) Although the rate of implant rupture and silicone leakage has not been definitively established, estimates are as high as 70 percent.

(6) According to a 1997 Mayo Clinic study, 1 in 4 women required additional surgery because of their implants within 5 years of receiving them.

(7) In addition to potential systemic complications, local changes in breast tissue such as hardening, contraction of scar tissue surrounding implants, blood clots, severe pain, burning rashes, serious inflammation, or other complications requiring surgical intervention following implantation have been reported.

(8) According to the Institute of Medicine, concern remains that exposure to silicone or other components in silicone breast implants may result in currently undefined connective tissue or autoimmune diseases.

(9) A group of independent scientists and clinicians convened by the National Institute of Arthritis and Musculoskeletal and Skin Diseases in April of 1997 addressed concerns that an association may exist between atypical connective tissue disease and silicone breast implants, and called for additional basic research on the components of silicone as well as biological responses to silicone.

(10) According to many reports, including a study published in the Journal of the National Cancer Institute, the presence of silicone breast implants may create difficulties in obtaining complete mammograms.

(11) According to a 1995 Food and Drug Administration publication, although silicone breast implants usually do not interfere with a woman's ability to nurse, if the implants leak, there is some concern that the silicone may harm the baby. Some studies suggest a link between breast feeding with implants and problems with the child's esophagus.

(b) PURPOSE.—It is the purpose of this Act to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect any rule or regulation promulgated under the authority of the Food, Drug and Cosmetic Act that is in effect on the date of enactment of this Act relating to the availability of silicone breast implants for reconstruction after mastectomy, correction of congenital deformities, or replacement for ruptured silicone implants for augmentation.

SEC. 3. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING SILICONE BREAST IMPLANTS AT THE NATIONAL INSTITUTES OF HEALTH.

Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

"SEC. 498C. SILICONE BREAST IMPLANT RESEARCH.

"(a) INSTITUTE-WIDE COORDINATOR.—The Director of NIH shall appoint an appropriate official of the Department of Health and Human Services to serve as the National Institutes of Health coordinator regarding silicone breast implant research. Such coordinator shall encourage and coordinate the participation of all appropriate Institutes in research on silicone breast implants, including—

"(1) the National Institute of Allergy and Infectious Diseases;

"(2) the National Institute of Arthritis and Musculoskeletal and Skin Diseases;

"(3) the National Institute of Child Health and Human Development;

"(4) the National Institute of Environmental Health Sciences;

"(5) the National Institute of Neurological Disorders and Stroke; and

"(6) the National Cancer Institute.

"(b) STUDY SECTIONS.—The Director of NIH shall establish a study section or special emphasis panel if determined to be appropriate, for the National Institutes of Health to review extramural research grant applications regarding silicone breast implants to ensure the appropriate design and high quality of such research and shall take appropriate action to ensure the quality of intramural research activities.

"(c) CLINICAL STUDY.—

"(1) IN GENERAL.—The Director of NIH shall conduct or support research to expand the understanding of the health implications of silicone breast implants. Such research should, if determined to be scientifically appropriate, include a multidisciplinary, clinical, case-controlled study of women with silicone breast implants. Such a study should involve women who have had such implants in place for at least 8 years, focus on atypical disease presentation, neurological dysfunction, and immune system irregularities, and evaluate to what extent if any, their health differs from that of suitable controls, including women with saline implants as a subset.

"(2) ANNUAL REPORT.—The Director of NIH shall annually prepare and submit to the appropriate Committees of Congress a report concerning the results of the study conducted under paragraph (1).".

SEC. 4. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING SILICONE BREAST IMPLANTS AT THE FOOD AND DRUG ADMINISTRATION.

To assist women and doctors in receiving accurate and complete information about the risks of silicone breast implants, the Commissioner on Food and Drugs shall—

(1) ensure that the toll-free Consumer Information Line and materials concerning breast implants provided by the Food and Drug Administration are available, up to date, and responsive to reports of problems with silicone breast implants, and that timely aggregate data concerning such reports shall be made available to the public upon request and consistent with existing confidentiality standards;

(2) revise the Administration's breast implant information update to clarify the procedure for reporting problems with silicone implants or with the conduct of adjunct studies, and specifically regarding the use of the Medwatch reporting program;

(3) require that manufacturers of silicone breast implants update implant package inserts and informed consent documents regularly to reflect accurate information about such implants, particularly the rupture rate of such implants; and

(4) require that any manufacturer of such implants that is conducting an adjunct study on silicone breast implants—

(A) amend such study protocol and informed consent document to reflect that patients must be provided with a copy of informed consent documents at the initial, or earliest possible, consultation regarding breast prosthesis;

(B) amend the informed consent to inform women about how to obtain a Medwatch form and encourage any woman who withdraws from the study, or who would like to report a problem, to submit a Medwatch form to report such problem or concerns with the study and reasons for withdrawing; and

(C) amend the informed consent document to provide potential participants with the inclusion criteria for the clinical trial and the toll-free Consumer Information number.

SEC. 5. PRESIDENT'S INTERAGENCY COMMITTEE ON SILICONE BREAST IMPLANTS.

(a) ESTABLISHMENT.—There is established an interagency committee, to be known as the President's Interagency Committee on Silicone Breast Implants (referred to in this Act as the "Committee"), to ensure the strategic management, communication, and oversight of the policy formation, research, and activities of the Federal Government regarding silicone breast implants.

(b) COMPOSITION.—The Committee shall be composed of—

(1) an individual to be appointed by the President who represents the White House domestic policy staff;

(2) a representative, to be appointed by the Secretary of Health and Human Services, from—

(A) the Office of Women's Health at the Department of Health and Human Services;

(B) the National Institutes of Health;

(C) the Food and Drug Administration; and

(D) the Centers for Disease Control and Prevention;

(3) a representative of the Department of Defense with experience in the Department's breast cancer research program;

(4) representatives of any other agencies deemed necessary to accomplish the mission of the Committee, including the Social Security Administration if appropriate;

(5) up to 4 individuals to be appointed by the President from scientists with established credentials and publications in the area of silicone breast implants; and

(6) 2 women who have or have had silicone breast implants to be appointed by the President.

(c) CHAIRPERSON.—

(1) IN GENERAL.—The individual appointed under subsection (b)(2)(A), or other official if the President determines that such other official is more appropriate, shall service as the chairperson of the Committee.

(2) DUTIES.—The chairperson of the Committee shall—

(A) not less than twice each year, convene meetings of the Committee; and

(B) compile information for the consideration of the full Committee at such meetings.

(d) MEETINGS.—The meetings of the Committee shall be open to the public and public witnesses shall be given the opportunity to speak and make presentations at such meetings. Each member of the Committee shall make a presentation to the full Committee at each such meeting concerning the activities conducted by such member or by the entity that such member is representing related to silicone breast implants.

(e) ADMINISTRATIVE PROVISIONS.—

(1) TERMS AND VACANCIES.—A member of the Committee shall serve for a term of 2 or 4 years (rotating terms). A member may be reappointed 2 times, but shall not exceed 8 years of service. Any vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to carry out the duties of the Committee.

(2) COMPENSATION; REIMBURSEMENT OF EXPENSES.—Members of the Committee may not receive compensation for service on the Committee. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

(3) STAFF; ADMINISTRATIVE SUPPORT.—The Secretary of Health and Human Services shall, on a reimbursable basis, provide to the Committee such staff, administrative support, and other assistance as may be necessary for the Committee to effectively carry out the duties under this section.

(4) CONFLICT OF INTEREST.—The members of the Committee shall not be in violation of any Federal conflict of interest laws.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.●

By Mr. BINGAMAN:

S. 2155. A bill to provide restitution of the economic potential lost to communities dependent on Spanish and Mexican Land Grants in New Mexico due to inadequate implementation of the 1848 Treaty of Guadalupe Hidalgo; to the Committee on Energy and Natural Resources.

FAIR DEAL FOR NORTHERN NEW MEXICO ACT OF 1998

● Mr. BINGAMAN. Mr. President, today, I introduce a bill to resolve a long standing controversy between many citizens of my State of New Mexico, and their government.

In 1848, the United States entered into a treaty with Mexico to end the Mexican/American War called the Treaty of Guadalupe-Hidalgo. In that treaty, Mexico ceded an enormous tract of land that was to become the American Southwest including the State of New Mexico. In return the Treaty stipulated that the property rights of the Mexican citizens who lived in the area, and who were to become new citizens of the United States, would be protected.

We must recall that these new citizens had had a long, and sometimes ancient, connection to the land. The Native American tribal peoples who had lived there for thousands of years, had become citizens of Spain and then Mexico. Also many of those new citizens of Spanish descent had a family heritage of living on the this land dating back 250 years to 1598, when the Spanish colonial capital in New Mexico was established at San Juan Pueblo. They had built towns and cities, churches, and vast irrigation systems for their farms.

Unfortunately, the treaty provisions protecting title to land were not well and evenly implemented. It has been fairly well documented by scholars such as Professor Malcolm Ebright at the University of New Mexico, and Professor Emeritus Michael Meyer from the University of Northern Arizona, that many people lost title to their land who should have been protected by the treaty. In some cases this was due to faulty surveying by the Surveyor General, in some cases it was due to a lack of knowledge by American Territorial Courts about how title was acquired under Spanish and Mexican law, and most egregiously people sometimes lost their land through outright fraud by government officials and land speculators.

As I said earlier, the implementation of the treaty was not uniform. In some areas property rights were fairly well adhered to, but in others legitimate titles were wiped out wholesale. A group of people that were particularly hurt in this process were the relatively poor subsistence farmers and ranchers living in northern New Mexico. These new American citizens were easy prey for land speculators. Not only were they learning a new language and legal system, but usually they did not have the financial resources to defend their property rights in the courts. In some cases, people were told that if they signed a given document that they would be assured the continued use of their land forever. However in reality, what they were signing were quit claim deeds, giving title to their land to some nefarious speculator.

The ramifications of this history have caused bitter disputes and economic hardship in northern New Mexico for generations. The issue is still relevant for many New Mexicans feel their government has an obligation to compensate them for their loss of land. In many cases they may be right.

Mr. President, after 150 years it may not be possible or practicable to revisit the thousands of title claims originally made in 1848. So much time has passed, and so many title transfers have taken place since then that the legal review could be a never ending legal maze. However, Spanish and Mexican law recognized community as well as individual land titles. Under a grant from the King of Spain or the Mexican government, whole communities had a claim on certain lands. These community land grants form a distinct, and often better documented, subset of the claims made under the Treaty of Guadalupe-Hidalgo. Given that this is a smaller, more defined group of claims, and because of they affect whole communities, it may be possible to settle these long standing claims and provide a sense of justice to people in northern New Mexico.

Last year former Representative Richardson introduced a bill, H.R. 260, to create a commission to study and recommend settlement of these claims. His successor in office, Representative Redmond has carried on this issue in his own bill, H.R. 2538. These bills have been useful in bringing the issue to national attention and I commend both of my colleagues for introducing them.

Mr. President, my bill, which I call the Fair Deal for Northern New Mexico Act, builds upon the efforts in the other body. For example, the House bill is focused on an exhaustive legal review of the various community land grant claims and whether land should be transferred back to the claimants. My bill also has a review of these claims, but acknowledges that after 150 years, that we may never be able to reach legal certainty in some cases. We may find that a claim is colorable, that it has a legal basis, but not exactly what is owed. Also, we may find that the other people in the community currently either own the land in question, or if it's federal land, they may have long standing leases on which they depend. For that reason, my bill creates a package of options for settlement of these claims with the involvement and support of the whole community that would be affected.

I won't dwell on the differences between this bill and the one in the House because I see this bill as a broadening and strengthening of that effort. Let me just run briefly what my bill would do, and my hope is that as this works its way through committee and on the floor that we'll reach an agreement with the House sponsors on legislation that will resolve this long standing legal dispute in New Mexico.

My bill has three key components: the creation of county-wide settlement committees, the reasonable but expedited time-frame, and a broad range of settlement options. First, it would create seven member settlement committees, one for each county in New Mexico in which their are these community land grant claims. To get the federal agencies actively involved in a solution to the issue, the Secretaries of Agriculture and Interior would each have a representative on these committees. The State Lands Commissioner would represent the interests of the State's educational trust fund. Finally, each county commission would appoint four representatives, at least one of which must be a Tribal member if there is an Indian Pueblo within that county, and at least one of which is a non-Indian heir to a Spanish or Mexican Land Grant.

Second, the bill tries to keep the issue on the front burner by limiting the settlement committees to a set schedule. The settlement committees would have ninety days to publish a set of guidelines on to how to document a land claim, and then people would have one year to file their claims. These committees would then have three years in which to review the claims and develop a proposed settlement to be submitted to Congress.

The whole process from creation of these committees to proposals to Congress would take about five years. I think this very important. It should be long enough to develop some solid settlement proposals, but it is a short enough time-frame that the people in New Mexico will see action before they just become frustrated.

Finally, the settlement committees would have a number of options to choose from to create a settlement that will satisfy the claims and the communities in which they are made. As with the House bill, one options would be to transfer land directly back to a particular community land grant. However, the committee might propose that federal lands be set aside for under special designations for community use, or that lands should be transferred to local municipalities to benefit everyone in the community. Further, a settlement committee could recommend that a package of economic develop grants or tuition scholarships would better meet the current needs of claimants and the community than a transfer of whatever land might be available. All of these options would be tools available to a county settlement committee to use in crafting a settlement that the people of that county would find to be fair and just.

Mr. President, it is time for the United States to respond to its citizens on this issue, to bring this controversy to closure, and to give the citizens of northern New Mexico a sense that justice has been done so that they can move forward both socially and economically without this cloud from the past hanging over them. I think this bill will move us forward towards those goals. I would like to call on the Committee on Energy and Natural Resources to hold hearings on this bill at the earliest possible time. I hope to work with the rest of the New Mexico delegation and the other members of Congress to pass good legislation regarding the issue.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2155

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Deal for Northern New Mexico Act of 1998."

SEC. 2. PURPOSE, DEFINITIONS AND FINDINGS.

(a) Purpose.—

The purpose of this Act is to create a mechanism for the settlement of Spanish and Mexican land grant claims in New Mexico as claimed under the Treaty of Guadalupe-Hildalgo.

(b) Definitions.—For Purposes of this Act:

(1) Treaty of Guadalupe-Hidalgo.—The term "Treaty of Guadalupe-Hidalgo" means the Treaty of Peace, Friendship, Limits, and Settlement (Treaty of Guadalupe Hidalgo), between the United States and the Republic of Mexico, signed February 2, 1848 (TS 207; 9 Bevans 791);

(2) Community land grant.—The term "community land grant" means a village, town, settlement, or pueblo consisting of land held in common (accompanied by lesser private allotments) by three or more families under a grant from the King of Spain (or his representative) before the effective date of the Treaty of Cordova, August 24, 1821, or from the authorities of the Republic of Mexico before May 30, 1848, in what became the State of New Mexico, regardless of the original character of the grant.

(3) Land grant claim.—The term "land grant claim" means a claim of title to land by a community land grant under the terms of the Treaty of Guadalupe-Hidalgo.

(4) Eligible Descendant.—The term "eligible descendant" means a descendant of a person who—

(A) was a Mexican citizen before the Treaty of Guadalupe-Hildalgo;

(B) was a member of a community land grant; and

(C) became a United States citizen within ten years after the effective date of the Treaty of Guadalupe-Hidalgo, May 30, 1848, pursuant to the terms of the Treaty.

(5) Settlement committee.—The term "settlement committee" refers to committee, or one of the county specific subcommittees as appropriate, authorized in Section 3 of this Act.

(6) Reconstituted.—The term "reconstituted," with regard to a valid community land grant, means restoration to full status as a municipality with rights properly belonging to a municipality under State law, including the nontaxability of municipal property (common lands) and the right of local self-government.

(c) Findings.—Congress Finds the Following:

(1) New Mexico has a unique and complex history regarding land ownership due to the substantial number of Spanish and Mexican land grants that were an integral part of the colonization of New Mexico before the United States acquired the area in the Treaty of Guadalupe-Hidalgo.

(2) Under the terms of the Treaty of Guadalupe-Hidalgo, these land grant claims were recognized as valid property claims under United States' law.

(3) Several studies, including the New Mexico Land Grant Series published by the University of New Mexico, have documented that the Treaty of Guadalupe-Hidalgo in regards to these land grant claims in New Mexico was never well implemented. Whether because of a lack of knowledge of Spanish land law on the part of the judicial system in the then new Territory of New Mexico, whether because of inadequate or conflicting documentation of these claims, or whether it was due to sharp legal practices, many of the former citizens of Mexico, and then new citizens of the United States, lost title to lands that had been guaranteed to them by treaty.

(4) Following the United States' war with Mexico, the economy of the Territory of New Mexico was dependent on the use of land resources, and that held true for much of this century as well. When the land grant claimants lost title to their land, the predominantly Hispanic communities in northern New Mexico lost a keystone to their economy. The effects of this loss have had long lasting economic consequences and are in part the cause that these communities remain some of the poorest in the United States.

(5) The history of the implementation of the Treaty of Guadalupe-Hidalgo has been a source of continuing controversy for generations and has left a lingering sense of injustice in the communities in northern New Mexico, which has periodically lead to armed conflicts.

(6) The government of the United States has an obligation to try to find an equitable remedy for the inadequate implementation of the Treaty of Guadalupe-Hidalgo and the consequences that has had on the communities and people of New Mexico. This should be done as expeditiously as possible. However, reconstructing the one hundred and fifty year history of land title claims and transfers in these communities is likely to prove lengthy and costly. In some cases it may never be possible to adequately reconstruct the title history.

(7) The Secretary of the Interior has had a experience in administratively developing settlement packages to resolve large and complex Tribal water rights claims as an alternative to lengthy and expensive litigation. This experience may be invaluable in resolving the large, complex, and sometimes conflicting Spanish and Mexican land grant claims in northern New Mexico.

(8) The history of colonial Spanish America, the system of land distribution under Spanish and Mexican law, and the subsequent impacts to that system following the transfer of territory from Mexico to the United States under the Treaty of Guadalupe-Hidalgo is a requisite body of knowledge in determining an appropriate settlement of land grant claims. It is also an integral part of the national history and culture of the United States of America and, as such, deserves formal recognition and interpretation by our institutions of historical preservation.

SEC. 3. CREATION OF SETTLEMENT COMMITTEES.

(A) Within one hundred and eighty (180) days of enactment of this Act, the Secretary of the Interior working through the Bureau of Land Management and the Bureau of Indian Affairs, and the and the Secretary of Agriculture working through the Forest Service are hereby authorized and directed to establish a "Settlement Committee" to develop comprehensive settlements for land grant claims on a county by county basis.

(b) The Settlement Committee will be comprised of separate subcommittees for each county in which there are land grant claims in New Mexico.

(c) Each county subcommittee shall be comprised of seven members including: (1) a representative of the Secretary of the Interior; (2) a representative of the Secretary of Agriculture; (3) a representative of the State Commissioner of Public Lands; and (4) four residents of the particular county in question. The four county representatives are to be appointed their county commissions: *Provided*, That in counties with Federally recognized Native American Indian Tribes that at least one county representative shall be an enrolled member of a tribe whose reservation pueblo boundaries come within that county: *Provided further*, That at least one county representative shall be an eligible descendent who is not an enrolled member of a Native American Indian Tribe.

(d) Each member shall be appointed for the life of the Settlement Committee. A vacancy in the Settlement Committee shall be filled in the manner in which the original appointment was made.

SEC. 4. SUBMISSION OF LAND GRANT CLAIMS.

(a) Within ninety (90) days of the creation of the settlement committee it shall establish a set of guidelines for the submission of land grant claims, and publish these guidelines within papers of general circulation in each of the counties in New Mexico.

(b) Land grant claims must be submitted to the appropriate county settlement committee within one year of the publication of the guidelines.

SEC. 5 REVIEW AND SETTLEMENT PACKAGE.

(a) The settlement committee for each county shall review all of the submitted claims in the county and, based on the documentation at its disposal, make an initial determination concerning their potential validity including: possible past conveyances, the accuracy of the boundaries of the land claimed, and the number of eligible heirs affected.

(b) Upon completing this review, the settlement committee shall develop a proposed settlement package in satisfaction of land grant claims within that county. In creating the settlement package, the settlement committee shall take into account: the degree of certainty with which it has determined that various claims are valid, the impacts, including economic and social impacts, that any unfulfilled land grant claims may have had on the communities within that county, the relative benefits of various settlement options on those communities, and whether there is a legal entity that can accept settlement. The elements of a proposed settlement package may include, but are not limited to:

(1) Restoration of lands to a given land grant community or communities;

(2) Reconstitution of a given land grant community or communities;

(3) The setting aside of certain lands for communal use for fuel wood, building materials, hunting, recreation, etc. These lands could be set aside as special managerial units within existing federal land management agencies or transferred to local county, tribal, or municipal, governments;

(4) Trust funds for scholarships or home and business loans; or

(5) Land for commercial use with the proceeds to be deposited into the trust funds.

(c) The settlement committee shall complete its review and proposed settlement package within three years of the deadline for submission of land grant claims under this Act, and submit them in a report to the Senate Committee on Energy and Natural Resources and the Senate Committee on Indian Affairs, and to the House Resources Committee. Any proposal that require action by the government of the State of New Mexico shall be submitted to the Governor, to the Speaker of the State House of Representatives, and to the President Pro Tem of the State Senate for New Mexico.

SEC. 6. ADMINISTRATION OF THE SETTLEMENT COMMITTEE.

(a) To complete its tasks the settlement committee may use a variety of methods to gather information and to build community consensus on the form of a proposed settlement package, including: the use of town meetings, holding formal hearings, the solicitation of written comments, and the use of mediators trained in alternative dispute resolution methods. The settlement committee is also authorized to hire consultants as it may choose for historical, economic, and legal analysis. In its efforts to develop a consensus on a settlement package, the Settlement Committee is not subject to the Federal Advisory Committee Act (Pub. L. 92-462; 5 U.S.C. Ap. 2 §1).

(b) GIFTS, BEQUESTS, AND DEVISES.—The Settlement Committee may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Settlement Committee. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Settlement Committee. For purposes of the Federal income, estates, and gift taxes, property accepted under this subsection shall be considered as a gift, bequest, or devise to the United States.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Settlement Committee, the Administrator of General Services shall provide to the Settlement Committee, on a reimbursable basis, the administrative support services necessary for the Settlement Committee to carry out its responsibilities under this Act.

(d) IMMUNITY.—The Settlement Committee is an agency of the United States for the purpose of part V of title 18, United States Code (relating to the immunity of witnesses).

(e) COMPENSATION.—Members of the Settlement Committee shall each be entitled to receive the daily equivalent of level V of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Settlement Committee.

SEC. 7. SPANISH LAND GRANT STUDY PROGRAM.

(a) The Secretary of the Smithsonian Institution and the Settlement Committee working in conjunction with the University of New Mexico, and Highlands University shall establish a Spanish Land Grant Study program with a research archive at the Oñate Center in Alcalde, New Mexico. This program shall be designed to meet the requirements of the Smithsonian Institution's Affiliated Institutions Program.

(b) The purposes of the Spanish Land Grant Study Program are to assist the Settlement Committee in the performance of its activities under section 5, and to archive and interpret the history of land distribution in the southwestern United States under Spanish and Mexican law, and the changes to this land distribution system following the transfer of territory from Mexico to the United States under the terms of the Treaty of Guadalupe-Hidalgo in 1848.

SEC. 8. TERMINATION.

The Settlement Committee shall terminate on 180 days after submitting its final report to Congress under section 5.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for each of the fiscal years 1999 through 2003 for the purpose of carrying out the activities of the Settlement Committee created in section 3, and the Spanish Land Grant Study Program created section 7.●

By Mr. BOND (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. LOTT, Mr. BREAUX, Mr. BURNS, Mr. MACK, Mr. BINGAMAN, Mr. FRIST, Mr. MURKOWSKI, Mrs. MURRAY, Mr. ROBERTS, Mr. HOLLINGS, Mr. DODD, Mr. FAIRCLOTH, Ms. COLLINS, Mr. JEFFORDS, Mr. THOMAS, Mr. D'AMATO, Mr. HATCH, Mr. SHELBY, Mr. ASHCROFT, Mr. KEMPTHORNE, Mr. ROBB, Mr. LEAHY, Mr. CLELAND, Mr. CRAIG, and Mr. SANTORUM):

S.J. Res. 50. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the Medicare and Medicaid programs; to the Committee on Finance.

RESOLUTION DISAPPROVING OF HCFA'S SURETY BOND RULE

Mr. BOND. Mr. President, today I introduce a measure on behalf of myself, Mr. BAUCUS, Mr. GRASSLEY, and others which sends a strong message to the Health Care Financing Administration (HCFA) that the United States Senate disapproves of the agency's recent rule regarding surety bond requirements for home health agencies.

The surety bond regulation, coupled with HCFA's implementation of the Interim Payment System (IPS) for home health, are crippling the ability of our Nation's home health agencies to provide high quality care to our Nation's seniors and disabled.

Over this past month alone, in St. Louis, Missouri, the two largest home health providers decided to get out of the home health business—leaving hundreds of elderly and disabled patients searching for a new provider. The invaluable, dedicated services provided by the largest independent provider in St. Louis, the Visiting Nurses Association (VNA), will no longer be realized by the approximately 600 home care patients the agency has served.

It is regrettable that a government bureaucracy is forcing a home health agency, that has served the St. Louis area for 87 years, out of the home health care business.

The Balanced Budget Act of 1997 requires that all Medicare-participating home care agencies hold surety bonds in an amount that is not less than

$50,000. This provision was modeled after a successful Florida Medicaid statute which imposes surety bonds on home care providers as a way of ensuring that only reputable businesses entered Florida's Medicaid program.

This needed and modest idea, however, has been severely distorted by HCFA. HCFA's surety bond rule deviates from Florida's program in two major ways:

First, the Florida program requires a $50,000 bond. HCFA's rule requires the bond amount to be the greater of $50,000 or 15 percent of the home care agency's previous year's Medicare revenues.

Since HCFA issued its initial rule back in January of 1998, constituents in my home State have reported numerous problems in securing these bonds. These reputable individuals inform me that most bond companies are refusing to sell home care bonds under the regulation's requirements. Those few companies that are selling bonds are requiring backup collateral equal to the full face value of the bond, or personal guarantees of two or even three times the value of the bond.

Second, the Florida program requires only new home care agencies to secure these bonds. Agencies with at least one year in the program and with no history of payment problems were exempted from the bond requirement. HCFA's rule, however, requires all Medicare-participating home care agencies to hold bonds, regardless of how long an agency has been in Medicare and regardless of the agency's good Medicare history. Further, HCFA's rule requires every home care agency to purchase new surety bonds every year.

HCFA's rule is outrageous. These requirements and costs are unaffordable, especially for the smaller, freestanding home health agencies. HCFA's surety bond regulations threaten the existence of many small business home health providers and the essential services they provide to the most vulnerable and most frail of our society.

The surety bond requirement reflects HCFA's attitude that all Medicare providers are suspect. Rather than keeping unscrupulous providers out of the home health business, HCFA's rule will penalize and put many decent home health agencies out of business.

In promulgating this rule, HCFA did not consider the long-standing reputation of most home health agencies, their years of compliance with Medicare's regulations, or their history of managing and avoiding overpayments from the government. These providers have worked long and hard within the convoluted Medicare program, have abided by the rules and regulations, and have been subjected to numerous audits by fiscal intermediaries.

HCFA's careless disregard, which has already put many conscientious law-abiding companies out of business, must be dealt with immediately. It is especially incomprehensible when the small businesses at risk provide a service so valued by the disabled and older Americans who receive it.

On Tuesday, June 8, the Regulatory Fairness Board for Region VII held a public meeting in Frontenac, Missouri, a suburb of St. Louis. My Red Tape Reduction Act of 1996 created ten Regional Fairness Boards to be the eyes and ears of small business, collecting comments from small businesses on their experience with Federal regulatory agencies. The Ombudsman, created under the same law, is to use these comments to evaluate the small business responsiveness of agency enforcement actions.

According to Scott George, a small business owner from Mt. Vernon, Missouri who serves on the Region VII Fairness Board, this particular meeting of the Fairness Board was dominated by testimony from smaller, freestanding home health care agencies that will be driven out of business by the HCFA regulations. They testified that more than 1,100 home health care providers nationwide have already closed their doors this year. Mr. George noted that every company that testified before the Region VII Fairness Board said they would be driven out of business by year-end. One couple traveled from Michigan to Missouri to testify that they will be out of business by the time of the Regional Fairness Board for their area holds a hearing absent relief from the HCFA regulations.

Mr. President, concerns similar to those expressed in Missouri this Tuesday were raised with HCFA during its rulemaking. Regrettably, HCFA reacted like a quarter horse down the home stretch with blinders on, ignoring the comments submitted by small business as well as the agency's statutory obligations under the Administrative Procedures Act (APA) and the Regulatory Flexibility Act of 1980 as amended by my Red Tape Reduction Act in 1996.

In April, at the urging of myself and other Senators, the Small Business Administration's Office of Advocacy sent a letter to HCFA to advise the agency of the significant NEGATIVE impact this rule would have on small home health care providers. SBA's letter documents the deficiencies in the HCFA efforts to implement the bonding requirement. As set forth by the Chief Counsel of Advocacy, HFCA appears to have: exceeded the Congressional mandate in the Balanced Budget Act of 1997, inappropriately waived the APA's requirement for a general notice of proposed rulemaking with the opportunity for comment, and bypassed the procedural and analytical safeguards provided by the Regulatory Flexibility Act as amended by my Red Tape Reduction Act in 1996.

The SBA Office of Advocacy petitioned HCFA to exclude the provisions requiring the 15 percent bond requirement and the capitalization requirement pending a "proper and adequate analysis" of the impacts on small businesses. HCFA did not exclude these requirements. Not only does this exceed the scope of the 1997 Congressional directive, but it also imposes an undue financial burden on reputable home health agencies. Furthermore, in its June final rule, HCFA did not conduct a Regulatory Flexibility analysis of the rules impact on small home health care agencies. Instead, HCFA certified that the rule would not have a significant economic impact on a substantial number of small entities. HCFA's certification is in direct conflict with the comments submitted by the Office of Advocacy and the home health care industry regarding the small business impacts of the rule.

In 1996, Congress voted to enhance its ability to put a stop to excessive regulations and sloppy agency rulemakings. Enacted as Subtitle E of my Red Tape Reduction Act, the Congressional Review Act enhances the ability of Congress to serve as such a backstop. Senators NICKLES and REID sponsored the bipartisan, Congressional Review portion of the Red Tape Reduction Act to provide a new process for Congress to review and disapprove new regulations and to make sure regulators are not exceeding or ignoring the Congressional intent of statutory law.

The simple fact is that HCFA has ignored everyone—Congress, the SBA, the home health industry, and most importantly the beneficiaries of home health services. Congress must therefore move expeditiously and exercise its authority under the Congressional Review Act to pass a resolution of disapproval to strike the June 1 HCFA rule because HFCA exceeded the Congressional mandate and issued this rule in total disregard of its statutory obligations under the APA, Regulatory Flexibility Act and the Red Tape Reduction Act. Although Congress did direct the agency to develop surety bonding requirements and provide a deadline for such a rule to be issued, this does not relieve the agency of its responsibility to conduct such a rulemaking in accordance with existing laws intended to ensure procedural fairness in the rulemaking process.

The practical implication of Congress expressing its disapproval of the June rule is to require HCFA to go back and to conduct rulemaking in accordance with the intent of Congress as expressed in the Balanced Budget Act of 1997 and in keeping with the APA and the Regulatory Flexibility Act. As part of the rulemaking, HCFA should conduct an appropriate initial and final Regulatory Flexibility analysis in accordance with Sections 603 and 604 of the Regulatory Flexibility Act. Congress enacted these procedural safeguards to require agencies to assess the impact of rules such as HCFA's on small entities and to ensure that agencies choose regulatory approaches that are consistent with the underlying statute while minimizing the impacts on small entities to the extent possible. We should pass the resolution we are introducing today to ensure HCFA implements its statutory responsibilities in accordance with the law.

While I strongly support the vigorous routing of fraud and abuse whenever and wherever it is found, Congress and HCFA must ensure the highest access to appropriate, high quality home care—because in-home care is the key to fulfilling the desire of virtually all seniors to remain independent and in their own homes. Home health provides a safety net for our Nation's elderly and disabled, and Congress must ensure that these protections continue long into the future.

Many of the elderly and disabled being cared for at home would not be able to remain there if it were not for the services provided by this vital industry. We should clean up the fraud and abuse, not shut down the industry or cut off these critical services.

It is clear that HCFA must be held accountable, and I look forward to working with my colleagues in beginning this process today. Mr. President, I ask unanimous consent that a SBA Office of Advocacy letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 15, 1998.
HEALTH CARE FINANCING ADMINISTRATION,
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Attn: HCFA-1152-FC, Baltimore, MD.

DEAR DOCKETS MANAGEMENT CLERK: On January 5, 1998, the Heath Care Financing Administration (HCFA) published a final rule with comment period concerning surety bond and capitalization requirements for home health care agencies (HHAs). This regulation implements the surety bond requirement for such agencies established in the Balanced Budget Act of 1997 (BBA). The regulation also imposes additional minimum capitalization requirements on the agencies and includes an additional 15 percent surety bond requirements not contained in the BBA. The goal of the BBA and this final rule is to reduce Medicare/Medicaid fraud by regulating HHAs that do not or cannot reimburse Medicare/Medicaid for overpayments.

To address complaints by the surety bond industry and the HHA industry regarding the compliance deadline for obtaining surety bonds, HCFA published a final rule on March 4, 1998 deleting the February 27, 1998 effective date for all HHAs to furnish a surety bond. The new compliance date is on or about April 28, 1998, or 60 days after publication of the final rule.

In addition, to address complaints by the surety bond industry and members of the Senate Finance Committee regarding the potentially unlimited liability of sureties under the final rule, HCFA published a Notice of Intent to Amend Regulations on March 4, 1998 (concurrently with the final rule to extend the compliance date). The notice announces HCFA's intent to amend the final rule so as to limit the surety's liability under certain circumstances. It also establishes that a surety will only remain liable on a bond for an additional two years after the date an HHA leaves the Medicare/Medicaid program; and gives a surety the right to appeal an overpayment, civil money penalty or an assessment if the HHA fails to pursue its rights of appeal. HCFA claims that the changes will help smaller, reputable HHAs, like non-profit visiting nurse associations, to obtain surety bonds.

The Office of the Chief Counsel for Advocacy of the U.S. Small Business Administration was created in 1976 to represent the views and interests of small business in federal policy making activities.[1] The Chief Counsel participates in rulemakings when he deems it necessary to ensure proper representation of small business interests. In addition to these responsibilities, the Chief Counsel monitors compliance with the Regulatory Flexibility Act (RFA), and works with federal agencies to ensure that their rulemakings demonstrate an analysis of the impact that their decisions will have on small businesses.

The Chief Counsel has reviewed the final rules in the instant case and has determined that HCFA has not adequately analyzed the impact on small entities. This determination does not mean that regulating the problem of fraud and abuse is not an important public policy objective. Nor does it mean that small business interests supersede legitimate public policy objectives. Rather, the determination is based on the principle that public policy objectives must be achieved by utilizing recognized administrative procedures. The purpose of the procedures is not to place an unnecessary burden on federal regulatory agencies, but to ensure the promulgation of common sense regulations that do not unduly discourage or destroy competition in the marketplace.

The final rule is troubling for a number of reasons: 1) The proposal, although probably within HCFA's regulatory and statutory authority, goes far beyond the requirements contemplated by Congress when they enacted the BBA; 2) HCFA's good cause exception and waiver of the proposed rulemaking may be arbitrary and capricious under the Administrative Procedure Act (APA); and 3) Nearly all of the significant procedural and analytical requirements of the RFA were overlooked.

Action requested: Inasmuch as the rule is now final and in effect, the Chief Counsel of the Office of Advocacy herewith petitions the agency, pursuant to 5 U.S.C. §553(e), to amend the final rule to exclude the provisions concerning the 15 percent bond requirement and the capitalization requirement until such time as a proper and adequate analysis can be prepared to determine the impact on small entities.

I. LEGISLATIVE HISTORY AND INTENT

Prior to August 5, 1997, there were no provisions in the law pertaining to a surety bond requirement for home health agencies. Under the House bill (The Balanced Budget Act of 1997, H.R. 2015), there remained no provisions for the surety bond requirement. Under the Senate bill (as amended) (S. 947), a requirement was introduced to provide state Medicaid agencies with surety bonds in amounts not less than $50,000. Finally, in the conference agreement, the final bill was modified to require a surety bond of not less than $50,000, or such comparable surety bond as the Secretary may permit (applicable to home health care services furnished on or after January 1, 1998).[2] Congress, therefore, intended there to be a $50,000 or "comparable" bond, but did not intend the bond to be higher.

The surety bond issue had not been the subject of public hearings, and some members of Congress expressed concern about the potential impact of the fraud and abuse provisions.

According to a floor statement by Senator HATCH, the fraud and abuse provisions found in the amended Senate version were actually based on provisions contained in the Administrations fraud and abuse legislation introduced earlier in 1997, and on which no hearings were held in the Senate. Senator HATCH was concerned that the fraud and abuse provisions might have "unintended consequences or implications that would penalize innocent parties who are following the letter of the law."[3] He further stated that, "As a general rule, we in the Congress should not act without the full and open benefit of hearings so that all parties have an opportunity to comment, and so that legislation can be modified as appropriate."[4] With regard to the surety bond requirement, it seems that the affected business community had no real opportunity to provide meaningful input or comment.

After the legislation was enacted, HCFA had little choice but to implement the surety bond requirement. However, the agency created additional bonding and capitalization requirements and incorporated them into the instant final rule.[5] Not only were law abiding home health agencies denied an opportunity to comment during the legislative process, they are now faced with additional burdensome requirements effective almost immediately—with no true recourse (since the agency waived the notice of proposed rulemaking and the 30-day interim effective date).

Congress clearly intended to eliminate or reduce waste and fraud in the Medicare/Medicaid system and to preserve quality patient care. The presumably unintended effects of the legislation and HCFA's final rule are that legitimate, law abiding home health agencies will be forced to file bankruptcy, go out of business or curtail their business operations significantly. Patient care will likely suffer when there are not enough home health agencies to meet increasing public demand in an aging population. Moreover, the resulting lack of market competition and bloating of the large, hospital-based and government-based home health agencies may lead to increased prices.

II. WAIVER OF ADMINISTRATIVE PROCEDURE

An agency is subject to the notice and comment requirements contained in 5 U.S.C. 553 unless the agency rule is exempt from coverage of the APA, or the agency establishes "good cause" for not complying with the APA and waives notice and comment. When an agency waives the notice and comment procedures required by the APA, however, there should be compelling reasons therefor. In fact, courts have held that exceptions to APA procedures are to be "narrowly construed and only reluctantly countenanced." *New Jersey* v. *EPA*, 26 F.2d 1038, 1045 (D.C.Cir. 1980).

In the instant case, the agency waived both the notice and comment requirement and the requirement to allow a 30-day interim period prior to a rules effective date.

Footnotes at end of letter.

The agency based its "good cause" waiver on three factors: 1) Issuing a proposed rule would be impracticable because Congress mandated that the effective date for the surety bond requirement be January 1, 1998 five months after Congress passed the BBA of 1997; 2) Issuing a proposed rule is unnecessary with respect to Medicare regulations because there is a statutory exception when the implementation deadline is less than 150 days after enactment of the statute in which the deadline is contained; and 3) A delay in issuing the regulations would be contrary to the public interest.

First, with regard to the impracticability of issuing a proposed rule, as a general matter, "strict congressionally imposed deadlines, without more, by no means warrant invocation of the good cause exception." *Petry* v. *Block*, 737 F.2d 1193, 1203 (D.C.Cir. 1984). In addition, there is no good cause exception where an agency unwilling to provide notice or an opportunity to comment could simply wait until the eve of a statutory . . . deadline, then raise up the "good cause" banner and promulgate rules without following APA procedures. *Council of Southern Mountains, Inc.* v. *Donovan*, 653 F.2d 573, 581 (D.C.Cir. 1981).

By way of example, in *Petry* v. *Block*, the court concluded that the passage of a complex and extraordinary statute concerning changes in administrative reimbursements under the Child Care Food Program that imposed a 60-day deadline for the promulgation of interim rules justified the agency's invocation of the good cause exception. Also, in *Methodist Hospital of Sacramento* v. *Shalala*, 38 F.3d 1225 1236, (D.C. Cir. 1994), the court stated that the agency had good cause to waive notice and comment because Congress imposed a statutory deadline of about 4½ months "to implement a complete and radical overhaul of the Medicare reimbursement system." (Emphasis added). Moreover, "[o]nce published, the interim rules took up 133 pages in the Federal Register: 55 pages of explanatory text; 37 pages of revised regulations, and 41 pages of new data tables." Id.

In the instant case, HCFA had five months to implement a relatively simple provision to require a $50,000 or comparable surety bond from home health agencies. After HCFA added additional bond requirements and capitalization requirements (never requested or contemplated by Congress), the regulation took up 63 pages in the Federal Register: 18 pages of explanatory text, 6 pages of revised regulations, and 39 pages of application documents. The final rule appeared in the Federal Register on January 5, 1998—four days after the mandatory effective date.

The Office of Advocacy opines that if HCFA had not included the additional requirements, which were not intended by Congress, and therefore not intended to be implemented within the five month window, there would have been ample time to follow proper notice and comment procedures. Based on the circumstances of this rulemaking and pointed case law, HCFA cannot rely on the impracticability argument to demonstrate that it had good cause to waive notice and comment.

Second, HCFA also based its good cause exception to notice and comment on the fact that they have the statutory authority to do so with regard to this particular type of rule. The agency states: "Issuing a proposed rule prior to issuing a final rule is also unnecessary with respect to the Medicare surety bond regulation because the Congress has provided that a Medicare rule need not be issued as a proposed rule before issuing a final rule if, as here, a statute establishes a specific deadline for the implementation of a provision and the deadline is less than 150 days after the enactment of the statute in which the deadline is contained."[6]

HCFA cannot rely on this statutory provision because the agency has gone way beyond their statutory mandate in issuing this final rule. Again, Congress only intended there to be a $50,000 or comparable surety bond. Therefore, only those provisions contemplated by Congress should be subject to the statute that permits HCFA to waive notice and comment when the deadline is less than 150 days.

Third, HCFA claims that a delay in implementing the final rule would be contrary to public policy. Quite the contrary—implementing the final rule as written would be contrary to public policy. The final rule imposes serious economic burdens on an industry already under increased scrutiny and financial hardship including a recent moratorium on entrants to the Medicare program and repeated audits.[7] HCFA has also announced its intention to include home health agencies in the enormously complicated prospective payment system now used by hospitals and physicians. As such, availability of home healthcare for those communities not served by giant hospital-based providers will surely decrease. This result seems contrary to the stated public policy objective of Congress and HCFA.

Finally, it should be noted that HCFA did insert a post-effective date comment period in the final rule. However, the fact that HCFA attached a comment period to the final rule is not a valid substitute for the normal provisions of the APA. The third circuit stated that: "[i]f a period for comments, after issuance of a rule, could cure a violation of the APA's requirements, an agency could negate at will the Congressional decision that notice and an opportunity for comment must precede promulgation. Provisions of prior notice and comment allows effective participation in the rulemaking process while the decision maker is still receptive to information and argument. After the final rule is issued, the petitioner must come hat-in-hand and run the risk that the decision maker is likely to resist change." *Sharon Steel Corp.* v. *EPA*, 597 F.2d 377, 381 (3rd Cir. 1979).

HCFA's waiver of administrative procedure would be less troubling if the rule were not so burdensome. By waiving notice and comment procedures, the agency conveniently removes itself from the obligation to carefully analyze and solicit input on the impact of the rule. Such an analysis could have yielded other, less burdensome alternatives that would have accomplished the agency's public policy objectives.

Since HCFA improperly waived notice and comment, the agency must comply with the Regulatory Flexibility Act.

III. REGULATORY FLEXIBILITY ACT REQUIREMENTS

Even when a regulation is statutorily mandated, agencies are obligated by law to adhere to certain requirements prior to issuing the implementing regulations. Specifically, the RFA requires agencies to analyze the impact of proposed regulations on small entities and consider flexible regulatory alternatives that reduce the burden on small entities—without abandoning the agency's regulatory objectives. Agencies may forgo the analysis if they certify (either in the proposed or final rule) that the rule will not have a significant economic impact on a substantial number of small entities. Agency compliance with certain provisions of the RFA is judicially reviewable under section 611 of the RFA.

It is not clear from the instant rule whether HCFA has actually certified the rule pursuant to section 605(b) of the RFA or attempted a final regulatory flexibility analysis (FRFA) pursuant to section 604 of the RFA. In either case, the agency failed to comply with the requirements of the RFA.

HCFA expresses confusing "certification-like" statements throughout the text of the final rule.[8] However, the actual certification and statement of factual basis are not to be found in the final rule. If the agency was attempting to certify, then it did so erroneously for reasons discussed more fully below. On the other hand, perhaps HCFA did not intend to certify, but instead intended to prepare a FRFA. The agency did do some type of analysis: "we have prepared the following analysis, which in conjunction with other material provided in this preamble, constitutes an analysis under the [RFA]." 63 Fed. Reg. at 303. The problem with that declaration is that there is more than one type of analysis under the RFA. There is the preliminary assessment analysis which helps agencies determine whether to certify, and in the case of a final rule, there is a FRFA when an agency determines that certification is not appropriate. If HCFA was attempting a FRFA, then the FRFA was not adequate because it contained no analysis of alternatives to reduce the burden on small home health care providers. This, too, is more fully discussed below.

A. CERTIFICATION

When an agency determines and certifies that a rule will not have a significant economic impact on a substantial number of small entities, then it is logical to assume that the agency has already performed some basic level of analysis to make that determination. Will a substantial number of small entities be impacted? In the instant case, the agency admits that all home health agencies will be affected. According to SBA's regulations, a small home health care agency is one whose annual receipts do not exceed $5 million, or one which is a not-for-profit organization.[9] Although the Office of Advocacy does not have data based on annual receipts, data is available based on number of employees. 1993 data obtained from the U.S. Bureau of the Census by the Office of Advocacy indicates that about 7% of home health care services (489 out of 6,928) have 500 or more employees and earn 51.2% of all annual receipts for the industry, 93% of home health care services (6,439 out of 6,928) have fewer than 500 employees and earn about 49% of all annual receipts for the industry, and 52.5% of home health care services (3,637 out of 6,928) have fewer than 20 employees and earn 6.3% of all annual receipts for the industry. Although it may be difficult to reconcile employment-based and receipt-based size standards, it is still fairly clear from the available data that a substantial number of small entities will be impacted by this final rule.

Will there be a significant economic impact? To determine whether the final rule is likely to have a significant economic impact, further analysis is required. It is not enough to claim that elimination of fraud and abuse in the Medicare/Medicaid system outweighs the need for further analysis. It is not enough to assume that only those agencies with "past aberrant billing activities" will be impacted. It is not enough to say that reducing a surety's liability means that there will not be a significant economic impact on home health agencies. The Office of

Advocacy opines that the agency's "analysis" was doomed from the outset because of the agency's flawed assumptions about the number and type of small entities likely to be impacted, and about the cost of compliance.

Which small entities will be impacted? The agency did not take the basic and necessary step of adequately explaining why other small entities (presumably those whose billing practices are not "aberrant") will not be affected or whether small home health providers are even the primary offenders. At the least, the agency must consider the impact the bonding requirement will have on all small home health providers and not just the ones with "aberrant" billing practices. After all, the majority of home health agencies apparently do not have aberrant billing practices. HCFA presents evidence that, in 1996, Medicare overpayments were 7 percent of all claims paid to HHAs, and of that 7 percent, 14 percent remained uncollected by Medicare. Fourteen percent of 7 percent is .0098.[10] In other words, Medicare fails to collect overpayments less than one percent of the time. Despite this extremely low occurrence of failure to collect overpayments, HCFA deemed it necessary to place extremely costly and burdensome requirements on the entire industry. However, HCFA did not identify what percentage of the industry is contributing to the fraud problem, whether certain offenders were recidivist, or whether those offenders are primarily large or small.

With regard to the capitalization requirement, HCFA states that, "An organization that is earnest in its attempt to be a financially sound provider of home health services under the Medicare program will already be properly capitalized without the need for Medicare to require such capitalization." This statement is basically true. However, the issue of adequate capitalization is relative and fungible because it is based on a number of factors like varying overhead costs, location, profit margins, competition in the area, etc. Surely some home health agencies cannot meet the capitalization requirements set by HCFA, but desire to be "earnest" in their efforts to be "sound providers." The capitalization requirement is a barrier to market entry for all new home health agencies and not just the ones who enter the market for purposes of defrauding Medicare. A careful look at the questions like the ones raised in this and the preceding paragraph would have yielded a conclusion that the rule would have a significant economic impact on a substantial number of small businesses.

Congress weighed in on the issue of impact after the final rule is published. Even members of Congress recognized that HCFA went beyond its mandate and imposed a significant economic burden on home health agencies. Specifically, a bi-partisan group of three senators from the Senate from the Senate Finance Committee, on January 26, 1998, asked HCFA to delay and modify the requirement that all home health agencies secure a surety bond. The Senators believed that home health agencies would not be able to obtain bonds by the original February 27 deadline. According to a recent news article, the senators reportedly wrote that:

"HCFA has imposed conditions that go beyond the standard in the surety bond industry. Some of the biggest problems include cumulative liability, a short period of time in which to pay claims, and bond values of 15 percent of the previous year's Medicare revenues with no maximum, the letter said.

'The cumulative effect is that many surety companies are opting not to offer bonds to Medicare [home health agencies] at all', the letter said. 'Those companies which are offering the bonds are doing so at a cost which is prohibitive, or with demands for collateral or personal guarantees that HHAs cannot provide.'

The letter said Congress enacted the surety bond requirement to keep risky agencies out of the Medicare program. However, HCFA's rule seems to use the bonds as security for overpayments to providers, the letter said.

'We simply doubt that it is realistic to expect bonding companies to embrace a role as guarantors for overpayments from HCFA,' the senators wrote."[11]

It should be fairly obvious to HCFA, as it was to these members of Congress, that obtaining a $50,000/15 percent bond in addition to the 3-month reserve capitalization requirement (where there were no such requirements before) is likely to be prohibitively costly for small home health care providers—particularly new providers or providers operation only a few years that typically have few hard assets and relatively little credit.[12] Moreover, most home health patients are Medicare patients. If a home health agency is not Medicare certified, then it is very difficult to attract patients, and without patients, there is no opportunity to increase capital. There is already a requirement in many states (pursuant to "Operation Restore Trust") that home health agencies have a minimum number of patients prior to obtaining a Medicare license. How can these small home health agencies absorb losses on these ten patients (—possibly long term patients requiring multiple services several times per week—), never be reimbursed for services to these patients, and continue to raise capital? It's a vicious circle and there is a tremendous cumulative effect of all the various state and federal regulations. In any event, it seems that with only a cursory analysis and a little industry outreach, HCFA should have been able to determine that the final rule would have a significant economic impact on a substantial number of small entities. Therefore, under the RFA, HCFA should have prepared a final regulatory flexibility analysis with all the required elements for that analysis.

B. FINAL REGULATORY FLEXIBILITY ANALYSIS

The preparation of a FRFA may be delayed but not waived. Section 608(b) of the RFA reads: "Except as provided in section 605(b) [where an agency certifies that there will be no significant economic impact on a substantial number of small entities], an agency head may delay the completion of the requirements of section 604 of this title [regarding the preparation of FRFAs] for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency."

FRFAs may not be waived because they serve a vital function in the regulatory process. The preparation of a FRFA allows an agency to carefully tailor its regulations and avoid unnecessary and costly requirements while maintaining important public policy objectives. Without a careful analysis—which should include things like data, public comments and a full description of costs—agencies would be operating in a vacuum without sufficient information to develop suitable alternatives.

Since the agency did not issue a proposed rule, the agency had an obligation to consider carefully all of the significant comments regarding the impact of the final rule. After all, the agency was apparently unsure of the impact.[13] The congressional letter should have been some indication that there would be a significant economic impact and that further analysis was required. HCFA did extend the deadline for obtaining a surety bond for 60 days, and in some ways limited the liability of sureties. However, the agency did not change the bond or capitalization requirements, or explain why such changes were not feasible. Inasmuch as the agency failed to heed any of the comments regarding impact—even those from Congress—the comment period served no real function here.

The dearth of information regarding less costly alternatives is possibly the most serious defect in the analysis presented. To begin with, HCFA never demonstrated why the $50,000 bond was insufficient or would not accomplish the objective of discouraging bad actors from entering the Medicare program. The agency did not demonstrate why the 15 percent rule would not cause a significant economic impact—particularly when the $50,000 bond amount changed from a maximum level to a maximum level. There is no evidence that HCFA attempted to find less costly alternatives. Before heaping on additional regulations, would it not be prudent to first determine whether the programs and policies recently put in place by the Administration, and the prospective payment rules yet to come will work?

IV. CONCLUSION

Not everyone in the home health industry is a bad actor. More importantly, home health providers that cannot afford to comply with HCFA's regulations are not necessarily bad actors either. HCFA has twisted Congress' intent and changed the rule into a vehicle for punishing legitimate home health agencies and for securing overpayments by Medicare rather than a vehicle to discourage bad actors from entering the Medicare program. There must be a middle ground—a place where legitimate home health providers can survive and compete in the marketplace, and where fraud and abuse can be controlled. This final rule is not that place.

Therefore, the Office of Advocacy petitions HCFA to amend its final rule to remove the 15% bonding requirement and the capitalization requirement until such time as proper notice and comment procedures can be completed. Thank you for your prompt attention to this urgent matter. Please contact our office if we may assist you in your efforts to comply with the RFA on this or any other rule effecting small entities, 202-205-6533.

Sincerely,

JERE W. GLOVER,
Chief Council for Advocacy.
SHAWNE CARTER MCGIBBON,
Asst. Chief Counsel for Advocacy.

FOOTNOTES

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[1] Regulatory Flexibility Act. 5 U.S.C. §601, as amended by the Small Business Regulatory Enforcement Fairness Act, Pub. L. No. 104-121. 110 Stat. 866 (1996).

[2] *See* 143 CONG. REC. H6253-6254 (daily ed. July 29, 1997).

[3] 143 CONG. REC. S6159 (daily ed. July 24, 1997) (statement of Sen. Hatch).

[4] *Id.* at S6159-60.

[5] Those requirements include basing the amount of the bond on a flat rate in combination with the $50,000 minimum bond. The flat rate is designated as 15 percent of the annual amount paid to the HHA by Medicare as reflected in the HHA's most recently accepted cost report. The other major requirement for new the HHAs is for minimum capitalization. The amount of the reserve is to be determined by Medicare intermediaries based on the first year experience of other HHAs. First the intermediary determines an average cost per visit based on first-year cost report data for at least three HHAs that it serves that are comparable to the HHA seeking to enter the Medicare program. The average cost per visit is determined by dividing the sum of the total reported costs of care for all patients of the HHAs by the sum of their total visits. Then, the intermediary multiplies the average cost per visit by the projected number of visits for all patients (Medicare, Medicaid and all other patients) for the first three months of operation of the HHA asking to inter the program. HCFA also designates which funds count toward satisfying the capitalization requirement (—fifty percent of the funds required for capitalization must be non-borrowed funds) Medicare expects those funds to be available in cash or, in some cases short term highly liquid cash equivalents.

[6] 63 Fed. Reg. at 308.

[7] In September 1997, President Clinton announced that the Department of Health and Human Services was declaring the first ever moratorium to stop new home health providers from entering the Medicare program. The moratorium was lifted in January after the instant final rules were published in the Federal Register. The Office of Advocacy received at least one call form an anxious home health agency just starting their business. The agency had completed the reams of paperwork and all the other necessary requirements for entering the Medicare program, but had to put everything on hold because of the 4-month moratorium—announced just days before their Medicare application would have been approved. Where is this business going to get three months reserve to demonstrate that their business is adequately capitalized? Unable to enter the Medicare program, how have they survived thus far (when you consider that 95% of home health patients are Medicare eligible)?

Another business contacted the Office of Advocacy to complain that their home health agency had been audited three times in one year under the Administration's "Operation Restore Trust."

[8] Some of those statements include the following: "Because of the scope of the rule, all HHAs will be affected, but we do not expect that effect to be significant." 63 Fed. Reg. at 303. "We expect to have a 'significant impact' on an unknown number of such entities, effectively preventing some from repeating their past aberrant billing activities [but, t]he majority of HHAs will not be significantly affected by this rule." *Id.* "[A]ny possible impact that this [capitalization] requirement may have on HHAs entering the Medicare program is more than offset by savings to the Trust Funds in situations in which HHAs go out of business due to undercapitalization . . ." *Id.* at 308. "We are not preparing a rural impact statement [pursuant to section 1102(b) of the Social Security Act] since we have determined, and certify, that this rule would not have a significant impact on the operations of a substantial number of small rural hospitals." *Id.* "If a new HHA for some reason cannot raise the capital necessary to meet Medicare's [capitalization] requirement and, therefore, is not permitted to enter the Medicare program, that clearly has an impact on the HHA." *Id.*

[9] *See* 13 C.F.R. §121.201. Based on Standard Industrial Classification code 8082. Home Health Care Services include home health care agencies and visiting nurse associations (establishments primarily engaged in providing skilled nursing or medical care in the home, under supervision of a physician. Establishments of registered or practical nurses engaged in the independent practice of their professions and nurses' registries and classified in another category. Similarly, establishments primarily engaged in selling, renting or leasing health care products for personal or household use are classified in another category).

[10] In 1996, $14,357,504,894 was paid to HHAs, $1,061,157,961 was overpaid, and $153,628,056 was uncollected.

[11] *Senators Ask HCFA to Delay Final Rule Requiring Surety Bonds of All Agencies*, BNA DAILY REPORT FOR EXECUTIVES, Jan 27, 1998, at A-24.

[12] Small firms in service industries find it more difficult to obtain credit—where judgments in terms of character, markets, and cash flow are more likely to dominate—than in manufacturing industries, which typically have hard assets such as real property, equipment, and inventory. OFFICE OF ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION, THE STATE OF SMALL BUSINESS: A REPORT OF THE PRESIDENT (1995) at 86.

[13] Unsure of the actual impact, the agency specifically solicited comments on its assertions and assumptions. *See* 63 Fed. Reg. at 304.

Mr. BAUCUS. Mr. President, I would like to say a few words about the Bond-Baucus-Grassley Joint Resolution introduced today that nullifies a regulation which threatens to put many of my state's home health agencies, or HHAs, out of business. Our resolution officially disapproves the regulation issued by the Health Care Financing Administration on June 1 of this year. The rule requires each home health agency that receives Medicare reimbursement to buy a costly surety bond. This expensive bond is out of reach for many of the agencies that provide in-home service to Montana's elderly and low income residents.

Let me say from the outset that I support the provision in the Balanced Budget Act of 1997 requiring HHAs to post a surety bond for Medicare and Medicaid. Perhaps we need to make some changes to the statute, but the underlying idea—to protect the Medicare program by requiring home health agencies to post a bond—is a good one. Unfortunately, the regulation HCFA plans to implement requires a much higher bond amount.

One Montana home health agency based in Butte would have to post a bond of more than $600,000 under the HCFA regulation. That's an outrage. And it will put that company, and many others across the country, out of business.

I am also concerned that HCFA has incorrectly interpreted Congressional intent by using the bonds to collect on Medicare overpayments, not just fraud. As a result, many HHA owners are being asked to put up personal assets, such as their house, as collateral for the bond. These agencies tend to be non-hospital based and not tied to a larger corporate structure. All have far less than $600,000 in personal and business assets. We shouldn't expect anyone to sign over those assets just to do business in the Medicare program.

Also, many HHAs are family-owned small businesses. We cannot let any federal regulation force small businesses to close their door. This not only affects businesses, but also their customers—our bed-ridden elderly.

That is why we have acted here today. The Bond-Baucus-Grassley resolution will invoke the Congressional Review Act to disapprove HCFA's regulation. And I urge quick action in the Senate on this important matter.

By Mr. SARBANES (for himself, Mr. BYRD, Mr. ROCKEFELLER, and Ms. MIKULSKI):

S.J. Res. 51. A joint resolution granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia; to the Committee on the Judiciary.

POTOMAC HIGHLANDS AIRPORT AUTHORITY COMPACT

Mr. SARBANES. Mr. President, today I am introducing legislation together with my colleagues Senators BYRD, ROCKEFELLER, and MIKULSKI to grant Congressional consent to a Compact entered into between the States of West Virginia and Maryland that established the Potomac Highlands Airport Authority. The purpose of this legislation is to help facilitate a regional approach to the operations, use, management and future development of the Greater Cumberland Regional Airport.

Greater Cumberland Regional Airport is an important transportation hub serving the commercial, general aviation and corporate communities in the tri-state area of Maryland, Pennsylvania, and West Virginia. It is not only an essential link in the region's transportation network, but a critical part of the strategy to attract new business and tourism to the area.

The airport was established in 1944, when the City of Cumberland, Maryland purchased property in Wiley Ford, WV—three miles south of Cumberland—and began construction of airport facilities. Unfortunately, this unusual situation—a commercial service airport located in one state while owned by a local unit of government in a contiguous state—has greatly complicated the operation, financing and development of the airport over the years. With two states, two counties and two municipalities having jurisdiction over different aspects of the airport and enforcing different laws, taxing authorities and regulations, it was difficult, at best, to transcend the political and boundary lines and achieve a consensus on the future of the airport.

In order to address this situation, in 1976, the General Assemblies of the State of Maryland and the State of West Virginia enacted a bi-state compact authorizing creation of a public agency known as the Potomac Highlands Airport Authority (PHAA) to govern and operate the airport. However, no action was taken to implement that Compact until 1990, when the two states, the Board of County Commissioners of Allegany County, Maryland and Mineral County, West Virginia and the Mayor and City Council of Cumberland, Maryland signed an intergovernmental agreement to transfer airport management and control to the Authority and changed the name to the Greater Cumberland Regional Airport.

Since that time, the Potomac Highlands Airport Authority has actively maintained and operated the airport, and has been working to develop and implement a 20-year, $10 million airport modernization and expansion program designed to facilitate current operations and anticipated growth in utilization of the facility. In the process of seeking investment capital, loans and airport development grants, questions have been raised by the Federal Aviation Administration, USDA Rural Development, and others about the Authority's eligibility to function as legal sponsor for the airport and borrow money and give security, absent Congressional Consent to the Interstate Compact which established the Authority.

Article I, Section 10 of the Constitution requires Congressional approval of compacts between States and Bond Counsel for the airport has recommended that the Compact creating the Airport Authority receive the consent of Congress in order to provide some certainty as to the legal status of the airport and to permit the Authority to borrow funds.

The legislation I am introducing today would ratify the Interstate Compact enacted by Maryland and West Virginia in 1976 and reaffirmed in the 1990 Intergovernmental Agreement. It will allow the Potomac Highlands Airport Authority to fully exercise the powers and authority set forth by the Compact and to provide a truly regional approach to the operation, use and future development of the airport. It will help advance the public interest by ensuring the future viability of Greater Cumberland Regional Airport to serve the transportation needs of the tri-state area.

I urge the swift enactment of this legislation and ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 51

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress hereby consents to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. The compact reads substantially as follows:

"Potomac Highlands Airport Authority Compact

"SECTION 1. COUNTY COMMISSIONS EMPOWERED TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS RELATING TO CUMBERLAND MUNICIPAL AIRPORT.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, may enter into intergovernmental agreements with this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, and with the Potomac Highlands Airport Authority regarding the operation and use of the Cumberland Municipal Airport situated in Mineral County, West Virginia. The agreements shall be reciprocal in nature and may include, but are not limited to, conditions governing the operation, use, and maintenance of airport facilities, taxation of aircraft owned by Maryland residents and others, and user fees.

"SEC. 2. POTOMAC HIGHLANDS AIRPORT AUTHORITY AUTHORIZED.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may create and establish, with proper governmental units of this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County, and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, or any one or more of them, a public agency to be known as the 'Potomac Highlands Airport Authority' in the manner and for the purposes set forth in this Compact.

"SEC. 3. AUTHORITY A CORPORATION.

"When created, the Authority and the members of the Authority shall constitute a public corporation and, as such, shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.

"SEC. 4. PURPOSES.

"The Authority may acquire, equip, maintain, and operate an airport or landing field and appurtenant facilities in Mineral County, on the Potomac River near Ridgeley, West Virginia, to serve the area in which it is located.

"SEC. 5. MEMBERS OF AUTHORITY.

"(a) IN GENERAL.—The management and control of the Potomac Highlands Airport Authority, its property, operations, business, and affairs, shall be lodged in a board of seven or more persons who shall be known as members of the Authority and who shall be appointed for terms of three years each by those counties, municipal corporations, or other governmental units situated in West Virginia and Maryland as contribute to the funds of the Authority, in such proportion between those States and counties, municipal corporations, and units, and in whatever manner, as may from time to time be provided in the bylaws adopted by the Authority.

"(b) FIRST BOARD.—The first board shall be appointed as follows:

"(1) The County Commission of Mineral County shall appoint two members for terms of two and three years, respectively.

"(2) The governing official or body of the municipal corporation of Cumberland, Maryland, shall appoint three members for terms of one, two, and three years, respectively.

"(3) The governing official or body of Allegany County, Maryland, shall appoint two members for terms of one and two years, respectively.

"SEC. 6. POWERS.

"The Potomac Highlands Airport Authority has power and authority as follows:

"(1) To make and adopt all necessary bylaws, rules, and regulations for its organization and operations not inconsistent with law.

"(2) To take all legal actions necessary or desirable in relation to the general operation, governance, capital expansion, management, and protection of the Cumberland Municipal Airport.

"(3) To increase the number of members of the Authority, and to set the terms of office and appointment procedures for those additional members.

"(4) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation.

"(5) To enter into contracts with any person, firm, or corporation, and generally to do anything necessary for the purpose of acquiring, equipping, expanding, maintaining, and operating an airport.

"(6) To delegate any authority given to it by law to any of its officers, committees, agents, or employees.

"(7) To apply for, receive, and use grants in aid, donations, and contributions from any sources.

"(8) To take or acquire lands by purchase, holding title to it in its own name.

"(9) To purchase, own, hold, sell, and dispose of personal property and to sell and dispose of any real estate which it may have acquired and may determine not to be needed for its purposes.

"(10) To borrow money.

"(11) To extend its funds in the execution of the powers and authority hereby given.

"(12) To take all necessary steps to provide for proper police protection at the airport.

"(13) To inventory airplanes and other personal property at the airport and provide the assessor of Mineral County and other proper governmental officials with full particulars in regard to the inventory.

"SEC. 7. PARTICIPATION BY WEST VIRGINIA.

"(a) APPOINTMENT OF MEMBERS; CONTRIBUTION TO COSTS.—The county commissions of Mineral County and of counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may appoint members of the Authority and contribute to the cost of acquiring, equipping, maintaining, and operating the airport and appurtenant facilities.

"(b) TRANSFER OF PROPERTY.—Any of the foregoing county commissions or municipal corporations may transfer and convey to the Authority property of any kind acquired previously by the county commission or municipal corporation for airport purposes.

"SEC. 8. FUNDS AND ACCOUNTS.

"(a) CONTRIBUTION AND DEPOSIT OF FUNDS.—Contributions may be made to the Authority from time to time by the various bodies contributing to its funds and shall be deposited in whatever bank or banks a majority of the members of the Authority direct and may be withdrawn from them in whatever manner the Authority directs.

"(b) ACCOUNTS AND REPORTS.—The Authority shall keep strict account of all of its receipts and expenditures and shall make quarterly reports to the public and private bodies contributing to its funds, containing an itemized account of its operations in the preceding quarter. The accounts of the Authority shall be regularly examined by the State Tax Commissioner in the manner required by Article nine, Chapter six of the Code of West Virginia.

"SEC. 9. PROPERTY AND OBLIGATIONS OF AUTHORITY EXEMPT FROM TAXATION.

"The Authority is exempt from the payment of any taxes or fees to the State of West Virginia or any subdivisions of that State or to any officer or employee of the State or other subdivision of it. The property of the Authority is exempt from all local and municipal taxes. Notes, debentures, and other evidence of indebtedness of the Authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest on them, are exempt from taxes.

"SEC. 10. SALE OR LEASE OF PROPERTY.

"In the event all of the public corporations contributing to the funds of the Authority so determine, the Authority shall make sale of all of its properties and assets and distribute the proceeds of the sale among those contributing to its funds. In the alternative, if such of the supporting corporations contributing a majority of the funds of the Authority so determine, the Authority may lease all of its property and equipment upon whatever terms and conditions the Authority may fix and determine.

"SEC. 11. EMPLOYEES TO BE COVERED BY WORKMEN'S COMPENSATION.

"All eligible employees of the Authority are considered to be within the Workmen's Compensation Act of West Virginia, and premiums on their compensation shall be paid by the Authority as required by law.

"SEC. 12. LIBERAL CONSTRUCTION OF COMPACT.

"It is the purpose of this Compact to provide for the maintenance and operation of an airport in a prudent and economical manner, and this Compact shall be liberally construed as giving to the Authority full and complete power reasonably required to give effect to the purposes hereof. The provisions of this Compact are in addition to and not in derogation of any power existing in the county commissions and municipal corporations herein named under any constitutional, statutory, or charter provisions which they or any of them may now have or may hereafter acquire or adopt.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

ADDITIONAL COSPONSORS

S. 361

At the request of Mr. JEFFORDS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 361, a bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 887

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Montana (Mr. BURNS) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Nevada (Mr. REID), the Senator from Illinois (Mr. DURBIN), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2022

At the request of Mr. DEWINE, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2031

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2031, a bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2082

At the request of Mr. COCHRAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2082, a bill to amend chapter 36 of title 39, United States Code, to provide authority to fix rates and fees for domestic and international postal services, and for other purposes.

S. 2151

At the request of Mr. NICKLES, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 2151, a bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. LIEBERMAN, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the names of the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arizona (Mr. MCCAIN), the Senator from Nevada (Mr. REID), the Senator from Maryland (Mr. SARBANES), the Senator from Oregon (Mr. SMITH), and the Senator from

Virginia (Mr. WARNER) were added as cosponsors of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

SENATE RESOLUTION 237

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

SENATE CONCURRENT RESOLUTION 103—EXPRESSING THE SENSE OF THE CONGRESS IN SUPPORT OF THE INTERNATIONAL COMMISSION OF JURISTS ON TIBET AND ON UNITED STATES POLICY WITH REGARD TO TIBET

Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. MACK, Mr. WELLSTONE, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 103

Whereas the International Commission of Jurists is a non-governmental organization founded in 1952 to defend the Rule of Law throughout the world and to work towards the full observance of the provisions in the Universal Declaration of Human Rights;

Whereas in 1959, 1960, and 1964 the International Commission of Jurists examined Chinese policy in Tibet, violations of human rights in Tibet, and the position of Tibet in international law;

Whereas in 1960, the International Commission of Jurists found "that acts of genocide had been committed in Tibet in an attempt to destroy the Tibetans as a religious group,..." and concluded that Tibet was at least "a de facto independent State" prior to 1951 and that Tibet was a "legitimate concern of the United Nations even on the restrictive interpretation of matters 'essentially within the domestic jurisdiction' of a State.",

Whereas these findings were presented to the United Nations General Assembly, which adopted three resolutions (1959, 1961, and 1965) calling on the People's Republic of China to ensure respect for the fundamental human rights of the Tibetan people and for their distinctive cultural and religious life, and to cease practices which deprive the Tibetan people of their fundamental human rights and freedoms including their right to self-determination;

Whereas in December 1997, the International Commission of Jurists issued a fourth report on Tibet, examining human rights and the rule of law, including self-determination;

Whereas the President has repeatedly indicated his support for substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives;

Whereas on October 31, 1997, the Secretary of State appointed a Special Coordinator for Tibetan Issues to oversee United States policy regarding Tibet: Now, therefore, be it

Resolved by the Senate (the House of Representative concurring), That Congress—

(1) expresses grave concern regarding the findings of the December 1997 International Commission of Jurists report on Tibet that——

(a) repression in Tibet has increased steadily since 1994, resulting in heightened control on religious activity; a denunciation campaign against the Dalai Lama unprecedented since the Cultural Revolution; an increase in political arrests; suppression of peaceful protests; and an accelerated movement of Chinese to Tibet; and

(b) in 1997, the People's Republic of China labeled the Tibetan Buddhist culture, which has flourished in Tibet since the seventh century, as a "foreign culture" in order to facilitate indoctrination of Tibetans in Chinese socialist ideology and the process of national and cultural extermination;

(2) support the recommendations contained in the report referred to in paragraph (1) that——

(a) call on the People's Republic of China——

(i) to enter into discussions with the Dalai Lama or his representatives on a solution to the question of Tibet based on the will of the Tibetan people;

(ii) to ensure respect for the fundamental human rights of the Tibetan people; and

(iii) to end those practices which threaten to erode the distinct cultural, religious and national identity of the Tibetan people and, in particular, to cease policies which result in the movement of Chinese people to Tibetan territory;

(b) call on the United Nations General Assembly to resume its debate on the question of Tibet based on its resolutions of 1959, 1961, and 1965, and to hold a referendum in Tibet; and

(c) calls on the Dalai Lama or his representatives to enter into discussions with the Government of the People's Republic of China on a solution to the question of Tibet based on the will of the Tibetan people;

(3) commends the appointment by the Secretary of State of a United States Special Coordinator for Tibetan Issues——

(a) to promote substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives;

(b) to coordinate United States Government policies, programs, and projects concerning Tibet;

(c) to consult with the Congress on policies relevant to Tibet and the future and welfare of all Tibetan people, and to report to Congress in partial fulfillment of the requirements of Sec. 536(a) of Public Law 103–236; and

(d) to advance United States policy which seeks to protect the unique religious, cultural, and linguistic heritage of Tibet, and to encourage improved respect for Tibetan human rights;

(4) calls on the People's Republic of China to release from detention the 9-year old Panchen Lama, Gedhun Choekyi Nyima, to his home in Tibet from which he was taken on May 17, 1995, and to allow him to pursue his religious studies without interference and according to tradition; and

(5) call on the President, as a central objective of the 1998 presidential submit meeting with Jiang Zemin in Beijing, to secure an agreement to begin substantive negotiations between the Government of the People's Republic of China and the Dalai Lama or his representatives.

Mr. MOYNIHAN. Mr. President, I offer a resolution which speaks to many of the issues now facing the Tibetan people in their long struggle. This has been threatened for a half-century now, but there are efforts underway to resolve these issues. This resolution puts the Congress on record in support of these goals.

Begin with the International Commission of Jurists (ICJ), which has closely followed the situation in Tibet since the Dalai Lama was forced to flee into exile. In 1959, 1960, and 1964, the ICJ examined Chinese policies in Tibet and reported its findings to the Secretary-General of the United Nations. The 1960 report made the important international legal determination that "acts of genocide had been committed in Tibet in an attempt to destroy the Tibetans as a religious group . . ." and concluded that Tibet was at least "a de facto independent State" prior to 1951.

Now the ICJ has returned to the issue of Tibet and produced another important report. It finds that repression in Tibet has increased since 1994. This is an assessment which my daughter Maura shares after having visited Tibet and having worked closely for many years with Tibetan refugees who continue to make the dangerous journey over the Himalayan mountains to flee persecution in their homeland.

In 1996 she returned from Tibet to report,

> . . . in recent months Beijing's leaders have renewed their assault on Tibetan culture, especially Buddhism, with and alarming vehemence. The rhetoric and the methods of the Cultural Revolution of the 1960s have been resurrected—reincarnated, what you will—to shape an aggressive campaign to vilify the Dalai Lama.

The Dalai Lama, of course, remains unstained, but it is time for the Chinese to consider a policy of "constructive engagement" of their own—with the Tibetans. The recent ICJ report calls on the People's Republic of China to enter into discussions with the Dalai Lama or his representatives on a solution to the question of Tibet. Mr. President, for many years now, the United States Congress has been calling for exactly this. I hope that while the President is in China, he will be able to convey the importance of this issue to secure a commitment from the Government of the People's Republic of China to begin such discussions with the Tibetans.

In 1979, Deng Xiaoping stated that "except for the independence of Tibet, all other questions can be negotiated." The Dalai Lama has repeatedly stated his unambiguous willingness to begin substantive negotiations with the Chinese without preconditions, and that the issue of independence need not be on the agenda. This is not a concession easily made by the leader of the Tibetan people who, as the ICJ concluded in 1960, enjoyed de facto independence before the Chinese take-over. Nonetheless, he has made the offer sincerely, and repeatedly, and deserves a sincere response.

The United States can help elicit such a response. In addition to the opportunity posed by the upcoming visit by the President, we now have a Special Coordinator for Tibetan Issues, Gregory B. Craig, whom Secretary Albright appointed to achieve just such a result. A special coordinator is something that our beloved Claiborne Pell proposed in the 103d Congress and I am glad we have been able to achieve another one of his aspirations. Having a Special Coordinator for Tibetan Issues will better enable the Administration to facilitate a dialog between the Dalai Lama and the Chinese Government.

Finally, Mr. President, atheists are rarely involved in choosing divine leaders, but the Chinese Communist Party has not only involved itself in the selection of the eleventh Panchen Lama, but Chinese officials have asserted that it is the party's sole right to make the selection, and they have detained the boy the Dalai Lama recognized as the next Panchen Lama. This resolution calls attention to this odious infringement on religious freedom.

The Tibetans—I think I am correct in saying—above all value their ability to practice religion. Religion infuse every aspect of Tibetan culture. We cannot begin to comprehend the affront to Tibetans of having an important religious figure detained and declared illegitimate by the Communist Party. Add to that affront that another boy is produced by the Party and proclaimed as the religious leader.

This resolution calls for the release of 9-year old Gedhun Choekyi Nyima, the boy selected by the Dalai Lama as the next Panchen Lama, who has been under detention for 3 years.

The Senate has always maintained strong support for the Tibetan cause. This resolution continues that tradition. I especially wish to thank my colleague, the Chairman of the Foreign Relations Committee, Senator HELMS, for his outstanding leadership on this issue. We are also joined in this effort by Senators LEAHY, MACK, WELLSTONE, and FEINGOLD. I thank them for their support.

SENATE RESOLUTION 246—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 246

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of the United States Senate in actual session on a date and time to be announced by the Majority Leader after consultation with the Democratic Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

KOHL AMENDMENT NO. 2635

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the appropriate place insert the following new section:

SEC. . PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.

(a) SHORT TITLE.—This section may be cited as the "Sunshine in Litigation Act of 1998".

(b) PROTECTIVE ORDERS AND SEALING OF CASES.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§1660. Protective orders and sealing of cases and settlements relating to public health or safety

"(a)(1) A court shall enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery, an order approving a settlement agreement that would restrict the disclosure of such information, or an order restricting access to court records in a civil case only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

"(2) No order entered in accordance with paragraph (1) (other than an order approving a settlement agreement) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1) (A) or (B) have been met.

"(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

"(c)(1) No court of the United States may approve or enforce any provision of an agreement between or among parties to a civil action, or approve or enforce an order subject to subsection (a)(1), that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

"(2) Any such information disclosed to a Federal or State agency shall be confidential to the extent provided by law.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1659 the following:

"1660. Protective orders and sealing of cases and settlements relating to public health or safety.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

DURBIN AMENDMENT NO. 2636

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

In title II, strike subtitle A and insert the following:

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	20 percent
Years 5 and 6	40 percent
Years 7, 8, and 9	55 percent
Year 10 and thereafter	67 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203(b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the percentage reduction necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) CIGARETTES.—For a cigarette manufacturer, the amount of the manufacturer-specific surcharge shall be an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(C) SMOKELESS TOBACCO.—For a smokeless tobacco product manufacturer, the amount of the manufacturer-specific surcharge shall be an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(D) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the term "manufacturer's share of youth incidence" means—

(i) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(ii) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(E) DE MINIMIS LEVELS.—If a manufacturer begins to manufacture a tobacco product after the date of enactment of this Act or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of subparagraph (B) or (C)) shall be equal to the number of percentage points yielded from the percentage by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), (f)(6)(B), and (f)(6)(C) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

LEAHY (AND DEWINE) AMENDMENT NO. 2637

(Ordered to lie on the table.)

Mr. LEAHY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 376, line 23, insert after "fined" the following: "in an amount up to 3 times the dollar amount of the taxes avoided or attempted to be avoided through the action that constitutes such a violation, fined".

On page 379, line 13, strike "and".

On page 380, line 12, strike the end quotation marks and the second period and insert "; and".

On page 380, between lines 12 and 13, insert the following:

"(8) the term 'structured transaction' means any shipment, transportation, receipt, possession, sale, distribution or purchase of fewer than 30,000 contraband cigarettes or contraband tobacco products in more than one such instance, or combination of such instances, by one person, or two or more persons acting in concert, with the intention of evading the requirements of this section, in which the cumulative amount of such contraband cigarettes or tobacco products equals or exceeds 30,000.".

On page 380, line 16, strike "and".

On page 380, between lines 16 and 17, insert the following:

"(2) in subsection (b), by inserting before the period the following: "or structured transaction".

On page 380, line 17, strike "(2)" and insert "(3)".

On page 383, line 12, insert before the semicolon the following: "in a single or structured transaction".

On page 383, line 21, strike "and".

On page 383, line 25, strike the end quotation marks and the second period and insert "; and".

On page 383, after line 25, add the following:

"'(e) The Secretary of the Treasury shall prescribe regulations to address structured transactions for purposes of section 2342. Such regulations shall permit the cumulation of closely related events in order that such events may be considered collectively.'

"(4) in subsection (a), by inserting after 'fined' the following: 'in an amount up to 3 times the dollar amount of the taxes avoided or attempted to be avoided through the action that constitutes such a violation, fined'.".

On page 385, between lines 8 and 9, insert the following:

SEC. 1141. SENTENCING FOR ILLEGAL TRAFFICKING IN TOBACCO PRODUCTS.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements, if appropriate, for all unlawful acts of trafficking in tobacco products. The Commission shall submit to Congress explanations therefore and any additional policy recommendations for combating tobacco offenses.

(b) IN GENERAL.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a), and any recommendations submitted under such subsection, reflect the strong public policy against such offenses, recognize the health risks of tobacco products and the special risks to minors of tobacco addiction, reflect the pivotal potential role of tobacco manufacturers in large-scale smuggling schemes, and carry sufficient penalties to deter and punish any involvement by tobacco product manufacturers and others, including—

(A) sales of cigarettes to minors;

(B) trafficking in contraband tobacco products;

(C) failure to pay any tax on or mark any tobacco product, or participation in the repackaging of marked tobacco products;

(D) shipment of tobacco products outside the United States for unauthorized reshipment into the United States; and

(E) the use of force or violence in the course of trafficking in tobacco products;

(2) consider amending the sentencing guidelines and policy statements to provide enhanced sentences for any defendant, who, in the course of an offense described in subsection (a)—

(A) encourages, or acts in willful ignorance of encouragement of, sales of tobacco products to any person under age 18;

(B) is or acts in cooperation with an officer or managing or supervising official of any tobacco manufacturer;

(C) is an official of any government or recruits or makes any bribe or other illegal payment to any official of any government, including any tribal government or any foreign government;

(D) uses sophisticated means to impede discovery of the existence or extent of the offense;

(E) is a corporation engaged in manufacture of tobacco products;

(F) uses a firearm or other dangerous weapon; or

(G) recruits or cooperates with or acts in willful ignorance of the activities of a person who is known to have a significant prior criminal record;

(3) amend the sentencing guidelines to provide a separate and enhanced schedule of fines for tobacco offenses;

(4) assure reasonable consistency with other relevant directives and with other guidelines;

(5) avoid duplicative punishment for substantially the same offense or offender characteristic;

(6) account for any aggravating or mitigating circumstances that might justify exceptions;

(7) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(8) take any other action the Commission considers necessary to carry out this section.

In section ____99E (as added by amendment number 2451)—

(1) strike "and" at the end of paragraph (4)(C);

(2) strike the period at the end of paragraph (5) and insert "; and"; and

(3) add at the end the following:

"(6) making grants, to be administered by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of Health and Human Services, to States for State and local law enforcement of anti-smuggling provisions of this Act.

FORD AMENDMENTS NOS. 2638–2681

(Ordered to lie on the table.)

Mr. FORD submitted 44 amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2638

Strike all beginning with page 25, line 1, and insert the following:

AMENDMENT NO. 2639

In lieu of the matter proposed to be inserted, strike all beginning with page 25, line 1, and insert the following:

AMENDMENT NO. 2640

Strike page 107, line 5 through page 182, line 21, and insert the following: a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$160,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$800,000,000, plus $320,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$2,400,000, plus $480,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$8,000,000,000.

AMENDMENT NO. 2641

In lieu of the matter proposed to be inserted, strike page 107, line 5 through page 182, line 21, and insert the following: a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$160,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$800,000,000, plus $320,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$2,400,000, plus $480,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$8,000,000,000.

AMENDMENT NO. 2642

On page 24, line 6, after "increasing" insert "materially".

AMENDMENT NO. 2643

On page 19, after line 10, insert the following new subsection and renumber all subsequent sections accordingly:

"(1) BLACK MARKET TOBACCO PRODUCT.—The term "black market tobacco product" means any tobacco product sold or distributed in the United States without payment of all applicable State or Federal excise taxes."

AMENDMENT NO. 2644

On page 44, on line 23 change "60" to "90".

AMENDMENT NO. 2645

On page 44, on line 24 change "90" to "120".

AMENDMENT NO. 2646

On page 47, beginning on line 15 insert the following new subparagraph (i) and renumber the subsequent subparagraphs accordingly:

"(i) before issuing any regulation under subparagraph (A), consult with the Secretary of Labor, the United States Trade Representative and the Secretary of Agriculture to determine what effect that any proposed regulation shall have upon domestic employment within the United States and, in consultation with each of these other agencies, issue a joint finding that the regulation to be issued under subparagraph (A) shall not adversely affect agricultural employment or manufacturing employment in the United States."

AMENDMENT NO. 2647

On page 47, at line 23, delete ";" and insert the following after "hearing": ", and all tobacco manufacturers shall have at least 120 days notice of such hearing and shall be extended an opportunity to appear at an oral hearing."

AMENDMENT NO. 2648

On page 49, line 15 change "may" to "shall".

AMENDMENT NO. 2649

On page 55, after line 10 insert a new paragraph (5) as follows:

"(5) Consultation With United States Trade Representative and Secretary of Agriculture.—Prior to issuing any regulations under this section, the Secretary shall consult with the United States Trade Representative and the Secretary of Agriculture. Before any regulation issued under this section may become final—

"(A) the Secretary shall issue a joint finding with the United States Trade Representative which certifies that the regulation does not violate any treaty or international obligation to which the United States is a party; and

"(B) the Secretary shall issue a joint finding with the Secretary of Agriculture which certifies that the proposed regulation shall not have an adverse effect on the domestic or international competitiveness of tobacco growers in the United States."

Amendment No. 2650

On page 57, line 5 delete "60" and insert in lieu thereof "180".

Amendment No. 2651

On page 58, line 21 delete "2" and insert in lieu thereof "5".

Amendment No. 2652

On page 58, line 17 delete "to zero" and insert in lieu thereof "by fifty percent or more".

Amendment No. 2653

On page 59, strike lines 1 through 13 and insert in lieu thereof the following:

"By regulation promulgated after a period of notice and comment of at least 180 days, the Secretary may amend or revoke a performance standard. The Secretary shall be prohibited from issuing any regulation under this section that accelerates the effective date of a performance standard."

Amendment No. 2654

On page 60, line 24 after "substantial" insert "immediate".

Amendment No. 2655

On page 62, line 3 before "harm" insert "and immediate".

Amendment No. 2656

On page 72, line 10, delete "180"' and insert in lieu thereof "90".

Amendment No. 2657

On page 82, line 8 insert the following new subsection:

"(a) Implementing Regulations.—The Secretary shall not institute any requirements under this section unless and until the Secretary has issued final regulations, after proposing such regulations for a public comment period of at least 120 days. In no event shall the Secretary issue interim regulations within an effective date that precedes the expiration of the 120-day public comment period."

Amendment No. 2658

On page 102, line 9 insert "product" immediately following "tobacco".

Amendment No. 2659

On page 102, line 11 immediately after "private sector," insert the following: "including representatives from tobacco manufacturers, distributors, retailers and growers,".

Amendment No. 2660

On page 104 line 2 insert the following sentence after "percentages.": "The Secretary shall also determine the percent incidence of underage use of black market tobacco products using the same calculations, the same categories, and the same years as used to determine the percentage incidence of underage use of cigarettes and smokeless tobacco products."

Amendment No. 2661

On page 122 line 22 insert the following and renumber accordingly: "(iii) the extent to which underage youth are using black market tobacco products within the State and the activity that the State has undertaken to reduce the teenage use of black market activities;"

Amendment No. 2662

On page 141 after line 12, insert the following new subsection:

"(f) Information Related to Black Market Tobacco Products.—The Secretary shall require any grant recipient that administers a smoking cessation program under this section to survey all participants of such cessation programs. This purpose of this survey shall be to determine the attitudes among program participants concerning the general awareness of black market tobacco products, the frequency of use of black market tobacco products, and the demographic characteristics of users of black market tobacco products."

Amendment No. 2663

On page 165, line 8, delete "January 1, 2000" and insert in lieu thereof "January 1, 2002".

Amendment No. 2664

On page 168 on line 20 insert the following at the end of paragraph (3); "Any rulemaking conducted under this section shall be conducted to a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

Amendment No. 2665

On page 175 on line 23 insert the following immediately after "products.": "Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

Amendment No. 2666

On page 177 after line 20 insert the following new subsection (D): "(D) Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

Amendment No. 2667

On page 178, on line 6, delete "later than 24 months" and insert in lieu thereof "sooner than 36 months".

Amendment No. 2668

On page 179 after line 4 insert the following new subsection (d):

"(d) Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

Amendment No. 2669

On Page 188, after line 11, insert the following new subsection:

"(g) Adjustment for Incorrect Payments.—The Secretary of the Treasury may order an adjustment for prior year payments, other than the first annual payment, upon a showing by a participating manufacturer that any payment in a previous year has been made on the basis of an incorrect annual apportionment. If the Secretary of the Treasury determines that prior payments must be adjusted, the Secretary of the Treasury shall then reapportion the annual payments for the previous year in dispute, and make adjustments as follows—

"(1) Any participating manufacturer found to have made an overpayment shall receive a credit toward future payments due under this section. The credit shall include the amount of the overpayment, together with interest computed as provided for in subsection (a). Interest shall accrue from the date of the overpayment until the date upon which the next payment is due under this section.

"(2) If the Secretary of the Treasury finds that a participating manufacturer must make additional payments because of an adjustment under this subsection, the payment shall include the amount of the underpayment, together with interest computed as provided for in subsection (a). The payments shall be due no later than 30 days after the Secretary of the Treasury notifies the participating manufacturers of the underpayment. Interest shall accrue from the date of the underpayment until the date on which the payment is received."

Amendement No. 2670

On page 214, on line 7, delete "Citizen Actions" and insert "Enforcement and Penalties".

Amendment No. 2671

On page 214, lines 9 and 10, delete "any aggrieved person, or any State or local agency," and insert "or any State or local agency".

Amendment No. 2672

On page 211, on lines 7 and 8, delete "10 or more individuals at least 1 day per week" and insert in lieu thereof "50 or more individuals at least 4 days per week".

Amendment No. 2673

On page 211, on lines 7 and 8, delete "10 or more individuals at least 1 day per week" and insert in lieu thereof "10 or more individuals at least 4 days per week".

Amendment No. 2674

On page 214, line 22, delete "60" and insert "180".

Amendment No. 2675

On page 215 on line 2, delete "60-day" and insert "120-day".

Amendment No. 2676

On page 215, delete lines 3 through 7 and reletter the next subsection.

Amendment No. 2677

On page 216, on line 2, insert the following at the end of section 505:

"Any rulemaking conducted under this section shall provide a notice and comment period which shall be at least 180 days and, in no event, shall the Assistant Secretary issue any regulations which take effect sooner than 180 days after publication in the Federal Register."

Amendment No. 2678

On page 216, delete lines 11 through 18 and insert in lieu thereof:

"This title shall not apply to any State, unless that State adopts a law that applies this title within its jurisdiction."

Amendment No. 2679

On page 217, after line 13 insert a new paragraph and renumber subsequent paragraphs accordingly:

"(3) recognize the potential for this Act to create a black market for tobacco products on Indian lands and ensure that tribal governments, the Federal government and state and local governments cooperate to the maximum extent possible to reduce the potential for the manufacture, distribution, sale, and use of black market tobacco products on Indian lands;"

Amendment No. 2680

On page 227, after line 3, insert a new subsection (h) as follows:

"(h) Reduction of Black Market.—Each Indian tribe shall establish a program to monitor the manufacture, distribution, sale and use of black market tobacco products on Indian lands and designate a government official to work with officials from the Federal, State and local governments to the fullest extent possible to minimize the manufacture, distribution, sale, and use of black market tobacco products on Indian lands. Within 60 days of the effective date of this Act, and no later than January 1 of each year thereafter, each Indian tribe shall submit the name, title and address of this responsible government official to the Secretary. The Secretary shall compile and update annually a list of these Tribal officials and make this list available to any Federal, State and local officials who request the information."

Amendment No. 2681

On page 233, after line 25, insert the following new section:

"SEC. 703. IMMUNITY FOR TOBACCO GROWERS, COOPERATIVES OR WAREHOUSES.

"(a) General Purpose.—This section is intended to provide tobacco growers, tobacco cooperatives, and tobacco warehouses immunity from any Federal or State, civil or criminal actions arising out health-related claims concerning the use of tobacco products.

"(b) General Preemption.—No civil action or criminal action in any court of the United States or in any State asserting a tobacco claim shall be brought against any tobacco grower, tobacco association or cooperative or owner or employee of such association or cooperative, or tobacco warehouse or owner or employee of such warehouse, if such claim arises out of actions or failures to act during the cultivation, harvesting, marketing, distribution or sale of tobacco leaf.

"(c) Definitions.—For purposes of this section—

"(1) Civil action.—The term 'civil action' means any Federal or State action, lawsuit or proceeding that is not a criminal action.

"(2) Tobacco claim.—The term 'tobacco claim' means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on, or related to allegations regarding any conduct, statement or omission respecting the health-related effects of such products. Tobacco claim also means any State or Federal action for relief which is predicated upon claims of addictions to, or dependence on, tobacco products, even if such claims are not based upon the manifestation of tobacco-related diseases.

"(3) Tobacco grower.—The term 'tobacco grower' means any individual or entity that owns or has owned a farm for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), as well as any tobacco farmer that leases or has leased such a quota or allotment or produces or has produced tobacco under such quota or allotment pursuant to a lease, transfer, or tenant or sharecropping arrangement.

"(4) Tobacco product.—The term 'tobacco product' means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut tobacco products.

"(d) Relationship to Other Laws.—This section shall supersede Federal and State laws only to the extent that Federal and State laws are inconsistent with this section."

HOLLINGS (AND OTHERS) AMENDMENTS NOS. 2682–2683

(Ordered to lie on the table.)

Mr. HOLLINGS (for himself, Mr. Robb, and Mr. Ford) submitted two amendments intended to be proposed by them to amendment No. 2492 proposed by Mr. Lugar to the bill, S. 1415, supra; as follows:

Amendment No. 2682

In lieu of the matter proposed to be struck, insert the following:

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketing; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) Individual marketing limitation.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketing; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketing or overmarketings.

"(3) Individual tobacco production permit.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) National acreage allotment.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) National average yield goal.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as complied and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for the flue-cured tobacco.

"(7) Permit yield.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing years for which the determination is made in the country where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the country; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketing, undermarketings, or reductions required under subsection (i); and "(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the

Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) Special referendum.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) Approval of permits.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 maketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) Disapproval of permits.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) Assignment of Tobacco Production Permits.—

"(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) Filing with county committee.—The assignment of an individual acreage limitations and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1024A. RESOLUTION OF CONFLICT WITH TITLE XV.

Notwithstanding any other provision of this Act, title XV of this act shall have no force or effect.

Amendment No. 2683

In lieu of the matter proposed to be struck, insert the following:

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) Individual marketing limitation.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 302A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and over-marketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and “(iii) the person may not receive any of the return before the sale of the crop.

“(C) Persons not sharing risk.—

“(i) Forfeiture.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) Reallocation.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) Notice. —Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) Review.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) County of origin requirement.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) County production pool.—

“(A) In general.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county they apply to the committee to produce flue-cured tobacco under the authority.

“(B) Priority.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

“(C) Criteria.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

“(i) the experience of the producer;

“(ii) the availability of land, labor, and equipment for the production of tobacco;

“(iii) crop rotation practices; and

“(iv) the soil and other physical factors affecting the production of tobacco.

“(D) Medical hardships and crop disasters.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(c) Referendum.—

“(1) Announcement of quota and allotment.—Not later than December 15, 1998, the Secretary, pursuant to subsection (b), shall determine and announce—

“(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

“(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

“(2) Special referendum.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

“(3) Approval of permits.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

“(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

“(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

“(4) Disapproval of permits.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

“(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

“(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

“(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

“(f) Assignment of Tobacco Production Permits.—

“(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

“(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

“(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

“(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

“(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

“(2) Transfer to descendants.—

“(A) Death.— In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person, if there is no surviving spouse, to surviving direct descendants of the person.

“(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

“(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

“(h) Reserve.—

“(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

“(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

“(B) adjusting inequities; and

“(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

“(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

“(3) Appointment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

“(A) land, labor, and equipment available for the production of tobacco;

“(B) crop rotation practices;

“(C) soil and other physical factors affecting the production of tobacco; and

“(D) the past tobacco-producing experience of the producer.

“(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

“(i) Penalties.—

“(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1024A. RESOLUTION OF CONFLICT WITH TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1024B. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this title, from amounts made available to carry out this title, the Secretary of Agriculture shall use $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

FORD AMENDMENT NO. 2684

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Tobacco Policy and Youth Smoking Reduction Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

* * * * *

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of epic and worsening proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under Article I, Section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) The citizens of the several States are exposed to, and adversely affected by, environmental smoke in public buildings and other facilities which imposes a burden on interstate commerce.

(13) Civil actions against tobacco product manufacturers and others are pending in Federal and State courts arising from the use, marketing, and sale of tobacco products. Among these actions are cases brought by the attorneys general of more than 40 States, certain cities and counties, and the Commonwealth of Puerto Rico, and other parties, including Indian tribes, and class actions brought by private claimants (such as in the Castano Civil Actions), seeking to recover monies expended to treat tobacco-related diseases and for the protection of minors and consumers, as well as penalties and other relief for violations of antitrust, health, consumer protection, and other laws.

(14) Civil actions have been filed throughout the United States against tobacco product manufacturers and their distributors, trade associations, law firms, and consultants on behalf of individuals or classes of individuals claiming to be dependent upon and injured by tobacco products.

(15) These civil actions are complex, time-consuming, expensive, and burdensome for both the litigants and Federal and State courts. To date, these civil actions have not resulted in sufficient redress for smokers or non-governmental third-party payers. To the extent that governmental entities have been or may in the future be compensated for tobacco-related claims they have brought, it is not now possible to identify what portions of such past or future recoveries can be attributed to their various antitrust, health, consumer protection, or other causes of action.

(16) It is in the public interest for Congress to adopt comprehensive public health legislation because of tobacco's unique position in the Nation's history and economy; the need to prevent the sale, distribution, marketing and advertising of tobacco products to persons under the minimum legal age to purchase such products; and the need to educate the public, especially young people, regarding the health effects of using tobacco products.

(17) The public interest requires a timely, fair, equitable, and consistent result that will serve the public interest by (A) providing that a portion of the costs of treatment for diseases and adverse health effects associated with the use of tobacco products is borne by the manufacturers of these products, and (B) restricting throughout the Nation the sale, distribution, marketing, and advertising of tobacco products only to persons of legal age to purchase such products.

(18) Public health authorities estimate that the benefits to the Nation of enacting Federal legislation to accomplish these goals would be significant in human and economic terms.

(19) Reducing the use of tobacco by minors by 50 percent would prevent well over 60,000 early deaths each year and save up to $43 billion each year in reduced medical costs, improved productivity, and the avoidance of premature deaths.

(20) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(21) In 1995, the tobacco industry spent close to $4,900,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(22) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(23) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(24) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(25) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(26) Tobacco advertising increases the size of the tobacco market by increasing consumption of tobacco products including increasing tobacco use by young people.

(27) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands, and children as young as 3 to 6 years old can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(28) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market.

(29) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(30) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(31) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones. Text-only requirements, while not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(32) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(33) If, as a direct or indirect result of this Act, the consumption of tobacco products in the United States is reduced significantly, then tobacco farmers, their families, and their communities may suffer economic hardship and displacement, notwithstanding their lack of involvement in the manufacturing and marketing of tobacco products.

(34) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to clarify the authority of the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to require the tobacco industry to fund both Federal and State oversight of the tobacco industry from on-going payments by tobacco product manufacturers;

(3) to require tobacco product manufacturers to provide ongoing funding to be used for an aggressive Federal, State, and local enforcement program and for a nationwide licensing system to prevent minors from obtaining tobacco products and to prevent the unlawful distribution of tobacco products, while expressly permitting the States to adopt additional measures that further restrict or eliminate the products' use;

(4) to ensure that the Food and Drug Administration and the States may continue to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(5) to impose financial surcharges on tobacco product manufacturers if tobacco use by young people does not substantially decline;

(6) to authorize appropriate agencies of the Federal government to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(7) to provide new and flexible enforcement authority to ensure that the tobacco industry makes efforts to develop and introduce less harmful tobacco products;

(8) to confirm the Food and Drug Administration's authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(9) in order to ensure that adults are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(10) to impose on tobacco product manufacturers the obligation to provide funding for a variety of public health initiatives;

(11) to establish a minimum Federal standard for stringent restrictions on smoking in public places, while also to permit State, Tribal, and local governments to enact additional and more stringent standards or elect not to be covered by the Federal standard if that State's standard is as protective, or more protective, of the public health;

(12) to authorize and fund from payments by tobacco product manufacturers a continuing national counter-advertising and tobacco control campaign which seeks to educate consumers and discourage children and adolescents from beginning to use tobacco products, and which encourages current users of tobacco products to discontinue using such products;

(13) to establish a mechanism to compensate the States in settlement of their various claims against tobacco product manufacturers;

(14) to authorize and to fund from payments by tobacco product manufacturers a nationwide program of smoking cessation administered through State and Tribal governments and the private sector;

(15) to establish and fund from payments by tobacco product manufacturers a National Tobacco Fund;

(16) to affirm the rights of individuals to access to the courts, to civil trial by jury, and to damages to compensate them for harm caused by tobacco products;

(17) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(18) to impose appropriate regulatory controls on the tobacco industry; and

(19) to protect tobacco farmers and their communities from the economic impact of this Act by providing full funding for and the continuation of the Federal tobacco program and by providing funds for farmers and communities to develop new opportunities in tobacco-dependent communities.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—This Act is not intended to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) except as provided in this Act, affect any action pending in State, Tribal, or Federal court, or any agreement, consent decree, or contract of any kind.

(b) TAXATION.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect any authority of the Secretary of the Treasury (including any authority assigned to the Bureau of Alcohol, Tobacco and Firearms) or of State or local governments with regard to taxation for tobacco or tobacco products.

(c) AGRICULTURAL ACTIVITIES.—The provisions of this Act which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 5. RELATIONSHIP TO OTHER, RELATED FEDERAL, STATE, LOCAL, AND TRIBAL LAWS.

(a) AGE RESTRICTIONS.—Nothing in this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by this Act, shall prevent a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe from adopting and enforcing additional measures that further restrict or prohibit tobacco product sale to, use by, and accessibility to persons under the legal age of purchase established by such agency, State, subdivision, or government of an Indian tribe.

(b) ADDITIONAL MEASURES.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall limit the authority of a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products, including laws, rules, regulations, or other measures relating to or prohibiting the sale, distribution, possession, exposure to, or use of tobacco products by persons of any age that are in addition to the provisions of this Act and the amendments made by this Act. No provision of this Act or amendment made by this Act shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

(c) NO LESS STRINGENT.—Nothing in this Act or the amendments made by this Act is intended to supersede any State, local, or Tribal law that is not less stringent than this Act, or other Acts as amended by this Act.

(d) STATE LAW NOT AFFECTED.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall supersede the authority of the States, pursuant to State law, to expend funds provided by this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) BRAND.—The term "brand" means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

(2) CIGARETTE.—The term "cigarette" has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

(3) CIGARETTE TOBACCO.—The term "cigarette tobacco" means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

(4) COMMERCE.—The term "commerce" has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

(5) DISTRIBUTOR.—The term "distributor" as regards a tobacco product means any person who furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this Act.

(6) INDIAN COUNTRY; INDIAN LANDS.—The terms "Indian country" and "Indian lands" have the meaning given the term "Indian country" by section 1151 of title 18, United States Code, and includes lands owned by an Indian tribe or a member thereof over which the United States exercises jurisdiction on behalf of the tribe or tribal member.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(8) LITTLE CIGAR.—The term "little cigar" has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

(9) NICOTINE.—The term "nicotine" means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

(10) PACKAGE.—The term "package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which cigarettes or smokeless tobacco are offered for sale, sold, or otherwise distributed to consumers.

(11) POINT-OF-SALE.—The term "point-of-sale" means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.

(12) RETAILER.—The term "retailer" means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

(13) ROLL-YOUR-OWN TOBACCO.—The term "roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(14) SECRETARY.—Except in title VII and where the context otherwise requires, the term "Secretary" means the Secretary of Health and Human Services.

(15) SMOKELESS TOBACCO.—The term "smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

(16) STATE.—The term "State" means any State of the United States and, for purposes of this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

(17) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut products.

(18) TOBACCO PRODUCT MANUFACTURER.—Except in titles VII, X, and XIV, the term "tobacco product manufacturer" means any person, including any repacker or relabeler, who—

(A) manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product; or

(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

(19) UNITED STATES.—The term "United States" means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

SEC. 7. NOTIFICATION IF YOUTHFUL CIGARETTE SMOKING RESTRICTIONS INCREASE YOUTHFUL PIPE AND CIGAR SMOKING.

The Secretary shall notify the Congress if the Secretary determines that underage use of pipe tobacco and cigars is increasing.

SEC. 8. FTC JURISDICTION NOT AFFECTED.

(a) IN GENERAL.—Except where expressly provided in this Act, nothing in this Act shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(b) ENFORCEMENT BY FTC.—Any advertising that violates this Act or part 897 of title 21, Code of Federal Regulations, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

SEC. 9. CONGRESSIONAL REVIEW PROVISIONS.

In accordance with section 801 of title 5, United States Code, the Congress shall review, and may disapprove, any rule under this Act that is subject to section 801. This section does not apply to the rule set forth in part 897 of title 21, Code of Federal Regulations.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

“(i) Registration Information.—

“(1) Product list.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

“(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

“(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

“(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

“(2) Biannual Report of Any Change in Product List.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

“(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

“(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

“(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

“(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

“(j) Report Preceding Introduction of Certain Substantially-equivalent Products into Interstate Commerce.—

“(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

“(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

“(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

“(2) Application to certain post-August 11th products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

“SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

“(a) In General.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

“(b) Information on Public Access and Comment.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

“(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

“(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

“(c) Limited Confidentiality of Information.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

“(d) Restrictions.—

“(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

“(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

“(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

“(e) Good Manufacturing Practice Requirements.—

“(1) Methods, facilities, and controls to conform.—

“(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

“(B) The Secretary shall—

“(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) Exemptions; variances.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

"(f) Exemption for Investigational Use.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation .

"(g) Research and Development.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. PERFORMANCE STANDARDS.

"(a) In General.—

"(1) Finding required.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(2) Content of performance standards.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction or elimination of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where necessary to be appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(3) Periodic re-evaluation of performance standards.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

"(4) Involvement of other agencies; informed persons.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) Establishment of Standards.—

"(1) Notice.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

"(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(E) The Secretary shall provide for a comment period of not less than 60 days.

"(2) Promulgation.—

"(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

"(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,
it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

"(4) AMENDMENT; REVOCATION.—

"(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

"(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

"(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,
refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,
the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.
In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.
In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

“(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

“(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

“(iii) has not complied with the requirements of section 905;

“(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

“(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

“(2) Appeal.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

“(3) Temporary suspension.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) Service of Order.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“SEC. 911. JUDICIAL REVIEW.

“(a) In General.—Not later than 30 days after—

“(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

“(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) Court May Order Secretary to Make Additional Findings.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

“(c) Standard of Review.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

“(d) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(e) Other Remedies.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

“(f) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

“SEC. 912. POSTMARKET SURVEILLANCE

“(a) Discretionary Surveillance.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

“(b) Surveillance Approval.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

“SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

“(a) Requirements.—

“(1) In general.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

“(2) Designation.—

“(A) In general.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

“(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

“(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

“(B) Basis for finding.—In making the finding under subparagraph (A), the Secretary shall take into account—

“(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

“(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

“(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

“(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

“(3) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

“(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

“(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

“(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

“(b) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

“(1) the finding made under subsection (a)(2) is no longer valid; or

“(2) the product is being marketed in violation of subsection (a)(3).

“(c) LIMITATION.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

“(d) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a ‘reduced risk tobacco product’ under subsection (a).

“SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) ADDITIONAL REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

“(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

“(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

“(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

“(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“(c) WAIVERS.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

“(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

“(2) the requirement—

“(A) is required by compelling local conditions; and

“(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

“SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

-“The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.”.

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting “tobacco product,” in subsection (a) after “device,”;

(2) by inserting “tobacco product,” in subsection (b) after “device,”;

(3) by inserting “tobacco product,” in subsection (c) after “device,”;

(4) by striking “515(f), or 519” in subsection (e) and inserting “515(f), 519, or 909”;

(5) by inserting “tobacco product,” in subsection (g) after “device,”;

(6) by inserting “tobacco product,” in subsection (h) after “device,”;

(7) by striking “708, or 721” in subsection (j) and inserting “708, 721, 904, 905, 906, 907, 908, or 909”;

(8) by inserting “tobacco product,” in subsection (k) after “device,”;

(9) by striking subsection (p) and inserting the following:

“(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).”;

(10) by striking subsection (q)(1) and inserting the following:

“(q)(1) The failure or refusal—

“(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

“(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

“(C) to comply with a requirement under section 522 or 912.”;

(11) by striking “device,” in subsection (q)(2) and inserting “device or tobacco product,”;

(12) by inserting “or tobacco product” in subsection (r) after “device” each time that it appears; and

(13) by adding at the end thereof the following:

“(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).”.

(c)SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

“(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—”;

(2) by inserting “or tobacco products” after “devices” in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

“(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).”;

(4) by striking “assessed” the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting “assessed, or a no-tobacco-sale order may be imposed,”;

(5) by striking “penalty” in such subparagraph and inserting “penalty, or upon whom a no-tobacco-order is to be imposed,”;

(6) by inserting after “penalty,” in subparagraph (B) of paragraph (4), as redesignated, the following: “or the period to be covered by a no-tobacco-sale order,”;

(7) by adding at the end of such subparagraph the following: “A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.”;

(8) by adding at the end of paragraph (4), as redesignated, the following:

“(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.”;

(9) by striking “(3)(A)” in paragraph (5), as resdesignated, and inserting “(4)(A)”;

(10) by inserting “or the imposition of a no-tobacco-sale order” after “penalty” the first 2 places it appears in such paragraph;

(11) by striking “issued.” in such paragraph and inserting “issued, or on which the no-tobacco-sale order was imposed, as the case may be.”; and

(12) by striking “paragraph (4)” each place it appears in paragraph (6), as redesignated, and inserting “paragraph (5)”.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking “and” before “(D)” in subsection (a)(2);

(2) by striking “device.” in subsection (a)(2) and inserting a comma and “(E) Any adulterated or misbranded tobacco product.”;

(3) by inserting “tobacco product,” in subsection (d)(1) after “device,”;

(4) by inserting “or tobacco product” in subsection (g)(1) after “device” each place it appears; and

(5) by inserting “or tobacco product” in subsection (g)(2)(A) after “device” each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end thereof the following:

“(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.”.

(f) SECTION 703.--Section 703 (21 U.S.C. 373) is amended—

(1) by inserting “tobacco product,” after “device,” each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(2) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Red. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act;; (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination;; (61 Fed. Reg. 44619-45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the nonattainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

“(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

“(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

“(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

“(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

“(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

“(5) an Indian Health Service Program;

“(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

“(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

“(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

“(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

“(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

“(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

“(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

“(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

“(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

“(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

“(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

“(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

“SEC. 1981D. ADMINISTRATIVE PROVISIONS.

“(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

“(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

“(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

“(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

“(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

“(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

“(1) with respect to activities described in section 1981C(b)—

“(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

“(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

“(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

“(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

“(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

“(F) shall be tailored to the needs of specific populations, including minority populations; and

“(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

“(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

“(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

“(2) paragraphs (9) and (10) of such section shall not apply; and

“(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

“(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

“(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

“(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

“(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

“SEC. 1981E. STATE ADVISORY COMMITTEE.

“(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

“(b) DUTIES.—The recommended duties of the committee are—

“(1) to hold public hearings on the State plans required under sections 1981D; and

“(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

“(A) the conduct of assessments under the plans;

“(B) which of the activities authorized in section 1981C should be carried out in the State;

“(C) the allocation of payments made to the State under section 1981A(c);

“(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

“(E) the collection and reporting of data in accordance with section 1981D.

“(c) COMPOSITION.—

“(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

“(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

“SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

“SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

“(a) NATIONAL CAMPAIGN.—

“(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

“(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

“(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

“(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) Establishment of an Advisory Board.—

"(1) In general.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) Composition.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) Terms and vacancies.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) Awards.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) Powers and duties.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) Eligibility.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) Use of Funds.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) Needs of Certain Populations.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) Coordination.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) Allocation of Funds.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) Trigger.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) Contract.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) Considerations.—

"(1) In general.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) Specific considerations.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) Report.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) In General.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) Report.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) Duties.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) Youth Surveillance Systems.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) Funding.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) Expenditure of Funds.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) Guaranteed Minimum.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) Nature of Research.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) Coordination.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) Administration.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) Trigger.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) Report.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) Medicaid Coverage of Outpatient Smoking Cessation Agents.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) In General.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) Analyses and Special Programs.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) In General.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) Label Requirements.—

"(1) In general.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) Placement; typography; etc..—

"(A) In general.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) Flip-top boxes.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) Does not apply to foreign distribution.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) Advertising Requirements.—

"(1) In general.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC..—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) Authority to Revise Warning Label Statements.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) Testing, Reporting, and Disclosure.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) Contents of Rules.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) Authority.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) Creation.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) Transfers to National Tobacco Trust Fund.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) Net Revenues.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) Expenditures from the Trust Fund.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate.net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) Budgetary Treatment.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) Administrative Provisions.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) Initial Payment.—

(1) Certain tobacco product manufacturers.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) No contribution from other tobacco product manufacturers.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) Payment date; interest.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) Annual Payments.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) Payment Schedule; Reconciliation.—

(1) Estimated payments.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) Reconciliation.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) Apportionment of Annual Payment.—

(1) In general.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and

their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION.—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted units as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) PENALTY.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) NONCOMPLIANCE PERIOD.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) LIMITATIONS.—

(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) CORRECTIONS.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) WAIVER.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excees of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) AMOUNTS.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) USE OF FUNDS.—

(1) UNRESTRICTED FUNDS.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) RESTRICTED FUNDS.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV-B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) NO SUBSTITUTION OF SPENDING.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) FEDERAL-STATE MATCH RATES.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) MAINTENANCE OF EFFORT.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) Options for Children's Health Outreach.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) Expansion of presumptive eligibility option for children.—

(A) In general.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) Technical amendments.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) Removal of requirement that children's health insurance program allotments be reduced by costs related to presumptive eligibility determinations.—

(A) In general.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) Effective date.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) Increased funding for administrative costs related to outreach and eligibility determinations for children.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) Increased federal matching rate for administrative costs related to outreach and eligibility determinations for children.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) Periodic Reassessment of Spending Options.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) Establishment.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) Application.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) Approved Clinical Trial Program.—

(1) In general.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) Modifications in approved trials.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) Routine Patient Care Costs.—

(1) In general.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) Exclusion.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) Study.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) Report to Congress.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) Assistant secretary.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) Public facility.—

(A) In general.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) Exclusions.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) Fast food restaurant defined.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) Responsible entity.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or

portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) Policy Required.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) Elements of Policy.—

(1) In general.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) Exception.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) Specially Designated Smoking Areas.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) In General.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) Venue.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) Notice.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) Costs.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) Penalties.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) Application with OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) Purpose.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) In general.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) Traditional Use Exception.—

(1) In general.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) Application of provisions.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(c) Limitation.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) Application on Indian Lands.—

(1) In general.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) Scope.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) Tribal Tobacco Retailer Licensing Program.—

(A) In general.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) Implementation.—

(i) In general.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) Cooperation.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) Enforcement.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) Eligibility.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) Determinations.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) Implementation by the Secretary.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) Deficient applications; opportunity to cure.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) Secretarial review.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) Eligibility for Public Heath Funds.—

(1) Eligibility for grants.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) Health care funding.—

(A) Indian health service.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) Funding.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) Use of health care trust funds.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) Preemption.—

(1) In general.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) Public exposure to smoke.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) Disclaimer.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) Affiliate.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Civil action.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) Court.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) Final judgment.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) Final settlement.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) Individual.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) Tobacco claim.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) Tobacco product manufacturer.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) Castano civil actions.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay, et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al. (Bergen County, New Jersey-BER-L-4983-97-E); Carol

A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al. (Knox County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) TOBACCO COMPANY PLAN.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) PROHIBITED ACTS.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) JUDICIAL REVIEW.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) NONCOMPLIANCE.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) ACTION TO ENSURE COMPLIANCE.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) ENFORCEMENT.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) APPLICABILITY TO CERTAIN EMPLOYEES.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) EFFECT ON OTHER LAWS.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) POSTING.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) DISCLOSURE TO THE FOOD AND DRUG ADMINISTRATION.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) SEPARATE SUBMISSION OF DOCUMENTS.—

(1) (1) PRIVILEGED TRADE SECRET DOCUMENTS.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) PRIVILEGE AND TRADE SECRET LOGS.—

(A) IN GENERAL.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) ORGANIZATION OF LOG.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) PUBLIC INSPECTION.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) DECLARATION OF COMPLIANCE.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) DOCUMENT CATEGORIES.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco

Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) FUTURE DOCUMENTS.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If the any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) TRADE SECRET.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) CERTAIN ACTIONS DEEMED TO BE PROCEEDINGS.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) OTHER TERMS.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota.—

(A) In general.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota.—

(A) In general.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $1/10$ of the lifetime limitation established under subparagraph (E).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) Reissuance of quota.—

(A) Reallocation to lessee or tenant.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation.—

(i) Timing.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) Limitation on marketing quota.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) Eligibility of lessee or tenant for payments.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) Reallocation to quota holders within same county or state.—

(i) In general.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) Cross-county leasing.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) Eligibility of quota holder for payments.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) Special rule for tenant of leased tobacco.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) Payments for lost tobacco quota to quota holders.—

(A) In general.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) Poundage conversion for marketing quotas other than poundage quotas.—

(i) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) Yield not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) Payments for lost tobacco quota to quota lessees and quota tenants.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) Lifetime limitation on payments.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) Limitations on aggregate annual payments.—

(A) In general.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) Accelerated payments.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) Reductions.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) Rollover of payments for lost tobacco quota.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) Additional payments to quota holders exercising option to relinquish quota.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) Subsequent sale and transfer of quota.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) Sale or transfer of farm.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) Death of quota lessee or quota tenant.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any

amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

“SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

“(a) Definitions.—In this section:

“(1) Individual acreage limitation.—The term ‘individual acreage limitation’ means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

“(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

“(2) Individual marketing limitation.—The term ‘individual marketing limitation’ means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

“(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

“(3) Individual tobacco production permit.—The term ‘individual tobacco production permit’ means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

“(4) National acreage allotment.—The term ‘national acreage allotment’ means the quantity determined by dividing—

“(A) the national marketing quota; by

“(B) the national average yield goal.

“(5) National average yield goal.—The term ‘national average yield goal’ means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

“(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term ‘national marketing quota’ for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

“(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

“(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

“(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

“(7) Permit yield.—The term ‘permit yield’ means the yield of tobacco per acre for an individual tobacco production permit holder that is—

“(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

“(B) adjusted by a weighted national yield factor calculated by—

“(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

“(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

“(b) Initial Issuance of Permits.—

“(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

“(2) Issuance of permits to quota holders that were principal producers.—

“(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

“(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

“(3) Quota holders that were not principal producers.—

“(A) In general.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

“(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

“(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

“(B) Medical hardships and crop disasters.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(C) Administration.—The Secretary shall issue regulations—

“(i) defining the term ‘person’ for the purpose of this paragraph; and

“(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

“(4) Issuance of permits to principal producers of flue-cured tobacco.—

“(A) In general.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) Individual acreage limitations.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(C) Individual marketing limitations.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

“(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

“(ii) the ratio that—

“(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

“(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

“(D) Special rule for tenant of leased flue-cured tobacco.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or

other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual—

"(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

"(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

"(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. REQUIREMENTS APPLY IF THE DESTINATION COUNTRY DOES NOT REQUIRE SPECIFIC HEALTH HAZARD WARNING LABELS.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) UNITED STATES PERSON DEFINED.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) REPORT TO CONGRESS ON ENFORCEMENT; FEASIBILITY REGULATIONS.—

(1) THE PRESIDENT.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) THE SECRETARY.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) ESTABLISHMENT OF INTERNATIONAL TOBACCO CONTROL AWARENESS.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) ACTIVITIES.—

(1) IN GENERAL.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) GRANTS AND CONTRACTS.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or

other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) Transfer of funds to agencies.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) Authorization of Appropriations.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) Incorporation of Certain Definitions.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States ", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) Other Definitions.—In this subtitle:

(1) Affiliate.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) Interstate or Foreign Commerce.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) Secretary.—The term "Secretary" means the Secretary of the Treasury.

(4) Package.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) Retailer.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less packages, or it equivalent for other tobacco products.

(6) Exporter.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) Importer.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) Intentionally.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) Manufacturer.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period;; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) Wholesaler.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) In General.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) Labeling.—

(1) Identification.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) Marking requirements for exports.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) Prohibition on Alteration.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) Eligibility.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) Conditions.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) Revocation, Suspension, and Annulment.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) Records and Audits.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) Retailers.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) Importation and Sale.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) Manufacture and Sale.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) Wholesale.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or,

as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(d) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation," ;

(3) by striking the last sentence of subsection (a) and inserting the following: "Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the persons name, and trade name (if any), and the address of the persons principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949, (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURMENT CORPORATION.—

(A) CORPORATION.—Reimbursment shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimburment Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MIN- IMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) NO AUTHORIZATION REQUIRED.—

"(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) PREEMPTION, RELATION TO STATE LAWS.—

"(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) Application of section.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) Erisa.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"Chapter 91—Tort liability for disability, injury, disease, or death due to tobacco use

"Sec.

"9101. Recovery by Secretary of Veterans Affairs

"9102. Regulations

"9103. Limitation or repeal of other provisions for recovery of compensation

"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) Conditions; exceptions; persons liable; amount of recovery; subrogation.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) Enforcement Procedure; Intervention; Joinder of Parties; State or Federal Court Proceedings.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) Credits to Appropriations.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) Determination and Establishment of Present Value of Compensation and Medical Care Services To Be Paid.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) Settlement, Release and Waiver of Claims.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) Damages Recoverable for Personal Injury Unaffected.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) In General.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) Disqualification.—

(1) Ineligibility.—Notwithstanding subsection (a), a tobacco product manufacturer

may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) PROVISIONS APPLICABLE TO DOCUMENTS.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(8) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) COLOR PRINT ADS ON MAGAZINES.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) PERMITTED POS LOCATIONS.—

(1) PLACEMENT.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) SIZE.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) PROXIMITY TO CANDY.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO OR VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) NO RESTRICTIVE COVENANTS.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) DEFINITIONS.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) IN GENERAL.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer:

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) EXCEPTIONS.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a non-participating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) EFFECT ON EXISTING STATE SUITS OF SETTLEMENT AGREEMENT OR CONSENT DECREE.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) STATE OPTION FOR ONE-TIME OPT OUT.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-DAY DELAY.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) PRESERVATION OF INSURANCE CLAIMS.—

(1) IN GENERAL.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) APPLICATION OF TITLE 11, UNITED STATES CODE.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) STATE LAW NOT AFFECTED.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) CASTANO CIVIL ACTIONS.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this

subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) ACTION BY SECRETARY.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and

equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation , interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(f) LIMITATION ON STATE COURTS.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) ARBITRATION PANEL.—

(1) RIGHT TO ESTABLISH .—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) OPERATION.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) RIGHT TO PETITION.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) CRITERIA.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) APPEAL AND ENFORCEMENT.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) VALIDITY AND ENFORCEABILITY OF PRIVATE AGREEMENTS.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) OFFSET FOR AMOUNTS ALREADY PAID.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) SEVERABILITY.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) NONSEVERABILITY.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN TITLE VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) ADDITIONAL DEFINITIONS.—

(A) ADDICTION CLAIM; DEPENDENCE CLAIM.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) COMPENSATORY DAMAGES.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) PROTOCOL.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with a participating tobacco product manufacturers under this title.

(D) PUNITIVE DAMAGES.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

CRAIG AMENDMENT NO. 2685

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Beginning on page 192, strike line 8 and all that follows through line 2 on page 193, and insert the following:

(1) AMOUNTS.—

(A) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, at least 62 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $334,800,000,000, then beginning with the eleventh year the 62 percent share will be adjusted as necessary to achieve that 25-year total amount. Notwithstanding section 452(b) or any other provision of this Act, amounts received by a State under this subsection may be used as the State determines appropriate.

(B) STATE LOSS OF REVENUE ADJUSTMENTS.—

(i) IN GENERAL.—Amounts provided to a State under this subsection for a fiscal year shall take into account the decrease in the amount of revenue that the State received during the previous fiscal year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(ii) DETERMINATIONS.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under clause (i) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

GRAMM (AND OTHERS) AMENDMENT NO. 2686

Mr. GRAMM (for himself, Mr. DOMENICI, Mr. ROTH, Mr. FAIRCLOTH, and Mr. BOND) proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill, S. 1415, supra; as follows:

At the end of the amendment, insert:

SEC. . ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the excess (if any) of—

"(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

"(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2008' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage shall be—

"(1) 25 percent in the case of taxable years beginning in 1999,

"(2) 30 percent in the case of taxable years beginning in 2000, 2001, and 2002,

"(3) 40 percent in the case of taxable years beginning in 2003, 2004, and 2005,

"(4) 50 percent in the case of taxable years beginning in 2006,

"(5) 60 percent in the case of taxable years beginning in 2007, and

"(6) 100 percent in the case of taxable years beginning in 2008 and thereafter."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) FULL DEDUCTION FOR HEALTH INSURANCE FOR SELF-EMPLOYEDS.—The table contained in section 162(l)(1)(B) is amended—

(1) by striking "and 1999",

(2) by striking the items relating to years 1998 through 2006, and

(3) by striking "2007 and thereafter" and inserting "1999 and thereafter".

(e) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(f) REDUCTION IN TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the amount credited to the National Tobacco Trust Fund under section 401(b) of this Act for any fiscal year shall be reduced by the amount of the decrease in Federal revenues for such fiscal year which the Secretary of the Treasury estimates will result from the amendments made by this title. The Secretary shall increase or decrease the amount of any reduction under this section to reflect any incorrect estimate for any preceding fiscal year.

(2) LIMITATION ON REDUCTION AFTER FISCAL YEAR 2007.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any fiscal year after fiscal year 2007, the reduction determined under paragraph (1) shall not exceed 33 percent of the total amount credited to the National Tobacco Trust Fund for such fiscal year.

(B) SPECIAL RULE.—If in any fiscal year the youth smoking reduction goals under section 203 are attained, subparagraph (A) shall be applied by substituting "50 percent" for "33 percent".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

WELLSTONE AMENDMENT NO. 2687

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to amendment No. 2512 proposed by Mr. ROTH to the bill, S. 1415, supra; as follows:

Beginning on page 4, strike line 14 and all that follows through page 6, line 6 and insert in lieu thereof the following:

(ii) the aggregate payments which are due to be received by such State for such calendar year under the settlement, judgement, or other agreement.

(B) REALLOCATION OF AMOUNT FOR OTHER STATES.—If the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i) for one or more States for any calendar year, the amount of the payments under paragraph (3)(A) to all States to which subparagraph (A) does not apply shall be ratably reduced by the aggregate amount of such excess for all 4 States.

(5) SET-OFF PAYMENTS FROM LITIGATION.—

(A) IN GENERAL.—For any State which has entered into a settlement agreement prior to the date of enactment of this Act, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco related diseases or conditions, to be eligible to receive any funds from the State Litigation Settlement Account, the amount of any payment due in any year under the settlement agreement must first be received by the State after which the amount actually received will be set-off against any amount which the State is entitled to receive from the State Litigation Settlement Account. The failure of a State to receive any payment due under the settlement agreement will not prohibit the State from receiving any amount which the State is entitled to receive from the State Litigation Settlement Account.

(B) REDISTRIBUTION OF SET-OFF PAYMENTS.—Any payments out of the State Litigation Settlement Account which would otherwise have been made to such State but for the set-off in paragraph (A) shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

DASCHLE AMENDMENT NO. 2688

Mr. DASCHLE proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill, S. 1415, supra; as follows:

At the end of the amendment add the following:

The provisions of Senate Amendment No. 2686 are null and void.

TITLE —TAX BENEFITS FOR MARRIED COUPLES AND SELF-EMPLOYED INDIVIDUALS

SEC. 01. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

"(2) TRANSITION RULE FOR 1999 AND 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

"(c) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws."

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 02. DEDUCTION FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent (75 percent in the case of taxable years beginning in 1999 and 2000) of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 03. REDUCTION IN TRANSFERS TO NATIONAL TOBACCO TRUST FUND.

Notwithstanding any other provision of this Act—

(1) the amount credited to the National Tobacco Trust Fund under section 401(b) of this Act for any fiscal year shall be reduced by the amount of the decrease in Federal revenues for such fiscal year which the Secretary of the Treasury estimates will result from the amendments made by this title, and

(2) for purposes of allocating amounts to accounts under section 451 of this Act, the reduction under paragraph (1) shall be treated as having been made proportionately from the amounts described in paragraphs (1), (2), and (3) of section 401(b) of this Act.

The Secretary shall increase or decrease the amount of any reduction under this section to reflect any incorrect estimate for any preceding fiscal year.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, June 10, 1998, at 2 P.M. in SR–328A. The purpose of this meeting will be to examine livestock issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 10, 1998 at 9:30 a.m. to conduct an oversight hearing on Bureau of Indian Affairs School Construction. The hearing will be held in room 106 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 10, 1998 at 2:30 p.m. to hold an open hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on June 10, 1998, at 9:30 a.m. on FCC reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Wednesday, June 10, 1998 at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL SERVICES AND TECHNOLOGY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Financial Services and Technology of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 10, 1998, to conduct a hearing on "Disclosing Year 2000 Readiness: Are the Companies You Invest in Ready for the Year 2000? Will You Know if They're Not?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee be authorized to hold a hearing during the session of the Senate on Wednesday, June 10, 1998 at 2:15 p.m. in room 226, Senate Dirksen Office Building, on: "Critical Infrastructure Protection: 'Eligible Receiver' and the New PDD."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO CAPTAIN MICHAEL J. LANDERS

• Mr. D'AMATO. Mr. President, I rise today to recognize and honor Captain Michael J. Landers, United States Navy, as he retires upon completion of over 30 years of honorable and faithful service to our Nation.

A native of Utica, NY, Captain Landers was enlisted into the Regular Navy in November 1968 as a Seaman Recruit. After 5 years of enlisted submarine service, he was commissioned an Ensign upon graduation from the University of Missouri in December 1973.

Captain Landers, a Submarine Warfare Officer, has performed in a consistently outstanding manner under the most challenging of circumstances. From 1973 to 1985 Captain Landers served with the surface and submarine fleets of the Atlantic and pacific Oceans. He gained extensive experience aboard U.S.S. Alexander Hamilton (SSBN 617) U.S.S. Von Steuben (SSBN 632), and U.S.S. Pigeon (ASR 21). After serving on the staff of the Director of Strategic Systems Programs, Washington, DC, Captain Landers commanded the U.S.S. Ortolan (ASR 22) from 1987 to 1990. He subsequently became the Executive Assistant to the Deputy Chief of Naval Personnel. Captain Landers left the Navy Annex in 1994 and reported for duty at the Industrial College of the Armed Forces at Fort McNair where he received a Master of Science Degree in National Resource Strategy.

From 1995 to 1997, Captain Landers commanded the naval Submarine Base, Bangor, WA. He returned to the Pentagon in November 1997, where he served as the Deputy Chief of Legislative Affairs. In this capacity he has been a major asset to the Navy, Marine Corps and Congress. He is considered a valued advisor to the very top echelons of the Navy and Congress. His consummate leadership, energy and integrity ensured that the morale and effectiveness of the Navy-Marine Corps team reached heights otherwise thought to be impossible to achieve in such an austere budget climate. During a period of significant change and restructuring of naval forces, Captain Landers helped to obtain Congressional support for a strong and balanced Navy and Marine Corps. Through his brilliant insight, he has directly contributed to their future readiness and success.

Captain Landers' distinguished awards include the legion of Merit with three gold stars, the meritorious Service medal with one gold star, the Navy Commendation Medal with two gold stars and the Navy Achievement Medal with one gold star.

The Department of the Navy, the Congress, and the American people have been defended and well served by this dedicated naval officer for over 30 years. Captain Mike Landers will long be remembered for his leadership, service and dedication. He will be missed. We wish Mike, and his lovely wife Kris, our very best as they begin a new chapter in their life together.•

VERMONT'S SMALL BUSINESS PERSON OF THE YEAR

• Mr. LEAHY. Mr. President, today I rise to recognize two very special Vermont business people. Tom and Sally Fegley are the owners and founders of Tom and Sally's Handmade Chocolates of Brattleboro, Vermont. For the past two years I have been pleased to nominate Tom and Sally for the U.S. Small Business Administration's Small Business Person of the Year award for the state of Vermont. This year, I am proud to announce that Tom and Sally Fegley are the recipients of this prestigious award.

Eight and a half years ago, the Fegleys had the courage to move to Vermont and risk their lives' savings to undertake their start-up business in chocolates, a field in which neither of them had any previous experience. With hard work and intense dedication they have built this business to more than $1 million in gross sales in 1997. Their products are sold in all fifty states and they are exported all over the world, including Canada, Great Britain, France, Germany, South Africa and the Netherlands. Tom and Sally's entrepreneurial savvy has helped to spread the distinctive high quality of Vermont specialty foods across the globe.

The Fegley's chocolates are so unique they have received five federal trademarks for their chocolates ranging from "Vermont Pasture Patties" to "Cowlicks." In addition, their products have won eight national awards and have received media coverage ranging from "Good Morning, America" and "The Today Show" to such magazines as Bon Appetit, Fine Cooking, and Mademoiselle, as well as newspapers including The New York Times, The Wall Street Journal, and The Washington Post.

I remember the first time that Marcelle and I visited Tom and Sally's shop in 1992. We were especially impressed with its old-fashioned atmosphere and Vermont country charm. A few years ago, Tom and Sally decided to combine the sale of their handmade chocolates and candies with the sale of Vermont folk art. This gallery displays the handicrafts of Vermonters as the Fegleys display the fruits of their own handicraft. This innovative combination makes visiting Tom and Sally's a unique and charming experience while promoting Vermont's distinct character.

Not only have Tom and Sally made an imprint on Vermont's specialty food industry, but they have made an even larger contribution to their community. Perhaps the Fegleys should be recognized more for what they do for others than for their business success. From donating chocolates to local charities, to helping a local apple orchard after vandals destroyed the apple trees, Tom and Sally's involvement and contributions have expanded beyond the business industry and have made them important members of Vermont's communities.

I am pleased that the Fegleys have been named 1998 Vermont Small Business Persons of the Year. I believe that they embody what Vermont is all about—a fine tradition of quality products with a strong sense of community.•

REMARKS BY SENATOR BILL FRIST TO THE ASSOCIATION OF AMERICAN UNIVERSITIES

• Mr. FRIST. Mr. President, on Tuesday, June 2nd, I addressed the Association of American Universities regarding the importance of federal support for university-based research. I ask that my remarks be printed in the Record.

The remarks follow:

Federal Support for University-Based Research Has Produced a Wealth of Benefits for All Americans

As a medical scientist, a researcher, a former university faculty member, a current university Trustee, and a life-long explorer in the quest for new knowledge, I believe, as you do, that America's strategy of federally-supported university-based research has produced a wealth of benefits for all Americans.

It's not only expanded our scientific and academic national base, but increased the economic vitality of our Nation, raised the standard of living all Americans enjoy, and produced a highly-educated workforce that has made us a leader in today's global economy. In fact, in economic terms alone, the return on our federal investment has been huge. As much as one half of all U.S. growth is a result of the technical progress we've achieved through research.

According to the Office of Science and Technology Policy (OSTP), technology is the single most important factor in long-term economic growth. Not only is the performance of U.S. businesses and their contributions to economic growth directly linked to their use of technology, but as cited in a study conducted by the US Department of Commerce, manufacturing businesses that used eight or more advanced technologies grew 14.4 percent more than plants that used none—and production wages were more than 14 percent higher.

For any of you who may encounter doubters in other Congressional offices let me give you just two quick examples from the President of MIT, who testified before my committee, of how the federal investment in university research has produced phenomenal returns.

Over the last three decades, the Department of Defense has funded $5 billion in university information technology. Those programs alone created one-third to one-half of all major breakthroughs in the computer and communications industries. Today, those businesses account for $500 billion of GDP—a return on our investment of 3,000 percent!

In fact, studies of just that one university along—MIT—found that, in Massachusetts, MIT grads and faculty founded over 600 companies that produced 300,000 jobs and $40 billion in sales. In Silicon Valley, MIT grads founded 225 companies which produced 150,000 jobs and more than $22 billion in sales.

In one industry alone—biotechnology—government's $43 million annual investment has not only produced the human capital of the biotech industry—scientists, engineers, managers—and new knowledge that's led to an understanding of the molecular basis of disease, but it's also produced new companies and new wealth.

To again use MIT as an example, in Massachusetts alone, MIT-related companies have produced 10,000 new jobs, $3 billion in annual revenues, and 100 new biotech patents licensed the U.S. companies that have induced investment of $650 million. Those companies now produce nine of the 10 FDA-approved biotech drugs that stop heart attacks and treat cancer, cystic fibrosis and diabetes—and we've only just begun to tap the potential returns of this rapidly advancing new field.

And I'm sure every one of the universities you represent could cite statistics that are equally impressive.

But, as you well know, universities are not just the fountainhead of innovation. They are the wellsprings that provide the intellectual underpinning of future progress, because they train the people who will translate tomorrow's discoveries into even more exciting products and processes and industries. And when you consider what today's students are already capable of, the potential is truly breathtaking.

Jennifer Mills, for example, is a physics undergraduate from Portland, Oregon who wrote much of the computer code responsible for the astounding images sent back to Earth by the Hubble telescope.

James McLurkin, an undergrad engineer, created a tiny robot that may well revolutionize certain kinds of surgery, enabling surgeons to operate inside the body without ever touching the patient! Just imagine what tomorrow's students to do!

AMERICA'S INVESTMENT IN SCIENCE AND TECHNOLOGY MUST CONTINUE

Clearly, America's investment in science and technology must continue. The two central questions that Congress must ask and answer, however, are: (1) Will science and technology continue to be as great a Congressional priority in the future as it has been in the past; and (2) Will the kind of financial investment necessary to sustain future progress even be possible in light of our other growing financial commitments?

The history of the last five decades has shown us that there is a federal role in the creation and nurturing of science and technology, and that even in times of fiscal austerity that commitment has been relatively consistent. However, the last three decades have also shown us something else: fiscal reality. The simple truth is there's just not enough money to do everything we'd like to do. It took some time for us to realize that, and by the time we did, we found ourselves in a fiscal situation that is only now being addressed. And, budget surpluses notwithstanding, discretionary spending is, and will continue to be, under immense fiscal pressure.

One only has to look back over the last 30 years to confirm this trend. In 1965, mandatory federal spending on entitlements and interest on the debt accounted for 30 percent of the federal budget. Fully 70 percent went toward discretionary programs—research, education, roads, bridges, national parks, and national defense.

Today, just 30 years later, that ratio has been almost completely reversed: 67 percent of the budget is spent on mandatory programs and interest on the debt; only 33 percent is left for absolutely everything else, including research.

In fact, total R&D spending today as a percentage of GDP is just .75 percent—as compared to 2.2 percent in the mid-1960s when superpower rivalry and the race to space fueled a national commitment to science and technology. And as the Baby Boom generation begins to retire and the discretionary portion of the budget shrinks even further, this situation will only grow worse.

Thus, we have both a long-term problem: addressing the ever-increasing level of mandatory spending; and a near-term challenge: apportioning the ever-dwindling amount of discretionary funding.

The confluence of this increased dependency on technology and decreased fiscal flexibility has created a problem too obvious to ignore: not all deserving programs can be funded; not all authorized programs can be fully implemented. In other words, the luxury of fully funding science and technology programs across the board has long since passed. We must set priorities.

VISION FOR THE FUTURE: HOW WE ENSURE FEDERAL SUPPORT FOR SCIENCE AND TECHNOLOGY

With the introduction of S. 1305, the Federal Research Investment Act, * * * a debate on funding for science and technology that is long overdue, and I commend them for it.

I firmly believe that Congress must reaffirm our national commitment to science and technology, and redouble its efforts to ensure that funding is not only maintained but increased. However, I also believe that funding levels alone are not the answer.

What we really need is a strategy for the future, a vision that not only provides adequate levels of funding, but ensures that that funding is both responsible and sustainable over the long term.

I believe we do that by establishing and applying a set of first or guiding principles that will enable Congress to (1) consistently ask the right questions about each competing technology program; (2) focus on that program's effectiveness and appropriateness for Federal funding, and most importantly, (3) make the hard choices about which programs deserve to be funded and which do not. Only then can we be assured that Congress has invested wisely and well.

What are these first principles? There are four.

(1) Federal R&D programs must be good science. They must be focused, not duplicative, and peer-reviewed. Because there is strength in diversity, they must support both knowledge-driven science—which broadens our base of knowledge and advances the frontiers of science; and mission-driven science requirements—which push the state-of-the-art in specific technology fields.

(2) Program must be fiscally accountable. Especially in today's fiscal environment, wasteful administrative habits can't be tolerated.

(3) They must have measurable results. Programs must achieve their aims. Their effectiveness must be evaluated, not on the basis of individual projects which can have varying rates of success, but on basis of the entire program.

(4) They must employ a consistent approach. Federal policy must be applied consistently across the entire spectrum of Federal research agencies. High quality, productive research programs must be encouraged regardless of where they are located.

Accompanying the four first principles, are four corollaries:

(1) *Flow of Technology.*—The process of creating technology involves many steps. However, the current federal structure clearly reinforces increasingly artificial distinctions across the spectrum of research and development activities. The result is a set of a programs which each support a narrow phase of research and development, but are not coordinated with one another.

Government must maximize its investment by encouraging the progression of a technology from the earliest stages of research up to commercialization, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit at each stage, so that promising technology is not lost in a bureaucratic maze.

(2 *Excellence in the American Research Infrastructure.*—We must foster a close relationship between research and education. Our investment at the university level creates more than simply world class research. It creates would class researchers as well. We must continue this strong research infrastructure, and find ways to extend the excellence of our university system to primary and secondary educational institutions.

(3) *Commitment to a Board Range of Research Initiatives.*—Revolutionary innovation is taking place at the overlap of research disciplines. We must continue to encourage this by providing opportunities for interdisciplinary projects and fostering collaboration across fields of research.

(4) *Partnerships among Industry, Universities, and Federal Labs.*—Each of these has special talents and abilities that complement the other. Our federal dollars are wisely spent by facilitating the creation of partnerships, in effect creating a whole that is greater than the sum of its parts.

These first principles and their four corollaries provide a framework that will not only guide the creation of new, federally-funded research and development programs, but validate existing ones. Taken together, they create a powerful method for elevating the debate by increasing Congress' ability to focus on the important issues; decreasing the likelihood that it will get sidetracked on politically-charged technicalities; and ensuring that federal R&D programs are consistent and effective. They will also help us establish a both consistent set of national goals, and a vision for the future.

S. 1305: A GOOD FIRST STEP, BUT A MORE COMPREHENSIVE APPROACH IS NEEDED

S. 1305 has put funding for science and technology at the forefront of the 105th Congress. It is an important first step in the creation of a long-term federal research and development strategy, and I wholeheartedly support its general concept and thrust. However, I believe it falls short in many of the areas I have just outlined.

In S. 1305, funding levels are dramatically increased within the first five years regardless of economic conditions—making funding targets unrealistic and unsustainable, particularly when those funding levels jeopardize discretionary programs necessary to the maintenance and operation of the nation.

The bipartisan bill I will propose with Senator Rockefeller will also substantially increase funding but more gradually. Rather than achieve a doubling of funds in 10 years as S. 1305 proposes, the First bill will achieve the same goal in 12 years.

My bill also requires the President to provide, as part of his annual budget, a detailed summary of the total level of federal funding for all civilian research agencies, as well as a focused strategy that reflects the funding projections of Congress for each future fiscal year until 2010.

S. 1305 provides Congress with no mechanism to identify or target those programs that are either marginal or ineffective. In keeping with the third principle that all federal R&D programs must be fiscally accountable, my bill will include a mechanism that requires OMB to indicate those programs that fail to meet a minimally acceptable criteria as defined by a National Academy of Science study.

Finally, S. 1305 effects only civilian research and development programs, and provides no support for highly successful defense science and technologies efforts such as those under DARPA. And, as I demonstrated in my earlier example, defense-related research has produced remarkable spinoffs in the private sector, the Internet being the most obvious example. Thus, in a companion bill, I will propose a similar strategy for increasing funding for defense-related R&D.

Even with its imperfections, S. 1305 is already a success—because it has commenced a debate on science and technology investment that is long overdue. And it is a debate I am committed to furthering.

LEGISLATIVE UPDATE

Accordingly, I commenced a process, which continues daily, through which I hope to examine all relevant approaches, and collect and compile the input of all federal research agencies, the scientific community, my distinguished colleagues in Congress and government, and all other relevant parties in an effort to construct a comprehensive, feasible and effective strategy for future federal funding of science and technology.

On April 28th, the Science, Technology, and Space Subcommittee which I chair, held a hearing to further explore the whole issue of federal funding, and three of the original cosponsors of S. 1305—Senators GRAMM, LIEBERMAN, and BINGAMAN—participated. Senator DOMENICI, who was unable to attend, submitted testimony for the RECORD.

At my direction, my personal chief of staff, and my Commerce Committee staff, have met extensively with professional societies, private industry, and university representatives, some of whom are here today, to get a clear sense of your reality, your vision of where research and development ought to be headed, and your reaction to both S. 1305 and a First alternative.

They've also been meeting with the senior legislative staffs of other Members to develop a strategy everyone is comfortable with, and that addresses everyone's primary concerns. And we've been meeting with House staff and coordinating our goals with those of the House Policy Study. The response has been very positive.

After comprehensive discussions my Senate colleagues have agreed to support a First alternative in which funding would rise from $34 billion to $68 billion. And all other parties seem to like the idea of a long-term vision, a concrete strategy to take us there (vs. rhetoric that is subject to change), and realistic numbers that stand a good chance of being achieved.

Your input into this process has been particularly important. Every time we meet, my staff and I gain a better understanding of the complexity of these issues as they relate to universities. And I hope you'll continue to work with us in the days ahead.

In the very near future, probably within a week or two, a Frist/Rockefeller bill, officially called the Federal Research Investment Act of 1998, will be dropped. It is a bill that represents—not a roadblock to increased federal funding for research—but a carefully-crafted compromise, agreed to by all, and representing the best efforts of all.

CHALLENGE OF THE FUTURE

Today, in every known field of exploration, man has answered questions once considered unanswerable, and questions impossible to even conceive just a short time ago. Yet so many mysteries remain. And so we must continue to seek, to define, to know.

Yet science today is not only about the esoteric; it's about the practical. It's about the simple as well as the deep. It is both a luxury and a necessity. Science helps us feed our families. It helps keep our loved ones healthy. By continually creating new goods and services, new jobs and new capital, it raises our standard of living. And it produces the technologies that protect our troops and project our resolve around the world. In other words, science has helped keep us prosperous, and science has helped keep us free.

Without a doubt, science is an integral part of our present. But because we live in a world now dependent upon science and technology excellence, a world driven by a science and technology economy, science is even more important to our future.

To a large extent, universities hold the key to that future because universities guide America's youth and inspire them to seek out the deep truths of life, to lift the veil from its fascinating secrets, to seek, to define, to know. It is the University that fosters a love for the mysteries of God and nature, and propels the next generation forward to explore and improve our world. And that makes you a vital link between the present and the future.

We are—and we should be—justly proud of our scientific accomplishments thus far. But if there is one thing science has taught us, it is that man's challenges only increase with every new level of knowledge we achieve. Which is why continued research and development is so important.

Expanding scientific knowledge is a responsibility that extends well beyond the classrooms and universities of our Nation. It is the responsibility of us all. As John F. Kennedy said, "Every educated citizen has the special obligation to encourage the pursuit of learning, to promote exploration of the unknown, to preserve the freedom of inquiry, [and to] to support the advancement of research . . ."

I take his words seriously. I know you do as well. Working together, I believe we can ensure that American commitment to research and scientific inquiry continues unabated in the years ahead.●

HONORING THE RETIREMENT OF COLONEL MARY TRIPP

● Ms. MOSELEY-BRAUN. Mr. President, it is my privilege to say a few words in honor of a native Illinoisan, Colonel Mary Tripp, who retired from the United States Air Force on June 1, 1998 after 23 years of proud service to our nation.

Colonel Tripp's final assignment in the Air Force was director of the program honoring the 50th anniversary of the service. The project was a blend of motivational and historic information, which under Colonel Tripp's direction both informed the general public and energized her fellow airmen. From the national recognition at the Tournament of Roses Parade to the Pentagon Cake Cutting Ceremony with President Clinton, the hard work and dedication of Colonel Tripp shined in every event. The distinguished history of the United States Air Force is a story every American should know. Under Colonel Tripp's direction, this story was told. Through the example Colonel Tripp set as an officer duirng her career, the Air Force's proud legacy will continue to grow.

As Colonel Tripp returns to private life in West Chicago, Illinois, I ask my colleagues to join me in commending her outstanding service to our nation, and wish her good luck and Godspeed in all of her future endeavors.●

RECOGNITION OF "FATHER'S MONTH"

● Mr. BOND. Mr. President, I rise today to recognize the new tradition of "Father's Month" in St. Louis, Missouri founded by Mayor Clarence Harmon. Being a father myself, I know the important role that a father's nurturing can make in a child's life. A father's influence can help a child grow into a healthy, happy, well-adjusted adult.

The purpose of "Father's Month" will be to encourage the community to actively work toward a common goal of fathers who take a larger role in the development of their children. I agree with Mayor Harmon that merely providing financial support is not enough. With the continuing efforts of St. Louis to promote events that teach positive family values and family togetherness, there is no telling how much the community can achieve. I offer Mayor Harmon and the community of St. Louis support and gratitude during "Father's Month." ●

REMEMBERING THE LIFE AND COMMITMENT OF ROBERT F. KENNEDY ON THE 30TH ANNIVERSARY OF HIS DEATH

• Mr. CLELAND. Mr. President, I rise today to honor the memory of one of our Nation's most compassionate and visionary leaders, Robert F. Kennedy, who was assassinated 30 years ago. He served our nation as Attorney General and United States Senator, but his impact on our nation's history cannot be measured by mere titles or the offices he held.

Although his life was cut short thirty years ago, his legacy will live on forever. Many of today's leaders were inspired by Bobby Kennedy—he inspired me to become involved in politics more than three decades ago. I had the privilege to meet Bobby Kennedy in the summer of 1965 at Stetson University. Shaking his hand forever changed my life. Now today in the Senate my desk is very close to his old desk on the Senate floor—close enough to always remind me of why I first got involved in politics.

Bobby Kennedy's philosophy was truly admirable. Bobby Kennedy was committed to equal opportunity for all. He displayed ceaseless devotion to the impoverished members of the American community, and pushed for decent wages and adequate healthcare for all. He knew the importance of protecting the well-being of our youth, and he fought to improve their education. Throughout his life, he worked toward a more just society.

His tragic death shocked and saddened the hearts of America. I was recovering from my injuries from Vietnam in Walter Reed Hospital the day I heard of his tragic death. I am sure many others have a similarly clear recollection of that day. We had lost a committed, warmhearted leader who we would never forget or replace.

Mr. President, I ask that you and my colleagues join me in remembering this admirable and courageous leader, who forever changed the history of this nation. Thirty years later, his memory and legacy live on. We continue to remember Robert F. Kennedy for his passion, courage and devotion, and will always do so.•

TRIBUTE TO AARON LOPEZ: NEW HAMPSHIRE'S 1998 STATE YOUTH OF THE YEAR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Aaron Lopez of Nashua, NH. Aaron was recently named the New Hampshire State Youth of the Year by the Boys and Girls Clubs of America.

The Youth of the Year program, in its 51st year, recognizes outstanding contributions to a member's family, school, community, and Boys and Girls Club, as well as personal challenges and obstacles overcome.

At the Club, Aaron has served as president of the Toastmasters, treasurer of the Keystone Club, a teen leadership group, and peer leader of Smart Moves, a drug and sex prevention program. Aaron, a senior at Nashua High School, is also active in his community. He participated in the Teen Institute, a leadership seminar to educate teens about drug and alcohol abuse, violence, teen pregnancy, and family and community issues. He is also organizing a program for Parents and Children Together (P.A.C.T.) to help families resolve conflicts.

For the first time, winners of the 1998 State Youth of the Year honors will receive scholarships for post-secondary education from popular television personality Oprah Winfrey. A nationwide fund drive, known as "Oprah's Angel Network," was announced by Oprah on her nationally-syndicated television program last fall.

Boys and Girls Clubs of America comprises a national network of close to 2,000 neighborhood-based facilities annually serving some three million young people, primarily from disadvantaged circumstances. Known as "The Positive Place for Kids," the Clubs provide guidance-oriented character development programs on a daily basis for children 6–18 years old, conducted by a full-time professional staff. Key Boys and Girls Club programs, such as Youth of the Year, emphasize character and leadership development, education and career enhancement, health and life skills, the arts, sports, fitness and recreation.

Aaron and other extraordinary young people from the Boys and Girls Clubs of America continue to keep alive the virtue of community service and inspire others to do the same. Their personal initiatives, dedicated service, and hard work have impacted the lives of many. In a time when young people seem to be less involved in their communities, these young Americans continue to defend and keep the spirit of community alive. I want to congratulate Aaron Lopez for his outstanding work and I am proud to represent him in the United States Senate.•

GENEROSITY OF ENTREPRENEURS LEADS WAY FOR SCHOOL CHOICE

• Mr. BROWNBACK. Mr. President, due to the generosity of two entrepreneurs, the children of Kansas City, Kansas have become eligible for a new privately funded scholarship program to provide low-income children the choice of private, parochial or public school.

Last October, Ted Forstmann and John Walton each contributed $3 million to create a fund for scholarships in Washington, D.C. Their programs were in such high demand—50,000 applications for 3,000 scholarships—that the two businessmen have decided to greatly expand the scope of their scholarship programs.

Yesterday, Mr. Forstmann and Mr. Walton joined together to announce the Children's Scholarship Fund, a foundation to award $200 million in scholarships to low-income children around the country, including Kansas. The Children's Scholarship Fund will partner with local entities in an effort to provide children the choice of private, parochial or public education.

I applaud the generosity of these two entrepreneurs, as well as urge corporate America to follow their lead and aid this effort in their own cities. I also hope that the eligible cities will do all they can to work with the Children's Scholarship Fund, which next year will send at least 50,000 low-income children to the schools of their choice.•

AUTHORIZATION THE TAKING OF A PHOTOGRAPH IN THE SENATE CHAMBER

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 246 submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 246) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Ms. COLLINS. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken off the United States Senate in actual session on a date and time to be announced by the Majority Leader after consultation with the Democratic Leader.

SEC. 2. The Sergeant of Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

ACKNOWLEDGING 1998 AS THE INTERNATIONAL YEAR OF THE OCEAN

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 405, House Concurrent Resolution 131.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 131) acknowledging 1998 as the International Year of the Ocean and expressing the sense of the Congress regarding the ocean.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment.

Ms. COLLINS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the resolution be agreed to, the amendment to the preamble be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 131), as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution (H. Con. Res. 131), as amended, together with its preamble, as amended, is as follows:

Resolved, That the resolution from the House of Representatives (H. Con. Res. 131) entitled "Concurrent resolution acknowledging 1998 as the International Year of the Ocean and expressing the sense of the Congress regarding the ocean.", do pass with the following amendments:

Strike out all after the resolving clause and insert:

That it is the sense of the Congress that—

(1) the ocean is of paramount importance to the economic future, environmental quality, and national security of the United States;

(2) the United States has a responsibility to exercise and promote comprehensive stewardship of the ocean and the living marine resources it contains; and

(3) Federal agencies are encouraged to take advantage of the International Year of the Ocean in 1998, to—

(A) review United States oceanography and marine resource management policies and programs;

(B) identify opportunities to streamline, better direct, and increase interagency cooperation in oceanographic research and marine resource management policies and programs;

(C) identify opportunities to further cooperation between the United States and other nations to enhance oceanographic research and exploration, and to strengthen international marine resource conservation policies and programs;

(D) in cooperation with academic institutions, nongovernmental organizations, and industry, develop scientific, educational, and resource management programs which will advance the exploration of the ocean, the conservation of marine habitats and species, and the sustainable use of ocean resources; and

(E) encourage participation in State, local, and private initiatives and programs that use education and the arts to increase public awareness of the ocean and the many benefits that it provides, and to foster understanding of the need to conserve and sustainably manage ocean resources.

Strike out the preamble and insert:

Whereas the ocean, which comprises nearly three quarters of the Earth's surface, sustains a large part of the Earth's biodiversity, provides an important source of food, and interacts with and affects global weather and climate;

Whereas the ocean is critical to national security, is the common means of transportation among coastal nations, and carries 95 percent of the United States foreign trade;

Whereas the ocean and sea floor contain vast energy and mineral resources that are critical to the economy of the United States and the world;

Whereas ocean resources are limited and susceptible to change as a direct and indirect result of human activities, and such changes can impact the ability of the ocean to provide the benefits upon which the Nation depends;

Whereas the vast majority of the deep ocean is unexplored and unknown, and the ocean is truly the last frontier on Earth for science and civilization;

Whereas there exists significant promise for the development of new ocean technologies for stewardship of ocean resources that will contribute to the economy through business and manufacturing innovations and the creation of new jobs;

Whereas any nation's use or misuse of ocean resources has effects far beyond that nation's. borders;

Whereas it has been 30 years since the Commission on Marine Science, Engineering, and Resources (popularly known as the Stratton Commission) met to examine the state of United States ocean policy and issued recommendations that led to the present Federal structure for oceanography and marine resources management;

Whereas recent public opinion polls indicate that a large majority of Americans consider the condition of the oceans to be important, and that a large majority rate the overall health of the oceans negatively; and

Whereas the United Nations has declared 1998 to be the International Year of the Ocean, and in order to observe this occasion, the National Oceanic and Atmospheric Administration and other Federal agencies, in cooperation with organizations concerned with ocean science and marine resources, have resolved to promote exploration, utilization, conservation, and public awareness of the ocean: Now, therefore, be it

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FEDERAL REPORTS ELIMINATION ACT OF 1998

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 363, S. 1364.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1364) to eliminate unnecessary and wasteful Federal reports.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Reports Elimination Act of **[**1997**]** *1998*".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—DEPARTMENT OF AGRICULTURE

Sec. 101. Reports eliminated.

TITLE II—DEPARTMENT OF DEFENSE

Sec. 201. Reports eliminated.

TITLE III—EDUCATION

Sec. 301. Report eliminated.

TITLE IV—DEPARTMENT OF ENERGY

Sec. 401. Reports eliminated.
Sec. 402. Reports modified.

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

Sec. 501. Reports eliminated.
[Sec. 502. Reports modified.**]**

TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 601. Reports eliminated.
Sec. 602. Reports modified.

TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 701. Reports eliminated.

TITLE VIII—INDIAN AFFAIRS

Sec. 801. Reports eliminated.

TITLE IX—DEPARTMENT OF THE INTERIOR

Sec. 901. Reports eliminated.
Sec. **[**901.**]** 902. Reports modified.

TITLE X—DEPARTMENT OF JUSTICE

Sec. 1001. Reports eliminated.

TITLE XI—NASA

Sec. 1101. Reports eliminated.

TITLE XII—NUCLEAR REGULATORY COMMISSION

Sec. 1201. Reports eliminated.
Sec. 1202. Reports modified.

TITLE XIII—OMB, OPM, AND GSA

Sec. 1301. OMB.
Sec. 1302. OPM.
Sec. 1303. GSA.

TITLE XIV—TRADE

Sec. 1401. Reports eliminated.

TITLE XV—DEPARTMENT OF TRANSPORTATION

Sec. 1501. Reports eliminated.
Sec. 1502. Reports modified.

TITLE XVI—NOAA

Sec. 1601. Reports eliminated.

TITLE I—DEPARTMENT OF AGRICULTURE

SEC. 101. REPORTS ELIMINATED.

(a) SECONDARY MARKET OPERATIONS.—Section 338(b) of the Consolidated Farm and Rural Development Act (as redesignated by section 749(a)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1988(b))) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

(b) PILOT PROGRAMS TO TEST MEASUREMENT OF NUTRITIONAL STATUS OF LOW-INCOME HOUSEHOLDS.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (c).

(c) ESTIMATE OF SECOND PRECEDING MONTH'S EXPENDITURES UNDER FOOD STAMP PROGRAM.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking the third and fourth sentences.

(d) Advisory Committees.—Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2284) is repealed.

(e) Farmer-to-Consumer Direct Marketing Act of 1976.—

(1) In general.—Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is repealed.

(2) Conforming amendment.—Section 7(a) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3006(a)) is amended by striking "the provisions of sections 4 and 6" and inserting "section 4".

(f) Agricultural Research at Land-Grant Colleges.—Section 1445(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(g)) is amended by striking paragraph (4).

(g) Foreign Ownership of Agricultural Land.—Section 5 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504) is repealed.

(h) Sugar Price Increases.—Section 6 of Public Law 96–236 (7 U.S.C. 3606) is repealed.

(i) Housing Preservation Grant Program.—Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended by striking subsection (j).

(j) National Advisory Council on Maternal, Infant, and Fetal Nutrition.—Section 17(k) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(k)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

TITLE II—DEPARTMENT OF DEFENSE

SEC. 201. REPORTS ELIMINATED.

(a) Notifications of Conversion of Heating Facilities at Installations in Europe.—Section 2690(b) of title 10, United States Code, is amended by striking out "unless the Secretary—" and all that follows through the end of the subsection and inserting in lieu thereof "unless the Secretary determines that the conversion—

"(1) is required by the government of the country in which the facility is located; or

"(2) is cost effective over the life cycle of the facility.".

(b) Notifications of Disagreements Regarding Availability of Alternative Housing.—Section 2823 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

TITLE III—EDUCATION

SEC. 301. REPORT ELIMINATED.

Section 1411 of the Higher Education Amendments of 1992 is repealed.

TITLE IV—DEPARTMENT OF ENERGY

SEC. 401. REPORTS ELIMINATED.

(a) Nuclear Test Ban Readiness Report.—Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note), is amended by striking subsection (e).

(b) Report on Resumption of Plutonium Operations at Rocky Flats.—Section 3133 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1574) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsection (e) as subsection (c).

(c) Report on Potential for Hydropower Development, Utilizing Tidal Currents.—The first section of the Act of August 30, 1935 (49 Stat. 1028, chapter 831), as amended by section 2409 of the Energy Policy Act of 1992 (106 Stat. 3101), is amended by striking "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal currents;".

(d) Electric Utility Participation Study.—Section 625 of the Energy Policy Act of 1992 (42 U.S.C. 13295) is repealed.

(e) Report on Steel and Aluminum Research and Development Activities.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

(1) by striking section 8 (15 U.S.C. 5107); and

(2) by redesignating sections 9, 10, and 11 (15 U.S.C. 5108, 5109, and 5110) as sections 8, 9, and 10, respectively.

(f) Report on Metal Casting Research and Development Activities.—Section 10 of the Department of Energy Metal Casting Competitiveness Research Act of 1990 (15 U.S.C. 5309) is repealed.

(g) Biennial Update to the National Advanced Materials Initiative 5-Year Program Plan.—Section 2201(b) of the Energy Policy Act of 1992 (42 U.S.C. 13501(b)) is amended by striking the second sentence.

(h) Report on Vibration Reduction Technologies.—Section 173(c) of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13451 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(i) Report on Process-Oriented Industrial Energy Efficiency.—Section 132 of the Energy Policy Act of 1992 (42 U.S.C. 6349) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(j) Report on Industrial Insulation and Audit Guidelines.—Section 133 of the Energy Policy Act of 1992 (42 U.S.C. 6350) is amended by striking subsection (c).

(k) Report Evaluation of Opportunities for Energy Efficient Pollution Prevention.—Section 2108 of the Energy Policy Act of 1992 (42 U.S.C. 13457) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(l) Report on Continental Scientific Drilling Program.—Section 4 of the Continental Scientific Drilling and Exploration Act (Public Law 100–441; 43 U.S.C. 31 note) is amended—

(1) by adding "and" at the end of paragraph (4);

(2) by striking "; and" at the end of paragraph (5) and inserting a period; and

(3) by striking paragraph (6).

(m) Report on Coal Research, Development, Demonstration, and Commercialization Projects.—Section 1301 of the Energy Policy Act of 1992 (42 U.S.C. 13331) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(n) Report on the Use of Energy Futures for Fuel Purchases.—Section 3014 of the Energy Policy Act of 1992 (42 U.S.C. 13552) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(o) Report on Implementation of the Alaska Federal Civilian Energy Efficiency Swap Act of 1980.—Section 6 of the Alaska Federal Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is repealed.

(p) Report on Major National Security Programs.—Section 3143 of the National Defense Authorization Act, fiscal years 1990 and 1991 (42 U.S.C. 7271a) is repealed.

SEC. 402. REPORTS MODIFIED.

[(a) Report on Major National Security Programs.—Section 3143 of the National Defense Authorization Act, Fiscal Years 1990 and 1991 (42 U.S.C. 7271a) is amended by striking subsections (b), (c), and (d) and inserting the following:

["(b) Information To Be Included in the President's Annual Budget Request.—With respect to each major Department of Energy national security program, the President shall include in each annual budget request under section 1105 of title 31, United States Code—

["(1) a description of the program, the purpose of the program, and the relationship of the program to the mission of the national security program of the Department of Energy;

["(2) the program schedule, including estimated annual costs; and

["(3) a comparison of the then-current schedule and cost estimates with previous schedules and cost estimates and an explanation of the changes.".

[(b)] *(a)* Report on Plan for Electric Motor Vehicles.—Section 2025(b) of the Energy Policy Act of 1992 (42 U.S.C. 13435(b)) is amended—

(1) in the second sentence of paragraph (1), by striking "annually" and inserting "biennially"; and

(2) in the second sentence of paragraph (4), by striking "Annual" and inserting "Biennial".

(c) *(b)* Coke Oven Production Technology Study.—Section 112(n)(2)(C) of the Clean Air Act (42 U.S.C. 7412(n)(2)(C)) is amended by striking "The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study" and inserting "On completion of the study, the Secretary shall submit to Congress a report on the results of the study and".

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

SEC. 501. REPORTS ELIMINATED.

(a) Report on Conditional Registration of Pesticides.—

(1) In general.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(A) by striking section 29 (7 U.S.C. 136w–4); and

(B) by redesignating sections 30 and 31 (7 U.S.C. 136x and 136y) as sections 29 and 30, respectively.

(2) Conforming amendments.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(A) by striking the item relating to section 29; and

(B) by redesignating the items relating to sections 30 and 31 as the items relating to sections 29 and 30, respectively.

(b) Report on Implementation of Toxic Substances Control Act.—

(1) In general.—The Toxic Substances Control Act is amended—

(A) by striking section 30 (15 U.S.C. 2629); and

(B) by redesignating section 31 (Public Law 94–469; 15 U.S.C. 2601 note) as section 30.

(2) Conforming amendments.—

(A) The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

(i) by striking the item relating to section 30; and

(ii) by redesignating the item relating to section 31 as the item relating to section 30.

(B) The second sentence of section 9(d) of the Toxic Substances Control Act (15 U.S.C.

2608(d)) is amended by striking ", in the report required by section 30,".

(c) Report on Effect of Pollution on Estuaries and Estuarine Zones.—

(1) In general.—Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(2) Conforming amendment.—Section 320(k) of the Federal Water Pollution Control Act (33 U.S.C. 1330(k)) is amended by striking "section 104(n)(4)" and inserting "section 104(n)(3)".

(d) Clean Lakes Report.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(e) Report on Nonpoint Source Management Programs.—Section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) is amended—

(1) in subsection (i), by striking paragraph (4);

(2) by striking subsection (m); and

(3) by redesignating subsection (n) as subsection (m).

(f) Report on Measures Taken To Meet Objectives of Federal Water Pollution Control Act.—

(1) In general.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) is amended—

(A) by striking subsections (a), (b)(2), (c), (d), and (e);

(B) by striking "(b)(1)"; and

(C) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(2) Conforming amendments.—

(A) Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended—

(i) in subsection (a)(5), by striking "in the report required under subsection (a) of section 516" and inserting "not later than 90 days after the date of convening of each session of Congress"; and

(ii) in the first sentence of subsection (o)(2), by striking "in the report required under subsection (a) of section 516" and inserting "not later than 90 days after the date of convening of each session of Congress".

(B) The fourth sentence of section 116(b) of the Federal Water Pollution Control Act (33 U.S.C. 1266(b)) is amended by striking "section 616(b) of this Act" and inserting "section 516".

(C) The last sentence of section 205(a) of the Federal Water Pollution Control Act (33 U.S.C. 1285(a)) is amended by striking "section 516(b)" and inserting "section 516".

(D) The second sentence of section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is amended by striking "shall be included in the report required under section 516(a) of this Act" and inserting "shall be reported to Congress not later than 90 days after the date of convening of each session of Congress".

(g) Report on Safe Drinking Water Act Costs of Compliance.—Section 1442(a)(3) of the Public Health Service Act (42 U.S.C. 300j-1(a)(3)) is amended—

(1) in subparagraph (A), by striking "(A)"; and

(2) by striking subparagraph (B).

(h) Analysis of Alternative Motor Vehicle Fuels Use on Environment.—Section 400EE of the Energy Policy and Conservation Act (42 U.S.C. 6374d) is repealed.

(i) Comprehensive Report on Activities of Office of Solid Waste.—

(1) In general.—The Solid Waste Disposal Act is amended—

(A) by striking section 2006 (42 U.S.C. 6915); and

(B) by redesignating section 2008 (42 U.S.C. 6917) as section 2006 and moving the section to appear after section 2005.

(2) Conforming amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

(A) by striking the item relating to section 2006; and

(B) by redesignating the item relating to section 2008 as the item relating to section 2006 and moving the item to appear after the item relating to section 2005.

(j) Study of Environmental Problems Associated With Improper Disposal or Reuse of Oil.—Section 9 of the Used Oil Recycling Act of 1980 (Public Law 96–463; 94 Stat. 2058) is repealed.

(k) Report on State and Local Training Needs and Obstacles to Employment in Solid Waste Management and Resource Recovery.—Section 7007 of the Solid Waste Disposal Act (42 U.S.C. 6977) is amended by striking subsection (c).

(l) Interim Report of National Advisory Commission on Resource Conservation and Recovery.—Section 33(a) of the Solid Waste Disposal Act Amendments of 1980 (Public Law 96–482, 94 Stat. 2356; 42 U.S.C. 6981 note) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(m) Final Report on Medical Waste Management.—

(1) In general.—The Solid Waste Disposal Act is amended—

(A) by striking section 11008 (42 U.S.C. 6992g); and

(B) by redesignating sections 11009 through 11012 (42 U.S.C. 6992h through 6992k) as sections 11008 through 11011, respectively.

(2) Conforming amendments.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

(A) by striking the item relating to section 11008; and

(B) by redesignating the items relating to sections 11009 through 11012 as the items relating to sections 11008 through 11011, respectively.

(n) Report on Status of Demonstration Program To Test Methods and Technologies of Reducing or Eliminating Radon Gas.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499; 42 U.S.C. 7401 note) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(o) Report on Canadian Acid Rain Control Program.—Section 408 of the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes", approved November 15, 1990 (commonly known as the "Clean Air Act Amendments of 1990") (Public Law 101–549; 42 U.S.C. 7651 note), is repealed.

(p) Biennial Pollution Prevention Report.—The Pollution Prevention Act of 1990 is amended—

(1) by striking section 6608 (42 U.S.C. 13107); and

(2) by redesignating sections 6609 and 6610 (42 U.S.C. 13108 and 13109) as sections 6608 and 6609, respectively.

[SEC. 502. REPORTS MODIFIED.

[The first sentence of section 112(m)(5) of the Clean Air Act (42 U.S.C. 7412(m)) is amended by striking "Within 3 years of the date of enactment of the Clean Air Act Amendments of 1990 and biennially thereafter," and inserting "Not later than November 15, 1997, and every 4 years thereafter,".]

TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 601. REPORTS ELIMINATED.

(a) Repeals.—

(1) Public health service act.—The following provisions of the Public Health Service Act (42 U.S.C. 201 et seq.) are repealed:

(A) Section 376 (42 U.S.C. 274d) relating to the biennial report on the scientific and clinical status of organ transplantation.

(B) Section 403 (42 U.S.C. 283) relating to the biennial report of the Director of the National Institutes of Health.

(C) Paragraph (4) of section 408(a) (42 U.S.C. 284c(a)(4)) relating to the annual report of the National Institutes of Health on administrative expenses.

(D) Subsection (c) of section 429 (42 U.S.C. 285c–3(c)) relating to the annual report of the Diabetes Mellitus Interagency Coordinating Committee, the Digestive Diseases Interagency Coordinating Committee, and National Kidney and Urologic Diseases Interagency Coordinating Committee.

(E) Subsection (j) of section 430 (42 U.S.C. 285c–4(j)) relating to the annual reports of the National Diabetes Advisory Board, the National Digestive Diseases Advisory Board, and the National Kidney and Urologic Diseases Advisory Board.

(F) Subsection (c) of section 439 (42 U.S.C. 285d–4(c)) relating to the annual report by the Arthritis and Musculoskeletal and Skin Diseases Interagency Coordinating Committee.

(G) Subsection (j) of section 442 (42 U.S.C. 285d–7(j)) relating to the annual report by the Arthritis and Musculoskeletal and Skin Diseases Advisory Board.

(H) Subsection (b) of section 494A (42 U.S.C. 289c–1(b)) relating to the report on health services research.

(I) Paragraph (3) of section 501(e) (42 U.S.C. 290aa(e)(2)) relating to the report of the Substance Abuse and Mental Health Services Administration.

(J) Subsection (b) of section 503 (42 U.S.C. 290aa–2(b)) relating to the triennial report on drug abuse.

(K) Section 1009 (42 U.S.C. 300a–6a) relating to the family planning and population research report.

(L) Section 1122 (42 U.S.C. 300c–12) relating to the sudden infant death syndrome research report.

(M) Section 2104 (42 U.S.C. 300aa–4) relating to the National Vaccine Program report.

(2) Other acts.—The following provisions are repealed:

(A) Section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) relating to the annual report on the administration of the Radiation Control for Health and Safety program.

(B) Section 304 of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q–3) relating to the report of the Task Force on Aging Research.

(C) Section 1901 of the NIH Revitalization Act of 1993 (42 U.S.C. 285f–1 note) relating to the report of the research activities concerning chronic fatigue syndrome.

(D) Paragraph (7) of section 1881(f) of the Social Security Act (42 U.S.C. 1395rr(c)(7)) relating to the report on end-stage renal disease.

(E) Section 402 of the Indian Health Care Improvement Act (42 U.S.C. 1395qq note) relating to the tribal organization demonstration program for direct billing of medicare, medicaid, and other third party payors.

(F) Section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) relating to the report of the Public Health Service.

(G) Subsection (d) of section 719 of the Indian Health Care Amendments of 1988 (Public Law 100–713; 102 Stat. 4838) relating to the impact of the final rule relating to eligibility for health care services of the Indian Health Service.

(b) Social Security Act and Related Provisions.—

(1) Section 8403(b) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647; 102 Stat. 3799) is repealed.

(2) Section 4207(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–120) (42 U.S.C. 1395x note) is repealed.

(3) Section 9601(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272; 100 Stat. 222) (42 U.S.C. 1395b note) is repealed.

(4) Section 6003(i) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2158) (42 U.S.C. 1395ww note) is repealed.

(5) Section 6102(d)(4) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2185) (42 U.S.C. 1395w–4 note) is repealed.

(6) Section 1882(l)(6) of the Social Security Act (42 U.S.C. 1395ss(l)(6)) is repealed.

[(7) Section 4801(e)(17)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–218) (42 U.S.C. 1396r note) is amended by striking "January 1, 1992" and inserting "January 1, 1999".

[(8) Section 4360(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–140) (42 U.S.C. 1395b–4) is amended by striking "Not later than 180 days after [the date of the enactment of this section" and inserting "Beginning with 1992".]

(7) [(9)] Section 4056(d) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–99) (42 U.S.C. 1395l note) (as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360; 102 Stat. 781)) is repealed.

[(c) Amendment.—]

SEC. 602. REPORTS MODIFIED.

(a) Indian Health.—Subsection (e) of section 513 of the Indian Health Care Improvement Act (25 U.S.C. 1660c(e)) is amended by striking "two years" and inserting "5 years".

(b) Social Security Act.—

(1) Section 4801(e)(17)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–218) (42 U.S.C. 1396r note) is amended by striking "January 1, 1992" and inserting "January 1, 1999".

(2) Section 4360(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–140) (42 U.S.C. 1395b–4) is amended by striking "Not later than 180 days after the date of the enactment of this section" and inserting "Beginning with 1992".

TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 701. REPORTS ELIMINATED.

[(a) Notification of Proposed Grant Contract or Cooperative Agreement Relating to Discriminatory Housing Practices.—Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking the subsection designation and all that follows through "(2) The Secretary" and inserting the following:

["(b) Quarterly Reports.—The Secretary".

[(b)] *(a)* Federal Activities Under Solar Heating and Cooling Demonstration Act of 1974.—Section 12 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510) is amended by striking subsection (d).

[(c)] *(b)* Funding Relating to Evaluating and Monitoring Programs.—Section [7] 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

[(d)] *(c)* State and Local Strategies for Removal of Barriers to Affordable Housing.—Section 1207 of the Housing and Community Development Act of 1992 (42 U.S.C. 12705a note) is repealed.

[(e)] *(d)* Comprehensive Review and Evaluation of Homeless Assistance Programs.—Section 1409 of the Housing and Community Development Act of 1992 (42 U.S.C. 11361 note) is amended—

(1) by striking "(a) In General.—"; and

(2) by striking subsection (b).

[(f)] *(e)* Neighborhood Redevelopment Program.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

[(g)] *(f)* Homeownership Demonstration Program.—Section 132 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3712) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

[(h)] *(g)* Rural Rental Rehabilitation Demonstration.—Section 311 of the Housing and Community Development Act of 1987 (42 U.S.C. 1490m note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

[(i) Community Development Program.—Section 113 of the Housing and Community Development Act of 1974 (42 U.S.C. 5313) is repealed.

[(j)] *(h)* Summary of Activities Under New Town Demonstration.—Section 1108 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended by striking "the following" and all that follows before the period at the end of the section and inserting the following: "a copy of the new town plan of the governing board, upon the approval of that plan under section 1102(d)".

TITLE VIII—INDIAN AFFAIRS

SEC. 801. REPORTS ELIMINATED.

(a) Indian Child Protection and Family Violence Prevention Report.—Section 412 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3211) is repealed.

(b) Reports Under the Indian Financing Act of 1974.—

(1) Adjustment or cancellation of obligations related to the indian revolving loan fund.—Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is repealed.

(2) Indian loan guaranty and insurance fund deficiencies.—Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking subsection (f).

(c) Education Amendments of 1978.—

(1) Report on demonstration projects.—Section 1121(h) of the Education Amendments of 1978 (25 U.S.C. 2001(h)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(2) National criteria for dormitory situations.—Section 1122(d) of the Education Amendments of 1978 (25 U.S.C. 2002(d)) is amended by striking paragraph (3).

(3) Positions contracted under grants of post-differential authority in the bia schools.—Section 1132(h)(3)(B) of the Education Amendments of 1978 (25 U.S.C. 2012(h)(3)(B)) is amended by striking clause (iii).

(4) Report.—Section 1137 of the Education Amendments of 1978 (25 U.S.C. 2017) is amended—

(A) by striking the section heading and inserting the following:

"SEC. 1137. BIENNIAL REPORT.";

and

(B) in the first sentence of subsection (a)—

(i) by striking "annual report" and inserting "biennial report"; and

(ii) by striking "during the year" and inserting "during the 2-year period covered by the report".

(5) Regulations.—Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is repealed.

(6) Technical correction.—Section 605(b)(2) of the School-to-Work Opportunity Act of 1994 (20 U.S.C. 6235(b)(2)) is amended by striking "(as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3))" and inserting "(as defined in section 1146(3) of the Education Amendments of 1978 (25 U.S.C. 2026(3))".

(d) Tribally Controlled Schools Act of 1988.—Section 5026 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505) is amended by striking subsection (g).

(e) Public Law 96–135.—Section 2 of Public Law 96–135 (25 U.S.C. 472a) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(3) in subsection (d), as so redesignated—

(A) by striking paragraph (2); and

(B) by striking "(1) The Office" and inserting "The Office".

(f) Native Americans Educational Assistance Act.—Section 4 of the Native Americans Educational Assistance Act (25 U.S.C. 2001 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(g) Indian Self-Determination and Education Assistance Act.—Section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (o) as subsections (c) through (m), respectively.

TITLE IX—DEPARTMENT OF THE INTERIOR

SEC. 901. REPORTS ELIMINATED.

(a) Pacific Yew Act.—The Pacific Yew Act (16 U.S.C. 4801 et seq.) is repealed.

(b) Size and Condition of the Tule Elk Herd in California.—

(1) Repeal.—Section 3 of Public Law 94–389 (16 U.S.C. 673f) is repealed.

(2) Redesignation.—Section 4 of Public Law 94–389 (16 U.S.C. 673g) is redesignated as section 3.

(c) Reviews and Extensions of Withdrawals of Lands.—Section 204(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714(f)) is amended by striking the second sentence.

(d) Status of the Wild Free-Roaming Horse and Burro Program.—Section 11 of

Public Law 92-195 (16 U.S.C. 1340) is amended by striking the first undesignated paragraph.

(e) Status of the Wilderness System.—Section 7 of the Wilderness Act (16 U.S.C. 1136) is repealed.

(f) Water Quality of the Sacramento-San Joaquin Delta and San Francisco Bay Estuarine Systems.—Section 4 of Public Law 96-375 (94 Stat. 1506) is amended by striking the second sentence.

(g) Colorado River Floodway Maps.—Section 5(b) of the Colorado River Floodway Protection Act (43 U.S.C. 1600c(b)) is amended—

(1) by striking "(b)(1)" and inserting "(b)";

(2) by striking paragraphs (2) and (3); and

(3) by redesignating clauses (i) and (ii) as paragraphs (1) and (2), respectively.

(h) Certification of Adequate Soil Survey of Land Classification.—

(1) The first section of title I of the Interior Department Appropriation Act, 1953, is amended in the matter under the heading "CONSTRUCTION AND REHABILITATION" under the heading "BUREAU OF RECLAMATION" (66 Stat. 451) by striking ": *Provided further*, That no part of this or any other appropriation" and all that follows through "means of irrigation".

(2) The first section of title I of the Interior Department Appropriation Act, 1954" (43 U.S.C. 390a; 67 Stat. 266) is amended—

(A) in the matter under the heading "CONSTRUCTION AND REHABILITATION" under the heading "Bureau of Reclamation", by striking ": *Provided further*, That no part of this or any other appropriation" and all that follows through "demonstrated in practice"; and

(B) by striking "Such surveys shall include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows." (as added by section 10 of the Garrison Diversion Unit Reformulation Act of 1986 (100 Stat. 426)).

(i) Claims Submitted From the Teton Dam Failure.—Section 8 of Public Law 94-400 (90 Stat. 1213) is repealed.

(j) Study of the Feasibility and Suitability of Establishing Niobrara-Buffalo Prairie National Park.—

(1) Repeal.—Section 8 of the Niobrara Scenic River Designation Act of 1991 (Public Law 102-50; 16 U.S.C. 1a-5 note) is repealed.

(2) Redesignation.—Section 9 of the Act (Public Law 102-50; 105 Stat. 258) is redesignated as section 8.

(k) Study of Route 66.—The Route 66 Study Act of 1990 (Public Law 101-400; 104 Stat. 861) is repealed.

(l) Report on Anthracite Mine Water Control and Mine Sealing and Filling Program.—The Act entitled "An Act to provide for the conservation of anthracite coal resources through measures of flood control and anthracite mine drainage, and for other purposes", approved July 15, 1955, is amended—

(1) by striking section 5 (30 U.S.C. 575); and

(2) by redesignating section 6 (30 U.S.C. 576) as section 5.

(m) Audit of Federal Royalty Management System.—

(1) In general.—Section 302 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1752) is amended—

(A) in subsection (a), by striking "(a)"; and

(B) by striking subsection (b).

(2) Conforming amendment.—Section 304(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1753(c)) is amended by striking "Except as expressly provided in subsection 302(b), nothing" and inserting "Nothing".

(n) Report on Bidding Options for Oil and Gas Leases on Outer Continental Shelf Land.—Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking paragraph (9).

(o) Reports on Outer Continental Shelf Leasing and Production Program and Promotion of Competition in Leasing.—

(1) In general.—Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1343) is repealed.

(2) Conforming amendment.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by striking subsection (g).

(p) Audit of Financial Report of Governor of Guam.—The sixth undesignated paragraph of section 6 of the Organic Act of Guam (48 U.S.C. 1422) is amended by striking the third and fifth sentences.

(q) Audit of Financial Report of Governor of the Virgin Islands.—The fourth undesignated paragraph of section 11 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1591) is amended by striking the third and fifth sentences.

(r) Audit of Financial Report of Governor of American Samoa.—Section 501(a) of Public Law 96-205 (48 U.S.C. 1668(a)) is amended by striking the third and fifth sentences.

(s) Audit of Financial Report of Chief Executives of Certain Territories.—Section 5 of Public Law 92-257 (48 U.S.C. 1692) is amended by striking the third and fifth sentences.

(t) Report on Activities Under Helium Act.—Section 16 of the Helium Act (50 U.S.C. 167n) is repealed.

(u) Report on Contract Awards Made To Facilitate National Defense.—

(1) In general.—Public Law 85-804 is amended—

(A) by striking section 4 (50 U.S.C. 1434); and

(B) by redesignating section 5 (50 U.S.C. 1435) as section 4.

(2) Conforming amendment.—Section 501(a)(6) of the National Emergencies Act (50 U.S.C. 1651(a)(6)) is amended by striking "1431–1435" and inserting "1431 et seq.".

SEC. 902. REPORTS MODIFIED.

(a) Recommendations on Prospective Timber Sales.—The first sentence of section 318(h) of Public Law 101-121 (103 Stat. 750) is amended by striking "a monthly basis" and inserting "an annual basis".

(b) Report on Nationwide Geologic Mapping Program.—Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended—

(1) in the section heading, by striking "ANNUAL" and inserting "BIENNIAL"; and

(2) in the first sentence—

(A) by striking "each fiscal year, submit an annual report" and inserting "each second fiscal year, submit a biennial report"; and

(B) by striking "preceding fiscal year" and inserting "2 preceding fiscal years".

TITLE X—DEPARTMENT OF JUSTICE

SEC. 1001. REPORTS ELIMINATED.

(a) Emergency Law Enforcement Assistance Report.—Section 609U of the Justice Assistance Act of 1984 (42 U.S.C. 10509) is repealed.

(b) Immigration and Nationality Act.—The Immigration and Nationality Act is amended—

(1) in section 103 (8 U.S.C. 1103(d)), by striking subsection (d);

(2) in section 214(c) (8 U.S.C. 1184(c)), by striking paragraph (8);

(3) in section 286 (8 U.S.C. 1356)—

(A) by striking subsection (l) and inserting the following:

"*(l)* [Reserved].";

(B) in subsection (q)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraph (5) as paragraph (4); and

(C) in subsection (r)—

(i) by striking paragraph (5); and

(ii) by redesignating paragraph (6) as paragraph (5); and

(4) in section 344(f) (8 U.S.C. 1455(f))—

(A) by striking "(f)(1) The Attorney General" and inserting "(f) The Attorney General"; and

(B) by striking paragraph (2).

(c) Immigration and Naturalization Document Security Report.—Section 5 of the Immigration Nursing Relief Act of 1989 (8 U.S.C. 1324a note) is amended by striking subsection (d) and inserting the following:

"(d) [Reserved].".

(d) Diversion Control Fee Account Report.—Section 111(b) of the Departments of Commerce, Justice, and State, and the Judiciary, and Related Agencies Appropriations Act, 1993 (21 U.S.C. 886a(b)) is amended by striking paragraph (5).

(e) Asset Forfeiture Report.—Section 524(c) of title 28, United States Code, is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) through (12) as paragraphs (6) through (11), respectively.

(f) Civil Financial Institutions Reform, Recovery, and Enforcement Act Report.—Section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833) is repealed.

(g) Damage Settlement Report.—Section 3724 of title 31, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(h) Banking Law Offense Report.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(i) Banking Law Offense Rewards Report.—Section 2571 of the Crime Control Act of 1990 (12 U.S.C. 4211) is repealed.

(j) Banking Institutions Soundness Report.—Section 1542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1831m-1) is repealed.

TITLE XI—NASA

SEC. 1101. REPORTS ELIMINATED.

(a) Contingent Liability.—Section 6 of the National Aeronautics and Space Administration Authorization Act, 1978 (42 U.S.C. 2463) is repealed.

(b) Activities of the National Space Grant and Fellowship Program.—Section 212 of the Land Remote-Sensing Commercialization Amendments of 1987 (42 U.S.C. 2486j) is repealed.

(c) Notification of Procurement of Long-Lead Materials for Solid Rocket Monitors on Other Than Cooperative Basis.—Section 121 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 869) is amended by striking subsection (d).

(d) Contracts To Facilitate the National Defense.—

(1) In general.—Section 1434 of title 50, United States Code, is repealed.

(2) Conforming amendment.—The table of sections for chapter 29 of title 50, United

States Code, is amended by striking the item relating to section 1434.

(e) Capital Development Plan for Space Station Program.—Section 107 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 864) is repealed.

(f) Certification Relating to Payloads.—Section 112 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (42 U.S.C. 2465a) is amended by striking subsections (c) and (d).

(g) Notice of Modification of NASA.—

(1) 1985 Act.—Section 103 of the National Aeronautics and Space Administration Authorization Act, 1985 (98 Stat. 424) is repealed.

(2) 1986 Act.—Section 103 of the National Aeronautics and Space Administration Authorization Act of 1986 (99 Stat. 1014) is repealed.

(h) Expenditures Exceeding Astronomy Program.—Section 104 of the National Aeronautics and Space Administration Authorization Act, 1984 (97 Stat. 284) is repealed.

(i) Launch Voucher Demonstration Project.—Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is repealed.

(j) Space Settlements.—Section 217 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2451 note) is repealed.

(k) Proposed Decision or Policy Concerning Commercialization.—Section 110 of the National Aeronautics and Space Administration Authorization Act, 1984 (42 U.S.C. 2465) is repealed.

(l) Joint Former Soviet Union Studies in Biomedical Research.—Section 605 of the National Aeronautics and Space Administration Act, Fiscal Year 1993 (42 U.S.C. 2487d) is repealed.

TITLE XII—NUCLEAR REGULATORY COMMISSION

SEC. 1201. REPORTS ELIMINATED.

(a) Report of Advisory Committee on Reactor Safeguards.—Section 29 of the Atomic Energy Act of 1954 (42 U.S.C. 2039) is amended by striking the sixth and seventh sentences.

(b) Report on the Price-Anderson Act.—Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

(1) by striking "(1)"; and

(2) by striking paragraph (2).

SEC. 1202. REPORTS MODIFIED.

Section 1701(b)(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(b)(1)) is amended—

(1) by striking "The Nuclear" and inserting "Not later than the date on which a certificate of compliance is issued under subsection (c), the Nuclear"; and

(2) by striking "at least annually".

TITLE XIII—OMB, OPM, AND GSA

SEC. 1301. OMB.

[(a) Agency Debt Collection Activities.—Section 12 of the Debt Collection Act of 1982 (Public Law 97–365; 96 Stat. 1756) is amended—

[(1) by striking "(a)" after "Sec. 12."; and

[(2) by striking subsection (b).]

(a) Federal Civil Penalties Inflation Adjustment Act of 1990.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410; 28 U.S.C. 2461 note) is amended by—

(1) striking section 6; and

(2) redesignating section 7 as section 6.

(b) Voluntary Contributions by the United States to International Organizations.—Section 306 of the Foreign Assistance Act of 1961 (22 U.S.C. 2226) is amended by striking subsection (b).

(c) Prompt Payment Act.—

(1) In general.—Section 3906 of title 31, United States Code, is repealed.

(2) Technical and conforming amendment.—The table of sections for chapter 39 of title 31, United States Code, is amended by striking the item relating to section 3906.

(d) Federal Acquisition Regulatory Council.—Section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421(g)) is amended by striking subsection (g).

(e) Title 5.—Section 552a(u) of title 5, United States Code, is amended by—

(1) striking paragraph (6); and

(2) redesignating paragraph (7) as paragraph (6) and in that redesignated paragraph striking "paragraphs (3)(D) and (6)" and inserting "paragraph (3)(D)".

SEC. 1302. OPM.

(a) Administrative Law Judges.—Section 1305 of title 5, United States Code, is amended by striking "require reports by agencies, issue reports, including an annual report to Congress,".

(b) Federal Employee Retirement and Benefits.—

(1) In general.—Section 1308 of title 5, United States Code, is repealed.

(2) Technical and conforming amendment.—The title of sections for chapter 13 of title 5, United States Code, is amended by striking the item relating to section 1308.

(c) Civil Service Retirement and Disability Fund.—Section 8348(g) of title 5, United States Code, is amended by striking the third sentence.

(d) Placement of Non-Indian Employees.—Section 2(e) of the Act of December 5, 1979 (25 U.S.C. 472a(e); Public Law 96–135; 93 Stat. 1058) is amended—

(1) by striking "(1)" after "(e)"; and

(2) by striking paragraph (2).

SEC. 1303. GSA.

Section 203(e)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(6)) is repealed.

TITLE XIV—TRADE

SEC. 1401. REPORTS ELIMINATED.

(a) Coffee Trade.—

(1) Section 5 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356n) is repealed.

(2) Section 4 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356m) is repealed.

(b) Trade Act of 1974.—

(1) Subsection (c) of section 126 of the Trade Act of 1974 (19 U.S.C. 2136(c)) is repealed.

(2) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441) is repealed.

(c) Uruguay Round Agreements Act.—Section 424 of the Uruguay Round Agreements Act (19 U.S.C. 3622) is repealed.

(d) Restrictions on Expenditures.—Subparagraph (C) of section 109(c)(3) of Public Law 100–202 (101 Stat. 1329–435) (40 U.S.C. 601 note) is repealed.

TITLE XV—DEPARTMENT OF TRANSPORTATION

SEC. 1501. REPORTS ELIMINATED.

(a) Coast Guard Report on Environmental Compliance.—Section 693 of title 14, United States Code, is repealed.

(b) Annual Report on Coast Guard User Fees.—Section 664 of title 14, United States Code, is amended by striking subsection (c).

(c) Reports About Government Pension Plans.—Section 9503 of title 31, United States Code, is amended by striking subsection (a).

[(d) Coast Guard Report on Major Acquisition Projects.—Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1551) is amended—

[(1) by striking "quarterly" and inserting "biannual"; and

[(2) in the last proviso, by striking "preceding quarter" and inserting "preceding 6-month period".

[(e)] *(d)* Biennial Report of the Interagency Coordinating Committee on Oil Pollution Research.—Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

[(f)] *(e)* Federal Highway Administration Report.—Section 307(e) of title 23, United States Code, is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively.

[(g)] *(f)* Annual Report on Highway Hazard Elimination Program.—Section 152 of title 23, United States Code, is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

[(h)] *(g)* Transportation Air Quality Report.—Section 108(f) of the Clean Air Act (42 U.S.C. 7408(f)) is amended by striking paragraphs (3) and (4).

[(i)] *(h)* Indian Reservation Roads Study.—Section 1042 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1993) is repealed.

[(j)] *(i)* Study of Impact of Climatic Conditions.—Section 1101–1102 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027) is repealed.

[(k)] *(j)* Fatal and Injury Accident Rates on Public Roads in the United States.—Section 207 of the Highway Improvement Act of 1982 (96 Stat. 2139, 23 United States Code 401 note) is repealed.

[(l) Highway Report.—Section 307(h) of title 23, United States Code is amended by striking "and in January of every second year thereafter" and inserting ", in January of every second year thereafter through 1997, and in March of every second year thereafter".

[(m) Aviation Security Report.—Section 44938 of title 49, United States Code, is amended by striking "annually" and inserting "biennially".

[(n)] *(k)* Biennial Reports on Natural Gas and Hazardous Liquid Pipeline Safety.—

(1) In general.—Section 60124 of title 49, United States Code, is repealed.

(2) Conforming amendment.—The chapter analysis for chapter 601 of title 49, United States Code, is amended by striking the item relating to section 60124.

[(o)] *(l)* Motor Vehicle Safety.—

(1) In general.—Section 30169 of title 49, United States Code, is repealed.

(2) Conforming amendment.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30169.

[(p)] *(m)* Bumper Standards.—

(1) In general.—Section 32510 of title 49, United States Code, is repealed.

(2) Conforming amendment.—The chapter analysis for chapter 325 of title 49, United States Code, is amended by striking the item relating to section 32510.

[(q)] *(n)* Highway Safety.—Section 202 of the Highway Safety Act of 1966 (80 Stat. 736; 23 U.S.C. 401 note) is repealed.

[(r)] *(o)* MARITIME CONSTRUCTION COSTS.—Section 213 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1123) is amended by striking subsection (c).

[(s)] *(p)* FEDERAL TRANSIT ADMINISTRATION.—Section 5335 of title 49, United States Code, is amended by striking subsection (b).

[(t)] *(q)* PROJECT REVIEW.—Section 5328(b) of title 49, United States Code, is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

[(u)] *(r)* SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY.—Section 5320 of title 49, United States Code, is amended by striking subsection (k).

[(v) REPORT ON PUBLIC TRANSPORTATION.—Section 308(e)(1) of title 49, United States Code, is amended by striking "in January of each even-numbered year" and inserting "in January of each even-numbered year through 1996, and in March of each odd-numbered year thereafter".

[(w)] *(s)* NEEDS SURVEY; TRANSFERABILITY REPORT.—Section 5335 of title 49, United States Code, as amended by this section, is further amended by striking subsections (c) and (d).

SEC. 1502. REPORTS MODIFIED.

(a) COAST GUARD REPORT ON MAJOR ACQUISITION PROJECTS.—Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1551) is amended—

(1) by striking "quarterly" and inserting "biannual"; and

(2) in the last proviso, by striking "preceding quarter" and inserting "preceding 6-month period".

(b) HIGHWAY REPORT.—Section 307(h) of title 23, United States Code, is amended by striking "January 1983, and in January of every second year thereafter" and inserting "March 1998, and in March of every second year thereafter".

(c) AVIATION SECURITY REPORT.—Section 44938 of title 49, United States Code, is amended by striking "annually" and inserting "biennially".

(d) REPORT ON PUBLIC TRANSPORTATION.—Section 308(e)(1) of title 49, United States Code, is amended by striking "in January of each even-numbered year" and inserting "in March 1998, and in March of each even-numbered year thereafter".

(e) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—Section 1102(f)(2) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(f)(2)) is amended by striking "biannual" and inserting "biennial".

TITLE XVI—NOAA

SEC. 1601. REPORTS ELIMINATED.

(a) REPORT CONCERNING PRICES FOR NAUTICAL AND AERONAUTICAL PRODUCTS.—Section 1307(a)(2)(A) of title 44, United States Code, is amended by striking the last sentence.

(b) REPORT ON NATIONAL SHELLFISH RESEARCH PROGRAM.—Section 308 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (33 U.S.C. 1251 note) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) GEOSTATIONARY OPERATIONAL ENVIRONMENTAL SATELLITES CERTIFICATION AND REPORT REGARDING TECHNICAL PERFORMANCE SPECIFICATIONS.—Subsection (d) of section 105 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102–567; 106 Stat. 4273) is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2), there" and inserting "There"; and

(2) by striking paragraph (2).

(d) NEXT GENERATION WEATHER RADAR SYSTEM CERTIFICATION AND REPORT REGARDING TECHNICAL PERFORMANCE SPECIFICATIONS.—Section 102(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102–567; 106 Stat. 4271) is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2), there" and inserting "There"; and

(2) by striking paragraph (2).

(e) REPORT ON ENFORCEMENT OF VIOLATIONS CONCERNING THE USE OF UNENHANCED DATA FOR COMMERCIAL PURPOSES.—Section 508(d) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5658(d)) is amended by striking ", and shall report annually to the Congress on instances of such violations".

(f) REPORT ON THE NATIONAL CLIMATE PROGRAM ACTIVITIES.—Section 7 of the National Climate Program Act (15 U.S.C. 2906) is repealed.

AMENDMENT NO. 2570

(Purpose: To add additional reports)

Ms. COLLINS. Senators LEVIN and MCCAIN have a substitute amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. LEVIN, for himself and Mr. MCCAIN, proposes an amendment numbered 2570.

Ms. COLLINS. I ask unanimous consent the amendment be considered as read and agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 601 add the following:

(d) NIH.—

(1) ANNUAL REPORT ON DISEASE PREVENTION.—Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) REPORT OF NICHD ASSOCIATE DIRECTOR FOR PREVENTION.—Section 451 of the Public Health Service Act (42 U.S.C. 285g-3) is amended—

(A) in subsection (a), by striking "(a) There" and inserting "There"; and

(B) by striking subsection (b).

(3) REPORT OF COUNCIL ON ALZHEIMER'S DISEASE.—The Alzheimer's Disease Research, Training, and Education Amendments of 1992 is amended by striking sections 911 and 912 (42 U.S.C. 11211 and 11212).

(4) INTERNATIONAL HEALTH RESEARCH.—The International Health Research Act of 1960 (Public Law 86-610) is amended by striking section 5(h).

The amendment (No. 2570) was agreed to.

Ms. COLLINS. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered read the third time and passed, as follows:

S. 1364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Reports Elimination Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—DEPARTMENT OF AGRICULTURE

Sec. 101. Reports eliminated.

TITLE II—DEPARTMENT OF DEFENSE

Sec. 201. Reports eliminated.

TITLE III—EDUCATION

Sec. 301. Report eliminated.

TITLE IV—DEPARTMENT OF ENERGY

Sec. 401. Reports eliminated.
Sec. 402. Reports modified.

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

Sec. 501. Reports eliminated.

TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 601. Reports eliminated.
Sec. 602. Reports modified.

TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 701. Reports eliminated.

TITLE VIII—INDIAN AFFAIRS

Sec. 801. Reports eliminated.

TITLE IX—DEPARTMENT OF THE INTERIOR

Sec. 901. Reports eliminated.
Sec. 902. Reports modified.

TITLE X—DEPARTMENT OF JUSTICE

Sec. 1001. Reports eliminated.

TITLE XI—NASA

Sec. 1101. Reports eliminated.

TITLE XII—NUCLEAR REGULATORY COMMISSION

Sec. 1201. Reports eliminated.
Sec. 1202. Reports modified.

TITLE XIII—OMB, OPM, AND GSA

Sec. 1301. OMB.
Sec. 1302. OPM.
Sec. 1303. GSA.

TITLE XIV—TRADE

Sec. 1401. Reports eliminated.

TITLE XV—DEPARTMENT OF TRANSPORTATION

Sec. 1501. Reports eliminated.
Sec. 1502. Reports modified.

TITLE XVI—NOAA

Sec. 1601. Reports eliminated.

TITLE I—DEPARTMENT OF AGRICULTURE

SEC. 101. REPORTS ELIMINATED.

(a) SECONDARY MARKET OPERATIONS.—Section 338(b) of the Consolidated Farm and Rural Development Act (as redesignated by section 749(a)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1988(b))) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

(b) PILOT PROGRAMS TO TEST MEASUREMENT OF NUTRITIONAL STATUS OF LOW-INCOME HOUSEHOLDS.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (c).

(c) ESTIMATE OF SECOND PRECEDING MONTH'S EXPENDITURES UNDER FOOD STAMP PROGRAM.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking the third and fourth sentences.

(d) Advisory Committees.—Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2284) is repealed.

(e) Farmer-to-Consumer Direct Marketing Act of 1976.—

(1) In general.—Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is repealed.

(2) Conforming amendment.—Section 7(a) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3006(a)) is amended by striking "the provisions of sections 4 and 6" and inserting "section 4".

(f) Agricultural Research at Land-Grant Colleges.—Section 1445(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(g)) is amended by striking paragraph (4).

(g) Foreign Ownership of Agricultural Land.—Section 5 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504) is repealed.

(h) Sugar Price Increases.—Section 6 of Public Law 96-236 (7 U.S.C. 3606) is repealed.

(i) Housing Preservation Grant Program.—Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended by striking subsection (j).

(j) National Advisory Council on Maternal, Infant, and Fetal Nutrition.—Section 17(k) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(k)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

TITLE II—DEPARTMENT OF DEFENSE

SEC. 201. REPORTS ELIMINATED.

(a) Notifications of Conversion of Heating Facilities at Installations in Europe.—Section 2690(b) of title 10, United States Code, is amended by striking out "unless the Secretary—" and all that follows through the end of the subsection and inserting in lieu thereof "unless the Secretary determines that the conversion—

"(1) is required by the government of the country in which the facility is located; or

"(2) is cost effective over the life cycle of the facility.".

(b) Notifications of Disagreements Regarding Availability of Alternative Housing.—Section 2823 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

TITLE III—EDUCATION

SEC. 301. REPORT ELIMINATED.

Section 1411 of the Higher Education Amendments of 1992 is repealed.

TITLE IV—DEPARTMENT OF ENERGY

SEC. 401. REPORTS ELIMINATED.

(a) Nuclear Test Ban Readiness Report.—Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 42 U.S.C. 2121 note), is amended by striking subsection (e).

(b) Report on Resumption of Plutonium Operations at Rocky Flats.—Section 3133 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1574) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsection (e) as subsection (c).

(c) Report on Potential for Hydropower Development, Utilizing Tidal Currents.—The first section of the Act of August 30, 1935 (49 Stat. 1028, chapter 831), as amended by section 2409 of the Energy Policy Act of 1992 (106 Stat. 3101), is amended by striking "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal currents;".

(d) Electric Utility Participation Study.—Section 625 of the Energy Policy Act of 1992 (42 U.S.C. 13295) is repealed.

(e) Report on Steel and Aluminum Research and Development Activities.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

(1) by striking section 8 (15 U.S.C. 5107); and

(2) by redesignating sections 9, 10, and 11 (15 U.S.C. 5108, 5109, and 5110) as sections 8, 9, and 10, respectively.

(f) Report on Metal Casting Research and Development Activities.—Section 10 of the Department of Energy Metal Casting Competitiveness Research Act of 1990 (15 U.S.C. 5309) is repealed.

(g) Biennial Update to the National Advanced Materials Initiative 5-Year Program Plan.—Section 2201(b) of the Energy Policy Act of 1992 (42 U.S.C. 13501(b)) is amended by striking the second sentence.

(h) Report on Vibration Reduction Technologies.—Section 173(c) of the Energy Policy Act of 1992 (Public Law 102-486; 42 U.S.C. 13451 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(i) Report on Process-Oriented Industrial Energy Efficiency.—Section 132 of the Energy Policy Act of 1992 (42 U.S.C. 6349) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(j) Report on Industrial Insulation and Audit Guidelines.—Section 133 of the Energy Policy Act of 1992 (42 U.S.C. 6350) is amended by striking subsection (c).

(k) Report Evaluation of Opportunities for Energy Efficient Pollution Prevention.—Section 2108 of the Energy Policy Act of 1992 (42 U.S.C. 13457) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(l) Report on Continental Scientific Drilling Program.—Section 4 of the Continental Scientific Drilling and Exploration Act (Public Law 100-441; 43 U.S.C. 31 note) is amended—

(1) by adding "and" at the end of paragraph (4);

(2) by striking "; and" at the end of paragraph (5) and inserting a period; and

(3) by striking paragraph (6).

(m) Report on Coal Research, Development, Demonstration, and Commercialization Projects.—Section 1301 of the Energy Policy Act of 1992 (42 U.S.C. 13331) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(n) Report on the Use of Energy Futures for Fuel Purchases.—Section 3014 of the Energy Policy Act of 1992 (42 U.S.C. 13552) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(o) Report on Implementation of the Alaska Federal Civilian Energy Efficiency Swap Act of 1980.—Section 6 of the Alaska Federal Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is repealed.

(p) Report on Major National Security Programs.—Section 3143 of the National Defense Authorization Act, fiscal years 1990 and 1991 (42 U.S.C. 7271a) is repealed.

SEC. 402. REPORTS MODIFIED.

(a) Report on Plan for Electric Motor Vehicles.—Section 2025(b) of the Energy Policy Act of 1992 (42 U.S.C. 13435(b)) is amended—

(1) in the second sentence of paragraph (1), by striking "annually" and inserting "biennially"; and

(2) in the second sentence of paragraph (4), by striking "Annual" and inserting "Biennial".

(b) Coke Oven Production Technology Study.—Section 112(n)(2)(C) of the Clean Air Act (42 U.S.C. 7412(n)(2)(C)) is amended by striking "The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study" and inserting "On completion of the study, the Secretary shall submit to Congress a report on the results of the study and".

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

SEC. 501. REPORTS ELIMINATED.

(a) Report on Conditional Registration of Pesticides.—

(1) In general.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(A) by striking section 29 (7 U.S.C. 136w-4); and

(B) by redesignating sections 30 and 31 (7 U.S.C. 136x and 136y) as sections 29 and 30, respectively.

(2) Conforming amendments.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(A) by striking the item relating to section 29; and

(B) by redesignating the items relating to sections 30 and 31 as the items relating to sections 29 and 30, respectively.

(b) Report on Implementation of Toxic Substances Control Act.—

(1) In general.—The Toxic Substances Control Act is amended—

(A) by striking section 30 (15 U.S.C. 2629); and

(B) by redesignating section 31 (Public Law 94-469; 15 U.S.C. 2601 note) as section 30.

(2) Conforming amendments.—

(A) The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

(i) by striking the item relating to section 30; and

(ii) by redesignating the item relating to section 31 as the item relating to section 30.

(B) The second sentence of section 9(d) of the Toxic Substances Control Act (15 U.S.C. 2608(d)) is amended by striking ", in the report required by section 30,".

(c) Report on Effect of Pollution on Estuaries and Estuarine Zones.—

(1) In general.—Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(2) Conforming amendment.—Section 320(k) of the Federal Water Pollution Control Act (33 U.S.C. 1330(k)) is amended by striking "section 104(n)(4)" and inserting "section 104(n)(3)".

(d) Clean Lakes Report.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(e) Report on Nonpoint Source Management Programs.—Section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) is amended—

(1) in subsection (i), by striking paragraph (4);

(2) by striking subsection (m); and

(3) by redesignating subsection (n) as subsection (m).

(f) Report on Measures Taken To Meet Objectives of Federal Water Pollution Control Act.—

(1) In general.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) is amended—

(A) by striking subsections (a), (b)(2), (c), (d), and (e);

(B) by striking "(b)(1)"; and

(C) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(2) Conforming amendments.—

(A) Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended—

(i) in subsection (a)(5), by striking "in the report required under subsection (a) of section 516" and inserting "not later than 90 days after the date of convening of each session of Congress"; and

(ii) in the first sentence of subsection (o)(2), by striking "in the report required under subsection (a) of section 516" and inserting "not later than 90 days after the date of convening of each session of Çongress".

(B) The fourth sentence of section 116(b) of the Federal Water Pollution Control Act (33 U.S.C. 1266(b)) is amended by striking "section 616(b) of this Act" and inserting "section 516".

(C) The last sentence of section 205(a) of the Federal Water Pollution Control Act (33 U.S.C. 1285(a)) is amended by striking "section 516(b)" and inserting "section 516".

(D) The second sentence of section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is amended by striking "shall be included in the report required under section 516(a) of this Act" and inserting "shall be reported to Congress not later than 90 days after the date of convening of each session of Congress".

(g) Report on Safe Drinking Water Act Costs of Compliance.—Section 1442(a)(3) of the Public Health Service Act (42 U.S.C. 300j–1(a)(3)) is amended—

(1) in subparagraph (A), by striking "(A)"; and

(2) by striking subparagraph (B).

(h) Analysis of Alternative Motor Vehicle Fuels Use on Environment.—Section 400EE of the Energy Policy and Conservation Act (42 U.S.C. 6374d) is repealed.

(i) Comprehensive Report on Activities of Office of Solid Waste.—

(1) In general.—The Solid Waste Disposal Act is amended—

(A) by striking section 2006 (42 U.S.C. 6915); and

(B) by redesignating section 2008 (42 U.S.C. 6917) as section 2006 and moving the section to appear after section 2005.

(2) Conforming amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

(A) by striking the item relating to section 2006; and

(B) by redesignating the item relating to section 2008 as the item relating to section 2006 and moving the item to appear after the item relating to section 2005.

(j) Study of Environmental Problems Associated With Improper Disposal or Reuse of Oil.—Section 9 of the Used Oil Recycling Act of 1980 (Public Law 96–463; 94 Stat. 2058) is repealed.

(k) Report on State and Local Training Needs and Obstacles to Employment in Solid Waste Management and Resource Recovery.—Section 7007 of the Solid Waste Disposal Act (42 U.S.C. 6977) is amended by striking subsection (c).

(l) Interim Report of National Advisory Commission on Resource Conservation and Recovery.—Section 33(a) of the Solid Waste Disposal Act Amendments of 1980 (Public Law 96–482, 94 Stat. 2356; 42 U.S.C. 6981 note) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(m) Final Report on Medical Waste Management.—

(1) In general.—The Solid Waste Disposal Act is amended—

(A) by striking section 11008 (42 U.S.C. 6992g); and

(B) by redesignating sections 11009 through 11012 (42 U.S.C. 6992h through 6992k) as sections 11008 through 11011, respectively.

(2) Conforming amendments.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

(A) by striking the item relating to section 11008; and

(B) by redesignating the items relating to sections 11009 through 11012 as the items relating to sections 11008 through 11011, respectively.

(n) Report on Status of Demonstration Program To Test Methods and Technologies of Reducing or Eliminating Radon Gas.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499; 42 U.S.C. 7401 note) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(o) Report on Canadian Acid Rain Control Program.—Section 408 of the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes", approved November 15, 1990 (commonly known as the "Clean Air Act Amendments of 1990") (Public Law 101–549; 42 U.S.C. 7651 note), is repealed.

(p) Biennial Pollution Prevention Report.—The Pollution Prevention Act of 1990 is amended—

(1) by striking section 6608 (42 U.S.C. 13107); and

(2) by redesignating sections 6609 and 6610 (42 U.S.C. 13108 and 13109) as sections 6608 and 6609, respectively.

TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 601. REPORTS ELIMINATED.

(a) Repeals.—

(1) Public health service act.—The following provisions of the Public Health Service Act (42 U.S.C. 201 et seq.) are repealed:

(A) Section 376 (42 U.S.C. 274d) relating to the biennial report on the scientific and clinical status of organ transplantation.

(B) Section 403 (42 U.S.C. 283) relating to the biennial report of the Director of the National Institutes of Health.

(C) Paragraph (4) of section 408(a) (42 U.S.C. 284c(a)(4)) relating to the annual report of the National Institutes of Health on administrative expenses.

(D) Subsection (c) of section 429 (42 U.S.C. 285c–3(c)) relating to the annual report of the Diabetes Mellitus Interagency Coordinating Committee, the Digestive Diseases Interagency Coordinating Committee, and National Kidney and Urologic Diseases Interagency Coordinating Committee.

(E) Subsection (j) of section 430 (42 U.S.C. 285c–4(j)) relating to the annual reports of the National Diabetes Advisory Board, the National Digestive Diseases Advisory Board, and the National Kidney and Urologic Diseases Advisory Board.

(F) Subsection (c) of section 439 (42 U.S.C. 285d–4(c)) relating to the annual report by the Arthritis and Musculoskeletal and Skin Diseases Interagency Coordinating Committee.

(G) Subsection (j) of section 442 (42 U.S.C. 285d–7(j)) relating to the annual report by the Arthritis and Musculoskeletal and Skin Diseases Advisory Board.

(H) Subsection (b) of section 494A (42 U.S.C. 289c–1(b)) relating to the report on health services research.

(I) Paragraph (3) of section 501(e) (42 U.S.C. 290aa(e)(2)) relating to the report of the Substance Abuse and Mental Health Services Administration.

(J) Subsection (b) of section 503 (42 U.S.C. 290aa–2(b)) relating to the triennial report on drug abuse.

(K) Section 1009 (42 U.S.C. 300a–6a) relating to the family planning and population research report.

(L) Section 1122 (42 U.S.C. 300c–12) relating to the sudden infant death syndrome research report.

(M) Section 2104 (42 U.S.C. 300aa–4) relating to the National Vaccine Program report.

(2) Other acts.—The following provisions are repealed:

(A) Section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) relating to the annual report on the administration of the Radiation Control for Health and Safety program.

(B) Section 304 of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q–3) relating to the report of the Task Force on Aging Research.

(C) Section 1901 of the NIH Revitalization Act of 1993 (42 U.S.C. 285f–1 note) relating to the report of the research activities concerning chronic fatigue syndrome.

(D) Paragraph (7) of section 1881(f) of the Social Security Act (42 U.S.C. 1395rr(c)(7)) relating to the report on end-stage renal disease.

(E) Section 402 of the Indian Health Care Improvement Act (42 U.S.C. 1395qq note) relating to the tribal organization demonstration program for direct billing of medicare, medicaid, and other third party payors.

(F) Section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) relating to the report of the Public Health Service.

(G) Subsection (d) of section 719 of the Indian Health Care Amendments of 1988 (Public Law 100–713; 102 Stat. 4838) relating to the impact of the final rule relating to eligibility for health care services of the Indian Health Service.

(b) Social Security Act and Related Provisions.—

(1) Section 8403(b) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647; 102 Stat. 3799) is repealed.

(2) Section 4207(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–120) (42 U.S.C. 1395x note) is repealed.

(3) Section 9601(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272; 100 Stat. 222) (42 U.S.C. 1395b note) is repealed.

(4) Section 6003(i) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2158) (42 U.S.C. 1395ww note) is repealed.

(5) Section 6102(d)(4) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2185) (42 U.S.C. 1395w–4 note) is repealed.

(6) Section 1882(l)(6) of the Social Security Act (42 U.S.C. 1395ss(l)(6)) is repealed.

(7) Section 4056(d) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–99) (42 U.S.C. 1395l note) (as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360; 102 Stat. 781)) is repealed.

(c) NIH.—

(1) Annual report on disease prevention.—Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) Report of NICHD associate director for prevention.—Section 451 of the Public Health Service Act (42 U.S.C. 285g–3) is amended—

(A) in subsection (a), by striking "(a) There" and inserting "There"; and

(B) by striking subsection (b).

(3) Report of council on Alzheimer's disease.—The Alzheimer's Disease Research, Training, and Education Amendments of 1992 is amended by striking sections 911 and 912 (42 U.S.C. 11211 and 11212).

(4) International health research.—The International Health Research Act of 1960 (Public Law 86–610) is amended by striking section 5(h).

SEC. 602. REPORTS MODIFIED.

(a) Indian Health.—Subsection (e) of section 513 of the Indian Health Care Improvement Act (25 U.S.C. 1660c(e)) is amended by striking "two years" and inserting "5 years".

(b) Social Security Act.—

(1) Section 4801(e)(17)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–218) (42 U.S.C. 1396r note) is amended by striking "January 1, 1992" and inserting "January 1, 1999".

(2) Section 4360(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–140) (42 U.S.C. 1395b–4) is amended by striking "Not later than 180 days after the date of the enactment of this section" and inserting "Beginning with 1992".

TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 701. REPORTS ELIMINATED.

(a) Federal Activities Under Solar Heating and Cooling Demonstration Act of 1974.—Section 12 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510) is amended by striking subsection (d).

(b) Funding Relating to Evaluating and Monitoring Programs.—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

(c) State and Local Strategies for Removal of Barriers to Affordable Housing.—Section 1207 of the Housing and Community Development Act of 1992 (42 U.S.C. 12705a note) is repealed.

(d) Comprehensive Review and Evaluation of Homeless Assistance Programs.—Section 1409 of the Housing and Community Development Act of 1992 (42 U.S.C. 11361 note) is amended—

(1) by striking "(a) In General.—"; and

(2) by striking subsection (b).

(e) Neighborhood Redevelopment Program.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(f) Homeownership Demonstration Program.—Section 132 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3712) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(g) Rural Rental Rehabilitation Demonstration.—Section 311 of the Housing and Community Development Act of 1987 (42 U.S.C. 1490m note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(h) Summary of Activities Under New Town Demonstration.—Section 1108 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended by striking "the following" and all that follows before the period at the end of the section and inserting the following: "a copy of the new town plan of the governing board, upon the approval of that plan under section 1102(d)".

TITLE VIII—INDIAN AFFAIRS

SEC. 801. REPORTS ELIMINATED.

(a) Indian Child Protection and Family Violence Prevention Report.—Section 412 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3211) is repealed.

(b) Reports Under the Indian Financing Act of 1974.—

(1) Adjustment or cancellation of obligations related to the Indian revolving loan fund.—Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is repealed.

(2) Indian loan guaranty and insurance fund deficiencies.—Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking subsection (f).

(c) Education Amendments of 1978.—

(1) Report on demonstration projects.—Section 1121(h) of the Education Amendments of 1978 (25 U.S.C. 2001(h)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(2) National criteria for dormitory situations.—Section 1122(d) of the Education Amendments of 1978 (25 U.S.C. 2002(d)) is amended by striking paragraph (3).

(3) Positions contracted under grants of post-differential authority in the BIA schools.—Section 1132(h)(3)(B) of the Education Amendments of 1978 (25 U.S.C. 2012(h)(3)(B)) is amended by striking clause (iii).

(4) Report.—Section 1137 of the Education Amendments of 1978 (25 U.S.C. 2017) is amended—

(A) by striking the section heading and inserting the following:

"SEC. 1137. BIENNIAL REPORT.";

and

(B) in the first sentence of subsection (a)—

(i) by striking "annual report" and inserting "biennial report"; and

(ii) by striking "during the year" and inserting "during the 2-year period covered by the report".

(5) Regulations.—Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is repealed.

(6) Technical correction.—Section 605(b)(2) of the School-to-Work Opportunity Act of 1994 (20 U.S.C. 6235(b)(2)) is amended by striking "(as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3))" and inserting "(as defined in section 1146(3) of the Education Amendments of 1978 (25 U.S.C. 2026(3))".

(d) Tribally Controlled Schools Act of 1988.—Section 5026 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505) is amended by striking subsection (g).

(e) Public Law 96–135.—Section 2 of Public Law 96–135 (25 U.S.C. 472a) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(3) in subsection (d), as so redesignated—

(A) by striking paragraph (2); and

(B) by striking "(1) The Office" and inserting "The Office".

(f) Native Americans Educational Assistance Act.—Section 4 of the Native Americans Educational Assistance Act (25 U.S.C. 2001 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(g) Indian Self-Determination and Education Assistance Act.—Section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (o) as subsections (c) through (m), respectively.

TITLE IX—DEPARTMENT OF THE INTERIOR

SEC. 901. REPORTS ELIMINATED.

(a) Pacific Yew Act.—The Pacific Yew Act (16 U.S.C. 4801 et seq.) is repealed.

(b) Size and Condition of the Tule Elk Herd in California.—

(1) Repeal.—Section 3 of Public Law 94–389 (16 U.S.C. 673f) is repealed.

(2) Redesignation.—Section 4 of Public Law 94–389 (16 U.S.C. 673g) is redesignated as section 3.

(c) Reviews and Extensions of Withdrawals of Lands.—Section 204(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714(f)) is amended by striking the second sentence.

(d) Status of the Wild Free-Roaming Horse and Burro Program.—Section 11 of Public Law 92–195 (16 U.S.C. 1340) is amended by striking the first undesignated paragraph.

(e) Status of the Wilderness System.—Section 7 of the Wilderness Act (16 U.S.C. 1136) is repealed.

(f) Water Quality of the Sacramento-San Joaquin Delta and San Francisco Bay Estuarine Systems.—Section 4 of Public Law 96–375 (94 Stat. 1506) is amended by striking the second sentence.

(g) Colorado River Floodway Maps.—Section 5(b) of the Colorado River Floodway Protection Act (43 U.S.C. 1600c(b)) is amended—

(1) by striking "(b)(1)" and inserting "(b)";

(2) by striking paragraphs (2) and (3); and

(3) by redesignating clauses (i) and (ii) as paragraphs (1) and (2), respectively.

(h) Certification of Adequate Soil Survey of Land Classification.—

(1) The first section of title I of the Interior Department Appropriation Act, 1953, is amended in the matter under the heading "construction and rehabilitation" under the heading "BUREAU OF RECLAMATION" (66 Stat. 451) by striking ": *Provided further*, That no part of this or any other appropriation" and all that follows through "means of irrigation".

(2) The first section of title I of the Interior Department Appropriation Act, 1954" (43 U.S.C. 390a; 67 Stat. 266) is amended—

(A) in the matter under the heading "construction and rehabilitation" under the heading "Bureau of Reclamation", by striking ": *Provided further*, That no part of this or any other appropriation" and all that follows through "demonstrated in practice"; and

(B) by striking "Such surveys shall include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows." (as added by section 10 of the Garrison Diversion Unit Reformulation Act of 1986 (100 Stat. 426)).

(i) Claims Submitted From the Teton Dam Failure.—Section 8 of Public Law 94-400 (90 Stat. 1213) is repealed.

(j) Study of the Feasibility and Suitability of Establishing Niobrara-Buffalo Prairie National Park.—

(1) Repeal.—Section 8 of the Niobrara Scenic River Designation Act of 1991 (Public Law 102-50: 16 U.S.C. 1a-5 note) is repealed.

(2) Redesignation.—Section 9 of the Act (Public Law 102-50: 105 Stat. 258) is redesignated as section 8.

(k) Study of Route 66.—The Route 66 Study Act of 1990 (Public Law 101-400: 104 Stat. 861) is repealed.

(l) Report on Anthracite Mine Water Control and Mine Sealing and Filling Program.—The Act entitled "An Act to provide for the conservation of anthracite coal resources through measures of flood control and anthracite mine drainage, and for other purposes", approved July 15, 1955, is amended—

(1) by striking section 5 (30 U.S.C. 575); and

(2) by redesignating section 6 (30 U.S.C. 576) as section 5.

(m) Audit of Federal Royalty Management System.—

(1) In general.—Section 302 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1752) is amended—

(A) in subsection (a), by striking "(a)": and

(B) by striking subsection (b).

(2) Conforming amendment.—Section 304(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1753(c)) is amended by striking "Except as expressly provided in subsection 302(b), nothing" and inserting "Nothing".

(n) Report on Bidding Options for Oil and Gas Leases on Outer Continental Shelf Land.—Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking paragraph (9).

(o) Reports on Outer Continental Shelf Leasing and Production Program and Promotion of Competition in Leasing.—

(1) In general.—Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1343) is repealed.

(2) Conforming amendment.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by striking subsection (g).

(p) Audit of Financial Report of Governor of Guam.—The sixth undesignated paragraph of section 6 of the Organic Act of Guam (48 U.S.C. 1422) is amended by striking the third and fifth sentences.

(q) Audit of Financial Report of Governor of the Virgin Islands.—The fourth undesignated paragraph of section 11 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1591) is amended by striking the third and fifth sentences.

(r) Audit of Financial Report of Governor of American Samoa.—Section 501(a) of Public Law 96-205 (48 U.S.C. 1668(a)) is amended by striking the third and fifth sentences.

(s) Audit of Financial Report of Chief Executives of Certain Territories.—Section 5 of Public Law 92-257 (48 U.S.C. 1692) is amended by striking the third and fifth sentences.

(t) Report on Activities Under Helium Act.—Section 16 of the Helium Act (50 U.S.C. 167n) is repealed.

(u) Report on Contract Awards Made To Facilitate National Defense.—

(1) In general.—Public Law 85-804 is amended—

(A) by striking section 4 (50 U.S.C. 1434); and

(B) by redesignating section 5 (50 U.S.C. 1435) as section 4.

(2) Conforming amendment.—Section 501(a)(6) of the National Emergencies Act (50 U.S.C. 1651(a)(6)) is amended by striking "1431-1435" and inserting "1431 et seq.".

SEC. 902. REPORTS MODIFIED.

(a) Recommendations on Prospective Timber Sales.—The first sentence of section 318(h) of Public Law 101-121 (103 Stat. 750) is amended by striking "a monthly basis" and inserting "an annual basis".

(b) Report on Nationwide Geologic Mapping Program.—Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended—

(1) in the section heading, by striking "**ANNUAL**" and inserting "**BIENNIAL**"; and

(2) in the first sentence—

(A) by striking "each fiscal year, submit an annual report" and inserting "each second fiscal year, submit a biennial report"; and

(B) by striking "preceding fiscal year" and inserting "2 preceding fiscal years".

TITLE X—DEPARTMENT OF JUSTICE

SEC. 1001. REPORTS ELIMINATED.

(a) Emergency Law Enforcement Assistance Report.—Section 609U of the Justice Assistance Act of 1984 (42 U.S.C. 10509) is repealed,

(b) Immigration and Nationality Act.—The Immigration and Nationality Act is amended—

(1) in section 103 (8 U.S.C. 1103(d)), by striking subsection (d);

(2) in section 214(c) (8 U.S.C. 1184(c)), by striking paragraph (8);

(3) in section 286 (8 U.S.C. 1356)—

(A) by striking subsection (l) and inserting the following:

"(l) [Reserved].";

(B) in subsection (q)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraph (5) as paragraph (4); and

(C) in subsection (r)—

(i) by striking paragraph (5); and

(ii) by redesignating paragraph (6) as paragraph (5); and

(4) in section 344(f) (8 U.S.C. 1455(f))—

(A) by striking "(f)(1) The Attorney General" and inserting "(f) The Attorney General"; and

(B) by striking paragraph (2).

(c) Immigration and Naturalization Document Security Report.—Section 5 of the Immigration Nursing Relief Act of 1989 (8 U.S.C. 1324a note) is amended by striking subsection (d) and inserting the following:

"(d) [Reserved].".

(d) Diversion Control Fee Account Report.—Section 111(b) of the Departments of Commerce, Justice, and State, and the Judiciary, and Related Agencies Appropriations Act, 1993 (21 U.S.C. 886a(b)) is amended by striking paragraph (5).

(e) Asset Forfeiture Report.—Section 524(c) of title 28, United States Code, is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) through (12) as paragraphs (6) through (11), respectively.

(f) Civil Financial Institutions Reform, Recovery, and Enforcement Act Report.—Section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833) is repealed.

(g) Damage Settlement Report.—Section 3724 of title 31, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(h) Banking Law Offense Report.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(i) Banking Law Offense Rewards Report.—Section 2571 of the Crime Control Act of 1990 (12 U.S.C. 4211) is repealed.

(j) Banking Institutions Soundness Report.—Section 1542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1831m-1) is repealed.

TITLE XI—NASA

SEC. 1101. REPORTS ELIMINATED.

(a) Contingent Liability.—Section 6 of the National Aeronautics and Space Administration Authorization Act, 1978 (42 U.S.C. 2463) is repealed.

(b) Activities of the National Space Grant and Fellowship Program.—Section 212 of the Land Remote-Sensing Commercialization Amendments of 1987 (42 U.S.C. 2486j) is repealed.

(c) Notification of Procurement of Long-Lead Materials for Solid Rocket Monitors on Other Than Cooperative Basis.—Section 121 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 869) is amended by striking subsection (d).

(d) Contracts To Facilitate the National Defense.—

(1) In general.—Section 1434 of title 50, United States Code, is repealed.

(2) Conforming amendment.—The table of sections for chapter 29 of title 50, United States Code, is amended by striking the item relating to section 1434.

(e) Capital Development Plan for Space Station Program.—Section 107 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 864) is repealed.

(f) Certification Relating to Payloads.—Section 112 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (42 U.S.C. 2465a) is amended by striking subsections (c) and (d).

(g) Notice of Modification of NASA.—

(1) 1985 Act.—Section 103 of the National Aeronautics and Space Administration Authorization Act, 1985 (98 Stat. 424) is repealed.

(2) 1986 Act.—Section 103 of the National Aeronautics and Space Administration Authorization Act of 1986 (99 Stat. 1014) is repealed.

(h) Expenditures Exceeding Astronomy Program.—Section 104 of the National Aeronautics and Space Administration Authorization Act, 1984 (97 Stat. 284) is repealed.

(i) Launch Voucher Demonstration Project.—Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is repealed.

(j) Space Settlements.—Section 217 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2451 note) is repealed.

(k) Proposed Decision or Policy Concerning Commercialization.—Section 110 of the National Aeronautics and Space Administration Authorization Act, 1984 (42 U.S.C. 2465) is repealed.

(l) Joint Former Soviet Union Studies in Biomedical Research.—Section 605 of the National Aeronautics and Space Administration Act, Fiscal Year 1993 (42 U.S.C. 2487d) is repealed.

TITLE XII—NUCLEAR REGULATORY COMMISSION

SEC. 1201. REPORTS ELIMINATED.

(a) Report of Advisory Committee on Reactor Safeguards.—Section 29 of the Atomic Energy Act of 1954 (42 U.S.C. 2039) is amended by striking the sixth and seventh sentences.

(b) Report on the Price-Anderson Act.—Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

(1) by striking "(1)"; and

(2) by striking paragraph (2).

SEC. 1202. REPORTS MODIFIED.

Section 1701(b)(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(b)(1)) is amended—

(1) by striking "The Nuclear" and inserting "Not later than the date on which a certificate of compliance is issued under subsection (c), the Nuclear"; and

(2) by striking "at least annually".

TITLE XIII—OMB, OPM, AND GSA

SEC. 1301. OMB.

(a) Federal Civil Penalties Inflation Adjustment Act of 1990.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410; 28 U.S.C. 2461 note) is amended by—

(1) striking section 6; and

(2) redesignating section 7 as section 6.

(b) Voluntary Contributions by the United States to International Organizations.—Section 306 of the Foreign Assistance Act of 1961 (22 U.S.C. 2226) is amended by striking subsection (b).

(c) Prompt Payment Act.—

(1) In general.—Section 3906 of title 31, United States Code, is repealed.

(2) Technical and conforming amendment.—The table of sections for chapter 39 of title 31, United States Code, is amended by striking the item relating to section 3906.

(d) Federal Acquisition Regulatory Council.—Section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421(g)) is amended by striking subsection (g).

(e) Title 5.—Section 552a(u) of title 5, United States Code, is amended by—

(1) striking paragraph (6); and

(2) redesignating paragraph (7) as paragraph (6) and in that redesignated paragraph striking "paragraphs (3)(D) and (6)" and inserting "paragraph (3)(D)".

SEC. 1302. OPM.

(a) Administrative Law Judges.—Section 1305 of title 5, United States Code, is amended by striking "require reports by agencies, issue reports, including an annual report to Congress,".

(b) Federal Employee Retirement and Benefits.—

(1) In general.—Section 1308 of title 5, United States Code, is repealed.

(2) Technical and conforming amendment.—The title of sections for chapter 13 of title 5, United States Code, is amended by striking the item relating to section 1308.

(c) Civil Service Retirement and Disability Fund.—Section 8348(g) of title 5, United States Code, is amended by striking the third sentence.

(d) Placement of Non-Indian Employees.—Section 2(e) of the Act of December 5, 1979 (25 U.S.C. 472a(e); Public Law 96–135; 93 Stat. 1058) is amended—

(1) by striking "(1)" after "(e)"; and

(2) by striking paragraph (2).

SEC. 1303. GSA.

Section 203(e)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(6)) is repealed.

TITLE XIV—TRADE

SEC. 1401. REPORTS ELIMINATED.

(a) Coffee Trade.—

(1) Section 5 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356n) is repealed.

(2) Section 4 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356m) is repealed.

(b) Trade Act of 1974.—

(1) Subsection (c) of section 126 of the Trade Act of 1974 (19 U.S.C. 2136(c)) is repealed.

(2) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441) is repealed.

(c) Uruguay Round Agreements Act.—Section 424 of the Uruguay Round Agreements Act (19 U.S.C. 3622) is repealed.

(d) Restrictions on Expenditures.—Subparagraph (C) of section 109(c)(3) of Public Law 100–202 (101 Stat. 1329–435) (40 U.S.C. 601 note) is repealed.

TITLE XV—DEPARTMENT OF TRANSPORTATION

SEC. 1501. REPORTS ELIMINATED.

(a) Coast Guard Report on Environmental Compliance.—Section 693 of title 14, United States Code, is repealed.

(b) Annual Report on Coast Guard User Fees.—Section 664 of title 14, United States Code, is amended by striking subsection (c).

(c) Reports About Government Pension Plans.—Section 9503 of title 31, United States Code, is amended by striking subsection (a).

(d) Biennial Report of the Interagency Coordinating Committee on Oil Pollution Research.—Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) Federal Highway Administration Report.—Section 307(e) of title 23, United States Code, is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively.

(f) Annual Report on Highway Hazard Elimination Program.—Section 152 of title 23, United States Code, is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(g) Transportation Air Quality Report.—Section 108(f) of the Clean Air Act (42 U.S.C. 7408(f)) is amended by striking paragraphs (3) and (4).

(h) Indian Reservation Roads Study.—Section 1042 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1993) is repealed.

(i) Study of Impact of Climatic Conditions.—Section 1101–1102 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027) is repealed.

(j) Fatal and Injury Accident Rates on Public Roads in the United States.—Section 207 of the Highway Improvement Act of 1982 (96 Stat. 2139, 23 United States Code 401 note) is repealed.

(k) Biennial Reports on Natural Gas and Hazardous Liquid Pipeline Safety.—

(1) In general.—Section 60124 of title 49, United States Code, is repealed.

(2) Conforming amendment.—The chapter analysis for chapter 601 of title 49, United States Code, is amended by striking the item relating to section 60124.

(l) Motor Vehicle Safety.—

(1) In general.—Section 30169 of title 49, United States Code, is repealed.

(2) Conforming amendment.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30169.

(m) Bumper Standards.—

(1) In general.—Section 32510 of title 49, United States Code, is repealed.

(2) Conforming amendment.—The chapter analysis for chapter 325 of title 49, United States Code, is amended by striking the item relating to section 32510.

(n) Highway Safety.—Section 202 of the Highway Safety Act of 1966 (80 Stat. 736; 23 U.S.C. 401 note) is repealed.

(o) Maritime Construction Costs.—Section 213 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1123) is amended by striking subsection (c).

(p) Federal Transit Administration.—Section 5335 of title 49, United States Code, is amended by striking subsection (b).

(q) Project Review.—Section 5328(b) of title 49, United States Code, is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(r) Suspended Light Rail System Technology.—Section 5320 of title 49, United States Code, is amended by striking subsection (k).

(s) Needs Survey; Transferability Report.—Section 5335 of title 49, United States Code, as amended by this section, is further amended by striking subsections (c) and (d).

SEC. 1502. REPORTS MODIFIED.

(a) Coast Guard Report on Major Acquisition Projects.—Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1551) is amended—

(1) by striking "quarterly" and inserting "biannual"; and

(2) in the last proviso, by striking "preceding quarter" and inserting "preceding 6-month period".

(b) Highway Report.—Section 307(h) of title 23, United States Code, is amended by striking "January 1983, and in January of every second year thereafter" and inserting "March 1998, and in March of every second year thereafter".

(c) Aviation Security Report.—Section 44938 of title 49, United States Code, is amended by striking "annually" and inserting "biennially".

(d) Report on Public Transportation.—Section 308(e)(1) of title 49, United States Code, is amended by striking "in January of each even-numbered year" and inserting "in March 1998, and in March of each even-numbered year thereafter".

(e) National Ballast Information Clearinghouse.—Section 1102(f)(2) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(f)(2)) is amended by striking "biannual" and inserting "biennial".

TITLE XVI—NOAA

SEC. 1601. REPORTS ELIMINATED.

(a) Report Concerninc Prices for Nautical and Aeronautical Products.—Section 1307(a)(2)(A) of title 44, United States Code, is amended by striking the last sentence.

(b) Report on National Shellfish Research Program.—Section 308 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (33 U.S.C. 1251 note) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) GEOSTATIONARY OPERATIONAL ENVIRONMENTAL SATELLITES CERTIFICATION AND REPORT REGARDING TECHNICAL PERFORMANCE SPECIFICATIONS.—Subsection (d) of section 105 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567; 106 Stat. 4273) is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2), there" and inserting "There"; and

(2) by striking paragraph (2).

(d) NEXT GENERATION WEATHER RADAR SYSTEM CERTIFICATION AND REPORT REGARDING TECHNICAL PERFORMANCE SPECIFICATIONS.—Section 102(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567; 106 Stat. 4271) is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2), there" and inserting "There"; and

(2) by striking paragraph (2).

(e) REPORT ON ENFORCEMENT OF VIOLATIONS CONCERNING THE USE OF UNENHANCED DATA FOR COMMERCIAL PURPOSES.—Section 508(d) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5658(d)) is amended by striking ", and shall report annually to the Congress on instances of such violations".

(f) REPORT ON THE NATIONAL CLIMATE PROGRAM ACTIVITIES.—Section 7 of the National Climate Program Act (15 U.S.C. 2906) is repealed.

FORT BERTHOLD INDIAN RESERVATION

Ms. COLLINS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 400, S. 2069.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2069) to permit the leasing of mineral rights in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT BERTHOLD INDIAN RESERVATION.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this section:

(A) INDIAN LAND.—The term "Indian land" means an undivided interest in a single parcel of land that—

(i) is located within the Fort Berthold Indian Reservation in North Dakota; and

(ii) is held in trust or restricted status by the United States.

(B) INDIVIDUALLY OWNED INDIAN LAND.—The term "individually owned Indian land" means Indian land that is owned by 1 or more individuals.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) EFFECT OF APPROVAL BY SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—The Secretary may approve any mineral lease or agreement that affects individually owned Indian land, if—

(i) the owners of a majority of the undivided interest in the Indian land that is the subject of the mineral lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under paragraph (3)) consent to the lease or agreement; and

(ii) the Secretary determines that approving the lease or agreement is in the best interest of the Indian owners of the Indian land.

(B) EFFECT OF APPROVAL.—Upon the approval by the Secretary under subparagraph (A), the lease or agreement shall be binding, to the same extent as if all of the Indian owners of the Indian land involved had consented to the lease or agreement, upon—

(i) all owners of the undivided interest in the Indian land subject to the lease or agreement (including any interest owned by an Indian tribe); and

(ii) all other parties to the lease or agreement.

(C) DISTRIBUTION OF PROCEEDS.—The proceeds derived from a lease or agreement that is approved by the Secretary under subparagraph (A) shall be distributed to all owners of the Indian land that is subject to the lease or agreement in accordance with the interest owned by each such owner.

(3) EXECUTION OF LEASE OR AGREEMENT BY SECRETARY.—The Secretary may execute a mineral lease or agreement that affects individually owned Indian land on behalf of an Indian owner if—

(A) that owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(B) the heirs or devisees referred to in subparagraph (A) have been determined, but 1 or more of the heirs or devisees cannot be located.

(4) PUBLIC AUCTION OR ADVERTISED SALE NOT REQUIRED.—It shall not be a requirement for the approval or execution of a lease or agreement under this subsection that the lease or agreement be offered for sale through a public auction or advertised sale.

(b) RULE OF CONSTRUCTION.—This Act supersedes the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C. 396) only to the extent provided in subsection (a).

Ms. COLLINS. Mr. President, I ask unanimous consent the committee amendment be agreed to, the bill as amended be read a third time, passed, and the motion to reconsider be laid upon the table, that the title amendment be agreed to, and that any statements related to the bill appear in the RECORD with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 2069), as amended, was read the third time and passed.

The title was amended so as to read:

A bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration.

U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

Ms. COLLINS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1900) to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1900) entitled "An Act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) eight shall be private citizens, appointed by the President;

(B) four shall be representatives of the Department of State, the Department of Justice, the Department of the Army, and the Department of the Treasury (one representative of each such Department), appointed by the President;

(C) two shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) two shall be Members of the House of Representatives, appointed by the minority leader of the House of Representatives;

(E) two shall be Members of the Senate, appointed by the majority leader of the Senate;

(F) two shall be Members of the Senate, appointed by the minority leader of the Senate; and

(G) one shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) Period of Appointment.—Members of the Commission shall be appointed for the life of the Commission.

(e) Vacancies.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) Meetings.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) Quorum.—11 members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) Original Research.—

(1) In general.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop a historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System and any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from governmental institutions in any area occupied by the military forces of the Nazi government of Germany.

(2) Types of assets.—Assets described in this paragraph include—

(A) gold, including gold bullion, monetary gold, or similar assets in the possession of or under the control of the Board of Governors of the Federal Reserve System or any Federal reserve bank;

(B) gems, jewelry, and nongold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945, by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) Coordination of activities.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(4) Insurance policies.—

(A) In general.—In carrying out its duties under this Act, the Commission shall take note of the work of the National Association of Insurance Commissioners with regard to Holocaust-era insurance issues and shall encourage the National Association of Insurance Commissioners to prepare a report on the Holocaust-related claims practices of all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued any individual life, health, or property-casualty insurance policy to any individual on any list of Holocaust victims, including the following lists:

(i) The list maintained by the United States Holocaust Memorial Museum in Washington, D.C., of Jewish Holocaust survivors.

(ii) The list maintained by the Yad Vashem Holocaust Memorial Authority in its Hall of Names of individuals who died in the Holocaust.

(B) Information to be included.—The report on insurance companies prepared pursuant to subparagraph (A) should include the following, to the degree the information is available:

(i) The number of policies issued by each company to individuals described in such subparagraph.

(ii) The value of each policy at the time of issue.

(iii) The total number of policies, and the dollar amount, that have been paid out.

(iv) The total present-day value of assets in the United States of each company.

(C) Coordination.—The Commission shall coordinate its work on insurance issues with that of the international Washington Conference on Holocaust-Era Assets, to be convened by the Department of State and the United States Holocaust Memorial Council.

(b) Comprehensive Review of Other Research.—Upon receiving permission from any relevant individuals or entities, the Commission shall review comprehensively any research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) Governments Included.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) Reports.—

(1) Submission to the president.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) Submission to the congress.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) Administrative Services.—For the purposes of obtaining administrative services necessary to carry out the purposes of this Act, including the leasing of real property for use by the Commission as an office, the Commission shall have the power to—

(1) enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Commission is a party; and

(2) acquire, hold, lease, maintain, or dispose of real and personal property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) Compensation.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Executive Director, Deputy Executive Director, General Counsel, and Other Staff.—

(1) In general.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) Qualifications.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) Duties of executive director.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) Employee benefits.—

(A) In general.—An employee of the Commission shall be an employee for purposes of chapters 83, 84, 85, 87, and 89 of title 5, United States

Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services, on a reimbursable basis, relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. ADMINISTRATIVE SUPPORT SERVICES.

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than $3,500,000, in total, for the interagency funding of activities of the Commission under this Act for fiscal years 1998, 1999, and 2000, of which, notwithstanding section 1346 of title 31, United States Code, and section 611 of the Treasury and General Government Appropriations Act, 1998, $537,000 shall be made available in equal amounts from funds made available for fiscal year 1998 to the Departments of Justice, State, and the Army that are otherwise unobligated. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate agree to the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JUNE 11, 1998

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Thursday, June 11. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 11:15 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator ROCKEFELLER, 10 minutes; Senator TORRICELLI, 15 minutes; Senator BAUCUS, 30 minutes; Senator COLLINS, 15 minutes; Senator KERRY, 15 minutes; and Senator SMITH of Oregon, 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I further ask consent that following morning business the Senate resume consideration of S. 1415, the tobacco bill. Further, that at noon the Senate proceed to vote on the motion to invoke cloture on the modified committee substitute and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. COLLINS. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 9:45 a.m. and begin a period of morning business until 11:15 a.m. Following morning business, the Senate will resume consideration of the tobacco bill. At 12 noon, the Senate will proceed to vote on the motion to invoke cloture on the modified tobacco committee substitute. Assuming cloture fails, the Senate will continue debate on the tobacco bill. It is hoped that Members will come to the floor to offer and debate remaining amendments to the bill throughout Thursday's session. The Senate may also consider any other legislative or Executive Calendar item that may be cleared for action. Therefore, rollcall votes are possible throughout Thursday's session of the Senate.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Ms. COLLINS. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:44 p.m., adjourned until Thursday, June 11, 1998, at 9:45 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, June 10, 1998*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SOLOMON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 10, 1998.

I hereby designate the Honorable GERALD B.H. SOLOMON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Of all your blessings, O God, to which we cling and of all the gifts that mark the human soul, we especially hold dear the spirit of thanksgiving and the attitude of praise. O Almighty God, who has given us all good things, we pray that we will express our gratitude to you for your love to us even as we express our appreciation and respect to those we love. Bless us this day and every day, we pray, amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri (Mr. SKELTON) come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement. After consultation with the majority and minority leaders and with their consent and their approval, the Chair announces that during the joint meeting to hear an address by his Excellency Kim Dae-jung, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to. Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, June 5, the House will stand in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 10:00 a.m., the following proceedings were had.

□ 1000

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY KIM DAE-JUNG, PRESIDENT OF THE REPUBLIC OF KOREA

The SPEAKER of the House presided.

The Assistant to the Sergeant at Arms, Richard Wilson, announced the President pro tempore of the Senate and the Members of the U.S. Senate who entered the Hall of the House of Representatives, the President pro tempore of the Senate taking the chair at the right of the Speaker, and Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Kim Dae-jung into the Chamber:

The gentleman from Texas (Mr. ARMEY);

The gentleman from Texas (Mr. DELAY);

The gentleman from Ohio (Mr. BOEHNER);

The gentleman from California (Mr. COX);

The gentleman from New York (Mr. GILMAN);

The gentleman from Nebraska (Mr. BEREUTER);

The gentleman from New York (Mr. SOLOMON);

The gentleman from California (Mr. KIM);

The gentleman from Missouri (Mr. GEPHARDT);

The gentleman from Michigan (Mr. BONIOR);

The gentlewoman from Connecticut (Mrs. KENNELLY);

The gentleman from Maryland (Mr. HOYER);

The gentleman from Indiana (Mr. HAMILTON);

The gentleman from Connecticut (Mr. GEJDENSON);

The gentlewoman from California (Ms. PELOSI); and

The gentleman from North Dakota (Mr. POMEROY).

The PRESIDENT pro tempore. The President pro tempore of the Senate, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort His Excellency Kim Dae-jung, the President of the Republic of Korea, into the House Chamber:

The Senator from Oklahoma (Mr. NICKLES);

The Senator from Florida (Mr. MACK);

The Senator from Georgia (Mr. COVERDELL);

The Senator from Indiana (Mr. LUGAR);

The Senator from Alaska (Mr. MURKOWSKI);

The Senator from Wyoming (Mr. THOMAS);

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Maryland (Ms. MIKULSKI);

The Senator from Nebraska (Mr. KERREY);

The Senator from New Jersey (Mr. TORRICELLI);

The Senator from Iowa (Mr. HARKIN);

The Senator from Delaware (Mr. BIDEN);

The Senator from New Jersey (Mr. LAUTENBERG);

The Senator from Michigan (Mr. LEVIN); and

The Senator from California (Mrs. BOXER).

The Assistant to the Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Roble Olhawe, Ambassador of Djibouti.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

(At 10 o'clock and 11 minutes a.m., the Assistant to the Sergeant at Arms announced the President of the Republic of Korea, His Excellency Kim Dae-jung.)

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and personal pleasure to present to you His Excellency Kim Dae-jung, the President of the Republic of Korea.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY KIM DAE-JUNG, PRESIDENT OF THE REPUBLIC OF KOREA

President KIM. Mr. Speaker, Mr. President, distinguished Members of the Senate and House, ladies and gentlemen.

A rare succession of world leaders has been accorded the honor of speaking from this lofty podium. But today, I am the first to have been twice snatched from death by the decisive actions of your Nation.

You first saved my life in 1973, when I was kidnapped and nearly murdered by the military regime, and again in 1980, when a dictatorship sentenced me to death.

I escaped five attempts on my life; one by communists; the other four by military dictators. Living 40 years of my life under surveillance, I spent six years in prison and more than 10 years in exile or under house arrest.

In 1973, I was kidnapped in Tokyo and taken onto a ship. Bound and gagged, I was about to be thrown overboard. But, as only someone who has brushed up to death's door can know, I saw Jesus Christ near me. I prayed for my life and I truly believe God saved me.

At that moment, an airplane flew over the vessel and stopped my abductors. Later, we learned the plane had intervened because of information from the United States.

In 1980, I was arrested by the leaders of a military coup d'etat and sentenced to death. If not for the active efforts by President Carter and President-elect Reagan, this podium would now be empty.

In prison, threats of death were ceaseless. But I could never make a separate peace with a dictatorship. I could never betray the people.

□ 1020

And when they said I would die, still I never gave in, even though I was afraid of death. Every now and then, I look in the mirror, with deep emotion, and wonder how I overcame 40 years of such trial. Even now, the anguish and doubt of those times are hard to talk about.

Only years later did I hear words attributed to your great statesman, Abraham Lincoln, and come to know their true meaning: "I will prepare, and someday, my chance will come."

So the improbable Korean journey that has brought me to this, democracy's most famous home, is not lost on this humble and fellow public servant.

And to those of you in this Chamber, to those Americans who fought for democracy and to whom my life is literally owed, I will never forget the example of your safe haven. I will never forget America and the destiny that so strongly binds my political life to your Nation.

Mr. Speaker, Mr. President, distinguished Members of the Senate and House, a century and 16 years ago, our two nations established formal relations. It is a long and unbroken friendship. The United States helped liberate Korea from the iron chains of Japanese colonialism and defend the Republic from Communist aggression.

Today, in this Chamber, with deepest gratitude, I pray between these words for the souls of more than 33,000 young Americans who sacrificed their precious lives to defend the Republic from Communist tyranny. How can I thank the brave Americans who fought nearly 50 years ago in that horror of a war? Some of you here fought in that war. For this sacrifice, I thank you from the bottom of my heart. In defending Korea, you helped set us free.

Yet today, there is no peace on the Korean peninsula. At this hour, armed forces of the Republic and the United States stand within sight of North Korean Communist troops in a state of hostility. And that must change. We must bring a real and permanent peace to the Peninsula and nudge North Korea toward cooperation and reconciliation.

So to the leader of North Korea, I say: First, no armed provocation by North Korea will be tolerated, under any circumstances. Second, we will not undermine your regime or attempt unification by absorbing the North. Third, we will pursue with you across-the-board exchange and cooperation. Support for this approach comes from Koreans and from Japan, China, Russia, and the United States, and many other nations around the world.

Above all, I say again, we must not tolerate armed provocation by North Korea. We must secure peace through strength. Our purpose is not war. We seek only peaceful cooperation with North Korea.

In this regard, the Geneva Agreed Framework must continue to play an important role in promoting peace and stability on the Peninsula and strengthening the global nuclear nonproliferation regime. Thus, even with our current economic difficulties, Korea will faithfully abide by our commitment to the KEDO project. And we hope the United States continues to smoothly implement the agreed framework.

To lead North Korea toward reconciliation, the Republic and the United States should promote a "sunshine" policy, offering inducements against the backdrop of strong security measures. And we should extend to North Korea both goodwill and sincerity so suspicion dissolves and openness emerges.

Above all, we need a flexible policy. To get a passerby to take off his coat, so the fable goes, sunshine is more effective than a strong wind.

We are going to promote cooperation in a wide range of areas, under the principle of separation of politics and economics. We want America's support in this effort. Both our nations need to be more confident, coordinated, and composed in our relations with North Korea.

We hope such an overall approach gives North Korea psychological room to open its mind and its doors. To be sure, we will never relax our vigilance against North Korea. But neither will we be afraid to pursue peace.

That is what I believe. This approach, this doctrine, is the most secure and stabilizing for the Peninsula, for Northeast Asia, for America and for the world.

Indeed, Northeast Asia is one of the world's most important regions, militarily and economically. The United States, Japan, China and Russia all have a stake in this region.

Nearly surrounded by these four powers, Korea's national and security interests are substantially influenced by them. And I am convinced the continued pretense of U.S. troops in East Asia, including Korea, is consistent with American national interest and necessary for peace and stability in the region.

Mr. Speaker, Mr. President, for 30 years Korea has sustained economic growth. But late last year, we began to face grave economic difficulties due to a sudden and unanticipated shortage of reserves. America has taken the lead in international efforts to assist us through these difficult times. And may I say, it is truly good to have friends in times of need. I remember vividly a phone call from President Clinton and his encouraging words the day after my election, as well as the many messages from Members of this great Congress.

The cause of our economic problems is quite clear. My predecessors did not practice democracy and a free market economy. In fact, there was too little democracy, too much collusion with big business, and too much government-directed finance. Corruption prevailed. Imprudent borrowing weakened our Nation's banks and businesses.

Today, Korea faces a long and hard challenge. Unemployment is at a record high. Sales are falling. Bankruptcies are increasing. Nevertheless, the people and government are joining hands to overcome the foreign exchange crisis and to reform the economic structure. Labor, business and government are doing their part to rebuild the economy. Reform bills have been passed. Changes are underway.

As a result, encouraging signs have begun to appear. Foreign exchange reserves now total 35 billion U.S. dollars, a far cry from the mere $3.9 billion tallied on December 18, the day I was elected. Once skyrocketing foreign exchange and interest rates are on a downward trend.

We remain focused on reviving Korea's economy. And what we need now, more than anything else, are foreign investors. Since the crisis, Koreans have become far more positive about accommodating foreign capital. A recent poll showed 87 percent of Koreans now believe foreign investment is beneficial to our Nation's economy.

Inspired by this support, we have moved decisively to revise laws and regulations so that international investors can operate under the same conditions as Koreans. In fact, Korea will become one of the best countries for international investors to freely and safely do business. This is a precious opportunity, and we must seize it.

In international trade, we will open our markets. Unfair regulations are being abolished. And we will no longer tolerate legal discrimination against foreign products. Free trade is essential for success.

Pursuing reform of this magnitude, we need help from others. And we need unreserved supported from the United States.

Korea is America's eighth largest trading partner and one of your staunchest allies. Today, I appeal to you and to the American people: We need your encouragement for our reforms to succeed and for us to become a stronger trading partner in the future.

It may be remembered that at important times Korea was there for America, too. For example, during your own economic downturn in the 1980s, Korea dispatched special purchasing delegations to the United States and bought billions of dollars of your goods. Over the years, Korean corporations have individually invested over $1 billion each in the U.S. In 1996, Korea purchased from America $11.6 billion more than we sold to you, absorbing more than half the total trade deficit of that year. And Korean Airlines just concluded a $2 billion contract with an American aircraft manufacturing.

Mr. Speaker, Mr. President, I am grateful for the help we received from the IMF, the IBRD, and other financial institutions. With the IMF's strong support, we are aggressively and successfully promoting restructuring of our economy to the level of other advanced countries.

In a sense, the IMF is to international finance what the Federal Reserve is to your Nation's financial system, the lender of last resort. The IMF may well have to play again a critical role in averting and stabilizing future economic crises. And the IMF deserves continued support.

Korea is going to dedicate this year to economic reform. To be sure, Koreans must endure cruel tests of unemployment, inflation, recession and bankruptcy. But many experts believe conditions will improve substantially in the second half of next year. The Korean economy will then reenter a stage of solid growth, bounding ahead, beginning in the year 2000.

□ 1040

Korea can do it. We built one of the leading economies in the world in just three decades, rising from the ruins of war. We have a proven potential. We are resilient. But we now need your help.

Mr. Speaker, Mr. President, at this thrilling moment for me, in a life that has already been long and not entirely uneventful, millions of Koreans are also listening to these words. And I am sure they feel very proud. Korea's first President to be elected through a genuinely democratic process is speaking in this, democracy's most hallowed hall. My countrymen will surely join me in wanting our two nations to grow closer and rise to a higher partnership, to a higher friendship.

Across Asia, a valuable lesson is being learned. Where there is no democracy, there can be no free market economy; and where there is no dynamic free market economy, there can be no competitiveness. Many people in Asia, and around the world, are beginning to agree that democracy and a free market economy can and must flourish together, as one.

Today, we face a fundamental challenge in working together to help Korea move beyond the current economic crisis, so it can once again stand boldly as a model of inspiration for the world.

Mr. Speaker, Mr. President, thank you for helping me stand before you as the President of a democratic Korea.

Today, how can I help but think back to destiny, to the two times your Nation saved me from death? So much was endured throughout that long and hard struggle for real democratization in Korea that today, our two nations are obligated to ensure it was all truly worthwhile.

Twenty-five years ago and eighteen years ago, America's decisive actions saved me from paying the highest price an individual can pay. Today, I say, let us join together in a higher friendship that stands as a shining example of democracy's true destiny.

Thank you very much.

[Applause, the Members rising.]

At 10 o'clock and 44 minutes a.m., the President of the Republic of Korea, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The Members of the President's Cabinet.

The Acting Dean of the Diplomatic Corps.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 10 o'clock and 46 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until the hour of 11 a.m.

□ 1106

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 6 minutes a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed bills of the following titles, in which concurrence of the House is requested:

S. 1531. An act to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

S. 1532. An act to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. On January 4, 1995, the Chair enunciated a clear policy concerning the conduct of electronic votes. Under that policy the House was able to avoid the unnecessary loss of time in conducting its business by striving to close each electronic vote as soon as possible after the minimum time guaranteed by the rules. After consultation with the minority leader, the Chair has concluded that this policy bears reaffirmation.

As Members are aware, the rules of the House establish 15 minutes as the minimum time for electronic voting in the ordinary case and 5 minutes as the minimum time for electronic voting in other cases where Members are already in or near the Chamber in response to an earlier vote. With the cooperation of the Members, an electronic vote can be completed within the minimum time allotted under the rules.

Today the Chair asks all Members to join in mutual rededication to the policy of closing electronic votes as soon as possible after the minimum time guaranteed by the rule. Where the minimum time guaranteed by the rule is 15 minutes, occupants of the chair will endeavor to close votes after no more than 17 minutes. Where the minimum time guaranteed by the rules is 5 minutes, occupants of the chair will endeavor to close votes after no more than 6 minutes.

Members have appreciated and cooperated with the Chair's strict enforcement of this policy in the past. The Chair encourages all Members to depart for the Chamber promptly upon the appropriate bell and light signal. As in recent Congresses, the Cloakroom should not forward to the Chair requests to hold a vote by electronic device but should simply apprise inquiring Members of the time remaining on the voting clock. Members should not rely on signals related from outside the Chamber to assume that votes will be held open until they arrive in the Chamber.

Although no occupant of the chair will prevent a Member who is visible to the Chair before the announcement of the result from casting or changing his or her vote, each occupant of the chair will have the full support of the Speaker in striving to close each electronic vote at the earliest opportunity.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. NEUMANN. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1 minutes.

HARLEY-DAVIDSON CELEBRATES 95TH ANNIVERSARY

(Mr. NEUMANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, the Harley-Davidson Company is gearing up for its 95th anniversary celebration, and I would like to take this opportunity to express my admiration for this outstanding Wisconsin company. Great Wisconsinites, like Green Bay Packer Coach Mike Holmgren, drive Harley bikes; I believe the coach has been seen around the State in a Heritage Softail.

Harley Davidson is a company that I have long admired for its commitment to quality, its dedication to treating both customers and employees like the valuable commodities they are. I believe for this reason that Harley Davidson inspires a loyalty that we see too rarely in American-made products in this day and age. The company has come a long ways from its humble beginnings in 1903, but it has never lost its vision of the American dream, and continues to excel in both domestic and international marketplaces.

Harley-Davidson is also a major contributor to the welfare of communities it is a part of. For example, Harley is a Wisconsin sponsor of the Tour de Cure an annual bike ride for American Diabetic Association. The company also contributes a portion of its corporate earnings each year for the Harley-Davidson Foundation which oversees charitable donation of groups like Boy Scouts and Girl Scouts.

For this reason, I want to be among those who are standing up saying, "Happy Birthday, Harley-Davidson, and keep up the good work."

INTRODUCTION OF H.R. 3652, THE ETHERIDGE SCHOOL CONSTRUCTION ACT

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on this House to pass common sense legislation to help our States and communities build modern, safe school facilities for our children.

Across the country, students rejoice as another school year comes to an end. On Friday I had the opportunity to attend the high school graduation for my son David. It was one of my proudest moments as a father. But as a former superintendent of my State schools, I also know firsthand that too many of our children are forced to attend classes in trailers or closets and bathrooms and unsafe, overcrowded classrooms, and I call on this Congress to pass legislation before the start of the next school year to build new schools, relieve the overcrowding and reduce class sizes.

I have introduced legislation, H.R. 3652, that will create $7.2 billion in school construction bonds for States and localities that are suffering under the strain of overcrowded schools. Forty-eight Members of this House have already signed on from 15 different States, and I call on other colleagues to join me to address this urgent need. Many different organizations have joined, and I challenge others to join us.

Mr. Speaker, an investment in our schools is an investment in our children and an investment in our Nation's future.

THE CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. DUNN. Mr. Speaker, I rise today to encourage my colleagues to send a strong message to those who would prey on innocent children over the Internet. Make no mistake, these sex crimes against children will not be tolerated.

This week the House will consider the Child Protection and Sexual Predator Punishment Act introduced by the gentleman from Florida (Mr. MCCOLLUM) and myself. This legislation is for moms and dads throughout the country who are doing everything they can to keep their children safe and innocent but cannot control the pedophiles cruising the Internet.

In this age of ever expanding technology, pedophiles are increasingly using the anonymity of the Internet to pose as minors and befriend vulnerable children who are unknowingly lured into very dangerous situations.

That is why the McCollum-Dunn bill is so critical to families across America. This legislation helps law enforcement crack down on pedophiles who no longer offer candy to unsuspecting children on the playground but now offer companionship to children through the Internet chat room. This bill tells sexual predators that the Information Superhighway is not a detour for deviant behavior, it is a dead end.

Mr. Speaker, I encourage my colleagues to support this legislation.

HOPE FOR DEMOCRACY IN CHINA COULD TURN TO DESPAIR IF THE PRESIDENT STANDS WITH COMMUNISTS IN TIANANMEN SQUARE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the President said if China wants a ceremony in Tiananmen Square, so be it; it is not my place to make demands on Communist China.

Unbelievable. When the leader of the free world stands with Communists on the very same site where young Chinese students gave their lives struggling for democracy, something is wrong, very wrong, and the hope and inspiration for democracy that once existed in China may turn into disgust and despair.

Let us tell it like it is. If the President can stonewall Kenneth Starr, the

President can stonewall the butchers of Tiananmen Square.

And one last word:

The Berlin Wall would still be standing if Ronald Reagan made no demands on Communists.

□ 1115

TECHNOLOGY TRANSFERS TO CHINA A RISK TO AMERICAN SECURITY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, most Americans are familiar with the old saying, "Fool me once, shame on you; fool me twice, shame on me." Well, Americans are now starting to wonder just how many times the Communist Chinese have fooled this administration.

The Clinton administration has been selling U.S. secrets to China for the past few years. You name it, nuclear technology, missile secrets, computer technology, they have sold it. Now we have another foolish deal to add to the list.

In 1993, in exchange for a deal on commercial airliners, the Clinton administration pushed a sale to China of special computer-controlled machinery used to make parts for America's premier war planes. The Chinese gave us their word, they gave us their solemn promise, that these machines would not, repeat, would not, be used for military purposes.

Should anyone have been surprised when that sophisticated equipment showed up in a Communist Chinese factory that makes military cruise missiles, military cruise missiles that can be aimed at American soldiers and sailors?

Mr. Speaker, it is time the Clinton administration and their Commerce Department take off their blinders and see these technology transfers for what they are, risks to American national security that clearly endanger American lives.

HONORING SANTA MARIA, CALIFORNIA

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise today to pay special tribute to Santa Maria, California, one of the most vital and remarkable communities of this great Nation. The strength of this diverse city is its people. The residents of Santa Maria are from all walks of life, and they work together often finding innovative ways to solve complex problems.

For example, the Santa Maria-Bonita School District's Healthy Start Program has long offered crucial services to local families in need, and it is not unusual for farmers, educators, entrepreneurs and elected officials to join together and stand up for their city, as they did last October when a delegation of leaders came to our Nation's capital for Santa Maria Day in Washington. Just last Saturday my grandson and I participated in the annual Elks rodeo and parade and saw firsthand the support this community gives to projects which benefit children and families.

Mr. Speaker, it is for these reasons that I wholeheartedly recommend Santa Maria for the prestigious All-American City Award.

Mr. Speaker, this is a city and a community to be honored.

EXPLANATION REQUIRED ON U.S. MISSILE TECHNOLOGY TRANSFERS TO CHINA

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, India conducts nuclear tests; Pakistan then conducts nuclear tests; China we know transfers nuclear technology to Pakistan, to Iran, and possibly other nations. Now it turns out that the United States gave missile technology to China. That is right, Communist China, the same country that has transferred that technology to Pakistan, Iran and possibly other adversaries. Though, not to worry, we are told, the Communist Chinese have assured us they will not do it anymore.

It is time, Mr. Speaker, for Congress to examine how the President of the United States has become the Proliferator-in-Chief. It is time for the White House to explain how it is that transferring authority for technology waivers from the State Department to the Commerce Department is in our national interests.

Why will the White House not respond to the May 1997 Pentagon report that concluded, "National security has been harmed," as a result of the technology transfers arising from China's February 1996 rocket failure? The Proliferator-in-Chief should respond to these questions before the next nuclear tests take the world by surprise yet again.

PASS CAMPAIGN FINANCE REFORM LEGISLATION NOW

(Mr. ADAM SMITH of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADAM SMITH of Washington. Mr. Speaker, I rise today to strongly urge the House to pass the Shays-Meehan campaign finance reform bill as quickly as possible. I also urge the House to reject all amendments and all substitutes to that bill.

Opposition to campaign finance reform has been the main reason that it has not passed thus far, but another reason has been the lack of consensus among the pro-campaign finance reform members. There have been too many reform proposals to settle on one, and the confusion has stopped reform. Well, thanks to the work of Mr. SHAYS and Mr. MEEHAN, we have a consensus bill. Let us unite behind that legislation and pass it as soon as possible.

I also urge this House to stop the sham on the campaign finance reform debate. The underlying bill currently has 11 substitutes and over 600 amendments filed. It is obvious that this is just a stalling tactic to stop reform.

Promises have been repeatedly made on the floor of this House to bring up campaign finance reform and have a vote on it as soon as possible. Once again, those promises are not being met. Campaign finance reform is being thwarted, and a stalling tactic is replacing real reform. Let us vote on Shays-Meehan as soon as possible.

PROTECT AMERICA FROM THREAT OF BALLISTIC MISSILE ATTACK

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, recent nuclear tests abroad serve as a stark reminder to those who need reminding that the world is still a very dangerous place. Although some are tempted to think that free trade and diplomacy alone will remove the threat of war, all of history suggests this is both fantasy and a dangerous illusion. It was a dangerous illusion in 1914, it was a dangerous illusion in 1939, and it remains a dangerous illusion today.

It is crucial that America end this foolish policy of remaining vulnerable to a ballistic missile attack. Many Americans will be shocked to learn that it is the policy of the United States to have no national ballistic missile defense system in place.

It is time to protect Americans from the threat of a ballistic missile attack and recognize the reality that the world is a dangerous place. If we fail to do that, Mr. Speaker, we will fail in the most crucial obligation we have as a Congress and as the elected representatives of the American people—to secure their future.

TIME TO SCHEDULE VOTE ON SHAYS-MEEHAN CAMPAIGN FINANCE REFORM BILL

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, yesterday's Los Angeles Times got it right: "Voters are getting tired of empty promises" from the Republican leadership on campaign finance reform.

Weeks have passed since the Republican leadership committed to holding a vote on the Shays-Meehan bill. Each day Republican leaders have postponed reform or debate on reform, and every day they postpone it, support for our bill has grown. Grassroots organizations, ranging from the AARP to the National Farmers Union to public groups all over the country are uniting behind supporting the Shays-Meehan bill.

Last week, key Democratic and Republican sponsors of the commission bill merged with our coalition in support of a single bipartisan bill. Over the past few weeks, reform-minded Members on both sides of the aisle have committed to pulling their own reform proposals off if the Shays-Meehan bill wins a majority vote. Now all we need is the opportunity to do just that. Vote on the Shays-Meehan bill.

In short, to the gentleman from Texas (Mr. ARMEY) and the gentleman from Texas (Mr. DELAY), reform supporters are ready to move forward. Enough is enough. Let us vote on Shays-Meehan.

TIME TO BUILD NATIONAL MISSILE DEFENSE SYSTEM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, it is a shame that it has taken nuclear blasts in India and Pakistan to convince American leaders that it is time to put an end to our policy of mutually assured vulnerability.

What I mean by this is that the United States is vulnerable to a missile attack. Many Americans are unaware of this. But if a missile were to be fired at American cities, the United States would be defenseless against it. Not only that, but this is the deliberate policy of the United States, to remain defenseless in the face of nuclear attack.

But recent events in Pakistan and India should serve to force us to reconsider our policy of vulnerability in face of a missile attack. Recent reports that Communist China has 13 nuclear missiles aimed at the United States should reinforce the need for this reassessment. It is time to begin to build a national missile defense system. The security of our Nation is at stake.

SUPPORT DOLLARS TO THE CLASSROOM ACT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to urge Congress and the President to send more dollars to our classrooms instead of Washington bureaucrats. The Dollars to the Classroom Act is a Republican initiative which would require 95 percent of all Federal funding for K-through-12 education programs to be sent to local schools. As a former teacher, I support this act.

Unfortunately, the Clinton administration and its core of Washington bureaucrats believe that they know best how to educate our children. They believe that our children should submit to another national test and that they would benefit from another Federal mandate.

However, the American people know better. The Dollars to the Classroom Act will send nearly all of our Federal tax dollars for education back to local schools. That means $10 billion will be taken from the grasp of bureaucrats and put into the hands of a teacher who actually knows your child's name.

Support H.R. 3248, the Dollars to the Classroom Act.

WITNESSES REFUSING TO TESTIFY IN WHITE HOUSE INVESTIGATION

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, the Washington Post, which is not exactly known as a conservative newspaper, has done the American people a great service. I do not think anybody with a straight face could say they are part of some vast alleged right wing conspiracy.

Yesterday the Washington Post published a full page list of 94 witnesses who have either fled the country or taken the fifth amendment in relation to the Clinton White House scandals. There has been a pattern of nearly total noncooperation by this administration.

The White House delays and stonewalls, and then complains that the investigation is taking too long. Witnesses flee the country or refuse to testify, and then the White House accuses investigators of being on a witch hunt. Attorney General Janet Reno expands the investigation, and then the White House blames Judge Starr for spending too much money. White House aides suddenly experience massive memory loss and cannot recall any relevant facts about important events.

Mr. Speaker, the American people deserve better than this.

CONGRESS, NOT THE FCC, SHOULD SET TAXES

(Mr. CANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANNON. Mr. Speaker, the most exciting technological development of the past decade is the Internet. This truly global network is a conduit for communication and commerce and is rapidly transforming business, government and virtually every other part of our society.

Not surprisingly, Congress in the Telecom Act 2 years ago moved to push the Internet into our schools. The concept was that deregulation would push down phone rates, allowing for some of the savings to be channeled into connecting schools to the Internet.

That was the intent. The reality has been much different. Starting July 1, every AT&T customer will begin paying a 5 percent surcharge on every long distance call. MCI customers will be burdened with a 5.9 percent markup.

Should every American school have access to the Internet? Yes. Should every American child have the opportunity to tap the wonders of the electronic highway? Clearly, yes. But should every American be forced to pay up to 5.9 percent of their current phone bill in order to funnel funds into a new Federal bureaucracy with the charge to disburse billions of dollars to schools that beg appropriately? The answer to that is no.

The power and authority to levy taxes is clearly vested in Congress. We, not the FCC, should be shaping policy in this area.

EXPRESSING SYMPATHY TO MARY-ALYCE JONES ON THE PASSING OF HER MOTHER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

The SPEAKER pro tempore (Mr. DUNCAN). Without objection, the gentleman from Ohio is recognized for 1 minute.

There was no objection.

Mr. TRAFICANT. Mr. Speaker, I take this time today to notify Members of the House that we could be expressing our condolences to Mary-Alyce Jones on the death of her mother this past Sunday.

Many in the Congress will recognize Mary-Alyce as a longtime employee of the Clerk, whose professional attitude and quiet dignity here on the floor serves as a model for all employees to follow, and Members as well.

☐ 1130

So on behalf of all the Congress to not only notify them, we say to Mary-Alyce Jones and the family to please accept our deepest sympathy and know that our thoughts and prayers are with you and your family on this day of loss.

BANKRUPTCY REFORM ACT OF 1998

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 462 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 462

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 303(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

UNFUNDED MANDATES POINT OF ORDER

Mr. NADLER. Mr. Speaker, pursuant to section 426 of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Unfunded Mandates Reform Act of 1995, I make a point of order against consideration of the rule, House Resolution 462.

Section 425 of that same act, as added by the Unfunded Mandates Reform Act of 1995, states that a point of order against legislation which, one, imposes an unfunded mandate in excess of $50 million annually against State or local governments or, two, does not publish prior to floor consideration a CBO estimate of any unfunded mandates in excess of $50 million annually for State and local entities or in excess of $100 million annually for the private sector.

Section 426 of the Budget Act specifically states that the Committee on Rules may not waive this point of order. On page 2, lines 13 through 15 of House Resolution 462, all points of order are waived against the committee amendment in the nature of a substitute. Therefore, I make a point of order that this rule may not be considered pursuant to section 426 as added by the Unfunded Mandates Reform Act of 1995.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from New York makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

In accordance with section 426(b)(2) of the act, the gentleman must specify precise waiver language in the resolution on which he predicates his point of order. Having met this threshold burden, the gentleman from New York and a Member opposed each will control 10 minutes of debate.

Pursuant to section 426(b)(3) of the act, after debate the Chair will put the question of consideration; to wit: Will the House now consider the resolution?

The gentleman from New York (Mr. NADLER) will be recognized for 10 minutes, and the gentleman from Colorado (Mr. MCINNIS) will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been complaining for months that this bill was being rushed through without proper consideration. We asked that this bill not be voted on in committee until we got a CBO score, until they told us how much this bill would cost the Federal Government and the taxpayers, until we found out how much this bill would cost in unfunded mandates on the private sector.

Yesterday, we received the CBO score which told us that this bill will impose a cost on the Federal Government of $214 million at least. Interestingly enough, the committee report that was filed by the Committee on the Judiciary, filed hastily without proper study, said there was no fiscal impact on the Federal Government. The CBO report said there was at least a $214 million fiscal impact on the Federal Government.

About an hour ago, just in the nick of time, we received the CBO report on unfunded mandates in the private sector. Let me read from that report. It says, "Certain provisions in H.R. 3150 that incorporate means testing in the bankruptcy system would impose new private sector mandates as defined in the Unfunded Mandates Reform Act with costs that exceed the statutory threshold of $100 million in 1996 annually adjusted for inflation."

It goes on to list what some of those costs are. Then in the next page, page 2 of the report from CBO, we read, "CBO estimates that the direct cost of the private sector of complying with mandates in H.R. 3150 would exceed the statutory threshold in the Unfunded Mandates Reform Act in each of the first 5 years that new mandates were effective." It goes into what those costs would be.

Then it says the following. "Some estimates of increased costs for attorneys and private trustees in Chapter 7 filings have been several hundred dollars per case. Chapter 13 filings have ranged from several hundred dollars to over a thousand dollars per case per year. More than 1.3 million bankruptcy filings occurred in 1997. Because reliable national data on the cost of the bankruptcy system are lacking, CBO does not have sufficient information to place a reasonable upper bound on its estimate."

So we do not know what the upper bound is, but we can say the following: Several hundred dollars per case at a minimum to a thousand dollars per case at a maximum, at 1.3 million cases, that means a minimum cost to the private sector of $260 million and a probable maximum cost of $1.3 billion in unfunded mandates to the private sector.

Who pays for this? We are told that Americans are losing large sums of money because deadbeats are deadbeating, not paying their debts; and we have to crack down on this bill and make them pay their debts. This will take $290 million minimum, $1.3 billion maximum out of the sum of money from which people can pay their debts. So the creditors will be out between $260 million and $1.3 billion by the administrative burdens of this bill.

Mr. Speaker, in 1995, with great fanfare as part of the Contract with America, the Republican majority in this House passed the Unfunded Mandates Reform Bill, a bill that said, and I remember all the rhetoric on the floor and I am sure my friend from Colorado remembers it too, Congress should not be in the business of imposing unfunded mandates on private sector businesses and individuals. We should not do it.

That is why the act says you can raise a point of order against a bill that imposes such mandates as this one does. It imposes such costs on innocent individuals, in this case, on creditors in the private sector. That is why the bill provides for a vote on the point of order.

The idea, the Unfunded Mandates Reform Act, was that if we are going to impose a mandate that we are not going to pay for, we ought to stand up and vote for it and say so.

I am putting everybody on notice, if my colleagues vote against the point of order, they are voting for two things. They are voting that contrary to the act, it is fine for Congress to place $1.3 billion unfunded mandates on creditors in the private sector.

I voted against the Unfunded Mandates Reform Act. But anybody who voted for that act and is in this Chamber today, who votes against this point of order, is saying either that he was not being honest when he voted for that bill or that he changed his mind since then. People are entitled to change their minds.

But that is what we are saying, either that my colleagues never believed in the purpose of the Unfunded Mandates Reform Act or that they no longer believe in the purpose of the Unfunded Mandates Reform Act.

I never believed in it. I voted against the bill. I am going to vote for the point of order, because I think we ought to uphold the law. That is what is involved here.

CBO tells us that this bill will impose a cost of $260 million to $1.3 billion on the private sector in unfunded mandates. According to the Unfunded Mandates Reform Act that the majority Republican passed, that is something that Congress should never, never, never, ever do. So I anticipate that most of our friends on that side of the aisle will vote in favor of that order.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Colorado does have the right to close the debate on this point of order.

The Chair recognizes the gentleman from Colorado (Mr. McINNIS).

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York kind of surprises me. I am listening very carefully to his points about the private sector unfunded mandates. While the gentleman was speaking very artfully, I might add, I was looking up the voting record 2 weeks ago. The gentleman who today, as he said, feels and speaks very strongly against mandates on the private sector voted against, voted against the Mandates Information Act which was the Republican Party majority's way of trying to avoid mandates on the private sector.

I guess, as the gentleman said, we are entitled to change our mind. He has changed his mind in the last 2 weeks. Welcome on board.

Let us talk about the facts of what we have today; and that is the Congressional Budget Office, which, again, the gentleman very eloquently spoke of, but he did not quite include all of the facts.

One of my favorite things I like to listen to is Paul Harvey. He has got a little thing: "And now for the rest of the story." Well, let us talk about the rest of the story. I quote from the CBO study, "H.R. 3150 contains no intergovernmental mandates as defined by the Unfunded Mandates Reform Act."

There is a possibility, a remote possibility about some type of unfunded mandate on the private sector out there; but, of course, we could have eliminated even this type of concern a couple of weeks ago with the assistance of the gentleman from New York, which we did not receive.

I think that this point of order is not appropriate.

Mr. Speaker, I reserve the balance of my time

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, apparently the gentleman from Colorado did not listen to what I said. I said I voted against the Unfunded Mandates Reform Act because I do not have a problem personally with unfunded mandates on the private sector being enacted by Congress for good and proper purposes.

I did not agree with that act then. I do not agree with it now, but it is the law. What I am saying is that, if you vote yes on proceeding today, you are voting against the purpose of that law.

I am going to vote no because I think it is a terrible bill. I think that we ought not to be conceit doing that. I think that, if we pass a law, we ought to obey it. If I had my way, I would repeal the law. I did not vote for it. But I think that if it is on the books, we ought to obey the law, which is why I am going to vote against proceeding and urge my colleagues to do so.

I do not know what the gentleman was reading from a moment ago about government. That was probably yesterday's report of CBO. But today's report of CBO is about private sector mandates. Yesterday's report said at least $214 million unfunded mandate on the Federal Government. Today says somewhere between $260 million and $1.3 billion unfunded mandate on the private sector, which will come out of the money available for repayment of creditors.

I think that, frankly, as I said, the bill was rushed through. I do not think that the sponsors of the bill anticipated this effect and ought to go back for further study and amendment.

Mr. Speaker, I reserve the balance of my time.

□ 1145

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include for the RECORD a letter from CBO and a report of CBO.

The material referred to is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 10, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed summary review of H.R. 3150, the Bankruptcy Reform Act of 1998, for private-sector mandates. CBO completed a federal cost estimate and an assessment of the bill's effects on state, local, and tribal governments on June 5.

If you wish further details on this review, we will be pleased to provide them. The CBO staff contact is Matt Eyles.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

H.R. 3150—Bankruptcy Reform Act of 1998

Summary: H.R. 3150 would make many changes and additions to the federal bankruptcy laws. By amending the bankruptcy code, the bill would affect consumer debtors, business debtors, secured and unsecured creditors, bankruptcy trustees, attorneys, debt relief counselors, and other entities in the private sector. Certain provisions in H.R. 3150 that incorporate means-testing in the bankruptcy system would impose new private-sector mandates, as defined in the Unfunded Mandates Reform Act UMRA) with costs that exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation). Specifically, new enforceable duties would be imposed on private trustees who administer bankruptcy cases, attorneys, debt relief counselors, and utilities, as defined in the bill. H.R. 3150 would also impose additional duties on parties who file for relief under the bankruptcy system, although new requirements for bankruptcy filers would not be considered new mandates for purposes of UMRA. Furthermore, H.R. 3150 contains provisions that could impose costs on certain categories of creditors who receive distributions from bankruptcy estates by delaying payments to creditors and by raising administrative costs. Increased administrative costs would reduce the pool of funds available for creditors.

Private-Sector Mandates and Effects: H.R. 3150 would establish a system of means-testing provisions for determining the eligibility of consumers for relief under the bankruptcy system. Participants in consumer bankruptcy proceedings would be most affected by the bill. Under current law, most individual debtors who seek bankruptcy relief have two options: liquidation (Chapter 7) or reorganization (Chapter 13). H.R. 3150 would institute a "needs-based system" for relief under Chapter 7 by requiring individuals (and households) who file for bankruptcy to seek debt relief under Chapter 13 if they earn a regular income equal to or greater than the national median income (adjusted for household size) and could pay at least 20 percent of their unsecured debts and $50 per month. In addition, H.R. 3150 would amend other provisions in federal bankruptcy law, including those covering family farmers and municipalities, collection of bankruptcy data, single-asset real estate debtors, the treatment of certain taxes, and cross-border bankruptcy cases.

CBO estimates that the direct costs to the private sector of complying with mandates in H.R. 3150 would exceed the statutory threshold in UMRA in each of the first five years that new mandates were effective. The lion's share of costs would be imposed on private trustees who administer bankruptcy estates, providers of debt relief counseling services, and attorneys. Most mandate costs would stem from new requirements to investigate and verify financial information provided by bankruptcy filers. Costs would be imposed on debt relief counselors by enacting new consumer protection regulations. Some estimates of increased costs for attorneys and private trustees in Chapter 7 filings have been several hundred dollars per case, and estimates for Chapter 13 filings have ranged from several hundred dollars to over $1,000 per case per year. More than 1.3 million bankruptcy filings occurred in 1997. Because reliable national data on the costs of the bankruptcy system are lacking, CBO does not have sufficient information to place a reasonable upper bound on its estimate.

CBO's estimate excludes: financial transfers between debtors and creditors that would result from enacting H.R. 3150; costs that could result from delaying distributions from bankruptcy estates to certain creditors; and potential reductions in debtor repayments if the costs of administration for the bankruptcy system rise by more than payments by debtors.

Attorneys and trustees in Chapter 13 cases would be able to recoup most mandate costs. Administrative costs in Chapter 13 cases, which include attorneys' and trustees' costs, receive priority treatment in Chapter 13 cases and, therefore, those costs would likely be offset by increased payments from bankruptcy estates. Mandate costs for Chapter 7 trustees, however, would reduce trustee income because provisions are lacking for reimbursement for increased trustee costs from Chapter 7 debtor estates.

To the extent that the bill would delay payments from liquidated or reorganized bankruptcy estates, the bill could impose costs on certain creditors. However, by increasing the number of debtors who are required to file under Chapter 13, the bill would likely increase the pool of funds available to creditors, which would benefit creditors. Again, offsetting a portion of the benefits to creditors would be the higher costs of administering a bankruptcy system that uses means-testing. As a result, some creditors could ultimately receive smaller distributions.

Estimate Prepared By: Matt Eyles.

Estimate Approved By: Arlene Holen, Assistant Director for Special Studies.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from New York (Mr. NADLER) is recognized for the balance of his time.

Mr. NADLER. Mr. Speaker, the issue on this point of order is very simple. This House, under Republican leadership, passed the bill. They said we should not impose unfunded mandates on the private sector. Some of us did not agree with that, but that is the law.

This bill, according to the Congressional Budget Office, by whose judgment we are bound, imposes an unfunded cost on the private sector of somewhere between $260 million and $1.3 billion per year. That will come out of the money available to pay creditors.

We should not proceed. The sponsors of this bill I am sure did not anticipate this. The committee report says it does not impose any costs. That is wrong. It obviously does.

We have said for a long time that this bill was rushed through, that the proper research was not done, the implications were not understood. It is now clear that that is true. I would urge that on the substantive grounds that when we legislate, we ought to legislate knowing what we are doing, understanding the implications and all the pros and cons and effects of the bill. We ought to put this aside and come back to it another day.

On the legal mandate of the Unfunded Mandates Reform Act, we should not proceed to impose such a mandate on the private sector because that is the law that the gentleman on the other side of the aisle imposed on us. Therefore, I urge a no vote, which I am told is how we have to go in order to proceed.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized to close debate.

Mr. MCINNIS. Mr. Speaker, I think what the gentleman from New York has said, and I will quote him here in just a moment, is the very clear definition of the difference between the Republican Party and the Democratic Party. The gentleman from New York very ably states the Democratic Party position. That is, they do not have a problem with unfunded mandates on the private sector.

The Republican Party has a big problem with unfunded mandates on the private sector. The gentleman should keep that in mind. There is a distinct difference between his side of the aisle and our side of the aisle. We do not think we ought to be putting unfunded mandates on the private sector.

I will quote the gentleman from New York (Mr. NADLER), and this is him speaking, "I do not have a problem with unfunded mandates on the private sector." I do. I think the people are out there working, trying to make a living. By the way, they fund us. They are the taxpayers. We work for them.

For us to continue to go back to the private sector and continue to hammer them and hammer them and hammer them with more taxes, and that is what unfunded mandates are, more taxes and more taxes and more taxes, we are going to break the bank. We are going to break the bank. We have to get off the shoulders of the working people out there. It is a clear distinction between gentleman's party and ours.

Now, on the point of order, I realize the gentleman diverted us from the point of order. Let me make it clear that the point of order does not fit the claim that the gentleman was making.

I wish the gentleman could have been in attendance at the Committee on Rules last night. We would have been happy to discuss with the gentleman, previous him to coming to the floor and tying us up for an hour or so with this point of order, that while I think the point of order certainly is put forward with good intent, it is not right. It is out of order. It just does not fit. It is not fitting the claim. The gentleman's argument, the puzzle does not come together.

Under the rules that we have here, the point of order cannot be sustained, in my opinion, because, and I do not want to say it does not make sense, because that sounds derogatory, and I do not intend to be derogatory to the gentleman from New York, but it certainly falls short of the standards that need to be met.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am in the middle of a meeting of the Committee on Rules upstairs, but when I saw my good friend, the gentleman from New York (Mr. JERRY NADLER) make a point of order against an unfunded mandate, I could not constrain myself and I had to come down here on this floor.

Let us set the record straight. If there was an unfunded mandate in this bill, I would be raising the point of order, the gentleman would not have to, or anybody else, as I did the other day when there was an unfunded mandate on this floor and I raised the point of order.

Mr. Speaker, it seems to me that the gentleman from New York knows as well that we have a good track record since we established the unfunded mandate points of order against the public sector when unfunded mandates were brought on the public sector, and then on the rule change that we made the other day, applying that to the private sector, we intend to carry that out. I can assure the Members as chairman of the Committee on Rules, if there is ever an unfunded mandate on a bill, I will be down here raising that point of order. I wanted to make that straight.

I just have to raise this point, that my good friend, the gentleman from New York (Mr. JERRY NADLER) has recognized, and he admits that he is one of the most liberal members of this House. He votes just about for everything where you are going to spend more money, and he votes yes on everything and no on nothing when it comes to spending money. But I respect him, because that is his philosophy.

Again, Mr. Speaker, I just want to assure the gentleman, there is no unfunded mandate in this bill. The Congressional Budget Office will verify that.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield 15 seconds to the gentleman from New York.

Mr. NADLER. The question for the two gentlemen, and I do not know who wants to answer it, the gentleman from New York says there is no unfunded mandate in here. The gentleman from Colorado says that the puzzle just does not fit.

I simply ask, the CBO report says, "Certain provisions in H.R. 3150 would impose new private sector mandates as defined by the Unfunded Mandates Reform Act with costs that exceed the statutory threshold." Why does the gentleman say it does not fit?

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the point of order lies against the public sector. I think what is critical here and what the chairman has come down to say from the Committee on Rules, he came out of the Committee on Rules because he saw this on television, that is to reemphasize the difference between this side of the aisle, the Republican side of the aisle, and the gentleman's side of the aisle. That is, we do not buy into this unfunded mandates stuff.

I know, and I will approach the gentleman again, this is the gentleman's quote from just a couple of minutes ago, that the gentleman does not have a problem with unfunded mandates on the private sector. Once again, on the Republican side of the aisle, we have a heck of a problem with unfunded mandates on the private sector. As I said earlier, how much more burden can we put on these people?

I just came from my office where I met with some people out there that are in small business. Their main discussion is that we continually put it on top of them, we continually hit them with these mandates, more regulations, more rules. It is appalling for me to come over here to the floor.

Mr. Speaker, the rest of the story is that the Republicans are not going to buy into unfunded mandates. These people in my office, these are not wealthy people, these are small business people. In fact, several of them were having difficulty coming to Washington, just being able to afford the lodging over here. They talk over and over again about how crushing, how crushing the Federal Government can be to small business with a lot of these kinds of mandates.

I realize that we are on the point of order. As I said to the gentleman, with all due respect, I think his point of order, while offered in good intent, does not fit the claim he is making.

I think the gentleman then kind of moved the point of order into a discussion on mandates, and the gentleman's position is, he does not mind mandates, Federal mandates on the private sector, unfunded mandates, by the way.

Let me explain what the "unfunded mandate" means. That means a regulation by the Federal Government, often an order by the Federal Government, on a small businessman, ordering them to perform something, or in an intergovernmental way, it can be intergovernmental, on a State government, ordering them to do something but not paying for it. That should not happen. It should not be.

That is why, and it is pretty easy to focus on, and that is why it is not too often, but this morning, anyway, we have been able to draw a clear distinction between the Republican side and the Democratic side. But boy, if there is one this morning, here it is right here, unfunded mandates. We are not going to go into it. We do not support them.

This kind of legislation we are talking about, I wish we would have had some of the points that the gentleman made in this kind of debate 2 weeks ago when we had the bill, the Information Act. That would have been a lot of fun to have that kind of debate.

Let us wrap it up. The way to wrap it up is really quite simple. Number one, the Republicans will not, contrary to what the gentleman from New York's policy is, we do not support these kinds of unfunded mandates. We do have a big problem with unfunded mandates. As the chairman from the Committee on Rules said, he would be the first one down here pushing this point of order if in fact he felt there was an unfunded mandate on governmental units.

Mr. Speaker, the second issue that we should summarize on is, hey, let us stop this unfunded mandate stuff. This point of order is not in order. It should be ruled on by the Chair.

The SPEAKER pro tempore. All time has expired.

The question before the House is: Will the House now consider House Resolution 462?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to——

The SPEAKER pro tempore. Does the gentleman from Colorado (Mr. McInnis) recognize that the noes prevailed on the pending vote?

Mr. McINNIS. I am a little confused as to the order.

POINTS OF ORDER

Mr. NADLER. Mr. Speaker, we continued. The vote is over.

Mr. McINNIS. I have the floor, Mr. Speaker, and I make a point of order to that point.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. McInnis) has the floor.

Does the gentleman from Colorado object to the vote?

Mr. McINNIS. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. McInnis) objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

A quorum is not present. Under the rule, the yeas and nays are ordered. Those in favor will vote aye——

Mr. NADLER. Mr. Speaker, business intervened. Speech intervened. He did not ask for the vote or object to the quorum until the Chair asked about it. I object to this. He had gone on, all right.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. McInnis) objected to the vote. The gentleman from Colorado (Mr. McInnis) objected to the vote.

Mr. NADLER. Mr. Speaker, business intervened. Before he objected to the vote, he started saying he asked 30 minutes for speaking time, et cetera. We had already progressed. He did not object to the vote.

The SPEAKER pro tempore. There was no business that intervened. The gentleman from Colorado (Mr. McInnis) did not have the floor for debate since the pending voice vote was against consideration.

The gentleman from Colorado (Mr. McInnis) did not have the floor for debate. The gentleman from Colorado objected to the vote.

Mr. McINNIS. That is correct, Mr. Speaker. I had the floor. I was on my feet and had the floor.

The SPEAKER pro tempore. The Chair will repeat, the gentleman from Colorado (Mr. McInnis) has objected to the vote on the ground that a quorum is not present.

Mr. NADLER. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The gentleman makes the point of order that a quorum is not present.

Mr. NADLER. Mr. Speaker, I object on the ground that the RECORD will show, if the Clerk will read the RECORD, that the gentleman had gone on to another subject, had already started talking about something else, and did not, did not object on the ground that a quorum is not present until the Speaker asked him, do you not want to object that a quorum was not present?

The vote was already over and cannot be continued at this point. I make a point of order.

□ 1200

The SPEAKER pro tempore (Mr. Duncan). The gentleman from Colorado (Mr. McInnis) had not been recognized to debate the resolution since the House had not voted to consider the resolution. Therefore, no intervening business had been transacted.

Does the gentleman from New York (Mr. Nadler) insist on appealing the ruling of the Chair?

Mr. NADLER. Mr. Speaker, no, I do not.

The SPEAKER pro tempore. The gentleman from New York (Mr. Nadler) has withdrawn his appeal of the ruling of the Chair.

The gentleman from Colorado (Mr. McINNIS) has objected to the vote. That objection was made on the grounds that a quorum was not present, and the gentleman has made a point of order that a quorum is not present.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair reminds all Members of the Speaker's announcement today. Based on the request and the order of the Speaker, this will be a strictly enforced 17-minute vote.

The vote was taken by electronic device, and there were—yeas 248, nays 166, not voting 19, as follows:

[Roll No. 216]

YEAS—248

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
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Wolf
Young (AK)

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Barcia
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Becerra
Bentsen
Berman
Berry
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Blagojevich
Blumenauer
Bonior
Brady (PA)
Brown (CA)
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Brown (OH)
Capps
Carson
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Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
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Evans
Fattah
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Hall (OH)
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Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
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Kaptur
Kennedy (MA)
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Pallone
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Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Schumer
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Serrano
Skelton
Slaughter
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
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Taylor (MS)
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NOT VOTING—19

Borski
Conyers
Cook
Farr
Gilman
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Harman
Houghton
Inglis
Klug
Leach
Linder
Lofgren
McDermott
Moakley
Oxley
Pickett
Sensenbrenner
Young (FL)

□ 1219

Mr. DICKS, Ms. McCARTHY of Missouri, and Messrs. OBEY, JEFFERSON, and BISHOP changed their vote from "yea" to "nay."

Mr. GIBBONS and Mr. ROTHMAN changed their vote from "nay" to "yea."

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Speaker, I was unavoidably delayed at the White House and missed rollcall vote number 216 regarding House Resolution 462. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, during Rollcall Number 216 I was unavoidably detained and missed the vote. If I had been present I would have voted "aye."

The SPEAKER pro tempore. The gentleman from Colorado (Mr. McINNIS) is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 462 is a structured rule providing for consideration of H.R. 3150, the Bankruptcy Reform Act of 1998, a bill that will improve bankruptcy practices and restore personal responsibility and integrity to the bankruptcy system.

House Resolution 462 provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Committee on the Judiciary. The rule also waives section 303(a) of the Congressional Budget Act against consideration of the bill.

Mr. Speaker, the rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment.

House Resolution 462 provides that the committee amendment in the nature of a substitute shall be considered by title and that each title shall be considered as read. The rule also waives all points of order against the committee amendment in the nature of a substitute. The rule provides that no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the Committee on Rules report.

Each amendment may only be offered in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment.

The rules also waives all points of order against amendments printed in the report.

This rule also allows the Chairman of the Committee of the Whole to postpone recorded votes and to reduce to 5 minutes the voting time after the first of a series of votes, provided that the first vote is not less than 15 minutes.

This provision will provide a more definite voting schedule and will help guarantee the timely completion of this important legislation. House Resolution 462 also provides for one motion to recommit with or without instructions, as is the right of the minority.

Mr. Speaker, we face a bankruptcy crisis in America today in which the needs of the debtor and the rights of the creditor are no longer in any kind of equilibrium. The balance between the debtor and the creditor has been lost and reform is clearly necessary. Basically we are asking that people assume personal responsibility, that they pay their bills when their bills are due, that they not give their word when they do not intend to keep their word.

We need to reestablish and preserve the original balance of the bankruptcy code in areas of which it has lost its fairness and modernize the sections of the code which have become outdated. H.R. 3150 achieves these goals.

When we consider the need for bankruptcy reform, it strikes me that we should simply look at some of the more startling statistics. The number of bankruptcies has increased more than 400 percent since 1980, more than 400 percent since 1980. This year there are expected to be more than 1.4 million bankruptcies, more than one bankruptcy in every 100 American households.

This extraordinary increase comes during a time of economic prosperity, not a period of recession that usually would bring more people into the bankruptcy court. Instead the increase is largely due to bankruptcies of convenience. Let me repeat that, bankruptcies of convenience.

We have the healthiest economy we have ever faced in the history of this country, yet our bankruptcies are exploding. Why? Because it is the convenient thing to do. It is the easy street. It is the easy way out.

This increase of bankruptcies of convenience is simply a ploy that is used by some people that owe money and their bankruptcy attorneys to avoid paying all or most of their debts, even though they are financially capable and able to do so.

Bankruptcy was always intended to be for a person who ran into unintended consequences who could not pay their bills to give them a new chance on life. Now what we have seen is we have seen that overwhelmed by the bankruptcy of convenience. These bankruptcies of convenience, initiated, by the way, from abusers of our bankruptcy laws, are having a very harmful impact on our Nation's competitiveness. The current system is unfair to all people who are fiscally responsible, who are penalized in the form of higher prices, credit card rates, interest rate increases. In other words, the people who do pay their bills have to carry the load for those who do not pay their bills.

To reduce these costs, we must end the widespread abuses of the system. This bill is sensitive to the fact that people may lose their job, have a medical crisis or they may come upon hard times, real hard times, realistic hard times, not artificial hard times. However, what we are finding in many cases is that a growing number of people who file for bankruptcy relief under Chapter 7 actually have the capability to pay at least some of their debts. In fact, a study by Ernst and Young showed that 15 percent of the people who filed under Chapter 7 could have repaid 64 percent of their unsecured debts.

This bill repairs a system that rewards abuse of the system. In other words, the current system rewards one to abuse the system. This bill changes that. This bill makes bankruptcy really applicable to those people that need it and takes it out of the reach of those people who abuse it or use it as convenience.

At the heart of these reforms is implementation of a needs-based mechanism that ensures that those debtors who can afford to repay some of their debts simply repay what they can afford to repay. At the same time, H.R. 3150 preserves the right of bankruptcy relief for those in true financial straits by targeting only those who have the ability to repay. Contrary to what we will hear certainly and what I would expect today in the floor debate, this bill provides that none of the reforms will adversely impact the priority treatment accorded to child support claims. That is a critical issue for me. That an important issue for me.

In fact, H.R. 3150 incorporated additional safeguards to enhance the existing protections for family support.

□ 1230

H.R. 3150 represents another example of this Congress's efforts to encourage individual responsibility. The Republican Party feels that individual responsibility is a basic and fundamental standard that we should all accept. The current system promotes fiscal irresponsibility and gives people a loophole that encourages mismanagement of individual finances. Bankruptcy was designed to serve as a last resort to be utilized only in the most desperate circumstances. That is not what is happening today. In fact, today we see bankruptcy kind of synonymous with the word convenience. We see personal responsibility for some reason not politically correct to talk about. With the changes in this bill, we will renotify people that they do need to be held accountable for their debts that they have accumulated. We will remind them about keeping their word. We will remind them to not go out and spend money that they do not have. Accept personal responsibility.

I actually am optimistic that the country is taking a turn, it is going back to the fundamentals of this country, basic responsibility, strong education, et cetera, et cetera. But any formula you look at for the success of this country has to incorporate within its terms personal responsibility.

With regard to the consideration of amendments, the Committee on Rules has done its best to accommodate Members who filed amendments with the Committee on Rules. We have been more than fair in permitting six Democrat amendments, five Republican amendments, and one bipartisan amendment. We faced numerous duplicative amendments in the Committee on Rules and we did our best in the Committee on Rules to allow a wide variance of amendments on a number of key issues. In reviewing the amendments provided to the Committee on Rules, we also noted that there are those Members who simply do not wish to see any changes in the bankruptcy laws. We have some Members that want this to continue to be a tool of convenience. We have some Members who for some reason have put personal responsibility aside and use this charade of the current bankruptcy system as the policy that ought to be in place.

This rule is a fair rule, Mr. Speaker, and I urge all of my colleagues to support it so that we may proceed with general debate and consideration of amendments and the merits of this important bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Colorado for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this rule. I oppose the hasty process this rule embraces, I oppose the breach of faith that this rule embodies, and I oppose the damage to America's children this rule refuses to address.

Last year, more than 1 million American families went through bankruptcy, leaving millions of creditors without full payment for their goods and services. Is the record number of bankruptcies a serious problem? Yes. Is this bill a real answer to the problem? No one knows. Some claim that it will result in fewer bankruptcies, but others believe it is a giveaway to the very creditors whose profligate lending may be the chief cause of increased bankruptcies.

Article I, Section 8 of the United States Constitution requires the Congress "to establish uniform Laws on the subject of Bankruptcies throughout the United States." Beginning in 1792, the Congress has taken this responsibility seriously, carefully weighing creditors' rights against a new start for the debtor.

The precedent is that the House crafts bankruptcy legislation carefully, and on a bipartisan basis. At yesterday's Committee on Rules hearing, we learned that in 1978, the last time that fundamental changes to the bankruptcy code were proposed, a National Bankruptcy Commission proposed the outline of the changes, the House held 38 days of hearings, and the Senate held 24 days of hearings.

Compare that careful deliberation with this bill's consideration. Again we had recommendations from a National Bankruptcy Commission, but this bill ignores them, and in major instances includes ideas expressly rejected by the Commission. The House held only 4 days of hearings, and the Committee on the Judiciary's markup was so rushed that germane amendments offered by committee members were not even considered. In fact, the gentleman from Illinois (Mr. HYDE), the committee chairman, received unanimous consent to report this bill only after he promised to recommend that the bill would be considered on the floor under an open rule, so that additional amendments could then be debated.

Unhappily, today's rule is proof that this House's leadership did not follow the recommendation of the gentleman from Illinois. The chairman of the Committee on Rules explained to us that the gentleman from Illinois did not have enough experience as the chairman to realize that he could not make a commitment about floor debate. From my personal observation, I would say that in his 23 years in the House and 8 years in the Illinois House of Representatives, the gentleman from Illinois has proved himself a master of procedure. In reality, the gentleman from Illinois' failing is his belief that the Committee on Rules, and this House's leadership, would respect him enough to honor his recommendation as chairman of the Committee on the Judiciary.

So instead of the open rule, we have this rule that makes in order only 12 of the 40 amendments that were submitted to the committee. Why this curtailed consideration? Apparently after months of doing nothing on the floor of the House, the House leadership decided that only 6 hours could be spent considering landmark legislation affecting the lives of millions of families filing for bankruptcy, and millions of creditors, many of them small businesses.

Mr. Speaker, I oppose this rule because it will not allow us to consider amendments which might have cured this bill's flaws, and allowed a bipartisan House to support it. I am particularly concerned about the 125,000 children who are owed child support from a parent who declared bankruptcy.

In its current form, this bill will have a devastating impact on the parents and children who are owed child support and alimony. It will take us back to the days when the bankruptcy code gave child support and alimony no greater priority than a television set or jewelry purchased with a credit card.

Just 4 years ago, I introduced the Spousal Equity in Bankruptcy Amendments to give priority to child and spousal support payments in bankruptcy proceedings. That legislation became law as part of the Bankruptcy Reform Act of 1994. Thanks to those and other child support enforcement reforms, child support collections have increased by 68 percent since 1992. Nevertheless, we have far to go, as America's children are still owed $34 billion a year in child support.

This bill could reverse the progress we have made in recent years. By making large amounts of consumer debt nondischargeable in bankruptcy, this bill would place money owed on a credit card at the same level as alimony and child support obligations. Under this bill, after a debtor goes through bankruptcy proceedings, he or she will still have credit card and other types of consumer debt left to pay, and those debts will compete with child support and alimony for the limited resources of the post-bankruptcy debtor.

Proponents of the bill claim that they have repaired the damage that the bill does to child support. However well intentioned, those repairs are only cosmetic. They ignore the reality that, after bankruptcy proceedings are over, the bankrupt debtor will be left with additional credit card and consumer debt. When aggressive credit card collection agencies are calling, it will be easier to pay them than the former spouse or the powerless child.

The Committee on Rules was schizophrenic on the child support issue. Some in the majority claimed the problem never existed or had been fixed by amendments, and yet had heard testimony from a Member of the majority that likened the post-bankruptcy situation to a shark joining the sardines. That Member argued that without a procedure for enforcing the post-bankruptcy priority that the bill claims to establish, credit card companies will greatly overpower the competing claims of children needing support. Clearly this issue is not resolved.

The rule does make in order an amendment by the gentleman from Florida (Mr. SHAW) on this subject. But early analysis from bankruptcy experts shows the Shaw amendment is unworkable for both creditors and those claiming child support. It will inevitably cause children who are owed child support to lose the payments that they are owed.

Several of my colleagues and I tried to offer an effective amendment to solve the problems that this bill creates for women and children. The amendment we sought to offer would have clarified the status of child support and alimony. It would have ensured that child support and alimony would be paid before unsecured debt. It would have protected against abusive reaffirmation agreements that have an adverse effect on a debtor's family. It would have prevented new kinds of credit card and consumer debt from being made nondischargeable, and thereby competing for the debtor's limited post-bankruptcy funds against child support, alimony and other priority payments. It would have provided an enforcement mechanism for the bill's protections for child support. However, we were not allowed to have our amendment on the floor.

Mr. Speaker, the bill in its current form is opposed by children's rights advocates and women's groups, who are concerned about the damage it will do to a family in crisis. It is opposed by victim's rights groups, such as Mothers Against Drunk Driving, who are concerned about the way the bill will endanger settlements owed to victims of crime; it is opposed by consumer groups, such as the Consumer Federation of America and Consumers Union; and it is opposed by judges and scholars such as the National Conference of Bankruptcy Judges, who are concerned about the integrity of the bankruptcy process.

I support efforts to reform our bankruptcy laws to make debtors responsible for the debt they incur and indeed agree that something must be done. A full floor debate such as that contemplated by the chairman and the Committee on the Judiciary would perhaps have addressed many of the problems. But the Committee on Rules chose to disregard the Committee on the Judiciary's wishes and forbid the offering of the primary amendment to cure its most obvious flaw. We should not and cannot allow the bill to turn back the clock on the progress we have made in the past few years to ensure that women and children in crisis receive the support they are owed.

Mr. Speaker, I urge my colleagues to oppose this rule. America's children are too precious for this Congress to put their future at risk. We should not allow an artificially imposed time limit to preclude a full discussion of the child support question and the other important issues raised in the bill.

By defeating the rule, we will instruct the Committee on the Judiciary to reconsider the bill and its unintended consequences, to complete its deliberation on all relevant amendments, and then bring the bill back to the full House in a perfected form.

I also notify my colleagues that I will call for a vote to defeat the previous question. If the previous question is defeated, I will offer an amendment to the rule to allow the Jackson-Lee, Slaughter, Nadler, Blumenauer Family Support Protection amendment to be considered by the full House. Our Nation's children deserve at least an hour of time on the House floor to discuss whether this bill adequately protects their interests. If we could be sure of that protection, many of us could support this bill.

Mr. Speaker, a vote for the previous question and this flawed rule means that the House is unwilling to spare an hour to make sure our children do not suffer for lack of food, clothing and shelter that child support provides. Defeat the previous question and defeat the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Harrisburg, PA (Mr. GEKAS), a member of the committee and one of the most distinguished and respected Members of this body.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for recognizing my birthplace and for yielding me the time.

Mr. Speaker, I rise in support of the rule which does allow for ample time to debate the most vital issues that face bankruptcy and bankruptcy reform.

I am a witness to the fact that the chairman of the Committee on Rules and the Committee on Rules were eminently fair in the composition of the rule which is before us here today, because the chairman and the Committee on Rules rejected one or two of my own offerings for amendments to be made in order. If anything shows balance on the part of the chairman and the committee, it is that the author of the bill and the chairman of the relevant subcommittee offered amendments which the Committee on Rules rejected. One of them, by the way, I thought was going to go automatically accepted by the Committee on Rules which I crafted in accommodation to what the gentleman from Massachusetts (Mr. FRANK) and I had agreed on a certain portion of single asset, an arcane portion of the bankruptcy bill. But the point is that a rule which allows full debate on the most significant issues facing bankruptcy is one that will give us full opportunity to vent all sides of those issues.

If the minority will recall, and the gentleman from New York (Mr. NADLER) could, I think, substantiate it, in the Committee on Rules, I offered to the chairman and the Committee on Rules that we would be happy to allot whatever time is necessary for the substitute measure by the minority to be placed for debate in the full question of bankruptcy reform. So we support the rule and urge everyone to vote "yes."

In the meantime, the three main issues that I think will be raised during the course of the debate are A, B and C which I just want to outline and prepare the Members for a full discussion of them. One is the gateway system that we have prepared in H.R. 3150 which tests out the debtor's ability to repay some of the debt right at the first instance at the application being made for bankruptcy, the original means-test system that we have in place. That is one contentious issue. The second is, that is raised over and over again, almost to bore me at least to tears, is the one that it is the credit card and lenders that are at fault for this whole mess that we find ourselves in with 1,400,000 filings in 1997 and more bankruptcies being recorded every day even as we speak, into unheard of numbers. That is another one that we meet head-on in our discussion, because we are talking about the debtor who comes to bankruptcy. We are not talking about how he got there. It could be gambling, it could be divorce, it could be a variety of things. So the so-called fault of the lenders, which will be one of the attacks made on our bill, will be a second important issue. The third is one that is almost preposterous in its formation, having to do with somehow that our bankruptcy reform bill militates against support obligations for the children. That is simply not the case.

□ 1245

But to make doubly certain of it, we also have amendments that will raise the priority of support payments to No. 1 on the list on the bankruptcy to supplement the already existing State and Federal statutes that guarantee that support payments will have utmost priority.

With that I reiterate, let us support the rule, let us debate the amendments as they appear, and then in the final analysis let us support a sweeping change in bankruptcy reform dedicated to the proposition that personal responsibility has to be returned to our society through a change in the bankruptcy laws.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, as the gentlewoman from New York (Ms. SLAUGHTER) mentioned, this bill has been rushed to the floor beyond all prudence, and unfortunately we have not been permitted most of the important amendments. The House leadership decided that the one thing this bill did not need was close scrutiny or open debate, so they choose not to allow debate in the most important amendments offered by the minority.

The gentleman from Pennsylvania says the Committee on Rules was fair. We gave the Committee on Rules, we told them we had 12 priority amendments. One of those 12 was made in order. The American people are being cheated because they will not get the open debate and open votes on issues affecting the finances of millions of American families that they deserve.

Have credit card companies been lending recklessly? The data indicates they have. In fact, every American family's mailbox tells the same story. How many pre-approved credit card solicitations have my colleagues thrown out last week?

We had an amendment to eliminate the claims of any lender who knowingly pushed the debtor over 40 percent of his annual income in unsecured debt. That goes on all the time. It undermines the carefully made loans of other creditors. Yet these lenders want the taxpayers to help them share in the corrections with responsible collectors. That is not right, but we will not be allowed to debate that today.

We have the amendment that would have eliminated the claims for debt incurred at ATM machines inside gambling casinos. Trying to lend thousand of dollars to gambling addicts in casinos at 18 to 22 percent interest is simply immoral. We know it destroys families and causes bankruptcies and leads to other responsible lenders not being paid. Yet although the amendment had the support of the Republican chairman of the subcommittee of appropriations, the gentleman from Virginia (Mr. WOLF) who has been a leader on this issue, we will not be allowed to debate this amendment today.

The gentleman from Massachusetts (Mr. KENNEDY) had a series of amendments to deal with unscrupulous practices by some lenders, but the sponsors of this bill, for all their talk of personal responsibility, do not want to debate irresponsible lending practices so we will not have an opportunity to debate those amendments.

The gentleman from Massachusetts (Mr. DELAHUNT) had an amendment to protect the hard-earned benefits paid to our veterans, and the Social Security benefits of retirees are paid for but we cannot talk about that on the floor today.

We will not get a chance to debate the amendments sponsored by my colleague from New York (Ms. SLAUGHTER) and myself along with the gentlewoman from Texas (Ms. JACKSON-LEE), the gentlewoman from Connecticut (Mrs. KENNELLY), and the gentleman from Oregon (Mr. BLUMENAUER) to protect child support collections from the terrible effects of this bill because the majority is afraid to have these issues come before the American people. Instead we will get another sham amendment crafted by the promoters of this legislation which will again pretend to fix the problem, the same problem they had first denied existed, then proclaim to have fixed in committee and will now try to fix again. But we will not be able to debate any real solution.

I did have an amendment made in order which implements changes recommended by the National Bankruptcy Conference of the Small Business Administration. The bill threatens to force thousands of small or medium-sized businesses into liquidation, out of business, bury the jobs, because they will be buried under a mountain of paperwork and bureaucratic rules and deadlines that will not apply to big business, only to small business. No, this bill's special ruse is small business. It will cost jobs and destroy the dreams of small business people.

How much time do we get to debate the future of small business in this country? Five minutes on each side. That is all the Republicans think small businesses deserve before Congress buries the small businesses. But do not worry. The next time the majority wants to kill an environmental protection law, they will tell us they are doing it to save small business. Before we believe them we should remember what they did today.

I regret that we have not been able to work in a more bipartisan basis. I was pleased by the progress of negotiations which the staff conducted over several weeks which seem to be yielding a reasonable and principled compromise. But unfortunately that good work will not see the light of day. One day we were told suddenly the negotiations were off and everything we had talked about was off the table.

We are getting yesterday's news, the same wish list from the credit card companies. They have spent a bundle lobbying this one. As my colleagues know, the New York Times today says $40 million. I am not so naive as to think middle-class families on the brink can compete with a $40 million lobbying effort by the Nation's biggest banks and credit card companies.

Mr. Speaker, this is no way to rewrite the code. It is simply legislative malpractice. I believe this bill is not ready and the record is incomplete.

Mr. Speaker, I know how to count, and I know the majority has the votes to pass this embarrassment today. The minority will do what we ought to do, point out the weaknesses in the bill and suggest corrections. But I am under no illusions about the outcome. All I can observe is that this is a pretty shameful way to celebrate the centennial of the Bankruptcy Act, and that if, God forbid through some foolishness this bill makes it into law, we will hear a year or 2 from now the cries of the thousands and thousands of small businesses and middle-income and low-income people who will be buried by this bill, and then we will have to start undoing the handiwork we do today.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise in support of this rule, and I rise in support of this bill, H.R. 3150.

Is it a perfect rule? No. But is it a responsible rule? Yes.

As my colleagues know, it is time for us to have fundamental reform of our Nation's bankruptcy, and it should be guided by 3 basic principles: restoring responsibility, protecting consumers and then sharing fairness. H.R. 3150, which preserves a historic fresh start for those who truly need it is a solution.

Our Nation is witnessing an unsustainable soar in personal bankruptcies. Bankruptcies have increased by more than 400 percent since 1980 with one more million personal bankruptcies filed in 1996. Last year alone, despite a booming economy and low unemployment, a record 1.3 million people filed for bankruptcy, more than 1 in every 100 American households.

The overwhelming majority of Americans who pay their bills on time are the ones who are paying the price for this surge in bankruptcy. It takes approximately 33 Americans to pay for one bankruptcy, and bankruptcy will cost each American household an estimated $400 per year in higher prices for goods and services.

We must restore a sense of responsibility to our bankruptcy system and stop it from becoming a first step rather than a last resort. More and more people are choosing bankruptcy as a financial planning tool, and responsible Americans are the ones who are forced to pick up the tab from those who walk away from their debts.

Mr. Speaker, 3150 would restore personal responsibility and fairness to our bankruptcy system. The bill would amend the bankruptcy code and employ a needs-based approach where debtors in need get relief but only the relief that they need. Anyone earning an amount equal to or above the Nation's median income and are able to pay at least 20 percent of his or her unsecured debt over the course of 5 years would be forced to comply with Chapter 13 which requires a repayment plan rather than Chapter 7. H.R. 3150 provides tremendous flexibility, and in turn it needs, allows, the court to consider extraordinary circumstances such as medical costs or sudden loss of employment.

Most Americans agree that the time has come for meaningful and fair bankruptcy reform. Please join me in supporting this rule and this important piece of legislation so that our bankruptcy system can be approved for all Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I speak as someone who had hoped to support a bipartisan measure to deal with a problem of increasing bankruptcies in America. But I am disappointed in the result of this bill. Specifically this bill would undermine the Texas constitutional protection for family homesteads. It is disappointing to me that in a Republican-led Congress that has paid a lot of lip service to the concept of States' rights, this bill would run roughshod over the States' rights and the property rights of Texas and 5 other States: Florida, Kansas, Oklahoma, Minnesota and South Dakota.

Mr. Speaker, there can be no more personal property right that a State can try to protect than the right of one's own home, and I am deeply disappointed that the leadership in this House refused to recognize our 6 States' efforts to protect that important property right.

Let me say also, if this bill is about personal responsibility, it misses the mark because nowhere in it do I find any effort to ask multibillion dollar credit card companies to face their responsibility for having increased consumer debt by billions of dollars through unsolicited credit card mailings and through unsolicited increases in credit card limits.

I will finish with a personal note. When my mother, my 74-year-old mother, died 5 years ago, I went to her one-bedroom apartment in Houston to collect her things and found on the kitchen table letters from credit card companies on one hand saying, "You are 2 to 3 months late in your payments," and on the other hand on the same table found those same credit card companies and others saying, "Congratulations, we're increasing your credit card limit by thousands of dollars." I believe this bill failed in its responsibility to make not only American families but also American corporations face the responsibility for the serious problem that has been created.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Well, to my colleague from Texas (Mr. EDWARDS), I used to be a police officer, and I never recall ever being asked to respond to a situation where somebody claimed they were forced to use their credit card.

My colleagues know there is personal responsibility. Of course people, as we know, when we buy a car we always have people trying to sell us another car, but does that let us say, well, I do not need to pay for the car I originally bought because somebody else wants to sell me an additional car? I mean, it just does not make logical sense.

Because of the time restriction, let me go on to a couple other points, and, Mr. Speaker, I control the floor. To the previous remarks made on the amendments submitted, let us talk about the fairness of the Committee on Rules. I think there has been a little misdirection here. We had 39 amendments, 39 amendments submitted to the Committee on Rules. The chairman of the Committee on Rules has said repeatedly he wants to make it as fair as possible, but he also has to manage this rule. Of the 39 amendments, 11 Republican amendments, 27 Democratic amendments, 12 amendments were made in order.

Now several of the amendments were repetitive. Of the 12 amendments that were made in order, 5 of them were Republican, and by the way the Republicans control the majority of this committee, and 6 of them by the minority of the committee were made in order for the Democrats. In other words the Democrats got one more amendment than the Republicans did, and then one bipartisan amendment was made as well.

The other issue that I think is critical is that the gentleman from New York stood up, and frankly I question about some of the whining because I think this has been a very, very fair approach. His statement was that the Democrats had 12 priority amendments and that the Republicans only made one in order. I do not know where he was. I thought he was in the committee. Physically he was at the committee last night, but that is not what occurred in his presence. In his presence what occurred is that the Democrats had 7 priority amendments, and we made 3 of them in order, 3 of them. And let me add again that the Democrats have one more amendment in order on this bill than do the Republicans.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I hope the American people heard the gentleman point out on this floor that he does not consider the credit card companies in any way responsible for the billions of dollars in debt that have been increased, to a large extent because they have sent out easy credit cards, unsolicited credit cards, to teenagers and senior citizens. According to his philosophy of personal responsibility, I guess drug dealers should not be held responsible for the drug problem in America, because nobody forced those people in America to use drugs. If that is the kind of personal responsibility that is behind this bill, I do not want any part of it.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take it from the comments of the gentleman from Texas (Mr. EDWARDS) that he associates small business people, which I have a lot in my district, with drug dealers. Is that what the gentleman is saying, because they came and charged in the store for some reason, it is the store merchant's responsibility? It is the small businessman in my district's responsibility if somebody comes in and charges something in their store and does not pay for it?

I would say to the gentleman from Texas (Mr. EDWARDS), there is a time in this country to accept personal responsibility. If you cannot afford it, do not buy it; and if you do buy it and you cannot afford it, do not blame it on the merchant.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, nothing needs to be said about this bill, other than it is a bankrupt bill and it is bankrupting America.

I stand to oppose this rule for the children of America. 325,000 bankruptcy filings are based upon child support and alimony payments. This rule and this particular legislation disregards the importance of protecting our children at risk. What it does is it takes the multibillion-dollar credit card companies and it puts them at equal level to those parents trying to fight every day to keep their doors open and their children alive. Yes, it is just that bad.

We tried in the Committee on Rules to present to the Republican members of the Committee on Rules an amendment, an omnibus child support amendment. The gentlewoman from New York (Ms. SLAUGHTER) has been a leader on this issue, yet that amendment has been rejected.

What do they have in its place? Something unsatisfactory. They have something that says oh, that is okay. You can put the credit card debt equal to the child support. What does that mean? Do you have time to sit and make 12 and 15 calls a day, like the multibillion-dollar credit card companies, harassing people in order to get payments? No, you do not.

So there is no equality here. We wanted to protect child support and alimony payments, so that hard-working Americans could keep their head above water.

Let me tell you what the real issue is, 3 billion contacts every day to Americans asking them to take this credit card and this credit card. I believe in personal responsibility. I want people to pay their bills, and Americans pay their bills. Today they wait when the debt is 125 percent of income. They do not recklessly go down to the bankruptcy courts. In fact, no one throws a party on their neighborhood block when they have to go to the bankruptcy court.

I tell you, this bill should go back to committee, with only five hearings. We were promised an open rule in committee, it is on the record, yet we did not get one.

This is a bad rule. Vote it down, vote for Americans, vote for working people. This is a bad, bad bill.

Mr. Speaker, I come to the floor of the House to oppose this rule. The function of the House Rules Committee is to examine amendments and make germane amendments in order, not to try to defeat the bill in the Rules Committee before it reaches the floor. This is a bad way to run this House and it is undemocratic.

I appeared before the Rules Committee with the recommendation that four of my amendments to H.R. 3150 be made in order, because I seriously question whether this bill, as it is now written, will accomplish its goal of reforming our present bankruptcy system without causing significant harm to many innocent parties. Sure, I believe that the bill in its philosophical approach and legislative function, appears to unnecessarily burden the rights of the bankrupt debtor, but in the end, my objections to this bill are much deeper than that. As a member of the Judiciary Committee's Subcommittee on Commercial and Administrative Law, who has dealt with this legislation since its inception, I have several serious reasons why I believe there should have been more of an inclusive rule for H.R. 3150. This is a bad rule and this is not democracy.

I am not shy to say that Chairman HYDE promised an open rule to the Democrats in Committee. That is exactly why the Democrats did not offer more amendments in the Judiciary Committee. Then we go to the Rules Committee with an assurance that we would get an open and inclusive rule and what we have here is a restrictive and exclusive rule. This is no way to legislate, no way to make policy, no way to run this House. It is bad for collegiality of the House, and most importantly it is bad for the country. This is a bad rule, and this is not democracy.

I was prepared to offer an amendment, cosponsored by Representative SLAUGHTER of New York, a Member of the Rules Committee which would have completely corrected certain serious problems in the bill. First of all, the amendment would protect child support and alimony payments in a Chapter 7 or Chapter 13 bankruptcy proceeding by excluding these payments from the definition of "current monthly income" in the bill. Secondly, the amendment would ensure that all priority payments like child support and alimony would be paid before any unsecured creditors, whether it is mandated as a part of the means test or as a nondischargeable credit card debt in Chapter 7 or in Chapter 13 repayment plans. Third, the amendment would strike all sections of the bill that make unsecured or credit card debt competitive with child support and alimony payments. And finally, no presumably nondischargeable debt owed to a credit card or credit lending institution can be collected if in good faith it is believed that its collection would impede upon an individual's ability to meet child support or alimony obligations. These provisions, in particular, would finally make H.R. 3150, a "woman and child" friendly, rather than, a "woman and child" adverse piece of legislation.

The only amendment allowed to be offered on the floor of the House which remotely speaks to child support is the Boucher-Gekas amendment which does not accomplish as much as the Jackson-Lee/Slaughter amendment. While it moves child support and alimony obligations from seventh priority to first priority during the bankruptcy proceedings, the child support debts must still compete with the credit card debts, or unsecured creditors. Listen to me colleagues, the mothers and children must still wait in line for the big corporations to be paid, or compete with them since those debts have become non-dischargeable debt. This is a bad rule and this is not democracy.

That is why I am hoping that Members will vote for the Nadler/Meehan/Berman/Jackson-Lee Substitute amendment because it strikes Section 141 of the bill which would thereby eliminate new non-dischargeable status for these credit card and other debts which would compete with alimony and child support. This is a bad rule and this is not democracy.

Now my colleagues, let me tell you a little about the Means Testing provision in this bill. It is not a means test, it is just a mean test. The bill's mean Means testing would bar anyone earning the nation's median income—about $51,000 for a family of four—from using Chapter 7 proceedings if they could pay off all secured debt, such as a home mortgage or car loan, and 20 percent of unsecured debt, such as credit card bills, over three to five years.

I offered an amendment with Chairman HYDE which passed that would make the Means testing more fair. This amendment was not made in order and not allowed to be offered on the floor. This is a bad rule and this is not democracy. First Lady Hillary Rodham Clinton said in a May 7th article:

> I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of the bill (H.R. 3150) that would force single parents to compete for their child support payments with big banks trying to collect credit card debt. . . Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.

This is a bad rule, and this is not democracy. I urge my colleagues to oppose this rule, and vote "no" on the rule for H.R. 3150.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it amazes me to hear the gentlewoman from Texas talk in such a manner as she does. It takes all responsibility away from the person who goes in and purchases the product.

My question to the gentlewoman would be, has she ever been the recipient of a bankruptcy? In other words, has she ever been the creditor? I was.

When I first got out of school, I had my little business. I had three small children and my wife. My wife and I were struggling. We rendered the service. You know what? The person walked out on us, for a bankruptcy of convenience.

So you can give all these sorry stories and sob stories, but, let me tell you, there is the other side of the story. In your statement you need to be there and reflect on the other side of the story. And there is nothing, nothing wrong with personal responsibility in this country.

Now, for the second point made by the gentlewoman from Texas about the unfairness of this, how it ought to go back for more hearing. Let me say, I know the gentlewoman, to her credit, comes to the Committee on Rules on a regular basis. This bill has had over 60 witnesses. Every interest group I know has testified either in committee or had opportunities to testify somewhere in the process of this. This is not something that fell out of the sky.

There are a lot of people out there that are suffering. There are a lot of people that are suffering, not because they went and bought something they knew they could not afford. There are a lot of people who, on good faith on a person's word, sold them something, and the person did not keep their word.

Let me give you an example. Come to my office. I invite the gentlewoman from Texas to my office, room 215, Cannon Building. You will see a bull elk in my office. Do you know where I go got that? I represented a woodsman, and this woodsman owed me about $5,000 personally. I loaned the money. He never paid me.

I told him, I said, "You gave me your word." He said, "I gave you my word." I said, "Are you going to declare bankruptcy?" He said, "No, I am going to give you something of value." He brought me in this bull elk. He kept his word.

The other issue that is critical, and this is nothing but a diversionary tactic, is this child support thing. Let me repeat this very quickly. The President of the California Family Support Council says, "H.R. 3150 contains a wish list of provisions which substantially enhances our efforts to enforce support obligation during the bankruptcy of a support obligor. It closes many of the loopholes which currently exist in bankruptcy and which greatly hamper our efforts to enforce support," speaking of child support, "debts, when a debtor has other creditors who are also seeking participation in the distribution of the assets of the debtor's bankruptcy estate."

That letter was sent to the chairman. I would be happy after their turn to yield a couple of minutes to the gentleman from Pennsylvania (Mr. GEKAS). I would like the chairman to go into a little more detail about that hearing a couple of minutes from now. Let us address that.

I do not want one diluting the importance of this bill by some diversionary tactic by saying, well, this takes away from child support. It does not. The rule is fair. We ought to pass the rule and pass the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I appreciate the sincerity of the gentleman. But just as he has his beliefs, I have my facts. The facts are that the amendments do not correct the imbalance between credit card and child support. You have to fight the credit card companies to get your child support.

The other fact is that 60 percent of those who file bankruptcy have been unemployed in the last couple of months. We want personal responsibility. In fact, we have supported an amendment that would study why small businesses go bankrupt or are not being paid.

This bill needs to go back for hearing so that we can bring forth a true bipartisan bill that would answer your concern and truly commit us to personal responsibility.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I rise against the rule. Once again, it appears that the average Members of the House, Republicans and Democrats, cannot be trusted to legislate, even though that is what we were sworn in to do. The Committee on Rules and the Republican leadership of have decided what amendments will be made in order. The gentleman from Colorado says the chairman of the Committee on Rules needs to have a managed rule so he can manage this bill through.

I am not sure what the hurry is. I guess because we have to get out for another recess. This has been a Congress more of recesses than a Congress of action, even on important issues like bankruptcy reform.

I actually agree with the gentleman on a lot of it. I actually would tell the gentleman on his situation, he probably would have done better to ask for a promissory note than a bull moose head for his wall. But, nonetheless, let us go forward.

The problem with this bill and the problem with this rule is the Republicans for so long, since I have been in Congress, have always been talking about returning powers to the States. But this bill in sections 181 and 182 preempt State law with respect to the State constitutions dealing with homestead, particularly in my home State of Texas.

Let me read a letter from the Governor of Texas, Governor Bush, along with the Lt. Governor Bullock and Speaker James E. "Pete" Laney. "We strongly oppose Congress' effort to pass this legislation with the inclusion of the $100,000 homestead cap. The homestead cap is a clear violation of states' rights with regard to State private property laws. State and local government participation should be maintained in Federal bankruptcy law."

Mr. Speaker, I will include the whole letter for the record.

Mr. Speaker, this is the whole point. Here we are talking about returning power to the States on one day, and then the next day we are taking it back away from them, whatever is most convenient for whatever our goals may be. To rush this legislation through, again, I agree with the gentleman on most of this, but for some reason, we cannot trust the 435 Members of this body to go through, spend the time, debate the amendments and bring up various amendments. We can all think. We all have the same power, or should have the same power to offer amendments.

But this leadership, which cannot figure out what direction it is going in, has now come up with the rule that mirrors the strategy of this leadership, whether it is busting the budget by $22 billion on the highway bill, or trying to craft a budget bill that is going nowhere fast, and then debating it in the middle of the night, when nobody except people in Hawaii would be paying attention.

Apparently this is just another example of the failed Republican leadership that cannot get anything done, and now wants to change the bankruptcy laws in the most significant way in the last 20 years, and wants to do it with 1 hour of general debate, 12 amendments, 10 minutes on what we are going to do with State homestead laws. I think that is ridiculous, and it is a real shame for this body to consider this.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
Austin, TX June 2, 1998.

Hon. HENRY HYDE,
Chairman, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN HYDE: The House Judiciary Committee and Senate Judiciary Committee have included in their respective bankruptcy reform bills (S. 1301 and HR 3150) an amendment that would place a monetary cap of $100,000 on the amount of homestead equity individuals can protect from bankruptcy foreclosure proceedings. We are writing to express our opposition to the amendment and let you know how greatly it could affect Texas residents.

The Texas homestead provisions, included in the Texas Constitution, exempt a Texas resident's homestead in the event of a declared bankruptcy and place no monetary restrictions on that property. The Texas law does provide certain restrictions, such as limiting homestead property to one acre in urban area and 200 acres per family in a rural area. By placing a monetary cap of $100,000 on the amount of equity individuals can protect from foreclosure, the amendment to both bankruptcy reform bills would preempt the Texas Constitution.

We strongly oppose Congress' efforts to pass this legislation with the inclusion of the $100,000 homestead cap amendment. The homestead cap is a clear violation of states' rights with regard to state private property laws. State and local government participation should be maintained in federal bankruptcy law.

Thank you for your consideration.

Sincerely,

GEORGE W. BUSH,
Governor.
BOB BULLOCK,
Lt. Governor.
JAMES E. "PETE" LANEY,
Speaker.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Texas, I realize that late nights offend him because he would prefer to be at the golf course. But the fact is the reason the Republicans run these late nights is because we have got a lot of work to do, and the gentleman can participate in that work.

Second of all, in regards to the gentleman's comment about my bull elk head, I would be happy to take a promissory note from the gentleman for the amount, because I know he will pay. I know he will not take the bankruptcy for convenience.

I kind of assume the gentleman is going to ask me to yield time. I will preempt that and say no, the other side can yield the gentleman time if he would like.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, while the gentleman from Texas is on his feet, I had informed him and reinformed him, as I know the gentleman is aware, that an amendment that we intend to offer will satisfy the complaint of the Governor of Texas as to the current exemption base that is listed in the bill. We are trying to accommodate the State of Texas and the State of Florida and others who want to retain their homestead exemption.

When the question occurs about whether or not our bill treats child support cruelly or handsomely, depending on the point of view, I must reiterate something that the gentleman from Colorado had begun to articulate. The support enforcement communities around the Nation, New York, California, Virginia and others, have stated that they are in full support of what we are attempting to do in 3150 with respect to the privatization of support payments.

Here is a letter from the California Family Support Council, to which the gentleman from Colorado has alluded. We have a letter from the City of New York which thanks us for the provisions that we have in 3150 as to support, making it easier for them to collect support.

What is left unsaid in all of this, which I am going to iterate and reiterate as often as I can, is that the vast majority, 95 percent, of child support issues are raised in a court order situation in which the court orders support payments to be made by X, and no matter what happens in bankruptcy court or any other court, they are enforced over the year with the marshals and the jails and the sheriffs and the bailiffs, a whole system to enforce the court orders on support.

□ 1315

Nothing that we will do over on the bankruptcy side is going to harm their ability to enforce support payments. But insofar as, through some happenstance, that the child support that escapes the court system that is set up to enforce child support leads to consideration of that same issue in bankruptcy, we take extra pains to prioritize the support payments even in those few cases comparatively that the bankruptcy court must deal with with respect to support.

The amendments that we are going to offer will even go farther and set the priority with which no one could quarrel on support.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BENTSEN) to explain the allegation he would rather play golf at night than work.

Mr. BENTSEN. Mr. Speaker, first of all, I do not play golf. Second of all, I was unaware you could play golf at night. I would in many evenings rather be home with my children. But I do not recall the gentleman being on the floor at 12:30 in the morning when we were debating the Republican budget resolution, because I was here debating against the $10 billion cuts my colleagues want to make in veterans programs and the cuts they want to make in education. I just wanted to clarify that.

To my colleague, the gentleman from Pennsylvania (Mr. GEKAS), and I would yield if I had the time, it would be unprecedented, I know, in my time in Congress that anybody would yield to the other, is that I do want to work with the gentleman, as I said. But the fact is it is unprecedented action that my colleagues are taking at preempting State homestead laws in this bill. For the record the Governor of Texas has said they are for the amendment, but they take no position on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, as a general supporter of this bill, I did want to express my dismay at that attack on the gentleman from Texas. That remark about playing golf at night certainly does not grant this debate any reasonable weight.

Mr. McINNIS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, just as the gentleman, having made the attack on the gentleman, would not yield to him, I certainly would not yield at this point.

I do want to say to my colleagues, while I generally like the bill, I also wanted some amendments, but they are following the wrong course. What we should do, and we can still do it, offer these as amendments to the campaign finance bill, because the same Committee on Rules that would not allow amendments to the defense bill and shut off reasonable amendments to this bill, and I regret that as a supporter, this same Committee on Rules has made more amendments in order to the campaign finance bill than I think it has made in order for all other bills that have come up in this Congress.

So given what the Committee on Rules has done, the Committee on Rules is actually out shopping for nongermane amendments. So while we have to do this very important bill in a quick-time operation, Members who, like myself, had good amendments to this bill which were germane to this bill and were shut out, despite, in some cases, assurances that we would get them in, make them nongermane amendments to the campaign finance bill.

Follow this pattern. Go to the Committee on Rules. Make any amendment we want to bankruptcy a nongermane amendment to the campaign finance bill. Not only will it be made in order, but we will have unlimited debate time.

It does seem to me, when we are judging the seriousness of purpose and fairness of procedure, to compare these. Here is the campaign finance bill. Here is the bankruptcy bill. The bankruptcy bill is a very important bill. It will have a significant impact on this country, and I am generally in favor of it.

But we get amendments killed by the Committee on Rules, presumably on the direction of the leadership. We get amendments with only 10 minutes to debate. Then we get the campaign finance bill where amendment upon amendment, as far as the campaign finance bill is concerned, germane is Michael Jackson's brother.

The whole concept that has always been at the core of the House of Representatives that an amendment should be germane to the bill has been thrown out the window.

So I have to say I am particularly dismayed as a supporter of the basic concept of this bill to see a rule come forward which does violence to fair debate in this particular instance and then makes a mockery of it elsewhere. Then the gentleman from Texas is, I think, unfairly impugned for complaining about it. So I urge people to vote against this rule.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentleman from Massachusetts, let me tell him, the golf comment was preceded by a comment from the gentleman from Texas regarding recess period and a few other things. He speaks, on which is pretty typical with his approach, speaks on one hand for the microphone about bipartisanship and cooperation, and I want to help you, and then, on the other hand, spends the rest of his time attacking the Republican leadership and the Republican efforts to, in this particular bill, say, look, it is not wrong in this country to say you have to accept personal responsibility. It is not wrong in this country to say, if you are going to buy something, you have got to pay for it. It is not wrong in this country to say, when you owe somebody money, when you gave them your word, your word that you are going to pay for it, keep your word and pay your bills.

It is always this party that feels very strongly when we have somebody that comes up in a hardship case, let us say somebody gets a cancer, they are uninsured, they are down on their luck. I mean, that is what it is designed for.

But as is typical, the liberals have taken advantage of it, taken bankruptcy way beyond what its original intents were, and now we have a system of convenience. Look, go ahead, charge everything you want. Take every credit card you want. If you are worried about paying your bills; file bankruptcy. It does not matter. You are not shamed in the community. You do not have to worry about anything. That kind of behavior should not go on.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman from New York for yielding to me.

Mr. Speaker, I guess I want to pick up on that theme of responsibility. We are going to hear, I am sure, much about responsibility today, personal responsibility.

But I also wanted to pick up on an observation made by the gentleman from New York (Mr. NADLER) in terms of congressional responsibility. There is no doubt that this particular proposal has rushed through the legislative process, unlike any proposal in my limited experience.

I dare say, as I talk to colleagues throughout and listen to the statements that have been made, there have been fewer hearings on this. The rush to bring this proposal to the floor was such that it is interesting to read the committee report in terms of the cost estimate. I want to take the time to read it. This is the majority report.

"The estimate of the Congressional Budget Office was not available at the time of this report. The committee believes that the enactment of H.R. 3150 will not have a substantial budget effect for the fiscal year 1999 and subsequent years."

Well, guess what? They were wrong. They were wrong to the tune of $300 million over the course of the next 5 years. That is 300 million taxpayer dollars.

As the debate unfolded earlier on the issue surrounding the point of order, the ranking member, the gentleman from New York (Mr. NADLER), was correct when he said, in terms of the impact of these mandates under H.R. 3150 will cost the private sector over $1 billion, over $1 billion.

The gentleman from Colorado indicates his concern about private mandates. The CBO estimates that the impact on the private sector will be in excess of $1 billion over 5 years. But we are in such a rush to secure passage of this legislation that the point is bring it to the floor, get it done, limit debate.

This is not responsibility. This is not a responsible legislative process. We, too, have a collective responsibility. Let us call it congressional responsibility. I urge that the rule be defeated and the bill also be defeated.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentleman from Massachusetts, first of all, as a suggestion, I think he has got his, with good intent, but I think his facts are wrong. I would suggest that he visit with the gentleman from Ohio (Mr. PORTMAN) on our side, and the gentleman can talk to him about his concern he has got on unfunded mandates.

What especially bothers me, though, about the gentleman's comments, he talks about, in his short career up here, about how this bill has been rushed more than any other bill. I am not sure where the gentleman has been. I realize he is busy.

Let me tell the gentleman, there have been lots of hearings on this bill. Let me just read it. With regard to H.R. 3150 alone, the subcommittee held four hearings. Over the course of those hearings, more than 60 witnesses representing a broad cross-section of interest and constituents in the bankruptcy committee testified. Nearly every major organization having an interest in reform had an opportunity to participate in these hearings.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS) if he would just comment about the comments just made by the gentleman from Massachusetts how this bill was rushed to the floor, no chance for input, and so on and so forth.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I have been amused by listening to the litany of criticisms about how we rushed through it. Comparisons were made about what happened with the 1978 bill that finally became law.

Prior to 1978, the opposition is pleased to say, they had 5 years to work on a bankruptcy bill that became the bankruptcy bill of 1978. That subcommittee and that committee that worked on it for 10, 12, 15 days. After 5 years, they still had a markup with new ideas and new proposals to consider even through the markup stages of the subcommittee and the full committee. So even with the 5 years, they were not ready at the final moment to have a final bill, just like we did not.

We have new ideas, new circumstances occurring all the time. But the main themes of this bankruptcy reform bill were born of the 1,400,000 unexplained filings and our society being drenched in debt of individual debtors who, in some cases, could repay some of the debt. We believe that enough time has been devoted to it.

Moreover, even during the time that we had, we had the benefit of the Commission report, the Bankruptcy Commission. So we had a body that had worked on 2 years' worth of investigation and testimony and hearings on the bankruptcy. So we incorporated that.

All of a sudden, we can see, if the gentleman from Massachusetts will acknowledge, we already had, by adopting some of the recommendations of the Bankruptcy Commission, 2 years of work put right into 3150. That is not speeding up or rushing.

In addition to that, we had the hearings that the gentleman from Colorado has mentioned and the number of witnesses. But beyond that, we had tremendously intricate consultations with people in bankruptcy, from debt organization standpoint, from consumers standpoint, bankruptcy trustees, bankruptcy judges, conferences, Chambers of Commerce, you name it, credit unions.

The credit unions are anxious for the passage of this bill. Their whole system is being attacked daily by the number of filings that they see within their system. They want this bill passed, and so do we.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, the subject of bankruptcy should not be a partisan issue. It never has been in the history of this House. It should not be today or in the future. There should be no Republican perspective or Democratic perspective on this issue.

In 1994, Congress established a Commission to study and recommend changes to the bankruptcy law. The Commission issued its report last October. This bill comes to the floor today without the inclusion of the great, great majority of the recommendations of that Commission.

□ 1330

It comes with this many amendments having been offered before the Committee on Rules, a total of 45 proposed amendments, and it comes under a rule under which only 12 of those proposed amendments will have the benefit of debate in this House.

These are important proposed amendments that were left out. One excludes veterans' and Social Security benefits from the calculation of current monthly income for the purposes of bankruptcy or means testing under this bill.

One provides that a residential landlord would be required to seek relief from the automatic stay, as are other creditors seeking such relief, before being able to move to evict a residential tenant who is elderly or disabled or who is a veteran.

These are important amendments that the Committee on Rules has said to this House, we are not going to allow the democratic process to work its will. We are going to close off debate.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. I think it is important to note, Mr. Speaker, for the record, in response to the chairman of the subcommittee, that upon an inquiry by me to the chairman of the National Bankruptcy Commission, I asked him about necessary data.

I said, and I am quoting, "Every commission was frustrated by the absence of reliable data dealing with the bankruptcy process. Please communicate with the CBO, with the GAO, and get that data before you take action."

I sent that letter, it was signed by other Members, and we are still waiting for that result. But here we are today, on the floor of the House without the evidence and the data that is necessary.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 30 seconds.

Ms. SLAUGHTER. I urge Members to vote no on the previous question, Mr. Speaker. If the previous question is defeated, I will offer an amendment to the rule that will make in order an amendment that will improve the bill's provisions that weaken child support, alimony, and victims' protections under bankruptcy.

Mr. Speaker, I urge a no vote on the previous question.

Mr. Speaker, I include for the RECORD information on the vote on the previous question and other material.

The material referred to is as follows:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever. But that is not what they have always said. Listen to the Republican Leadership *Manual on the Legislative Process in the United States House of Representatives*, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is the one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

PREVIOUS QUESTION ON H. RES. 462—H.R. 3150—BANKRUPTCY REFORM ACT

At the end of the resolution add the following new sections:

"SEC. 2. Notwithstanding any other provision of this resolution, it shall be in order to consider the amendment specified in section 3 of this resolution as though it were after the amendment numbered 11 in House Report 105–573. The amendment may be offered only by Representative Jackson-Lee of Texas or her designee and shall be debatable for 30 minutes.

"SEC. 3. The amendment described in section 2 is as follows:

Page 6, line 11, insert the following before the 1st semicolon: ", but excludes (1) maintenance for or support of a child of the debtor, received by the debtor and (2) current alimony, maintenance, or support paid by the debtor for the benefit of a spouse, former spouse, of child of the debtor";

Page 16, after line 25, insert the following (and make such technical and conforming changes as may be appropriate):

(A) in paragraph (2) by inserting "before any unsecured claim is paid," after "cash payments";

Page 17, strike line 15 and all that follows through "1326(b);" on line 24, and insert the following:

"(i) that all claims entitled to priority under section 507(a)(7) are paid in full before any nonpriority unsecured claim is paid;

"(ii) that, to the extent not inconsistent with clause (i), payments to unsecured nonpriority creditors who are not insiders shall equal or exceed $50 per month of the plan;

"(iii) that, during the applicable commitment period, the total amount of plan payments on account of unsecured nonpriority claims shall equal the monthly net income of the debtor multiplied by the number of months in the commitment period less payments pursuant to section 1326(b); and"

Page 18, line 14, strike "(iii)" and insert "(iv)".

Page 18, line 24, strike "(iv)" and insert "(v)".

Page 48, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 119B. PROTECTION AGAINST REAFFIRMATION AGREEMENTS ADVERSELY AFFECTING CHILD SUPPORT.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) Notwithstanding any other provision of this title, an agreement of the kind described in subsection (c) shall be void unless the court determines that such agreement will not have an adverse impact on the ability of the debtor to support a dependent of the debtor.".

Page 54, line 15, insert ", but includes any tangible personal property reasonably necessary for the maintenance or support of a dependent child" before the semicolon.

Beginning on page 65, strike line 16 and all that follows through line 25 on page 66 (and make such technical and conforming changes as may be appropriate).

Page 68, strike lines 8 through 23 (and make such technical and conforming changes as may be appropriate).

Page 72, strike line 2, and insert the following: at the end and inserting a semicolon; and

Page 72, strike line 9, and insert the following: port that are due after the date the petition is filed; and

"(8) the plan provides that all remaining debts to a spouse, former spouse, or child of the debtor, due before or after the date the petition is filed, for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney) shall be paid before the payment of any other debt provided for in the plan unless the beneficiary of the payment waives the obligation that such payment be made before paying such other debt".

Page 75, line 21, insert "(a)" before "Notwithstanding".

Page 76, line 12, insert "and any debt of a kind described in paragraph (6), (9), or (13) of section 523(a) of this title," before "shall".

Page 76, line 14, strike "or (14)" and insert "or (19)".

Page 76, line 17, strike the close quotation marks and the period at the end.

Page 76, after line 17, insert the following:

"(b)(1) For purposes preserving the priority established in subsection (a), the holder of claim for a debt of a kind described in paragraph (2), (4), or (19) of section 523(a) of this title that is not discharged may not take any action to obtain payment or collection (including engaging in any communication with the debtor or with any person who holds property of the debtor) of such debt if such holder—

"(A) knew or should have known that taking such action, or obtaining payment of such debt, would impair the ability of the debtor to pay a debt that has priority under such subsection; or

"(B) failed to verify immediately before taking such action, by good faith means designed to identify all debts that have priority under such subsection, that the debtor does not then owe any debt that has priority under subsection (a).

"(2) If such holder violates paragraph (1), such holder shall be liable to any person injured by such violation for the sum of $3000, actual damages, and a reasonable attorney's fee.".

Mr. McINNIS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. McINNIS) for 1 minute remaining to close debate.

Mr. McINNIS. Mr. Speaker, this rule should be passed and it will be passed, and then we are going to get to have debate, and that debate is all about personal responsibility. No matter how the Democrats want to cut it, the fact is that it is about personal responsibility, about keeping our word, about not buying something if we do not have the money to pay for it.

The previous question vote itself is simply a procedural vote, Mr. Speaker, to close the debate on this rule and proceed to a vote on its adoption. The vote has no substantive or policy implications whatsoever.

Mr. Speaker, I include for the RECORD an explanation of the previous question.

The material referred to is as follows:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

House Rule XVII ("Previous Question") provides in part that: There shall be a motion for the previous question, which, being ordered by a majority of the Members voting, if a quorum is present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked or ordered.

In the case of a special rule or order of business resolution reported from the House Rules Committee, providing for the consideration of a specified legislative measure, the previous question is moved following the one hour of debate allowed for under House Rules.

The vote on the previous question is simply a procedural vote on whether to proceed to an immediate vote on adopting the resolution that sets the ground rules for debate and amendment on the legislation it would make in order. *Therefore, the vote on the previous question has no substantive legislative or policy implications whatsoever.*

Mr. McINNIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 17-minute vote. As previously stated on orders by the Speaker, this will be a strictly enforced 17-minute vote.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 236, nays 183, not voting 14, as follows:

[Roll No. 217]

YEAS—236

Aderholt
Archer
Armey
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh

McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—183

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bachus
Berman
Brady (TX)
Brown (CA)
Dunn
Farr
Gonzalez
Goodling
Houghton
Inglis
Klug
Olver
Scarborough
Sensenbrenner

□ 1351

Mr. YATES and Mr. FROST changed their vote from "yea" to "nay."

Mr. HEFLEY changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 251, nays 172, not voting 10, as follows:

[Roll No. 218]

YEAS—251

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

NAYS—172

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—10

Berman
Brown (CA)
Brown (FL)
Farr
Gonzalez
Houghton
Inglis
Klug
Miller (CA)
Torres

□ 1402

Mr. SHERMAN changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DUNCAN). Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3150.

□ 1404

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from New York (Mr. NADLER), each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, we are about to embark on one of the most momentous pieces of legislation that has come to the floor in a long time. And to signify the importance of the measure, we significantly begin by yielding to the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, he being a leader of the committee and of the effort that brings us to this point in bankruptcy reform legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, before I talk about the bill in chief, I would like to say parenthetically that I am a little disturbed at the controversy over whether or not I kept my word in asking for an open rule. I did ask for an open rule. It was not formally asked. It was down here at the desk to the chairman of the Committee on Rules.

I did not make a commitment that there would be an open rule because that is not my prerogative. That is up to the Committee on Rules. I suppose the fact that there were 43 amendments offered at the markup was a disincentive to have an open rule, but, nonetheless, I offered to use whatever force and effect I would have to get amendments that the gentleman from New York (Mr. NADLER) wanted that were serious amendments made in order. And, again, unfortunately, because of weather, I was in an airplane yesterday afternoon coming from Evansville, Indiana by way of Cincinnati, and planes were canceled. I was not here. I just hope nobody feels I did not live up to my commitment which was to ask for an open rule. I just wanted to state that.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I just want to say, I do not doubt for a moment the integrity and the word of the gentleman from Illinois, the chairman of the committee. I am sure that he did exactly what he committed to do and asked the Committee on Rules for an open rule.

I assume he asked that the priority amendments that we asked for be made in order. I just regret that he was not more influential, perhaps, with the Committee on Rules and that they did not make more than one out of the 12 amendments that we had a priority on in order. I do not doubt for a moment nor would I ever cast aspersion on the integrity or the good word of the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman very much. I can only say, one cannot overestimate my lack of influence with some of the institutions around here.

In any event, I am pleased that the Committee on the Judiciary, after a 3-day markup in May, favorably reported bankruptcy reform legislation designed to address deficiencies in current bankruptcy processes and mitigate adverse impacts of bankruptcy filings. We recognized the importance of responding to the many developments since the Bankruptcy Code's enactment a generation ago, including a burgeoning bankruptcy case load that reached a new high of over 1.4 million filings during the 1997 calendar year.

Last September, our colleague, the gentleman from Florida (Mr. MCCOLLUM), introduced H.R. 2500, the Responsible Borrower Protection Bankruptcy Act, a bill designed in part to implement the concept of needs-based bankruptcy.

In February the chairman of the Committee on the Judiciary Subcommittee on Commercial and Administrative Law, the distinguished gentleman from Pennsylvania (Mr. GEKAS), built on this approach by introducing H.R. 3150, the Bankruptcy Reform Act of 1998.

H.R. 3150 incorporated, with modifications and additions, most of H.R. 2500's consumer bankruptcy provisions while also addressing other bankruptcy related subjects.

Our committee sought to achieve an appropriate balance between debtor and creditor rights in endorsing a needs-based bankruptcy process that would increase creditor recoveries while offering relief to deserving debtors. Those who needed an immediate fresh start would get it, but those who could afford to pay a substantial portion of their obligations out of future income before getting a fresh start would be required to do so.

Under H.R. 3150 as reported, individuals or couples with income levels equaling or exceeding national median figures that take into account family size may be ineligible, depending on certain calculations, to be chapter 7 debtors. Chapter 7 offers a fresh start, without encumbering future income, to individual debtors who are prepared to give up all of their nonexempt assets. Those denied access to chapter 7 under the pending legislation generally will have the option of making payments under a chapter 13 plan for a number of years and qualifying for a limited discharge eventually.

The chapter 7 disqualification is more limited in scope as a result of committee action raising the income threshold for disqualification from 75 percent to 100 percent of national median income figures.

The higher cutoff point, endorsed by the committee, addresses a major argument of opponents of this legislation that the needs-based formula was too harsh in its treatment of people with very limited means.

Our committee sought to ensure that family support obligations would be protected under the reported version of the bill. It adopted an amendment that I offered to prevent any dilution of the priority treatment accorded claims of spouses, former spouses and children for alimony, maintenance, or support, and also adopted four family support related amendments offered by the learned gentleman from Virginia (Mr. BOUCHER). Although this legislation was never intended to derogate from the preferred treatment of family support obligations under bankruptcy law, the Committee on the Judiciary welcomed the opportunity to take action emphasizing, in a number of contexts, its firm commitment to facilitating the fulfillment of such obligations.

In addition, as a result of a provision in the manager's amendment, the priority in distribution for support related obligations is substantially enhanced compared with current law.

I wish to commend the gentleman from Pennsylvania (Mr. GEKAS) for introducing H.R. 3150 and conducting important hearings on bankruptcy reform in his subcommittee. He is performing, as he does so often, an important public service by serving as our floor manager for this bill.

The remedial legislation before us not only covers consumer issues but also addresses business bankruptcy, tax related issues in bankruptcy, and transnational bankruptcy. It merits the support of this body.

I hope in the months ahead we will be able to point to bankruptcy reform as one of the significant achievements on a bipartisan basis of the 105th Congress.

Mr. GEKAS. Mr. Chairman, H.R. 3150 is one of the most comprehensive legislative efforts to reform bankruptcy law and practice in the 20 years since the enactment of the Bankruptcy Code in 1978. The guiding principle of these reforms has been to restore personal responsibility and integrity in the bankruptcy system and to ensure that it is fair for both debtors and creditors.

This bill represents the culmination of more than three years of careful analysis and review of our nation's current bankruptcy system. In the past year, the Subcommittee on Commercial and Administrative Law, of which I serve as Chairman, has held nine hearings on various aspects of bankruptcy reform. With regard to H.R. 3150 alone, the Subcommittee held four hearings. Over the course of those hearings, more than 60 witnesses, representing a broad cross-section of interests and constituencies in the bankruptcy community, testified. Nearly every major organization having an interest in bankruptcy reform had an opportunity to participate in these hearings.

H.R. 3150's reforms pertain to consumer and business bankruptcy law and practice, and include provisions regarding the treatment of tax claims and enhanced data collection. H.R. 3150 also establishes a separate chapter under the bankruptcy Code devoted to the special issues and concerns presented by international insolvencies.

Why do we need needs-based consumer bankruptcy reform? The answers are not only easy, but obvious. Last year, bankruptcy filings topped 1.4 million and even exceeded the number of people who graduated college in that same year. Nevertheless, literally thousands of people who have the ability to repay their debts are simply filing for bankruptcy relief and walking away from those debts without paying their creditors a single penny under the current system.

Why do we care about creditors? Again, the answer is easy and obvious. When they don't get paid, someone suffers a loss. The only way they can make up that loss is by passing it along to us—you and me—in the form of increased prices and higher interest rates. Besides being unfair to those of us who pay our debts, the current consumer bankruptcy system at best lacks balance, at worst lacks morality and is subject to abuse.

There are two extreme approaches to bankruptcy relief: No one is allowed any bankruptcy relief or bankruptcy relief is granted to anyone who requests such relief. Our current system has become dangerously close to the latter extreme and the enormous leap in the number of bankruptcy cases being filed appears to document that.

H.R. 3150's needs-based reforms will restore balance to consumer bankruptcy law while reducing its potential for abuse. Not only will everyone in the bankruptcy system benefit from these reforms, but people like us—the corner grocer who extends credit to his neighbors, the family who's buying its first home and trying to get the lowest rate of interest for financing that purchase, the single mother who's applying for credit for the first time—are the ones who will also benefit from H.R. 3150.

H.R. 3150 is our response. It offers a balanced approach to reform with regard to consumer as well as business bankruptcy reform. In addition, as reported from the Full Committee last month, H.R. 3150 fully protects the priority treatment accorded to child support claims and fully responds to the concerns that some have expressed about this issue.

H.R. 3150 creates a debtor's "bill of rights" with regard to the services and notice that a consumer should receive from those that render assistance in connection with the filing of bankruptcy cases. Through misleading advertising and deceptive practices, "petition mills" deceive consumers about the benefits and detriments of bankruptcy. H.R. 3150 responds to this problem by instituting mandatory disclosure and advertising requirements as well as enforcement mechanisms.

In all, H.R. 3150 represents a balanced approach to bankruptcy reform with the goal of reducing abuse, promoting greater uniformity, and restoring public confidence in the integrity of the bankruptcy system.

I include the following letters of support for H.R. 3150 in the RECORD.

National Federation of
Independent Business,
Washington, DC, June 9, 1998.

Hon. George Gekas,
U.S. House of Representatives,
Washington, DC.

Dear Representative Gekas: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I am writing to urge your support for H.R. 3150, the Bankruptcy Reform Act of 1998.

Small business is concerned, as many are, about the rapid increase of bankruptcy filings over the last several years. Whether their customers are other businesses or individual consumers, small businesses feel the pain to their bottom line when their customers go bankrupt. As an unsecured creditor, most small businesses never even get a chance to get back what they are owed.

A recent poll found that 77 percent of NFIB members want to make the criteria for declaring bankruptcy more stringent. Small business owners feel current law is in desperate need of reform in order to curb the abuses of the current federal bankruptcy system.

H.R. 3150 goes a long way to fight the abuses to the bankruptcy system. Most importantly, the legislation strikes a fair balance by giving small business owners more of a chance to get back what is rightfully theirs, while still providing bankruptcy protection to those small businesses who truly need it.

I urge you to give small business a chance to get what is theirs. Support H.R. 3150, the Bankruptcy Reform Act of 1998.

Sincerely,

Dan Danner,
Vice President,
Federal Governmental Relations.

National Consumer Bankruptcy Coalition

STATEMENT ON THE HOUSE JUDICIARY COMMITTEE'S PASSAGE OF H.R. 3150

We are very pleased that the House Judiciary Committee today favorably reported The Bankruptcy Reform Act of 1998 (H.R. 3150), clearing the measure for action by the full House. We also applaud Chairman Hyde and the Committee members for putting to rest any question about the priority status of child support and alimony payments in the bankruptcy process. The amendments adopted by the Committee specifically and categorically state that child support and alimony payments must be given priority in bankruptcy proceedings. There is no greater personal responsibility than meeting one's child support and alimony obligations, and we strongly support these measures to ensure that these payments are in no way affected by this legislation.

The result is that H.R. 3150 has emerged from the Committee even stronger in terms of personal responsibility and should enjoy strong bipartisan support on the House floor. We urge the full House to act upon this legislation at the earliest opportunity so that sensible, fair bankruptcy reform can be enacted in 1998. We are also pleased that the Senate plans to move forward next week on significant bankruptcy reform legislation.

H.R. 3150 will restore personal responsibility and fairness to our bankruptcy system. For too long now, our flawed bankruptcy law has provided complete debt relief to individuals who have enough income to repay at least some of what they owe. As a result, the overwhelming majority of Americans who pay their bills on time have been forced to pick up the tab—to the tune of about $400 per household—for those who walk away from their debts. This important legislation will correct this flaw by ensuring that bankruptcy filers receive only the amount of debt relief they need, no more and no less.

American Bankers Association; American Financial Services Association; America's Community Bankers; Bankruptcy Issues Council; Consumer Bankers Association; Credit Union National Association; Independent Bankers Association of America; National Retail Federation; U.S. Chamber of Commerce.

Chamber of Commerce of the
United States of America,
Washington, DC, March 2, 1998.

Hon. George Gekas,
U.S. House of Representatives,
Washington, DC.

Dear Representative Gekas: The U.S. Chamber of Commerce—the world's largest business federation representing more than three million businesses of every size, sector and region—strongly supports bankruptcy reform legislation, specifically, H.R. 3150, the Bankruptcy Reform Act of 1998. We urge you to support this bankruptcy reform legislation sponsored by Chairman George Gekas, Representatives Bill McCollum, Rick Boucher and James Moran. H.R. 3150 will reform our bankruptcy laws and establish a "needs-based" system which aids all Americans who are affected by the abuses and misuses of the current code. The timing of this legislation could not be more critical.

The number of personal bankruptcy filings, which canceled approximately $40 billion in consumer debt last year, is rising precipitously. Early indications for 1997 suggest that we will see the number rise by 20 percent over the 1996 record and the amount of debt canceled rise by 33 percent. Given the strong performance of the economy during the past year, these staggering increases in filings suggest that our bankruptcy system must be reformed. Of course, the consumer debt taken off the books by the bankruptcy system is not really erased—instead, the cost is shifted to third parties such as households and businesses, in the form of higher prices and higher interest rates.

In addition to the creation of a "needs-based" system, the Chamber applauds the efforts by Chairman Gekas, Representatives McCollum, Boucher and Moran in addressing small business and farm bankruptcies, tax collections and single-asset realty cases, as well as inclusion of education-related provisions and protections for those who receive inadequate or improper counseling. These efforts could be key in providing the best climate in which small business can prosper.

We look forward to working with you and your colleagues on passing this legislation in this session of Congress.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President,
Government Affairs.

U.S. CHAMBER OF COMMERCE,
Washington, DC, June 8, 1998.

TO MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses of every size, sector and region, urges you to support passage of the "Bankruptcy Reform Act of 1998," H.R. 3150. This important bipartisan legislation will reform our bankruptcy laws and establish a "needs-based" system that will aid all Americans who are affected by the abuses and misuses of the current code.

The number of personal bankruptcy filings, which canceled approximately $40 billion in consumer debt last year, is rising precipitously. Early indications for 1997 suggest that we will see the number rise by 20 percent over the 1996 record and the amount of debt canceled rise by 33 percent. Given the strong performance of the economy during the past year, these staggering increases in filings indicate that our bankruptcy system must be reformed. The fact is the consumer debt taken off the books by the bankruptcy system is not really erased. Instead, the cost is shifted to third parties such as households and businesses, in the form of higher prices and higher interest rates.

The U.S. Chamber of Commerce believes that this bill would close a number of loopholes in the law that encourages debtors to take advantage of our current system and avoid paying their debts. The legislation would steer debtors away from the more lenient "Chapter 7" filing, back to "Chapter 13," where courts establish timely repayment plans for those that are able to repay a portion of their debts. Repeated use of bankruptcy laws to continually walk away from debts would be severely restricted.

Because of the importance of this legislation to the business community and consumers, we may include votes on or in relation to H.R. 3150 as key votes in the Chamber's annual How They Voted ratings.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, January 30, 1998.

Hon. GEORGE GEKAS,
Chairman, Subcommittee on Commercial and Administrative Law, Committee on Judiciary, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I applaud your efforts to introduce real bankruptcy reform legislation.

Small business is concerned, as many are, about the rapid increase of bankruptcy filings over the last several years. Whether their customers are other businesses or individual consumers, small businesses feel the pain to their bottom line when their customers go bankrupt. As an unsecured creditor, most small businesses never even get a chance to get back what they are owed.

A recent poll found that 77 percent of NFIB members want to put more limits on people's ability to declare bankruptcy. Small business owners feel current law is in need of reform because the federal bankruptcy system has been abused.

The Bankruptcy Reform Act of 1998 that you and Congressman Moran have authored goes a long way to fight the abuses to the bankruptcy system. It will also give small business owners more of a chance to get what is rightfully theirs, while still providing bankruptcy protection to those who truly need it.

Thank you for your leadership on this issue. NFIB looks forward to working with you as this issue proceeds through your subcommittee.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

U.S. DEPARTMENT OF JUSTICE,
UNITED STATES TRUSTEE, NORTHERN AND EASTERN DISTRICTS OF CALIFORNIA AND NEVADA,
San Francisco, CA, May 11, 1998.

Representative GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR MR. GEKAS: The Small Business Proposal, a component of H.R. 3150, the "Bankruptcy Reform Act of 1998," is not an untested concept and would codify the "best practices" of the United States Trustees. Since January 1, 1995, the field offices of Region 17 have conducted Initial Debtor Interviews in every chapter 11 case filed. In advance of the interview, we request the debtor supply detailed financial information to our office. At the interview, we use that information to focus on the debtor's business and work with the debtor to understand what is required to emerge successfully from chapter 11. We continuously monitor the debtor's financial progress during the pendency of the chapter 11 case with particular emphasis on the debtor's continuing viability. The result of this practice is quicker, and more likely successful, reorganization for chapter 11 cases.

Please contact me if you have any questions.

Sincerely,

LINDA EKSTROM STANLEY,
United States Trustee.

THE CITY OF NEW YORK
LAW DEPARTMENT,
New York, NY, April 15, 1998.

Hon. GEORGE W. GEKAS,
Chairman, House Subcommittee on Commercial and Administrative Law, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GEKAS: The City of New York (the "City") would like to thank you for your leadership in drafting H.R. 3150, the Bankruptcy Reform Act of 1998. The legislation will be of great benefit to the City because it will strengthen the ability of local governments to collect ad valorem taxes. As your Subcommittee prepares for consideration of H.R. 3150, I would like to offer my comments and suggestions on key provisions of the legislation.

The City is especially supportive of "Title V, Tax Provisions", which will help ensure that local governments receive more of the tax debt they are owed. Title V will also make the bankruptcy process more predictable and stable for local governments. While these changes will be very beneficial to the City, it is critical that one provision of H.R. 3150 be clarified to avoid unintentionally increasing bankruptcy filings while reducing local government revenue.

As drafted, H.R. 3150 proposes a new section, Section 511 of the Bankruptcy Code, which provides for an Internal Revenue Code rate of interest on tax claims. This provision is problematic as it does not specifically identify or limit the types of taxes subject to the proposed interest rate. Were this section limited to excise tax claims or tax claims on or measured by income or gross receipts, the City would have minimal objection that the interest rate should be the "statutory rate" for such taxes. On the other hand, if the bill defines "tax" as including ad valorem taxes, the City would have a very strong objection, as the interest rate would be significantly less than that which is charged by the City, and would, in fact, encourage bankruptcy filings by real property owners in order to obtain this more favorable rate. H.R. 3150 should specifically exclude ad valorem taxes from the definition of "tax" under Section 511.

The City supports the language in the Bankruptcy Reform Act of 1998 that recognizes that ad valorem taxes must be paid ahead of other debts in bankruptcy cases. The City applauds your leadership on this critical revision of Bankruptcy Code Section 724 for the protection of local government budgets. Cities are non-consensual creditors and are in a unique relationship with debtors in bankruptcy. As such, cities should be paid before other creditors in bankruptcy cases.

The City strongly supports H.R. 3150's revisions to Section 505 of the Bankruptcy Code. The legislation would provide that a challenge to real property assessment may occur only if the period of time to contest such tax did not expire by operation of law. Section 505 of the Bankruptcy Code presently allows debtors to challenge any tax covering any period of time unless such tax had been contested and adjudicated prior to the commencement of the bankruptcy case. Thus, taxes may be contested in a bankruptcy proceeding even if the statute of limitations to challenge the taxes had expired under the relevant state law. This Section is patently unfair to taxing authorities. It fosters abuse by debtors who potentially can force a government to litigate taxes which were collected years ago and had not been timely challenged. It leaves municipalities in a fiscally precarious and vulnerable position. There is no legal finality to tax challenges or stability in local government finances. Since there is no statute of limitations as Section 505 of the Bankruptcy Code is presently drafted, the changes made by H.R. 3150 to Section 505 of the Bankruptcy Code are of enormous importance.

The City supports H.R. 3150's modifications to Section 342 of the Bankruptcy Code that would require a debtor to submit necessary information for creditors, such as taxpayer identification numbers, and parcel numbers for blocks and lots, and to list the appropriate department or agency for filing City claims. This information will enable the City to act more efficiently. However, the City would like clarification that governmental units are allowed to designate safe harbor mailing addresses for each department, agency or instrumentality of such governmental units. In addition, the City would like a clarification that "notice" to a particular department, agency or instrumentality of a governmental unit shall not constitute "notice" to other departments, agencies or instrumentalities of the same governmental unit.

Thank you again for your leadership on bankruptcy issues. H.R. 3150 can greatly improve the City's ability to collect debts owed by bankruptcy filers which will relieve revenue pressure on all other taxpayers. We appreciate your support for the changes outlined above, and with these clarifications support the prompt passage of H.R. 3150.

Sincerely,

MICHAEL D. HESS,
Corporation Counsel.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF SOCIAL SERVICES, DIVISION OF CHILD SUPPORT ENFORCEMENT
Richmond, VA, June 9, 1998.

Hon. JAMES P. MORAN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN MORAN: As Director Nick Young is traveling, I am responding to your request for comments on child support-related portions of H.R. 3150. The inclusion of provisions in H.R. 3150 to improve child support collections when a debtor has filed for protection under the Bankruptcy Code would be very helpful to families in Virginia. Amendments proposed in Section 146 would substantially assist our efforts to enforce child support obligations during the bankruptcy of a child support obligor. Currently, there exist in bankruptcy a number of issues that make enforcement of child support debts difficult when that parent has other creditors also attempting to gain a position in the ranking for distribution of the debtor's bankruptcy estate:

While we have many valuable tools with which to enforce child support collections, bankruptcy can place the child support debt collection in competition with other creditors. This is not normally the case in the rest of our support enforcement tools; child support takes high precedence. In bankruptcy cases filed under Chapters 12 and 13, we must cease income withholding orders and add the child support debt into all the other financial obligations considered in developing the debtor's plan. This hardly puts children first!

Congressman Gekas' proposed amendments in section 146 would correct this situation, and ensure "children first" in bankruptcy situations where child support is involved. We most certainly believe these amendments are beneficial to Virginia's families and the larger welfare reform initiative across the country.

Sincerely,

BILL BROWNFIELD,
Legislative Coordinator.

CALIFORNIA FAMILY SUPPORT COUNCIL,
Sacramento, CA June 4, 1998.

Hon. GEORGE W. GEKAS,
House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: The California Family Support Council is an organization of district attorneys and other professionals in the State of California who represent the interest of the children of this state in the establishment and collection of support under the federal child support enforcement program (Social Security Act, Title IV-D). As president of the Council I wish to express the gratitude of our members for your inclusion of provisions in H.R. 3150 to improve child support collections when a debtor has filed for protection under the Bankruptcy Code.

In particular, section 146 of H.R. 3150 contains a veritable "wish list" of provisions which substantially enhances our efforts to enforce support obligations during the bankruptcy of a support obligor. It closes many of the "loopholes" which currently exist in bankruptcy and which greatly hamper our efforts to enforce support debts when a debtor has other creditors who are also seeking participation in the distribution of the assets of a debtor's bankruptcy estate.

Congress has already provided many tools which give us an enormous collection advantage over other creditors outside bankruptcy. We can, for example, intercept tax refunds; prosecute for criminal non-support or contempt of court; revoke, suspend or non-renew licenses; obtain income withholding order which, under federal law, have an absolute priority over other creditors' claims (42 U.S.C. §666(B)(7); obtain penalties against employers who fail to honor income withholding orders; obtain such income withholding orders without leave of court; and obtain security bonds or guarantees for the payment of support. In addition nonpayment of support interstate is a federal crime. All of these collection techniques—and many more—are available at little or no cost to support obligees through the child support enforcement program.

During bankruptcy, however, many of these remedies must be reconciled with other bankruptcy code provisions which protect the debtor and place support obligees in competition with other creditors. What is worse, in cases filed under Chapters 12 and 13, income withholding must cease and the support debts must be structured to conform to the debtor's plan.

If the amendments you propose in section 146 of H.R. 3150 were enacted, the opposite would be true. Plans could not be confirmed or discharges granted unless all postpetition support payments were made; income withholding would not be affected by the filing of a bankruptcy petition; lingering issues relating to the dischargeability of certain support debts would be clarified; and distinctions between assigned and unassigned support would be eased. In short, your proposed amendments would make the effect of bankruptcy on a child support creditor negligible.

I have been informed that there is some opposition to H.R. 3150 based on the premise that support creditors would be worse off if certain credit car debts were made non-dischargeable and credit card creditors and support creditors were in competition for the same post-discharge assets. I can only say that we are in competition with those creditors prior to bankruptcy now. We do not see such debts as impairing our ability to collect support, especially in view of the advantages child support creditors have under current state and federal law as outlined above. Our problems stem not from competition with credit card creditors outside bankruptcy, but from the disadvantages we incur as collectors of support under current bankruptcy law during bankruptcy. Your proposed amendments would give support creditors an enormous advantage over other creditors during bankruptcy and greatly aid us in the discharge of our support enforcement responsibilities.

I just want you to know that, on behalf of the public child support enforcement community in California, we enthusiastically support your efforts and look forward to the swift enactment of H.R. 3150.

Yours very truly,

JONATHAN BURRIS,
President.

BANK OF AMERICA
San Francisco, CA, March 11, 1998.

Hon. GEORGE W. GEKAS,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GEKAS: I am writing to urge your support of H.R. 3150, the "Bankruptcy Reform Act of 1998".

Consumer bankruptcy reform is urgently needed to address the recent explosion in the number of personal bankruptcy filings. Last year, for the first time in history, more than 1 million personal bankruptcy petitions were filed. It is anticipated that as many as 1.4 million consumers will file for bankruptcy this year. This explosion in filings is most troubling given that it comes at a time when the American economy is strong and unemployment is low.

The rise in personal bankruptcies has an undeniable impact on Bank of America. However, it is consumers who are absorbing the heaviest burden. This year, approximately $40 billion in consumer debt will be written off as a result of personal bankruptcy filings. These losses translate to approximately $400 for every American household and are passed on to all consumers as higher interest rates and higher prices for goods and services. In effect, the vast majority of consumers who pay their bills on time are picking up the tab for those who do not.

Our flawed bankruptcy system allows this inequity to continue. The Bankruptcy Code allows individuals to erase all their debts even if they have the ability to repay some portion of them. Not surprisingly, the overwhelming majority of filers—70 percent—choose Chapter 7, which allows virtually all debts to be erased regardless of whether the debtor could repay some of what he or she owes. Recent research shows, in fact, that about 25 percent of Chapter 7 filers have the ability to repay their housing debt plus at least one-third of their remaining debts. One in twenty Chapter 7 filers has sufficient income to repay all debts, but receives complete relief anyway.

H.R. 3150 would change the law to ensure that individuals receive the amount of debt relief they need, no more and no less. It would allow those in the most serious financial difficulty to get the fresh start they need while requiring those with an ability to repay a portion of their debts to do so. It is a sensible solution to a serious problem.

I urge your support of H.R. 3150. This legislation represents important consumer bankruptcy reform that is necessary to stem the rising costs associated with personal bankruptcies, while making the bankruptcy system more equitable for consumers, creditors and debtors alike.

Sincerely,

JAMES G. JONES.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, June 8, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Commercial and Administrative Law Subcommittee of the House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GEKAS: The National Association of Counties (NACo) supports the Bankruptcy Reform Act of 1998 (H.R. 3150) as reported by the Committee on the Judiciary. We urge the House of Representatives to vote for H.R. 3150 when it is considered on the floor.

NACo particularly is pleased with provisions included in the bill reported by the Committee on the treatment of state and local government tax liens in bankruptcy proceedings. The provisions in H.R. 3150 are very important to states, counties, cities and school districts. The bill would change a number of sections in the Bankruptcy Code that have caused counties to lose millions of dollars in property tax revenues. Counties have to increase taxes, cut programs or find substitute funding to replace this lost revenue as a result of current federal bankruptcy law. We are pleased that the bill contains a majority of the provisions developed and proposed by the National Association of County Treasurers and Finance Officers, an affiliate of NACo.

If you have any questions about the position of the National Association of Counties, please call Ralph Tabor or our staff at 202-942-4254.

Thank you for your consideration.

Sincerely,

LARRY E. NAAKE,
Executive Director.

COLORADO COUNTIES, INC.,
Denver, CO, April 29, 1998.

Hon. GEORGE W. GEKAS,
Member, House Judiciary Committee,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GEKAS: On behalf of Colorado's 63 county governments, I am writing to urge your continued support of H.R. 3150 also known as the "Bankruptcy Reform Act of 1998." We understand that the House Judiciary Committee will be marking up the legislation in the next week, and we appreciate your leadership in assuring its provisions are considered favorably.

As you are aware, the National Association of County Treasurers and Finance Officers (NACTFO) has been an active participant in the ongoing discussions related to the priority of ad valorum tax liens in bankruptcy proceedings. The organization previously submitted to you a paper entitled "Local Government Recommendations for Bankruptcy Code," and attended all public hearings of the National Bankruptcy Review Commission.

As H.R. 3150 is considered in the Judiciary Committee, we encourage you to consider the attached "Specific Recommendations to Amend H.R. 3150" dated April 10, 1998, as prepared by The Honorable Ray Valdes, Co-Chair of the Legislative Committee of the National Association of County Treasurers and Finance Officers. The recommendations include a number of provisions that we believe will make H.R. 3150 an even stronger reform measure.

If you have specific questions regarding the proposal, I encourage you to contact The Honorable Ray Valdes at 407.321.1130 or The Honorable Sandy Hume, Boulder County Treasurer, at 303.441.3500.

Thank you for your consideration.

Sincerely,

PETER B. KING,
Director.

NATIONAL ASSOCIATION OF
FEDERAL CREDIT UNIONS,
Washington, DC, February 26, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Commercial and Administrative Law,
House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association exclusively representing the interests of the nation's federal credit unions, I wish to commend you on your efforts to restore personal responsibility to the bankruptcy system.

NAFCU believes that the "Bankruptcy Reform Act of 1998" (H.R. 3150) will help to ensure that the system is fair for debtors, creditors and consumers. Because of the unique structure of member-owned credit unions all losses suffered by a credit union are passed down through the members in the form of higher loan rates, lower rates on savings and/or more stringent lending criteria. Credit unions take great pride in working with their members who encounter financial difficulties and your legislation is certainly a step in the right direction. NAFCU is pleased to endorse this legislation.

NAFCU would like the opportunity to testify and share with the Committee the impact bankruptcies have on member-owned cooperative credit unions, and the unique role credit unions can play in assisting those in dire financial straits.

Thank you for the opportunity to participate in this important effort. Please allow me to extend a special note of appreciation to the members of your staff, especially Dina Ellis, for their assistance and support.

We look forward to working with you on this and other challenging issues affecting credit unions and your credit union constituents.

Sincerely,

WILLIAM J. DONOVAN,
Senior Vice President,
Deputy General Counsel.

NATIONAL MULTI HOUSING COUNCIL
AND NATIONAL APARTMENT ASSOCIATION,
Washington, DC, February 2, 1998.

Hon. GEORGE GEKAS,
Chairman, Commercial and Administrative Law Subcommittee, House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the National Multi Housing Council ("NMHC") and the National Apartment Association ("NAA"), I am writing to convey our strong support of your legislation, the "Bankruptcy Reform Act of 1998."

NMHC and NAA jointly operate a federal legislative program which provides a unified voice for the private apartment industry. Our combined memberships are engaged in all aspects of the ownership and operation of apartments, including finance, development, construction, and management.

Bankruptcy filings in the nation continue their upward climb. According to the most recent information from the U.S. Department of Justice's Administrative Office of U.S. Courts, the federal agency which oversees the nation's federal bankruptcy courts, bankruptcy filings during the 12-month period ending September 30, 1997, were highest on record at 1,367,364, representing over a 400 percent increase since 1980.

The National Bankruptcy Review Commission has spent considerable time investigating the cause of these bankruptcy filings, and while there is no single answer, it is clear that part of the problem lies in the abuses of the U.S. Bankruptcy Code. NMHC and NAA believe that your legislation will help to stem these abuses and provide a more level playing field between debtors and creditors.

NMHC and NAA commend you for your leadership in reforming the Code and look forward to working with you during the 105th Congress to pass the Bankruptcy Reform Act of 1998.

Sincerely,

SCOTT BELCHER.

[News release from the National Retail Federation]

NATIONAL RETAIL FEDERATION VOICES SUPPORT FOR BANKRUPTCY REFORM ACT OF 1998

BILL WOULD STEM SOARING FILINGS AND RESTORE COMMON SENSE TO BANKRUPTCY CODE

Washington, DC, February 3, 1998—The National Retail Federation, the world's largest retail trade association, today voiced its support for The Bankruptcy Reform Act of 1998, calling it a giant first step that puts responsibility and sensibility back into the bankruptcy code.

"We applaud Rep. Gekas and his colleagues for their leadership in crafting this common-sense approach to bankruptcy reform," said NRF President Tracy Mullin. "This bill will ensure that those with real need get real relief."

The bill, introduced by Reps. George Gekas (R-PA), Thomas Moran (D-VA), Bill McCollum (R-FL) and Rick Boucher (D-VA), addresses what NRF believes are fundamental flaws in the current bankruptcy code: that individuals with the ability to repay their debts are not required to do so, nor is there any mechanism to determine their ability to pay.

Mullin noted that the number of individuals filing bankruptcy has soared in recent years—up nearly 60 percent in two years—in spite of a growing economy and low unemployment. A recent study also revealed that 25 percent of those filing Chapter 7 could repay at least one-third of their debts.

"That's just plain wrong," she said. "The bottom line is the costs associated with bankruptcy don't disappear; everyone pays for those who walk away from their debts."

Retailers lost billions last year in bankruptcy claims. The growth in bankruptcy filings—particularly Chapter 7 filings—costs the average U.S. household an estimated $500 in higher prices for goods and services.

"The Bankruptcy Reform Act of 1998 is a positive step forward to restoring common sense to the bankruptcy code," Mullin concluded.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that includes the leading department, specialty, discount, mass merchandise and independent stores, as well as 32 national and 50 state associations. NRF members represent an industry that encompasses over 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1997 sales of $2.5 trillion. NRF's international members operate stores in more than 50 nations.

FLEET,
Horsham, PA, May 19, 1998.

Hon. GEORGE W. GEKAS,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN GEKAS: On behalf of Fleet Financial Group I urge you to support H.R. 3150, the "Bankruptcy Reform Act of 1998" which is scheduled to come to the House floor this week. H.R. 3150 was reported favorably by the Judiciary Committee last week and contains urgently needed reforms to the consumer bankruptcy system. The bill establishes a fair and equitable "needs" test that requires those that can afford to repay some or all of their debts to do so.

Consumer bankruptcy filings exceeded 1.3 million last year, an increase of 20% from 1996 and more than 350% from 1980. Contrary to popular belief, credit cards are not a leading cause. Credit card loans represent only 7% of total US consumer debt and less than

16% for bankrupts. Ninety-six-percent of credit card holders pay on-time and only one-percent end up in bankruptcy .

Surveys have found an increasing number of consumers view bankruptcy as an acceptable option with little or no stigma. The 5,000 petitions filed daily cost responsible debtors upwards of $400 per year, or the equivalent of one-month's groceries for a family of four. To protect these families, it is essential that the system be reformed as proposed by H.R. 3150.

Some opponents of this legislation have argued that it raises concerns about child support payments. However, the Judiciary Committee adopted several amendments last week designed to strengthen and clarify the priority given to child support payments in bankruptcy proceeding and to deal effectively with other issues raised. Current federal and state law, as well as H.R. 3150 as reported by the Judiciary Committee, make it clear that child support must be paid 100% before repayment of any unsecured debt, including credit card debt. In fact, the House and Senate both recently passed the Child Support Performance and Incentive Act of 1998 that strengthens current law by increasing penalties for nonpayment of child support. That bill is going to conference and is expected to be signed into law by the President soon.

Fleet Financial Group urges you to vote YES on H.R. 3150 when it comes to the House floor and to reject amendments that weaken the needs test or otherwise undermine this important legislation.

Sincerely,

JOSEPH W. SAUNDERS,
Chairman and CEO.

EXPERIAN,
Orange, CA, April 15, 1998.

Hon. GEORGE W. GEKAS,
Chairman, House Judiciary Subcommittee on Commercial and Administrative Law, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of Experian, a leader in the consumer credit reporting industry, to express our support for your bill, H.R. 3150, the Bankruptcy Reform Act of 1998. Your bill represents a balanced approach to restoring personal responsibility to our federal bankruptcy system.

The proposal to require certain filers to repay at least some of their debt when seeking bankruptcy protection is a commonsense measure. The current bankruptcy system is flawed because it allows debtors that clearly have an ability to repay to walk away from their debts. Credit grantors deserve a chance to work out a payment schedule with consumers who have reasonable incomes.

At the same time, your proposal ensure that relief will be available for those who truly need bankruptcy protection. In addition, Experian supports the provisions of H.R. 3150 that promote consumer education and encourage debtors to fully explore alternatives to bankruptcy.

Now is the time for bankruptcy reform. The U.S. economy is stable and unemployment is low. Yet, last year 1.4 million individuals filed for personal bankruptcy, a record number that has more than doubled during the past decade. Personal bankruptcies costs the economy more than $40 billion each year, an amount that translates to about $400 per American family.

Please continue your leadership on this important reform measure.

Sincerely,

D. VAN SKILLING,
Chairman and CEO.

SENT TO ALL MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, MAY 5, 1998

DEAR REPRESENTATIVE: We are writing in anticipation of the Committee's consideration of HR 3150, the "Bankruptcy Reform Act of 1998." Our organizations urge the Committee to endorse a provision reported by the Subcommittee on April 23 to delete the $4 million cap from the definition of single asset real estate.

Single asset real estate is a form of real estate financing whereby the owner of a single piece of commercial real estate borrows funds from a lender and gives a mortgage on the property as collateral. The distinguishing feature of this arrangement is that the owner holds the property as an investment and does not conduct any business on the property. Therefore, arguments that this will cost jobs are baseless and erroneous. Rather, bankruptcies that cause property deterioration result in vacant buildings, tax losses to communities, economic decay and significant job losses.

Congress recognized that single asset entities should receive expedited treatment with the passage of the Bankruptcy Reform Act of 1994. However, during the final hours just prior to passage, a $4 million cap was arbitrarily inserted into the definition of single asset real estate. The presence of the $4 million cap is indefensible because there is no basis in fact, law, or commercial lending practice for the cap. To the contrary, the utility of the single asset provisions in avoiding or shortening futile Chapter 11 reorganization proceedings is greater, rather than less, for large properties with more secured debt. Therefore, the $4 million cap should be deleted to permit the efficient operation of the single asset provisions and the fulfillment of their purpose.

Finally, mortgages may be used to fund pensions, annuities and life insurance. They will be at risk in the next downturn of the economic cycle if defaulting single asset real estate owners are permitted to abuse the bankruptcy process.

For these reasons, we strongly support HR 3150, and specifically, the provision in the bill that would delete the $4 million cap from the definition of single asset real estate.

Sincerely,

AMERICAN BANKERS ASSOCIATION.
AMERICAN COUNCIL OF LIFE INSURANCE.
MORTGAGE BANKERS ASSOCIATION OF AMERICA.
NATIONAL ASSOCIATION OF REALTORS.
INSTITUTE OF REAL ESTATE MANAGEMENT.

HOUSEHOLD,
June 8, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: Household International strongly supports passage of HR 3150, the Bankruptcy Reform Act of 1998, and we urge your support for the bill when it appears on the floor of the House later this week.

Household International, headquartered in Illinois with major facilities in California, Nevada and Virginia, is a leading provider of consumer finance and credit card products in the United States, Canada and the United Kingdom. Household Finance Corporation, one of Household's core businesses, is the oldest consumer finance company in the United States. Household Credit Services and Household Retail Services are two of the nation's largest issuers of general purpose and private-label credit cards. Our principal credit card products include the GM card and the AFL–CIO's Union privilege card. Household recently reached agreement to buy Beneficial Corporation and upon completion of that merger will have more than 1000 branches throughout the United States.

Despite a strong economy, personal bankruptcies are soaring and reached a record 1.3 million in 1997. Bankruptcies cost consumers about $40 billion last year, equal to about $400 per family working to pay its bills. HR 3150 does not have as a goal reducing the total number of bankruptcies, but it contains a mechanism to guide some 11% of filers who have the means to pay some of their debts into Chapter 13 bankruptcy where they will work with the court to create a repayment plan to pay a portion of the debts they have run up. Household believes it is only fair that those who can pay some of the debts do so, and according to a poll released by the National Consumer league, 76% of the public agrees that "individuals should not be allowed to erase all their debts in bankruptcy if they are able to repay a portion of what they owe."

Amendments to HR 3150 added at the full Committee mark-up raised the income level for the safe harbor provision of the bill and added protections for children and spouses receiving child support and/or alimony above those in existing law. We believe the bill is fair and needed. Household strongly urges your support for HR 3150.

Sincerely,

J. DENIS O'TOOLE,
Vice President, Government Relations.

MELLON BANK,
ONE MELLON BANK CENTER,
Pittsburgh, PA, June 8, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GEKAS: I am writing to call your attention to a matter that is of vital interest to every bank, savings and loan, credit union and retailer across Pennsylvania. The issue is bankruptcy reform. There is currently a bill in the House that, in our view, addresses this growing problem and injects some common sense reforms into our outdated bankruptcy system. This bill, H.R. 3150, was recently reported out of the House Judiciary Committee and is scheduled for a vote on the floor this week.

As you know, filings for bankruptcy have skyrocketed in recent years to a point where it has become the option of choice for many who face financial difficulties. While we would never preclude the choice of a Chapter 7 filing for those truly in need of complete debt relief, we do take issue with those who possess the means to repay their debts but instead walk away from their obligations.

This abuse of the system does have a cost. At Mellon, in fact, we lost, on average, over $75 million in each of the last three years as a result of bankruptcy filings. We are forced to raise the cost of credit for our responsible customers to cover the losses we incur because of bad debt. For retailers, like department stores, losses are covered through higher prices on merchandise. But no matter how the losses are recouped, the end result is the same; people who pay their debts cover the cost of those who do not.

To correct this worsening problem, we are asking you to endorse "needs-based" bankruptcy reform legislation. H.R. 3150, we believe, provides a model reform measure for

Congress to adopt and we think the ideas presented in this bill warrant your close inspection and your support.

Please vote "yes" on bankruptcy reform.

Sincerely yours,

Martin G. McGuinn,
Chairman.

Community Associations Institute,
April 27, 1998.

Hon. George W. Gekas,
U.S. House of Representatives,
Washington, DC.

Dear Chairman Gekas: On behalf of the 42 million Americans who live in the nation's 205,000 community associations—condominium associations, cooperatives and homeowners associations, I would like to thank you for supporting small but important changes to the Federal Bankruptcy Code.

Your willingness to include our changes in your amendment in the nature of a substitute to H.R. 3150 is greatly appreciated. These changes will obligate owners in homeowners associations, condominium associations and cooperatives who file for bankruptcy to pay association assessment fees as long as they—or their Trustees—maintain an ownership interest in their units. Community association assessments will also not be treated as executory contracts.

While changes to the Code in 1994 added important provisions dealing with the collection of post-petition assessments in certain condominiums and cooperatives, homeowners associations and commercial condominium associations were inadvertently omitted from the final legislation. Your inclusion of our language in your amendment will expand existing provisions to include homeowners associations and tie the responsibility for post-petition assessments to ownership.

Without this change, bankrupt owners could continue to avoid their assessment obligations whenever their units are vacant or occupied by people who do not pay rent—while all other association residents are left to pick up the tab.

Again, thank you for taking notice of the importance of this issue to over 42 million Americans. Please contact me by phone (703-548-8600), fax (703-684-1581) or email (cschneider@caionline.org) if CAI may be of assistance in any way.

Sincerely,

Cornelia I. Schneider,
Issues Manager, Government & Public Affairs.

America's Community Bankers,
June 9, 1998.

Dear Representative: America's Community Bankers (ACB) urges you to support H.R. 3150, which would provide much-needed reform for our nation's bankruptcy laws.

This legislation mandates that debtors who have the ability to repay a portion of their debts be required to do so, introducing the "needs-based" concept into the bankruptcy system. Under the "needs-based" system, debtors who truly need bankruptcy relief are provided a relatively quick and easy discharge in Chapter 7, while debtors who have the ability to repay are permitted to structure reasonable repayment plans in Chapter 13.

Further these revisions ensure that residential real estate mortgages cannot be "crammed down," or reduced in priority, in bankruptcy. This rule, articulated by the Supreme Court in the 1993 Nobelman case, provides for fairness and certainty in mortgage-related transactions.

Moreover, it should be noted that any issues relating to child support and alimony have been resolved by the House Judiciary Committee. While H.R. 3150 did not alter existing law with respect to the priority of child support and alimony payments, the Judiciary Committee did adopt a series of amendments to address this issue. These amendments specifically and categorically provide that child support and alimony payments will be afforded priority over unsecured debts, both during and subsequent to the bankruptcy proceedings. Thus, child support and alimony payments are clearly protected under H.R. 3150.

H.R. 3150 creates an equitable system that balances the interests of both debtors and creditors. ACB and our members urge you to vote for H.R. 3150 because it will preserve and improve the bankruptcy system for all Americans.

Sincerely,

Robert R. Davis,
Director of Government Relations.

Council for Citizens Against
Government Waste,
Washington, DC, April 17, 1998.

Hon. George Gekas,
U.S. House of Representatives,
Washington, DC

Dear Representative Gekas: This letter is in response to your request for our opinion on H.R. 3150 (The Bankruptcy Reform Act of 1998). On behalf of the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), I am pleased to support this important legislation. H.R. 3150 establishes fair and reasonable bankruptcy guidelines designed to protect debtors, creditors, and consumers while still holding debtors personally accountable.

In 1997, 1.33 million bankruptcy petitions were filed in this country, erasing an estimated $40 billion in consumer debt, which resulted in increased interest rates, set higher prices and increased layoffs. Each household will pay out an extra $400 this year to account for that consumer debt. H.R. 3150 ensures that responsible consumers will no longer be forced to shoulder such a large burden. By establishing a system that determines the amount of financial relief a debtor actually needs and requiring people to repay what they can, H.R. 3150 obligates debtors to take more responsibility for their situation.

H.R. 3150 also creates a "Debtor's Bill of Rights" which requires law firms and other consumer credit agencies to refund the full cost of representing a debtor if they do not adequately inform consumers of their rights and the potential harm bankruptcy can cause. Too often, debtors are not aware of options other than bankruptcy. The "Debtor's Bill of Rights" should reduce the amount of bankruptcy claims filed and therefore reduce the total amount of debt passed on to responsible consumers. Additionally, H.R. 3150 establishes a financial management training program that debtors may be required to complete in order to have his or her debts discharged. Educating debtors encourages them to become fiscally responsible and reduces the chance that their financial situation will again become unstable.

The Bankruptcy Reform Act of 1998 contains numerous provisions which protect all of those involved in a bankruptcy claim: the debtor, the creditor, and all consumers. In this time of economic prosperity, it is important that legislation be enacted that will help those in dire financial situations while protecting responsible consumers who unfairly shoulder the cost of bankruptcies. We encourage your colleagues to support H.R. 3150.

Sincerely,

Thomas A. Schatz,
President.

The Bankers Roundtable,
Washington, DC, April 27, 1998.

Hon. Henry J. Hyde,
Chairman, Committee on the Judiciary,
Washington, DC

Dear Mr. Chairman: The Bankers Roundtable, representing the nation's major banking companies, strongly supports the Bankruptcy Reform Act of 1998, H.R. 3150. As you are aware, studies have shown that the 1.3 million bankruptcies filed in 1997 have cost consumers over $40 billion. As a result, U.S. households have had to pay over $400 each in increased annual borrowing costs. A responsible approach to reform, such as H.R. 3150, would benefit the vast majority of Americans who properly use consumer debt as a tool to manage their household finance and repay their debts in a timely manner.

H.R. 3150's means-test would maintain Chapter 7 discharge of debts for poor or heavily indebted borrowers while requiring those with the capacity to repay all or some of their debts to do so. Further, the bill's other balanced measures to reduce fraud and abuse in bankruptcy filings would aid in ensuring that consumers continue to have access to credit at reasonable and affordable terms and rates.

Attached please find a copy of the Roundtable's Policy Statement on Consumer Bankruptcy Reform. The Bankers Roundtable asks for your support for H.R. 3150, including the concept of a means-test, and looks forward to working with you on this legislation.

Sincerely,

Anthony T. Cluff,
Executive Director.

National League of Cities,
Washington, DC, June 3, 1998.

Hon. George W. Gekas,
U.S. House of Representatives,
Washington, DC

Dear Representative Gekas: The National League of Cities (NLC) urges your support in the passage of provisions of the "Bankruptcy Reform Act of 1998" (H.R. 3150) that would aid local governments. The inclusion of the Investment in Education Act, as passed by the Senate in November 1997 in H.R. 3150, recognizes the importance of payment of ad valorem taxes to local governments to support education. NLC strongly urges you to support these provisions and the amendments made by the House Judiciary Committee that would strengthen the Investment in Education Act.

This legislation is very important to local governments because it would change provision of the Bankruptcy Code that have caused local governments to lose millions of dollars in property tax revenues. As you know, property taxes are the bread and butter of the education budget for cities, towns, counties, and school districts.

Of the provisions included in this bill, it is most important that local governments are able to receive the local statutory interest rate on ad valorem tax claims associated with bankruptcies. Cites and towns are nonconsensual creditors and are in unique situations with their constituents. In New York City and some New Jersey, Texas, Illinois, and California cities and towns the local interest rate accruing on unpaid taxes should be double the I.R.S. statutory rate. Cities cannot afford to have their interest rate "crammed down". Clarifying that the local interest rate should be applied for unpaid ad valorem taxes would put an end to unnecessary favorable treatment for bankruptcy filers who have not paid their property taxes.

NLC strongly encourages you to pass the Investment in Education provisions in H.R. 3150 this year, to ensure cities and towns, vital revenues for their education budgets. NLC looks forward to working with you towards the passage of bankruptcy legislation. If you have any questions, please, please have your staff contact Kristin Cormier, NLC Legislative Counsel, at (202) 626-3020.

Sincerely,

BRIAN O'NEILL,
President, Councilman, Phildelphia, PA

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, bankruptcy is a dull, boring and technical subject. Not many people pay detailed attention to it. And advocating that people behave responsibly and pay their debts, if at all possible, is attractive and unassailable.

□ 1415

I know that many people, seduced by that slogan, signed up to support this bill. But it was false packaging, an attractive wrapper to disguise one of the worst special interest bills we have considered in many years.

When you strip away the veneer and the verbiage, there stands, starkly revealed, a bill with one central purpose, to take large sums of money from middle- and low-income American families in distress and give it to the credit card companies; and, while we are at it, to take large sums of money from other creditors and give it to the credit card companies. This is a bill of, by, and for the credit card companies which have waged a long and expensive campaign for it.

Who benefits from this bill? The credit card companies. Who gets hurt by this bill? Middle- and low-income families who are in over their heads in debt because of a medical emergency, a lost job, gambling addiction; mothers rearing young children dependent on child support or spouse support; crime victims seeking victim's compensation; other creditors who cannot afford the high-priced lawyers of the credit card companies to compete for the collection and who will have to forgo repayment of the $260 million to $1.3 billion the Congressional Budget Office says this bill will add to administrative costs and which will come out of money to be recovered by the creditors; small business owners whose businesses this bill will force into liquidation instead of survival; and the taxpayers, who will have to foot the $214 million the CBO says this bill will add to the Federal budget.

Who supports this bill? The credit companies and the big banks. Who opposes this bill? The consumer groups, the AFL-CIO, the women's groups, the victims' rights organizations, the bankruptcy judges, the bankruptcy trustees, the National Bankruptcy Conference, the National Association of Chapter 13 Trustees, the National Association of Consumer Bankruptcy Attorneys, the Administration; in short, everybody who knows the bankruptcy system except the credit card companies and the big banks. In fact, this legislation is nothing more than a special interest favor to the big credit companies and the big banks. It will take American families in terrible economic straits and it will allow creditors to harass them with litigation. It will allow MasterCard and Visa to snatch child support from struggling families. It will clog our courts. It will invade the privacy of families by requiring them to make their tax returns public so that banks and other creditors can review the most private details of their lives, including medical expenses, and it will cost the taxpayers a bundle to collect the reckless debts of credit card companies who sent out more than 3 billion credit card solicitations last year to children, family pets and people already in over their heads.

Why do we need this bill? We have heard a great many extravagant claims about the reasons why more than 1.3 million Americans filed for bankruptcy last year. The underlying assumption of this legislation that millions of Americans are essentially deadbeats using the bankruptcy code to cheat unsuspecting and helpless megabanks is quite frankly a slander against the American people.

Mr. Chairman, we have been told that the reason we have increased bankruptcy filings is that social mores have changed, that there is no longer a stigma associated with bankruptcy, that people use it as a first financial planning option instead of as a last resort, that there is an easy availability of bankruptcy. But this does not make sense. The bankruptcy code does not cause people to go bankrupt. Lack of health insurance, downsizing, jobs moving abroad, family disintegration, the sort of problems you would hear about if you listened to your neighbors, that is what causes bankruptcy. What is really scandalous is that instead of dealing with the pressures on American families, this Congress chooses to go after the victims. In fact, the Committee on the Judiciary received testimony from academics, from people like Professor Ausubel of the University of Maryland, demonstrating a direct link between deregulation of interest rates, increased lending and the increase in bankruptcies. These findings are supported by the work of the FDIC and we are waiting for the completion of a Congressional Budget Office review of the data which it appears will also likely confirm these findings.

What we have seen is that although real interest rates, the costs banks pay for money, have dropped substantially over the last 20 years, credit card interest rates, the price American consumers pay to borrow money on their credit cards, have remained extraordinarily high. The result, credit card operations are now the most profitable of all banking operations, up to five times more profitable than noncredit card operations. If it were true, as we are told by the supporters of this bill, that it is changing social mores, lack of a stigma that are getting people to file for bankruptcy when they still can pay their debts before they are in over their heads when they would not have done so years ago, one would expect that the ratio of debt that people have to their income would have gone down, because people are now filing when they still can pay their debts, whereas earlier they did not.

But, in fact, look at this chart. It shows just the opposite. In 1983, the average debt-to-income ratio of a Chapter 7 filer, someone who filed for bankruptcy, was 87 percent. It went up consistently. It has doubled. Now it is 164 percent, which means it went up, not down. People are twice as deeply in debt today before they file for bankruptcy as they were in 1981. They are more desperate. They do not file easily. They wait as long as they can.

In fact, if you look at the rise in bankruptcies and you look at the rise in the debt-to-income ratio in people at large and how much debt people have which started increasing with the deregulation of credit card rates about 20 years ago, you find it tracks almost exactly. Look at this. As the debt-to-income ratio goes up, that is what causes the bankruptcy filings to go up.

It is the irresponsible lending by the credit card companies that is largely responsible for the increase in bankruptcy filings. In fact, if we wanted to do something about this, we should limit that irresponsible lending. But unfortunately, that amendment was not made in order. We should say that it is an objection to claim, that you cannot collect your debt if you lent the money after you knew that the person was already in over his head, after he already had a debt to income ratio of 40 or 60, draw the line, percent, but that unfortunately the Committee on Rules did not make in order.

We know that credit card lending is very profitable today. In fact, if you look at the chart, you see the profitability of credit cards versus the profitability of the overall banking system. The overall banking system has remained at the same level of profitability for the last 25 years. The profitability of the credit card system, however, has doubled. We have to bail them out with this bill because they are losing some money on bad debts when their profitability is five times the profitability of all other parts of the banking system.

Credit card interest rates have stayed up. The cost of money has gone down from 14 percent, reduced by half to 6 percent, but the credit card interest rates have gone down from 18 to 16 percent. Then we are told that we will save $400 per American family if we pass this bill because the credit card companies will lower the interest rates to counter the fact that they are getting more money from deadbeats. Look at the record. If you believe that, there are a couple of bridges in New York, not just the Brooklyn Bridge, that I can sell you for only a couple of billion dollars.

The fact is that car loans have gone down, mortgages have gone down, the cost of money has gone down, the credit card interest rates stay up and that is why they are so profitable. If we pass this bill, they will be even more profitable, but it will not be passed through to the consumer by a nickel.

Having said all that, we agree, there are some people who abuse the system. There are people who are filing for Chapter 7 bankruptcy who can afford to repay their debts. Let us crack down on them. But that is what the Democratic substitute says. Let us crack down on them, but let us crack down on them through a reasonable test, a test that really looks at their ability to pay.

The administration in its statement of opposition says:

> The formulaic mechanism in H.R. 3150 will not distinguish accurately those debtors who have the capacity to repay from those that do not have that capacity. A properly structured system would give bankruptcy courts greater discretion to consider the specific circumstances of a debtor in bankruptcy.

That is what we want to do in this substitute. That is what we did in the bill that the committee refused to consider. The fact is if you look at the ability to repay, you will want to look at someone's income and his expenses, how much is he paying in rent, not as the bill before us would say, how much does the Internal Revenue Service think someone in the northeastern United States is probably paying for rent. Who cares what someone might be paying for rent, the average person. The question is how much is he paying for rent, how much is he paying for child care, for his medical expenses for his wife or his daughter or whatever. A formula does not work. We have to have a human being there, a judge, who can take a look at the situation to make a judgment, not a computer.

The majority brags about this bill, that you can put it into a computer and the result will be put out, no human discretion, no human sympathy, no human understanding and no facts, only theory, from the Internal Revenue Service, of all people. That is what this means-based test is. Even if you pass the means test, under this bill you will be harassed by creditor motions that are not permitted in the law now, by the threat of litigation, and it will lead to many people who meet the means test having to withdraw their petitions because they cannot afford to pay the lawyers to fight the banks' lawyers on these frivolous, dilatory motions.

The other thing this bill does, because its major function is to give a lot of money to the credit card companies, is that credit cards jump the line. They are going to be nondischargeable in bankruptcy. The administration says the bankruptcy code generally makes debts nondischargeable only where there is an overriding public purpose as with debts for child support and alimony payments, educational loans, tax obligations or debts incurred by fraud. What is the overriding public policy purpose for skipping the credit cards ahead of the secured debtor, ahead of priority debt and making it nondischargeable? There is no public policy purpose. What is the public policy purpose for saying that in a Chapter 13 workout plan, you cannot confirm the plan unless you pay $50, minimum monthly, to the credit card companies? So if your ability to repay is $75 a month, $50 goes to the credit card companies and $25 is left for everything else.

Credit cards uber alles. Why? Why should the other creditors take second fiddle, creditors who have security interests, creditors who may have done more due diligence? And if your ability to repay is $40, less than the $50 minimum, they cannot confirm a plan, so you are too rich for a Chapter 7 bankruptcy and you are too poor for a Chapter 13 bankruptcy and you fall right through the cracks. And because the purpose of this bill is in these ways, by nondischargeability and a $50 minimum under Chapter 13, to give the money to the credit card companies, it fouls up the child support, it fouls up the victim's collection of crime victim's compensation.

The sponsors of the bill say they fixed it in committee. First they denied it. Then they said they fixed it. Now they have an amendment to say they fixed it. But all the groups who deal with this, the women's groups, the child support groups, the administration, they say those fixes are cosmetic, they do not deal with the problem, and they do not.

What does it do to small business? For reasons I know not, this bill adds great paperwork requirements to small businesses, constricts the time limits in which they have to do things, adds in effect a mini confirmation hearing before the confirmation hearing, all of which will result, as the Small Business Administration tells us, in thousands and thousands of small businesses that go into Chapter 13 and Chapter 11 for workouts to restructure their debts, to reorganize and to come out of it, retaining the business, retaining their employees, they will not be able to meet it, they will liquidate, jobs are gone. Why should we do this to small business?

Finally, this bill is a budget buster. CBO tells us, the Congressional Budget Office, it will cost the taxpayers $214 million out of the Federal budget, and they tell us it is a private sector burden of $260 million to $1.3 billion. That is the effect this bill would have.

In summary, this bill affects negatively everybody except the credit card companies and the big banks. The bill is ill-considered, it is not ready to move, it is a budget-buster, it takes away the rights of debtors, and it will hurt many creditors as it aids the credit card companies in their search for greater profits. This bill is unworthy of this House and will cause misery to our neighbors and financial distress. This bill is in fact morally bankrupt and I urge my colleagues to reject it.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume, only to say, to repeat as often as possible, that the support enforcement agencies of the country are happy with the provisions of H.R. 3150 with respect to collection of child support. We will spread on the record as we have time and time again letters from the California support people, New York and others who are blessedly happy with what we are trying to do on support matters.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of this bill. I certainly respect the gentleman from New York (Mr. NADLER), but I disagree with a lot of his analysis and I want to go through it quickly.

First of all, we had a $44 billion loss in bankruptcies last year alone. We have seen an over 100 percent increase in personal bankruptcy filings from 1986 to 1996. And last year, the year in which the economy probably did better than any other time in the history of the Nation, bankruptcy filings were up some 20 percent in that year alone.

□ 1430

We have got a problem in this country, whatever the reason may be. Maybe some of that does belong because credit card companies send too many notices out to people, but by and large that is not the reason that we have the problem. It is because people are not exercising individual responsibility because they are not going to a payback plan when they could afford to pay back their debts as they once did, at least in larger numbers than they do now.

What our bill has tried to do is to help the consumer. The person who is responsible who does have credit card and other debt who does pay that debt back, help them to avoid the cost that they are paying because of the bad debt people who take advantage of pure bankruptcy and do not pay back the debt they are supposed to and could pay back.

The fact of the matter is that no credit card company or any other creditor is going to absorb the losses of the magnitude we are talking about. They are going to cost shift. They are going to pass that on. They do it in the cost of goods and services, fees and interest rates.

Will they all come down if we pass this bill? I do not know, but they sure as heck are going to go up if the rate of bankruptcies continue to climb the way they are now.

So our bill is a consumer protection bill. It creates a needs-based test, and it is a very simple formula. It says to take median family income, determine what that is. For a family of four that is about $51,000 last year. If they have less than a median family income, they can still file plain old vanilla pure bankruptcy under chapter 7, and do not worry about the means test and the needs test. But if they have over 50,000, they have got to go through this formula. Take monthly gross income, deduct from that monthly gross income the amount of secure debt payments, how much is being paid on the car. Then deduct from that the amount paid for child support, alimony, other court ordered support. Then deduct from that the monthly payments for other living expenses which are calculated under the Internal Revenue Service Code like we do for our taxes, for whatever they are, and if after doing that there is left over $50 a month or more and if by applying what there is left over they could pay off 20 percent or more of their unsecured debt over 5 years, then they have to file chapter 13 or a payback plan from a bankruptcy. Still get bankruptcy protection, but they have to file the kind where they actually pay back what they owe.

That is the basic premise of bankruptcy law. People who can afford to pay it back ought to be required to pay it back. That is the premise of this bill. There is nothing more and nothing less here, and I would certainly encourage my colleagues to recognize the fact that whatever else they think, this is a simple formula, it is not complicated, it is not expensive, it could be done with all the data that goes into bankruptcy courts anyway in the first place. We need to put personal responsibility back into the system again, and I encourage the adoption of this bill in the strongest of terms.

Mr. Chairman, I thank the gentleman for having yielded this time to me.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I want to commend the gentleman from Pennsylvania (Mr. GEKAS) for bringing H.R. 3150 to the floor today. It incorporates the core provisions of H.R. 2500 which the gentleman from Florida (Mr. MCCOLLUM) and I introduced last year. That measure was cosponsored by 185 Members of the House, including 40 Members on this side of the aisle, the Democratic side. These core reform measures are a part of H.R. 3150, and they truly have bipartisan support.

A central tenet of the reform is the needs-based test for chapter 7 that was just described in the statement by the gentleman from Florida (Mr. MCCOLLUM). That is the complete liquidation provision under the bankruptcy law. Under that approach bankruptcy filers who could pay a significant amount of their debts would no longer be able to get complete liquidation. If they wanted bankruptcy protection, they would be required to use chapter 13 and then make whatever payments they could afford under a court supervised repayment plan. And the needs-based reform is essential to this measure that we have before us and to achieving genuine bankruptcy reform.

During the 12-month period that ended on March 31, there were 1.37 million personal bankruptcy petitions filed across the country, and that was an increase of almost 25 percent over the previous year. That increase in personal bankruptcy filings occurred during the best economy that we have had in this country in decades, and so we would have expected exactly the opposite result, fewer bankruptcy filings rather than more. And yet in that 1 year period we had a 25 percent increase.

The dramatic increase is caused, I think, by several factors. First of all, an attitudinal change among many Americans who no longer view bankruptcy as a last resort but view it as a first opportunity and treat it today as a financial planning tool and today engage in bankruptcies of mere convenience. The bankruptcy system was never intended to function that way. The bill before the House would return chapter 7 to its intended use by making it available for those who need it and requiring that those who can pay their debts, we pay a substantial portion of those by filing under chapter 13.

Mr. Chairman, that change will benefit all consumers of goods and services and all responsible borrowers. Today about $44 billion in consumer debt is wiped out each year through bankruptcy filings. That wipeout of $44 billion in debt carries a hidden tax of about $400 on the typical American family. That reflects the higher prices that are charged for goods and services by merchants whose debt is wiped out in bankruptcy and reflects the higher credit cost, interest charges, that are imposed by lenders, many of whose debts are wiped out in bankruptcy as well.

The enactment of H.R. 3150 would significantly lessen that hidden charge, and it is my privilege to appear today in support of this measure, and I strongly encourage its passage by the House.

Mr. NADLER. Mr. Chairman, I yield 3½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, as someone who has worked on bankruptcy revision as a lawyer in the past, I cannot stand here and say that the existing system is perfect. In fact it is not perfect, and there are areas in which reform is warranted. However, I do not believe that H.R. 3150, the bill before us, provides an acceptable answer to the defects that currently exist.

Much has been said about why we are seeing this increase in bankruptcy filings. It is clear that part of the reason is the massive increase in the amount of unsolicited and unwarranted credit that is being promulgated throughout our country.

Last week my little girl received an unsolicited, preapproved credit card application at home. I was of a mind to let her take the card since creditors cannot collect against minors in California, but instead we ripped it up.

Because of the problems of this bill, Congress has seen an unprecedented response from people who do not ordinarily become involved in legislative matters of this kind, including bankruptcy judges from all over the United States who have urged us to stop this process because of the bill's unintended consequences.

Much has been said about the impact on women and children, and I wanted to note as a member of the Committee on the Judiciary I did support the minor amendments made during committee mark-up to try to address the issue of child support, but they did not fix the problem. In fact, the National Organization for Women wrote after the markup, "The Judiciary Committee adopted a number of amendments supposedly to cure the problem of having past due child support and alimony obligations compete with credit card debts, but careful analysis shows these changes are only cosmetic. There are still substantial problems with H.R. 3150."

I believe that is why 20 women's organizations have contacted us to tell us they oppose this bill, including such organizations as the American Association of University Women, the Business and Professional Women of the United States, Church Women United, the Older Women's League and the YWCA of the United States of America.

There is another issue that I think needs to be raised for those of us who come from high cost States, and that is the probably unintended, bias against certain parts of our country. Recently I was contacted by a bankruptcy attorney in Santa Clara County. This is a lawyer who teaches bankruptcy law, who represents creditors in addition to debtors, and he says that the nationwide income standard used in the qualifications test for chapter 7 would eliminate most residents of Santa Clara County, in fact most of urban California, from eligibility to file chapter 7.

Further, if an individual is able to meet the test, the housing allowance is a further disadvantage. Urban Americans will no longer be able to file for bankruptcy.

As someone whose family has lost income to someone who filed for bankruptcy, I do not like it, I understand that no one likes it, but there is a reason for bankruptcy law, and that is so that one can fail in America and yet continue to have a life. That is why bankruptcy is provided for in our Constitution, and I will quote the CEO of a high-tech company who said this to me and Chairman HYDE in Los Angeles a week ago. "We innovate in this country because we have the freedom to fail. That is what our bankruptcy laws do. Do not change it, do not ruin it."

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

It is interesting; I bring this to the attention of the gentlewoman from California who has been in the forefront of expressing concern about the support quotient in 3150 wherein the California Family Support Council, which I assume is statewide in California, endorses enthusiastically the measure 3150 and all that it contains with respect to support. I commend that to her reading and ask her to consider voting for the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I am a lead sponsor of this measure because the bankruptcy system in this country is not serving the national interest. What used to be the option of last resort has too often become the preferred option of choice, and so a legislative fix is vital to distinguish between those who truly need and deserve a fresh start and those capable of assuming greater responsibility and making good on at least some of what they owe.

Mr. Chairman, unless steps are taken now to reform the bankruptcy system while economic times are good, we will not have the political resolve to fix it when the economy is not as strong. Today wages are up, unemployment is down, interest rates and inflation are low, but the rate of personal bankruptcies has increased dramatically. Last year personal bankruptcies rose 20 percent, reaching a record high of 1.4 million files. Think about it. More people filed for personal bankruptcy than graduated from college last year. What does that say about our country?

And while many would like to blame the credit card industry for the sharp increase in bankruptcy filings, it is important to note that the credit card industry is not the impetus for the current bankruptcy crisis. More than 96 percent of credit card holders pay bills as agreed to, and only 1 percent ever end up in bankruptcy.

According to a Federal Reserve Board survey last year credit cards account for a mere 3.7 percent of consumer debt, hardly large enough to cause the current bankruptcy crisis. While many may still want to vilify the shylocks of Shakespeare's day, the credit system of today is far more democratized. Creditors today include Main Street merchants who often sell products under installment plans, credit unions who include most Members of Congress and even State and local governments.

Mr. Chairman, I have a letter here that I got from Mattress Discounters. These people have a customer base that is almost exclusively moderate income families who need their purchasing installment plan. Now they tell me that they receive almost 3,000 consumer bankruptcy notifications each month, 36,000 a year, and the cost to the company has risen to over $30 million a year. The irony of this situation is that the average debtor filing for bankruptcy protection has assets exceeding $184,000. But because of this consumer bankruptcy, the company had to close 50 stores across the country, and that meant the loss of jobs in communities all over the country as well as the fact that their customer base of moderate income people does not have access to this line of credit.

□ 1445

People need that, and yet if we don't fix this system, we are foreclosing their credit opportunities.

Mr. Chairman, the key issue is that it is not fair for households who pay their debts to pay $400 a year in added expenses to compensate for the bad debts of their neighbors who do not pay their debts. I hope Members will support this bill.

Mr. NADLER. Mr. Chairman, I yield two minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I come before the House today as a supporter of bankruptcy reform. It will enable creditors to collect some debt that is currently being discharged through bankruptcy and that would channel debtors who can afford to pay a substantial portion of their unsecured debts into Chapter 13 repayment plans.

Having said that, Mr. Chairman, let me now say that I come before the House today in opposition to this bill, H.R. 3150. There is nothing inconsistent about supporting pro-creditor bankruptcy reform and opposing H.R. 3150. The fact is, you can means test eligibility for Chapter 7 without relying on rigid IRS expense standards to evaluate a debtor's ability to pay his or her debts. You can means test without permitting aggressive creditors to target low and moderate income debtors with expensive and protracted and contentious litigation over their bankruptcy rights. You can address manipulation of the bankruptcy system by high income debtors without simply declaring large amounts of credit card debt to be exempt from discharge.

In short, you can replace H.R. 3150 with the Nadler-Meehan-Berman substitute. The result will be a balanced bankruptcy reform that enhances creditor recovery without drastically diluting the fresh start for financially strapped debtors or impeding alimony and child support collection.

On the other hand, voting yes on an unamended version of H.R. 3150 would send to the conference committee an unbalanced bill, and the Senate wants nothing to do with that and the Clinton Administration will veto this bill. That route is dangerous for the most vulnerable debtors and dangerous for the prospects of prompt bankruptcy reform.

I urge my colleagues to do the right thing and support the substitute and reject the unamended version, this bill, of H.R. 3150.

Mr. GEKAS. Mr. Chairman, I yield two minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman very much for yielding me time. I join the gentleman in his strong support for H.R. 3150.

Mr. Chairman, I must say that hearing these arguments, we need to understand that when anybody files for bankruptcy, somebody else has to suffer. Generally when you had it up, the entire United States of America suffers. We have heard some facts, but I think we need to repeat some of these facts as well as to what is happening in bankruptcy in the United States today.

It is incontrovertible in my mind that we are in a bankruptcy crisis in this country. Personal bankruptcy's have risen 400 percent since 1980. Over 1 million people filed for bankruptcy in 1997, which cost consumers $40 billion in higher prices and interest rates from the debts that was erased. That averages to $400 per household in the United States of America. Some studies estimate that 14 responsible borrowers are needed to support each irresponsible borrower who files for bankruptcy. Those are unbelievable figures in a time of perhaps the greatest economic prosperity in the history of the United States of America.

What we have here in this legislation is a very strong first step. This is not an ultimate solution to the bankruptcy problems. There is wide disagreement and too few facts right now for Congress to fashion an omnibus bankruptcy reform act that pinpoints exact causes of bankruptcy, and we do not know what that is. We need to look whether or not it is credit cards, and there may be some evidence of that, or gambling or other debts that caused that. But this legislation allows us to do it and it strengthens the system.

First, it establishes a system of data collection in the Federal bankruptcy courts to determine who, when, where, why and how people file for bankruptcy. We absolutely need to have that information and that knowledge. We do not have it today.

Second, it forces debtors to receive private credit counseling before filing for bankruptcy and unloading their debts on American consumers. That also is needed. Perhaps people need to be told what they have to do.

Third, it forces people who have the ability, the ability to pay for their unsecured debts, to file under Chapter 13 of the bankruptcy code and repay their creditors. These are good things. We should do it and support this legislation.

Mr. Chairman, I rise today to express my strong support for H.R. 3150, the Bankruptcy Reform Act of 1998. The facts are incontrovertible that the United States is in a bankruptcy crisis. Personal bankruptcies have risen 400 percent since 1980. Over a million people filed for bankruptcy in 1997 which cost consumers $40 billion in higher prices and interest rates from the debt that was erased. That averages to $400 per household. Some studies estimate that 14 responsible borrowers are needed to support each irresponsible borrower who files for bankruptcy.

Congressional oversight of this issue is long past due, and I am pleased to see that the House Judiciary Committee, through the leadership of Representative GEORGE GEKAS, Chairman HENRY HYDE, and Representative RICK BOUCHER, has reported H.R. 3150 as a strong first step toward addressing the bankruptcy crisis.

I say "strong first step" because no one should be disillusioned that H.R. 3150 is the ultimate solution to the bankruptcy crisis. There is wide disagreement and too few facts for Congress to fashion an omnibus bankruptcy reform bill that pinpoints the exact causes of bankruptcy. Despite evidence that only 1 percent of credit card holders file for bankruptcy in any given year, some have suggested that credit card companies who overextend credit to irresponsible borrowers are to blame. Others point to casinos and gambling institutions as the principal cause. Still others blame our culture of consumerism and a lack of education about managing money and personal finance. The truth is we do not know the cause, but we know the problem is serious.

Herein lies the strength of H.R. 3150. The bill takes the only steps we can all agree on. First, it establishes a system of data collection in the Federal bankruptcy courts to determine who, when, where, why and how people file for bankruptcy. With this data, Congress in the years to come can address the root cause of bankruptcies with wisdom and confidence we do not have today.

Second, it forces debtors to receive private credit counseling before filing for bankruptcy and unloading their debts on American consumers.

Third, it forces people who have the ability to pay more of their unsecured debts to file under Chapter 13 of the Bankruptcy Code and repay their creditors over 5 years according to a court-approved repayment plan. According to the bill's means-testing formula, debtors whose income is greater than 100 percent of the national median family income must develop a plan to repay their unsecured creditors if they have the ability to pay at least 20 percent of their unsecured debt and have more than $50 in their pocket each month after paying their secured debts (car payments, home mortgage, etc.), priority debts (alimony, child support, back taxes, etc.), living expenses.

A recent Consumers League Poll reports that 76 percent of Americans believe that individuals should not be allowed to erase all their debts if they are able to repay a portion of what they owe. With such a groundswell of support from the American people the choice is simple. A vote against H.R. 3150 is a vote for irresponsible debtors and a vote against the 14 responsible consumers needed to pay for each bankruptcy filed. I urge you to vote in favor of H.R. 3150.

Mr. NADLER. Mr. Chairman, I yield 5½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we have heard a lot today about personal responsibility and that individuals must be held accountable. Now, no one disagrees with the principles of personal accountability and responsibility. The problem, however, with the rhetoric, is that there is no data, no evidence, no credible research. The gentleman from Delaware was absolutely correct. But there is no information to establish a link between the dramatic increase in personal bankruptcy and the change we are told that has taken place in people's attitudes about bankruptcy.

There is an additional issue of accountability and responsibility here, but it is one of corporate responsibility. Because while no one really knows the cause of the increase in bankruptcy filings, I submit it is more likely that the increase is the result of irresponsible lending practices by the credit card industry.

I agree with a noted consultant to the industry itself who stated, "The principal factor in the increase of bankruptcies has been the dramatic lowering of loan standards over the past five years."

A respected Wall Street analyst agreed with him and was quoted recently in the Congressional Quarterly. "The bank and other credit card lending institutions brought this problem upon themselves. They shot themselves in the foot by using some of the weakest and most pitiful loan underwriting techniques that I have ever witnessed."

Well, as others have said, we have all experienced the aggressive marketing tactics of the credit card industry. More than 3 billion solicitations were issued last year, 30 for every family in America.

Let us talk about responsibility. Let us look at just one of these solicitations. It is in the form of a check. It was sent to my daughter. Let me highlight some of the comments on the check.

"This $2,875 check is real. Your signature on the back is all that it takes to turn your live check into cash."

Another observation: "Book a terrific spring break vacation."

Another comment: "Treat yourself, your family or friends."

Another statement: "Need more than $2,875? Just call us if you want to make even bigger plans for this spring."

There is a p.s. too. "This offer expires May 18, 1998. Have a question about this offer? Just call." "Just call." "For your protection, please destroy this check if you decide not to cash it."

Is this corporate responsibility? Is this sound responsible lending? Well, my daughter is a full-time student who lives at home and has no regular income. It is so ironic to hear representatives of the credit card companies and others here pontificate about personal responsibility.

You all know from your own personal responsibility that they are relentless in their pursuit of customers and profit, and that is good. But regardless of the target's age, lack of sophistication, vulnerability, and even bad credit history?

Let me just read a story for you for a moment from the Wall Street Journal of March of this year. "Rick and Christie Fetterhoff of Harrisburg, Pennsylvania," and I think the Chair of the subcommittee is from Pennsylvania, I do not know if he knows this couple, but it has been reported, "have been in Chapter 13 bankruptcy protection since November 1995. But within the last several months, they have received, among other pitches, $5,000 loan offer checks from Banc One Corporation and Capital One Corporation and the promise of $250,000 to $500,000 from New Century Mortgage Corporation if they would just sign up.

"I was going to try to send some in, admits Mrs. Fetterhoff, who has more than $160,000 in debt, but I said no, no. It is tempting." And the credit card industry preaches personal responsibility?

Now, few in this chamber are sympathetic to that sort of hypocritical argument when it comes from the tobacco companies or the liquor industry or the gaming interests. Well, we should not let the credit card industry get away with it either.

If this bill becomes law, the result will be the use of hundreds of millions of dollars of taxpayer dollars to create a publicly funded collection agency to increase the profitability of credit card companies. So let us focus on responsibility ourselves and defeat this bill.

Mr. GEKAS. Mr. Chairman, I yield three minutes to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me time.

Mr. Chairman, there is something wrong with the following picture. Last year, in the midst of our country's greatest economic growth of this generation, America saw a record number of bankruptcies, 1.4 million. This year, as America's economic expansion continues, America will set a new record for bankruptcies. But record number of Americans are not going broke. They are simply taking advantage of a bankruptcy system that encourages people to avoid paying their debts. That is what is wrong, and we have to stop those abuses.

When people who can afford to pay their debts do not, guess who picks up the tab? Working and middle class families, because companies charge higher prices to make up for those losses.

We need a bankruptcy system to give truly needy Americans a fresh start. But it must be a bankruptcy system with integrity, designed to encourage personal responsibility, not to discourage it.

The new bankruptcy reform bill, H.R. 3150, will do just that. It still gives people who cannot afford to pay their debts the ability to declare bankruptcy and to get a fresh start. But it will require people who can pay back their debts to do so.

Make no mistake about it. Under this bill, any American who chooses to go bankrupt can still go bankrupt. But if the person has the means after they pay their child support and alimony, after they pay off their secured debts and living expenses, if they still can pay off 20 percent of their remaining debt, then they should be required to pay back that debt. It is simply good personal responsibility.

Hard-working middle-class taxpayers who play by the rules have a hard enough time paying their own bills. They should not have to pay the bills of those who run up debts they can afford to repay, but who simply choose not to repay the debts.

When I was practicing law, I worked with a great many small business people who were taken advantage of by someone or some company who owed them money, but who simply misused and abused the out-of-control bankruptcy system to make victims out of those small business people.

□ 1500

We need to protect the hardworking Americans and consumers who are the innocent victims of our present out-of-control bankruptcy system.

Therefore, I urge my colleagues to support the Bankruptcy Reform Act of 1998. It protects our families, it protects our small businesses, and it restores some measure of personal responsibility to our out-of-control U.S. bankruptcy system.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY) with the promise that she will come back later.

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me the time to clarify some very important provisions of this legislation.

Mr. Chairman, I rise today in strong support of H.R. 3150, the Bankruptcy Reform Act. Some of my colleagues would have us believe that this legislation would undermine alimony and child support. All arguments to this effect are pure distortion of the actual language of this bill.

This bankruptcy reform legislation before us today does nothing of the sort. In reality, it strengthens the Bankruptcy Code's protections for ex-spouses and children.

I will quote to my colleagues a May 13 nonpartisan Congressional Research Service memorandum: "No provisions in H.R. 3150 would repeal the current protections that child support receives. The bill would reinforce the legal status of these payments in some ways."

H.R. 3150 is quite clear that the child support and alimony must be paid first and in their entirety before a single dollar is paid out to nonpriority, unsecured creditors. This priority holds even where an ex-spouse who has the obligation to pay alimony has drawn on an unsecured credit line to pay marital obligations.

As a constant fighter for the rights of ex-spouses to have first priority to every cent of assets, I would vehemently oppose any legislation that would reduce the ability of women and children to receive support payments.

If people would take the time to read this legislation, they would see that H.R. 3150 will benefit, not harm, child support and ex-spousal support.

Members can speak to the possibility that future Congresses may change bankruptcy law, but let us keep the debate focused on the effects of this bill. H.R. 3150 strengthens the rights of ex-spouses and children to receive support before any other creditor.

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, the best of all worlds would be that this is a distortion, that in fact we could conclude at the end of this debate that we were just spewing out words and in fact we could vote for H.R. 3150 as the right kind of legislation.

But might I share with my colleagues some of the facts that are real in this issue. We do all need and are committed to personal responsibility, each and every one of us. In fact, we teach it to our children. The last thing we want to get is a phone call at work saying we owe some money.

But let me share with my colleagues, Mr. Chairman, the real truth of the American public. Some years ago, the American public filed bankruptcy with only 70 percent debt. Today, the American public waits and strains themselves and only files bankruptcy when their debt is 164 percent of income. That is the average working man and woman who every day brings home under $50,000 a year and tries as they may to make ends meet.

This bankruptcy bill kicks them out of the courthouse and tells them, off to the curb with you, smother yourselves with debt. You are nothing but deadbeats.

H.R. 3150 could have been a bipartisan bill if we had the opportunity to have hearings and documentation of how best to treat this problem. There are 3 billion contacts with Americans every day promoting utilization of credit over and over again.

This is why I am against this particular legislation, because 300,000 people engaged in the bankruptcy filings of 1.3 million are divorcees and mothers and custodial parents seeking to get child support and alimony.

It does impact child support and alimony. It is not corrected by any of these amendments. Once the bankruptcy proceeding is over, once the prioritization has been made, when people have to pay their debts, credit card monies are equal to their child support.

While one is in the bankrupt situation, one is required and is responsible for paying both of them. Who has a greater leverage to force one to pay? That parent with the child who is trying to get their child support payments? Absolutely not. It is the credit card company and others who can call over and over and over again.

I have heard from my constituents in Texas and across this Nation how they have lost jobs because of the credit card companies who have sought to over and over again be able to repeat to them that they have not paid.

If this bill was the kind of bill that all of us could support, my colleagues can rest assured we would be right here, because we believe in the American system and the American way of doing what is right, making sure that small businesses are protected.

I support an amendment to study what happens to small businesses when they go into bankruptcy. But we have so many groups that are against this. We have the Lawyers for Children In America, Federally Employed Women, Legal Defense and Education Fund, the American Nurses Association, Women United for Action, Women's Policy

Center, Church Women United. We have the Clearinghouse on Women's Issues, Coalition of Labor Union Women.

This is a bad bill. The administration is against this bill. I simply ask, send it back to committee. Let us do what is right for the country.

I am strongly opposed to H.R. 3150 and I encourage my colleagues to also vote against the bill. H.R. 3150 unnecessarily burdens the right of bankrupt debtors to have a fresh start by creating a formula which forces bankruptcy filers to involuntarily enter Chapter 13 if they meet certain arbitrary income qualifications.

This approach to bankruptcy reform has been opposed by the Executive Office of the President, 110 federal Bankruptcy Judges as well as a coalition of 57 well respected Bankruptcy Law professors.

This bill is not about personal responsibility, it is about the redirection of bankruptcy filers, to banks, credit card companies and credit lending institutions, and in turn, this bill will hurt a lot of women and children who are dependent on child and spousal support.

This bill subordinates the needs of support recipients to credit card companies like Master-card and Visa. As the First Lady said in a May 7 article, "I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of this bill that would force single parents to compete for their child support payments with big banks trying to collect credit card debt."

I have received numerous letters from my constituents in Houston, who are concerned about the effects of this legislation. One such letter is from a student graduate supporting a wife on a limited income, worried that with new changes in the code, he will not be able to adequately support his family. Another is from a debtor whose financial responsibilities became overwhelming and is concerned that he will be unable to support his children and his ex-wife and pay off his non-domestic creditors under the new code.

Any effort to reform the bankruptcy system must protect the obligations of parents to support their children. This bill is a new and catastrophic threat to our children who rely on child support.

According to a recent study by the U.S. Department of Health and Human Services, between 1978 and 1991, 21–28 percent of poor children in America did not receive any child support from their non-custodial parent, and child support is an issue critical to the well-being of our nation's children. During 1997, an estimated 300,000 bankruptcy cases involved child support and alimony orders. In about half these cases, women were creditors trying to collect alimony and child support from their bankrupt ex-husbands and others. In about half of these cases, women were forced to file for bankruptcy themselves as they tried to stabilize their post divorce economic condition. In the past five years, well over a million women collecting alimony and child support have been involved in bankruptcy cases.

In 1994, one in every four children lived in a family with only one parent present in the home. Half of all children in the United States spend at least a portion of their childhood in single-parent homes.

While these figures are truly striking in their own right, we cannot begin to truly understand their impact on our nation's children without considering the fact that half of the 18.7 million children living in single-parent homes in 1994 were poor, and 70 percent of African American children growing up in a single parent household lived at or below the poverty line. Poor children in single-parent families rely on child support from their non-custodial parent as a crucial source of income.

In 1997, I co-sponsored H.R. 2487, the Child Support Incentive Act, legislation which reformed the child support incentive payment plan and improved state collection performance. And today, I am speaking before you because children's access to child support is once again being threatened. We need to keep our children a priority.

According to records from the U.S. Department of Health and Human Services, 31 million children are currently owed over 41 billion dollars in unpaid child support. When credit card companies and children compete for the same money, we know that it is likely that the most aggressive and powerful creditors will succeed.

We must counter this potential disaster to children relying on their parent's continued support. We need to maintain the priority of those parents seeking to collect owed child support from a bankrupt debtor. This can be done without removing the tools needed for credit card companies to effectively root out fraudulent debtors. Our children are our future and when it comes to paying off debt, children and women should come first, and we must remember this when we are voting today.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT). I am glad to do that. The gentleman from Ohio (Mr. CHABOT) has produced innovative and powerful concepts in the work of the Committee on the Judiciary over a period of years, and I am glad to have his support on this legislation.

Mr. CHABOT. Mr. Chairman, I would first like to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from Pennsylvania (Mr. GEKAS) for their hard work and leadership in putting this bipartisan, and it clearly is bipartisan, legislation together and moving it forth so expeditiously.

This important legislation will protect consumers and businesses from creditors who are capable of paying their debts but who choose to hide behind bankruptcy protection instead of paying. In particular, this legislation would reestablish the link between one's ability to pay and one's ability to discharge debt by instituting a needs-based reform in the bankruptcy system.

In a time of solid economic growth and low inflation and low unemployment, it is absolutely astounding that there were a record 1.4 million consumer bankruptcies in 1997. This represents a sevenfold increase in the number of consumer bankruptcies since 1978 when the bankruptcy laws were last reformed. These numbers are expected to increase even further this year.

The primary culprit for this dramatic increase in the number of consumer bankruptcies is a system that discourages personal responsibility. Our current bankruptcy laws often allow those who can afford to pay their bills to, instead, declare bankruptcy and walk away debt free.

When someone who can afford to pay their bills does not and they file bankruptcy, who pays? We all do. We all pay for it at about $400 a year per American family in higher prices; and it is, in essence, a tax on the American public, a tax on debt.

Mr. Chairman, I believe that H.R. 3150 makes significant steps in ending this practice, and I hope the President will sign this legislation quickly, although one never knows, so that we can give hardworking American families protection from those who abuse the bankruptcy system and leave others holding the bill. There clearly are many instances in which people truly need bankruptcy. But let us stop the abuses. That is what this legislation does.

Mr. NADLER. Mr. Chairman, could I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 2 minutes remaining, and the gentleman from Pennsylvania (Mr. GEKAS) has 3½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER), but with the invitation to return to the floor later for an additional period of time.

Mrs. TAUSCHER. Mr. Chairman, I accept the gentleman's invitation.

Mr. Chairman, I rise to strongly support this legislation to reform bankruptcy. This legislation would change bankruptcy laws to promote personal responsibility, ensure that more of the people who file for bankruptcy repay at least a portion of what they owe.

If, after accounting for all reasonable household expenses each month, the filer has enough money to pay some of his debt, he will be required to do so. This fair and reasonable test protects the most needy while it insists on repayment by the most irresponsible.

The stigma that was once attached to bankruptcy has disappeared. The growing number of filers indicates that people today are less concerned about the social implications of bankruptcy. It is our job to replace that social stigma with legislation that fills the gaps in bankruptcy law and demands responsible behavior by individuals.

I urge my colleagues to support this important legislation.

Mr. GEKAS. Mr. Chairman, I must at the risk of boring the Chair ask how much time is remaining.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) has 2½ minutes remaining. The gentleman from New York (Mr. NADLER) has 2 minutes remaining.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, everyone should remember that the debate in this House today is not over personal responsibility. The debate is not over whether people who can pay their debts should pay their debts. Everyone agrees to that.

The debate, Mr. Chairman, is over the measure of the test. That is the first debate. Should it be, as the bill before us has it, an automatic test with no judge there? Should it be a test that looks not at actual expenses and actual facts, but at what the Internal Revenue Service says in its guidelines might be the facts, not at what your rent is, what your child expenses are, but what the Internal Revenue Service says that for an average person in the Northeast and Southwest of the country it might be?

I submit that this bill does not make sense in saying that we are going to decide how much someone can afford to pay off on his debts by looking at theories as to what his rent might be, what his child expenses might be instead of what they actually are. That is the first question.

The second question is that this bill jumps the line. It takes credit cards and puts them in preference to other debtors, says you cannot have a Chapter 13 plan confirmed unless you can pay $50 minimum for the credit cards. It puts it in preference in practical terms over the child support, over the victims, over the secured debt. It makes no sense except as a reflection of the lobbying and the campaign contributions by the banks and the credit card companies; and that is not the way we ought to distort the law.

Mr. Chairman, I would remind my colleagues that every bankruptcy association, the Bankruptcy College, the Bankruptcy Institute, the trustees, the Chapter 13 trustees, the judges, they all tell us this bill should be rethought and makes no sense.

I would also remind my colleagues the CBO says this is an unfunded mandate in the private sector between $260 million and $1.3 billion and on the public sector of $214 million.

I urge my colleague to think better of it and to vote against this bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. NADLER) has expired.

The gentleman from Pennsylvania (Mr. GEKAS) has 2½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT), who has been, whether he knows it or not, an unofficial consultant to me personally on the issues surrounding bankruptcy in all its phases.

□ 1515

Mr. BRYANT. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, on this issue of child support, let me reference a letter from the California Family Support Council which speaks directly to this point.

> I have been informed that there is some opposition to H.R. 3150 based on the premise that support creditors would be worse off if certain credit card debts were made nondischargeable and credit card creditors and support creditors were in competition for the same post-discharge assets.
>
> I can only say that we are in competition with those creditors prior to bankruptcy now. We do not see debts as impairing our ability to collect support, especially in view of the advantages child support creditors have under current State and Federal laws as outlined above. Our problems stem not from the competition with credit card creditors outside bankruptcy, but from the disadvantages we incur as collectors of support under current bankruptcy law during bankruptcy. Your proposed amendments would give support creditors an enormous advantage over other creditors during bankruptcy and greatly aid us in the discharge of our support enforcement responsibilities.

Mr. Chairman, I urge support of this bankruptcy reform.

Mr. GEKAS. Mr. Chairman, I yield the remainder of my time to the gentleman from Michigan (Mr. SMITH), and he and I will engage in a colloquy.

The CHAIRMAN. The gentleman from Michigan (Mr. SMITH) is recognized for 1½ minutes.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for his efforts to pass comprehensive and common sense bankruptcy reform that will greatly benefit our economy and our taxpayers by lowering interest rates and increasing availability.

On a particular issue, many States such as my home State of Michigan have experienced a sharp increase in the number of long-term placements of children by court order. Tom Robison, the Eaton County, Michigan, probate court administrator, tells me that the cost of just one placement can be as high as $50,000 per year.

Federal courts have determined that when parents declare bankruptcy, they are currently allowed to discharge the debts owed to that particular court and the taxpayer for the costs of this long-term placement.

I introduced H.R. 3711 last April to specifically state in law that such expenses of caring for children could not be discharged by bankruptcy. I thank the chairman for agreeing to this provision we have asked for to make sure that debts owed to the State and municipality or State court of proper jurisdiction for this purpose are not dischargeable.

I wanted to clarify, however, that the definition of "municipality" is meant to include probate courts and other local governmental units that have to pay the cost of this care. For that purpose, I would like to enter into this colloquy with the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. GEKAS).

Mr. Chairman, I would ask the gentleman from Pennsylvania (Mr. GEKAS), if the term "municipality" as defined by section 101 of the Bankruptcy Code includes State courts?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman, Mr. Chairman, for bringing this issue to full debate here on the floor, and this colloquy. I agree that that is a correct interpretation of the law, and commend the gentleman for bringing the issue as far as it has come. We will work together to consider the full ramifications of the issue before conference.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of H.R. 3150, the Bankruptcy Reform Act, which, although not perfect, is a strong step in the right direction. The principle behind this legislation is simple. If you can afford to repay some of your debts, you should be required to do so. The fact that in this booming economy there has been a meteoric rise in bankruptcy filings is simply unacceptable. Yes, there are credit companies which unscrupulously dangle credit in front of high-risk consumers; however, the individual must ultimately take responsibility for his or her spending habits.

Protecting the status quo is tantamount to telling all consumers, including low and moderate income families struggling hard to pay their bills, that they will have to continue to pay for the unpaid debts of others, even if those filing for bankruptcy are more affluent and actually capable of paying off some of those debts. Last year, a total of $44 billion in consumer debt was erased through bankruptcy filings. Of course, erasing these debts means transfering that burden to every other consumer—a burden which amounts to roughly $400 for every American household.

While I have concerns over certain provisions included in this legislation, such as the preemption of my home state's constitution with respect to the homestead exemption, I believe it is important to move this process forward and work with the Senate to craft a strong bi-partisan bankruptcy reform bill which returns a sense of personal responsibility to our Nation's bankruptcy system.

Mr. WOLF. Mr. Chairman. I want to express my extreme disappointment with this rule. Representative NADLER had an amendment to this bill which was not made in order. That amendment would have eliminated bankruptcy claims on debts incurred in or adjacent to gambling facilities, or debts that the creditor should have known were intended to be used by the debtor for gambling purposes.

A 1997 SMR Research Corporation study on personal bankruptcy, which I will include for the RECORD, examined the high-risk activities which contribute to bankruptcy. The report reviewed three serious addiction problems in

America—drugs, alcohol and gambling—and their effects on personal bankruptcies. Of gambling, the report said, "It now appears that gambling may be the single-fastest growing driver of bankruptcy." It also showed a definite correlation between the presence of gambling facilities and a growth in personal bankruptcies.

The report made a number of recommendations for dealing with the rapid increase in personal bankruptcies related to gambling. The first was, "Make it tougher for customers to obtain cash advances at gambling casinos."

Mr. Chairman, Mr. NADLER'S amendment would have been a very important step in stemming the tide of gambling-related bankruptcy. But since it was not made in order, we have been denied the full and open debate that is crucial to better understanding this problem. Therefore, I will vote against this rule.

The Personal Bankruptcy Crisis, 1997

DEMOGRAPHICS, CAUSES, IMPLICATIONS, & SOLUTIONS

Wild Growth In Filings: More Bad News Ahead.

Age, Income, Education, Population Density, & Geography.

Lawyer Advertising & The Loss Of Stigma.

Why The Tide Of Financial Catastrophes Is Rising.

New Ideas To Reduce Bankruptcy Losses.

THE PURPOSE OF THIS STUDY

In 1996, SMR Research issued a 56-page study on the causes of wildly rising personal bankruptcy filings. We knew the subject was timely, but little did we imagine the media coverage that would follow.

The 1996 study was mentioned in major newspapers and magazines across the land, on television, and even became the subject of two stories in the Wall Street Journal.

Fate is strange. Publicity is nice, but the 1996 study was not exactly a typical SMR production. The explosion in bankruptcies had caused a lot of demand for information from our lending industry clients, especially unsecured lenders. We put together the 56-page piece as a section of our 1996 annual credit card market study, and later offered the bankruptcy section by itself to non-credit card issuers.

Although 56 pages might look big to some folks, it was the shortest research study we have done since 1985. We found ourselves making conclusions in the 1996 study with some statistical backing, but not always definitive proof.

This study, by contrast, is indeed a standard SMR Research work. The scope is much greater, and allows us to cover the subject completely, with a meaty section on solving (or at least mitigating) the personal bankruptcy dilemma. Where the 1996 study focused solely on some of the core causes of bankruptcy, this study covers the full nature of the problem.

We look at the common misperceptions about bankruptcy and provide the statistics that show why they are such vast over-statements. Unemployment is not the primary driver of bankruptcy, nor is the overall consumer debt load. Lender marketing and easy credit also are not the prime cause.

In fact, there is no single prime cause of bankruptcy. In this study, you'll see coverage of many things that result in bankruptcy, with some quantification of which ones are the worst. The additional space allows us to cover things we couldn't cover last year, like the connection between bankruptcy and gambling—perhaps the fastest-growing problem of all.

In addition, this study, for the first time we know of, shows the demographics of bankruptcy, using our county-level statistical database that goes back to 1989.

Regarding solutions to the problem, they are not easy. The bankruptcy spike is based at least in part on serious, intransigent, worsening socio-economic problems. This underlying core puts upward pressure on filings, and the upward pressure really explodes when you throw lawyer advertising and bankruptcy's loss of social stigma into the mix.

Still, we are quite confident that there are steps available to creditors to help control their own bankruptcy loss exposure. We think the best solution of all may be the most radical, which is for creditors to adopt some of the risk-control techniques of the insurance industry. This would mean using actual geographic loss statistics as a supplemental aid in credit scoring, pricing, and marketing. This material appears starting on Page 157.

SMR has been following the bankruptcy subject, and has been building its databases of filings, for eight years. After all that time, we finally have created a research study that we believe addresses all the central issues in the bankruptcy crisis.

We appreciate your patronage and hope you get good value from the research.

STU FELDSTEIN,
President.

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GAMBLING AND BANKRUPTCY

It now appears that gambling may be the single fastest-growing driver of bankruptcy.

Once limited to Nevada and New Jersey, casino gambling has spread very rapidly through many states. Indian reservation casinos have been one new mode for this growth, and riverboat and coastal gambling boats have added more.

If you have not been tracking the spread of gambling, you may be in a shock about how pervasive gambling facilities have become.

Note that in the state of Nevada, there are only 17 counties (most of them very large). But across the nation, there are now 298 counties that have at least one major legal gambling facility; a casino, a horse or dog racing track, or a jai alai game. That's the count in one recent guide to U.S. gambling facilities, and it does not include such things as places where state lotteries or bingo parlors are available. The lotteries and bingo parlors tend to involve small-ticket gambling, whereas the other facilities obviously involve the larger dollars per customer.

THE THREE ADDITIONS & CHANGED MORES

When we published our shorter study on the causes of bankruptcy in 1996, we had suspicions about gambling. But we had not yet put together enough solid data and information to make conclusions, therefore we said little about the subject.

Actually, since we were looking at events that can cause insolvency, we were suspicious in 1996 about all three of the serious addiction problems in America: alcoholism and drug and gambling addiction. We remain suspicious about all three of those problems. But of the three, it's quite clear that gambling is the fastest-growing phenomenon.

For those who make and supply alcohol, drugs, and gambling, all are very large businesses. But you don't have to be a sociologist to see that societal mores are changing most rapidly on gambling. Over the last 20 years, state governments themselves have entered the gambling business with lotteries. We see no states as yet that have gone into the heroin trade or where the government itself advertises Jim Beam. So, the concept of gambling now has the tacit blessing of government.

Meanwhile, private entrepreneurs have created dazzling and sophisticated facilities that have eliminated the "sleaze" from gambling and turned it into a recreation. Las Vegas is now a city-sized adult theme park with attractions for the kids, too. American Indians, operating on reservations beyond the authority of state laws, have seized on casinos as a new method to generate cash and improve their standard of living. Cruise ships of all sorts have set up table games and slot machines.

Hard-bitten gamblers of old played poker at tables in a friend's kitchen or sat in cold bleachers to watch the horses. Today's gamblers enjoy the finest food, free drinks, the best entertainment, super-quality hotels, and the widest variety of gambling adventures that have ever been available. And, of course, all of this now happens at places much closer to most of the larger population centers. Gambling can indeed be fun these days—but some smallish percentage of gamblers do develop problems that translate into bankruptcy.

STATISTICS, GAMBLING, AND BANKRUPTCY

As in so many aspects of bankruptcy, perfect data related to the gambling problem don't exist. No one has asked all the bankruptcy filers if gambling contributed to their financial problems, and we strongly suspect that if filers were asked that question, many would be too embarrassed to answer honestly.

But we can look at evidence in many other ways. Recently, for example, we input into our county-level records the numbers of gambling places that exist in each county, if any. We obtained the information, covering more than 800 casinos, race tracks, and jai alai "frontons" from the 1997 edition of The Gaming Guide: Where to Play in the US of A, published by Facts on Demand Press of Tempe, AZ. The directory provides street addresses and zip codes for the gaming establishments. We used the zips against SMR's Zip Code/County Matching database to put the right numbers of facilities in the right counties.

Then, we aggregated the bankruptcy rates of those places and compared them to those of counties that have no gambling at all. The bankruptcy rate was 18% higher in counties with one gambling facility and it was 35%

higher in counties with five or more gambling establishments.

This exercise probably understates the seriousness of the problem, since many counties that have gambling facilities also have very small populations and actually draw their customers from other places.

So, when we look only at counties with more sizeable resident populations and gambling facilities, we see even greater evidence of the problem.

A LOOK AT THE MAP

The effect of gambling on bankruptcy seems quite clear when you look at a map. Among all the counties in Nevada, for instance, we find that the closer you come to Las Vegas and Reno, the higher the bankruptcy rate.

In New Jersey, casinos are permitted only in Atlantic City—and that's also where the resident population has by far the highest bankruptcy rate. Generally speaking, the closer you come to Atlantic City, the higher the bankruptcy rate in New Jersey. One exception to this rule is Cape May County, just south of Atlantic City, where the bankruptcy rate is not so high. But Cape May also is a big retirement place with a high average age in the population. As shown in our demographics section, high-age populations do not have high bankruptcy rates.

In California, the two counties with the highest bankruptcy rates are Riverside and San Bernardino. They also happen to be the two counties closest to Las Vegas. The fourth-highest bankruptcy rate in California is in Sacramento County, which is closest to Reno.

In Connecticut, the map hardly matters. Connecticut is so tiny that everyone has access to the gambling parlors in the middle of the state. This is a state that used to have a bankruptcy rate far below the national average. But Indian casino gambling is now huge and well-entrenched. The smaller of the Indian casinos, the Mohican Sun in Uncasville, boasts 3,000 slot machines. In Connecticut, the bankruptcy rate per capita has risen more than twice as fast as the national rate of increase since 1990.

WHAT THE EXPERTS SAY: SCOPE OF THE PROBLEM, AND THE CREDIT CARD CONNECTION

Aside from these observations, we set out this year to interview many of the leading U.S. experts on gambling, gambling addition, and the financial impact of gambling.

Their studies have suggested, fairly consistently, that more than 20% of compulsive gamblers have filed for bankruptcy as a result of their gambling losses. They also show that upwards of 90% of compulsive gamblers had used their credit card lines to obtain funds for gambline and then lost. The same studies show that problem gamblers have a lot of credit cards on which to draw.

"One of the things we know about problem gamblers is that they tend to have lots and lots of credit cards and those credit cards have been maxed out in terms of their credit limits," said Rachel Volberg, one of the leading researchers into problem gambling in the U.S. and internationally. Volberg is president of Gemini Research, a consulting firm in Roaring Spring, PA. She is a frequent "expert witness" on the problem in state legislative hearings and has done research under contract for various government units in Oregon, Colorado, New York, California, Michigan, Mississippi, Georgia, Louisiana, Iowa, Connecticut, and Canadian provinces.

Volberg is not the only researcher to note the connection with credit cards. "It's not unusual for problem gamblers to have eight to 10 credit cards," adds Henry Lesieur, professor of criminal justice at the University of Illinois, Normal, another leading authority on compulsive gambling.

The amount gamblers owe is quite large. According to studies of Gamblers Anonymous members in Illinois conducted in 1993 and 1995 by Lesieur, the median average lifetime gambling debt of those surveyed was $45,000, and the median amount owed at the time they entered GA was $18,000. The median is the midpoint of a list of numbers, with 50% of the numbers being higher and the other 50% being lower.

However, the mean average debts of problem gamblers were far higher than the median amounts. The mean average lifetime gambling debt of those surveyed was $215,406, with three people saying they owed $1 million or more. The mean debt upon entering GA was $113,640, including one person who said he owed $1 million and another admitting to owing an incredible $7.5 million.

In another study dated April 1996 by the University of Minnesota Medical School, a survey of problem gamblers in Minnesota found the average lifetime gambling debt was $47,855, although individual amounts ran into the hundreds of thousands of dollars. The median amount was $19,000. Recent debts—those accumulated in the past six months—averaged $10,008, while the median amount was $4,500.

In late 1995, the Minneapolis Star Tribune examined 105 bankruptcy filings made in that city in which it was determined that gambling was a factor. The results of the study appeared in a five-part series that ran in the paper in December 1995.

The newspaper found that of the $4.2 million of total debt declared by the 105 filers, $1.14 million—or 27%—was comprised of gambling losses. Almost half of the 105 filiers—52, to be exact—claimed they had gambling losses. Their average debt was $40,066, which was more than the average annual income of $35,244. The average gambling loss was more than $22,000. Filers carried an average of eight credit cards, although many had 10 or 15 cards and one person had 25. And heavy debts were being carried on each card.

COUNTIES WITH GAMBLING HAVE HIGHER BANKRUPTCY RATES

Let's return to the county-level data. In the table that follows, we divided up the country amount counties with gambling facilities and those without. The differences in bankruptcy rates between them are striking. It's quite clear that those counties with legal big-ticket gambling have higher bankruptcy rates than those counties that don't have gambling, and those counties with many gambling houses have higher bankruptcy rates than those places with just a few.

We examined more than 3,100 counties. For the entire United States, the personal bankruptcy filing rate per 1,000 population in 1996 was 4.20. But the national rate for purposes of comparison to counties was 4.22 (using 1996 bankruptcies divided by 1995 populations; the 1996 county populations were not available when we did this analysis). For the 2,844 counties without gambling, the bankruptcy rate was lower, at 3.96.

According to The Gaming Guide, there were 298 counties that had legalized gambling within their borders. In these counties, the bankruptcy filing rate in 1996 was 4.67, or 18% higher than for those counties with no gambling. When we subdivide the universe of counties with gambling between those with five or more locations and those with four or less, we learn more. The places with the most gambling facilities have a much higher bankruptcy rate.

Of the 298 counties with gambling, 275 had only one to four facilities. Their combined 1996 bankruptcy filing rate was 4.53 per 1,000 residents, or 14% greater than the 3.96 rate among counties without gambling. However, in the 23 other counties with five or more gambling facilities, the combined bankruptcy rate was 4.33, a whopping 26% higher than the 4.22 national bankruptcy rate and 35% higher than at counties with no gambling at all. Many of these counties with 5+ gambline facilities are in Nevada, but most of them are not.

BANKRUPTCY FILING RATES IN U.S. COUNTIES WITH GAMBLING FACILITIES VERSUS COUNTIES WITH NO GAMING ESTABLISHMENTS

[Gambling facilities include land, tribal, and boat casinos; dog, horse, and harness race tracks, and jai alai frontons]

	No. of counties	Aggregate population	1996 bankruptcy filings	1996 filings per 1000
All Counties with Gaming Facilities	298	97,385,935	454,384	4.67
Counties with 5+ Gaming Facilities	23	16,391,661	87,435	5.33
Counties with 1–4 Gaming Facilities	275	80,994,274	366,949	4.53
Counties with No Gaming Facilities	2,844	166,526,572	658,724	3.96
All U.S. Counties	3,142	263,912,507	1,113,108	4.22

Again, these data tell only part of the story, since some gambling parlors (especially tribal casinos) are located in thinly populated places and draw almost all their customers from other places.

So, it's important to also look at more populous areas located very near to gaming facilities. Indeed, not only do many gambling facilities draw from other nearby population centers within the U.S., but in addition there are many legal casinos in several Canadian provinces. These often are located just beyond the U.S. border and cater to American gamblers in the Detroit area, upstate New York, and other northern states.

Thus, we believe many counties have high bankruptcy rates tied in part to gambling, yet the county doesn't register in our table as a "gambling" county. If we included counties contiguous to those places with legalized gambling, we're sure the numbers would show an even stronger correlation between high bankruptcy rates and gambling. The following mini study of the Memphis, TN, area illustrates our point.

LAS VEGAS EAST: WOULD YOU BELIEVE IT'S TUNICA COUNTY, MS?

In the table below, we show the 24 counties in the U.S. with the worst U.S. bankruptcy filing rates in 1996 (10.0 or more filings per thousand residents) and where the population is greater than 25,000.

A significant number of these worst places share one trait—all are within easy reach of major gambling casinos. This is true of just about all of the counties on the list that are located in Tennessee, Mississippi, and Arkansas.

Neither Tennessee nor Arkansas has legal casino gambling within its borders. In fact, neither state even has a lottery, for that matter. Yet, several of their biggest counties are located near the 10 major riverboat casinos in Tunica County, MS. Tunica is located in the extreme northwest corner of Mississippi, just south of Memphis, TN. According to The Gaming Guide, Mississippi has the largest amount of "gaming area"—that is, square feet of casino gambling—in any state outside Nevada. And most of that gaming is centered in Tunica County. Major casinos are also located in the Biloxi-Gulfport area on the Gulf of Mexico.

The profusion of super-high bankruptcy rates among the counties located near the Mississippi River casinos in Tunica County is quite remarkable. Indeed, the counties in the tristate area within the Memphis metropolitan area have some of the highest personal bankruptcy rates in the nation. We view their close proximity to the Tunica casinos as very meaningful.

Shelby County, TN, where Memphis is situated, easily had the highest county bankruptcy rate in the nation in 1996, at 17.28 per 1,000 population—more than four times the national average. It's also by far the biggest county in terms of population among the most bankrupt counties. Memphis also happens to be the headquarters of Harrah's, one of the biggest casino operators.

Also on the list of worst counties are two Mississippi counties. DeSoto, with a December 1996 filing rate of 10.65, borders Tunica County. Marshall County, at 11.47, is adjacent to DeSoto. Tunica County itself, the likely source of some of this trouble, has a population of just 8,132 souls, and a bankruptcy rate of just 5.78, less than the state average of 6.16.

Also high on the list of most bankrupt counties is Crittenden County, AR, at 11.16. It's the county located just across the Mississippi River from Shelby County. Tipton County, TN, at 10.96, is adjacent to Shelby County on the north. Madison County, TN, at 10.73, is located just east of Shelby. But other counties located near Shelby in Tennessee sport high bankruptcy rates, including Haywood, Lauderdale, Fayette, and Crockett, to name a few. These counties don't appear on our list of worst counties because their populations were less than 25,000.

The Tunica casinos aren't the only ones catering to Tennessee residents. There's also a casino located upriver in Caruthersville, MO, in the state's southeastern panhandle. It may be part of the reason for the 10.56/1,000 bankruptcy rate in Dyer County, TN, which is located just across the river. Also, Gibson County, TN, just east of Dyer, has a bankruptcy filing rate of 10.12. It's worth mentioning that both Dyer and Gibson Counties are also both within a two-hour drive of the Tunica casinos.

The next table shows that 9 of the 24 U.S. counties with the highest bankruptcy rates in 1996 also were places located very close to three gambling sites.

COUNTIES WITH HIGHEST BANKRUPTCY FILING RATES, 1996

[Minimum population 25,000]

County name	Code	Population	Filings	Filings per 1000
Shelby County, TN	1	865,058	14,952	17.28
Coffee County, GA		32,697	432	13.21
Jefferson County, AL		657,827	8,124	12.35
Bibb County, GA		135,066	1,912	12.33
Troup County, GA		57,882	705	12.18
Walker County, GA		60,654	705	11.62
Marshall County, MS	1	32,078	368	11.47
Crittenden County, AR	1	49,889	557	11.16
Clayton County, GA		198,551	2,209	11.13
Liberty County, GA		58,749	650	11.06
Coweta County, GA		72,021	789	10.96
Tipton County, TN	1	43,423	476	10.96
Murray County, GA		30,032	325	10.82
Madison County, TN	1	83,715	898	10.73
Baldwin County, GA		41,854	448	10.70
DeSoto County, MS	1	83,567	890	10.65
Dyer County, TN	2	35,900	379	10.56
Manassas city, VA		32,657	333	10.20
Gibson County, TN	2	47,728	483	10.12
Scott County, MS	3	25,042	253	10.10
Rhea County, TN		26,833	271	10.10
Talladega County, AL		76,737	774	10.09
Spalding County, GA		57,306	575	10.03
Ware County, GA		35,589	357	10.03

Key to Codes: [1] Located near casinos in Tunica County, MS; [2] Located near casino in Caruthersville, MO; and [3] Located near casino in Philadelphia, MS.

MORE EXAMPLES

Of course, scenarios like this can be seen in other areas of the country. Atlantic County, NJ, is a leading example. It is home to all of that state's legalized gambling casinos, and the 1996 bankruptcy rate was 7.10 filings per 1,000 residents. That was 71% higher than the state average bankruptcy rate of 4.16. And most of the time, counties located closest to Atlantic had higher bankruptcy rates than others further away.

Of course, Atlantic City draws customers from all kinds of places, including many from New York City. Our point is that the resident population in a gambling county has the easiest and most frequent opportunity to use the facilities, therefore we should expect to see some result in the per capita bankruptcy rate.

Similarly, the 1996 bankruptcy rate in Nevada is more than 50% higher than the national average. In Clark County, where Las Vegas is located and where more than half of the state's more than 300 casinos are based, we see the highest bankruptcy rate within the state. Nor is it surprising that the two counties with the highest bankruptcy rates in California are those just across the border from Las Vegas, San Bernardino (7.04) and Riverside (6.77). Those two counties also now have tribal casinos of their own.

Moving to Maryland, Prince Georges County has by far the highest bankruptcy rate among counties in that state—6.72 filings per 1,000 population in 1996, almost 50% higher than the state average of 4.57. By way of comparison, the next highest county bankruptcy rate in Maryland is 5.27, a significantly lower figure. What's going on in Prince Georges?

The answer is that Prince Georges is the only county in Maryland where casino gambling is legal. Legal casinos are located at charitable organizations, such as Elks and Knights of Columbus halls and volunteer fire departments. These casinos have strict limits on operating hours and betting and don't have the glitz of Las Vegas or Atlantic City, yet they do now exist and the casinos are used. Prince Georges County also has harness racing.

GAMBLING & LOW-BANKRUPTCY STATES: WOULD THEY BE EVEN BETTER WITHOUT IT?

All of the prior information is highly suggestive that gambling influences bankruptcy. Yet, as all the rest of this study shows, there are many other bankruptcy drivers. Therefore, the correlation between bankruptcy and the physical location of gambling facilities is certainly imperfect.

There are some states, for instance, where there are gambling facilities, yet the bankruptcy rates are reasonably low. These states include South Dakota, Minnesota, and Iowa—all located in the moderate bankruptcy "corridor" of the upper Midwest.

It's hard to tell in these areas whether gambling has no effect on bankruptcy, or if, on the other hand, bankruptcy would be even less of a problem without the casinos. The Minnesota university study referenced earlier in this section suggests that bankruptcies in that state are caused at times by gambling.

Indeed, the notion that gambling is a major negative for bankruptcy in all geographies is supported by information from our interviews and from a lot of local newspaper articles we have reviewed. The actual gambling debts may have become credit card debts prior to the filer entering bankruptcy court, but that doesn't change the cause of the financial trouble. The following material will add more from this review of experts and news articles.

QUANTIFYING THE PROBLEM: 10 PERCENT OF FILINGS MIGHT BE LINKED TO GAMBLING; 20 PERCENT OF PROBLEM GAMBLERS GO BANKRUPT

Articles we studied, often quoting attorneys who specialize in personal bankruptcy, suggested that about 10% of bankruptcy filings are linked to gambling losses. That figure could be higher depending on location. Most of the debt is racked up on credit cards.

According to the experts on compulsive gambling with whom we talked, no comprehensive national study on problem gambling has been conducted in the U.S. since the early 1970s. However, several state studies have been done, all concluding that 20% or more of compulsive gamblers were forced to file for bankruptcy protection because of the losses they had incurred.

In the April 1996 study of compulsive gamblers in Minnesota conducted by two professors at the University of Minnesota Medical School, the researchers reported that 21% of the people in the study had filed for bankruptcy. In addition, a disturbing 94% said they had at least one gambling-related financial problem in their lifetime. Furthermore, 9 out of 10 of the subjects said they had borrowed from banks, credit cards, and loan companies to finance their gambling. And, 77% said they had written bad checks to finance gambling sprees.

The University of Illinois in Normal conducted two surveys of members of Gamblers Anonymous in 1993 and 1995. The combined results found that 21% had filed for bankruptcy, and that another 17% had been sued for gambling-related debts. Additionally, 16% said their gambling led to divorce—another big driver of bankruptcy filings—and another 10% said it led to separation. Compulsive gamblers also have very high rates of attempted suicides, higher even than for drug addicts, the experts said.

Rachel Volberg, the Pennsylvania-based compulsive gambling consultant we referenced earlier, told us that a study in Wisconsin had found that 23% of compulsive gamblers had filed for bankruptcy, and that 35% of the gamblers said they had used credit cards for gambling money. She also said a study conducted in the Canadian province of Quebec found that 28% of problem gamblers there had sought bankruptcy protection.

One of the really scary things about these studies is that they are conducted only with people who had sought out professional help for gambling addiction. So, there may be other problem gamblers at risk, too.

According to several lawyers specializing in bankruptcy who were quoted in newspaper articles that we studied, 10% to 20% of their clients did so due to gambling debts they couldn't pay. These lawyers were located in areas near casinos, so the 10% to 20% figures probably doesn't hold for the U.S. population at large. Nevertheless, its probably not a stretch to say that at least in those areas near major casinos, gambling-related bankruptcies account for a good 10% to 20% of the filings.

THE EXPLOSION IN IOWA

It's also not a stretch to say that the number of people with financial problems stemming from gambling is on the rise, tracking the spread of legalized gambling.

Tom Coates, executive director of the nonprofit Consumer Credit Counseling Service of Des Moines, IA, told us that 10% to 15% of the people his agency counsels have financial problems "directly related to gambling." That's up dramatically from 2–3% when the agency opened its doors 10 years ago, before casino gambling was legalized in Iowa. Coates also told us that his service's business is up 30–40% over a year ago, at a time when Iowa's unemployment rate is at an all-time low and its economy stronger than the nation's at large. He blames gambling for much of the surge.

Probably, much of what we've reported about problem gamblers will not surprise the experienced credit executive. People with gambling addiction are rather obviously at risk to lose a lot of money. But how many such people exist? And how many gamble occasionally? Let's take a look at the numbers, below.

2.6 MILLION ADULTS MAY HAVE A GAMBLING PROBLEM

According to the most recent statistics released by the American Gaming Association, the casino industry's trade group, U.S. households made 154 million visits to casinos in 1995. That number was up 23% from the previous year and up an astounding 235% from 1990.

The AGA said 31% of U.S. households gambled at a casino in 1995, up from just 17% in 1990. "Gaming households," as the AGA calls them, also made an average 4.5 trips to casinos in 1995, up from 3.9 times the year before and 2.7 in 1990.

Of course, it is difficult to pinpoint how many of these people have a problem or compulsion—terms that can be a matter of degree or interpretation. Most estimates range from 1% of the adult population to as high as 7%.

The University of Minnesota study estimated that 1% of the state's entire population were "problem pathological gamblers," meaning that they lose control and continue gambling in spite of adverse consequences. If this 1% figure were true for the entire U.S. population, it would represent about 2.7 million people at risk.

The gaming industry itself says that 2% to 4% of practicing gamblers develop compulsion problems. Since 31% of households gambled at a casino in 1995, the 2% to 4% range would yield numbers very similar to the Minnesota study. (31% of 265 million people = 82.15 million 3% = 2.5 million compulsive gamblers.)

Needless to say, people don't become compulsive gamblers until they're first exposed to gambling. Therefore, the rapid spread of casino gambling right now is a major concern.

Coates, the credit consultant, told us that Iowa commissioned a study of problem gambling in 1989, two years before the state's first riverboat and Indian casinos opened. In that study, it was estimated that 1.7% of the state's adult population were compulsive gamblers.

In 1995, by which time many casinos had dotted the state, Iowa did a similar study. Using the same methodology, the second study found that 5.4% of the state's entire adult population—not just the population that gambles—were problem or compulsive gamblers, a more than tripling of the rate in just six years.

LOSING EVERYTHING IS COMMON

For creditors, another problem with gambling-driven bankruptcy is that it is highly likely to result in total loss.

Even though most bankruptcy filings will represent near-total loss of amounts owed to unsecured creditors, the gambling-driven bankruptcies may be the worst. That's because addicted gamblers tend to "tap out" completely on debt and deplete savings, leading them into Chapter 7 liquidation.

These are logical observations, but also are supported by findings in a July 1996 study conducted in Wisconsin. We reviewed this study.

DEALING WITH THE GAMBLING ISSUES

Like so many of the drivers of bankruptcy, gambling is a frustratingly tough problem to solve.

Casino gambling is spreading rapidly in part because so many people enjoy it. Most gamblers also are responsible and know their limits. People like gambling and most do it safely, so how do you argue against the further spread of casinos?

The central problem for bankruptcy is that gambling adds another socio-economic minority group to the high-risk mix.

Bankruptcy is always driven by socio-economic and demographic minority groups. Most people have health insurance, but the 40 million Americans who don't are a large high-credit-risk minority. Most people don't get divorced, but the 10% of adults who are divorced are a sizable at-risk minority. If there also are 2.6 million compulsive gamblers, this is just another high-risk group to throw in—and perhaps the most rapidly growing group. Bankruptcies are rising in part because, when you add up all these at-risk minority groups, you end up with a very large number that's no longer minor.

Still, we believe that much could be done by active creditors to combat the level of the risk. At the moment, if anything, creditors enable and even encourage the problem gambler to go too far. And some state governments seem even more eager than the casinos themselves to encourage irresponsible gambling behavior—as we'll see in a moment in New Jersey.

Here are some of out thoughts on combating the gambling/bankruptcy problem:

1. Make it tougher for customers to obtain cash advances at gambling casinos.

According to the gaming industry itself, more than half of the money that gamblers play with at casinos is not money they brought with them. It is money they obtained inside the casino or close by from automated teller machines, cash advances from credit terminals, and the like.

"It is no secret in the casino industry that patrons will continue to play a game until their cash runs out. What some operators have discovered, however, is if a consumer is provided with efficient and easy ways to access cash, often a 'last time' player will wager for longer than he or she originally planned," states a recent article about cash advances in International Gambling and Wagering Business, a gaming industry monthly magazine. In addition, the article says, "credit customers tend to be more liberal money-users."

Credit card issuers have been very accommodating to gamblers, making it easy for them to get their hands on large sums of money very quickly. And it may well be that most of this business is profitable for the card issuers. But that may be changing now. In an era of very rapidly increasing bankruptcies, it does not take long for the net losses from bankruptcy filers to exceed the profits from gamblers who responsibly use their cash advances.

Here is some admittedly over-simplified card issuer math: Let's hypothesize that 1,000 gamblers have used credit card cash advances to obtain $1,000 each. Total receivables for this group will be $1 million. At a 1.5% return on assets, this $1 million will generate $15,000 of net income.

But the gaming industry itself says that 2% to 4% of these gamblers have an addiction problem. If the average is 3%, then 3% of the 1,000 gamblers we've just looked at are very high risk. This will be 30 people. If, as the earlier data suggests, 20% of these 30 people will file for bankruptcy, then 6 of the original 1,000 gamblers will wind up in bankruptcy court. Against the $15,000 of net income, what will the loss be from the 6 bankrupt compulsive gamblers? Probably, it will be more than $15,000—or at least close enough to make this little piece of the credit card business insufficiently profitable.

This tells us that card issuers and the ATM associations they partially control may want to reconsider their placement of so many cash machines in casino hotels. Or, at least, card issuers may need to institute new early warning indicators specific to those locations. The heavy users of casino hotel cash machines should be the ones stopped sooner.

"If I were a credit guy, I would check better on the ATM transactions," said Edward Looney, executive director of the Council on Compulsive Gambling of New Jersey. "Banks ought to immediately pick up on someone in trouble. You can tell just from the transactions." Coates was quoted in the Des Monies Register newspaper in late 1995 claiming that banking sources told him that eight of the 10 busiest ATMs in Iowa were located at the casinos.

2. Help defeat actions in states that would make it easier for gamblers to get credit card cash advances on casino floors.

Here is perhaps the craziest credit risk story yet.

In New Jersey last September, the state Casino Control Commission passed a regulation that would allow casino patrons to utilize ATM and credit card cash advance machines placed right at the Atlantic City gaming tables.

Previously, customers had to walk to a different part of the building to use these machines. Under the new proposal, borrowing for blackjack would be faster than ordering a drink from a cocktail waitress. Not even Las Vegas casinos allow this. And, the Atlantic City casinos themselves don't support the measure, which they believe would lead to increased gambling compulsion and would tarnish the industry's reputation.

In other words, the state government is more eager to push money into the gambler's hands than the casinos who would profit most in the short run. What's wrong with the New Jersey regulators—and why didn't the banking industry object?

So far, no Atlantic City casino has taken advantage of the rule change, nor is any likely to in the future, said Keith Whyte, director of research at the American Gaming Association, the industry's trade group.

"We definitely opposed in principle New Jersey's regulatory rule change that would let casinos put ATM card swipes right at the table. And in fact no casinos are doing that, and none will, I can almost guarantee you." Whyte told us. "It wasn't a casino-initiated thing. Everybody [in the industry] realized that is probably not a step we would want to take."

According to Looney, the New Jersey Compulsive Gambling Council chief, not a single credit card or banking industry representative raised any objection to this rule when it was being debated. Yet, Atlantic City has the highest concentration of big casinos outside Las Vegas and serves millions of gamblers per year. You get the feeling no one in the credit community is paying close attention to gambling's effect on bankruptcy.

3. Maybe cash machines should be move out of the casino hotels entirely.

Many of the experts we talked to for this study agreed that the worst thing for a compulsive gambler to have is immediate access to cash when he's on a binge. To the extent that banks control or influence where cash machines are placed, it may be time to reconsider their currently wide availability around the casino hotels.

If the gambler had to walk down the street to get cash, no doubt some would. But some of the people we interviewed strongly contend that the walk itself would impose a "cooling off' period that would stop some compulsive gambling losses.

"It's a vulnerable thing for a compulsive gambler to get credit," said Looney of the New Jersey council and himself a recovering gambling addict. "They will be so focused on their gambling that they will gamble everything they can, including all the credit cards they have in their possession. It is important to have ATM and credit card terminal at least some distance form where gambling actually takes place. To some this might seem a small point, but to those of us who deal with compulsive gamblers, this is huge. For many compulsive gamblers, just being forced to walk a couple of hundred feet away from where the gambling is actually taking place is sufficient time for them to rethink whether they really want to gamble any further. That break from gambling is a crucial time for many."

4. Challenge more aggressively those bankruptcy filings where it appears that gambling losses are the main reason why the person is filing.

Inside the bankruptcy court, at least some folks contend, creditors should be even tougher on gamblers than they already are.

"I think lenders should push for slightly different treatment [in bankruptcy court] for someone who has been shown to run up his debts for gambling," said Tom Coates, the Des Moines credit counselor. Credit card lenders would not only be helping themselves but doing the problem gambler a favor, too, he noted.

Coates, who recently testified before the National Bankruptcy Commission, tried to impress on the panel that discharging gambling debts through a bankruptcy filing doesn't do the gambler any good. "I tried to impress on the Commission that the compulsive, problem gambler is living in a fantasy world and to go ahead and discharge this debt in bankruptcy court continues to propagate this atmosphere of fantasy land. It will abort the recovery process for that individual. The process of recovery is to bring that person our of their fantasy world into the world of reality, and by discharging those debts, none of it seems real to them."

Indeed, in a recent article in the St. Louis Post-Dispatch about gambling and bankruptcy, one gambler was quoted counseling another with money troubles: "Go file bankruptcy. Then you'll have money to gamble with."

U.S. credit card issuers should consider lobbying to change U.S. bankruptcy laws to make it illegal for people to discharge gambling debts in bankruptcy court. That is the current law in Australia, according to Henry Lesieur, the University of Illinois professor. Of course, the care issuers would have to be able to prove that a card cash advance was used for gambling purposes, which might often be difficult. On the other hand, if the law were changed, perhaps filers who lie about gambling losses would risk penalties, so at least some might be honest.

5. Finance research into problem gambling and finance help for compulsive gamblers.

From time to time, creditors provide funds to all sorts of charitable outfits. If they helped finance research into compulsive gambling, such spending would play a dual role. It would be a public contribution, and it would help creditors learn more about the seriousness of the tie between gambling and bankruptcy.

Quite a bit of money is spent on alcohol and drug addiction research and rehabilitation. Both of those problems are viewed (at least by some people) as medical. Apparently, the public view toward gambling addiction is quite different. There's no drug involved, and little is spent on research or rehab. Yet, gambling addiction can indeed be viewed as a form of emotional or mental illness—and it's the one addiction that is growing most quickly in its impact on creditors.

In our research for this study, we found very little new research being conducted on compulsive gambling. The experts we interviewed said that no national survey of compulsive gamblers has been done in more than 20 years; only a handful of studies have been done by various states from time to time. Much of the available research has been done in academia with modest financial support, and it gets little followup attention.

Card issuers spend millions on sporting events, the Olympics, and even on the Smithsonian museums (Discover Card). These expenditures have a marketing value. A fractional amount diverted to gambling research could have an even better bottom line impact.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong opposition to H.R. 3150, the Bankruptcy Reform Act of 1998. This legislation does nothing to address the aggressive marketing of credit cards, home equity loans, and other forms of credit to consumers. While we all support individual responsibility, this bill makes it even tougher for persons to eradicate their debts and get started on a new financial slate.

First of all, I must inform my colleagues that, many, many years ago, I had to file for bankruptcy. For me, the debate on the floor today is no hypothetical, nor theoretical, exercise. Fortunately, I was able to repay my creditors and get back into excellent fiscal standing. But having to go through the wringer of bankruptcy has helped me better form an opinion on how we can better serve both debtors and creditors. H.R. 3150 is not that bill. Among other things, H.R. 3150 includes a means-test to determine whether a family can file for bankruptcy protection that eliminates debts and gives families a fresh, new financial start, commonly referred to as "Chapter Seven," or whether the family must enter into a stringent repayment plan, referred to as "Chapter 13." Most of our constituents who have to file for bankruptcy will have this fact listed on their credit report for at least seven years. Although a family may have their debts eliminated, for the next seven years it is difficult, if not impossible, to rent a car, rent a house or apartment, buy a business, or sometimes get a job. Having a bankruptcy filing listed on your credit report is tough to remove and tough to live with.

During House Rules Committee consideration of this bill, I offered an amendment that was not made part of this debate. My amendment would have allowed consumers to keep those electronic entertainment items that were purchased three months before the filing of a bankruptcy, and has a value of $500.00 or less. Certainly, a person knows at least three months in advance of a bankruptcy filing that he or she is in severe financial straits. My amendment would have also allowed for the disposition to creditors of recently-purchased electronic entertainment goods that have a higher value. While my amendment did not recognize fax machines or personal computers into this equation, we certainly know the volatility of the prices of these electronic goods. A computer that was purchased a year ago for $3,000 is now worth less than half that. Along those same lines, computers purchased years ago are now worth less than $1,000, and in many instances, you cannot even give them away. My amendment sets a limit of $500 to be consistent with the rest of current bankruptcy law. Unfortunately, it was not accepted by the House Rules Committee.

Bankruptcy is a very personal, dehumanizing, and emotionally draining experience. Despite the great strides that our economy, in general, has made with record unemployment and a stock market soaring into the stratosphere, bankruptcies are hitting all-time highs. It is important that we protect consumers and creditors. Unfortunately, the Bankruptcy Reform Act of 1998 does not protect consumers or creditors, and the wisdom of Congress should prevail in the defeat of this onerous bill.

Mr. POMEROY. Mr. Chairman, my vote today on behalf of H.R. 3150 is a vote to advance the process of bankruptcy reform in this Congress. I strongly believe that there is a need to reform our nation's bankruptcy laws. Passage of H.R. 3150 will allow bankruptcy reform efforts to proceed in the Senate and will move us toward our ultimate goal of sensible, responsible bankruptcy reform. I am disappointed that my vote does not also represent wholehearted support for the bill before us, but I believe that a number of the provisions of H.R. 3150 are flawed and must be revisited as the process continues. If these flaws are not remedied in our negotiations with the Senate, I will be unable to support a final conference agreement.

My primary concern with H.R. 3150 is that it would endanger the payment of child support and alimony by those who have declared bankruptcy. While the bill does not directly reduce the priority of child support obligations, it does increase the rights of other creditors such as credit card lenders, setting up a competition for scarce resources between mothers and children owed support and commercial credit card companies. Under Chapter 7 proceedings, mothers and children entitled to alimony and child support will have to compete with new categories of nondischargeable debt. Under Chapter 13 proceedings, these individuals will have to compete with the required $50 monthly payment to non-priority unsecured creditors such as credit card companies. I fear that mothers and children will lose out in these contests.

Mr. Chairman, H.R. 3150 appropriately steps up the degree of personal responsibility that must be expected from those who engage in reckless spending and who seek to misuse the bankruptcy laws to escape the consequences of this conduct. I am concerned, however, that this legislation does not at the same time step up the degree of responsibility that must be expected from the credit card companies who today often facilitate this spending through aggressive marketing of their cards. While we must ask individuals to be prudent with respect to their credit and spending behavior, we must also ask credit card companies to be prudent with respect to their lending behavior. These companies possess credit histories for those to whom they market and they should simply not be extending credit to individuals who they know to be financially overextended. I believe we must encourage credit card companies to exercise responsibility by making dischargeable credit card debt extended under these circumstances.

Mr. Chairman, it is my sincere hope that these issues will be remedied in the Senate and during any conference committee so that this Congress can truly achieve the goal of sensible, responsible bankruptcy reform.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise today in opposition to H.R. 3150, the Bankruptcy Reform Act of 1998 because it supports creditors at the expense of the interest of women and children.

My colleagues, the Leadership Conference on Civil Rights in commenting on this bill points out, I think quite correctly, that it is economic discrimination which is suffered by disadvantaged groups in our society that often is the reason why such groups are forced to file bankruptcy.

In the case of women, for example, the cumulative effects of lower wages, reduced access to health insurance, the devastating economic consequences of divorce and the disproportionate financial strain of rearing children alone is often why women heads of households find themselves in bankruptcy.

Additionally, African-Americans and Hispanic families also suffering from discrimination in home mortgage lending and housing purchases and facing inequity in hiring opportunities, wages, and health insurance coverage, also turn to bankruptcy to stabilize their economic circumstances and protect the middle class lives they have struggled so hard to achieve.

Mr. Chairman, H.R. 3150 should be opposed because it would have a significant negative impact on these groups of economically disadvantaged Americans, all to the benefit of the credit industry. It is ironic that as the credit industry waged a high-profile campaign to rush this bill, which would punish debtors, to the floor of the House, total credit card profitability has grown. According to the Federal Reserve Board, credit card lending is now twice as profitable as all other lending activities.

H.R. 3150 should also be opposed, Mr. Chairman, because it places in jeopardy the ability of women and children who file for bankruptcy to receive child support and alimony payments. This will be devastating to children and women who rely on child care and alimony.

As a new member of the Small Business Committee I am particularly troubled that the Bankruptcy Reform Act of 1998 would also make it difficult for small businesses who are experiencing financial difficulties to get a fresh start. The small business provisions of the bill will impose massive new legal and paperwork burdens on small business and real estate concerns thereby increasing the potential for job loss.

Mr. Chairman, this isn't reform its deform. I urge my colleagues to join the Clinton Administration, the AFL-CIO, the National Bankruptcy Conference, the Leadership Conference on Civil Rights and countless other organizations in opposition to this bill.

Mr. BARCIA. Mr. Chairman, H.R. 3150, the Bankruptcy Reform Act of 1998, is not a perfect bill and I have reservations about the specific language. However, I am voting for the legislation because I strongly believe that people must take responsibility for their financial decisions.

Last year more than 1.33 million households filed for bankruptcy which amounted to over $44 billion. And when these consumers file for bankruptcy, the rest of us pay for it. We pay in the form of higher interest rates. We pay in the form of higher credit card fees. We pay through a growing number of penalty charges for late payment even when the "late payment" is more the fault of the postal service than that of the consumer. I share my colleagues concerns about giving families a new beginning if they incurred debt beyond their control, such as high medical costs from an accident or recovery from a disaster. But when the reason for financial difficulty is a lack of personal financial responsibility and bankruptcy is viewed as an "easy way out" then the system has failed.

Our nation's bankruptcy laws play an important and necessary role in our society. We must ensure that our bankruptcy system does not unintentionally encourage those who can take responsibility for their financial obligations not to do so. Such an abuse of our bankruptcy laws is fundamentally unfair to those who play by the rules and take responsibility for their personal obligations.

As I said, this is not a perfect bill. As this bill progresses through the legislative process I will do all that I can to protect the innocent people from being caught up in the system and ensure that others are not taking advantage of an easy way out.

Mr. FILNER. Mr. Chairman, rather than reining in their own policies of "easy credit," big banks and credit card companies want to come down on families who took their bait, and in many instances, began to rely on credit cards to pay for basic living expenses. This legislation before us would even allow credit card companies to make tragic victims of those who did not even rack up credit card debt—women and children who depend on alimony and child support payments to live.

There are many problems with this bill. The first is a rigid and arbitrary means test that would bounce many families into Chapter 13 without allowing judges to rule on the specifics of their cases, exposing their families to the potential of losing their family homes. Just as inhumane are the provisions that would make credit card debt non-dischargeable. This would place credit card debt on the same plane as child support and alimony payments and force women to fight credit card companies to maintain their right to receive payments for their families' sustenance.

H.R. 3150 would absolve credit card companies of problems largely of their own making. It would turn the bankruptcy system into a debt collection agency for credit companies—with taxpayers footing the bill! Our families, particularly women and children, deserve the right to fair bankruptcy laws, laws interpreted on a case by case basis by judges who *currently* have the power to ensure that children's needs are met first while the other debts are being repaid.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule by title, and each title shall be considered as read.

No amendment to the committee amendment is in order unless printed in the House Report 105–573. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Mr. GEKAS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

Sec. 101. Needs-based bankruptcy.
Sec. 102. Adequate income shall be committed to a plan that pays unsecured creditors.
Sec. 103. Definition of inappropriate use.
Sec. 104. Debtor participation in credit counseling program.

Subtitle B—Adequate Protections for Consumers

Sec. 111. Notice of alternatives.
Sec. 112. Debtor financial management training test program.
Sec. 113. Definitions.
Sec. 114. Disclosures.
Sec. 115. Debtor's bill of rights.
Sec. 116. Enforcement.
Sec. 117. Sense of the Congress.
Sec. 118. Charitable contributions.
Sec. 119. Reinforce the fresh start.
Sec. 119A. Chapter 11 discharge of debts arising from tobacco-related debts.

Subtitle C—Adequate Protections for Secured Creditors

Sec. 121. Discouraging bad faith repeat filings.
Sec. 122. Definition of household goods.
Sec. 123. Debtor retention of personal property security.
Sec. 124. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 125. Giving secured creditors fair treatment in chapter 13.
Sec. 126. Prompt relief from stay in individual cases.
Sec. 127. Stopping abusive conversions from chapter 13.
Sec. 128. Restraining abusive purchases on secured credit.
Sec. 129. Fair valuation of collateral.
Sec. 130. Protection of holders of claims secured by debtor's principal residence.
Sec. 131. Aircraft equipment and vessels.

Subtitle D—Adequate Protections for Unsecured Creditors

Sec. 141. Debts incurred to pay nondischargeable debts.
Sec. 142. Credit extensions on the eve of bankruptcy presumed nondischargeable.
Sec. 143. Fraudulent debts are nondischargeable in chapter 13 cases.
Sec. 144. Applying the codebtor stay only when it protects the debtor.
Sec. 145. Credit extensions without a reasonable expectation of repayment made nondischargeable.
Sec. 146. Debts for alimony, maintenance, and support.
Sec. 147. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 148. Other exceptions to discharge.
Sec. 149. Fees arising from certain ownership interests.
Sec. 150. Protection of child support and alimony.
Sec. 151. Adequate protection for investors.

Subtitle E—Adequate Protections for Lessors

Sec. 161. Giving debtors the ability to keep leased personal property by assumption.
Sec. 162. Adequate protection of lessors and purchase money secured creditors.
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Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

Sec. 171. Extend period between bankruptcy discharges.

Subtitle G—Exemptions

Sec. 181. Exemptions.
Sec. 182. Limitation.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

Sec. 201. Limitation relating to the use of fee examiners.
Sec. 202. Sharing of compensation.
Sec. 203. Chapter 12 made permanent law.
Sec. 204. Meetings of creditors and equity security holders.
Sec. 205. Creditors' and equity security holders' committees.
Sec. 206. Postpetition disclosure and solicitation.
Sec. 207. Preferences.
Sec. 208. Venue of certain proceedings.
Sec. 209. Period for filing plan under chapter 11.
Sec. 210. Period for filing plan under chapter 12.
Sec. 211. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.
Sec. 212. Rejection of executory contracts affecting intellectual property rights to recordings of artistic performance.
Sec. 213. Unexpired leases of nonresidential real property.
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Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

Sec. 231. Definitions.
Sec. 232. Flexible rules for disclosure statement and plan.
Sec. 233. Standard form disclosure statements and plans.
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CHAPTER 2—SINGLE ASSET REAL ESTATE

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Sec. 401. Adequate preparation time for creditors before the meeting of creditors in individual cases.
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Sec. 403. Filing proofs of claim.
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Sec. 408. Adequate time to prepare for hearing on confirmation of the plan.
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Sec. 410. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
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Sec. 501. Treatment of certain liens.
Sec. 502. Enforcement of child and spousal support.
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TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 601. Amendment to add a chapter 6 to title 11, United States Code.
Sec. 602. Amendments to other chapters in title 11, United States Code.

TITLE VII—MISCELLANEOUS

Sec. 701. Technical amendments.
Sec. 702. Application of amendments.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

SEC. 101. NEEDS-BASED BANKRUPTCY.

Title 11, United States Code, is amended—

(1) in section 101 as follows:

(A) by inserting after paragraph (10) the following:

"(10A) 'current monthly total income' means the average monthly income from all sources derived which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether it is taxable income, in the six months preceding the date of determination, and includes any amount paid by anyone other than the debtor or, in a joint case, the debtor and the debtor's spouse on a regular basis to the household expenses of the debtor or the debtor's dependents and, in a joint case, the debtor's spouse if not otherwise a dependent;"; and

(B) by inserting after paragraph (40) the following:

"(40A) 'national median family income' and 'national median household income for 1 earner' shall mean during any calendar year, the national median family income and the national median household income for 1 earner which the Bureau of the Census has reported as of January 1 of such calendar year for the most recent previous calendar year;";

(2) in section 104(b)(1) by striking "109(e)" and inserting "subsections (b), (e), and (h) of section 109";

(3) in section 109(b)—

(A) in paragraph (2) by striking "or" at the end;

(B) in paragraph (3) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(4) an individual or, in a joint case, an individual and such individual's spouse, who have income available to pay creditors as determined under subsection (h).";

(4) by adding at the end of section 109 the following:

"(h)(1) An individual or, in a joint case, an individual and such individual's spouse, have income available to pay creditors if the individual, or, in a joint case, the individual and the individual's spouse combined, as of the date of the order for relief, have—

"(A) current monthly total income of not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, of not less than the national median household income for 1 earner, as of the date of the order for relief;

"(B) projected monthly net income greater than $50; and

"(C) projected monthly net income sufficient to repay twenty percent or more of unsecured nonpriority claims during a five-year repayment plan.

"(2) Projected monthly net income shall be sufficient under paragraph (1)(C) if, when multiplied by 60 months, it equals or exceeds 20 percent of the total amount scheduled as payable to unsecured nonpriority creditors.

"(3) 'Projected monthly net income' means current monthly total income less—

"(A) the expense allowances under the applicable National Standards, Local Standards and Other Necessary Expenses allowance (excluding payments for debts) for the debtor, the debtor's dependents, and, in a joint case, the debtor's spouse if not otherwise a dependent, in the area in which the debtor resides as determined under the Internal Revenue Service financial analysis for expenses in effect as of the date of the order for relief;

"(B) the average monthly payment on account of secured creditors, which shall be calculated as the total of all amounts scheduled as contractually payable to secured creditors in each month of the 60 months following the date of the petition by the debtor, or, in a joint case, by the debtor and the debtor's spouse combined, and dividing that total by 60 months; and

"(C) the average monthly payment on account of priority creditors, which shall be calculated as the total amount of debts entitled to priority, reasonably estimated by the debtor as of the date of the petition, and dividing that total by 60 months.

"(4) In the event that the debtor establishes extraordinary circumstances that require allowance for additional expenses or adjustment of current monthly income, projected monthly net income for purposes of this section shall be the amount calculated under paragraph (3) less such additional expenses or income adjustment as such extraordinary circumstances require.

"(A) This paragraph shall not apply unless the debtor files with the petition—

"(i) a written statement that this paragraph applies in determining the debtor's eligibility for relief under chapter 7 of this title;

"(ii) if adjustment of current monthly income is claimed, an explanation of what income has been lost in the 6 months preceding the date of determination and any replacement income that has been offered or secured, or is expected, and an itemization of such lost and replacement income;

"(iii) if allowance for additional expenses is claimed, a list itemizing each additional expense which exceeds the expenses allowances provided under paragraph (3)(A);

"(iv) a detailed description of the extraordinary circumstances that explain why each loss of income described under clause (ii) will not be replaced or each additional expense itemized under clause (iii) requires allowance; and

"(v) a sworn statement signed by the debtor and, if the debtor is represented by counsel, by the debtor's attorney, that the information required under this paragraph is true and correct.

"(B) Until the trustee or any party in interest objects to the debtor's statement that this paragraph applies and the court rejects or modifies the debtor's statement, the projected monthly net income in the debtor's statement shall be the projected monthly net income for the purposes of this section. If an objection is filed with the court within 60 days after the debtor has provided all the information required under subsections (a)(1) and (c)(1)(A) of section 521, the court, after notice and hearing, shall determine whether such extraordinary circumstances exist and shall establish the amount of the additional expense allowance, if any. The burden of proving such extraordinary circumstances shall be on the debtor.";

(5) in section 704—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding at the end the following:

"(10) with respect to an individual debtor, review all materials provided by the debtor under subsections (a)(1) and (c)(1) of section 521, investigate and verify the debtor's projected monthly net income and within 30 days after such materials are so provided—

"(A) file a report with the court as to whether the debtor qualifies for relief under this chapter under section 109(b)(4); and

"(B) if the trustee determines that the debtor does not qualify for such relief, the trustee shall provide a copy of such report to the parties in interest.";

(6) in section 1302(b)—

(A) in paragraph (4) by striking "and" at the end;

(B) in paragraph (5) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(6) investigate and verify the debtor's monthly net income and other information provided by the debtor pursuant to sections 521 and 1322, and pursuant to section 111, if applicable; and

"(7) file annual reports with the court, with copies to holders of claims under the plan, as to whether a modification of the amount paid creditors under the plan is appropriate because of changes in the debtor's monthly net income.".

SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A PLAN THAT PAYS UNSECURED CREDITORS.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (39) the following:

"(39A) 'monthly net income' means the amount determined by taking the current monthly total income of the debtor less—

"(A) the expense allowances under the applicable National Standards, Local Standards and Other Necessary Expenses allowance (excluding payments for debts) for the debtor, the debtor's dependents, and, in a joint case, the debtor's spouse if not otherwise a dependent, in the area in which the debtor resides as determined under the Internal Revenue Service financial analysis for expenses in effect as of the date it is being determined;

"(B) the average monthly payment on account of secured creditors, which shall be calculated as of the date of determination as the total of all amounts then remaining to be paid on account of secured claims pursuant to the plan less any of such amounts to be paid from sources other than the debtor's income, divided by the total months remaining of the plan; and

"(C) the average monthly payment on account of priority creditors, which shall be calculated as the total of all amounts then remaining to be paid on account of priority claims pursuant to the plan less any of such amounts to be paid from sources other than the debtor's income, divided by the total months remaining of the plan;";

(2) in section 104(b)(1) by striking "and 523(a)(2)(C)" and inserting "523(a)(2)(C), and 1325(b)(1)";

(3) by adding after section 110 the following:

"§111. Adjustment to monthly net income

"(a) Monthly net income for purposes of a plan under chapter 13 of this title shall be adjusted under this section when the debtor's extraordinary circumstances require adjustment as determined herein. Under this section, monthly net income shall be determined by subtracting

therefrom such loss of income or additional expenses as the debtor's extraordinary circumstances require as determined under this section. This section shall not apply unless—

"(1) the debtor files with the court and, in a case in which a trustee has been appointed, with the trustee at the times required in subsection (b) a statement of extraordinary circumstances as follows—

"(A) a written statement that this section applies in determining the debtor's monthly net income;

"(B) if applicable, an explanation of what income has been lost in the six months preceding the date of determination and any replacement income which has been secured or is expected, and an itemization of such lost and replacement income;

"(C) if applicable, a list itemizing each additional expense which exceeds the expense allowance provided in determining monthly net income under section 101(39A);

"(D) if applicable, a detailed description of the extraordinary circumstances which explains why each of the additional expenses itemized under paragraph (C) requires allowance; and

"(E) a sworn statement signed by the debtor and, if the debtor is represented by counsel, by the debtor's attorney, of the amount of monthly net income that the debtor has pursuant to this subsection and that the information provided under this subsection is true and correct; and

"(2) until the trustee or any party in interest objects to the debtor's request that this section be applied and the court rejects or modifies the debtor's statement, the monthly net income in the debtor's statement shall be the monthly net income for the purposes of the debtor's plan. If an objection is filed with the court within the times provided in subsection (b), the court, after notice and hearing, shall determine whether such extraordinary circumstances asserted by the debtor exist and establish the amount of the loss of income and such additional expense allowance, if any. The burden of proving such extraordinary circumstances and the amount of the loss of income and the additional expense allowance, if any, shall be on the debtor. The court may award to the party that prevails with respect to such objection a reasonable attorney's fee and costs incurred by the prevailing party in connection with such objection if the court finds that the position of the nonprevailing party was not substantially justified, but the court shall not award such fee or such costs if special circumstances make the award unjust.

"(b) For the purposes of chapter 13 of this title, the statement of extraordinary circumstances shall be filed with the court and served on the trustee on or before 45 days before each anniversary of the confirmation of the plan in order to be applicable during the next year of the plan. Any objection thereto shall be filed 30 days after the statement is filed with the trustee. Whenever a statement is timely filed with the trustee, the trustee shall give notice to creditors that such statement has been filed and the amount of monthly net income stated therein within 15 days of receipt of the statement.";

(4) in section 1322(a)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following:

"(4) state, under penalties of perjury, the amount of monthly net income, which may be as adjusted under section 111, if applicable, of this title and the amount of monthly net income which will be paid per month to unsecured nonpriority creditors under the plan."; and

(5) by amending section 1325(b)(1)(B) to read as follows:

"(B) the plan provides—

"(i) that payments to unsecured nonpriority creditors who are not insiders shall equal or exceed $50 in each month of the plan;

"(ii) that during the applicable commitment period beginning on the date that the first payment is due under the plan, the total amount of monthly net income received by the debtor shall be paid to unsecured nonpriority creditors under the plan less only payments pursuant to section 1326(b); the 'applicable commitment period' shall be not less than 5 years if the debtor's total current monthly income is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, is not less than the national median household income for 1 earner, as of the date of confirmation of the plan and shall be not less than 3 years if the debtor's total current monthly income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, is less than the national median household income for 1 earner, as of the date of confirmation of the plan;

"(iii) that the amount payable to each class of unsecured nonpriority claims under the plan shall be increased or decreased during the plan proportionately to the extent the debtor's monthly net income during the plan increases or decreases as reasonably determined by the trustee, subject to section 111 of this title, no less frequently than as of each anniversary of the confirmation of the plan based on monthly net income as of 45 days before such anniversary; and

"(iv) nothing in subparagraph (i) or (ii) shall prevent the payment of obligations described in section 507(a)(7) at the times provided for in the plan, and the plan shall specify how payments to other creditors under subparagraph (ii) will be accordingly adjusted."; and

(6) by striking section 1325(b)(2).

SEC. 103. DEFINITION OF INAPPROPRIATE USE.

Section 707(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) After notice and a hearing, the court—

"(A) on its own motion or on the motion of the United States trustee or any party in interest, shall dismiss a case filed by an individual debtor under this chapter; or

"(B) with the debtor's consent, convert the case to a case under chapter 13 of this title;

if the court finds that the granting of relief would be an inappropriate use of the provisions of this chapter.

"(2) The court shall determine that inappropriate use of the provisions of this chapter exists if—

"(A) the debtor is excluded from this chapter pursuant to section 109 of this title; or

"(B) the totality of the circumstances of the debtor's financial situation demonstrates such inappropriate use.

"(3) In the case of a motion filed by a party in interest other than the trustee or United States trustee under paragraph (1) that is denied by the court, the court shall award against the moving party a reasonable attorney's fee and costs that the debtor incurred in opposing the motion if the court finds that the position of the moving party was not substantially justified, but the court shall not award such fee and costs if special circumstances would make the award unjust.

"(4)(A) If a trustee appointed under this title or the United States Trustee files a motion under this subsection and the case is subsequently dismissed or converted to another chapter, the court shall award to such party in interest a reasonable attorney's fee and costs incurred in connection with such motion, payable by the debtor, unless the court finds that awarding such fee and costs would impose an unreasonable hardship on the debtor, considering the debtor's conduct.

"(B) The signature of the debtor's attorney on any petition, pleading, motion, or other paper filed with the court in the case of the debtor shall constitute a certificate that the attorney has—

"(i) performed a reasonable investigation into the circumstances that gave rise to the petition and its schedules and statement of financial affairs or the pleading, as applicable; and

"(ii) determined that the petition and its schedules and statement of financial affairs or the pleading, as applicable, including the choice of this chapter—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law and does not constitute an inappropriate use of the provisions of this chapter.

"(C) If the court finds that the attorney for the debtor signed a paper in violation of subparagraph (B), at a minimum, the court shall order—

"(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

"(ii) the payment of the civil penalty to the trustee or the United States Trustee.".

SEC. 104. DEBTOR PARTICIPATION IN CREDIT COUNSELING PROGRAM.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, as amended by section 102, is amended by adding at the end the following:

"(i)(1) Subject to paragraph (2) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 90-day period preceding the date of filing of the petition, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program offered through credit counseling services described in section 342(b)(2) that has been approved by—

"(A) the United States trustee; or

"(B) the bankruptcy administrator for the district in which the petition is filed.

"(2) The United States trustee or bankruptcy administrator may not approve a program for inclusion on the list under paragraph (1) unless the counseling service offering the program offers the program without charge, or at an appropriately reduced charge, if payment of the regular charge would impose a hardship on the debtor or the debtor's dependents.

"(3) The United States trustee or bankruptcy administrator shall designate any geographical areas in the United States trustee region or judicial district, as the case may be, as to which the United States trustee or bankruptcy administrator has determined that credit counseling services needed to comply with this subsection are not available or are too geographically remote for debtors residing within the designated geographical areas. The clerk of the bankruptcy court for each judicial district shall maintain a list of the designated areas within the district.

"(4) The clerk shall exclude a particular counseling service from the list maintained under section 342(b)(2) of this title if the United States trustee or bankruptcy administrator orders that the counseling service not be included in the list.

"(5) The court may waive the requirement specified in paragraph (1) if—

"(A) no credit counseling services are available as designated under paragraphs (2) and (3);

"(B) the providers of credit counseling services available in the district are unable or unwilling to provide such services to the debtor in a timely manner; or

"(C) foreclosure, garnishment, attachment, eviction, levy of execution, or similar claim enforcement procedure that would have deprived

the individual of property had commenced before the debtor could complete a good-faith attempt to create such a repayment plan.

"(6) A debtor who is subject to the exemption under paragraph (5)(C) shall be required to make a good-faith attempt to create a debt repayment plan outside the judicial system in the manner prescribed in paragraph (1) during the 30-day period beginning on the date of filing of the petition of that debtor.

"(7) A debtor shall be exempted from the bad faith presumption for repeat filing under section 362(c) of title 11 if the case is dismissed due to the creation of a debt repayment plan.

"(8) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 406 and 407, is amended by adding at the end the following:

"(g)(1) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

"(A) a certificate from the credit counseling services that provided the debtor services under section 109(i), or a verified statement as to why such attempt was not required under section 109(i) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(i); and

"(B) a copy of the debt repayment plan, if any, developed under section 109(i) through the credit counseling service referred to in paragraph (1).

"(2) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.".

Subtitle B—Adequate Protections for Consumers

SEC. 111. NOTICE OF ALTERNATIVES.

(a) Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the individual shall be given or obtain (as required to be certified under section 521(a)(1)(B)(viii)) a written notice that is prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28 and that contains the following:

"(A) A brief description of chapters 7, 11, 12 and 13 of this title and the general purpose, benefits, and costs of proceeding under each of such chapters.

"(B) A brief description of services that may be available to the individual from an independent nonprofit debt counselling service.

"(C) The name, address, and telephone number of each nonprofit debt counselling service (if any)—

"(i) with an office located in the district in which the petition is filed; or

"(ii) that offers toll-free telephone communication to debtors in such district.

"(2) Any such nonprofit debt counselling service that registers with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in such list unless the chief bankruptcy judge of the district, after notice to the debt counselling service and the United States trustee and opportunity for a hearing, for good cause, orders that such debt counselling service shall not be so listed.

"(3) The clerk shall make such notice available to individuals whose debts are primarily consumer debts.".

(b) Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) in paragraph (6) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) on or before January 1 of each calendar year, and also within 30 days of any change in the nonprofit debt counselling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(1) of title 11 for each district included in the region.".

SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 60 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(3) The bankruptcy courts in each of such districts may require individual debtors in such cases to undergo such financial management training as a condition to receiving a discharge in such case.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 113. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

"(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;"; and

(3) by inserting after paragraph (12A) the following:

"(12B) 'debt relief counselling agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

"(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

"(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;".

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting "101(3)," after "sections".

SEC. 114. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§526. Disclosures

"(a) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

"(1) the written notice required under section 342(b)(1) of this title; and

"(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief counselling agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

"(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

"(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly total income, projected monthly net income and, in a chapter 13 case, monthly net income must be stated after reasonable inquiry; and

"(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

"(b) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY

OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a "trustee" and by creditors.

"'If you select a chapter 7 proceeding, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so.

"'If you select a chapter 13 proceeding in which you repay your creditors what you can afford over three to seven years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.'

"'If you select another type of proceeding under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of proceeding.

"'Your bankruptcy proceeding may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can represent you in litigation.'.

"(c) Except to the extent the debt relief counselling agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly total income, projected monthly income and, in a chapter 13 case, net monthly income, and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

"(d) A debt relief counselling agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the later of the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

"526. Disclosures.".

SEC. 115. DEBTOR'S BILL OF RIGHTS.

(a) DEBTOR'S BILL OF RIGHTS.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 114, is amended by adding at the end the following:

"§527. Debtor's bill of rights

"(a) A debt relief counselling agency shall—

"(1) no later than three business days after the first date on which a debt relief counselling agency provides any bankruptcy assistance services to an assisted person, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

"(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

"(3) if an advertisement directed to the general public indicates that the debt relief counselling agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: "We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code." or a substantially similar statement.

"(b) A debt relief counselling agency shall not—

"(1) fail to perform any service which the debt relief counseling agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue or misleading or which upon the exercise of reasonable care, should be known by the debt relief counselling agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief counselling agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by section 114, is amended by inserting after the item relating to section 526, the following:

"527. Debtor's bill of rights.".

SEC. 116. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by adding at the end the following:

"§528. Debt relief counselling agency enforcement

"(a) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 of this title shall be void and may not be enforced by any Federal or State court or any other person.

"(b) NONCOMPLIANCE.—

"(1) Any contract between a debt relief counselling agency and an assisted person for bankruptcy assistance which does not comply with the requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

"(2) Any debt relief counselling agency which has been found, after notice and hearing, to have—

"(A) failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted in lieu of dismissal under section 707 of this title or because of a failure to file bankruptcy papers, including papers specified in section 521 of this title; or

"(C) negligently or intentionally disregarded the requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief counselling agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief counselling agency has already been paid on account of that proceeding and if the case has not been closed, the court may in addition require the debt relief counselling agency to continue to provide bankruptcy assistance services in the pending case to the assisted person without further fee or charge or upon such other terms as the court may order.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States

Code, as amended by sections 114 and 115, is amended by inserting after the item relating to section 527, the following:

"528. Debt relief counselling agency enforcement.".

SEC. 117. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 118. CHARITABLE CONTRIBUTIONS.

(a) DEFINITIONS.—Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

"(3) In this section, the term 'charitable contribution' means a charitable contribution as defined in section 170(c) of the Internal Revenue Code of 1986, if such contribution—

"(A) is made by a natural person; and

"(B) consists of—

"(i) a financial instrument (as defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

"(ii) cash.

"(4) In this section, the term 'qualified religious or charitable entity or organization' means—

"(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

"(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.".

(b) TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(1) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "(1) made" and inserting "(A) made";

(C) by striking "(2)(A)" and inserting "(B)(i)";

(D) by striking "(B)(i)" and inserting "(ii)(I)";

(E) by striking "(ii) was" and inserting "(II) was";

(F) by striking "(iii)" and inserting "(III)"; and

(G) by adding at the end the following:

"(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

"(A) the amount of such contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

"(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.".

(2) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(A) by striking "(b) The trustee" and inserting "(b)(1) Except as provided in paragraph (2), the trustee"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as defined in section 548(d)(3) of this title) that is not covered under section 548(a)(1)(B) of this title by reason of section 548(a)(2) of this title. Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.".

(3) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(ii) by striking "548(a)(1)" and inserting "548(a)(1)(A)";

(B) in subsection (f)—

(i) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(ii) by striking "548(a)(1)" and inserting "548(a)(1)(A)"; and

(C) in the first subsection (g)—

(i) by striking "section 548(a)(1)" and inserting "section 548(a)(1)(A)"; and

(ii) by striking "548(a)(2)" and inserting "548(a)(1)(B)".

(c) TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS UNDER CHAPTER 7.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

"(c) In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as defined in section 548(d)(4)).".

(d) TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS UNDER CHAPTER 13.—Section 111 of title 11, United States Code, as added by section 102, is amended by adding at the end the following:

"(c) For purposes of subsection (a), charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (defined in section 548(d)(4)), but not to exceed 15 percent of the debtor's gross income for the year in which such contributions are made, shall be considered to be additional expenses of the debtor required by extraordinary circumstances.".

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

SEC. 119. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court",

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915", and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

(b) PROTECTION OF RETIREMENT FUNDS IN BANKRUPTCY.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A) by striking "and" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) retirement funds to the extent exempt from taxation under section 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(2) in subsection (d) by adding at the end the following:

"(12) Retirement funds to the extent exempt from taxation under 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(c) EFFECTIVE PROTECTION FOR UTILITY SERVICE IN THE WAKE OF DEREGULATION.—Section 366 of title 11, United States Code, is amended by adding at the end the following:

"(c) For the purposes of this section, the term 'utility' includes any provider of gas, electric, telephone, telecommunication, cable television, satellite communication, water, or sewer service, whether or not such service is a regulated monopoly.".

SEC. 119A. CHAPTER 11 DISCHARGE OF DEBTS ARISING FROM TOBACCO-RELATED DEBTS.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

"(5) The confirmation of a plan does not discharge a debtor that is a corporation from any debt arising from a judicial, administrative, or other action or proceeding that is—

"(A) related to the consumption or consumer purchase of a tobacco product; and

"(B) based in whole or in part on false pretenses, a false representation, or actual fraud.".

Subtitle C—Adequate Protections for Secured Creditors

SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of that debtor was pending within the previous 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title, the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case. If a party in interest requests, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) as to all creditors if—

"(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

"(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

"(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of that creditor.

"(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of that debtor were pending within the previous year

but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) as to all creditors if—

"(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of that creditor.

"(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and such request is granted in whole or in part, the court may order in addition that the relief so granted shall be in rem either for a definite period not less than 1 year or indefinitely. After the issuance of such an order, the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor under this title. If such an order so provides, such stay shall also not apply in any pending or later-filed case of any entity under this title that claims or has an interest in the subject property other than those entities identified in the court's order.

"(B) The court shall cause any order entered pursuant to this paragraph with respect to real property to be recorded in the applicable real property records, which recording shall constitute notice to all parties having or claiming an interest in such real property for purpose of this section.

"(6) For the purposes of this section, a case is pending from the time of the order for relief until the case is closed.".

SEC. 122. DEFINITION OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

"(27A) 'household goods' has the meaning given such term in the Trade Regulation Rule on Credit Practices promulgated by the Federal Trade Commission (16 C.F.R. 444.1(i)), as in effect on the effective date of this paragraph;".

SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking "and" at the end;

(B) in paragraph (5) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 30 days after the first meeting of creditors under section 341(a)—

"(A) enters into a reaffirmation agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

"If the debtor fails to so act within the 30-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate."; and

(2) in section 722 by inserting "in full at the time of redemption" before the period at the end.

SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking "(e), and (f)" in subsection (c) and inserting in lieu thereof "(e), (f), and (h)"; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

"(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

"(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.";

(2) in section 521, as amended by sections 104, 406, and 407—

(A) in paragraph (2) by striking "consumer";

(B) in paragraph (2)(B)—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a)"; and

(ii) by striking "forty-five day" the second place it appears and inserting "30-day";

(C) in paragraph (2)(C) by inserting "except as provided in section 362(h)" before the semicolon; and

(D) by adding at the end the following:

"(h) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended by inserting at the end the following:

"Notwithstanding the foregoing, in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate 60 days after a request under subsection (d) of this section, unless—

"(1) a final decision is rendered by the court within such 60-day period; or

"(2) such 60-day period is extended either by agreement of all parties in interest or by the court for a specific time which the court finds is required by compelling circumstances.".

SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) by striking in subparagraph (B) "in the converted case, with allowed secured claims" and inserting in lieu thereof "only in a case converted to chapter 11 or 12 but not in one converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(2) in subparagraph (A) by striking "and" at the end;

(3) in subparagraph (B) by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter of this title. Unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED CREDIT.

Section 506 of title 11, United States Code, is amended by adding at the end the following:

"(e) In an individual case under chapter 7, 11, 12, or 13—

"(1) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 180 days of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

"(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

"(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

"(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3).".

SEC. 129. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following: "In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.".

SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED BY DEBTOR'S PRINCIPAL RESIDENCE.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;

"(13B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;";

(2) in section 362(b)—

(A) in paragraph (17) by striking "or" at the end thereof;

(B) in paragraph (18) by striking the period at the end and inserting "; or"; and

(C) by inserting after paragraph (18) the following:

"(19) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title case by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a)."; and

(3) by amending section 1322(b)(2) to read as follows:

"(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;".

SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.

Section 1110(a)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "that become due on or after the date of the order";

(2) in subparagraph (B)—

(A) in clause (i) by striking "and" at the end; and

(B) in clause (ii)—

(i) by inserting "and within such 60-day period" after "order"; and

(ii) in subclause (II) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) that occurs after the date of the order and such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract.".

Subtitle D—Adequate Protections for Unsecured Creditors

SEC. 141. DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) Priority of Claims for Debts Incurred To Pay Nondischargeable Debts.—Section 507(a) of title 11, United States Code, is amended by adding at the end the following:

"(10) Tenth, remaining allowed unsecured claims for debts that are nondischargeable under section 523(a)(19), but which shall be payable under this paragraph in the higher order of priority (if any) as the respective claims paid by incurring such debts.".

(b) Nondischargeability of Debts Incurred To Pay Nondischargeable Debts.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking "or" at the end;

(2) in paragraph (18) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(19) incurred to pay a debt that is nondischargeable under any other paragraph of this subsection.".

SEC. 142. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C) for purposes of subparagraph (A), consumer debts owed to a single creditor incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable, except that such presumption shall not apply to consumer debts owed to a single creditor which are incurred for necessaries and aggregate $250 or less.".

SEC. 143. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.

Section 1328(a)(2) of title 11, United States Code, is amended—

(1) by inserting "(2), (3)(B), (4)," after "paragraph"; and

(2) by inserting "(6)," after "(5),".

SEC. 144. APPLYING THE CODEBTOR STAY ONLY WHEN IT PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) When the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) does not apply to such creditor, notwithstanding subsection (c), to the extent the creditor proceeds against the individual which received such consideration or against property not in the possession of the debtor which secures such claim, but this subsection shall not apply if the debtor is primarily obligated to pay the creditor in whole or in part with respect to the claim under a legally binding separation agreement, or divorce or dissolution decree, with respect to such individual or the person who has possession of such property.

"(3) When the debtor's plan provides that the debtor's interest in personal property subject to a lease as to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease, the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan notwithstanding subsection (c).".

SEC. 145. CREDIT EXTENSIONS WITHOUT A REASONABLE EXPECTATION OF REPAYMENT MADE NONDISCHARGEABLE.

Section 523(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "or actual fraud," and inserting "actual fraud, or use of a credit or charge card or other device to access a credit line without a reasonable expectation or ability to repay unless access to such credit, credit or charge card or other device to access the credit line was extended without an application therefor and reasonable evaluation of the debtor's ability to repay,", and

(2) in subparagraph (B)(iv) by striking "with intent to deceive" and inserting "without taking reasonable steps to ensure the accuracy of the statement".

SEC. 146. DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) Nondischargeability.—Title 11, United States Code, is amended—

(1) in section 523(a)(18)—

(A) by inserting "(including interest)" after "law"; and

(B) in subparagraph (A) by striking "and" at the end and inserting "or"; and

(2) in section 1328(a)(2) by striking "or (9)" and inserting "(9), or (18)".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by section 130, is amended—

(1) in paragraph (19) by striking "or" at the end;

(2) in paragraph (19) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(20) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act; or

"(21) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law as specified in section 466(a)(15) of the Social Security Act or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act.".

(c) Continued Liability of Property.—Section 522(c) of title 11, United States Code, is amended by striking "section 523(a)(1) or 523(a)(5)" and inserting "paragraph (1), (5), or (18) of section 523(a)".

(d) PRIORITY OF CLAIMS.—Section 507(a) of title 11, United States Code, as amended by section 141, is amended—

(1) in paragraph (10) by striking "(10) Tenth" and inserting "(11) Eleventh";

(2) in paragraph (9) by striking "(9) Ninth" and inserting "(10) Tenth";

(3) in paragraph (8) by striking "(8) Eighth " and inserting "(9) Ninth"; and

(4) by inserting after paragraph (7) the following:

"(8) Eighth, allowed unsecured claims for debts that are nondischargeable under section 523(a)(18).".

(e) CONFIRMATION OF PLANS.—Title 11 of the United States Code is amended—

(1) in section 1129(a) by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.";

(2) in section 1225(a)—

(A) in paragraph (5) by striking "and" at the end;

(B) in paragraph (6) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed."; and

(3) in section 1325(a)—

(A) in paragraph (5) by striking "and" at the end;

(B) in paragraph (6) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.".

(f) DISCHARGE.—Title 11 United States Code is amended—

(1) in section 1228(a) by inserting "and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid," after "this title,"; and

(2) in section 1328(a) by inserting "and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid," after "plan," the 1st place it appears.

(g) CONFORMING AMENDMENTS.—Section 456(b) of the Social Security Act (42 U.S.C. 656(b)) is amended—

(1) by inserting ", including interest," after "Code)";

(2) by striking "and" and inserting "or"; and

(3) by striking "released by a discharge" and inserting "dischargeable".

SEC. 147. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523(a)(5) of title 11, United States Code, is amended to read as follows:

"(5) to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney);".

SEC. 148. OTHER EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) by striking subsection (a)(15), as added by section 304(e)(1) of Public Law 103–394;

(2) in subsection (a)(7) by inserting "(including property or funds required to be disgorged)" after "penalty"; and

(3) in subsection (c)(1) by striking "(6), or (15)" and inserting "or (6)".

SEC. 149. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

(a) EXCEPTION TO DISCHARGE.—Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the 1st place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the 1st place it appears; and

(4) by striking "but only" and all that follows through "such period,", and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

(b) EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, as amended by section 161, is amended by adding at the end the following:

"(q) A debt of a kind described in section 523(a)(16) of this title shall not be considered to be a debt arising from an executory contract."

SEC. 150. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) AMENDMENT.—Title 11 of the United States Code, as amended by section 116, is amended by inserting after section 528 the following:

"§529. Protection of child support and alimony payments after the discharge

"Notwithstanding the provisions of the constitution or law of any State providing a different priority, any debts of the individual who has received a discharge under this title to a spouse, former spouse, or child for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(1) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(2) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support,

shall have priority in payment and collection over a creditor's claim which is not discharged in the individual's case pursuant to paragraph (2), (4), or (14) of section 523(a) of this title, but such priority shall not affect the priority of any consensual lien, mortgage, or security interest securing such creditor's claim.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, as amended by section 116, is amended by inserting after the item relating to section 528 the following:

"529. Protection of child support and alimony.".

SEC. 151. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 130 and 146, is amended—

(1) in paragraph (20) by striking "or" at the end;

(2) in paragraph (21) by striking the period at the end and a inserting "; or"; and

(3) by adding at the end the following:

"(22) under subsection (a) of this section, of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.".

Subtitle E—Adequate Protections for Lessors

SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

"(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the lessor. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

SEC. 162. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.

Title 11, United States Code, is amended by adding after section 1307 the following:

"§ 1307A. Adequate protection in chapter 13 cases

"(a)(1) On or before 30 days after the filing of a case under this chapter, the debtor shall make cash payments in the amount described below to any lessor of personal property and to any creditor holding a claim secured by personal property to the extent such claim is attributable to the purchase of such property by the debtor. The debtor or the plan shall continue such payments until the earlier of—

"(A) the time at which the creditor begins to receive actual payments under the plan; or

"(B) the debtor relinquishes possession of such property to the lessor or creditor, or to any third party acting under claim of right, as applicable.

"(2) Such cash payments shall be in the amount of any weekly, biweekly, monthly or other periodic payment scheduled as payable under the contract between the debtor and creditor; shall be paid at the times at which such payments are scheduled to be made; and shall not include any arrearages, penalties, or default or delinquency charges. Such payments shall be deemed to be adequate protection payments under section 362 of this title.

"(b) The court may, after notice and hearing, change the amount and timing of the adequate protection payment under subsection (a), but in no event shall it be payable less frequently than monthly or in an amount less than the reasonable depreciation of such property month to month.

"(c) Notwithstanding section 1326(b) of this title, if a confirmed plan provides for payments to a creditor or lessor described in subsection (a) and provides that payments to such creditor or lessor under the plan will be deferred until payment of amounts described in section 1326(b) of this title, the payments required hereunder shall nonetheless be continued in addition to plan payments until actual payments to the creditor begin under the plan.

"(d) Notwithstanding sections 362, 542, and 543 of this title, a lessor or creditor described in subsection (a) may retain possession of property described in subsection (a) which was obtained rightfully prior to the date of filing of the petition until the first such adequate protection payment is received by the lessor or creditor. Such retention of possession and any acts reasonably related thereto shall not violate the stay imposed under section 362(a) of this title, nor any obligations imposed under section 542 or 543 of this title.

"(e) On or before 60 days after the filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of that property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

SEC. 163. ADEQUATE PROTECTION FOR LESSORS.

Section 362(b)(10) of title 11, United States Code, is amended by striking "nonresidential".

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8) by striking "six" and inserting "10"; and

(2) in section 1328 by adding at the end the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 of this title if the debtor has received a discharge in any case filed under this title within 5 years of the order for relief under this chapter.".

Subtitle G—Exemptions

SEC. 181. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking "180" and inserting "365"; and

(2) by striking ", or for a longer portion of such 180-day period than in any other place".

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting "subject to subsection (n)," before "any property"; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any interest to the extent that such interest exceeds $100,000 in value, in the aggregate, in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor.

"(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.".

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAMINERS.

Section 330 of title 11, United States Code, is amended by adding at the end the following:

"(e) The court may not appoint any person to examine any request for compensation or reimbursement payable under this section.".

SEC. 202. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

SEC. 203. CHAPTER 12 MADE PERMANENT LAW.

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note) is repealed.

SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) The court on its own motion or on request of a party in interest, and after notice and a hearing, may order a change in membership of a committee appointed under subsection (a) if necessary to ensure adequate representation of creditors or of equity security holders.".

SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 207. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (7) by striking "or" at the end;

(3) in paragraph (8) by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5000.".

SEC. 208. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 209. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (1), on"; and

(2) by adding at the end the following:

"(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 12.

(a) EXTENSION OF PERIOD.—Section 1221 of title 11, United States Code, is amended by inserting "to any period not later than 150 days after the order for relief" after "period".

(b) RELIEF FROM THE STAY.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against property under subsection (a) of a debtor in a case under chapter 12, by a creditor whose claim is secured by an interest in such property, unless the debtor has filed a plan in accordance with section 1221.".

(c) SPECIAL TREATMENT OF SECURED CLAIMS.—(1) Chapter 12 of title 11, United States Code, is amended by inserting after section 1231 the following:

"§ 1232. Special treatment of secured claims

"(a)(1) A claim secured by a lien on property of the estate shall be allowed or disallowed *under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder has such recourse, unless—*

''(A) subject to paragraph (2), the holder of such claim elects to apply subsection (b); or

''(B) such holder does not have such recourse, and such property is sold under section 363 of this title or is to be sold under the plan.

''(2) A holder of a claim may not elect to apply subsection (b) if—

''(A) such claim is of inconsequential value; or

''(B) the holder of a claim has recourse against the debtor on account of such claim, and such property is sold under section 363 of this title or is to be sold under the plan.

''(b) If such an election is made to apply this subsection, then notwithstanding section 506(a) of this title, such claim is a secured claim to the extent such claim is allowed.''.

(2) The table of sections of chapter 12 of title 11, United States Code, is amended by inserting after the item relating to section 1231 the following:

''1232. Special treatment of secured claims.''.

SEC. 211. CASES ANCILLARY TO FOREIGN PROCEEDINGS INVOLVING FOREIGN INSURANCE COMPANIES THAT ARE ENGAGED IN THE BUSINESS OF INSURANCE OR REINSURANCE IN THE UNITED STATES.

Section 304 of title 11, United States Code, is amended—

(1) in subsection (b) by striking ''provisions of subsection (c)'' and inserting ''subsections (c) and (d)''; and

(2) by adding at the end the following:

''(d) The court may not grant to a foreign representative of the estate of an insurance company that is not organized under the law of a State and that is engaged in the business of insurance, or reinsurance, in the United States relief under subsection (b) with respect to property that is—

''(1) a deposit required by a State law relating to insurance or reinsurance;

''(2) a multibeneficiary trust required by a State law relating to insurance or reinsurance to protect holders of insurance policies issued in the United States or to protect holders or claimants against such policies; or

''(3) a multibeneficiary trust authorized by a State law relating to insurance or reinsurance to allow a person engaged in the business of insurance in the United States—

''(A) to cede reinsurance to such an insurance company; and

''(B) to treat so ceded reinsurance as an asset, or deduction from liability, in financial statements of such person.''.

SEC. 212. REJECTION OF EXECUTORY CONTRACTS AFFECTING INTELLECTUAL PROPERTY RIGHTS TO RECORDINGS OF ARTISTIC PERFORMANCE.

Section 365(n) of title 11, United States Code, is amended at the end the following:

''(5) The rejection by the trustee of an executory contract affecting the intellectual property rights to recordings of artistic performance shall not in any way diminish or impair any applicable nonbankruptcy law rights to enforce noncompetition provision or provisions regarding the rendering of exclusive services as a performing artist that may be contained in such contracts, except that such enforcement shall be subject to the nondebtor party providing to the debtor notice of an offer to perform the contract under all of its original terms. The rights to enforce such noncompetition or exclusivity provision shall not be treated as claims that can be discharged under this title.''.

SEC. 213. UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before the earlier of (A) 120 days after the date of the order for relief, or (B) the entry of an order confirming a plan, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor but in no event shall such time period exceed 120 days. Notwithstanding the immediately preceding sentence, and provided no plan has been confirmed, upon debtor's motion, and after notice and a hearing, the court may within such 120-day period extend the 120-day period by a period not to exceed 150 days, contingent upon written consent of the affected lessor or with the approval of the court, and provided trustee has timely performed all post-petition lease obligations, but in no circumstance shall such period extend beyond the earlier of (i) 270 days from the date of the order for relief or (ii) the entry of an order approving a disclosure statement, without the consent of the lessor.''.

SEC. 214. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

SEC. 231. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor' means—

''(A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $5,000,000 (excluding debts owed to 1 or more affiliates or insiders); or

''(B) a debtor of the kind described in paragraph (51B) but without regard to the amount of such debtor's debts;

except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $5,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

(b) Conforming Amendment.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125(f) of title 11, United States Code, is amended to read as follows:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

''(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND PLANS.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101) of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) Reporting Required.—(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

''§308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) Effective Date.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 235. UNIFORM REPORTING RULES AND FORMS.

After consultation with the Director of the Executive for United States Trustees and with the

Judicial Conference of the United States, the Attorney General of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to comply with section 308 of title 11, United States Code, as added by section 234 of this Act to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors in cases under such title.

SEC. 236. DUTIES IN SMALL BUSINESS CASES.

(a) Duties in Chapter 11 Cases.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

"§1115. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns;

"(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

"(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units; and

"(7) allow the United States trustee or bankruptcy administrator, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) Technical Amendment.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

"1115. Duties of trustee or debtor in possession in small business cases.".

SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless shortened on request of a party in interest made during the 90-day period, or unless extended as provided by this subsection, after notice and hearing the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) of this title, within which the plan shall be confirmed may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 238. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.".

SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.".

SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR.

(a) Duties of the United States Trustee.—Section 586(a) of title 28, United States Code, as amended by section 111, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;",

(2) in paragraph (6) by striking "and" at the end,

(3) in paragraph (7) by striking the period at the end and inserting "; and", and

(4) by inserting after paragraph (7) the following:

"(8) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

"(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns;

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(D) in cases where the United States trustee finds material grounds for any relief under section 1112 of title 11 move the court promptly for relief.".

(b) Duties of the Bankruptcy Administrator.—In a small business case (as defined in section 101 of title 11 of the United States Code), the bankruptcy administrator shall perform the duties specified in section 586(a)(6) of title 28 of the United States Code.

SEC. 241. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking ", may";

(2) by amending paragraph (1) to read as follows:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and"; and

(3) in paragraph (2) by striking "unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure," and inserting "may".

SEC. 242. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (i) as so redesignated by section 124—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages."; and

(2) by inserting after subsection (i), as redesignated by section 124, the following:

"() The filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

"(1) is a debtor in a small business case pending at the time the petition is filed;

"(2) was a debtor in a small business case which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(3) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C) unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.".

SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) Expanded Grounds for Dismissal or Conversion.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes, by a preponderance of the evidence that—

"(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

"(B) if the reason is an act or omission of the debtor that—

"(i) there exists a reasonable justification for the act or omission; and

"(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

"(3) For purposes of this subsection, cause includes—

"(A) substantial or continuing loss to or diminution of the estate;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance;

"(D) unauthorized use of cash collateral harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

"(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or of a modified plan under section 1129 of this title;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan; and

"(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

"(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end;

(2) in paragraph (2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112 of this title, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.".

CHAPTER 2—SINGLE ASSET REAL ESTATE

SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.

Section 101(51B) of title 11, United States Code, is amended to read as follows:

"(51B) 'single asset real estate' means undeveloped real property or other real property constituting a single property or project, other than residential real property with fewer than 4 residential units, on which is located a single development or project which property or project generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor, or by a commonly controlled group of entities all of which are concurrently debtors in a case under chapter 11 of this title, other than the business of operating the real property and activities incidental thereto;".

SEC. 252. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by amending subparagraph (B) to read as follows:

"(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by amending the last sentence to read as follows:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS BEFORE THE MEETING OF CREDITORS IN INDIVIDUAL CASES.

Section 341(a) of title 11, United States Code, is amended by inserting after the first sentence the following: "If the debtor is an individual in a voluntary case under chapter 7, 11, or 13, the meeting of creditors shall not be convened earlier than 60 days (or later than 90 days) after the date of the order for relief, unless the court, after notice and hearing, determines unusual circumstances justify an earlier meeting.".

SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: "Notwithstanding any local court rule, provision of a State constitution, any other State or Federal nonbankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or its representatives (which representatives may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13 either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 403. FILING PROOFS OF CLAIM.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case under chapter 7 or 13, a proof of claim or interest is deemed filed under this section for any claim or interest that appears in the schedules filed under section 521(a)(1) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.".

SEC. 404. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, as amended by sections 111 and 240, is amended—

(1) by amending subsection (a)(6) to read as follows:

"(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f),";

(2) by inserting at the end the following:

"(f)(1) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322, and, if applicable, section 111, of title 11 in individual cases filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Such procedures shall—

"(A) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform such audits;

"(B) establish a method of randomly selecting cases to be audited according to generally accepted audit standards, provided that no less than 1 out of every 100 cases in each Federal judicial district shall be selected for audit;

"(C) require audits for schedules of income and expenses which reflect higher than average variances from the statistical norm of the district in which the schedules were filed;

"(D) establish procedures for reporting the results of such audits and any material misstatement of income, expenditures or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate, and for providing public information no less than annually on the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

"(E) establish procedures for fully funding such audits.

"(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

"(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things or property belonging to the debtor as the auditor requests and which are reasonably necessary to facilitate an audit to be made available for inspection and copying.

"(4) The report of each such audit shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1). If a material misstatement of income or expenditures or of assets is reported, a statement specifying such misstatement shall be filed with the court and

the United States trustee shall give notice thereof to the creditors in the case and, in an appropriate case, in the opinion of the United States trustee, requires investigation with respect to possible criminal violations, the United States Attorney for the district.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of the enactment of this Act.

SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(B) by adding the following at the end: "If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324.";

(2) by adding at the end the following:

"(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

"(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

"(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.".

SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The";

(2) by amending paragraph (1) to read as follows:

"(1) file—

"(A) a list of creditors, and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs;

"(iv) copies of all payment invoices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

"(v) a statement of the amount of projected monthly net income, itemized to show how calculated;

"(vi) if applicable, any statement under paragraphs (3) and (4) of section 109(h);

"(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12 months; and

"(viii) a certificate, if applicable—

"(I) of an attorney whose name is on the petition as the attorney for the debtor, or of any bankruptcy petition preparer who signed the petition pursuant to section 110(b)(1) of this title, indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b)(1) of this title; or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition of the debtor, that such notice was obtained and read by the debtor;"; and

(3) by adding at the end the following:

"(b) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor notice that the creditor requests the petition, schedules, and statement of financial affairs filed by the debtor in the case. At any time, a creditor in a case under chapter 13 of this title may file with the court and serve on the debtor notice that the creditor requests the plan filed by the debtor in the case. Within 10 days of the first such request in a case under this subsection for the petition, schedules, and statement of financial affairs and the first such request for the plan under this subsection, the debtor shall serve on that creditor a confirmed copy of the requested documents or plan and any amendments thereto as of that date, and shall thereafter promptly serve on that creditor at the time filed with the court—

"(1) any requested document or plan which is not filed with the court at the time requested; and

"(2) any amendment to any requested document or plan.

"(c)(1) An individual debtor in a case under chapter 7 or 13 shall provide to the United States trustee—

"(A) copies of all Federal tax returns (including any schedules and attachments) filed by the debtor for the 3 most recent tax years preceding the order for relief;

"(B) at the time the debtor files them with the Commissioner of Internal Revenue, all Federal tax returns (including any schedules and attachments) for the debtor's tax years ending while such case is pending; and

"(C) at the time the debtor files them with the Commissioner of Internal Revenue, all amendments to the tax returns (including schedules and attachments) described in subparagraphs (A) and (B).

"(2)(A) The United States trustee shall make such Federal tax returns (including schedules, attachments, and amendments) available to any party in interest for inspection and copying not later than 10 days after receiving a request by such party.

"(B) If the United States trustee does not comply with subparagraph (A), on the motion of such party, the court shall issue an order compelling the United States trustee to comply with subparagraph (A).

"(d) A debtor in a case under chapter 13 of this title shall file, from a time which is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief unless a plan has then been confirmed, and thereafter on or before 45 days before each anniversary of the confirmation of the plan until the case is closed, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly net income, showing how calculated. Such statement shall disclose the amount and sources of income of the debtor, the identity of any persons responsible with the debtor for the support of any dependents of the debtor, and any persons who contributed and the amount contributed to the household in which the debtor resides. Such tax returns, amendments and statement of income and expenditures shall be available to the United States trustee, any bankruptcy administrator, any trustee and any party in interest for inspection and copying.".

SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 406, is amended by adding at the end the following:

"(e) Notwithstanding section 707(a) of this title, if an individual debtor in a voluntary case under chapter 7 or 13 fails to provide all of the information required under subsections (a)(1) and (c)(1)(A) within 45 days after the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the filing of the petition without the need for any order of court, but any party in interest may request the court to enter an order dismissing the case and the court shall, if so requested, enter an order of dismissal within 5 days of such request. Upon request of the debtor made within 45 days after the filing of the petition, the court may allow the debtor up to an additional 15 days to provide the information required under subsections (a)(1) and (c)(1)(A) if the court finds compelling justification for doing so.

"(f) If an individual debtor in a case under chapter 7 or 13 fails to perform any of the duties imposed by subsections (b), (c)(1)(B), (c)(1)(C), and (d), any party in interest may request that the court order the debtor to comply. Within 10 days of such request the court shall order that the debtor do so within a period of time set by the court no longer than 30 days. If the debtor does not comply with that order within the period of time set by the court, the court shall, on request of any party in interest certifying that the debtor has not so complied, enter an order dismissing the case within 5 days of such request.".

SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.".

SEC. 409. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d) If the total current monthly income of the debtor and in a joint case, the debtor and

the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 5 years, unless the court, for cause, approves a longer period, but the court may not approve a period that exceeds 7 years. If the total current monthly income of the debtor or in a joint case, the debtor and the debtor's spouse combined, is less than the highest national median family income reported for a family of equal or lesser size, or in the case of a household of 1 person less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1329—

(A) by striking in subsection (c) "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)(ii)" and by striking "five years" and inserting "maximum duration period"; and

(B) by inserting at the end of subsection (c) the following:

"The maximum duration period shall be 5 years if the total current monthly income of the debtor, and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, as of the date of the modification and shall be 3 years if the total current monthly income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, less than the national median household income for 1 earner as of the date of the modification.".

SEC. 410. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 411. JURISDICTION OF COURTS OF APPEALS.

(a) JURISDICTION.—Title 28 of the United States Code is amended—

(1) by striking section 158;

(2) by inserting after section 1292 the following:

"§ 1293. Bankruptcy appeals

"The courts of appeals (other the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

"(1) Final orders and judgments of bankruptcy courts entered under—

"(A) section 157(b) of this title in core proceedings arising under title 11, or arising in or related to a case under title 11; or

"(B) section 157(c)(2) of this title in proceedings referred to such courts.

"(2) Final orders and judgments of district courts entered under section 157 of this title in—

"(A) core proceedings arising under title 11, or arising in or related to a case under title 11; or

"(B) proceedings that are not core proceedings, but that are otherwise related to a case under title 11.

"(3) Orders and judgments of bankruptcy courts or district courts entered under section 105 of title 11, or the refusal to enter an order or judgment under such section.

"(4) Orders of bankruptcy courts or district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

"(5) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if—

"(A) such court is of the opinion that—

"(i) such order involves a controlling question of law as to which there is substantial ground for difference of opinion; and

"(ii) an immediate appeal from such order may materially advance the ultimate termination of such case or such proceeding; or

"(B) the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order."; and

(3) in—

(A) the table of sections for chapter 6 by striking the item relating to section 158; and

(B) the table of sections for chapter 83 by inserting after the item relating to section 1292 the following:

"1293. Bankruptcy appeals.".

(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of title 11, the United States Code, is amended by striking "158(d), 1291, or 1292" and inserting "1291, 1292, or 1293".

(2) Title 28, United States Code, is amended—

(A) in subsections (b)(1) and (c)(2) of section 157 by striking "section 158" and inserting "section 1293";

(B) in section 1334(d) by striking "158(d), 1291, or 1292" and inserting "1291, 1292, or 1293"; and

(C) in section 1452(b) by striking "158(d), 1291, or 1292" and inserting "1291, 1292, or 1293".

SEC. 412. ESTABLISHMENT OF OFFICIAL FORMS.

The Judicial Conference of the United States shall establish official forms to facilitate compliance with the amendments made by sections 101 and 102.

SEC. 413. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking "until the case is converted or dismissed, whichever occurs first", and

(2) in the 2d sentence—

(A) by striking "The" and inserting "Until the plan is confirmed or the case is converted (whichever occurs first) the", and

(B) by striking "less than $300,000;" and inserting "less than $300,000. Until the case is converted or dismissed (whichever occurs first and without regard to confirmation of the plan) the fee shall be".

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

Subtitle B—Data Provisions

SEC. 441. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Title 28, United States Code, is amended by adding after section 158 the following new section:

"§ 159. Bankruptcy statistics

"The Director of the Executive Office for United States Trustees shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Such statistics shall be in a form prescribed by the Administrative Office of the United States Courts. The Office shall compile such statistics, and make them public, and report annually to the Congress on the information collected, and on its analysis thereof, no later than October 31 of each year. Such compilation shall be itemized by chapter of title 11, shall be presented in the aggregate and for each district, and shall include the following:

"(1) Total assets and total liabilities of such debtors, and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by such debtors.

"(2) The current total monthly income, projected monthly net income, and average income and average expenses of such debtors as reported on the schedules and statements the debtor has filed under sections 111, 521, and 1322 of title 11.

"(3) The aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable.

"(4) The average time between the filing of the petition and the closing of the case.

"(5) The number of cases in the reporting period in which a reaffirmation was filed and the total number of reaffirmations filed in that period, and of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney, and of those the number of cases in which the reaffirmation was approved by the court.

"(6) With respect to cases filed under chapter 13 of title 11—

"(A) the number of cases in which a final order was entered determining the value of property securing a claim less than the claim, and the total number of such orders in the reporting period; and

"(B) the number of cases dismissed for failure to make payments under the plan.

"(7) The number of cases in which the debtor filed another case within the 6 years previous to the filing.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 18 months after the date of the enactment of this Act.

SEC. 442. BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

"§ 589b. Bankruptcy data

"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

"(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in *subsection (a), the Attorney General shall strike the best achievable practical balance between—*

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

"(d) Final Reports.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration;

"(6) claims asserted;

"(7) claims allowed, and

"(8) distributions to claimants and claims discharged without payment;

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) Periodic Reports.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) Technical Amendment.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 443. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE V—TAX PROVISIONS

SEC. 501. TREATMENT OF CERTAIN LIENS.

(a) Treatment of Certain Liens.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), after "507(a)(1)", insert "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

"(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

"(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.".

(b) Determination of Tax Liability.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting ", except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in paragraph (1) or (5) of section 523(a) of this title" before the semicolon at the end.

SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.

(a) Effective Notice to Governmental Units.—Section 342 of title 11, United States Code, as amended by section 405, is amended by adding at the end the following:

"(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

"(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.".

(b) Adoption of Rules Providing Notice.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) Effect of Failure of Notice.—Section 342 of title 11, United States Code, as amended by subsection (a) and section 405, is amended by adding at the end the following:

"(i)(1) A notice that does not comply with subsections (d) and (e) shall have no effect unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

"(A) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

"(B) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.

"(2) No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed unless the action takes place after notice of the commencement of the case as required by this section has been received.".

SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking "Unless" at the beginning of the second sentence thereof and inserting "If the request is made in the manner designated by the governmental unit and unless".

SEC. 505. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§511. Rate of interest on tax claims

"Notwithstanding any provision of this title that requires the payment of interest on a claim, if interest is required to be paid on a tax claim, the rate of interest shall be as follows:

"(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title and secured tax claims the rate shall be determined under applicable nonbankruptcy law.

"(2) In the case of unsecured claims for taxes arising before the date of the order for relief and paid under a plan of reorganization, the minimum rate of interest to be applied during the period after the filing of the petition shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, for the calendar month in which the plan is confirmed, plus 3 percentage points.".

SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after "petition" and before the semicolon ", plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title"; and

(2) amend clause (ii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

"(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

"(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.".

SEC. 507. ASSESSMENT DEFINED.

(a) Assessment Defined for Priority Purposes.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (2) the following:

"(3) 'assessment'—

"(A) for purposes of State and local taxes, means that point in time when all actions required have been taken so that thereafter a taxing authority may commence an action to collect the tax, and

"(B) for Federal tax purposes has the meaning given such term in the Internal Revenue Code of 1986;

and 'assessed' and 'assessable' shall be interpreted in light of the definition of assessment in this paragraph;".

(b) Assessment Defined for the Stay of Proceedings.—Section 362(b)(9)(D) of title 11, United States Code, is amended by inserting after "the making of an assessment" the following: "as defined by applicable nonbankruptcy law notwithstanding the definition of an 'assessment' elsewhere in this title".

SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting "(1)," after "paragraph".

SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

"(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.".

SEC. 510. THE STAY OF TAX PROCEEDINGS.

(a) The Section 362 Stay Limited to Prepetition Taxes.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting ", in respect of a tax liability for a taxable period ending before the order for relief.".

(b) The Appeal of Tax Court Decisions Permitted.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking "or" at the end,

(2) in subparagraph (D) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.".

SEC. 511. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking "and" at the end; and

(2) in subparagraph (C)—

(A) by striking "deferred cash payments, over a period not exceeding six years after the date of assessment of such claim," and inserting "regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,";

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.".

SEC. 512. THE AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting ", except where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;".

SEC. 513. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) Payment of Taxes Required.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) Such taxes shall be paid when due in the conduct of such business unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.".

(b) Payment of Ad Valorem Taxes Required.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after "estate," and before "except" the following: "whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,".

(c) Request for Payment of Administrative Expense Taxes Eliminated.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);".

(d) Payment of Taxes and Fees as Secured Claims.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting "or State statute" after "agreement"; and

(2) in subsection (c) by inserting ", including the payment of all ad valorem property taxes in respect of the property" before the period at the end.

SEC. 514. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section" and inserting "on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section".

SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting "or equivalent report or notice," after "a return,";

(2) in clause (i)—

(A) by inserting "or given" after "filed"; and

(B) by striking "or" at the end;

(3) in clause (ii)—

(A) by inserting "or given" after "filed";

(B) by inserting ", report, or notice" after "return"; and

(4) by adding at the end the following:

"(iii) for purposes of this subsection, a return—

"(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law, and

"(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or".

SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting "the estate," after "misrepresentation,".

SEC. 517. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) Filing of Prepetition Tax Returns Required for Plan Confirmation.—Section 1325(a) of title 11, United States Code, as amended by section 146, is amended—

(1) in paragraph (6) by striking "and" at the end;

(2) in paragraph (7) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 6-year period ending on the date of filing of the petition.

"(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

"(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date,

"(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law, and

"(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

"(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection, and

"(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

"(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.".

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting ", and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 518. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after "records," the following: "including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,",

(2) by inserting "such" after "enable", and

(3) by striking "reasonable" where it appears after "hypothetical" and by striking "typical of holders of claims or interests" after "investor".

SEC. 519. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 130, 146, and 150 is amended—

(1) in paragraph (21) by striking "or",

(2) in paragraph (22) by striking the period at the end and inserting "; or", and

(3) by inserting after paragraph (22) (as so redesignated) the following:

"(23) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless—

"(A) prior to such setoff, an action to determine the amount or legality of such tax liability under section 505(a) was commenced; or

"(B) where the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action.".

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

"CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"601. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"602. Definitions.
"603. International obligations of the United States.
"604. Commencement of ancillary case.
"605. Authorization to act in a foreign country.
"606. Public policy exception.
"607. Additional assistance.
"608. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"609. Right of direct access.
"610. Limited jurisdiction.
"611. Commencement of bankruptcy case under section 301 or 303.
"612. Participation of a foreign representative in a case under this title.
"613. Access of foreign creditors to a case under this title.
"614. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"615. Application for recognition of a foreign proceeding.
"616. Presumptions concerning recognition.
"617. Order recognizing a foreign proceeding.
"618. Subsequent information.
"619. Relief that may be granted upon petition for recognition of a foreign proceeding.
"620. Effects of recognition of a foreign main proceeding.
"621. Relief that may be granted upon recognition of a foreign proceeding.
"622. Protection of creditors and other interested persons.
"623. Actions to avoid acts detrimental to creditors.
"624. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"625. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"627. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"628. Commencement of a case under this title after recognition of a foreign main proceeding.
"629. Coordination of a case under this title and a foreign proceeding.
"630. Coordination of more than 1 foreign proceeding.
"631. Presumption of insolvency based on recognition of a foreign main proceeding.
"632. Rule of payment in concurrent proceedings.

"§ 601. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

"SUBCHAPTER I—GENERAL PROVISIONS

"§602. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

"(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§603. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

"§604. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

"§605. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) authorized by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§606. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§607. Additional assistance

"(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§608. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§609. Right of direct access

"(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

"(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

"(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

"(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

"§610. Limited jurisdiction

"The sole fact that a foreign representative files a petition under sections 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§611. Commencement of case under section 301 or 303

"(a) Upon filing a petition for recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

"(c) A case under subsection (a) shall be dismissed unless recognition is granted.

"§612. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§613. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) of this section does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§614. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§615. Application for recognition of a foreign proceeding

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

"§616. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of section 101(24), the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§617. Order recognizing a foreign proceeding

"(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

"(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602;

"(2) the foreign representative applying for recognition is a person or body within the meaning of section 101(24); and

"(3) the petition meets the requirements of section 615.

"(b) The foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

"(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

"§618. Subsequent information

"From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

"(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

"(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§619. Relief that may be granted upon petition for recognition of a foreign proceeding

"(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

"(1) staying execution against the debtor's assets;

"(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

"(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

"(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

"(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"§620. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

"(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

"(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

"(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

"(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§621. Relief that may be granted upon recognition of a foreign proceeding

"(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

"(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

"(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

"(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

"(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

"(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

"(6) extending relief granted under section 619(a); and

"(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

"§622. Protection of creditors and other interested persons

"(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

"§623. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§624. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§625. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

“§626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

“(a) In all matters included in section 601, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

“(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

“(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

“§627. Forms of cooperation

“Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor's assets and affairs;

“(4) approval or implementation of agreements concerning the coordination of proceedings; and

“(5) coordination of concurrent proceedings regarding the same debtor.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“§628. Commencement of a case under this title after recognition of a foreign main proceeding

“After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

“§629. Coordination of a case under this title and a foreign proceeding

“Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

“(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

“(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

“(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

“(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

“(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

“(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

“(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

“§630. Coordination of more than 1 foreign proceeding

“In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

“(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

“(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

“(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

“§631. Presumption of insolvency based on recognition of a foreign main proceeding

“In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

“§632. Rule of payment in concurrent proceedings

“Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.”.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

“6. Ancillary and Other Cross-Border Cases .... 601”.

SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: “and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6”; and

(2) by adding at the end the following:

“(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity authorized by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.”.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

“(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

“(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;”.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking “and” at the end;

(B) in subparagraph (O), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.”.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking “Nothing in” and inserting “Except with respect to a case under chapter 6 of title 11, nothing in”.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting “6,” after “chapter”.

TITLE VII—MISCELLANEOUS

SEC. 701. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking “subsection (c) or (d) of”;

(2) in section 541(b)(4) by adding “or” at the end; and

(3) in section 552(b)(1) by striking “product” each place it appears and inserting “products”.

SEC. 702. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 103–573.

AMENDMENT NO. 1 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, pursuant to the rule, I offer the Hyde amendment, the so-called manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 105–573 offered by Mr. GEKAS:

Page 6, line 8, strike “spouse” and insert “spouse,”.

Page 8, line 13, insert “, issued by the Internal Revenue Service,” after “debts)”.

Page 8, line 16, strike “under” and insert “by”.

Page 8, beginning on line 16, strike “financial analysis for expenses” and insert “allowance for such expenses”.

Page 9, line 10, insert “total” after “monthly”.

Page 9, line 20, insert “total” after “monthly”.

Page 9, line 21, strike “what income” and insert “any income that”.

Page 12, line 15, insert “CHAPTER 13” after “A” (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 13, line 1, insert ", issued by the Internal Revenue Service," after "debts)".

Page 13, line 4, strike "under" and insert "by".

Page 13, beginning on line 5, strike "financial analysis for expenses" and insert "allowance for such expenses".

Page 13, line 15, strike "of" and insert "under".

Page 13, line 22, strike "of" and insert "under".

Page 14, line 3, insert "and" at the end.

Page 14, beginning on line 14, strike ", in a case in which a trustee has been appointed,".

Page 14, beginning on line 21, strike "what income" and inserting "any income that".

Page 18, line 1, strike "total current monthly" and insert "current monthly total".

Page 18, beginning on line 7, strike "total current monthly" and insert "current monthly total".

Page 20, line 24, strike "and" at the end and insert a comma.

Page 21, line 1, strike "its schedules" and insert "schedules,".

Page 21, beginning on line 3, strike "and its schedules" and insert "schedules,".

Page 22, beginning on line 6, strike "outside" and all that follows through "system)" on line 7.

Page 24, line 21, insert "by the debtor" after "statement".

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. WHO MAY BE A DEBTOR UNDER CHAPTER 11.

Section 109(d) of title 11, United States Code, is amended by inserting ", or a person described in subsection (b)(4))," after "chapter 7".

Page 25, line 19, strike "12" and insert "12,".

Page 26, line 3, strike "(i)" and insert "(i)(I)".

Page 26, line 5, strike "(ii)" and insert "(II)".

Page 26, line 6, strike the period at the end and insert "; and".

Page 26, after line 6, insert the following:

"(ii) that offers its services to debtors without charge, or at an appropriately reduced charge if payment of any regular charge would impose a hardship on the debtor or a dependent of the debtor."

Page 26, line 10, insert "or on the motion of the United States trustee and" after "district".

Page 26, beginning on line 11, strike "the United States trustee and".

Page 27, line 21, strike "60" and insert "180".

Page 33, line 22, strike "select a chapter 7 proceeding" and insert "choose to file a chapter 7 case".

Page 34, line 1, strike "select a chapter 13 proceeding" and insert "choose to file a chapter 13 case".

Page 34, line 6, strike "proceeding" and insert "relief".

Page 34, line 9, strike "proceeding" and insert "relief".

Page 34, line 10, strike "procceding" and insert "case".

Page 34, beginning on line 13, strike "represent you in litigation" and insert "give you legal advice".

Page 34, line 21, insert ", to the extent permitted by nonbankruptcy law,".

Page 38, line 4, strike "or" and insert "and".

Page 41, after line 12, insert the following:

"(5) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527 of this title, or engaged in a clear and consistent pattern or practice of violating section 526 or 527 of this title, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.".

Page 43, line 17, insert ", together with any other such contribution," after "contribution".

Page 46, line 12, strike "2002bb" and insert "2000bb".

Page 49, beginning on line 8, strike "If a party in interest requests" and insert "Upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing".

Page 55, line 9, strike "reaffirmation".

Page 56, line 1, insert "THE AUTOMATIC" after "FROM" (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 59, line 7, insert "THE AUTOMATIC" after "FROM" (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 59, line 20, insert "as described in findings made by the court" after "circumstances".

Page 60, line 12, strike "cases" and insert "a case".

Page 64, line 3, strike "case".

Page 66, line 19, insert ", excluding debts incurred for necessaries that do not exceed $250 in the aggregate," after "creditor".

Page 66, beginning on line 22, strike ", except" and all that follows through "less" on line 25.

Page 67, line 23, strike "or divorce or dissolution decree" and insert "divorce decree, or other order of a court of record".

Page 68, strike lines 8 through 23 (and make such technical and conforming changes as may be appropriate).

Page 74, strike lines 13 through 15, and insert the following:

(2) in subsection (a)(7) by inserting "an order of disgorgement or restitution obtained by a governmental unit," after "such debt is for"; and

Page 75, line 20, strike "the".

Page 76, line 14, strike "(14)" and insert "(19)".

Page 76, in the matter after line 21, insert "payments after discharge" after "alimony".

Page 78, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 152. HIGHER PRIORITY FOR DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) in paragraph (6) by striking "(6) Sixth" and inserting "(7) Seventh";

(3) in paragraph (5) by striking "(5) Fifth" and inserting "(6) Sixth";

(4) in paragraph (4) by striking "(4) Fourth" and inserting "(5) Fifth";

(5) in paragraph (3) by striking "(3) Third" and inserting "(4) Fourth"; and

(6) by inserting after paragraph (2) the following:

"(3) Third, allowed claims for debts to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designed as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support.".

Page 83, strike lines 17 through 19, and insert the following:

apply to—

"(A) an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer; or

"(B) an involuntary case.".

Page 84, strike lines 8 through 10, and insert the following:

"(e) A person appointed to examine a request for compensation or reimbursement payable under this section may not be paid on the basis of the amount of any reduction recommended by such person in the amount or rate of such compensation or such reimbursement.".

Page 85, line 16, strike "(3)" and insert "(3)(A)".

Page 85, line 16, insert ", subject to subparagraph (B)," after "or".

Page 85, line 20, strike the close quotation marks and the period at the end.

Page 85, after line 20, insert the following:

"(B) A request to change the membership of a committee appointed under subsection (a) may be made under subparagraph (A) by a party in interest only after such request is submitted to and denied by the United States trustee.".

Beginning on page 90, strike line 24 and all that follows through line 10 on page 91, and insert the following:

"(5) Where the court finds that a personal services contract is property of the estate, the trustee may not reject an executory contract for personal services in which advances are paid for the creation of copyrighted sound recordings in the future if a material purpose for commencing a case under this title is to reject such contract, unless, absent such rejection, economic rehabilitation of the debtor's finances, including such contract, cannot be achieved.".

Page 91, beginning on line 24, strike "debtor's motion" and insert "motion of the trustee".

Page 92, line 4, insert "the" after "provided".

Page 92, after line 24, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 215. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following:

"other than a default that is a breach of a provision relating to—

"(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

"(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;", and

(B) by amending paragraph (2)(D) to read as follows:

"(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property.",

(2) in subsection (c)—

(A) in paragraph (2) by adding "or" at the end,

(B) in paragraph (3) by striking "; or" at the end and inserting a period, and

(C) by striking paragraph (4),

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9), and

(B) by redesignating paragraph (10) as paragraph(5).

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting "or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured" before the semicolon at the end,

(2) in subparagraph (C) by striking "and" at the end,

(3) by redesignating subparagraph (D) as subparagraph (E), and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

Page 95, beginning on line 14, strike "STATEMENTS AND PLANS" and insert "STATEMENT AND PLAN" (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Beginning on page 97, strike line 17 and all that follows through line 6 on page 98, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 235. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) Proposal of Rules and Forms.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) Purpose.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance between—

(1) the reasonable needs of the bankruptcy court, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.

Page 103, line 22, insert "and" at the end.

Page 104, strike lines 3 through 6, and insert the following:

"(9) in cases in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly to the court for relief.".

Page 105, line 15, strike "()" and insert "(j)".

Page 106, line 5, strike "(C) un-" and insert "(C);".

Page 106, strike lines 6 through 12, and insert the following:

unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.".

Page 108, line 24, strike ", and" and all that follows through line 2 on page 109, and insert a semicolon.

Page 112, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 302. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560," after "557,".

Page 125, line 8, strike "total current monthly" and insert "current monthly total".

Page 125, line 17, strike "total current monthly" and insert "current monthly total".

Page 126, beginning on line 11, strike "total current monthly" and insert "current monthly total".

Page 126, line 18, strike "total current monthly" and insert "current monthly total".

Page 131, line 3, strike "or dismissed" and insert ", dismissed, or closed".

Page 131, beginning on line 17, strike "Such" and all that follows through "Courts." on line 19.

Page 131, line 20, insert "in such form as shall be determined by such Office, in consultation with the Administrative Office of the United States Courts," after "tics,".

Page 131, line 19, strike "Office" and insert "Executive Office for United States Trustees".

Page 132, line 5, strike "total current monthly" and insert "current monthly total".

Page 133, line 16, insert "UNIFORM RULES FOR THE COLLECTION OF" after "SEC. 442." (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 140, strike lines 6 through 10, and insert the following:

amended to read as follows:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) of this title, and such property shall be liable for a debt of a kind specified in such paragraph (5) notwithstanding any State law to the contrary;"

Page 161, line 16, strike "or" at the end.

Page 161, line 21, strike the period at the end and insert "; or".

Page 161, after line 21, insert the following:

"(3) an entity subject to a proceeding under the Securities Investor Protection Act, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

Page 164, line 2, strike "Nothing in this chapter limits the power of" and insert "Subject to the specific limitations stated elsewhere in this chapter".

Page 165, after line 15, insert the following:

"(c) Subject to section 610 of this title, a foreign representative is subject to laws of general application.

Page 165, line 16, strike "(c)" and insert "(d)".

Page 165, beginning on line 17, strike "proceeding" and insert "representative".

Page 165, line 19, insert "by a foreign representative" after "cooperation".

Page 166, line 5, strike "sections" and insert "section".

Page 166, line 10, strike "filing a petition for".

Page 166, strike lines 22 and 23.

Page 170, line 24, insert "after notice and a hearing" after "606,".

Page 177, strike lines 11 through 17, and insert the following:

"(a) The court may grant relief under section 619 or 621, or may modify or terminate relief under subsection (c) of this section, only if the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 619 or 621, or the operation of the debtor's business under section 620(a)(2) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

Page 177, after line 21, insert the following:

"(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

Page 178, line 19, strike "In all matters included within" and insert "Consistent with".

Page 179, line 6, strike "In all matters included within" and insert "Consistent with".

Page 179, line 12, strike "designated" and insert "authorized".

Page 179, strike lines 15 through 18.

Page 181, line 8, insert "the relief granted in" after "with".

Page 181, line 24, insert "the relief granted in" after "with".

Page 186, line 11, strike "The" and insert "Except as otherwise provided in this Act, the".

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have consulted with the gentleman from New York on the purport of the manager's amendment. It has several technical amendments that need attention and to which we have agreed, and it puts into the RECORD the concerns that the Justice Department has voiced with respect to some of the provisions. We have incorporated those into the manager's amendment, and made those known to the gentleman from New York and the minority.

On that, then, we would ask for a vote on the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from New York (Mr. NADLER) seek time in opposition?

Mr. NADLER. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from New York (Mr. NADLER) is recognized for 5 minutes.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we do not object to this amendment. I just want to point out that, like a number of other amendments, this amendment deals with the problem of child support and spouse support, but does not deal adequately with it.

This amendment would raise the priority of support, child and spouse support, above several priorities. It would raise it above several existing priorities that are rarely relevant in consumer cases. It would make it have a higher priority than wages owed by the debtor to people, to workers he did not pay, and payments involving grain elevators and fishermen.

It does not change the Chapter 13 payment formula, which still requires payment of credit card debt concurrently with child support. It does not deal with the larger problems created by other provisions of the bill that require payments so great that a Chapter 13 plan may be rendered infeasible.

It also does not deal with "adequate protection payments" required by Section 320 of the bill that would compete with support at the outset of the plan, so that the debtor could not devote significant funds to payment of even the first priority support claims.

If such adequate protection payments failed to provide adequate protection, in fact, a creditor, such as a credit card creditor, who took a security interest in minor household items could argue it was entitled to a still higher superpriority under section 507(b).

So in other words, Mr. Chairman, there is nothing wrong with this amendment. It goes a fiftieth of the way towards helping the terrible problems this bill puts in the way of adequately collecting child and spouse support, but it does not deal with the basic problems. So while we have no objection to it and we certainly would not ask for a recorded vote, it does not do very much at all.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105–573.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment 2 printed in House Report 105–573 offered by Mr. NADLER:

Page 13, strike line 23 and insert the following:

"plan; and

"(D) if the debtor is engaged in business, the payment of expenditures necessary for the continuation, preservation, and operation of such business;";

Beginning on page 93, strike line 5 and all that follows through line 2 on page 94, and insert the following:

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (51C) as paragraph (51D); and

(2) by inserting after paragraph (51B) the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;".

Beginning on page 98, strike line 7 and all that follows through the matter preceding line 15 on page 100 (and make such technical and conforming changes as may be appropriate).

Beginning on page 100, strike line 15 and all that follows through line 11 on page 104 (and make such technical and conforming changes as may be appropriate).

Beginning on page 105, strike line 1 and all that follows through line 12 on page 106 (and make such technical and conforming changes as may be appropriate).

Beginning on page 106, strike line 13 and all that follows through line 16 on page 109, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 243. ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.

Section 1104(a) of title 11, United States Code,

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment strikes several sections of the small business title. We have heard testimony from the National Bankruptcy Conference, and we also have received a letter from the Small Business Administration that indicates that the bureaucratic burdens placed by this bill on small businesses, the short time lines for filing many more documents than are necessary for larger businesses, the higher standard for getting an extension of the automatic stay so that the small business, in order to get an extension, would have to pass what amounts to a mini-confirmation hearing, a real catch-22, and the inclusion of a new definition of single-asset real estate in the definition of small business, so that, for example, Rockefeller Center would have to be reorganized under the small business rules if it were involved in a bankruptcy, all combine to make this title a virtual death sentence for thousands of small businesses.

I know my colleagues on the other side of the aisle like to oppose regulations that protect the environment or worker safety by arguing they are burdensome on small businesses. We have had several hearings this year attacking clean air regulations and attacking regulations to keep workers from falling off of roofs, and regulations to keep asbestos from being released into the atmosphere.

At every point we have heard moving speeches about the fate of small businesses under these regulations. Some members of the committee have opposed increasing our shamefully low minimum wage for the same reasons.

Here is a chance to put our words into action. This small business title threatens every small business and independent contractor in America. We should strike its most offending sections. The amendment restores the current definition of small business to a business of $2 million. The increase to $5 million would pull in 85 percent of businesses into this section, and make it involuntary. It will be transforming small business bankruptcy from a safety net for small businesses to a tiger cage.

The amendment strikes the burdensome and costly meeting and filing requirements imposed on small businesses for the first time, and it also gets the U.S. Trustee out of the business of essentially running a small business in Chapter 11. It strikes the definition of monthly net income in the bill, and restores the existing definition so that an individual debtor in Chapter 13 may continue to use his or her personal income for a small business.

As we may know, many small businesses are either unincorporated or are small businesses which the debtor personally guarantees. They end up in Chapter 13, not Chapter 11. The bill as written would not allow them to use their personal resources to reorganize the business, as current law does. This change would kill many small businesses.

Finally, the amendment restores current law in the appointing of a trustee.

Mr. Chairman, small business is the engine for job growth in America. There is not a single Member of this House who has not spoken out in defense of small business. That is the right thing to do. But we should not move forward with these costly, onerous, and burdensome new rules that the Small Business Administration and the National Bankruptcy Conference tell us will kill many small businesses unnecessarily, instead of letting them be reorganized. We ought to pass this amendment so as not to impose these new burdens and this death sentence on thousands of small businesses.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. GEKAS) seek time in opposition?

Mr. GEKAS. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in this particular case the gentleman from New York (Mr. NADLER) full well knows that the recommendations of the bankruptcy commission, which worked 2 years on just this kind of provision, made certain recommendations in filing their report late last year.

It is those provisions, those recommendations, which we have incorporated into H.R. 3150, and which themselves have received the blessing of the NFIB, and other organizations, such as, and this is important, the National Federation of Independent Businesses, NFIB, which I mentioned; the American Bankruptcy Institute, the Executive Office for United States Trustees, and various bankruptcy judges.

But more importantly than that, the NFIB language that they employed in the letter of support to us says this, and this is a better speech than I could make, or any combination of Members could make:

"The legislation," and this is the NFIB speaking, the National Federation of Independent Business, "The legislation strikes a fair balance by giving small business owners more of a chance to get back what is rightfully theirs while still providing bankruptcy protection to those small businesses who truly need it."

I endorse the NFIB endorsement of the endorsed bill that we now endorse, and reendorse by asking for a negative vote on the proposal at hand.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am surprised to hear the gentleman from Pennsylvania (Mr. GEKAS) point out that the National Bankruptcy Review Commission supports this. The National Bankruptcy Review Commission rejected the central concept of the bill, the so-called means-based testing. But that he does not care about.

Let me simply say this. The Small Business Administration of the United States says the provisions of this bill, without this amendment, would add

> such substantial additional costs to the reorganization process that many small businesses may forgo reorganization under Chapter 11 and immediately file for Chapter 7 liquidation proceedings.

They would be forced to close their doors, leaving their creditors without recourse. The nonbipartisan and widely respected National Bankruptcy Conference says,

> These cost-raising changes ultimately could deny tens of thousands of small businesses a meaningful opportunity to restructure that have obligations and continue in business. This would close the door on thousands of businesses that would have been able to reorganize successfully if given the chance.

The AFL-CIO says,

> The potentially broad reach of these provisions and the manner in which they restrict the workings of the bankruptcy case for these businesses will likely place numerous jobs at risk.

So the AFL-CIO, the Small Business Administration, and the National Bankruptcy Conference, which is probably the greatest expert on this, all tell us these provisions which this amendment would strike will kill thousands of small businesses by denying them the realistic opportunity to reorganize, and forcing them instead to liquidate.

I urge my colleagues to vote for this amendment so these small businesses are not thrown into liquidation, instead of reorganization, killing thousands and thousands of jobs.

□ 1530

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time in opposition to the amendment.

Mr. NADLER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NADLER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 105–573. Does any Member seek recognition to offer amendment No. 3?

PARLIAMENTARY INQUIRIES

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, which amendment are you referring to? The Boucher-Gekas amendment?

The CHAIRMAN. The Delahunt amendment No. 3.

Mr. NADLER. Mr. Chairman, we will come back to that.

The CHAIRMAN. According to the rule, amendment No. 3 is now in order to be offered by the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. NADLER. Mr. Chairman, I have a further parliamentary inquiry. On the list that I have, the Boucher-Gekas amendment is next, and then Gekas and then Shaw-Camp, Paul, Gekas-McCollum-Smith, Scott, Velázquez, Baldacci, and Delahunt is last according to this.

The CHAIRMAN. According to the rule adopted by the House, it is now in order to consider amendment No. 3 to be offered by the gentleman from Massachusetts (Mr. DELAHUNT) or his designee, debatable for 10 minutes.

Mr. NADLER. Mr. Chairman, I ask unanimous consent that that amendment be considered later when the gentleman from Massachusetts (Mr. DELAHUNT) can come to the floor, because the list we have does not indicate that order.

The CHAIRMAN. The Chair does not have the authority to entertain that request in the Committee of the Whole.

Mr. NADLER. Mr. Chairman, I believe that with unanimous consent, the Chair could entertain that request.

The CHAIRMAN. The Committee of the Whole cannot change the order of the amendments as approved under the special order adopted by the House.

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, if the gentleman from Massachusetts (Mr. DELAHUNT), who was supposed to have an amendment made in order at this time, would strike the last word or change the text of the amendment that he wishes to offer, could it be made in order in the Committee of the Whole?

The CHAIRMAN. Permission cannot be sought to offer a new amendment. Permission might be sought to modify a pending amendment in the Committee of the Whole. But the Committee of the Whole is operating under the rule adopted earlier in the House.

If there is no Member here to offer amendment No. 3, the Committee will move on to amendment No. 4.

Mr. GEKAS. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, I wish to express to the gentleman from New York (Mr. NADLER) that when the time comes that the gentleman from Massachusetts (Mr. DELAHUNT) is prepared to proceed, we will coordinate whatever it takes, even a motion to rise, in order to accommodate that amendment. So at this point, why do we not proceed?

Mr. NADLER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, I appreciate the cooperation of the gentleman from Pennsylvania (Mr. GEKAS). My parliamentary inquiry is if we go on to the next amendment now, and 10 or 15 or 20 minutes from now when the gentleman from Massachusetts arrives, if a motion to rise is made, we can then entertain that amendment in the House?

The CHAIRMAN. At a later time, if the Committee rises and then the gentleman seeks permission to offer the amendment, that request could be entertained in the full House.

Mr. NADLER. Mr. Chairman, I appreciate that offer from the distinguished gentleman from Pennsylvania, and I think it is a good idea, and we should go on to the next amendment now with the understanding that when the gentleman from Massachusetts arrives at the conclusion of the amendment that we are now discussing, that we move that the House rises.

The CHAIRMAN. It is now in order——

Mr. NADLER. Mr. Chairman, I am told that I need to move that the House rise now.

The CHAIRMAN. It does not have to be done now.

Mr. NADLER. Mr. Chairman, it is okay to go to the next amendment then, as far as I am concerned.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 105–573.

AMENDMENT NO. 4 OFFERED BY MR. BOUCHER.

Mr. BOUCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 105–573 offered by Mr. BOUCHER:

Page 54, line 15, before the semicolon insert the following:

", except that the term shall also include any tangible personal property reasonably necessary for the maintenance and support of a dependent child".

Page 66, strike lines 11 through 13 and insert the following:

"(19) incurred to pay a debt that is nondischargeable by reason of any other provision of this subsection or section 727, 1141, 1228(a), 1228(b), or 1328(b), except for any debt incurred to pay such a nondischargeable debt in any case in which—

"(A)(i) the debtor who paid the nondischargeable debt is a single custodial parent who has 1 or more dependent children at the time of the order for relief, or

"(ii) there is an allowed claim for alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor payable under a judicial or administrative order to such spouse or child (but not to any other person) which was unpaid as of the date of the petition; and

"(B) the creditor is unable to demonstrate that the debtor intentionally incurred the debt to pay the debt which is nondischargeable;".

Page 70, after line 12, insert the following (and make such technical and conforming changes as may be appropriate):

(1) in the matter preceding paragraph (1) by inserting before the colon the following: ", except that, notwithstanding any other provision of this title, any expense or claim entitled to priority under paragraph (7) shall have first priority over any other expense or claim that has priority under any other provision of this subsection";

Page 70, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

(e) CONTENTS OF PLANS.—Section 1322(b)(1) of title 11, United States Code, is amended by striking the semicolon at the end and inserting the following:

"and provide for the payment of any claim entitled to priority under section 507(a)(7) of this title before the payment of any other claim entitled to priority under section 507(a), notwithstanding the priorities established under section 507(a);".

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER), and the gentleman from New York (Mr. NADLER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment relates to the priority of child support and alimony recipients in association with bankruptcy proceedings.

During consideration of the bill in the House Judiciary Committee, provisions were adopted which not only assured no disadvantage from this reform for the recipient of alimony or the recipient of child support payments, but which in very significant respects improved that person's ability to receive child support and alimony payments in comparison to current law.

For example, the bill provides that unlike current law, Chapter 13 plans cannot be confirmed unless all child support payments due since the bankruptcy filing have been paid. The Chapter 13 plan cannot be discharged until all arrearages that were due prior to the filing have been paid as well.

These are very significant improvements with regard to current law for the condition of the child support and alimony recipient.

Another example: Under current law child support and alimony wage orders which require that an employer withhold from an employee's salary amounts that are due under child support or alimony are stayed when a bankruptcy petition is filed under any of the various chapters. The bill creates an exemption from this stay for wage orders and assures that payment of child support or alimony under them will continue.

A third example: Under current law the property which is exempt under State law which is owned by a spouse who owes child support or alimony may not be subjected to the other spouse's child support or alimony claim after the spouse who owns the property has been discharged in bankruptcy. The bill improves upon current law by subjecting that exempt property to the child support or alimony claim.

A fourth example: Under current law a debt one spouse owes to another that arises from something other than child support or alimony and is incorporated in a separation agreement or divorce decree is dischargeable in bankruptcy and may not be enforced against property that is exempt under State law. The bill says these debts owed to the spouse may never be discharged and may be enforced against exempt property.

In each of these four instances, the situation of the recipient of child support or alimony is improved with regard to current law.

The amendment that I am pleased to be offering now with the gentleman from Pennsylvania (Mr. GEKAS) makes four additional improvements in current law from the standpoint of the child support or alimony recipient.

First, we clearly give the child support or alimony recipient top priority to receive payment during the pendency of the bankruptcy proceeding. Today, she is seventh behind farmers who have claims against grain elevators, fishermen who have claims against wholesalers, and others. We, with this amendment, clearly make her the first priority.

The second change we make will require that child support and alimony be first in line for payment in Chapter 13 plans. That also is an improvement with respect to current law.

Third, we help the single parent who files for bankruptcy by expanding the definition of "household goods" to include items that are needed in child rearing. Unlike under current law, with this amendment she will be able to keep those items.

We also provide that nonsecured debt which is acquired to pay nondischargeable debt, such as taxes, is nondischargeable against single parents and debtors who owe child support or alimony only if the debt was acquired intentionally to pay nondischargeable debt.

In each of these four areas we are making improvements with regard to current law, better assuring the priority of the child support or alimony recipient.

And because of the changes made in the committee, the various organizations around the country numbering several that are responsible for aiding child support and alimony recipients and enforcing those obligations have endorsed this bill, including the Child Support and Family Council of California, the City of New York Law Department, and others.

Mr. Chairman, they understand that the changes that are made in the committee, as amplified by these changes on the floor, will actually improve the circumstance of the child support or alimony recipient as compared to current law.

Mr. Chairman, I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this, again, is another one of those amendments that may do a little good. It is probably harmless, but it does not solve any of the fundamental problems.

For instance, we are told that on the provision of this amendment regarding debts incurred to pay nondischargeable debts, it amends another of the provisions, creating large categories of new nondischargeable debts, mostly credit card debts.

This amendment, which purports to protect women and children dependent on support from the debtor, does nothing to change this provision of the bill. Besides being limited only to cases in which debtors are single parents or are in arrears on support, it simply requires the creditor to show that the debtor "intentionally" incurred the debt in question. Virtually no debts incurred to pay other debts are not incurred intentionally, so the change is meaningless.

Then we have the provision that states that alimony and support claims should be paid before other priority claims in Chapter 13. But this does not change the Chapter 13 payment formula, which still requires payment of nonpriority credit card debt concurrently with support. In other words, the requirement in section 102 that support be paid concurrently with credit card debts is not changed at all.

The amendment does not deal with the larger problems created by other provisions that required payments so great that a Chapter 13 plan may not be feasible, in which case no creditors may be paid.

This amendment makes a new section that places child support and alimony ahead of all other unsecured priority claims in the distribution of the assets in a Chapter 7 case. While this is a worthy idea, and I commend the author for this, it will have little effect since it is rare, very rare, for any assets at all to be distributed in a Chapter 7 case.

Also, because the amendment places child support and alimony ahead of administrative expenses, like the trustee's commission, we are going to have trustees abandoning these assets rather if there are not sufficient additional assets to compensate the trustee. The amendment, therefore, could cause, and in many cases would cause, women and children to receive even less support in some cases.

In summary, Mr. Chairman, as the administration has said in its letter that we received today, and as most of the organizations concerned with child support agree, this amendment, the manager's amendment, the amendments in committee do not really deal with the problem of child support collection.

Let me just add one comment, since the gentleman referred to the Law Department of my own city, the City of New York. The Law Department of the City of New York has one concern overriding everything else: collecting taxes. That is what they care about, not child support. So I do not credit what they say about how this will deal with child support. I know the Law Department of my own city only too well.

Mr. Chairman, I reserve the balance of my time.

Mr. BOUCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, since the gentleman from New York (Mr. NADLER) has chosen to cite the administration's statement of policy, let me quote it. "If debtors truly have the ability to repay a portion of their debt, after taking into account all relevant factors, including child support and alimony payments, a successful, supervised repayment plan under Chapter 13 rules could result in a more reliable payment of child support and alimony than would the unsupervised situation after Chapter 7 discharge."

☐ 1545

That is the point of this bill. With the Boucher amendment this Statement of Administration Policy is, in effect, an endorsement of this bill, certainly as it relates to child support. I thank the administration for its good judgment. I would bring this to the attention of all the Members of this body.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

I am constrained to correct what the gentleman from Virginia said a moment ago. He quoted half a paragraph. What this paragraph says in the statement from the administration is, the formulaic approach in this bill, as currently written, could result in moving to Chapter 13 those debtors who are likely to fail to complete required repayment plans. These debtors would return to Chapter 7 with a diminished ability to repay their nondischarged debt, including child support and alimony. There are other approaches to limiting access to Chapter 7 that would not have this result.

And they are referring not to the needs-based approach of this bill but to the approach of the Democratic substitute.

Then it continues: If debtors truly have the ability to repay a portion of their debt after taking into account all the relevant factors, including child support and alimony payments, a successful, supervised repayment plan under Chapter 13 could result in a more reliable payment, et cetera.

They are talking about under a different system from this bill, under a system such as under the Democratic substitute that we will be offering a little later. Frankly, it is not accurate to refer only to the second half of the paragraph in saying that.

The fact remains that the administration and most of the women's groups, the NOW, the Children's Defense Fund, the American Association of University Women, the YWCA, they all oppose this bill because of the problem of child support. They all say that these amendments do not solve that problem.

Having said that, again, I will observe, this is not a terrible amendment. I do not think it does much good, but it does not do any harm. I will not ask for a vote against it. All I am saying is I do not think it solves any problems.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BOUCHER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 105–573.

Does any Member wish to offer amendment No. 5?

It is now in order to consider amendment No. 6 printed in House Report 105–573.

AMENDMENT NO. 6 OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 105–573 offered by Mr. SHAW:

Page 76, line 17, insert the following before the 1st period: except with respect to any property of the debtor acquired after the date of the filing of the petition. A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraph (2), (4), or (14) of section 523(a) of this title shall hold such payment, such money, or such property in trust and, not later than 20 days after receiving such payment or collecting such money or property, shall distribute such payment, such money, or such property ratably to individuals who then hold debts entitled to priority under this section. Not later than 5 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identity is known to such creditor, or is reasonably ascertainable by such creditor, at the time of distribution.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Florida (Mr. SHAW) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

MODIFICATION TO AMENDMENT NO. 6 OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form that I have placed at the desk and which was, just a few minutes ago, supplied to each side.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to Amendment No. 6 Offered by Mr. SHAW:

Page 76, line 17, insert the following before the 1st period: except with respect to any property of the debtor acquired after the date of the filing of the petition. A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraph (2), (4), or (14) of section 523(a) of this title shall, not later than 20 days after receiving such payment or collecting such money or property, distribute such payment, such money, or such property ratably to individuals who then hold debts entitled to priority under section 507(a)(3) of this title. Not later than 2 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identify is known to such creditor at the time of distribution.

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Is there objection to the modification of the amendment?

Mr. NADLER. Mr. Chairman, I have no objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer the Shaw-Camp-English amendment that is central to the Committee on Ways and Means' work on the collection of child support.

Under the leadership of the gentleman from Pennsylvania (Mr. GEKAS), the Committee on the Judiciary has succeeded in not only maintaining existing child support priorities but in creating a new priority to help custodial mothers who are owed child support after bankruptcy. While the legislation creates a post-bankruptcy priority for child support, it does not contain a procedure for the enforcement of same.

We are afraid that credit card companies will outperform mothers, especially poor mothers, in securing the father's money, the very money that Congress has determined should go first to the mothers and to the children.

Our amendment is really just a perfecting amendment to the amendments already adopted by the Committee on the Judiciary. If the credit card companies obtain payments from the parents who owe past due child support, the companies are required to hold the payments and distribute the payments to the custodial mothers if they surface at a later date and invoke their legal claim to the money already obtained by the companies.

This amendment would protect the limited number of custodial mothers who are owed child support but who are not in the Federal child support program and whose children's father was involved in a bankruptcy. These mothers and their children are at risk of losing money, and they cannot afford to lose this important support.

This amendment, as modified, varies from the original amendment that was made in order by the Committee on Rules. In doing so, I eliminated the need of the trust, which was provided in that particular bill, which has caused great heartburn, and I think rightfully so, to some of the banks and credit card companies that would be holding these particular funds. We also reduced from 5 years to 2 years the period of time in which these claims have to be made and we also require, as a condition for this liability, that they have actual notice of the claim of the parent.

I think this is a very reasonable amendment, and I would urge its adoption.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment. I rise in opposition to the bill as it is now constructed.

Mr. NADLER. Mr. Chairman, I rise in opposition.

The CHAIRMAN. Is the gentleman from Pennsylvania (Mr. GEKAS) opposed to the amendment offered by the gentleman from Florida (Mr. SHAW)?

Mr. GEKAS. I am opposed to it in the first instance in the structure that it now contains. I am opposed to it. I reserve the right to change my mind after I make some remarks for the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, I assume that side of the aisle is not going to control 100 percent of the time.

Mr. GEKAS. Mr. Chairman, I will yield to the gentleman myself if I have some time. I will yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, is not the normal practice to, in this case, to have three people controlling time?

The CHAIRMAN. The 5 minutes in opposition is controlled by an opponent and in this case the gentleman from Pennsylvania (Mr. GEKAS) is recognized.

Mr. GEKAS. Mr. Chairman, I am an opponent, and I am going to yield to the gentleman from New York, if I have some time left, and I will try to reserve some time for him.

Mr. Chairman, I yield myself such time as I may consume.

The only reason I oppose the amendment in its original concept, now I am being converted slowly but surely to the thrust of the bill, was that it was so inflexible. It was too difficult to implement, in our judgment. It would cause more trouble than it would solve.

Now that the language has been improved in which some of the language that would have made a credit or a trustee for the support payment has been eliminated, I feel a little better about it. So in the final context of it, after I yield to the gentleman from New York, I may change my mind and agree to the bill or at least not vote against it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I simply want to point out, this amendment originally required that the credit card company that obtained payment from a parent who owed past due child support, a nondischargeable debt, and they obtained the payment from someone who owed child support, had to hold this money in trust for up to 5 years in case they found and made due diligent efforts to find the parent owed the child support and then turned it over to her.

The amendment is simply eliminating the due diligence effort and is shortening the time period to 2 years, and what it is really doing is making a real admission. The admission is that when all is said and done, the nondischargeability, making credit card debt nondischargeable, as this bill does, makes it impossible in the post-discharge situation to enforce the child support.

The change in this amendment recognizes this, because it would be a real burden to hold it for 5 years. But why would you want to hold it for 5 years? Because the credit card company has gotten to the bank first, and they may not know where or who the child support owed the custodial parent is. This is just throwing in the towel and admitting that we cannot enforce the child support, and there is no point in this situation. And there is no point holding the money in trust for 5 years so we will only do it for 2 years.

I do not oppose the amendment, but, again, I think it just illustrates that what we are saying about the provision of the bill, that making that credit card debt undischargeable makes it impossible, makes it very difficult to collect the child support despite all the cosmetic amendments that we have heard about.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CAMP), coauthor of the amendment.

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the Shaw-Camp-English amendment. The collection of child support has been central to the work of the gentleman from Florida (Mr. SHAW) on the Committee on Ways and Means, to all of our work on the Committee on Ways and Means. And the gentleman from Florida (Mr. SHAW) and I appreciate the efforts of the Committee on the Judiciary in making the collection of child support payments the number one priority for debtors in reorganizing their debt.

We should make absolutely sure that kids receive the support they are entitled to. Our perfecting amendment would merely require credit card companies which obtain payments from debtors who owe past due child support to pay custodial parents if they surface at a later date. Without this additional protection, parents with children living on tight budgets, who cannot afford to bring legal action, may not be able to collect the money they desperately need.

I urge the House to pass this important amendment and ensure that children continue to be this Congress's top priority.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ENGLISH), the other coauthor of the amendment.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished chairman of the Committee on Ways and Means' Subcommittee on Human Resources that will build on efforts initiated in our subcommittee to further strengthen our Nation's child support system.

I appreciate that H.R. 3150 provides for a new Federal priority for child support debt. Under our amendment, though, if credit card companies obtain payments from parents who owe past due child support, the companies are required to distribute the payment to custodial mothers, if they surface at a later date, and invoke their legal claim to the money already obtained by the companies.

This amendment will protect approximately 150,000 mothers who are owed child support and whose children's father was involved in a bankruptcy. In my view, this is a critical part of closing the loop, offering additional protection to mothers and their children, and making sure that these collections will go forward.

I hope this amendment will pass with bipartisan support.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

I would urge the passage of this most important amendment. There is no greater responsibility that people have in their lives than to take care of the children and help support the children that they have helped bring into this world. I think it sets the priorities right, and this offers a mechanism by which this money can be made available for the support of the children.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

Let me reiterate, the intent and purpose of the Shaw amendment is of the highest import, because we have attempted in different ways to parallel that intent in language that we have already incorporated either in the basic bill or in amendments to that bill.

All of us are interested in making certain of the priority, highest priority for support payments. I still have reservations about the workability of the amendment that the gentleman from Florida (Mr. SHAW) has offered, but he has now created new language which may make it more acceptable.

I will continue to monitor it between now and the time of conference and work with the gentleman from Florida (Mr. SHAW) for even more perfect language, for the perfection that he has already accomplished, and still reserve the right to work against it if I think it hurts the overall concept of the bill.

In other words, I do not know where I am on the gentleman's amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I can appreciate the gentleman's position at this late date, coming in, particularly, with the new language. But I thank him for his consideration of this new language, and I thank him for holding fire at this particular time. And also I would like to thank the gentleman from New York (Mr. NADLER). I think this is a very, very good addition to the bill that is on the floor.

□ 1600

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW), as modified.

The amendment, as modified, was agreed to.

Mr. GEKAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHAW) having assumed the chair, Mr. MILLER of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

PERMISSION FOR MEMBER TO OFFER AMENDMENT OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that, during further consideration of the bill, H.R. 3150, pursuant to House Resolution 462, that the gentleman from Massachusetts (Mr. DELAHUNT) or his designee may be permitted to offer the amendment numbered 3 in House Report 105–573 out of the specified order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BANKRUPTCY REFORM ACT OF 1998

The SPEAKER pro tempore. Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3150.

□ 1601

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment number 6 printed in House Report 105–573 had been disposed of.

Pursuant to the previous order of the House, it is now in order to consider amendment number 3 printed in House Report 105–573.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

Mr. DELAHUNT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DELAHUNT:

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. AUTHORITY TO IMPOSE FEES PAYABLE FOR COSTS INCURRED TO ADMINISTER THE AMENDMENTS MADE BY SECTIONS 101 AND 102.

Section 1930(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) The Judicial Conference of the United States may prescribe additional fees that are both—

"(A) payable from disbursements to unsecured, nonpriority creditors in cases under chapter 13 of title 11; and

"(B) based on the estimated increased costs incurred in cases under chapters 7 and 13 of title 11 of the United States Code, by the Government to carry out the amendments made by title I and subtitle A of IV of the Bankruptcy Reform Act of 1998.".

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by acknowledging the courtesy extended to me by the gentleman from Pennsylvania (Mr. GEKAS), the chair of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary. I appreciate that and acknowledge that. I was misinformed. I thought that it was listed on today's report that it was to be last, but I am glad that I am not last, I am glad that I am here, and I appreciate his courtesy.

Mr. Chairman, this amendment is about credit cards. This is because, in many respects, the entire bill is about credit cards. Credit cards are the reason many people are in bankruptcy today, and credit cards are the reason we are here today.

We all know there are some individuals who abuse the bankruptcy system. And those who let their financial affairs get out of control should take responsibility for the consequences of their action.

But responsibility is a two-way street. I find it extraordinary that people who solicit relentlessly and indiscriminately, without hardly any limitations on their lending practices, should pontificate about the need for personal responsibility.

Few of us are sympathetic to that argument when we hear it from the tobacco companies or when we hear it from the liquor industry or from gambling interests, so why should the credit card industry get away with this sort of hypocrisy?

My amendment would require the credit card companies to assume their fair share of responsibility for the situation they have done so much to create. It would authorize the Judicial Conference of the United States to use a portion of the money paid to credit card companies and other unsecured creditors in Chapter 13 cases to pay for the additional costs of administering the new debt collection system the bill would create.

That is, after all, what this bill is about. It could be said that it deputizes Federal bankruptcy judges as collection agents for Visa and MasterCard. I do not think and submit that it is not unreasonable for the public to ask how this new service will be paid for.

It is not as though, in all likelihood, the public will actually see any of the proceeds. Despite the industry-funded advertising blitz and propaganda about the money that it will save every man, woman and child in America, there is absolutely no reason to believe that these companies will pass on any benefit to consumers in the form of lower interest rates. That is something that they have never done historically. As other interest rates have come down considerably, credit card interest rates have continued to either stagnate or climb. In fact, I just received a solicitation today in the mail, 23 percent interest. So given the fact that the public is unlikely to see any benefits of this legislation, it seems only fair for those who will benefit to foot the bill.

Mr. Chairman, that bill is going to be substantial. While nobody really knows what the new collection system will cost, the CBO estimates a cost of $214 million over 5 years, and that not including the $40 million to $80 million to cover the salaries and expenses of the 25 or 30 additional bankruptcy judges who would be needed to meet the huge increase in workload that would result from the bill. We heard testimony that absolutely underscored the fact that this would require not just simply additional judges but support personnel and trustees. There were estimates that were provided to members of the committee during hearings that, in fact, the costs could very well be double what they are now. According to the CBO estimate, that would bring the total to between $254 million and $294 million over 5 years, over a quarter of a billion dollars. Those costs should not be borne by the American taxpayer. My amendment would ensure that they would not be borne by the American taxpayer.

Mr. Chairman, I do not want to suggest that the credit industry has been miserly regarding this legislation. Far from it. Visa and MasterCard have spent hundreds of thousands of dollars to draft this bill.

All my amendment says, having been so generous with their financial largess up until now, they should make one more payment, to reimburse the American people for increasing their bottom line.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the fullest expectation we have for H.R. 3150 is that in the long run, the provisions that we are going to put into the law will reduce the increase for sure of filings for bankruptcy, and with great luck, with the economy continuing to buzz on as it is, that we will actually be able to reduce the number of filings total across the land. While we are doing that, a natural accompaniment to that will be lower costs, lower costs to the taxpayers, lower costs to the consumers, lower costs to the interest lenders and creditors, and an impetus to further expansion of the economy.

That is why we say, in opposition to this amendment, that it is premature to add on a fail-safe for a possible cost that may or may not occur. On that basis, if we were to adopt this amendment, we who proposed these reforms, who want to reform the bankruptcy system, are second-guessing ourselves. We are saying we do not know if it is going to work or not. We know it is going to work.

If the gentleman from Massachusetts at some future date comes up to me and says, with a big downturn, "I told you so, we should have anticipated these rising costs and you should have listened to my amendment," I will relent, I will tell him that I am ready to accept fault for that, and we will work together at that time to correct whatever fee shortage or cost shortage or revenue shortage that might occur as a result of this legislation.

But for the time being, I wish he would join with us in endorsing a concept and the language of the bill before us, H.R. 3150, so that we can get about the business of improving our bankruptcy laws, making sure that people have the fullest opportunity to get a fresh start where required, and on the other side of the ledger, to give full opportunity to repay some of the debt where and when possible.

Mr. Chairman, I ask everyone to vote "no" on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. CALVERT). The question is on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT) will be postponed.

It is now in order to consider amendment number 7 printed in House Report 105–573.

AMENDMENT NO. 7 OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. PAUL:

Page 78, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 152. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by any other provision of this Act, is amended—

(1) in paragraph (9), as so redesignated and amended by any other provision of this Act—

(A) by inserting "firstly of local governmental units, secondly of State governmental units, and thirdly of all other governmental units, after "claims";

(B) by striking "(9) Ninth" and inserting "(11) Eleventh"; and

(C) by transferring such paragraph so as to insert such paragraph at the end of subsection (a) of section 507;

(2) in paragraph (10), as so redesignated and amended by any other provision of this Act, by striking "(10) Tenth" and inserting "(9) Ninth";

(3) in paragraph (11), as so redesignated and amended by any other provision of this Act, by striking "(11) Eleventh" and inserting "(10) Tenth".

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Texas (Mr. PAUL) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is not a complicated amendment. It merely redesignates the priorities of governments as they line up in the receiving end of a bankruptcy. These are unsecured debts.

Basically the way the law states now and the way the bill is written is that the IRS is the top government agency that is going to receive the money, and then the State and then the local government. My suggestion in my amendment is very simple and very clear and makes a very strong philosophic point, is why should we hold the IRS in such high esteem? Why should they be on top of the list? Why should the money leave the local districts and go to Washington? Why should it go into the coffers of the IRS, funding programs that are basically unconstitutional when there are so many programs that we are not doing and take it out of our school districts?

If we reverse the order, the local government gets the money first, the money that would be left over from the bankruptcy, then the State government, and then the Federal Government. This merely states the point, which I hope we can get across someday in this Congress, that the priority in government should be local government, not a big, strong Federal Government.

Indeed, today there is a lot of resentment in this country against the IRS and the way we spend money up here, and this emphasizes a very important point, that money should be left in the district, money should be left in the States, and at last resort, the money should come here to the Federal Government.

One of the arguments used against this amendment is, "Uh-oh, it is going to cost the Government some money." Cost the Government some money by leaving the money in the State or locally, or leaving it in the pockets of the American people as that same argument is used in tax increases? Hardly would it be difficult for the small amounts, I do not even know the exact amount of money that might be lost to the Treasury because some of these funds might not flow here in this direction, but it cannot be a tremendous amount. But what is wrong with the suggestion that we just cut something? There are so many places that we can cut. Instead, all we do around here is look around for more places to spend money. Today we are even talking about increasing taxes by three-quarters of a trillion dollars on a tobacco program. We are always looking for more revenues and more spending programs and we are worried about paying for a little less revenues coming into the Federal Government.

Once again, this amendment is very clear. It states that in the order of designating these funds on unsecured creditors, local government would get the money first, then State government, and then the Federal Government.

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In the 1980s, in the early 1990s, when Texas and California had trouble, money flowed up here in the middle of bankruptcies at the same time school districts were suffering, putting a greater burden on local school districts. So this is to me a very clear principled position to state that we should have local government, not Federal Government, that we should not enhance the power and the authority of the Federal Government and certainly should not put the IRS and the Federal Government on the top of the pecking order. They should be at the bottom where they deserve to be.

So I would ask my colleagues to endorse this legislation and this amendment to this legislation. I support the legislation. I am hopeful that this amendment will be passed.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I rise in friendly opposition to the amendment because down deep I agree with the gentleman's contentions about the tax structure and the relevant priorities that we have for too long imposed upon the American public with respect to the balance between local taxation and local interests and States for that matter and vis-a-vis the Federal overplay in both taxation and regulation and all the gamut of items that have harmed private enterprise over the years and have harmed actually the rights of citizens. So from that standpoint, I am in full agreement with the gentleman.

The reservations that I have stem about my duty in handling this bill which is a bill in bankruptcy which is embedded in the Constitution. Therefore, the entire panoply of provisions that have to do with bankruptcy have a national flavor, a national aegis, a national emblem, and so concomitant with that goes the Federal revenues and Federal Treasury that is a part of the total bankruptcy law. I am afraid that if we reverse these priorities as they are now constituted, that we will be infringing upon the Federal jurisdiction of bankruptcy itself, and I can not do that.

What I want to do is to assure the gentleman that wherever we can in pursuit of the finalization of this bill, in conference and thereafter, that we take into account what the gentleman has said, and perhaps in another forum and in another committee jurisdiction, Ways and Means for instance, we can try to work out his set of priorities in a different way. But now I am constrained to fight for the preservation of our bill as we have constructed it with the Federal jurisdiction both in taxation and in bankruptcy courts remaining paramount, and for that reason I would oppose the amendment at this juncture.

Mr. Chairman, I reserve the balance of my time.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to respond by saying I certainly do recognize responsibility of the U.S. Congress in dealing with national legislation dealing with bankruptcy and that bankruptcy laws should be uniform and fair. But this does not preclude us from thinking about the particulars of a piece of legislation designating the importance of the different governmental bodies, so everything I say about emphasizing local government over Federal Government is certainly legitimate and does not contradict in any way the notion that we should not deal with this at all because certainly we have this authority to do so.

And it still remains to be seen with much of a cost at all involved here; I happen to think not very much, but I would like to emphasize once again the importance of dealing with cutting spending rather than always resorting to say how do we pay something, pay for something, by merely raising taxes elsewhere if we happen to work in a benefit on a program such as this.

So I would say that it is very important that we do think about local government over Federal government, think about less taxes and less bureaucracy, because unless we change our mind set on this, we will continue to put the priorities of the Federal Government and the IRS up at the top. I want them at the bottom. That is where they deserve. They do not know how to spend their money. They do not know how to spend their money, and we ought to see to it that they get a lot less of it.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

The more I hear the gentleman speak, the more I am inclined to agree with him because he makes sense with respect to the priorities that we have allowed the IRS to grab for itself. But in any event, I will ask for a no vote with due honor to the proposition offered by the gentleman from Texas (Mr. PAUL).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PAUL).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider Amendment No. 8 printed in House Report 105—573.

AMENDMENT NO. 8 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 105-573 offered by Mr. PAUL:

Beginning on page 82, strike line 23 and all that follows through line 19 on page 83, and insert the following:

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting "subject to subsection (n)," before "any property"; and

(2) by adding at the end the following:

"(n) For purposes of subsection(b)(2)(A) and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 365-day period ending of the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.".

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, from the very first moment that I began to become involved in the bankruptcy issue and intent on preparing a product which we have before us now which will do a great deal of good over the next 10–15 years, I always wanted to maintain the States' rights to describe their own set of exemptions, particularly homestead exemptions, because I felt that was necessary for a variety of reasons to honor the State's determination of what it wanted to grant as an exemption, and the first proposal that I made that became a part of this bill did so, it did honor that.

At the full Committee on the Judiciary, after an offer of an amendment was made by the gentleman from Massachusetts (Mr. DELAHUNT) to put in a $100,000 figure that would be a cap that reflected what the Senate has done, that was adopted by the full committee mostly on the basis that it paralleled the Senate version, as I recall. At the same time I did indicate that I would not be bound, that I could reserve the right to change that when we came to the full floor. Hence we are here.

Mr. Chairman, I yield for a period of 2½ minutes to the gentleman from Florida (Mr. MCCOLLUM) to explain and to propound the amendment.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to explain this amendment. It strikes the $100,000 homestead exemption cap that is in the bill and reverts back to current law in that respect. But it does a little more than that.

In addition it denies the right of homestead exemption to somebody who within a year of filing bankruptcy takes assets, cash or whatever and places that into a home for the purposes of defrauding creditors to avoid paying the creditors. I think that is a very important provision that will get around the problems we are seeing people complain about on homestead exemption law abuse, but at the same time it will not deny the States the right to do what they have done since 1792, and that is to decide what property is exempt.

I think that is a very important decision to be left to the States to decide. If we put this $100,000 cap in, we are going to dictate to the States; some States have no cap currently, some States have 100,000, some like Massachusetts have 100,000 until you are 62, and then they have 200,000.

And it also protects, our proposal to strike this cap, the situation where a widow or an elderly person has paid fully for their home. Let us say they have a modest priced home. In many States, very modest, $110,000 value. The entire thing is mortgage free. And the creditors want to get at under this bill the way it is now written at the $10,000. They are going to force that widow to sell the home, and I do not think that is what we want to do. I think it is very important that we protect it and adopt the Gekas-McCollum-Smith amendment to strike the provisions in the bill as they are now on the cap and go to the provisions that I just indicated to deny fraudulent use of the homestead exemption.

Mr. BENTSEN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Texas.

Mr. BENTSEN. I appreciate the gentleman yielding to me.

It is no secret that I wish this bill had nothing to do with the homestead and we had dropped it out, but I will support the gentleman's amendment, but I do have a question that might give some clarification.

With respect to the transfer of assets within the 1-year period, would it be the intent if one were to prepay part of the mortgage or pay down or even a scheduled payment on a mortgage, would those funds be considered a transfer of assets?

Mr. MCCOLLUM. No, it would not be. It has to be done with the intent, a special extra amount of money, whatever it is, to defraud the creditors so it is actually going out and trying to get around the rules of the game, and that requires an element that would be far beyond a normal routine payment. They obviously can make their routine payments on their home, and this amendment would not affect that.

Mr. BENTSEN. Including prepayments.

Mr. MCCOLLUM. Including prepayments. It would not affect it if they have already got scheduled prepayments, and they have a right to make those prepayments now. Obviously somebody can come in and decide they are going to pay off the entire mortgage, and that might present a problem of intent where other evidence could come into play because, remember, the question here is the intent of the person who is trying to get around the law.

I urge the adoption of the amendment. It is a good amendment.

Mr. DELAHUNT. Mr. Chairman, I rise in opposition to the amendment and yield 2½ minutes to the distinguished gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, this is a doozie of an amendment. Please listen to the debate on this amendment. Supporters of this bill have said over and over again that the bankruptcy code should not be used as a financial planning tool. Yet the very people who are sponsoring the bill have offered this amendment to let wealthy debtors continue to use the bankruptcy system as a financial planning tool that enables them to shelter millions of dollars from the creditors. This bill makes it tougher for people of limited means to escape their debts by using the bankruptcy system.

Personal responsibility; that is what we all want. But what about the personal responsibility of people who have a lot of assets? If this amendment passes, wealthy individuals with expensive homes in one of the five States with an unlimited homestead exemption will be able to declare bankruptcy and enjoy a life of luxury at the expense of their creditors.

So who are these people? People like the owner of a failed S&L who paid off only a fraction of the $300 million in bankruptcy claims while keeping his multimillion dollar ranch in Florida, or the convicted Wall Street financier who filed bankruptcy while owing some $50 million in debts and fines but still kept his $5 million Florida mansion complete with 11 bedrooms and 21 baths, or the physician with no malpractice insurance who has been named in 4 separate lawsuits. He filed for bankruptcy protection and kept a $500,000 home with a 100-foot swimming pool.

The situation has become so notorious that one Miami bankruptcy judge told the New York Times, quote:

"Theoretically, you could shelter the Taj Mahal in this State, and no one could do anything about it."

Fortunately, during its markup of H.R. 3150, the Committee on the Judiciary did do something about it, unanimously approving language recommended by the National Bankruptcy Review Commission to place a nationwide $100,000 cap on the amount a debtor can claim under the exemption. A similar bipartisan amendment was unanimously approved in the Senate. This cap would have no effect in the 43 States.

We hear two arguments against this. One is $100,000 is too low. This is $100,000 equity, and there are only 15 percent of the people in this country that have $100,000 equity in their home. The other is that it violates the Constitution or State rights. This is Federal bankruptcy courts, not State courts, Federal bankruptcy courts.

What this amendment allows someone to do if they are doing financial planning, they want to declare bankruptcy and they live in New York: buy a beautiful piece of property in Miami, stay in New York for 365 days, go down, live in that beautiful piece of property and rip off the people they owe money to.

This amendment is a sham.

Mr. DELAHUNT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. KANJORSKI).

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Mr. KANJORSKI. Mr. Chairman, I am what I classify as a moderate Democrat, and I think that reform of bankruptcy is something that is necessary. I think there has been an abuse in the country. I would say some of the abusers are in the banking industry themselves, by sending out these credit cards to people that are even in bankruptcy are receiving credit cards.

But forgetting that, as we may, this is really a killer amendment for me and I think a lot of moderate people who would like to support bankruptcy. This is opening up the largest loophole in the whole bankruptcy act.

This is saying to people, come to Florida, Texas, figure out what you are going to do, and shelter your assets. You are saying to people in Pennsylvania and 45 other states that will not have any great benefit from this loophole, oh, you are going to be able to be wiped out in bankruptcy. You can only keep $16,500 of your exemption. But if you come to Florida, and even if you participated in fraud, abuse and theft in the savings and loan industry, you can remain living in your $5 million mansion and you have wiped out all other creditors through bankruptcy, because we have this exemption.

I understand we have this teetering and tottering here. We have some people that are for states' rights and they want the ability to have the exemption, but, on the other hand, they want to have a national statute that makes the credit card owner pay for it. I say pox on both our houses.

If we are going to do the fair thing, the underlying bill here gave a $100,000 exemption. How much more do you want? How much more blood from Pennsylvanians, from New Yorkers, from people in 45 states of this union that want to have responsible payment of debt, but do not want loopholes and favoritism?

I suggest, Mr. Chairman, that if you persist in this course and this amendment wins, here is one Member who is going to vote for no for this bill, who had been all along the support of this bill, because I think it should move through the process so we can get some reform in bankruptcy. But if I see this type of extremity going in, I know we are not going to get the type of reform that the constituents in my State and district could allow.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) has 1 minute remaining and has the right to close, and the gentleman from Massachusetts (Mr. DELAHUNT) has 30 seconds remaining.

Mr. DELAHUNT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I will be very brief. I want to address the scenario that the gentleman from Florida raised about the poor widow and her family. The manager's amendment offered by the gentleman from Illinois (Mr. HYDE), which I think was accepted and will receive support from both sides of the aisle, if a creditor forced someone into involuntary bankruptcy, the cap on the homestead exemption is automatically lifted. I think it is very important that Members know that. We are not going to have the kind of scenarios that were put forth by the gentleman who has sponsored this bill, the gentleman from Florida (Mr. MCCOLLUM).

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Texas is recognized for 1 minute.

Mr. SMITH of Texas. Mr. Chairman, I rise in support of the Gekas-McCollum-Smith amendment that preserves the rights of the states to set their own individual homestead exemptions.

H.R. 3150, the Bankruptcy Reform Act of 1998, is a necessary reform of our Nation's bankruptcy laws. But since 1867, Federal lawmakers have recognized the role of the states in determining what property is exempt under bankruptcy laws. Unfortunately, the language in this bill runs contrary to the Texas Constitution, as well as the Constitution of several other states.

The homestead exemption was originally intended to protect families by ensuring that if a family hit hard times, they would retain some means of support. The need to protect families is no less important today.

Our amendment simply preserves the right of states to provide a homestead exemption, and maintains a historical balance between the Federal Government and the states. It would also prevent State homestead exemptions from being abused by prohibiting the conversion of nonexempt assets into exempt homestead property within one year of filing for bankruptcy. That is a protection that needs to be emphasized.

Mr. Chairman, this amendment both prevents abuses of the exemption and protects states' rights, and I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS) will be postponed.

It is now in order to consider Amendment No. 9 printed in House Report 105-573.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 printed in House Report 105-573 offered by Mr. SCOTT:

Beginning on page 90, strike line 19 and all that follows through line 10 on page 91 (and make such technical and conforming changes as may be appropriate).

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment would eliminate section 212 of the bill, which singles out the recording artists for detrimental treatment to the exclusive benefit of recording companies in regard to personal service contracts.

Although section 212 in this bill is an improvement over its original version, it still provides an exclusive benefit to recording companies and still singles out recording artists for harsher treatment than other debtors filing for bankruptcy protection. This is without any showing that recording companies are entitled to this exclusive benefit in bankruptcy or that artists are abusing bankruptcy laws in any way that cannot be addressed through other provisions of bankruptcy laws that apply to everybody else.

Furthermore, whereas approximately 1 percent of all American adults filed for bankruptcy in 1997, according to Billboard Magazine, not even one-tenth of 1 percent of recording artists file for bankruptcy annually. There have been no hearings on section 212. In fact, it was not even considered in subcommittee markup. This special interest provision only appeared in a 177 page substitute which was first presented at full committee consideration of the bill.

Section 212 provides a new legal standard which will penalize recording artists for using provisions of the bankruptcy code available without such penalty to all other debtors similarly situated. Section 2812 does not apply to actors, does not apply to athletes, doctors, lawyers, professors, authors or anyone else who signed a personal service contract.

No justification has been offered to explain why recording artists in bankruptcy should be forced into continued servitude under what may be totally unfair and unduly burdensome contracts, especially since the contract itself may have contributed to the bankruptcy in the first place.

I urge support for this amendment, which eliminates an unnecessary, unfair, undesirable and, in some cases, unconscionable provision.

Mr. GEKAS. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield one minute to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I want to oppose this amendment in the strongest of terms. The provision that is now in this bill based on the managers' amendment would provide a solution in a flexible manner for some very serious problems that we have with some recording artists who have just filed bankruptcy to get out of studio contracts. That is not right.

What we are providing in the bill that the gentleman from Virginia (Mr. SCOTT) wants to strike is a provision that allows, permits, does not require, but allows bankruptcy judges to stop recording artists' abuse of bankruptcy laws. The underlying provision only affects artists paid royalty advances on a promise to perform exclusively for a studio. Under those conditions, why should anybody be allowed to file bankruptcy, just for the purpose of getting out of a studio contract?

We may want to argue that there are other inequitable situations that occur in contract law concerning bankruptcies. I cannot profess to address all of them, but I can say we ought to address this one while we have the opportunity today, and give bankruptcy judges the discretion to decide if indeed somebody is trying to in essence defraud the system by using bankruptcy to break these contracts in situations where they have made a promise to perform exclusively for a studio.

Mr. Chairman, I urge a no vote in the strongest terms on the Scott amendment to allow this to continue to happen.

Mr. SCOTT. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I commend my good friend, the gentleman from Virginia (Mr. SCOTT) for this amendment.

Mr. Chairman, now, how outrageous can the gentleman from Florida (Mr. MCCOLLUM) get? Our friends in the record industry, and I am a friend of the record industry, they go to the gentleman to sneak in this amendment, not known to anybody until we discovered it; not a hearing, not a word. I do not know who I am more disgusted at, the gentleman or them. I guess I will just be disgusted at both of you.

Now, why did the gentleman do it? For what reason? Section 707 protects everybody from phony filings. Everybody. Nobody in America has this exception but your buddies in the record industry. This is a disgrace, and I am really angry that you would try to pull this and that my friends in the entertainment industry would pull it on me.

I hope everybody votes against this amendment. There is absolutely no justification for it at all. Besides, it is directed at minority artists and entertainers, who frequently get cheated out of their earnings and have to go into bankruptcy, I would say to the gentleman from Pennsylvania (Mr. GEKAS).

So, please, have a heart.

Mr. GEKAS. Mr. Chairman, I yield one minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Chairman, I rise in opposition to the Scott amendment.

Mr. Chairman, as everyone in the chamber knows, I am proud to say I am from Nashville, Tennessee, Music City, USA, home of some of the best music and the best artists in the world. These artists work hard to earn their living and achieve success by virtue of their talent, ingenuity and just plain sweat.

Unfortunately, there are some cases of unscrupulous lawyers and agents who threaten to tarnish the reputation of many fine artists by declaring bankruptcy for some artists as a ploy to renegotiate a new contract. I am talking about some that have the money, but are willing to take short cuts and want a better contract and do not live up to their contract that they are in at the present time. That just is not right, and it threatens to spoil the reputation of the hard-working artists who play fairly.

Mr. Chairman, I urge my colleagues to vote against the Scott amendment.

Mr. SCOTT. Mr. Chairman, I yield one minute to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I have heard the words "outrageous" and "this is a disgrace." Well let me tell you what is outrageous and is a disgrace. What is outrageous is that you will have a multimillion dollar artist that is in the middle of a contract and decides, as I have read in one case, does not want to make $15 million in the next album, but they want to make $30 million on the next album so they go to bankruptcy court, and in bankruptcy court, they try to get it thrown out so they can go back and renegotiate a new contract and make $30 million.

Let us not talk about poor starving artists. We have documented cases of people that are making multi-multi-millions on albums, and they just simply want to renegotiate their deal. That is outrageous. Sign a deal, and live by the terms of that deal.

Now, I have heard also the race card has been used. If there is any color involved in this issue, it is the color green, the color of money, because this affects every artist, whether they are black or white, or whether they are Hispanic, whether they are working in L.A., Nashville or New York. This is race neutral. It is simply saying to the bankruptcy court, you have the discretion to decide whether somebody is using the rules to break a valid contract. I oppose the Scott amendment.

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Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise to oppose the Scott amendment to strike section 212 of this bill.

Under section 212 of H.R. 3150, bankruptcy judges would have the right to deny the termination of contracts with recording artists if it is clear that the bankruptcy filing is a ploy to end the contract. It provides judges with the authority to prevent fraudulent filers from using the bankruptcy system simply to advance other business objectives.

At issue in this provision is not who is filing for bankruptcy, but why they are filing for bankruptcy. Regardless of the circumstances, bankruptcy judges should have the authority to prevent fraudulent filings.

Mr. Chairman, this provision would not deny anyone access to bankruptcy. It would not deny debtors in genuine economic stress the ability to rehabilitate their finances, and it would not deny or not give recording companies a preferred creditor position.

I urge my colleagues to oppose the Scott amendment and support H.R. 3150.

Mr. GEKAS. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, to the extent that debtors are denied a new contract, other creditors are less likely to be paid. It is normal to renegotiate contracts in bankruptcy. In fact, in our Saturday paper, a race track in my district was in financial trouble, and the article pointed out that, if they filed bankruptcy, they would be able to renegotiate contracts that have put it into financial distress.

But whatever the merits of this argument, they ought to apply to everyone. There is nothing so unique about this particular special interest group that they should be given the advantage of section 212, a provision stuck into the bill without a hearing. For the merits of the argument in support of this section to make any sense, it ought to apply to everyone; otherwise, it just looks like a special favor for one particular special interest group, and that is why it ought it be struck. Mr. Chairman, I hope we can support this amendment.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Virginia (Mr. SCOTT) yields back the balance of his time.

Mr. GEKAS. Mr. Chairman, I yield to myself the balance of the time remaining.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 1 minute.

Mr. GEKAS. Mr. Chairman, as I recall the negotiations that were taking place during the time of consideration by the full committee, I thought that the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT) had become on the verge of reaching some compromised language. Then I learned that, indeed, they had, or at least it looked like we had, and so that the manager's amendment did contain some language that would seem to satisfy both sides.

Now I find out that that was not the case; therefore, we have to rely on what is now in the manager's amendment, and we respectfully reject the Scott amendment, and I ask everybody to vote no.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Virginia for the remaining time.

Mr. SCOTT. Mr. Chairman, I would acknowledge that the present version is not as bad as what we considered in committee, but we did not reach an agreement.

Mr. GEKAS. I know that. I know that.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SCOTT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Virginia (Mr. Scott) will be postponed.

It is now in order to consider amendment number 10 printed in House Report 105–573.

AMENDMENT NO. 10 OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 printed in House Report 105–573 offered by Ms. VELÁZQUEZ:

Page 110, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 244. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy can be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we move to rewrite our Nation's bankruptcy laws, it is important that we make the proper changes. My amendment ensures that we have all the facts on how these revisions will affect small business. I urge its adoption.

The purpose of my amendment is to direct the Small Business Administrator in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts to conduct a study into the causes of small business bankruptcy.

This study will examine the internal and external factors that cause small businesses to become debtors under Chapter 11. It would also study the factors that enable viable businesses to successfully reorganize. From these findings, the SBA will make recommendations on how bankruptcy law can be made more effective and efficient to assist small businesses remain viable.

Mr. Chairman, small businesses have been a critical component in the recent upturn in our economy. They have created the vast majority of the jobs and economic growth.

If you couple this job growth with the current explosion of technology, where we see businesses constantly emerging and reinventing themselves, it becomes critical that we monitor how changes to our national bankruptcy system affect small business. More importantly, these changes must not be allowed to dampen the entrepreneurial spirit that our national economy relies on so heavily.

The fact remains that of the 1.4 million bankruptcies filed in 1997, only 9,694 of Chapter 11 and 11,095 in Chapter 13 were business related. That represents less than 1 percent of all bankruptcies. Taking into account that over the last 10 years business bankruptcies have actually declined, we must make sure that these trends continue.

It is true that the provisions in this legislation were taken on recommendation from the National Bankruptcy Review Commission Report. Unfortunately, the Commission developed these guidelines without obtaining any statistical information. They also failed to seek the recommendations from the Small Business Administration or the Office of Advocacy.

We should not move forward with such drastic changes to our bankruptcy system without the proper consultation and examination into the issue. My amendment will ensure that all factors are properly scrutinized. If we fail to act properly, the provisions contained in this bill could end up doing more harm than good.

Mr. Chairman, no one will deny that our Nation is in dire need of bankruptcy reform. What I am concerned about is that we do this in a manner that improves our system, not make it worse. While studying how these changes impact small business will not ensure success, it will provide a safety net for our Nation's small business.

I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Mr. GEKAS. Mr. Chairman, I rise in opposition only for the purpose of claiming the time, to tell the truth.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

(The gentleman from Pennsylvania spoke in Spanish.)

Ms. VELAZQUEZ. (The gentlewoman from New York spoke in Spanish.)

Mr. GEKAS. (The gentleman from Pennsylvania spoke in Spanish.)

We will accept the amendment as offered by the gentlewoman from New York in both English and Spanish.

Mr. Chairman, I yield back the balance of my time.

Ms. VELAZQUEZ. Mr. Chairman, I thank the gentleman from Pennsylvania for supporting my amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 105–573.

AMENDMENT NO. 11 OFFERED BY MR. BALDACCI

Mr. BALDACCI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 printed in House Report 105–573 offered by Mr. BALDACCI:

Page 131, after line 7, insert the following:

SEC. 414. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study regarding the impact that the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled in post-secondary educational institutions;

has on the rate of cases filed under title 11 of the United States Code; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Maine (Mr. BALDACCI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer my student credit study amendment to bankruptcy reform legislation we are considering today.

My amendment directs the Comptroller General to conduct a study on the impact of the Nation's bankruptcy rate of the extension of credit to students enrolled in postsecondary education programs who are claimed as dependents for tax purposes by their parents or legal guardians.

The intent of my amendment is to compile information on the impact the extension of credit may have on families when it is extended to dependent students in college or trade school when they may have little or no income with which to pay debts from occurred through credit cards.

Again, I am not talking about students who are, for all intents and purposes on their own, financially independent, but those who are claimed as dependents by their parents for tax purposes.

I have received numerous inquiries from constituents who have expressed concern about the seemingly haphazard extension of credit to students who have no visible means of support, other than that of their family.

Some of you have seen the "Dear Colleague" sent out by the gentleman from Massachusetts (Mr. DELAHUNT) yesterday. Apparently, his college-aged daughter was sent an offer of credit in the form of a check for $2,875. That kind of money can be hard to resist for some students. You are away from home. Lots of strange new faces and very little cash. Those of you who are parents will probably understand where I am going with this.

I think the majority of students would be intelligent, responsible young adults. However, the temptation for some students to take on more debt than they could reasonably handle would be strong in some of these situations. As a dependent, your parents may feel a moral obligation to pay that debt. I think it is incumbent upon us to see if this is in fact a problem and the extent to which it effects American families.

Having said that, Mr. Chairman, I would urge the adoption of the amendment that I have offered.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise this opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition only for the purpose of claiming the time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to be intellectually honest about that, maybe for the first time in my career, but anyway, I agree with the concept that has been advanced by the gentleman from Maine and would urge a yes vote on his amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maine (Mr. BALDACCI).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 12 printed in House Report 105–573.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 12 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment of the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 12 printed in House Report 105–573 offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

Sec. 101. Dismissal or conversion of a chapter 7 case.
Sec. 102. Debtor participation in credit counseling program.

Subtitle B—Adequate Protections for Consumers

Sec. 111. Notice of alternatives.
Sec. 112. Debtor financial management training test program.
Sec. 113. Definitions.
Sec. 114. Disclosures.
Sec. 115. Debtor's bill of rights.
Sec. 116. Enforcement.
Sec. 117. Sense of the Congress.
Sec. 118. Charitable contributions.
Sec. 119. Reinforce the fresh start.
Sec. 119A. Chapter 11 discharge of debts arising from tobacco-related debts.

Subtitle C—Adequate Protections for Secured Creditors

Sec. 121. Discouraging bad faith repeat filings.
Sec. 122. Definition of household goods.
Sec. 123. Debtor retention of personal property security.
Sec. 124. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 125. Giving secured creditors fair treatment in chapter 13.
Sec. 126. Prompt relief from stay in individual cases.
Sec. 127. Stopping abusive conversions from chapter 13.
Sec. 128. Restraining abusive purchases on secured credit.
Sec. 129. Fair valuation of collateral.
Sec. 130. Protection of holders of claims secured by debtor's principal residence.
Sec. 131. Aircraft equipment and vessels.

Subtitle D—Adequate Protections for Unsecured Creditors

Sec. 141. Fraudulent debts are nondischargeable in chapter 13 cases.
Sec. 142. Applying the codebtor stay only when it protects the debtor.
Sec. 143. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 144. Other exceptions to discharge.
Sec. 145. Fees arising from certain ownership interests.
Sec. 146. Adequate protection for investors.
Sec. 147. Super-priority for child and spousal support claims.
Sec. 148. Debts for alimony, maintenance, and support.
Sec. 149. Protection of child support and alimony.

Subtitle E—Adequate Protections for Lessors

Sec. 161. Giving debtors the ability to keep leased personal property by assumption.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

Sec. 171. Extend period between bankruptcy discharges.

Subtitle G—Exemptions

Sec. 181. Exemptions.
Sec. 182. Limitation.
Sec. 183. Provide fair property exemptions and prevent high-rollers from abusing the system.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

Sec. 201. Limitation relating to the use of fee examiners.
Sec. 202. Sharing of compensation.
Sec. 203. Chapter 12 made permanent law.
Sec. 204. Meetings of creditors and equity security holders.
Sec. 205. Creditors' and equity security holders' committees.
Sec. 206. Postpetition disclosure and solicitation.
Sec. 207. Preferences.
Sec. 208. Venue of certain proceedings.
Sec. 209. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.
Sec. 210. Period for filing plan under chapter 11.
Sec. 211. Unexpired leases of nonresidential real property.
Sec. 212. Definition of disinterested person.

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

Sec. 231. Definitions.
Sec. 232. Flexible rules for disclosure statement and plan.
Sec. 233. Standard form disclosure statements and plans.
Sec. 234. Uniform national reporting requirements.
Sec. 235. Uniform reporting rules and forms.
Sec. 236. Duties in small business cases.
Sec. 237. Plan filing and confirmation deadlines.
Sec. 238. Plan confirmation deadline.
Sec. 239. Prohibition against extension of time.
Sec. 240. Duties of the United States trustee and bankruptcy administrator.
Sec. 241. Scheduling conferences.
Sec. 242. Serial filer provisions.
Sec. 243. Expanded grounds for dismissal or conversion and appointment of trustee.

CHAPTER 2—SINGLE ASSET REAL ESTATE

Sec. 251. Single asset real estate defined.
Sec. 252. Payment of interest.

CHAPTER 3—CONDITIONAL APPLICATION OF AMENDMENTS

Sec. 291. Loss of jobs.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 301. Petition and proceedings related to petition.
Sec. 302. Applicability of other sections to chapter 9.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

Sec. 401. Adequate preparation time for creditors before the meeting of creditors in individual cases.
Sec. 402. Creditor representation at first meeting of creditors.
Sec. 403. Filing proofs of claim.
Sec. 404. Audit procedures.
Sec. 405. Giving creditors fair notice in chapter 7 and 13 cases.
Sec. 406. Debtor to provide tax returns and other information.
Sec. 407. Dismissal for failure to file schedules timely or provide required information.
Sec. 408. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 409. Sense of the Congress regarding expansion of rule 9011 of the Federal rules of bankruptcy procedure.
Sec. 410. Jurisdiction of courts of appeals.
Sec. 411. Establishment of official forms.
Sec. 412. Elimination of certain fees payable in chapter 11 bankruptcy cases.

Subtitle B—Data Provisions

Sec. 441. Improved bankruptcy statistics.
Sec. 442. Bankruptcy data.
Sec. 443. Sense of the Congress regarding availability of bankruptcy data.

TITLE V—TAX PROVISIONS

Sec. 501. Treatment of certain liens.
Sec. 502. Enforcement of child and spousal support.
Sec. 503. Effective notice to Government.
Sec. 504. Notice of request for a determination of taxes.
Sec. 505. Rate of interest on tax claims.
Sec. 506. Tolling of priority of tax claim time periods.
Sec. 507. Assessment defined.
Sec. 508. Chapter 13 discharge of fraudulent and other taxes.
Sec. 509. Chapter 11 discharge of fraudulent taxes.
Sec. 510. The stay of tax proceedings.
Sec. 511. Periodic payment of taxes in chapter 11 cases.
Sec. 512. The avoidance of statutory tax liens prohibited.
Sec. 513. Payment of taxes in the conduct of business.
Sec. 514. Tardily filed priority tax claims.
Sec. 515. Income tax returns prepared by tax authorities.
Sec. 516. The discharge of the estate's liability for unpaid taxes.
Sec. 517. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 518. Standards for tax disclosure.
Sec. 519. Setoff of tax refunds.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 601. Amendment to add a chapter 6 to title 11, United States Code.
Sec. 602. Amendments to other chapters in title 11, United States Code.

TITLE VII—MISCELLANEOUS

Sec. 701. Technical amendments.
Sec. 702. Application of amendments.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

SEC. 101. DISMISSAL OR CONVERSION OF A CHAPTER 7 CASE.

(a) AMENDMENTS TO CHAPTER 7.—Section 707 of title 11, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 707 Dismissal or conversion of case";

(2) by amending subsection (b) to read as follows:

"(b)(1) In a case filed by an individual debtor who has regular income and whose debts are primarily consumer debts, the court—

"(A) on its own motion, or on a motion by the United States trustee or the trustee; or

"(B) on a motion filed by a party in interest, if the household income with respect to the debtor during the 1-year period ending on the date the case is commenced exceeds the sum of $60,000 and $5,000 for each household member exceeding 4, adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the period beginning on the 1st January 1 occurring after the effective date of this subparagraph and ending immediately before the most recent January 1 occurring before the commencement of the case;

and after notice and a hearing, shall dismiss the case, or convert the case with the consent of the debtor to a case under another chapter of this title, if the court finds that granting relief would be an abuse of the provisions of this chapter.

"(2) For purposes of paragraph (1)—

"(A) 'an abuse of the provisions of this chapter' means that—

"(i)(I) the debtor has, and is expected to have, disposable income that is sufficient, after paying allowed claims (whether secured or unsecured) for a debt secured only by the principal residence of the debtor, allowed secured claims, claims that have priority under section 507 of this title, allowed unsecured claims arising under not more than 1 motor vehicle lease in effect on the date the case is commenced, and debts arising in the 3-year period beginning on such date under not more than 1 motor vehicle lease in effect on the such date, to pay during such 3-year period not less than 30 percent of the aggregate amount of the remaining allowed unsecured claims; and

"(II) household income received with respect to the debtor during the 1-year period ending on the date the case is commenced exceeds the sum of $40,000 and $5,000 for each household member exceeding 2, adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the period beginning on the 1st January 1 occurring after the effective date of this subparagraph and ending immediately before the most recent January 1 occurring before the commencement of the case; or

"(ii) the debtor commenced a case under this chapter, or converted a case to a case under this chapter, in bad faith;

"(B) 'disposable income' means income that is received by the debtor and that is not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor;

"(C) 'household income' means—

"(i) in an individual case, the sum of—

"(I) the debtor's income; and

"(II) the income of any other household member of the debtor; and

"(ii) in a joint case, the sum of—

"(I) the debtor's income;

"(II) the income of the debtor's spouse; and

"(III) the income of any other household member of the debtor or of the debtor's spouse;

"(D) 'household member' means—

"(i) the debtor;

"(ii) the debtor's spouse if the debtor's spouse maintains a common principal residence with the debtor on the date the case is commenced; or

"(iii) a relative (by affinity, consanguinity, or adoption) of the debtor or the debtor's spouse who—

"(I) maintains a common principal residence with the debtor on the date the case is commenced; and

"(II) is dependent on the debtor, or on the debtors' spouse if the debtor's spouse maintains a common principal residence with the debtor on the date the case is commenced, for substantially all financial support during the 180-day period ending on the date the case is commenced.

"(3) Except as provided in paragraph (2)(C), this subsection shall apply jointly to debtors in a joint case."; and

(3) by adding at the end the following:

"(c) If the court denies a motion filed under this section by a party in interest, the court shall award to the debtor—

"(1) costs and a reasonable attorney's fee incurred by the debtor to oppose the motion; and

"(2) damages of not less than $5000;

unless the position of such party in interest is substantially justified.".

SEC. 102. DEBTOR PARTICIPATION IN CREDIT COUNSELING PROGRAM.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code is amended by adding at the end the following:

"(i)(1) Subject to paragraph (2) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 90-day period preceding the date of filing of the petition, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program offered through credit counseling services described in section 342(b)(2) that has been approved by—

"(A) the United States trustee; or

"(B) the bankruptcy administrator for the district in which the petition is filed.

"(2) The United States trustee or bankruptcy administrator may not approve a program for inclusion on the list under paragraph (1) unless the counseling service offering the program offers the program without charge, or at an appropriately reduced charge, if payment of the regular charge would impose a hardship on the debtor or the debtor's dependents.

"(3) The United States trustee or bankruptcy administrator shall designate any geographical areas in the United States trustee region or judicial district, as the case may be, as to which the United States trustee or bankruptcy administrator has determined that credit counseling services needed to comply with this subsection are not available or are too geographically remote for debtors residing within the designated geographical areas. The clerk of the bankruptcy court for each judicial district shall maintain a list of the designated areas within the district.

"(4) The clerk shall exclude a particular counseling service from the list maintained under section 342(b)(2) of this title if the United States trustee or bankruptcy administrator orders that the counseling service not be included in the list.

"(5) The court may waive the requirement specified in paragraph (1) if—

"(A) no credit counseling services are available as designated under paragraphs (2) and (3);

"(B) the providers of credit counseling services available in the district are unable or unwilling to provide such services to the debtor in a timely manner; or

"(C) foreclosure, garnishment, attachment, eviction, levy of execution, utility termination, repossession, or similar claim enforcement procedure that would have deprived the individual of property had commenced or threatened to commence before the debtor could complete a good-faith attempt to create such a repayment plan.

"(6) A debtor who is subject to the exemption under paragraph (5)(C) shall be required to make a good-faith attempt to create a debt repayment plan outside the judicial system in the manner prescribed in paragraph (1) during the 30-day period beginning on the date of filing of the petition of that debtor.

"(7) A debtor shall be exempted from the bad faith presumption for repeat filing under section 362(c) of title 11 if the case is dismissed due to the creation of a debt repayment plan.

"(8) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 406 and 407, is amended by adding at the end the following:

"(g)(1) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

"(A) a certificate from the credit counseling services that provided the debtor services under section 109(i), or a verified statement as to why such attempt was not required under section 109(i) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(i); and

"(B) a copy of the debt repayment plan, if any, developed under section 109(i) through the credit counseling service referred to in paragraph (1).

"(2) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.".

Subtitle B—Adequate Protections for Consumers

SEC. 111. NOTICE OF ALTERNATIVES.

(a) Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the individual shall be given or obtain (as required to be certified under section 521(a)(1)(B)(viii)) a written notice that is prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28 and that contains the following:

"(A) A brief description of chapters 7, 11, 12 and 13 of this title and the general purpose, benefits, and costs of proceeding under each of such chapters.

"(B) A brief description of services that may be available to the individual from an independent nonprofit debt counselling service.

"(C) The name, address, and telephone number of each nonprofit debt counselling service (if any)—

"(i)(I)with an office located in the district in which the petition is filed; or

"(ii)(II) that offers toll-free telephone communication to debtors in such district; and

"(ii) that provides such service without charge or on an appropriate reduced fee basis.

"(2) Any such nonprofit debt counselling service that registers with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in such list unless the chief bankruptcy judge of the district, after notice to the debt counselling service and the United States trustee and opportunity for a hearing, for good cause, orders that such debt counselling service shall not be so listed.

"(3) The clerk shall make such notice available to individuals whose debts are primarily consumer debts.

"(4) The United States trustee may file a motion with the bankruptcy court to request the removal of any debt counseling service from such list.".

(b) Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) in paragraph (6) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) on or before January 1 of each calendar year, and also within 30 days of any change in the nonprofit debt counselling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(1) of title 11 for each district included in the region.".

SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 180 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(3) The bankruptcy courts in each of such districts may require individual debtors in such cases to undergo such financial management training as a condition to receiving a discharge in such case.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 113. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

"(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;"; and

(3) by inserting after paragraph (12A) the following:

"(12B) 'debt relief counselling agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

"(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

"(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;".

(b) Conforming Amendment.—In section 104(b)(1) by inserting "101(3)," after "sections".

SEC. 114. DISCLOSURES.

(a) Disclosures.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 526. Disclosures

"(a) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

"(1) the written notice required under section 342(b)(1) of this title; and

"(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief counselling agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

"(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

"(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) household income, and, in a chapter 13 case, disposable income, must be stated after reasonable inquiry; and

"(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

"(b) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a "trustee" and by creditors.

"'If you select a chapter 7 proceeding, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so.

"'If you select a chapter 13 proceeding in which you repay your creditors what you can afford over three to seven years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.'

"'If you select another type of proceeding under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of proceeding.

"'Your bankruptcy proceeding may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can represent you in litigation.'.

"(c) Except to the extent the debt relief counselling agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief counselling agency providing bankruptcy assistance to an assisted person, to the extent authorized by applicable nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine household income and, in a chapter 13 case, disposable income, and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown;

"(3) how to determine what property is exempt and how to value exempt property as defined in section 506 of this title; and

"(4) a clear and conspicuous statement that an employee of such service may not provide legal advice unless such employee is an attorney.

"(d) A debt relief counselling agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the later of the date on which the notice is given the assisted person.".

(b) Conforming Amendment.—The table of section for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

"526. Disclosures.".

SEC. 115. DEBTOR'S BILL OF RIGHTS.

(a) Debtor's Bill of Rights.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 114, is amended by adding at the end the following:

"§ 527. Debtor's bill of rights

"(a) A debt relief counselling agency shall—

"(1) no later than three business days after the first date on which a debt relief counselling agency provides any bankruptcy assistance services to an assisted person, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

"(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

"(3) if an advertisement directed to the general public indicates that the debt relief counselling agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: "We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code." or a substantially similar statement.

"(b) A debt relief counselling agency shall not—

"(1) fail to perform any service which the debt relief counseling agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue or misleading and which upon the exercise of reasonable care, should be known by the debt relief counselling agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief counselling agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by section 114, is amended by inserting after the item relating to section 526, the following:

"527. Debtor's bill of rights.".

SEC. 116. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by adding at the end the following:

"§ 528. Debt relief counselling agency enforcement

"(a) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 of this title shall be void and may not be enforced by any Federal or State court or any other person.

"(b) NONCOMPLIANCE.—

"(1) Any contract between a debt relief counselling agency and an assisted person for bankruptcy assistance which does not comply with the requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

"(2) Any debt relief counselling agency which has been found, after notice and hearing, to have—

"(A) failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person; or

"(B) negligently or intentionally disregarded the requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief counselling agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief counselling agency has already been paid on account of that proceeding and if the case has not been closed, the court may in addition require the debt relief counselling agency to continue to provide bankruptcy assistance services in the pending case to the assisted person without further fee or charge or upon such other terms as the court may order.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) The rights and remedies provided in this section are in addition to any rights and remedies provided under any other provision of Federal law.

"(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by inserting after the item relating to section 527, the following:

"528. Debt relief counselling agency enforcement.".

SEC. 117. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 118. CHARITABLE CONTRIBUTIONS.

(a) DEFINITIONS.—Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

"(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

"(A) is made by a natural person; and

"(B) consists of—

"(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

"(ii) cash.

"(4) In this section, the term 'qualified religious or charitable entity or organization' means—

"(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

"(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.".

(b) TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "(1) made" and inserting "(A) made";

(C) by striking "(2)(A)" and inserting "(B)(i)";

(D) by striking "(B)(i)" and inserting "(ii)(I)";

(E) by striking "(ii) was" and inserting "(II) was";

(F) by striking "(iii)" and inserting "(III)"; and

(G) by adding at the end the following:

"(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

"(A) the aggregate annual amount of all contributions to qualified religious or charitable entities or organizations does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

"(B) the contribution made by a debtor exceeded the maximum amount specified in subparagraph (A), but the transfer was consistent with the practices of the debtor in making charitable contributions.".

(2) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(A) by striking "(b) The trustee" and inserting "(b)(1) Except as provided in paragraph (2), the trustee"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.".

(3) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(ii) by striking "548(a)(1)" and inserting "548(a)(1)(A)";

(B) in subsection (f)—

(i) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(ii) by striking "548(a)(1)" and inserting "548(a)(1)(A)"; and

(C) in subsection (g)—

(i) by striking "section 548(a)(1)" each place it appears and inserting "section 548(a)(1)(A)"; and

(ii) by striking "548(a)(2)" and inserting "548(a)(1)(B)".

(d) Treatment of Postpetition Charitable Contributions.—

(1) Confirmation of Chapter 13 Plan.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: ", including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made".

(2) Dismissal of Chapter 7 Case.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: "In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).".

(3) Contents of Chapter 11 Plan.—Section 1123 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case concerning an individual, the plan may provide for charitable contributions (as defined in section 548(d)(3) of this title) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4) of this title) in an aggregate annual amount not to exceed 15 percent of the gross income of the debtor for the year in which such contributions are made.".

(4) Confirmation of Chapter 12 Plan.—Section 1225(b)(2) of title 11, United States Code, is amended—

(A) in subparagraph (A) by striking "or" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(C) by inserting adding at the end the following

"(C) for charitable contributions (as defined in section 548(d)(3) of this title) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4) of this title) in an aggregate annual amount not to exceed 15 percent of the gross income of the debtor for the year in which such contributions are made.".

(e) Applicability.—

This section and the amendments made by this section shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

(f) Rule of Construction.—

Nothing in the amendments made by this section is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

SEC. 119. REINFORCE THE FRESH START.

(a) Restoration of an Effective Discharge.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court",

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915", and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

(b) Protection of Retirement Funds in Bankruptcy.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A) by striking "and" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) retirement funds to the extent exempt from taxation under section 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(2) in subsection (d) by adding at the end the following:

"(12) Retirement funds to the extent exempt from taxation under 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(c) Effective Protection for Utility Service in the Wake of Deregulation.—Section 366 of title 11, United States Code, is amended by adding at the end the following:

"(c) For the purposes of this section, the term 'utility' includes any provider of gas, electric, telephone, telecommunication, cable television, satellite communication, water, or sewer service, whether or not such service is a regulated monopoly.".

SEC. 119A. CHAPTER 11 DISCHARGE OF DEBTS ARISING FROM TOBACCO-RELATED DEBTS.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

"(5) The confirmation of a plan does not discharge a debtor that is a corporation from any debt arising from a judicial, administrative, or other action or proceeding that is—

"(A) related to the consumption or consumer purchase of a tobacco product; and

"(B) based in whole or in part on false pretenses, a false representation, or actual fraud.".

Subtitle C—Adequate Protections for Secured Creditors

SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of that debtor was pending within the previous 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title, the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case. If a party in interest requests, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) as to all creditors if—

"(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

"(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

"(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of that creditor.

"(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of that debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) as to all creditors if—

"(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of that creditor.

"(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and such request is granted in whole or in part, the court may order in addition that the relief so granted shall be in rem either for a definite period not less than 1 year or indefinitely. After the issuance of such an order, the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor under this title. If such an order so provides, such stay shall also not apply in any pending or later-filed case of any entity under this title that claims or has an interest in the subject property other than those entities identified in the court's order.

"(B) The court shall cause any order entered pursuant to this paragraph with respect to real property to be recorded in the applicable real property records, which recording shall constitute notice to all parties having or claiming an interest in such real property for purpose of this section.

"(6) For the purposes of this section, a case is pending from the time of the order for relief until the case is closed.".

SEC. 122. DEFINITION OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

"(27A) 'household goods' has the meaning given such term in the Trade Regulation Rule on Credit Practices promulgated by the Federal Trade Commission (16 C.F.R. 444.1(i)), as in effect on the effective date of this paragraph, but includes any tangible personal property reasonably necessary for the maintenance or support of a dependent child, including children's toys;".

SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking "and" at the end;

(B) in paragraph (5) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in an individual case under chapter 7 of this title, not retain possession of personal property having a value exceeding $5,000 as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 30 days after the first meeting of creditors under section 341(a)—

"(A) enters into a reaffirmation agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

"If the debtor fails to so act within the 30-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate."; and

(2) in section 722 by inserting "in full at the time of redemption" before the period at the end.

SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking "(e), and (f)" in subsection (c) and inserting in lieu thereof "(e), (f), and (h)"; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate having a value exceeding $5000 and securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

"(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

"(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.";

(2) in section 521, as amended by sections 104, 406, and 407—

(A) in paragraph (2) by striking "consumer";

(B) in paragraph (2)(B)—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a)"; and

(ii) by striking "forty-five day" the second place it appears and inserting "30-day";

(C) in paragraph (2)(C) by inserting "except as provided in section 362(h)" before the semicolon; and

(D) by adding at the end the following:

"(h) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended by inserting at the end the following:

"Notwithstanding the foregoing, in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate 60 days after a request under subsection (d) of this section, unless—

"(1) a final decision is rendered by the court within such 60-day period; or

"(2) such 60-day period is extended either by agreement of all parties in interest or by the court for a specific time which the court finds is required by compelling circumstances.".

SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) by striking in subparagraph (B) "in the converted case, with allowed secured claims" and inserting in lieu thereof "only in a case converted to chapter 11 or 12 but not in one converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(2) in subparagraph (A) by striking "and" at the end;

(3) in subparagraph (B) by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter of this title. Unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED CREDIT.

Section 506 of title 11, United States Code, is amended by adding at the end the following:

"(e) In an individual case under chapter 7, 11, 12, or 13—

"(1) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 90 days of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

"(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

"(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

"(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3).".

SEC. 129. FAIR VALUATION OF COLLATERAL.

The last sentence of section 506(a) of title 11, United States Code, is amended to read as follows:

"Such value shall be the liquidation value of the property which shall be not more than the cash wholesale value of the property and shall be determined in conjunction with any hearing on a plan or after notice and a hearing pursuant to any other provision of this title when they are paid in full.".

SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED BY DEBTOR'S PRINCIPAL RESIDENCE.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;

"(13B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;";

(2) in section 362(b)—

(A) in paragraph (17) by striking "or" at the end thereof;

(B) in paragraph (18) by striking the period at the end and inserting "; or"; and

(C) by inserting after paragraph (18) the following:

"(19) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title case by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a)."; and

(3) by amending section 1322(b)(2) to read as follows:

"(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;".

SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.

Section 1110(a)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "that become due on or after the date of the order";

(2) in subparagraph (B)—

(A) in clause (i) by striking "and" at the end; and

(B) in clause (ii)—

(i) by inserting "and within such 60-day period" after "order"; and

(ii) in subclause (II) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) that occurs after the date of the order and such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract.".

Subtitle D—Adequate Protections for Unsecured Creditors

SEC. 141. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.

Section 1328(a)(2) of title 11, United States Code, is amended—

(1) by inserting "(2), (3)(B), (4)," after "paragraph"; and

(2) by inserting "(6)," after "(5),".

SEC. 142. APPLYING THE CODEBTOR STAY ONLY WHEN IT PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) When the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) does not apply to such creditor, notwithstanding subsection (c), to the extent the creditor proceeds against the individual which received such consideration or against property not in the possession of the debtor which secures such claim, after notice and a hearing to the person in possession of such property, but this subsection shall not apply if the debtor is primarily obligated to pay the creditor in whole or in part with respect to the claim under a legally binding separation agreement, or divorce or dissolution decree, with respect to such individual or the person who has possession of such property.

"(3) When the debtor's plan provides that the debtor's interest in personal property subject to a lease as to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease, the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan notwithstanding subsection (c).".

SEC. 143. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523(a)(5) of title 11, United States Code, is amended to read as follows:

"(5) to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney);".

SEC. 144. OTHER EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) by striking subsection (a)(15), as added by section 304(e)(1) of Public Law 103–394;

(2) in subsection (a)(7) by inserting "an order of disgorgement or restitution obtained by a governmental unit" after "such debt is for"; and

(3) in subsection (c)(1) by striking "(6), or (15)" and inserting "or (6)".

SEC. 145. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

(a) Exception to Discharge.—Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the 1st place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the 1st place it appears; and

(4) by striking "but only" and all that follows through "such period,", and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

(b) Executory Contracts.—Section 365 of title 11, United States Code, as amended by section 161, is amended by adding at the end the following:

"(q) A debt of a kind described in section 523(a)(16) of this title shall not be considered to be a debt arising from an executory contract."

SEC. 146. ADEQUATE PROTECTION FOR INVESTORS.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking "or" at the end;

(2) in paragraph (18) by striking the period at the end and a inserting "; or"; and

(3) by adding at the end the following:

"(19) under subsection (a) of this section, of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.".

SEC. 147. SUPER-PRIORITY FOR CHILD AND SPOUSAL SUPPORT CLAIMS.

Section 507 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding any other provision of this title, a claim entitled to priority under subsection (a)(7) shall have first priority over any expense or claim that has priority under any other provision of this title, except that administrative expenses may be paid under the priority provided in subsection (a)(1) if the failure to do so would result in less property being distributed to the holder of a claim of a kind specified in subsection (a)(7).''.

SEC. 148. DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) NONDISCHARGEABILITY.—Section 523(a)(18) of title 11, United States Code, is amended—

(1) by inserting ``(including interest)'' after ``law''; and

(2) in subparagraph (A) by striking ``and'' at the end and inserting ``or''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 130, is amended—

(1) in paragraph (19) by striking ``or'' at the end;

(2) in paragraph (19) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

``(20) under subsection (a) with respect to the withholding of income pursuant to an order for support that is owed to a spouse, former spouse, or child of the debtor; or

``(21) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law as specified in section 466(a)(15) of the Social Security Act or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act.''.

(c) CONTINUED LIABILITY OF PROPERTY.—Section 522(c) of title 11, United States Code, is amended by striking ``section 523(a)(1) or 523(a)(5)'' and inserting ``paragraph (1) or (5) of section 523(a)''.

(d) CONFIRMATION OF PLANS.—Title 11 of the United States Code is amended—

(1) in section 1129(a) by adding at the end the following:

``(14) If the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.'';

(2) in section 1225(a)—

(A) in paragraph (5) by striking ``and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ``; and''; and

(C) by adding at the end the following:

``(7) the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.''; and

(3) in section 1325(a)—

(A) in paragraph (5) by striking ``and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ``; and''; and

(C) by adding at the end the following:

``(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.''.

(f) DISCHARGE.—Title 11 United States Code is amended—

(1) in section 1228(a) by inserting ``and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid unless such spouse, former spouse, or child waives the operation of this paragraph,'' after ``this title,''; and

(2) in section 1328(a) by inserting ``and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid unless such spouse, former spouse, or child waives the operation of this paragraph,'' after ``plan,'' the 1st place it appears.

(g) CONFORMING AMENDMENTS.—Section 456(b) of the Social Security Act (42 U.S.C. 656(b)) is amended—

(1) by inserting ``, including interest,'' after ``Code)'';

(2) by striking ``and'' and inserting ``or''; and

(3) by striking ``released by a discharge'' and inserting ``dischargeable''.

SEC. 149. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) AMENDMENT.—Title 11 of the United States Code, as amended by section 116, is amended by inserting after section 528 the following:

``§ 529. Protection of child support and alimony payments after the discharge

``Notwithstanding the provisions of the constitution or law of any State providing a different priority, any debts of the individual who has received a discharge under this title to a spouse, former spouse, or child for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

``(1) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

``(2) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support,

and any debt of a kind specified in paragraph (6), (9), or (13) of section 523(a) of this title, shall have priority in payment and collection over a creditor's claim which is not discharged in the individual's case pursuant to paragraph (2) or (4) of section 523(a) of this title, but such priority shall not affect the priority of any consensual lien, mortgage, or security interest securing such creditor's claim.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, as amended by section 116, is amended by inserting after the item relating to section 528 the following:

``529. Protection of child support and alimony.''.

Subtitle E—Adequate Protections for Lessors

SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

``(p)(1) If a lease of personal property with an aggregate value of not less than $5,000 leased by the debtor is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

``(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the lessor. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

``(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Section 727(a)(8) of title 11, United States Code, is amended by striking ``six'' and inserting ``7''.

Subtitle G—Exemptions

SEC. 181. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ``180'' and inserting ``365''; and

(2) by striking ``, or for a longer portion of such 180-day period than in any other place''.

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting ``subject to subsection (n),'' before ``any property''; and

(2) by adding at the end the following:

``(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any interest to the extent that such interest exceeds $100,000 in value, in the aggregate, in—

``(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

``(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

``(C) a burial plot for the debtor or a dependent of the debtor.

``(2) The limitation under paragraph (1) shall not apply to—

"(A) an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer; or

"(B) a case commenced under section 303 of this title.".

SEC. 183. PROVIDE FAIR PROPERTY EXEMPTIONS AND PREVENT HIGH-ROLLERS FROM ABUSING THE SYSTEM.

Section 522 of title 11, United States Code, is amended by adding at the end the following:

"(n) If, in the 1-year period ending on the date of the filing of the petition and while the debtor was insolvent, the debtor makes property exempt under subsection (b) by converting property to a form of property that is exempt in an unlimited amount, such property shall not be exempt under this section to the extent that the value of the debtor's interest in the property that is converted exceeds $100,000. Such conversion shall not otherwise be a basis for denying an exemption and shall not be the basis for denying the debtor other relief under this title.".

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAMINERS.

Section 330 of title 11, United States Code, is amended by adding at the end the following:

"(e) The court may not appoint any person to examine any request for compensation or reimbursement payable under this section.".

SEC. 202. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

SEC. 203. CHAPTER 12 MADE PERMANENT LAW.

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note) is repealed.

SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) The court on its own motion or on request of a party in interest, and after notice and a hearing, may order a change in membership of a committee appointed under subsection (a) if necessary to ensure adequate representation of creditors or of equity security holders.".

SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 207. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (7) by striking "or" at the end;

(3) in paragraph (8) by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5000.".

SEC. 208. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 209. CASES ANCILLARY TO FOREIGN PROCEEDINGS INVOLVING FOREIGN INSURANCE COMPANIES THAT ARE ENGAGED IN THE BUSINESS OF INSURANCE OR REINSURANCE IN THE UNITED STATES.

Section 304 of title 11, United States Code, is amended—

(1) in subsection (b) by striking "provisions of subsection (c)" and inserting "subsections (c) and (d)"; and

(2) by adding at the end the following:

"(d) The court may not grant to a foreign representative of the estate of an insurance company that is not organized under the law of a State and that is engaged in the business of insurance, or reinsurance, in the United States relief under subsection (b) with respect to property that is—

"(1) a deposit required by a State law relating to insurance or reinsurance;

"(2) a multibeneficiary trust required by a State law relating to insurance or reinsurance to protect holders of insurance policies issued in the United States or to protect holders or claimants against such policies; or

"(3) a multibeneficiary trust authorized by a State law relating to insurance or reinsurance to allow a person engaged in the business of insurance in the United States—

"(A) to cede reinsurance to such an insurance company: and

"(B) to treat so ceded reinsurance as an asset, or deduction from liability, in financial statements of such person.".

SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (1), on"; and

(2) by adding at the end the following:

"(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business.

"(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the the debtor's business.".

SEC. 211. UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before the earlier of (A) 120 days after the date of the order for relief, or (B) the entry of an order confirming a plan, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor but in no event shall such time period exceed 120 days unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business. Notwithstanding the immediately preceding sentence, and provided no plan has been confirmed, upon debtor's motion, and after notice and a hearing, the court may within such 120-day period extend the 120-day period by a period not to exceed 150 days, contingent upon written consent of the affected lessor or with the approval of the court, and provided trustee has timely performed all post-petition lease obligations, but in no circumstance shall such period extend beyond the earlier of (i) 270 days from the date of the order for relief or (ii) the entry of an order approving a disclosure statement, without the consent of the lessor unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business.".

SEC. 212. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

SEC. 231. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor' means—

"(A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $5,000,000 (excluding debts owed to 1 or more affiliates or insiders); or

"(B) a debtor of the kind described in paragraph (51B) but without regard to the amount of such debtor's debts;

except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $5,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;".

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125(f) of title 11, United States Code, is amended to read as follows:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

"(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

"(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND PLANS.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

"A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4) whether the debtor is—

"(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 235. UNIFORM REPORTING RULES AND FORMS.

After consultation with the Director of the Executive for United States Trustees and with the Judicial Conference of the United States, the Attorney General of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to comply with section 308 of title 11, United States Code, as added by section 234 of this Act to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors in cases under such title.

SEC. 236. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

"§ 1115. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns;

"(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

"(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units; and

"(7) allow the United States trustee or bankruptcy administrator, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

"1115. Duties of trustee or debtor in possession in small business cases.".

SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless shortened on request of a party in interest made during the 90-day period, or unless extended as provided by this subsection, after notice and hearing the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) of this title, within which the plan shall be confirmed may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 238. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.".

SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.".

SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR.

(a) DUTIES OF THE UNITED STATES TRUSTEE.—Section 586(a) of title 28, United States Code, as amended by section 111, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;",

(2) in paragraph (6) by striking "and" at the end,

(3) in paragraph (7) by striking the period at the end and inserting "; and", and

(4) by inserting after paragraph (7) the following:

"(8) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

"(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns;

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(D) in cases where the United States trustee finds material grounds for any relief under section 1112 of title 11 move the court promptly for relief.".

(b) DUTIES OF THE BANKRUPTCY ADMINISTRATOR.—In a small business case (as defined in section 101 of title 11 of the United States Code), the bankruptcy administrator shall perform the duties specified in section 586(a)(6) of title 28 of the United States Code.

SEC. 241. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking ", may";

(2) by amending paragraph (1) to read as follows:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and"; and

(3) in paragraph (2) by striking "unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure," and inserting "may".

SEC. 242. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (i) as so redesignated by section 124—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages."; and

(2) by inserting after subsection (i), as redesignated by section 124, the following:

"( ) The filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

"(1) is a debtor in a small business case pending at the time the petition is filed;

"(2) was a debtor in a small business case which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(3) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C) unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.".

SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes, by a preponderance of the evidence that—

"(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

"(B) if the reason is an act or omission of the debtor that—

"(i) there exists a reasonable justification for the act or omission; and

"(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

"(3) For purposes of this subsection, cause includes—

"(A) substantial or continuing loss to or diminution of the estate;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance;

"(D) unauthorized use of cash collateral harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

"(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or of a modified plan under section 1129 of this title;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan; and

"(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

"(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end;

(2) in paragraph (2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112 of this title, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.".

CHAPTER 2—SINGLE ASSET REAL ESTATE

SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.

Section 101(51B) of title 11, United States Code, is amended to read as follows:

"(51B) 'single asset real estate' means undeveloped real property or other real property constituting a single property or project, other than residential real property with fewer than 4 residential units, on which is located a single development or project which property or project generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor, or by a commonly controlled group of entities all of which are concurrently debtors in a case under chapter 11 of this title, other than the business of operating the real property and activities incidental thereto;".

SEC. 252. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by amending subparagraph (B) to read as follows:

"(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

CHAPTER 3—CONDITIONAL APPLICATION OF AMENDMENTS

SEC. 291. LOSS OF JOBS.

The amendments made by this subtitle shall not apply in a case under title 11 of the United States Code if the court determines that there is a substantial likelihood that the application of such amendments in such case would result in a loss of jobs in the operation of the debtor's business in such case.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by amending the last sentence to read as follows:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

SEC. 302. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560," after "557,".

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS BEFORE THE MEETING OF CREDITORS IN INDIVIDUAL CASES.

Section 341(a) of title 11, United States Code, is amended by inserting after the first sentence the following: "If the debtor is an individual in a voluntary case under chapter 7, 11, or 13, the meeting of creditors shall not be convened earlier than 60 days (or later than 90 days) after the date of the order for relief, unless the court, after notice and hearing, determines unusual circumstances justify an earlier meeting.".

SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: "Notwithstanding any local court rule, provision of a State constitution, any other State or Federal nonbankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or its representatives (which representatives may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13 either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 403. FILING PROOFS OF CLAIM.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case under chapter 7 or 13, a proof of claim or interest is deemed filed under this section for any claim or interest that appears in the schedules filed under section 521(a)(1) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.".

SEC. 404. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, as amended by sections 111 and 240, is amended—

(1) by amending subsection (a)(6) to read as follows:

"(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f),";

(2) by inserting at the end the following:

"(f)(1) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322, and, if applicable, section 111, of title 11 in individual cases filed under chapter 7 or 13 of such title. Such procedures shall—

"(A) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform such audits;

"(B) establish a method of randomly selecting cases to be audited according to generally accepted audit standards, provided that no less than 1 out of every 1000 cases in each Federal judicial district shall be selected for audit and provided that such procedures shall ensure that the United States trustee may select such cases in which there is a high likelihood of fraud;

"(C) require audits for schedules of income and expenses which reflect higher than average variances from the statistical norm of the district in which the schedules were filed;

"(D) establish procedures for reporting the results of such audits and any material misstatement of income, expenditures or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate, and for providing public information no less than annually on the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

"(E) establish procedures for fully funding such audits.

"(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

"(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things or property belonging to the debtor as the auditor requests and which are reasonably necessary to facilitate an audit to be made available for inspection and copying.

"(4) The report of each such audit shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1). If a material misstatement of income or expenditures or of assets is reported, a statement specifying such misstatement shall be filed with the court and the United States trustee shall give notice thereof to the creditors in the case and, in an appropriate case, in the opinion of the United States trustee, requires investigation with respect to possible criminal violations, the United States Attorney for the district.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of the enactment of this Act.

SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(B) by adding the following at the end:

"If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall make a good faith effort to include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, the debtor shall make a good faith effort to provide any notice required to be given under this title by the debtor to the creditor at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324.";

(2) by adding at the end the following:

"(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

"(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

"(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor unless the creditor knew or should have known of such notice. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section unless the creditor knew or should have known of such notice.".

SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The";

(2) by amending paragraph (1) to read as follows:

"(1) file—

"(A) a list of creditors, and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs;

"(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

"(v) a statement of the amount of disposable income, itemized to show how calculated;

"(vi) if applicable, any statement under paragraphs (3) and (4) of section 109(h);

"(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12 months; and

"(viii) a certificate, if applicable—

"(I) of an attorney whose name is on the petition as the attorney for the debtor, or of any bankruptcy petition preparer who signed the petition pursuant to section 110(b)(1) of this title, indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b)(1) of this title; or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition of the debtor, that such notice was obtained and read by the debtor;"; and

(3) by adding at the end the following:

"(b) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor notice that the creditor requests the petition, schedules, and statement of financial affairs filed by the debtor in the case. At any time, a creditor in a case under chapter 13 of this title may file with the court and serve on the debtor notice that the creditor requests the plan filed by the debtor in the case. Within 10 days of the first such request in a case under this subsection for the petition, schedules, and statement of financial affairs and the first such request for the plan under this subsection, the debtor shall serve on that creditor a conformed copy of the requested documents or plan and any amendments thereto as of that date, and shall thereafter promptly serve on that creditor at the time filed with the court—

"(1) any requested document or plan which is not filed with the court at the time requested; and

"(2) any amendment to any requested document or plan.

"(c) An individual debtor in a case under chapter 7 or 13 shall provide to the United States trustee, on the request of the United States trustee—

"(1) copies of all Federal tax returns (including any schedules and attachments) filed by the debtor for the 3 most recent tax years preceding the order for relief;

"(2) at the time the debtor files them with the Commissioner of Internal Revenue, all Federal tax returns (including any schedules and attachments) for the debtor's tax years ending while such case is pending; and

"(3) at the time the debtor files them with the Commissioner of Internal Revenue, all amendments to the tax returns (including schedules and attachments) described in subparagraphs (A) and (B).

"(d) A debtor in a case under chapter 13 of this title shall file, from a time which is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief unless a plan has then been confirmed, and thereafter on or before 45 days before each anniversary of the confirmation of the plan until the case is closed, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly net income, showing how calculated. Such statement shall disclose the amount and sources of income of the debtor, the identity of any persons responsible with the debtor for the support of any dependents of the debtor, and any persons who contributed and the amount contributed to the household in which the debtor resides. Such tax returns, amendments and statement of income and expenditures shall be available to the United States trustee, any bankruptcy administrator, any trustee and any party in interest for inspection and copying.".

SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 406, is amended by adding at the end the following:

"(e) Notwithstanding section 707(a) of this title, if an individual debtor in a voluntary case under chapter 7 or 13 fails to provide all of the information required under subsections (a)(1) and (c)(1)(A) within 45 days after the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the filing of the petition without the need for any order of court unless the court for good cause beyond the debtor's control orders otherwise, but any party in interest may request the court to enter an order dismissing the case and the court shall, if so requested, enter an order of dismissal within 5 days of such request if the court finds compelling justification for doing so.

"(f) If an individual debtor in a case under chapter 7 or 13 fails to perform any of the duties imposed by subsections (b), (c)(1)(B), (c)(1)(C), and (d), any party in interest may request that the court order the debtor to comply. Within 10 days of such request the court shall order that the debtor do so within a period of time set by the court no longer than 30 days unless the court for good cause beyond the debtor's control orders otherwise. If the debtor does not comply with that order within the period of time set by the court, the court shall, on request of any party in interest certifying that the debtor has not so complied, enter an order dismissing the case within 5 days of such request.".

SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.".

SEC. 409. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 410. JURISDICTION OF COURTS OF APPEALS.

(a) JURISDICTION.—Title 28 of the United States Code is amended—

(1) by striking section 158;

(2) by inserting after section 1292 the following:

"§ 1293. Bankruptcy appeals

"The courts of appeals (other the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

"(1) Final orders and judgments of bankruptcy courts entered under—

"(A) section 157(b) of this title in core proceedings arising under title 11, or arising in or related to a case under title 11; or

"(B) section 157(c)(2) of this title in proceedings referred to such courts.

"(2) Final orders and judgments of district courts entered under section 157 of this title in—

"(A) core proceedings arising under title 11, or arising in or related to a case under title 11; or

"(B) proceedings that are not core proceedings, but that are otherwise related to a case under title 11.

"(3) Orders and judgments of bankruptcy courts or district courts entered under section 105 of title 11, or the refusal to enter an order or judgment under such section.

"(4) Orders of bankruptcy courts or district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

"(5) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if—

"(A) such court is of the opinion that—

"(i) such order involves a controlling question of law as to which there is substantial ground for difference of opinion; and

"(ii) an immediate appeal from such order may materially advance the ultimate termination of such case or such proceeding; or

"(B) the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order."; and

(3) in—

(A) the table of sections for chapter 6 by striking the item relating to section 158; and

(B) the table of sections for chapter 83 by inserting after the item relating to section 1292 the following:

"1293. Bankruptcy appeals.".

(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of title 11, the United States Code, is amended by striking “158(d), 1291, or 1292” and inserting “1291, 1292, or 1293”.

(2) Title 28, United States Code, is amended—

(A) in subsections (b)(1) and (c)(2) of section 157 by striking “section 158” and inserting “section 1293”;

(B) in section 1334(d) by striking “158(d), 1291, or 1292” and inserting “1291, 1292, or 1293”; and

(C) in section 1452(b) by striking “158(d), 1291, or 1292” and inserting “1291, 1292, or 1293”.

SEC. 411. ESTABLISHMENT OF OFFICIAL FORMS.

The Judicial Conference of the United States shall establish official forms to facilitate compliance with the amendments made by sections 101 and 102.

SEC. 412. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking “until the case is converted or dismissed, whichever occurs first”, and

(2) in the 2d sentence—

(A) by striking “The” and inserting “Until the plan is confirmed or the case is converted (whichever occurs first) the”, and

(B) by striking “less than $300,000;” and inserting “less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be”.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

Subtitle B—Data Provisions

SEC. 441. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Title 28, United States Code, is amended by adding after section 158 the following new section:

“§ 159. Bankruptcy statistics

“The Director of the Executive Office for United States Trustees shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Such statistics shall be in a form prescribed by the Executive Office for United States Trustees in consultation with the Administrative Office of the United States Courts. The Office shall compile such statistics, and make them public, and report annually to the Congress on the information collected, and on its analysis thereof, no later than October 31 of each year. Such compilation shall be itemized by chapter of title 11, shall be presented in the aggregate and for each district, and shall include the following:

“(1) Total assets and total liabilities of such debtors, and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by such debtors.

“(2) The current total monthly income, projected monthly net income, and average income and average expenses of such debtors as reported on the schedules and statements the debtor has filed under sections 111, 521, and 1322 of title 11.

“(3) The aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable.

“(4) The average time between the filing of the petition and the closing of the case.

“(5) The number of cases in the reporting period in which a reaffirmation was filed and the total number of reaffirmations filed in that period, and of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney, and of those the number of cases in which the reaffirmation was approved by the court.

“(6) With respect to cases filed under chapter 13 of title 11—

“(A) the number of cases in which a final order was entered determining the value of property securing a claim less than the claim, and the total number of such orders in the reporting period; and

“(B) the number of cases dismissed for failure to make payments under the plan.

“(7) The number of cases in which the debtor filed another case within the 6 years previous to the filing.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 18 months after the date of the enactment of this Act.

SEC. 442. BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

“§ 589b. Bankruptcy data

“(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

“(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

“(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

“(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

“(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

“(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

“(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

“(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

“(1) information about the length of time the case was pending;

“(2) assets abandoned;

“(3) assets exempted;

“(4) receipts and disbursements of the estate;

“(5) expenses of administration;

“(6) claims asserted;

“(7) claims allowed; and

“(8) distributions to claimants and claims discharged without payment;

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

“(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

“(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

“(2) length of time the case has been pending;

“(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

“(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

“(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

“(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

“(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.”.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

“589b. Bankruptcy data.”.

SEC. 443. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE V—TAX PROVISIONS

SEC. 501. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting “(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “under this title”;

(2) in subsection (b)(2), after “507(a)(1)”, insert “(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)”; and

(3) by adding at the end the following:

“(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

“(1) exhaust the unencumbered assets of the estate; and

“(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

“(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

“(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

“(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.”.

(b) Determination of Tax Liability.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.”.

SEC. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting “, except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in section 507(a)(7) of this title” before the semicolon at the end.

SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.

(a) Effective Notice to Governmental Units.—Section 342 of title 11, United States Code, as amended by section 405, is amended by adding at the end the following:

“(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

“(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.”.

(b) Adoption of Rules Providing Notice.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) Effect of Failure of Notice.—Section 342 of title 11, United States Code, as amended by subsection (a) and section 405, is amended by adding at the end the following:

“(i)(1) A notice that does not comply with subsections (d) and (e) shall have no effect unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

“(A) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the matter or proceeding with respect to which the notice was provided was pending for such purposes; or

“(B) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act or the taxpayer made a good faith effort to provide the required notice under subsections (d) and (e).

“(2) No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed unless the action takes place after notice of the commencement of the case as required by this section has been received.”.

SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking “Unless” at the beginning of the second sentence thereof and inserting “If the request is made in the manner designated by the governmental unit and the taxing authority has place in file with the clerk of the court a description of the manner in which the governmental unit requires such request and unless”.

SEC. 505. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

“§ 511. Rate of interest on tax claims

“Notwithstanding any provision of this title that requires the payment of interest on a claim, if interest is required to be paid on a tax claim, the rate of interest shall be as follows:

“(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title and secured tax claims the rate shall be determined under applicable nonbankruptcy law.

“(2) In the case of unsecured claims for taxes arising before the date of the order for relief and paid under a plan of reorganization, the minimum rate of interest to be applied during the period after the filing of the petition shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, for the calendar month in which the plan is confirmed, plus 3 percentage points.”.

SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after “petition” and before the semicolon “, plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title”; and

(2) amend clause (ii) to read as follows:

“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

“(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

“(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

“(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.”.

SEC. 507. ASSESSMENT DEFINED.

(a) Assessment Defined for Priority Purposes.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (2) the following:

“(3) ‘assessment’—

“(A) for purposes of State and local taxes, means that point in time when all actions required have been taken so that thereafter a taxing authority may commence an action to collect the tax, and

“(B) for Federal tax purposes has the meaning given such term in the Internal Revenue Code of 1986;

and ‘assessed’ and ‘assessable’ shall be interpreted in light of the definition of assessment in this paragraph;”.

(b) Assessment Defined for the Stay of Proceedings.—Section 362(b)(9)(D) of title 11, United States Code, is amended by inserting after “the making of an assessment” the following: “as defined by applicable nonbankruptcy law notwithstanding the definition of an ‘assessment’ elsewhere in this title”.

SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting "(1) to the extent that the debtor made a fraudulent return or fraudulently attempted in any manner to evade such taxes," after "paragraph".

SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

"(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.".

SEC. 510. THE STAY OF TAX PROCEEDINGS.

(a) The Section 362 Stay Limited to Prepetition Taxes.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting ", in respect of a tax liability for a taxable period ending before the order for relief.".

(b) The Appeal of Tax Court Decisions Permitted.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking "or" at the end,

(2) in subparagraph (D) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.".

SEC. 511. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking "and" at the end; and

(2) in subparagraph (C)—

(A) by striking "deferred cash payments, over a period not exceeding six years after the date of assessment of such claim," and inserting "regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,";

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.".

SEC. 512. THE AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting ", except where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;".

SEC. 513. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) Payment of Taxes Required.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) Such taxes shall be paid when due in the conduct of such business unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.".

(b) Payment of Ad Valorem Taxes Required.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after "estate," and before "except" the following: "whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,".

(c) Request for Payment of Administrative Expense Taxes Eliminated.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);".

(d) Payment of Taxes and Fees as Secured Claims.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting "or State statute" after "agreement"; and

(2) in subsection (c) by inserting ", including the payment of all ad valorem property taxes in respect of the property" before the period at the end.

SEC. 514. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section" and inserting "on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section".

SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting "or equivalent report or notice," after "a return,";

(2) in clause (i)—

(A) by inserting "or given" after "filed"; and

(B) by striking "or" at the end;

(3) in clause (ii)—

(A) by inserting "or given" after "filed";

(B) by inserting ", report, or notice" after "return"; and

(4) by adding at the end the following:

"(iii) for purposes of this subsection, a return—

"(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law, and

"(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or".

SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting "the estate," after "misrepresentation,".

SEC. 517. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) Filing of Prepetition Tax Returns Required for Plan Confirmation.—Section 1325(a) of title 11, United States Code, as amended by section 146, is amended—

(1) in paragraph (6) by striking "and" at the end;

(2) in paragraph (7) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.".

(b) Additional Time Permitted for Filing Tax Returns.—(1) Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 6-year period ending on the date of filing of the petition which the debtor had been required to file under applicable nonbankruptcy law.

"(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

"(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date,

"(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law, and

"(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

"(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection, and

"(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

"(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.".

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting ", and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 518. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after "records," the following: "including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,",

(2) by inserting "such" after "enable", and

(3) by striking "reasonable" where it appears after "hypothetical" and by striking "typical of holders of claims or interests" after "investor".

SEC. 519. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 130, 146, and 150 is amended—

(1) in paragraph (17) by striking "or",

(2) in paragraph (18) by striking the period at the end and inserting "; or", and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless prior to such setoff the debt is listed by the debtor as disputed, contingent, or unliquidated.".

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

"CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"601. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"602. Definitions.
"603. International obligations of the United States.
"604. Commencement of ancillary case.
"605. Authorization to act in a foreign country.
"606. Public policy exception.
"607. Additional assistance.
"608. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"609. Right of direct access.
"610. Limited jurisdiction.
"611. Commencement of bankruptcy case under section 301 or 303.
"612. Participation of a foreign representative in a case under this title.
"613. Access of foreign creditors to a case under this title.
"614. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"615. Application for recognition of a foreign proceeding.
"616. Presumptions concerning recognition.
"617. Order recognizing a foreign proceeding.
"618. Subsequent information.
"619. Relief that may be granted upon petition for recognition of a foreign proceeding.
"620. Effects of recognition of a foreign main proceeding.
"621. Relief that may be granted upon recognition of a foreign proceeding.
"622. Protection of creditors and other interested persons.
"623. Actions to avoid acts detrimental to creditors.
"624. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"625. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"627. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"628. Commencement of a case under this title after recognition of a foreign main proceeding.
"629. Coordination of a case under this title and a foreign proceeding.
"630. Coordination of more than 1 foreign proceeding.
"631. Presumption of insolvency based on recognition of a foreign main proceeding.
"632. Rule of payment in concurrent proceedings.

"§ 601. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 602. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

"(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 603. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

"§ 604. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

"§ 605. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) authorized by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 606. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 607. Additional assistance

"(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 608. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 609. Right of direct access

"(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

"(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

"(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

"(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

"§ 610. Limited jurisdiction

"The sole fact that a foreign representative files a petition under sections 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§ 611. Commencement of case under section 301 or 303

"(a) Upon filing a petition for recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

"(c) A case under subsection (a) shall be dismissed unless recognition is granted.

"§ 612. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§ 613. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) of this section does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§ 614. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§ 615. Application for recognition of a foreign proceeding

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

"§ 616. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of section 101(24), the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§ 617. Order recognizing a foreign proceeding

"(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

"(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602;

"(2) the foreign representative applying for recognition is a person or body within the meaning of section 101(24); and

"(3) the petition meets the requirements of section 615.

"(b) The foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

"(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

"§618. Subsequent information

"From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

"(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

"(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§619. Relief that may be granted upon petition for recognition of a foreign proceeding

"(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

"(1) staying execution against the debtor's assets;

"(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

"(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

"(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

"(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"§620. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

"(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

"(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

"(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

"(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§621. Relief that may be granted upon recognition of a foreign proceeding

"(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

"(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

"(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

"(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

"(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

"(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

"(6) extending relief granted under section 619(a); and

"(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

"§622. Protection of creditors and other interested persons

"(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

"§623. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§624. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§625. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

"§626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) In all matters included in section 601, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

"(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

"(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§627. Forms of cooperation

"Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§628. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§629. Coordination of a case under this title and a foreign proceeding

"Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

"(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

"(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

"(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

"(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

"(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

"§630. Coordination of more than 1 foreign proceeding

"In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

"(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§631. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

"§632. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

"6. Ancillary and Other Cross-Border Cases .... 601".

SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: "and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6"; and

(2) by adding at the end the following:

"(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity authorized by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 6 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting "6," after "chapter".

TITLE VII—MISCELLANEOUS

SEC. 701. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking "subsection (c) or (d) of";

(2) in section 541(b)(4) by adding "or" at the end; and

(3) in section 552(b)(1) by striking "product" each place it appears and inserting "products".

SEC. 702. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Democratic substitute. Unlike the bill before us, H.R. 3150, this bill represents a balanced and reasoned response to the problems of bankruptcy abuse by debtors as well as by creditors.

What does this substitute do? First, the substitute strikes the bureaucratic inflexible means testing provisions of the bill and provides, instead, for a strengthened dismissal procedure based on the debtor's actual income and expenses.

Under the substitute, trustees as well as the courts and the United States trustees could seek dismissal of a bankruptcy case involving families with incomes over $60,000. This deals with the problems of bankruptcy abuse in a reasonable manner while taking in account such important items as child care payments, health care costs, the cost of taking care of ill parents and educational expenses.

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I might add, Mr. Chairman, it changes in two fundamental ways the means testing provisions of the bill before us.

First, it has a human being in it. I believe in human beings. We believe in human beings on this side of the aisle. It has a judge. If someone thinks that this person can pay, has the ability to pay his debts and ought not to be allowed to have a discharge under Chapter 7, fine, convince the judge. This provides pretty strong procedures of what you have to prove to get into Chapter 7 to get your discharge, but there is a judge to judge it. It is not an automatic filing that goes into a computer, as it is in the bill.

Second, it makes the commonsense observation that if the question is, can this debtor afford to repay his debts, as opposed to getting a discharge, it has practical, specific questions: What is his income? What is his assets? What are his expenses? How much rent does he pay? How much child support obligation does he owe per month?

Not, as in the bill before us, what is the average rent that the Internal Revenue Service thinks someone ought to pay in the northeast or southwest United States; not what does the average person, according to the IRS, what they think the average person might be paying for child support. Who cares? The question is this person in front of us, how much can he afford to pay, what are his real expenses, how much is left over for debt service. This applies that kind of a traditional test, instead of a fictitious test dealing with a fictitious average person who does not exist.

Third, the substitute eliminates provisions making significant amounts of credit card debt nondischargeable in bankruptcy, pitting these aggressive and sophisticated creditors in direct competition with child support, alimony, spouse support, and victim support.

After first denying that a problem ever existed, the majority has come up with a series of toothless and meaningless fixes. The substitute responds to the real problem by protecting against giving increased money to credit card companies at the expense of alimony and child support.

The substitute also modifies the business provisions of the bill, which impose massive new legal and paperwork burdens on small business and real estate concerns and will cost our economy thousands of jobs.

In a letter opposing H.R. 3150 written today and which I referred to earlier today, the AFL-CIO has stated that H.R. 3150 "threatens jobs by placing substantial procedural barriers in the way of small business access to the protections of Chapter 11."

As I also read earlier, the Small Business Administration says the same thing, and the National Bankruptcy Conference says the same thing. This removes that. In addition, the substitute adds a new provision protecting charitable contributions in Chapter 11 and Chapter 12 cases.

The bill in front of us protects tithing only in Chapter 7 and Chapter 13 cases. There is no provision allowing individuals and corporations to utilize Chapter 11 or family farmers to utilize Chapter 12 to continue to make religious and other charitable deductions before and in and after bankruptcy. The substitute is the only proposal which fully protects these charitable contributions. I might add, the halfway drafting of the tithing provisions of the bill in front of us is a symptom of the hasty manner in which this bill was drafted, the sloppy manner in which it was drafted, without proper review.

We were told time and time again by all the organizations that deal with bankruptcy about how hasty this was, how hasty the process, how sloppily drafted. We kept telling the committee leadership, slow down the process, but they did not. The fact that they forgot to put in Chapter 11, the fact that they forgot to put in Chapter 12 in the tithing provisions is just one obvious example of the sloppy drafting of this bill and hasty drafting of this bill.

The substitute also adds a provision specifying that the new post-bankruptcy priorities for alimony and child support apply to benefit creditors who are drunk driving victims and victims of crime or willful or malicious injury, also. The bill in front of us only grants these new post-bankruptcy priorities to alimony and child support creditors, and completely ignores innocent victims of crime and drunk driving who, under the bill, are forced to compete with aggressive credit card companies in the post-discharge situation.

In addition, the substitute goes much further than H.R. 3150 in protecting family farmers, because it strikes language making it far easier for banks to foreclose on family farms. Again, the Democratic substitute is the only amendment which offers the Members a chance to stand squarely behind our farmers at a time when they face massive new challenges.

The substitute retains the vast majority of the other provisions in the majority bill. It offers significant new benefits to banks and other lenders while protecting women and children and protecting jobs.

In a conscientious, intelligent, realistic fashion, it applies a test that makes sense in separating out those people who cannot pay their debts and ought to have a Chapter 7 discharge from those who probably can, the small minority of those who probably can and should be in a Chapter 13 workout situation. But the test is realistic, it is based on facts and on the individual case, not on a theoretical construct of the Internal Revenue Service.

It boggles my mind that the authors of this bill and the supporters of this bill, who stood on this floor day after day after day telling us how insensitive the Internal Revenue Service is to real people, now think the Internal Revenue Service ought to be running the lives of Americans caught up in the bankruptcy courts.

So I urge my colleagues to vote yes for the substitute resolution as a much better substitute to accomplish the professed goal, the claimed goal, of the legislation, without accomplishing the real effect of the bill in front of us, which is simply to give a lot of undeserved money to the credit card companies, instead of to people who need child support, the victims of crimes, and to debtors in serious situations, and to other creditors.

Mr. Chairman, I urge a yes vote on this substitute.

Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts (Mr. MEEHAN) may control the balance of the time which I have been granted.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 30 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

As I mentioned before, Mr. Chairman, throughout the time that he has served on our subcommittee, the gentleman from Tennessee (Mr. BRYANT) has been a semi and maybe a complete expert on some of the matters that have come before us with respect to bankruptcy, and in particular, with bankruptcy trustees and their work.

That is why it pleases me to see him continue to be energetic in the development of this legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise at this time to engage the gentleman from Pennsylvania (Mr. GEKAS) in a colloquy in regard to an issue that is very important to my State.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I will be glad to do so, Mr. Chairman.

Mr. BRYANT. Mr. Chairman, as the gentleman from Pennsylvania knows, I have been contacted by several Tennessee financial institutions which are concerned about the amount of time allowed to record a lien on a vehicle refinance.

Current law allows creditors only 10 days from the loan origination to record a lien. This is difficult, since it requires paying off the lienholder, receiving the title back from the lienholder, and submitting the paperwork to the State for processing.

In Tennessee a lien filed in the proper time normally will result in a lien date corresponding to the loan date. If the State receives the lien application outside the time parameter, then the lien date corresponds to the application received date.

Trustees have become more aggressive in bankruptcy in pursuing assets that are in bankruptcy. If a lien is recorded out of that allowed period, the court will strip the refinancing institution of its lien, take possession of the vehicle, and use the proceeds to satisfy creditors in that bankruptcy. The refinancing institution then becomes an unsecured creditor, and is treated as such.

This is a serious problem, and impacts greatly on the willingness of financial institutions to create a competitive market in the vehicle refinance area. Several of Tennessee's financial institutions have recommended extending the 10-day period to 60 days. I know that the gentleman from Pennsylvania (Mr. GEKAS) has expressed some concern over the length of this proposed time, but has indicated to me that he would be willing to work with me on this issue, as the bill moves to conference with the Senate.

Mr. GEKAS. If the gentleman will continue to yield, Mr. Chairman, the gentleman is exactly correct. After the gentleman brought this matter to the attention of the committee, we decided that we were going to try to work strenuously between now and the time of conference to blend the gentleman's concerns into the consideration of this bill as it reaches that stage. We will do so.

Mr. BRYANT. I thank the distinguished chairman.

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the substitute and in support of the bipartisan bill, the underlying bill, put together by the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Virginia (Mr. BOUCHER).

Chairman Alan Greenspan testified before Congress today. He said many great things about the state of our economy. He said we have a record stock market, record unemployment, the lowest in 28 years. Things are going extraordinarily well in this country. That is the best of times and the best of news.

However, today we debate a very serious issue that is possibly the worst of times. We have had 1.4 million people in 1997 declare bankruptcy, 1.4 million people. That is more than the combined total populations of the States of North and South Dakota; more than the total combined populations of North and South Dakota, two States out of our 50, equal the number of bankruptcies filed in 1997. That is a serious problem.

So we have the best of times, according to Chairman Greenspan, and the worst of times with the number of bankruptcies. Why? There is no stigma attached to the filing of bankruptcy anymore.

Second, Chapter 7, it is convenient to file in Chapter 7. Chapter 7 should not be as convenient as going into a 7-11. It should be based on need. It should not be based on convenience.

And, Mr. Chairman, we need to strengthen the emphasis that we have in this bill on child support and alimony. The Boucher amendment that we discussed an hour and a half ago, which was voice voted, that amendment made child support and alimony the very top priority. It leapfrogged over 6 or 7 other issues, over farmer's claims and fishermen's claims.

Now, under that provision and under this bill, then, if passed, child support and alimony becomes the top priority. It also expands the definition of household goods to assure that a parent who declares bankruptcy is not required to give up possessions needed for childrearing and raising their children, two very important provisions that show common sense and compassion in this bill.

We also strengthen consumer protections in current law by cracking down on bankruptcy mills which steer consumers into filing without information on the consequences of bankruptcy. We expand notice requirements on alternatives to bankruptcy, and we mandate participation in credit counseling services.

Mr. Chairman, this is a bill that shows its commitment to personal responsibility, that is fair to the taxpayer, that says that the bankruptcy system that exists today should not cost our small businesses like it does today, should not cost the consumer as it does today, that should not cost the law-abiding taxpaying citizen as it does today.

We are reforming that with common sense, we are reforming that with personal responsibility, and we are reforming that, putting our top priorities on child support and alimony. That is the basis for reform, and that is the basis I hope for a bipartisan support for this bill.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Nadler-Meehan-Berman Democratic substitute, and I do so as a strong supporter of bankruptcy reform and a strong supporter of means testing.

The choice before us today is clear: We can means test in a manner that takes debtors who can truly afford to repay their debts and places them into stable Chapter 13 repayment plans. Or we can means test in a way that affords aggressive creditors the opportunity to inflict protracted, contentious, and expensive litigation upon debtors of all income levels. Unfortunately, H.R. 3150 embodies the latter approach.

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According to the nonpartisan Congressional Research Service, "H.R. 3150 would inject numerous opportunities for adversarial hearings in the course of a consumer bankruptcy . . . it is reasonable to anticipate that in some instances, debtors who cannot afford creditor-initiated adversarial litigation will acquiesce in reaffirmation agreements, unreasonable repayment schedules, or just opt out of the bankruptcy system."

To make matters worse, H.R. 3150 flat out exempts a large amount of credit card debt from discharge through bankruptcy, even though this credit card debt was not actually incurred by fraud. The net result of these policies is that a substantial amount of credit card debt currently discharged through bankruptcy would now survive bankruptcy.

This means that there would be a significant increase in the number of credit card lenders competing for portions of a debtor's limited postbankruptcy income and assets against women and children owed alimony and support, victims of intentional torts committed by the debtor, and a debtor's student loan creditors.

Mr. Chairman, I have not yet heard even a remotely compelling public policy rationale for making it more difficult than it is already for women and children to collect alimony and support. Instead, a Dear Colleague letter was circulated this week that tells us that the concerns about alimony and support collection are "rubbish." How interesting.

First we hear there is no child support and alimony problem. That is what we were told in committee. Then we hear the Committee on the Judiciary fixed this once nonexistent problem and that the remaining complaints are "rubbish." Now we are told that certain floor amendments fixed the initially nonexistent and supposedly solved problem.

It kind of makes one wonder who is really spewing the "rubbish."

The Nadler-Meehan-Berman substitute would address debtor abuses without dramatically reducing the scope of debts covered by bankruptcy. It would means-test without permitting aggressive creditors to file motions against debtors who simply cannot afford to stick up for their bankruptcy rights. And it strikes the new exceptions to discharge for credit card debt that have no legitimate public policy justification and threaten alimony and support collections.

The substitute is the type of reform that the Senate could accept and the President would sign. I urge my colleagues to support the substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I would ask how much time is remaining.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Pennsylvania (Mr. GEKAS) has 23½ minutes remaining, and the gentleman from Massachusetts (Mr. MEEHAN) has 18½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me this time.

Mr. Chairman, I rise in opposition to the Nadler amendment. H.R. 3150, as written, boils down to two words: personal responsibility. If we assume a debt, we should do everything in our power to pay it off. A safety net should remain for those who legitimately cannot pay their debts. Creditors should be made whole if possible.

Some of my colleagues here today are trying to paint the word creditors to mean faceless financial institutions who are tricking consumers into assuming debt. They specifically speak of credit card debt, but they unfortunately fail to note that credit card debt in the United States amounts to only 3.7 percent of all consumer debt.

The people who are truly being hurt by our current bankruptcy system are the Americans who play by the rules and pay their debts. It costs the average American family an average of $400 a year. Why should they have to pay? Needs-based bankruptcy reform is well overdue, and that is what is in H.R. 3150.

Mr. Chairman, the abuses in our bankruptcy system that scream for reform must be stopped. For example, people currently have the ability to move to Florida, buy a house for $10 million dollars, declare bankruptcy, and have all of that house plus additional assets protected. We have the gentleman from Massachusetts to thank for this piece of the reform package for his well thought out amendment to this legislation that passed during committee consideration of this legislation.

It is these people who game the system that we are trying to stop. It is unfortunate that in the last two decades the stigma that used to surround bankruptcy and some people's integrity to honor their debts has eroded in the United States of America. But it is largely for that reason that in a good economy, bankruptcy filings have jumped 20 percent in 1997 to an all-time high.

I ask all of my colleagues from both sides of the aisle to join me in opposition to the Nadler amendment and for H.R. 3150, reasonable reform to means-test bankruptcy eligibility.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) who has been a leader on the committee on this issue in fighting for women and children for child support and alimony.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. MEEHAN) for yielding me this time as well as for his leadership. We, both of us started out on this committee hoping that we could promote and pass on the floor of the House a bipartisan bankruptcy bill.

Mr. Chairman, I am delighted to be a cosponsor of the Democratic substitute which really answers the question: Do we have personal responsibility in this country? And is it just that people are filing bankruptcy recklessly with no regard for the responsibility that is needed?

Why do we not answer the question? Some few years ago those who had a debt of maybe some 70 percent or less, 87 percent, in fact, of income were filing for bankruptcy. Today in 1997, the people who are filing bankruptcy have over 164 percent of debt. They are holding out every single day in order to make ends meet in order to be personally responsible. And the only time they go down to the bankruptcy court is when they are so desperate to keep their house in order, to keep their children fed, and to keep themselves above water.

Americans are not recklessly and foolishly filing for bankruptcy. Yes, there are a few high-profile filers, and we can solve that problem. The Democratic substitute takes away the means test, but it has strong provisions for bankruptcy judges to weed out the fraudulent persons, to determine whether there has been substantial abuse and tell them, "Get away from the courthouse door because you do not need to file bankruptcy."

Mr. Chairman, these are the people that are filing bankruptcy. Who else? Families who have more than four children, making $40,000 a year. Those children will be precluded, or the families will be precluded from filing for bankruptcy because the means test will kick them outside of the courthouse door. If Americans have a family of four making $40,000 a year and for some reason, catastrophic illnesses, something that has happened in the family, the loss of a job, they will be forbidden under H.R. 3150 from ever going to the courthouse.

Who else files bankruptcy? Mr. Chairman, 300,000 of those cases are comprised of men claiming bankruptcy who owe child support and/or alimony, and 50 percent are cases comprised of women forced into bankruptcy after being unable to collect alimony.

Are these deadbeats? These are people trying to make ends meet, and H.R. 3150 does not answer this question. It elevates child support up to a number one priority, but it still makes nondischargeable all of those debts, furniture debts and credit card debts, which call time after time, fighting debtors for their child support because the debtors do not have the wherewithal and the resources to compete with the big banks calling them on their job 12 times a day. Mr. Chairman, they are going to pay the car note and the credit card company, but the child that needs it and the alimony they needs to be paid, that will not be paid.

Mr. Chairman, I can say that the real reason behind H.R. 3150 is all the money that has been put into this whole piece of legislation. If we could simply focus on what America needs, it needs credit card counseling. It needs to stop the 2.4 or 2.5 billion contacts made every year with consumers.

What about this check? "Charging up credit, Jane Q. Consumer, $2,500." We have seen them in the mail. "Sign here. It does not matter. We will cash your check for you."

I tell my colleagues that the real people in America who are filing for bankruptcy are people in need. I would like to share some of the letters and concerns that have been expressed to me.

One, someone who has a catastrophic illness and they are trying to pay the bills. They have a family, and they are trying to pay the bills, and that is why they need to go into bankruptcy. Mr. Chairman, 40 percent of senior citizens who file bankruptcy have catastrophic illness. Sixty percent of filers go into bankruptcy because they have been unemployed.

Means-testing is truly mean. What we need in real bankruptcy reform is consumer credit counseling. I have legislation that I will be offering that will instruct the banks and credit card companies to provide credit card counseling, personal counseling, and require them to include that.

What about an 800-number in the credit card bill or solicitation that says if consumers feel they are abusing credit, they should call this number? That is what we need for bankruptcy reform, not closing the door to hardworking Americans making $40,000 a year with four children; not closing the door on those individuals who are dependent upon alimony and child support; not closing the door to those senior citizens suffering from catastrophic illness who as a last resort have to file for bankruptcy; not that single mother or single parent who is trying to make ends meet.

Mr. Chairman, I would have hoped that this bill could have been one that we all could have supported. Even the First Lady has looked at it and said she believes in personal responsibility, but not closing the door on parents and those who are trying to support their children.

I would simply suggest that we could do better here. I urge my colleagues to send this bill back and put out a good bill that will help working Americans.

Mr. Chairman, I rise today in support of the Democratic substitute to H.R. 3150, the Bankruptcy Reform Act of 1998. I seriously question whether this bill, as it is now written, will accomplish its goal of reforming our present bankruptcy system without causing significant harm to many innocent parties; so essentially, I find H.R. 3150 to be a bad bill. Particularly after the issuance of an extremely harsh recommended rule by the Rules Committee last night, and the exclusion of several key Democratic amendments from the list of those that were made in order, this Democratic substitute is our last hope.

From the beginning, this process has been more than merely a "rush to judgment", actually, it has been a prime example of "drive-by" legislation. And even as we entered into a bi-partisan agreement to end the Full Committee mark-up of this bill last Thursday, there were still 40 Democratic amendments to the bill waiting at the Clerk's desk. So far, this process has just been moving too fast. Furthermore, our objections about the rapidity of this process have been echoed by the National Bankruptcy Conference, the American College of Bankruptcy, the National Conference of Bankruptcy Judges, the National Association of Chapter 13 trustees, and 57 of the Nation's leading professors of bankruptcy law, amongst others. But despite it all, the speeding train called H.R. 3150, continues to rush along. For decades, our bankruptcy laws have been shaped in the spirit of bi-partisan accord, at least, until now. So how can we have the opportunity to try to correct all of these points of difference about H.R. 3150, at this very late time in the process? To me, the answer is simple, support the Democratic Substitute.

The needs based bankruptcy approach utilized in this bill, which essentially comprises the use of an arbitrary financial standard to determine the filing status of bankruptcy participants, was not recommended to the Congress by the National Bankruptcy Review Commission. But for some unknown reason, the sponsors of this legislation thought better of the Commission's impeccable credentials, years of combined experience in the field, thousands of man-hours invested to compile and present their 1300 page report to this Congress, and decided to ignore their recommendation. As the Executive Office of the President said in a May 21st letter to Chairman GEKAS, "However, the administration strongly opposes H.R. 3150 in its present form. One provision of the bill would establish a rigid and arbitrary means test to determine whether a debtor could file for bankruptcy under Chapter 7 or would be required to file under Chapter 13 rules—Bankruptcy courts should have greater discretion to consider the specific circumstances of a debtor in bankruptcy."

Even the minority of Commissioners who thought the concept of needs-based bankruptcy should be further explored, also thought that the correction of certain parts of the Code, like 707(b), could also negate the apparent rise in bankruptcy fraud. To this regard, our Democratic Substitute gives discretion to our Bankruptcy Judges, by amending 707(b) of the Federal Bankruptcy Code, which contains the standards for reviewing any potential filing abuse by a bankrupt debtor. We all believe that by strengthening this section of the Code, alone, any so-called bankruptcy fraud could be effectively neutralized.

But the real source of the 400% rise in bankruptcy filings since 1980, with a grand total of nearly 1.4 million filings last year, is debt. The Republican argument, from the beginning, has been that with a record 1.4 million bankruptcy filings last year, and with over ⅔ of those filers entering into Chapter 7 rather than Chapter 13, that the interests of the credit industry are being unnecessarily harmed by the flexibility of our current bankruptcy laws. Furthermore, the credit industry has consistently argued throughout this process that each American household has had to endure a silent $400 tax, equal to their $10 billion dollars in losses to debt discharge every year, as a result of these laws. Thus, H.R. 3150 is a so-called return to personal responsibility in our bankruptcy laws, because the "overwhelming" number of filings must represent an unprecedented debtor abuse.

However, this argument is ultimately a farce. The facts clearly indicate that the cause of the recent surge of bankruptcy filings is not because these filings are fraudulent, but instead because Americans simply have too much debt. Commercial and Administrative Law Subcommittee Ranking Member NADLER has been extremely eloquent in his presentation of the debt to income ratio among American consumers over the last 25 years, and how the only indisputable evidence in this debate is that Americans have significantly more debt today, than they have ever had before.

The average bankruptcy filer last year had a debt to income ratio of 1.64 to 1 (164 percent of their income) as opposed to just .87 to 1 (87 percent of their income) a few short years ago (that is nearly double!). The fact of the matter is that Americans have more debt than ever, and are waiting later than ever to enter bankruptcy, rather than rushing into it to reorganize their personal finances as the authors and supporters of H.R. 3150 have claimed. To reaffirm this contention, a recent GAO study shows that the number of bankruptcy filings per 100,000 people as compared to the average amount of consumer debt per household since 1964 has remained relatively unchanged. This means that the number of bankruptcy filings over the last three decades has consistently corresponded with the amount of public consumer debt.

Further, according to Bankruptcy Law Professor Elizabeth Warren of the Harvard Law School, the debtors that enter bankruptcy are usually experiencing very turbulent times. 60 percent of bankruptcy filers have been unemployed within a two year span prior to their filing. 20 percent of filers have had to cope within an uninsurable medical expense. Over 1 out of 3 filers, both male and female are recently divorced. All of these factors usually working in concert to affect the financial circumstances of a particular debtor, make bankruptcy an inevitability, because it becomes their last remaining opportunity for a fresh start. These are hard working Americans who have fallen upon difficult times that H.R. 3150 presumes to be pretextually fraudulent, generally disingenuous about their incomes and assets and capable of making a significantly greater financial contribution to their creditors. Ultimately, it seems that the true purpose of this bill is not to improve the federal bankruptcy code, but instead, to transfer more money from bankrupt debtors to banks and other credit lending institutions.

But the reality is that no statistic can tell the story of a lost job, a serious or terminal illness, a death in the family, a divorce or any of the other common reasons for filing for bankruptcy; there simply is much more to any bankrupt's story than a debtor's anticipated income and projections about their ability to repay a portion of their debt. Ultimately, this bill may end up causing a chilling effect on all bankruptcy filings: justified, fraudulent or otherwise (i.e., people may resolve that it is impossible for them to receive any satisfactory remedy in the post-H.R. 3150 system).

The final reason to support the Substitute is that this bill is completely inept in its regard for the care, safety and welfare of our children. As the First Lady wrote in a May 7th article in the Washington Times, "I have no quarrel with responsible bankruptcy reform, but I do quarrel with the aspects of the bill (H.R. 3150) that would force single parents to compete for their child support payments with big banks trying to collect credit card debt." She continued, "As members of Congress grapple with bankruptcy reform, they must deal with the problems that face both creditors and debtors. But one issue is clear. Any effort to reform the bankruptcy system must protect the obligations of parents to support their children."

But H.R. 3150, does not ensure these protections, not at all. Even if the Boucher/Gekas "superpriority" amendment is passed by this House, the "child and spousal support" problems with this bill will still not be corrected. First of all, I am appalled that the sponsors of this legislation who have continually made the claim in the press, in public statements and in pro-H.R. 3150 propaganda, that the "child and spousal support" issue had been solved in Committee, would dare to offer another amendment on this issue themselves rather than seek to work with those parties who have been concerned about this issue from the very beginning. Whatever the motives of these parties may have been, it at the very least, is disquieting to see conduct which borders upon the deceptive.

The bottom line is as simple as this, our children and families still have to compete with banks, credit lending institutions and retailers in order to receive their needed support payments. No amendment made in order under the current rule addresses the mandatory payment to unsecured creditors for Chapter 13 participants in Section 102 of the bill, no amendment made in order eliminates the many instances of nondischargeability status for (credit card or) unsecured debt mandated by the bill (Sections 141, 142, 145): the problem still remains. Furthermore, since the Jackson Lee/Slaughter Child and Spousal Support amendment was not made in order, the Democratic Substitute is the only last chance to solve this problem before the final consideration of this bill.

This substitute is friendly to women, children, religious and charitable organizations, family farmers, homeowner and condominium associations, victims of drunk driving related accidents, and many, many others, at this late date, this Substitute is the closest that we will ever get to bi-partisan bankruptcy reform. I urge all of my colleagues to support it.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise in opposition to the Nadler substitute. The skyrocketing number of bankruptcies filed in this country make it necessary for us to make real and substantial reform and improvements to our bankruptcy law. This substitute would strip from H.R. 3150 those provisions that promote responsibility and ensure for bankruptcy filers repay some of what they owe.

The means test in this bill is a fair and reasonable process that separates those who truly need to have their debts wiped away from those who can afford to repay some of their obligations. It places no undue burdens on sincere bankruptcy filers and requires repayment of debts only if filers can adequately meet their household needs.

Mr. Chairman, we cannot be apologists for irresponsible behavior any longer. The stigma that once was attached to bankruptcy must be replaced by laws that hold people accountable for their action. I urge my colleagues to oppose the Nadler substitute and support H.R. 3150.

Mr. GEKAS. Mr. Chairman, I yield 3½ minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I rise today in opposition to the Nadler substitute and in strong support of the Bankruptcy Reform Act, of which I am a cosponsor.

Over the past decade, despite economic growth, despite low unemployment, despite increasing personal income, our Nation has seen an alarming increase in the numbers of bankruptcy filings. And I would just share with my colleagues that filings jumped 20 percent this year. That is 1.3 million, one in every 70 households.

The numbers are even greater in my home State of California, where we have the greatest number of bankruptcy petitions filed last year, three times as many as the next highest State, which is New York.

I wonder if perhaps the Yellow Pages which reflect these bankruptcy mills, which I am holding in my hand, a stack of yellow pages that basically say, "Do not pay your debts, just call this number," if perhaps this influences these growing numbers of bankruptcies.

Mr. Chairman, how is it that bankruptcies are increasing dramatically while the economy is improving? For sure, some people have genuinely bad breaks, and they need and should have protection from creditors.

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No one here today is questioning that, but we need to realize that there are other people who are taking advantage of the current law to walk away from their responsibility, the personal responsibility that is so important to our Nation.

The costs to us from all this are great. Bankruptcy cost our Nation $40 billion last year, and that cost is not solely borne by the creditors and the merchants and the property owners. No, it is borne by the individual families in this country, Mr. Chairman. And that is a cost of $400 per household, higher costs for goods, higher costs for services and for credit. That is a $400 bill that you and I pay when irresponsible spenders who can afford to pay all or some of their debt declare bankruptcy. This is what the bill addresses.

I would also like to add, Mr. Chairman, that this bill helps ex-spouses. It helps women and children who rely on child support and alimony payments. Indeed, this legislation makes major improvements in the treatment of ex-spouses and children over present law.

First, it makes all domestic and child support and property settlement obligations nondischargeable debts.

Second, under this legislation, for the first time child support obligations must be paid before any other nondischargeable debt that survives bankruptcy. I will add that my colleague the gentleman from Virginia (Mr. BOUCHER) added an amendment, which I supported, which was adopted, that will provide additional assurance that child support and alimony payments are paid by giving them top priority. That is in the bill.

Our bankruptcy laws play an important and necessary role in protecting those who really need them. And that is the key, Mr. Chairman, need. This bill makes the existing bankruptcy system a needs-based one, addressing the flaw in the current system that encourages people to file for bankruptcy and walk away from debts, regardless of whether they are able to repay any portion of what they owe, while protecting those who truly need protection.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes and 30 seconds to my friend and colleague, the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Chairman, first of all, I want to thank my good friend the gentleman from Massachusetts (Mr. MEEHAN) for the hard work that he and the gentleman from Massachusetts (Mr. DELAHUNT), and the gentleman from New York (Mr. NADLER) and others have done on this bill.

This is the kind of legislation where I had hoped to be able to come to the floor and support the overall bill that was being generated in order to deal with a real problem in this country, where all too often very, very wealthy and powerful individuals and corporations use the bankruptcy laws to essentially hide from their responsibilities of paying their debts.

I see it time and time again in my work on the Subcommittee on Housing and Community Development and seeing landlords that are completely unscrupulous declare bankruptcy, suck out section 8 subsidies time and time again, year in and year out, abuse the system and do so with a bunch of sophisticated lawyers and beat the taxpayer and beat their obligations to society.

I want to support a bankruptcy bill, but this bankruptcy bill is flawed. This bankruptcy bill is flawed because it does not look out after not the rich and powerful, but it does not look out after the working families and the poor.

I rise in support of the Democratic substitute. As we debate this bill, I am reminded of the casino scene in Casablanca with Inspector Renault. After a decade of credit card companies literally throwing trillions of unsolicited credit cards at consumers, luring them in with teaser rates and easy credit and then slamming consumers with 20 percent and higher interest rates and creative new fees, the credit card industry pretends to be shocked, shocked to find a rise in personal bankruptcies.

Before Congress enacts the credit card industry's wish list to go after the bankrupt poor and middle-income debtors, it is critical that we hold the credit card industry accountable for practices that they have spawned: a doubling of credit card debt over the course of the last 6 years, and a 50 percent increase in credit card delinquency rates.

The Democratic substitute addresses some of these concerns about credit card practices in dealing with dischargeable credit card debts. Before we enact bankruptcy reform, I also believe that we should reform the reckless credit card practices of easy credit, high interest rates and creative new fees, new fees such as teaser rates. We should require better disclosure of the permanent rate of teaser rate comeons. Checks, we should mandate stricter control over unsolicited mailing of high interest rate credit card accounts masquerading as checking accounts. And rate increases, we should codify the right, existing in 20 States, to cancel a credit card and pay it off under existing terms and conditions when rates are arbitrarily raised.

But the most egregious credit card practices, which should be outlawed, are those which actually provide a financial incentive for credit card holders not to pay off their debt. The first is the so-called GE fee, a fee charged on card holders simply because they pay their charges on time in full each month.

The other is the action, first seen only last year, of canceling credit cards of only those card holders that paid their debt in full on time.

I offered an amendment to outlaw these two practices, but the Republicans refused to even allow it to be debated.

It is outrageous that an industry that wants relief from bankruptcy should discriminate against people who pay off their debt simply because credit card companies cannot make obscene profits off of them. The credit card and banking industries are currently making record profits. Do not bail out the credit card companies until they clean up their act.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me the time.

I rise in opposition to the Nadler substitute and would offer some remarks in further elaboration of the priority that we have now accorded to the child support and alimony recipient.

These remarks are offered in response to the suggestion, made by some who are arguing in support of this substitute, that child support and alimony does not receive proper priority and that what priority it has perhaps could be defeated in a practical way by nonsecured creditors who have claims that survive in the post-discharge environment. I disagree with those suggestions and would explain this disagreement in these terms.

As a legal matter, I think, as a consequence of amendments adopted in the committee and the Boucher-Gekas amendment adopted earlier on the floor today, we have now done everything that possibly can be done to make sure that the child support recipient, the alimony recipient does in fact have complete priority over nonsecured debt and in fact has first priority in the range of priorities in bankruptcy and in the post-bankruptcy environment.

The only argument that I am now hearing is that as a practical matter, the recipient of alimony, the recipient of child support may not have the practical ability to enforce that priority that is possessed perhaps by the credit card company or some other lender who has a claim that survives in bankruptcy.

I would respond to that by saying that Congress has created and required agencies that enabled the recipient of child support, the recipient of alimony to enforce their claims very effectively. All that has to be done is for a letter to be sent from one of these agencies at the State level to the employer of a person who owes child support or alimony and then that child support or alimony is automatically withheld from the salary of the person who has that obligation.

That money is then automatically turned over to the recipient of the child support or alimony. That is a very effective way for the person who has a claim for child support or alimony to have that claim pursued successfully. The State operates in support of that claimant.

The question then arises with regard to what about the person who owes child support or alimony and is self-employed. Obviously there is no instrumentality to withhold salary in that case, and the answer is that by encouraging the greater use of Chapter 13, which is the foundation of the bill and the core principle of the bill itself, we will encourage a greater respect for the priority of the child support or alimony recipient. Because in Chapter 13 proceedings, it is very easy, indeed, to enforce that first priority that the child support or alimony recipient will have.

So in every instance, we have done everything that can be done to protect that priority, and I would respectfully urge that this amendment not be agreed to.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Two interesting contentions that have been made throughout this debate from the very first moment we began the process in late 1997. One is the continuous lament from the other side of the aisle that it is not bipartisan in its offering, in its substance or in its support. Yet we took great pains to entertain as many Democrats as possible in a Republican atmosphere to provide a bipartisan vehicle for our consideration and that has reached us here today: bipartisan in sponsorship, bipartisan in sponsorship of underlying bills which were incorporated into our bill, and bipartisan in those who came forward to say to us, let me speak in favor of 3150 and let me speak in opposition to the Nadler substitute. So there is a bipartisanship that has played its role throughout this process.

When, during subcommittee, I remember very well, turning to the gentleman from New York (Mr. NADLER), he will recall this, and asking him if any Republicans joined him and the gentleman from Michigan (Mr. CONYERS) in their plan for bankruptcy reform, thus an attempt to make it a bipartisan vehicle, the gentleman from New York (Mr. NADLER), quite honestly, admitted there were no Republicans, nor did I discern any attempt on their part to draw Republican support for their vehicle.

Now, this is not a great big argument on my part, the fact that I believe it is bipartisan, while others on that side do not believe it is bipartisan. But when we opened the amendment process in the subcommittee and full committee and on the floor and we joined hands as cosponsors, both Democrats and Republicans, I venture to say that our efforts were more bipartisan than those which attack 3150. And that, I would ask each Member to take into consideration, if that is a criterion upon which they will base their final vote, bipartisanship.

I have always believed in bipartisanship, and I have strenuously accorded every conceivable courtesy I could to Members of the minority, both in subcommittee and full committee and on the floor, and my final proof of bipartisanship is the roll call of the vote that will occur very shortly.

In addition to that, the other thing that is spectacular in its repetition on the part of the minority is that the gateway approach that we provide as the core element of 3150, whereby the debtor who comes to bankruptcy will be tested and screened at the outset to determine whether or not a fresh start should be accorded them, we give full play to that, or whether or not that individual should be compelled to repay some of the debt, if we determine, by the screening process, that there will be an ability to repay some of the debt. That is a screening process, we say, which will shorten the process in bankruptcy in the future, once this is adopted, and be less costly.

What does the gentleman from New York, with the collusion of the gentleman from Massachusetts (Mr. MEEHAN), say, that they ought to adopt this substitute which calls for every single case to go before a judge. We are telling Members that there were 1,400,000 new filings in 1997. If we were to have this substitute in effect in 1997, each one of those cases would have to go before a bankruptcy judge so that that judge can exercise the discretion, the human quality that the gentleman from New York, substantiated by the gentleman from Massachusetts, would find necessary to adjudicate each case one by one on whether or not the means test should be applied fairly.

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We say to you, that is a costly process, that is a never-ending process.

Our screening process at the outset would relegate dozens of people into title 7 and give them their fresh start with a cursory examination of their income tax return, their wage statements, to determine their inability to repay any of the debt, thus earning the right of a fresh start. Our gateway approach is one that expedites the process, becomes more efficient, less costly.

How can you continue to say that to take the 1,400,000, rip away our gateway approach and allow each one of those to be adjudicated separately by a judge? It is overwhelming. We would need to add 40 new bankruptcy judges a month for 10 years to handle the increase that we would see in filings. But if we adopt, as I hope we will, H.R. 3150, the screening process, which is only a starting point, will at the outset say, "Fresh start, you got it." On the other hand, if there is any ability to repay, you go through a process that is determined by Chapter 13, and we will help you with a plan to be able to repay some of the debt that you have incurred over the years. I think it is a reasonable way, it is an efficient way and a less costly way.

That is why I am astounded by all these figures about how much more costly our bill would be than the substitute. The substitute takes each case and makes a Supreme Court case out of it, to use the vernacular, by saying that each one has to be adjudicated on its own merits. We begin by screening, in a proper, reasonable, human way, whether a person should be discharged immediately or should go through the process of repayment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, there is no doubt that the gentleman is sincere in his remarks. Might I just note for the record that the gentleman from New York (Mr. NADLER), whom he was addressing, is not on the floor at this time. The substitute is the Nadler, Meehan, Berman, Jackson-Lee substitute.

Let me just say, with respect to his proposition, that the National Bankruptcy Review Commission did not accept the means test, and in fact one of the problems with it is that the experts, the bankruptcy judges themselves, have said not only is it too costly, but it is too complicated. CBO has assessed the means-testing procedure at costing $214 million when in fact the Democratic substitute wants to stop fraudulent activity and will ask the experts to use the test of substantial abuse so that we can avoid that.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I do not see how the gentlewoman can argue that to have 1,400,000 separate cases cannot increase or would not increase the cost of processing bankruptcy. That is a rhetorical question.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just respond that the screening method that he described, according to CBO, would cost taxpayers $200 million.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, I rise today in strong support of the Nadler, Meehan, Berman, Jackson-Lee amendment to this bill.

I think this substitute strikes a fair balance and alleviates many of the concerns that I have with H.R. 3150. I applaud all the hard work of those Members who took part in striking this fair compromise.

Everyone is troubled with the record number of personal bankruptcy filings that we are seeing in the United States. Last year, 1.4 million Americans filed bankruptcy. Certainly I am committed to the principle of bankruptcy reform. Certainly I believe that we should rid the system of those who deliberately abuse the system. But I do not believe we should do this at the expense of hard-working families, women and children.

The substitute gives child support and alimony payments the highest priority under Federal bankruptcy law. We should not force women and children to compete with creditors' attorneys over limited funds in court.

I support this amendment because it offers a more flexible approach when evaluating a debtor's ability to repay. It will make it easier for a debtor's actual expenses that are reasonably necessary to be considered, such as child care payments, health care costs, and the costs of taking care of ill parents.

This amendment also alleviates the harsh small business provisions found in H.R. 3150 by providing a safety valve for small businesses hit with financial difficulty. Voting for this amendment will protect hard-working Americans from premature small business liquidations.

Mr. Chairman, I urge my colleagues to vote in favor of the Nadler, Meehan, Berman, Jackson-Lee amendment. It strikes a fair balance in attempting to rid the system of those who choose to abuse the bankruptcy system. At the same time, the amendment protects honest, hard-working Americans who are experiencing real financial difficulty.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT), a leader in the Committee on the Judiciary, a person who is always first to speak up for those who cannot speak for themselves.

Mr. WATT of North Carolina. Mr. Chairman, this is actually a very sad day for this House. There should not have to be a Democratic substitute on a bankruptcy bill, because bankruptcy is not a partisan issue.

Let us look at how we got here. There are some people abusing the bankruptcy system that exist now. We sat down and we started working together to try to come up with a bill that would address that issue. Instead, the Republicans came up with a bill that means-tests bankruptcies so that one size is designed to fit all.

It astonishes me that the gentleman from Pennsylvania, the chairman of the subcommittee, comes to the floor and acknowledges that he does not want each one of these bankruptcy matters to be adjudicated on its own merits. That is exactly what he said. I thought that is what we were trying to do, have each one of these bankruptcy matters adjudicated on its own merits, because whether somebody is bankrupt and deserves the protection of bankruptcy court is an individual proposition. It is not a matter of means-testing.

Can you imagine that somebody who makes above the median income in this country and cannot be extended beyond their means, they should not be entitled to the benefits of the bankruptcy courts? If you look at every single individual and every single case on its own merits, that is what our system is designed to do, and that is the way it should be done, and that is why the Democratic substitute is a better substitute than the original bill. It is not perfect, either, but it is better than the original bill.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership on this issue along with the gentleman from New York (Mr. NADLER).

Mr. Chairman, I rise to express my opposition to the rigid approach of means-testing and my strong support for the substitute amendment. If means-testing is made into law, a debtor's actual living expenses will be disregarded, while an inflexible IRS formula is imposed. Even if those predetermined numbers cause true hardship through a strict repayment plan, it is the consumer that would have to initiate litigation to appeal, an expensive and intimidating process.

If the main target of bankruptcy reform are wealthier abusers, let us give creditors the tools they need to get the job done. The Democratic substitute amendment does just that. It empowers credit companies to contest the Chapter 7 filing of debtors who are deliberately shielding their wealth. But it also ensures that the fate of debtors will be decided by a thinking person, a trained judge, who can evaluate what are often subjective factors on a case-by-case basis, not an unbending formula. Equally important, the substitute puts the burden of litigation where it belongs, on the creditor, which, after all, made the decision to take the risk of lending.

We need to help creditors get back more of what is owed to them, but we need to do it in a balanced way. The Democratic substitute does that.

Mr. Chairman, there has been much discussion back and forth on the child support enforcement provision. I would like to put into the RECORD practically every women's group that I have ever heard of who is opposed to this bill because of the impact it will have on child support.

Mr. Chairman, I include for the RECORD the names of at least 20 women's organizations opposed to this bill.

The material referred to is as follows:

The Justice Department
Small Business Administration (SBA)
Alliance for Justice
National Organization for Women (NOW)
Mothers Against Drunk Driving (MADD)
National Organization for Victim Assistance (NOVA)
National Victim Center
Association for Children of Enforcement Support (ACES)
Governing Counsel, Family Law Section, American Bar Association
AFL-CIO
UAW
UNITE
AFSCME
Consumer Federation of America
Consumers' Union
Public Citizen
California Women's Law Center (CWLC)
Group of 110 United States Bankruptcy Judges
Leadership Conference on Civil Rights
National Conference of Bankruptcy Judges
American College of Bankruptcy
National Bankruptcy Conference
National Association' of Consumer Bankruptcy Attorneys
National Association of Bankruptcy Trustees
National Association of Chapter 13 Trustees
National Association of Consumer Bankruptcy Attorneys
National Association of Debtor Attorneys
Houston Association of Debtor Attorneys
American Association of University Women
Association for Children for Enforcement of Support, Inc.
Black Women's Agenda, Inc.
Business and Professional Women/USA
Center for Advancement of Public Policy
Children's Defense Fund
Church Women United
Coalition of Labor Union Women
Federally Employed Women, Inc.
Feminist Majority
MANA, A National Latina Organization
National Association of Commissions For Women
National Association for Female Executives
National Organization for Women
National Women's Conference
NAWE Advancing Women in Higher Education
NOW Legal Defense and Education Fund
Older Women's League
The Woman Activist Fund, Inc.
Women Work!
YWCA of the U.S.A.
National Council of Senior Citizens

NATIONAL COUNCIL OF
SENIOR CITIZENS,
Silver Spring, MD, June 9, 1998.

Representative JERROLD NADLER,
United States Congress,
Washington, DC.

DEAR REPRESENTATIVE NADLER: I am writing to express NCSC's deep concern about pending floor action on H.R. 3150, the Bankruptcy Reform Act of 1998. We join with many bankruptcy judges, legal scholars, women's groups, unions, consumer groups and others in urging that this bill not be passed without further study and substantial changes.

I am especially concerned about the effect this bill might have on seniors. I might note that a series of amendments were offered in the Judiciary Committee that would have offered some protections to older people but all were defeated. As it stands, then, this bill would have a harsh impact on a group of people who are often subject to job loss or catastrophic health costs; instead of ameliorating these problems, this bill would only exacerbate them.

Since 1993, more than a million people over the age of 50 have filed for bankruptcy; in 1997, an estimated 280,000 older Americans filed. For them it is particularly hard. If they are forced into prolonged repayment schedules, they may not be able to maintain or accumulate savings for retirement. As you know, approximately two thirds of voluntary, Chapter 13 workout plans fail, and we believe that retirement savings must be protected for that purpose.

Instead of addressing the root causes of personal bankruptcy and addressing behavior of both abusive debtors and creditors, this bill will add unnecessary administrative and financial burdens to hardworking families who seek relief in bankruptcy court.

H.R. 3150 is simply moving too fast, and there has been too little scrutiny given to credit industry practices. The consequences for older people must be examined more closely and addressed in a fair way before any changes in bankruptcy law are made. We urge you to delay action on this bill and to work with bankruptcy experts and others toward targeted and effective changes in the Bankruptcy Code.

Sincerely,

DAN SCHULDER,
Director, Public Affairs and Legislation.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Pennsylvania for his hard work. Obviously I stand in opposition to the Nadler substitute. I hear a lot of discussion on the floor today. I just heard women's groups are against this. I have heard an impression made on the floor that somehow our bill does not allow for the enforcement of child support or set a priority on child support. In fact, it does. The bill prioritizes child support as one of the real priorities in the bill.

For anyone questioning the need for this bill we are discussing today, the statistics spell it out. Personal bankruptcies have hit a high record number for each of the past 3 years, and again in the first quarter of this year. Many will offer a variety of reasons for that alarming statistic, but the simple fact is that current law makes it too easy for individuals to walk away from their financial obligations, even if they have the means to meet those obligations. It happens too often in Florida.

I have heard in the last several days around this Capitol that somehow it is the credit card companies that are inducing commonsense, average Americans to run up phenomenal bills and so we must blame the credit card companies for their debt and discharge the debtor from their responsibilities.

I just heard an analogy of the risk of lending, and somehow, someway we are supposed to now stand in front of the borrower and protect them with a shield. I think that is wrong, I think it is irresponsible, and that it should no longer be sanctioned by the Federal Government.

Some will argue that H.R. 3150 hurts low-income individuals facing financial disaster through no fault of their own. This is simply not true. H.R. 3150 merely codifies into law what is common sense to every American. Those who can afford their bills should not stick others with their tab.

This much needed reform bill imposes a means test to allow those who are facing financial disaster to wipe away most of their debts. However, those who have the ability to repay their debts will have to abide by a repayment schedule. If this sounds like a sensible proposition, it is because it is a sensible proposition.

Mr. Chairman, today we are debating something vitally important. We do want to care for families, we do want to care for average Americans, hardworking individuals. But there is a notion that when you incur debt, you should make every attempt to repay that debt.

Society today is transferring debt to others. Those who pay their bills, who keep an outstanding credit record, are in fact having to pay higher interest rates because a lot of people are shirking their responsibility. In Florida, we have had a number of cases that just are outrageous in the way the courts have been used in order for creditors to have no payment rendered to them.

Again, I urge my colleagues to reject the Nadler substitute. I urge them to support the work of the gentleman from Pennsylvania (Mr. GEKAS) in passing H.R. 3150 today so the House will ensure that the irresponsible and the well off in our society will no longer be able to pass the buck to those who struggle daily to meet their financial obligations.

Mr. MEEHAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a leader in the committee and in the subcommittee.

Mr. DELAHUNT. Mr. Chairman, what concerns me today about this debate and where we are headed is that we are truly crafting public policy without the benefit of any data. Very, very little hard information is available to us. I believe the American people should understand that while we may be well-intentioned, we really are legislating on hunches, on guesswork and hope.

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As my colleagues know, I have heard the figure now from the previous speaker about 1.4 million. That is unacceptable. The only information that we were able to secure during the course of the hearing about what H.R. 3150 would do in terms of reducing that number was from the bankruptcy judges. They testified, those that I inquired of, that it would reduce the amount of filings 13,000 possibly, 1 percent.

That is the only information that we have, 1 percent, 13,000. We are passing a piece of legislation here today, if this underlying bill is enacted, that is based on nothing but anecdote.

Stigma. There is no data to indicate that people are any different today than they were 10, 20 or 30 years ago. People are not just walking away, they are being crushed by debt. In addition to that, their wages, for most Americans, have not gone up in any significant degree for 20 years. Twenty percent of us are doing very well, but the rest of America is not.

That is the only information that we have. It is unfair. We talk about 44 billion. What will Mr. GEKAS' bill do to reduce? How much money is going to be saved if the Gekas-Boucher-McCollum bill passes? I daresay not a single cent. It is not going to save a dime. It certainly will not benefit the consumer. We all know that. The moneys, if there are moneys that are saved, are going to go to the Wall Street investor, in the banks and the credit card industry. That is where it is going to go. It is going to introduce or enhance profitability.

Mr. Chairman, I know these gentleman are sincere, I know that we all share the same goal, but this is not the right approach. We should have slowed the process down and secured some information and answers to questions that we do not know the answers to now.

Mr. MEEHAN. Mr. Chairman, I yield the balance of my time to myself.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. MEEHAN. Mr. Chairman, on a final note, let me just say in response to the argument from the other side of the aisle, the child support and alimony problem does not begin and end with sections 141 and 142 of H.R. 3150. The means test and other parts of the bill contribute to the problem as well.

A letter from the National Partnership for Women and Families put it best. Several provisions increase the credit card's ability to pressure debtors into reaffirming credit card debt by threatening the debtor with repossession or litigation. Through reaffirmation, even more credit card debt becomes nondischargeable in bankruptcy.

In other words, aggressive creditors can use the leverage that they receive under this bill's means test to force debtors to agree to let their debts survive bankruptcy.

So we once again have debtors entering the post-bankruptcy world with large amounts of credit card debt hanging over their heads in addition to their support and alimony obligations.

There is simply no way to fix the child support and alimony problems with this bill other than to delete the new exceptions to the discharge of credit card debt and rewrite its means test along the lines of the Nadler-Meehan-Berman substitute. We should support this substitute and defeat this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 2 minutes.

Mr. GEKAS. Mr. Chairman, I repeat my request to Members to reject the Nadler substitute and to later support the bill.

When the gentleman from Massachusetts (Mr. DELAHUNT) was speaking, he was decrying the fact that there was no data available on which we could base any concept now contained in 3150.

The question in reverse has to be asked: On what data is the Nadler substitute based? It has to be in the same data that we used for 3150, namely 1,400,000 bankruptcies. Nobody can fully explain that. And the Nadler substitute, the gentleman from Massachusetts (Mr. MEEHAN) and others acknowledge that there is abuse in the system. Well, where did they get that idea? Where did they get the idea that there is abuse in the system if it were not for the fact that 1,400,000 bankruptcies were filed in 1997? Everybody in America knows that means that the system was abused.

And if we want to continue to have a system which is so riddled with loopholes, making it easier for people to escape obligations, vote for the Nadler substitute. If we want to tighten up the system and make people more responsible and allow people to repay when they can repay the debts that they assumed, then reject the Nadler amendment and then when the time comes, vote for true reform, the underlying bill, H.R. 3150.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The amendment in the nature of a substitute was rejected.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 offered by the gentleman from New York (Mr. NADLER), amendment No. 3 offered by the gentleman from Massachusetts (Mr. DELAHUNT), amendment No. 8 offered by the gentleman from Pennsylvania (Mr. GEKAS), and amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 290, not voting 7, as follows:

[Roll No. 219]

AYES—136

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Becerra
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Filner
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sánchez
Sanders
Sanford
Sawyer
Scott
Serrano
Shays
Skaggs
Slaughter
Souder
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOES—290

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot

Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
Markey
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Berman
Clayton
Farr
Gonzalez
Harman
Lewis (GA)
Schumer

□ 1828

Messrs. GRAHAM, MICA, WELLER and BURR of North Carolina changed their vote from "aye" to "no."

Messrs. MATSUI, SHAYS, ACKERMAN and BECERRA and Ms. RIVERS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1830

Mr. NADLER. Mr. Chairman, I ask unanimous consent that the present unfinished business be considered to include a request for a recorded vote on the Nadler substitute.

The CHAIRMAN pro tempore (Mr. CALVERT). Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentleman from Massachusetts (Mr. DELAHUNT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 149, noes 278, not voting 6, as follows:

[Roll No. 220]

AYES—149

Abercrombie
Ackerman
Barcia
Barrett (WI)
Becerra
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Carson
Clay
Clayton
Clyburn
Coburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dixon
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Serrano
Skaggs
Skelton
Slaughter
Stark
Stokes
Strickland
Stupak
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—278

Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher

Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sánchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berman
Farr
Frank (MA)
Gonzalez
Lewis (GA)
Schumer

□ 1837

Mr. SMITH of Michigan changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. GEKAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 8 offered by the gentleman from Pennsylvania (Mr. GEKAS), on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 204, not voting 7, as follows:

[Roll No. 221]

AYES—222

Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dreier
Duncan
Edwards
Ehrlich
English
Ensign
Ewing
Foley
Forbes
Fossella
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee (TX)
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Klug
Knollenberg
LaHood
Lampson
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Rahall
Ramstad
Redmond
Reyes
Rodriguez
Rogan
Rogers
Ros-Lehtinen
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—204

Abercrombie
Ackerman
Aderholt
Allen
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bereuter
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Brady (PA)
Brown (CA)
Brown (OH)
Buyer
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dunn
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Fattah
Fazio
Filner
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Houghton
Hoyer
Istook
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lantos
Largent
LaTourette
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntosh
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Rangel
Regula
Riggs
Riley
Rivers
Roemer
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sánchez
Sanders
Sawyer
Saxton
Scott
Sensenbrenner
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Tierney
Torres
Towns
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Berman
Farr
Fawell
Ford
Gonzalez
Lewis (GA)
Schumer

□ 1846

Messrs. ROEMER, KASICH, KENNEDY of Rhode Island, ADERHOLT, LoBIONDO, and Ms. KILPATRICK changed their vote from "aye" to "no."

Mr. BARCIA changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

The CHAIRMAN pro tempore (Mr. CALVERT). The pending business is the demand for a recorded vote on amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 111, noes 316, not voting 6, as follows:

[Roll No. 222]

AYES—111

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Bentsen
Bishop
Bonior
Brady (PA)
Brown (CA)
Capps
Carson
Clay
Clayton
Conyers
Coyne
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Dreier
Engel
Fattah
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hefner
Hinchey
Hinojosa
Holden
Hooley
Jackson (IL)
Jackson-Lee (TX)
Kanjorski
Kaptur
Kilpatrick
Kind (WI)
Kleczka
Klink
LaFalce
Lampson
Lee
Luther
Maloney (CT)
Manton
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McGovern
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)

Mink
Moakley
Mollohan
Murtha
Neal
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Pickett
Pomeroy
Reyes
Rivers
Rogan
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Scott
Sensenbrenner
Sisisky
Skaggs
Smith, Adam
Spratt
Stark
Stokes
Strickland
Stupak
Sununu
Tierney
Torres
VelaoAElzquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Woolsey
Yates

NOES—316

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (NY)
Manzullo
Martinez
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek (FL)
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sánchez
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stump
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Berman
Blumenauer
Farr
Gonzalez
Lewis (GA)
Schumer

☐ 1853

Mrs. KENNELLY of Connecticut changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 12 OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment in the nature of a substitute No. 12 offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 140, noes 288, not voting 5, as follows:

[Roll No. 223]

AYES—140

Abercrombie
Ackerman
Allen
Baldacci
Becerra
Bishop
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doyle
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Jackson (IL)
Jefferson
Johnson (WI)
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Scott
Serrano
Skaggs
Slaughter
Stabenow
Stark
Stokes
Strickland
Stupak
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOES—288

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul

Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Berman
Farr
Gonzalez
Lewis (GA)
Schumer

□ 1901

Messrs. RODRIGUEZ, BARCIA, EDWARDS, Mrs. EDDIE BERNICE JOHNSON of Texas and Ms. JACKSON-LEE of Texas changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. CALVERT). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. CALVERT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Mr. Speaker, yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS of Michigan moves to recommit the bill (H.R. 3150) to the Committee on the Judiciary with instructions to report the bill back to the House forthwith, with the following amendments:

Page 6, line 11, insert the following before the 1st semicolon:

", but excludes (1) maintenance for or support of a child of the debtor, received by the debtor, and (2) current alimony, maintenance, or support paid by the debtor for the benefit of a spouse, former spouse, or child of the debtor,".

Page 48, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 119B. PROTECTION AGAINST REAFFIRMATION AGREEMENTS ADVERSELY AFFECTING CHILD SUPPORT.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) Notwithstanding any other provision of this title, an agreement of the kind described in subsection (c) shall be void unless the court determines that such agreement will not have an adverse impact on the ability of the debtor to support a dependent of the debtor.".

Page 76, line 12, insert "and any debt of a kind described in paragraph (6), (9), or (13) of section 523(a) of this title," before "shall".

Page 76, line 17, strike the close quotation marks and the period at the end.

Page 76, after line 17, insert the following:

"(b)(1) For purposes preserving the priority established in subsection (a), the holder of claim for a debt of a kind described in paragraph (2), (4), or (19) of section 523(a) of this title that is not discharged may not take any action to obtain payment or collection (including engaging in any communication with the debtor or with any person who holds property of the debtor) of such debt if such holder—

"(A) knew or should have known that taking such action, or obtaining payment of such debt, would impair the ability of the debtor to pay a debt that has priority under such subsection; or

"(B) failed to verify immediately before taking such action, by good faith means designed to identify all debts that have priority under such subsection, that the debtor does not then owe any debt that has priority under subsection (a).

"(2) If such holder violates paragraph (1), such holder shall be liable to any person injured by such violation for the sum of $3000, actual damages, and a reasonable attorney's fee.".

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) will be recognized for 5 minutes, and the gentleman from Pennsylvania (Mr. GEKAS) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, this is a very simple and straightforward motion to recommit. It acknowledges the bankruptcy rights of creditors who are drunk driving victims and victims of crimes.

Mr. Speaker, the present bill does not make a single change to protect the rights of crime victims forced to compete against credit card companies in bankruptcy. This is why the Mothers Against Drunk Driving are opposed to the bill, and the National Organization for Victim Assistance are strongly opposed to the bill.

My amendment would ensure that crime victims receive the same rights to preempt credit card debts that alimony creditors receive in the bill.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, this motion makes four changes to the underlying bill to protect child support and alimony payments and victims of crime and drunk driving.

First, the motion clarifies that child support and alimony payments are to be excluded from the means test. The majority may try to claim that these payments are accounted for by IRS guidelines, but the bankruptcy experts disagree. In any event, there can be no harm in Congress clearly specifying that child support should be deducted when calculating the means test. We should not leave our families at risk based on decisions made by IRS bureaucrats.

Second, the motion protects against reaffirmation agreements that adversely impact family support obligations. It is no secret that unscrupulous creditors can end-run the bankruptcy process by forcing debtors to reaffirm their debt. If this happens, none of the supposed child support protections provided under the bill would apply. We fix this problem by making sure that reaffirmation agreements do not make it more difficult for families to pay family support.

The motion also acknowledges the bankruptcy rights of creditors who are drunk driving victims and other victims of crimes, as the gentleman from Michigan (Mr. CONYERS) mentioned.

Finally, the motion provides for a real mechanism to enforce protections for child support and alimony payments. The changes made by the bill to protect child care payments create a right with no remedy. This amendment makes clear that credit card companies who illegally collect money that should be going to child care are subject to damage and statutory fines.

This is the only way to truly protect child care payments outside of bankruptcy after the discharge.

Mr. Speaker, I urge the Members to vote for this motion to recommit which protects our families and victims of crime from aggressive credit collectors.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, about a year ago I rose on the floor of the House when we were facing a major dilemma and asked the question that has been asked by Solomon: Who loves the baby the most? Whether it was the mother who was willing to cut the baby in half and share, or whether or not it was the mother who said, "Here you take it."

Mr. Speaker, I ask this question today as we look at a bill that hurts children. Which one of us will be able to respond to Willie Sorrells who said: I am writing you regarding the proposed new bankruptcy laws. I am currently being forced to file bankruptcy as a last resort because I have recently gone through a terrible divorce from a marriage of 16 years, and my wife left me with the responsibility of our children and the majority of our community debt, complicated by the fact that she earns more income than I.

This Willie Sorrells, a single parent, will be denied the opportunity to protect his alimony or child support because credit card companies and others will be able to grapple after the only income that this gentleman will be able to have.

Mr. Speaker, the motion to recommit reestablishes the importance of child support and alimony. It reestablishes the importance of recognizing that none of us can determine the horns of dilemma when people fall upon hard times, whether or not it is catastrophic illnesses; whether or not it has to do with being unemployed, as 60 percent of those who file for bankruptcy are unemployed. The 300,000 who face divorce and who need child support, the motion to recommit reestablishes the right of the support child, one, to be of high priority; but two, not having to fight for the minimal income that has to be paid for the other debts.

I would say, Mr. Speaker, that we are now on the horns of a dilemma. Who loves the baby most? The one who is willing to cut the baby in half, or the one who is willing to give the baby? I would say the one who is willing to nurture and protect the baby.

Mr. Speaker, let us vote for the motion to recommit. Support child support, support alimony, support working Americans, keep the door of opportunity open and save $214 million that H.R. 3150 requires us to pay.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I urge Members to support the substitute and vote against this bill.

Mr. GEKAS. Mr. Speaker, the concerns that are contained in the motion to recommit have already been more than adequately addressed in the bill that is before us, matters of child support priority, victims' rights. In fact, H.R. 3150, the bill which we are about to pass, contains rights for every American, specially those citizens who become overwhelmed with debt who will need a fresh start.

We accord that responsibility and that right to those people who are overburdened with debt. But at the same time we say loudly and clearly that the time has come that we will no longer permit a system to be abused and to be used as an instrument by people who want to avoid debt and who want to avoid repayment of proper obligations.

So if Members want to change the system, reform it so that we can bring personal responsibility back to that system, they must reject the motion to recommit and eventually vote for the bill. Jobs and opportunities that we so much crave in our society to keep our economy on a stable course, as it now is, requires, in the words of the gentleman from Youngstown, Ohio (Mr. TRAFICANT), requires us to have a system which will protect the economy and protect jobs.

Mr. Speaker, that is what this bill does. It nurtures our economy. I ask Members to vote "no" on the motion to recommit and "yes" on final passage.

□ 1915

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 153, noes 270, not voting 10, as follows:

[Roll No. 224]

AYES—153

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bishop
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Yates

NOES—270

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood

Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sánchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Berman
Cox
Dicks
Farr
Fawell
Gonzalez
Hastert
Largent
Lewis (GA)
Schumer

□ 1931

Mr. BERRY changed his vote from "aye" to "no."

Mr. MORAN of Virginia changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 306, noes 118, not voting 9, as follows:

[Roll No. 225]

AYES—306

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
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Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
VelaoAElzquez
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—118

Abercrombie
Ackerman
Allen
Barrett (WI)
Becerra
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clay
Clayton
Conyers
Costello
Coyne
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Dixon
Doyle
Edwards
Engel
Eshoo
Evans
Fattah
Filner
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne
Pelosi
Poshard
Rahall
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Stupak
Thompson
Thurman
Tierney
Torres
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Woolsey
Yates

NOT VOTING—9

Berman
Brady (TX)
Farr
Gonzalez
Hobson
Largent
Lewis (GA)
Redmond
Schumer

□ 1938

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. REDMOND. Mr. Speaker, on rollcall No. 225, my pager did not respond and I inadvertently missed the vote. Had I been present, I would have voted "yes."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3150, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill just passed, including thanks to my staff for helping me get through this.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 119.

□ 1940

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, with Mr. HANSEN in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the joint resolution is considered as having been read the first time.

Under the rule, the gentleman from Texas (Mr. DELAY) and the gentleman from Massachusetts (Mr. MEEHAN) as the Member in favor of the joint resolution each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today after having asked that this constitutional amendment be offered, although I disagree profoundly with what it tries to accomplish.

Mr. Chairman, I know this is very unusual that I would ask to introduce, or have the constitutional amendment of the gentleman from Missouri (Mr. GEPHARDT) introduced, even though he may not want it introduced. But I think frankly that this is the time to have this debate. Earlier on in the year, I thought, because of my opposition to campaign reform, particularly the Shays-Meehan approach, that I frankly would try to block its coming to the floor. But now that we are going to have this open and fair debate, I think it is high time that we have this debate, because this is a debate about free speech, this is a debate about the Bill of Rights and the first amendment to the Constitution. This is a debate that frankly the so-called reformers have had all their way for a very, very long time. It is time for this House to let the American people know what is going on, particularly in this case with this amendment, because this amendment, and I do not want to question anybody's motives, but I think this amendment frankly was offered to cover up some of the campaign abuses by the Democrat National Committee and this administration that we are looking into.

So I bring this amendment to the floor, to do so, to help clarify for my colleagues the real focus of this debate. Tonight we will frame the debate on campaign reform. Any debate on campaign reform and regulation has to begin and end with a discussion of the first amendment to the Constitution of the United States. That is why we are here tonight.

There are two sides when it comes to campaign reform. One side wants to change the Bill of Rights in order to give government more control of the political process. The other side, my side, wants to preserve the Bill of Rights and open up the political process to more Americans.

Now, make no mistake about it. The Gephardt amendment that we are about to debate is the most honest effort by the so-called reformers, honest effort, because it confronts, head-on, the troubling notion that most of these other substitutes, like the Shays-Meehan bill, do not pass the constitutional smell test.

□ 1945

The Gephardt amendment says that we should change the first amendment to fit the political passions of the moment. The Gephardt amendment would change the Constitution, change the Constitution to permit Congress and the States to enact laws regulating Federal campaign expenditures and contributions, which is currently held to be unconstitutional, and it would give to Congress and the States unprecedented, sweeping, and undefined authority to restrict speech protected by the first amendment since 1791.

Now the ACLU, not exactly one of my best supporters, but in this case very much on target, has noted that the Gephardt constitutional amendment is vague and overbroad. It would give Congress a virtual blank check to enact any legislation that may abridge a vast array of free speech and free association rights that we now enjoy.

As the Washington Post said, and they are not exactly a supporter of mine, but they editorialized against the Gephardt proposal, and I quote:

> Campaign finance reform is hard in part because it so quickly bumps up against the first amendment. The Supreme Court has ruled, we think correctly, that the giving and spending of campaign reforms is a form of political speech, and the Constitution is pretty explicit about that sort of thing. Constitution: The Congress shall make no law abridging the freedom of speech is the majestic sentence.

Now the minority leader himself, the gentleman from Missouri (Mr. GEPHARDT) stated his position honestly when he said, and I quote:

> What we have here is 2 important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You cannot have both. Why disagree with that? In my view, free speech and democracy are not in conflict. In fact, you can't have democracy without free speech and limiting free speech eventually limits democracy.

Now the Supreme Court has correctly noted when it said in a free society ordained by our Constitution, it is not the government but the people individually as citizens and candidates and collectively as associations and political committees who must retain control over the quantity and range of debate on public issues in a public campaign. If this constitutional amendment were adopted, Congress and local governments, not the people, would control speech.

The ACLU has noted that passage of this amendment would give Congress and every State legislature the power heretofore denied by the first amendment to regulate the most protected function of the press, and that is editorializing. Print outlets such as newspapers and magazines, broadcasters, Internet, publishers, cable operators would all be vulnerable to the severe regulation of the editorial content by the government.

Now a candidate-centered editorial, as well as op-ed articles or commentaries printed at the publisher's expense, are most certainly expenditures in support of or in opposition to particular political candidates, and the Gephardt constitutional amendment, as its words make apparent, would authorize the Congress to set reasonable limits on the expenditures by the media during campaigns when not strictly reporting the news.

And the New York Times is editorializing in favor of Shays-Meehan? Other newspapers are editorializing in favor of shutting off freedom of speech and freedom of, and I will yield to the gentleman from Massachusetts in just a moment, but such a result would be intolerable in a society that cherishes free press.

Now it is interesting to note that while the minority leader and many Members of his party support this constitutional amendment as the only way to limit spending in a constitutional manner, they also plan to vote in favor of Shays-Meehan that limits the same spending. Now if a constitutional amendment is needed, as the gentleman from Missouri (Mr. GEPHARDT) rightfully claims, then other bills that contain those same spending limits are constitutional.

Now the proposal of the gentleman from Missouri (Mr. GEPHARDT) does from the front door what other proposals like the Shays-Meehan bill do from the back door. Campaign finance reform should honor the first amendment by expanding participation in our democracy and enhancing political disclosure. The Gephardt constitutional amendment does not honor the first amendment, it shreds it.

So I just urge my colleagues to vote to protect the freedom of speech and vote against the Gephardt constitutional amendment and then vote against all the other substitutes that limit campaign spending and violate the Constitution.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask the gentleman, he has made a fundamental confusion here. The constitutional amendment and the Shays-Meehan bill do different things, and no one has been arguing, prior to the gentleman from Texas, and I do not underestimate the novelty of the arguments he brings to us from time to time, but no one has argued that nothing is constitutional.

The constitutional amendment would allow us to go further; but, for example, one of the major parts of the Shays-Meehan bill is the ban on soft money. Would the gentleman tell me if he thinks that is unconstitutional, and would he tell me which decision of the Supreme Court makes banning soft money?

Mr. DELAY. Reclaiming my time, Mr. Chairman, I do not have to claim that soft money is unconstitutional. The Supreme Court of the United States has already stated that, and, reclaiming my time, and the gentleman can get his own time, let me just answer his question, and I have got to yield to other Members.

Let me just say that the constitutional amendment opens up all kinds of mischief, and let me finish, if the gentleman will let me finish, including the things claimed by the Shays-Meehan bill. If the Shays-Meehan bill was not unconstitutional, then you would not need the Gephardt constitutional amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield for one more question.

Mr. FRANK of Massachusetts. That statement is, of course, nonsense. The argument that if the Shays-Meehan bill was constitutional we would not need the amendment, is simply not true. It is, of course, often the case that you will be for a bill that takes you to the limits of what is now constitutionally possible and later for an amendment, and I would give a specific example: soft money.

I would like the gentleman to tell me, because the Supreme Court did say in the Buckley case that we can ban contributions, soft money contributions, not expenditures, would the gentleman tell me out of his great store of constitutional knowledge, recently acquired, what Supreme Court decision says that soft money ban would be unconstitutional?

Mr. DELAY. It is very clear. Reclaiming my time, it is very clear in Buckley versus Valeo. They are very clear that if we collect moneys that is used in support of an idea or in the support of a particular issue, then we cannot limit the expenditures of the contributions of those moneys.

The gentleman makes a statement and then does not even have the courtesy to allow someone to answer the statement.

The point is that they were very clear in the fact that we can do anything in support of an issue, but we cannot specifically say that we are advocating the election or the unelection of a particular candidate.

So I say that the reason that the minority leader has bought a constitutional amendment to the floor is to show the fact that we have to manipulate and shred the first amendment of the Constitution in order to have the kinds of bills like Shays-Meehan, and the gentleman has his own time.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would remind the gentleman from Texas that last week he voted to amend the first 16 words of the Bill of Rights.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK) a member of the Committee on the Judiciary and a recognized constitutional expert within this body.

Mr. FRANK of Massachusetts. Mr. Chairman, first of all, I want to express my appreciation for the appearance of the majority whip in a new guise, defender of the first amendment, and particularly as an advocate of free speech. He and I have served together for, I do not know, a dozen or 14 years. I guess I will ask for a nexus search. I cannot remember any previous occasion when the issue was freedom of expression that the gentleman from Texas was here.

We have had constitutional amendments, we had two amendments to restrict the first amendment or to cut back or to change what the Supreme Court says. He was for both of them; that is legitimate. We have had a whole series of assaults on free speech. Often it comes from speech that is obnoxious, but that is when free speech gets involved, and I am forced to conclude, not having previously heard the gentleman, he himself said he does not usually agree with the ACLU, he does not usually agree with the Washington Post. He quoted, by his own admission, authority after authority in defense of free speech to whom he is usually an opponent. He has a whole bunch of allies to whom he is usually a stranger. This is first time in my memory that the gentleman has been for free speech.

Why? Because we are talking about the free speech of people with large amounts of money trying to either win an office or buy some political influence. We are talking about free speech that is on behalf of millionaires, and it becomes very clear what the principle is. The gentleman is for free speech as long as it is expensive. I have never heard him support free free speech, but expensive free speech, the purpose of which is to buy one's way into the political process. He is all it.

He has also, it seems to me, neglected to mention one thing about the constitutional amendment, and I worked on the drafting of it. I agree that constitutional amendment, as it came before us, is not ready to be put in the Constitution. That is why it is so disappointing to see it used in this fashion.

I have never supported a constitutional amendment coming to this floor without a previous subcommittee markup and committee markup. This constitutional amendment has had no such markup in the subcommittee or committee.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I will yield to the gentleman from Texas.

Mr. DELAY. Is the gentleman from Massachusetts not a cosponsor of this amendment?

Mr. FRANK of Massachusetts. Yes. I am a cosponsor of this amendment which did not get a subcommittee markup and did not get a committee markup. I am sorry those terms appear to be foreign to the gentleman from Texas.

When we are dealing with the Constitution of the United States, it would be irresponsible to go directly from the drafting to the floor. That did not happen with the balanced budget amendment. That did not happen with the various religious amendments. We work in the Committee on the Judiciary on these amendments, and I cosponsored; I said I worked on it.

What I wanted, however, was to begin a serious discussion, and if the Republican leadership really wanted to advance that discussion, they would have had a subcommittee markup, they would have had a committee markup bringing a constitutional amendment directly to the floor.

Having refused for a year and a half to have any committee consideration, it is hardly serious legislating about the Constitution. In fact, if anybody had tried to get an amendment through seriously that way, he or she would legitimately be subjected to criticism.

Then the next thing the gentleman does is totally collapse this into the bill, and I am impressed by the reasoning here. Apparently he recognizes, and his allies, that the bill brought forward by the gentleman from Connecticut and the gentleman from Massachusetts is hard to attack on its merits, so he has abandoned that by claiming that it is clearly unconstitutional.

No one who was supporting the constitutional amendment introduced it as a substitute for this bill. Indeed, those of us who think a constitutional amendment would be useful explicitly believe that legislation is possible and desirable but that an amendment could take us further, and his suggestion that Buckley outlaws a ban on soft money is clearly wrong. Buckley clearly says soft money has to do with the contributions. The gentleman is talking here in this bill about limiting contributions, and Buckley said we could limit contributions. It said we can limit them to a thousand dollars.

Now, there are separate issues with issue advocacy and independent expenditure. What the gentleman from Texas is doing is collapsing everything. The constitutional amendment and soft money and issue advocacy and independent expenditures, all complicated, substantive subjects, get collapsed into his rhetorical assault on the notion of reform because he is not for restricting expensive free speech.

The gentleman from Texas, as he said, did not want the bill to come to the floor. He told us that. So he decided instead to let it come to the floor in the most convoluted process. By the way, the Committee on Rules, which would not allow a single amendment onto the floor to reduce the defense budget by a penny, which has restricted important amendments on virtually every other bill we have today, has allowed to this bill, I believe, more amendments than were made in order for all the other bills this Congress has dealt with this year. That is, of course, not serious legislating.

I yield to the gentleman from Texas.

Mr. DELAY. I have not asked for the gentleman to yield.

Mr. FRANK of Massachusetts. Oh, I am sorry. I just did not realize the gentleman was taking the seventh inning stretch so early in the evening.

What we are talking about here is a recognition that this bill cannot be assailed on its merits, so we have, and here is what they have done: First of all, they bring forward a constitutional amendment that they have not allowed to have a subcommittee markup or a committee markup. It had a hearing over a year ago, but, no, went further on that, and we have not had that process of debate and discussion that refines procedures.

□ 2000

If, in fact, people try to bring this to the floor without subcommittee markup, people would be yelling at it.

Secondly, the inaccurate claim was made that because you are for a constitutional amendment in a certain area, you must think no legislating is possible. And the gentleman confuses the issue of soft money. Buckley clearly says you can limit contributions. The ban on soft money here is a ban on contributions. Maybe a later Supreme Court might say no to it.

I must say also I am further impressed by this. This Congress voted for the Communications Decency Act as part of the Telecommunications Act. It was defeated 9 to 0 in the Supreme Court. By the way, the people of constitutional knowledge who were surprised that the Supreme Court did that was quite slender. That did not stop Members from voting against it.

That is another new-found trait of the gentleman from Texas. He is now determined apparently never to vote for anything that would be unconstitutional. Maybe we could make that retroactive and he could go back into the record, because I am willing to point out to him areas where he has done just that.

So I do not think the gentleman as a defender of free speech comes with quite as much experience as he may bring to other issues.

Mr. DELAY. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman has talked about all my motives for bringing this to the floor and everything, except the substance of the amendment before us. Could the gentleman enlighten us, is he for or against the amendment that is before us?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, first let me say this. I have not spoken about the gentleman's motives. I talked about the gentleman's new-found love of free speech that costs a lot of money. I talked about the procedural inappropriateness of the way of doing this. And my answer is, I am for a Constitution America amendment. I am not for this one as written, as I am rarely on a complicated and sensitive subject for the first draft of anything, precisely because I recognize that the Constitution is an important document.

What I would like to see is a subcommittee markup and a committee markup dealing with this set of subjects. I know of no one who is capable of excogitating that and then, without any discussion, without anybody else, bringing it forward. So I am in favor of a constitutional amendment.

I also share the overwhelmingly majority of opinion, contrary to the gentleman from Texas, that there is plenty of area left by the Supreme Court in which you can legislate. The gentleman suggested that all these bills were unconstitutional, and no one but him thinks that. He is entitled to the splendid solitude of his constitutional opinion, but I do not think it ought to influence the House.

Mr. CAMPBELL. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

I would like to engage in a short colloquy with the gentleman. Is it not true that the Supreme Court has held that it is constitutional to limit the contributions that an individual gives to $1,000?

Mr. FRANK of Massachusetts. Yes. In the Buckley case, that is exactly what they held.

Mr. CAMPBELL. Is it not also true that the Supreme Court has held that it is constitutional to limit the contributions that a political action committee can give to $5,000?

Mr. FRANK of Massachusetts. Subject to correction by the constitutional authorities, I would say yes.

Mr. DELAY. If the gentleman would yield further, I just want to correct the gentleman. He is absolutely right, it is constitutional for a $1,000 contribution from individuals and $5,000 contributions limited to PACs to political candidates.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I must say I am a little puzzled when my friend from Texas says, "I want to correct the gentleman, he is absolutely right." That is not what I would ordinarily list as a correction.

Mr. CAMPBELL. If the gentleman will yield further, I want to take two other examples, and on my own time I will have points to make. But I just I thought it would be useful to illustrate the gentleman's point that the Supreme Court has held in absolutely clear fashion that limits are contributions are constitutional in the context I have given.

The only other two I would mention, is it not true that the Supreme Court has for over 50 years upheld the constitutionality on bans of corporations' outright expenditures in campaigns, and the Supreme Court has recently as the Austin v. Michigan Chamber of Commerce case restricted the activity in the campaign field by chambers of commerce?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, yes. As my friend from California, who teaches constitutional law, among other things, at the time when he still had a day job, knows, there is a complex set of opinions, and some things are allowed and some are not, and there is also a gray area, and some of us think that what has clearly been banned from regulating should be expanded.

But no one, except apparently the gentleman from Texas, thinks that the current constitutional doctrine makes all of this unconstitutional. Everyone recognizes that there is an area of regulation, and I believe that the gentleman from Connecticut and the gentleman from Massachusetts have together come up with a bill that has enough appeal within what is constitutionally possible, so the gentleman from Texas's first reaction, he said, was to block the bill from coming to the floor; the second reaction was to come up with the most bizarre rule which is designed, in fact, to prevent anything from ever coming forward; and the third to inaccurately claim it is unconstitutional.

I will repeat as I close and say I think we should do a constitutional amendment. It should be done in the normal way of a subcommittee and committee markup. But none of that means that the Shays-Meehan bill, particularly in some of its core provisions, like limiting soft money, is remotely arguably unconstitutional.

Mr. DELAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I listened with great interest to my friend from Massachusetts being highly critical of the gentleman from Texas (Mr. DELAY) for bringing his own amendment forward, complaining that it was not slowed down by a markup in the Committee on the Judiciary, where it might not have squeaked out and still be residing in the desk drawers over there. That is unusual, that someone would object to expedited treatment of their legislation. That makes this an historic day.

But really why we are here is to address perhaps a philosophical question as to the astonishing statement of the distinguished minority leader, that you cannot have healthy campaigns in a healthy democracy and free speech. That is a startling statement. I think we are entitled to wonder and explore whether or not that truly expresses the sentiment of Members of this House, because it has always seemed to me, naive as I may be, and certainly unlettered in the nuances of the Constitution, that you cannot have healthy elections without free speech. It is a condition precedent to a healthy election.

Now, Thomas Jefferson, who was no stranger to free speech, said in 1808, "The liberty of speaking and writing guards our other liberties." So we should be very careful. I think the phrase the court uses is "strict scrutiny." We should impose strict scrutiny on any efforts to limit the first amendment, which has served us pretty well for 222-some years. Yet here we are in this Chamber, under the watchful eye of Lafayette on my left and George Washington on my right, debating essentially the downsizing, the rationing of free speech, this very precious freedom.

George Orwell, in a review of a book by Bertrand Russell, said, "We come the task of the intellectual to speak of the obvious." I certainly do not make any claim to being an intellectual, but the dangers of the amendment of the gentleman from Missouri (Mr. GEPHARDT), cosponsored by the distinguished gentleman and learned constitutional scholar from Massachusetts, those dangers, it seems to me, are painfully obvious.

Is it not obvious that the ability of citizens, individually or in groups, to publicly criticize political candidates or public policy or public officials is the heart and the soul of our political system?

Now, we proclaim, most of us do, that we are for limited government. But this amendment, if it became law, is Big Brother run amuck. Have you thought about the enhanced power of the media as the rest of us try to cope with the Federal speech police? This amendment allows the State to regulate campaign expenditures, therefore to regulate free speech. That is the dream, the wish fulfillment of every tyrant since the dawn of recorded history.

This amendment, if it became in the Constitution, would be a massive consignment of power to the courts, who will then make the determinations as to what is reasonable, an invitation to endless litigation.

Our Declaration of Independence tells us that government derives its just powers from the consent of the governed. That means an informed electorate is indispensable to a functioning democracy, and free speech, political debate, ideas, proposals for governing, are the necessary conditions for informing the electorate.

How do you communicate your ideas, your proposals, your criticisms; how do you effectively campaign when free speech is rationed? Newspaper ads, television, radio commercials, signs, leaflets, buttons, telephone banks, U.S. postage, all of these things cost money, and to limit a candidate's ability to raise money is to limit his or her speech, and, therefore, and thereby, limiting the information available for informed decisionmaking.

History has got a way of repeating itself, and this amendment reminds me of the Alien and Sedition Acts of 1798, where the Federalists tried to suppress criticism of the government. They, too, had the idea that there was just too much political advocacy, and the government could be trusted to decide and enforce the correct amount.

This amendment is a frontal assault against our most cherished principles, principles that monuments and military graveyards from Arlington to Iwo Jima remind us were paid for with American blood. If this amendment were to pass, we would demean the towering accomplishments of our founders and our framers, and we were not sent here to demean or downsize the Bill of Rights, but to defend it.

One hundred thirty-four years ago in a little cemetery in Pennsylvania, one of my State of Illinois' most illustrious sons asked a haunting question, whether this Nation, conceived in liberty and dedicated to the proposition that all men are created equal, can long endure. Each generation has to answer that question for itself, and I wonder what our answer will be?

Mr. Chairman, I hope we can defeat this amendment and the inadvertently pernicious philosophy behind it, and, for this generation, keep faith with those who gave us these blessed freedoms.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CAMPBELL), a cosponsor of bipartisan campaign finance reform, the Shays-Meehan bill, and a constitutional law professor from California.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me time.

Mr. Chairman, the distinction before us is between expenditure of money, which the Supreme Court, in my view, has correctly identified as a form of expression, and contribution, which is an act. In offering this amendment, my good friend and colleague, for whom I have the highest regard, is, I believe, confusing the two.

I believe that the amendment is offered in order to suggest that you need to amend the Constitution in order to have Shays-Meehan, or McCain-Feingold, as it is known in the other body.

In reality, you do not, because there is this vital distinction between expressing your own views or spending your own money to express your own views, which is quite protected, and the act of contributing to somebody else for their campaign, contributing to a political party, contributing to a PAC, the soft money, which is the subject of the regulation under Shays-Meehan or McCain-Feingold.

The Supreme Court has been careful to emphasize this difference. It did it in the Buckley v. Valeo case when, in 1976, it dealt with the first attempt in modern times in the post-Watergate era to regulate the activities of campaigns. But it was not the first time that the Supreme Court drew distinctions that affected speech under the first amendment. Indeed, the Supreme Court has made quite a practice of dealing with speech under the first amendment.

"Congress shall make no law abridging the freedom of speech" is the wording of the first amendment, and yet the Supreme Court has said, except the Congress may restrict commercial speech; except the Congress may restrict speech that constitutes libel and slander; except Congress may restrict speech that constitutes obscenity. Congress may restrict speech that constitutes an incitement to imminent lawlessness. Congress may restrict speech that constitutes a group libel. Congress may restrict speech that constitutes fighting words.

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So with this background where the Supreme Court has, over many years, made distinctions, we come to the question of campaign finance. Every time that the Supreme Court has said that it is permissible for the Congress to deal with speech, it has said, provided the fundamental goal of free speech is protected, then for very important other reasons there can be restrictions, but that fundamental goal is protected.

Here, the fundamental goal is my ability to spend my own money and my own time speaking in my own way. But to prevent corruption and to prevent the appearance of corruption, it is permissible and, in my view, highly desirable to limit how much somebody can give to me or how much somebody will spend to influence a campaign under the aegis of the Republican Party in my case or the Democratic party on the other side.

In conclusion, I say do not confuse these issues. We do not need to amend the Constitution to do what needs to be done, and what needs to be done is the Shays-Meehan campaign finance reform bill.

Mr. DELAY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I rise to speak in opposition of H.J.Res. 19. Some of our colleagues would have us believe that the only way we can have campaign finance reform is to amend the Bill of Rights and overturn the Supreme Court's decision in Buckley v. Valeo.

The First Amendment in the Constitution guarantees that Congress shall make no laws abridging the freedom of speech or of the press. The Buckley v. Valeo decision provides that, although certain limitations on contributions are permissible, that limiting political expenditures is an unconstitutional denial of free speech in violation of the First Amendment.

The proposed amendment, however, will allow Congress and the State legislatures to prohibit certain speech and actions by candidates, their donors, political action committees, issue advocacy groups, and the press.

Mr. Chairman, I believe that we are better off trusting the American people to discern the value of information they receive than we are in having Congress or the States regulate the information they receive. There are several problems with this proposed amendment.

First, the contemplated amendment proposes an unprecedented exception to our free speech right and would represent the first time the Bill of Rights has been amended. At the very place in the Constitution where we have protected the free speech rights of Americans for over 200 years, we should not add a prohibition on political speech.

Second, Mr. Chairman, because the proposed amendment uses vague terminology to define what Congress can do to regulate a political speech and elections, it will be left to future Congresses to implement legislation to decide what is reasonable and what is effective advocacy.

As we have seen with other constitutional amendments on this floor, a transient majority will frequently vote against the Bill of Rights. A majority of this House, as a matter of fact, has already voted twice this Congress to amend the Bill of Rights. We should not allow a simple majority to define who gets to say what during a campaign.

The third point, Mr. Chairman, the proposed amendment would also make regulation of the press possible for the first time. Heretofore, the first amendment has denied legislatures the power to regulate the press in any way or prohibit media endorsements of candidates.

Since the expense of producing and communicating an editorial comment could be included as an expenditure of funds to influence the outcome of an election as described in the proposed amendment, it will subject the press to regulation as we have never done before. This outcome will be intolerable to the American people. Even if there were an exception for newspaper editorials, who would get to decide when a publication is a newspaper?

Finally, Mr. Chairman, the proposed amendment would grant Congress and the State legislatures the authority to define express and issue advocacy. The ability to make the distinction between these two forms of speech will leave only candidates, political action committees, and the media free to comment about candidate records during elections, and it would deny freedom of speech to individuals and groups who might want to comment on issues that may have political ramifications.

We have many reforms that can be considered without overturning the Supreme Court decisions or amending the Constitution. We can consider other reforms such as public financing of elections, improved disclosure requirements, providing discount vouchers for media coverage, reinstating tax credits for small contributions, and on and on. There is a lot that we can do without putting our right to free speech in jeopardy.

Mr. Chairman, I urge all of my colleagues on both sides of the aisle to vote against this attack on our Bill of Rights.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am struck as I look at the clock and it is 20 minutes past 8:00, no further votes expected, and here we are debating campaign finance reform. It is interesting.

Mr. Chairman, I yield 4 minutes to my friend, the gentleman from Maine (Mr. ALLEN), who has been a leader in the effort to pass bipartisan campaign finance reform, working with both Democrats and Republicans in the freshman class.

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise tonight in opposition to this amendment, but I do not for 1 minute want to suggest that this debate is about the amendment.

What is going on here? We have the majority whip on the Republican side bringing forth a proposed constitutional amendment by the Democratic leader, the gentleman from Missouri (Mr. GEPHARDT), and then saying he is going to vote against it. What is going on here?

I will tell my colleagues what is going on. The gentleman from Missouri (Mr. DELAY) said that he wanted to frame the debate. I will tell my colleagues what is going on. This is an attempt to drag a red herring across this whole discussion.

What is going on here is this: Since campaign reform was brought back to the floor, the free speech coalition, so-called, is in full gear, is in overdrive. It really should be called the free speech/big money coalition. Every time the antireformers say "free speech," they really mean "big money." The antireformers cannot defend big money on its merits. The American people would not buy it. So they cloak the rhetoric in the terms of free speech.

Members of the free speech/big money coalition claim that all campaign finance reform is unconstitutional. These folks claim that money and speech are one and the same. They argue, since money is equal to speech, reasonable limits on contributions are unconstitutional. They are wrong. Antireformer free speech arguments are simply cynical attempts to confuse the issue of campaign finance reform.

I want to deal with two issues, one a soft money ban. Until tonight, I had never heard Buckley used as a way to suggest that a ban on soft money would be unconstitutional.

Some antireformers claim that soft money is constitutionally protected under the Colorado Republican Party decision. Wrong. That decision dealt with hard money, not soft money. In fact, the Colorado court said it "could understand how Congress, were it to conclude that the potential for evasion of the individual contribution limits was a serious matter, might decide to change the statute's limitations on contributions to political parties"; in other words, contributions of soft money. In other words, Congress can ban soft money.

Take the second issue. Antireformers contend that the Supreme Court has said disclosure of issue advocacy is unconstitutional. And they sometimes hold out the case of McIntyre v. Ohio Board of Elections.

McIntyre involved an individual handing out fliers advocating a position for a local election. The flier did not have a disclaimer, and, yet, the Ohio elections board argued that the State's disclosure law had been violated.

The court held that small-scale anonymous pamphleting is constitutionally protected, but they said this applies only to printed materials, not to television or radio. So the court did not find that this Congress could not require disclosure about radio and television issue advertisements.

There are two primary constitutional arguments used by the free speech/big money coalition. They are both baseless. Soft money can be banned, and information about issue ads can be disclosed.

Both of the major pieces of legislation before this body right now, the Shays-Meehan bill and the Hutchinson-Allen bill, the freshman bill, both ban soft money, and both have restrictions requiring disclosure on issue advocacy.

Antireformer arguments about free speech are red herrings. They are designed to confuse, to cast out. When antireformers say "free speech," they mean "big money." They want to protect big money, and they use the rhetoric of free speech. That is what this debate is all about. Free speech in this democracy does not equal big money. The antireformers are wrong.

The CHAIRMAN. The gentleman from Texas (Mr. DELAY) has 8½ minutes remaining. The gentleman from Massachusetts (Mr. MEEHAN) has 12 minutes remaining.

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish the gentleman would have yielded to me, because the gentleman is claiming all kinds of things about big money, soft money; and the gentleman himself received about a million dollars from labor unions in support of his election. Now that he is in office, he would want to ban similar type of spending that might be used against him.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I am happy that we are considering this proposed amendment to the Constitution, because this amendment, without question, is where the debate ought to be on the government regulation of political speech which is under consideration.

I want to commend the gentleman from Missouri and my other liberal colleagues who have endorsed this approach. I do not endorse it, but I commend them, because it is honest. My liberal colleagues recognize that, in order to limit speech, it is necessary to amend the first amendment. They know that any attempt to abridge a citizen's first amendment rights by statute, such as most of the proposals before us do, in fact, is unconstitutional. So I commend them for their honest admission of this fact.

Mr. Chairman, this is a debate which will clarify that the so-called campaign finance issue is really about limiting our right to engage in political speech and participate in free elections.

In an effort to pave the way for big government regulations such as Shays-Meehan, this resolution would amend the Constitution to grant Congress and the States power to set spending and contribution limits and to define what a political expenditure is.

The words of the Gephardt resolution are relatively few, but the ramifications are stunning. The amendment would give Congress a free hand to regulate, restrict or, indeed, even prohibit any activity which is perceived by the government to constitute the campaign expenditure.

Candidate spending, independent expenditures, and even issue advocacy by private citizens and groups would be swept within the orbit of governmental regulation.

Thanks to the first amendment, America's premier political reform, Congress does not have the authority to stifle political speech. The Supreme Court has rightfully rejected efforts to suppress political speech time and time again.

If this amendment should pass, it would provide the government with a blank check to gag American citizens, candidates groups, and parties. Liberals call this reform.

The Founding Fathers had the wisdom and courage to construct the Constitution of the United States. The first amendment has served our Nation well for over 200 years. The first amendment speech protections are a legacy we are extremely fortunate to have.

Of all the types of speech that we are guaranteed by the first amendment, guess which was the most important in the minds of the framers? It was not the ability to go out and advertise automobiles or beer. It was political discourse, the very thing the British Government tried to abridge when it was in power. Our founders tried to prevent this from ever happening again by enacting the first amendment.

Mr. Chairman, the first amendment prevents the government from rationing the political speech of an American citizen through campaign spending regulations in the same way it prevents the government from telling the Washington Post or the Sacramento Bee how many numbers it may distribute or how many hours a day CNN may broadcast.

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Amending the first amendment for the first time in two centuries, the big government reformers want to make the unconstitutional be constitutional. They would rewrite the first amendment, a frontal assault on American freedom that even the ACLU has characterized as a recipe for repression.

While I relish the debate itself, I recoil at the prospect of gutting our first amendment freedoms. I prefer the crystal clear language of the first amendment, which says, "Congress shall make no law abridging the freedom of speech."

We as representatives would do well to abide by the Constitution and defeat this resolution.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), who has been a leader in the effort to fight for campaign finance reform, and a leader in our bipartisan effort to support the Shays-Meehan bill.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, we have an historic opportunity to pass real campaign finance reform in this Congress. That opportunity is Shays-Meehan. Although some of my colleagues in this body support an amendment to overturn the Supreme Court's decision in Buckley vs. Valeo, such an amendment is not needed to pass Shays-Meehan. Shays-Meehan will pass constitutional review. The DeLay amendment will do just that, delay. I have been told that the amendment's sponsor does not even intend to vote for it.

Shays-Meehan will ban soft money once and for all, and will require greater disclosure from groups which conduct sham issue advocacy ads. For months we have held hearings in the Committee on Government Reform and Oversight on alleged campaign finance abuses. All of the alleged abuses involved soft money. Not one of these hearings would have been needed or would have been held if Shays-Meehan had been enacted, if Shays-Meehan had been law.

If we vote in favor of the DeLay amendment, those of us who may favor it, it will be years before it could take effect while the States debate ratification. In the meantime, we will have lost our best chance in years to pass real reform, Shays-Meehan. There is an old saying that a bird in hand is better than two in the bush, and the Shays-Meehan bill is within our grasp.

So I am urging all of my colleagues who are sincere reformers on both sides of the aisle to vote present on all substitutes, on all bills, except Shays-Meehan. Let us keep our eye on enacting within this Congress and passing it and ratifying true reform, Shays-Meehan. Vote present or no on the DeLay amendment and yes for Shays-Meehan.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentlewoman from California (Mrs. LOIS CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise first to say how grateful I am that this debate has finally begun. Many of us have different views of campaign finance reform, but the fact that the House has begun to consider these approaches tells me that we have finally listened to the will of the American people who desperately want us to fix our political system.

I hope that as we debate this issue over the next several weeks we will do so in a bipartisan, civil, and thoughtful manner, because in fact, I do believe that the nature of our deliberation itself is a part of the reform experience and enterprise.

I would support a constitutional amendment on campaign funding if I believed that it would be the only option available to us to change this system. But I oppose the amendment at this time for these reasons.

First, instead of taking the long, arduous, and radical step of amending the Constitution, we do have the ability now to make dramatic changes to our political system by passing a bipartisan Shays-Meehan bill later in this debate.

Second, changing the Constitution is only necessary if we were to impose overall mandatory spending limits on campaigns. The Shays-Meehan bill contains numerous important reforms. In particular, it bans soft money and regulates issue ads, but it does not mandate overall spending limits.

Third, this amendment is being offered as a vehicle to criticize the Shays-Meehan and freshman reform bills as unconstitutional, and they are not. The Supreme Court has repeatedly upheld a variety of contribution limits, and has furthermore ruled that Congress is within its right to enact additional reforms.

The Shays-Meehan bill will not restrict free speech. Failure to pass this bill will suppress the voices of average Americans who are clamoring to be heard over the din of wealthy special interests dominating our political landscape, and this is the reason now that we must defeat this amendment and support the Shays-Meehan bill.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute and 50 seconds to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, I have not been convinced that we need an amendment to the Constitution in order to enact real campaign finance reform in this Congress. In fact, throughout the time that I have served in this particular body, I have avoided all attempts to change the Constitution, many of which came, of course, from that side of the aisle.

Mr. Chairman, I heard someone say earlier tonight that the reason they were here was to preserve the Bill of Rights. I know that just a week ago, 217 Members of this body voted to change the Bill of Rights and the first 16 words of the First Amendment.

I also know that many of the same people who are arguing about free speech interests tonight were also cosponsors and voters in support of the flag-burning amendment, which, indeed, restricted the ability of individuals to make their views known through burning the flag.

I also know that the majority whip and many Members who are participating in this debate tonight voted for the Internet Decency Act, and to restrict people's ability to express themselves on the Internet. So I have to assume that in fact this is not about the first amendment and people's rights to express themselves. It is about stopping campaign finance reform.

The argument that was put forward is that this particular amendment was brought to the floor by the minority leader, when in fact it was brought to the floor by the majority whip. There is a trend that I see happening in this body, a very disturbing trend. A week ago we saw the elements of the President's budget brought not at his request to the floor but by the chairman of the Committee on Rules. Why? Because it was important to construct a straw man that could be attacked and then voted down. That is what we have tonight, a straw man.

We also have an attempt to mislead. Shays-Meehan does not require a constitutional amendment to be put in place. How do I know? Because when it was introduced, I sent it to constitutional scholars throughout my district.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. WAMP), who has been a leader in the bipartisan effort to get campaign finance reform, and a leader on Shays-Meehan.

Mr. WAMP. Mr. Chairman, I certainly thank the gentleman for yielding time to me.

Mr. Chairman, while I think this is a cynical amendment, and certainly I do not want to question anyone's motives, I do think this is valuable in that an amendment like this will bring out the more extreme viewpoints in the House on this particular issue, because we have people from one extreme that say we need a constitutional amendment, which obviously most of us think is a bad idea, and then the other side that says we should just have unlimited expenses by whoever and whatever and whenever, no matter which direction our society is going in.

I want to bring the perspective of kind of the logical, commonsense approach from East Tennessee, kind of out of the heart of America. I do not accept PAC money. I always thought that was kind of a bad thing, so I just decided a long time ago not to take that money. I raise my money from individuals, the old-fashioned way. I can look them in the face.

In 1996, 95 percent of the money in my campaign was from the State of Tennessee, just kind of down home grass roots. I think we keep our hands more clean that way and say no to it all.

Where I am coming from here is I do not want big special interest groups with tons of money to dominate our elections to the United States House of Representatives. I think there is a commonsense approach that says we should have some limits on soft money from tobacco and alcohol and gambling interests, of all things, that is climbing so fast that it is going out of control.

Do we want big tobacco to have the ability to just dump millions of dollars, which they already have, directly to the political parties, without any restraints or any controls? Do we want to cause Members of the House of Representatives to lose control of our own elections because of outside influences, where they had independent groups come in and bombard them with their $1 million, and they raise money from individuals back home, and they cannot even stay in the game because of these outside influences? Come on. Common sense says there is some reasonable balance, and we can reform this system.

I want to thank the leadership for bringing campaign finance reform to the floor, but I want to encourage our leadership to do what they said they were going to do and bring reform to the floor. We have a bunch of good substitutes to choose from, and it is time we bring them to the floor. I do not mind staying up until 4 in the morning, but I want to see these votes scheduled.

I say to our leadership, I thank them for changing their strategy and bringing this issue back to the floor, where it deserves to be heard. But I also say, let us get on with it.

I am an appropriator. I know we have appropriations bills to bring to the floor, but we cannot just continue to delay this issue. I am not using the gentleman's name, I say to the gentleman from Texas (Mr. DELAY), the majority whip. I just meant to say, let us not delay, no pun intended, sir. I have the greatest respect for the gentleman.

But we do need to debate these substitutes. As soon as we can, we need to move beyond the cynicism, beyond the extreme, come to the middle ground.

Mr. HOSTETTLER. Mr. Chairman, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. Mr. Chairman, as someone who has never received special interest PAC money in the history of his elections, I think it is important that the gentleman makes it clear that the gentleman has in the past. Is that not the case?

Mr. WAMP. No. I have not, did not. I have never accepted PAC money. I will make that clear. That is right. I thank the gentleman for clarifying.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume to say that I have never taken PAC money in the history of my election.

Mr. Chairman, I yield the remainder of my time to my colleague, the gentleman from Connecticut (Mr. SHAYS), who has played such a great leadership role working with both sides of the aisle to bring real, true, bipartisan campaign finance reform to a vote on the floor of this House.

The CHAIRMAN. The gentleman from Connecticut (Mr. SHAYS) is recognized for 3 minutes.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, it is exciting to begin the process of debating campaign finance reform. It has been an absolute pleasure to work with the gentleman from Massachusetts (Mr. MARTY MEEHAN) and Members on both sides of the aisle who favor reform, and I also thank my freshman colleagues on both sides of the aisle for working so hard to bring campaign finance reform before this Chamber. Had the freshmen not made their effort, we would not be here today, and I thank them from the bottom of my heart.

The Sharp Meehan substitute does not circumvent the Constitution of the United States. The amendment my majority whip has offered is not an issue I support, and I will be voting against his Constitutional amendment.

We support a ban on soft money, both on the Federal and State level, for Federal elections. We also believe we need to call the sham issue ads what they truly are, campaign ads. It means that people who attempt to influence elections will exercise their freedom of speech through the campaign process, and that we all play on a basically even field.

Right now if we say, "Vote for, vote against, elect, reelect so and so," it is a campaign ad. Under our bill if one talks about a candidate 60 days to an election, it is a campaign ad and must come under the campaign rules.

Current law does not limit what we can spend, it limits what we can raise from each individual. A wealthy person can spend whatever they want under our campaign laws. We do not change that. They have to file and record what they spend. That is the law now. We are not changing it.

We codify Beck, which was the Supreme Court decision that said that a nonunion employee does not have to pay their agency fee to cover campaign expenditures. We improve the FEC disclosure and enforcement. We say that wealthy candidates who spend more than $50,000 cannot turn to their own parties for additional help.

We say that foreign money and money raised on government property is illegal. Believe it or not, it is not illegal now, because, surprisingly, soft money is not considered as a campaign contribution. It was intended years ago, to be used for party-building, but it has been totally misdirected.

I would urge this House to pay close attention to what happens in the next few weeks. It was my hope and expectation we would deal with campaign finance reform in February, as my leadership promised, or March, at the latest.

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That did not happen. And then we were told we would deal with it in May. Unfortunately, that has not happened. There is a point where the word of our leadership needs to be honored. I hope we can expedite debate and conclude our work to reform our campaign laws.

Mr. DELAY. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, it is amazing to me no one wants to talk about this constitutional amendment. When the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader said, and I quote, "I intend to fight for and make the case for this amendment, because I believe the future of our democracy demands such a change," yet he refuses to come down and speak for an amendment that he and others, including the gentleman from Massachusetts, have beaten their chest about for months in order to cover up some of the campaign abuses by the Clinton administration and the Democrat National Committee.

The gentleman from Massachusetts has asked many questions trying to confuse us about the difference between contributions and expenditures for candidates and contributions and expenditures for organizations and parties. The Supreme Court was very real and very straightforward on the two. They said Congress could possibly limit contributions and expenditures to candidates because there is a potential for corruption.

Now, I do not know anybody in this House that is corrupted by the expenditures or contributions. On the other hand, they also said parties and groups cannot be corrupted, therefore we cannot limit their ability to speak out by raising money and spending it.

So I answer the gentleman from Massachusetts (Mr. FRANK) in his own words, a letter to our colleagues signed by the gentleman from Massachusetts and the gentleman from Missouri (Mr. GEPHARDT):

"Many of the changes to our campaign finance system that people rationally argue for are simply unconstitutional." We heard him say right here that that is not the case. "Since the Supreme Court's 1976 opinion in Buckley versus Valeo, through its recent decision in Colorado Republican Federal Campaign Committee, it has been made repeatedly clear that the constitutional barriers erected by the court cannot be wished away. That is, the Supreme Court has consistently and ever more assuredly told us that any restrictions on expenditures by candidates or anyone else are unconstitutional." This is the gentleman from Massachusetts.

"While we may restrict contributions to candidates, those permissible restrictions are very narrow and cannot reach the kind of abuses that we are interested in curbing because they are easily circumvented. In short, neither Congress nor the States have any constitutional authority to limit expenditures, independent issue advocacy, or uncoordinated."

And I quote from the gentleman from Missouri and the gentleman from Massachusetts: "The current explosion in third-party spending is simply beyond our ability to legislate."

They want this constitutional amendment so that they can change the first amendment to the Constitution and limit our ability of free speech. And the reason I brought the amendment here is to catch them, to catch them after they had beaten their chests about Shays-Meehan and others.

We will get into this and it will be a long, open and fair debate; what the reformers have asked us to do. And we will have that open and fair debate as long as it takes, because I believe that people in this body are too cavalier with American's freedoms. Too cavalier to say, as it was just said, we ought to stop these bad old special interests. Well, whose special interests? Americans that spend $100 or $200 to contribute to a group like National Right to Life or National Organization of Women? Are those big bad special interests?

Mr. Chairman, I will be asking those that vote "present" on this amendment why they cannot stand up for what they have believed in in the past.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the joint resolution is considered read for amendment under the 5-minute rule.

The text of House Joint Resolution 119 is as follows:

H.J. RES. 119

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. To promote the fair and effective functioning of the democratic process, Congress, with respect to elections for Federal office, and States, for all other elections, including initiatives and referenda, may adopt reasonable regulations of funds expended, including contributions, to influence the outcome of elections, provided that such regulations do not impair the right of the public to a full and free discussion of all issues and do not prevent any candidate for elected office from amassing the resources necessary for effective advocacy.

"SECTION 2. Such governments may reasonably defined which expenditures are deemed to be for the purpose of influencing elections, so long as such definition does not interfere with the right of the people fully to debate issues.

"SECTION 3. No regulation adopted under this authority may regulate the content of any expression or communication.".

The CHAIRMAN. The Chairman of the Committee of the Whole may postpone a request for recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Are there any amendments to the joint resolution?

Mr. MEEHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been a very interesting and lengthy debate about the first amendment implications of spending limits, and I thank the gentleman from Texas (Mr. DELAY) my colleague from Massachusetts (Mr. FRANK), the gentleman from California (Mr. CAMPBELL), the gentleman from Maine (Mr. ALLEN) and the gentleman from Virginia (Mr. SCOTT) for all of their input into the constitutional implications of spending limits.

But, Mr. Chairman, let me make one thing very, very clear. The Shays-Meehan bill does not include spending limits. I have a sneaking suspicion that reform opponents have contrived a debate here today that is nothing more than a red herring. Their message is that any campaign finance reform is impossible without amending the United States Constitution, and nothing could be further from the truth.

According to the eminent constitutional scholars such as John Miekeljohn and Thomas Emerson, the core principle underlying the first amendment is that voters should have the ability to tap into the vast marketplace of ideas so they can draw their own conclusions about political issues and candidates.

Nothing in the Shays-Meehan legislation precludes their ability to do that. In fact, I firmly believe that the bill would enhance political dialogue by increasing disclosure.

Now, Supreme Court decisions have affirmed that reformers stand on solid constitutional ground when we argue that campaign finance reform and first amendment rights are not mutually exclusive. The Court has repeatedly recognized that Congress possesses a broad ability to shield the political process from corruption and the appearance of corruption.

In the landmark case of Buckley v. Valeo, the Court ruled that Federal contribution limits "do not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties."

More recently, in 1989, the United States Supreme Court reaffirmed that position in Austin v. Michigan State Chamber of Commerce, ruling that the current ban on corporate treasury contributions and expenditures serves to combat "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of corporate form * * *"

It is clear to me and the majority Members of this Congress that support the Shays-Meehan bill, that it is time to move forward with this debate. Legitimate constitutional concerns must be addressed, but the first amendment shell games should not be used any longer to postpone debate on reform any longer than they already have.

Let me also state that tomorrow marks an anniversary. It is the three-year anniversary that the Speaker of the House and the President of the United States met in New Hampshire and shook hands in agreement to get real comprehensive campaign finance reform to a vote in this Chamber. The three-year anniversary. Can my colleagues imagine? It has been three years and we still have not had a vote on a comprehensive, bipartisan, bicameral McCain-Feingold Shays-Meehan campaign finance reform legislation.

Tomorrow morning when we take the well, it will be an anniversary of sorts. I would encourage Members from both sides of the aisle to come to this well and mark that third-year anniversary with a renewed call for a vote on campaign finance reform. The public has had it. This vote is long overdue. Let us mark this anniversary with a vote on real campaign finance reform and pass the Shays-Meehan bill.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise tonight in opposition to the amendment. The Supreme Court has spoken very clearly. Limits on money spent in elections in certain cases are limits on free speech. We have heard the references to Buckley v. Valeo. The Supreme Court stated very clearly that spending money in the political process in most cases equals free speech, and the bottom line of what we are discussing here today is free speech.

Now those who would want to say that we are trying to combine free speech with big money, it just simply does not wash. I know in my own personal campaign, the average amount of my contribution was $30, yet I had millions dumped in against me and it was uncontrollable. Uncontrolled, and no one had to disclose.

What I am asking, and what we are asking for here ultimately, is let free speech reign but let the voters understand that they have the right to have every penny disclosed that is contributed or is accepted in a campaign.

I think it is very clear here what the bottom line is, the reason why this amendment was even drafted. Let us look at this again coming from the gentleman from Missouri (Mr. GEPHARDT) printed in Time Magazine, February 3, 1997. "What we have here is two important values in direct conflict: Freedom of speech and our desire for healthy campaigns and a healthy democracy. You can't have both."

Now, I think that lays it out pretty clearly. You cannot have both. So what do we peel off? We peel off free speech so we can have healthy campaigns in their definition. There are no healthy campaigns. There is no free press. There are not freedoms without free speech.

Mr. Chairman, how do supporters of this so-called constitutional amendment defend this? They say that they are only trying to balance conflicting values. Right. Give us a break.

Many tried to argue that we need to restrict free speech because they believe that money buys elections. Well, let me remind them that the results of the California primary last week proved that money does not buy elections and, in fact, the high profile candidates who dumped millions of dollars out of their own pocket into Statewide races were turned away empty handed.

What the lessons are that we can take from these results is that money does not decide elections, the informed voters in America decide elections. And that is what we need to focus on, making sure that American voters are fully informed.

Unfortunately, many people still do not trust the American people to make wise decisions. Despite the repudiation of the ideals of big government, my liberal friends continue to search for ways to place restrictions on the freedoms of the American people. Their answer to moral decay and the breakdown of the family is to step in and take prayer and the Ten Commandments out of our schools. Their answer to a struggling economy and unemployment is to take more money away from families and create more paperwork for bureaucrats. And their answer to illegal campaign contributions and possible foreign influences in elections is to change the Constitution to restrict the political participation of Americans and free speech.

Do they not get it? It is printed right here, a direct quote from the gentleman from Missouri. That is the bottom line of this debate.

The fact is that well-intentioned liberals in previous Congresses passed reform bills in 1974, and the result has been an increase in the strength of

PACs and an increase in the amount of fund-raising that politicians are forced to do. The answer is not to close off more avenues of free speech.

The ACLU and the late Supreme Court Justice Thurgood Marshall, two voices normally aligned with those supporting this amendment, have made very clear statements on this issue. In the words of Justice Marshall he said, "One of the points on which all members of the Court agree is that money is essential for effective communication in political campaigns."

The ACLU, a bastion of liberalism, said that H.J. Res. 119 is vague, overbroad and it would give Congress a virtual blank check to enact any legislation that may abridge the vast array of free speech and free association rights that we now enjoy.

☐ 2100

I happen to agree with the ACLU on this issue. Unfortunately, the proponents of H.J. Res. 119 disagree.

The CHAIRMAN. The time of the gentlewoman from Idaho (Mrs. CHENOWETH) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mrs. CHENOWETH was allowed to proceed for 2 additional minutes.)

Mrs. CHENOWETH. Mr. Chairman, let me remind Members again of their views on free speech and healthy campaigns and a healthy democracy. They said it right here. They say, we cannot have both. And what we are hearing today in this amendment is, we peel off free speech.

We just heard the distinguished gentleman from Illinois quote Abraham Lincoln, when Abraham Lincoln asked, at a very poignant time, a very important time in this Nation, how long can we endure, how long can we endure with the freedoms that we do have.

We must endure and we must protect those freedoms and then this Nation will remain free. The Constitution's authors trusted the people of this great Nation to make well-informed decisions about their lives and about their representatives, and I trust the people. Unfortunately, some Members still do not trust the American people to make the right decisions and they do not trust that they are well informed in this free society.

I ask that we defeat this amendment, H.J. Res. 119.

Mr. DOOLITTLE. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I would like to ask the gentlewoman, we have had about 25 years or so of extensive Federal regulation of our campaigns and yet things seem to have gone from bad to worse. Would the gentlewoman care to share her opinion as to why we seem to have have ever-increasing problems despite all the massive regulation that has been in the law?

Mrs. CHENOWETH. Mr. Chairman, it seems very clear to me, we have been trying to put the solution in the hands of the bureaucrats instead of letting the solutions rest with the well-informed electorate. When the electorate understands who is trying to give an inordinate amount of money to political candidates, they always respond. They respond negatively to anyone who gives the appearance even of allowing themselves to accept an inordinate amount of money.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the last word.

Mr. Chairman, 200 years ago our Nation was founded with the principle that people would be chosen to represent based solely on the quality of their character. Those times have changed, but I think that ideal should remain the same. Obviously, it has not.

If you leave the Cannon House office building and take about 110 steps, you will find yourself at the door of an exquisite building with marble floors, beautiful red carpets that I visited on several occasions, and it is the Republican National Committee.

If you go a few hundred more steps, you will find a much uglier building that is not near as nice, but it is the Democratic National Committee. But they both exist for the same purpose. They raise money and they pedal influence.

I am not here to defend that system. I am here to change it.

I think it has gotten to the point where, and I think it can be proven, 95 percent of all congressional elections are won not by the best man but by the person who raises the most money.

Even now, as there is an open race in my home State of Mississippi, if people ask me who I think will win, I will tell them the name of the guy, a very nice guy by the name of Ronnie Shallison, and both Democrats and Republicans alike, the very next sentence out of their mouth is, but who is raising the most money. You see, that is what it has become in this town. Not the best person, not the person who wants to make our country, to keep it the greatest Nation on earth, but the guy who can make and raise the most money.

Some Members in this room will try to tell you that that is good. I am here to tell you that that stinks.

There is another system out there that we keep talking about, but maybe it has not been explained to the American people. It is called soft money. If you as an individual want to contribute to a candidate, you are limited by law to $1,000. If your spouse wants to give $1,000, that is okay. If your kids wants to give $1,000, that is okay. It is all reported.

If you belong to a political action committee like the NRA or the National Right to Life, that group can give a candidate $5000. But if a PAC or a wealthy individual or an Arab oil sheik or whoever wants to give $100,000 to a candidate, they can go around that law by giving it to either the Democratic or the Republican Party, and then that party writes a check for $100,000 to the candidate and it is perfectly legal. And some Members tell you in this room that is right. I am going to tell you, that is wrong.

There is another process out there called independent expenditures. Once again, you as an individual are limited, but if an organization or, once again, an incredibly wealthy individual who has got a personal axe to grind wants to spend $1 million against a candidate or $10 million against a candidate, he can go straight to the television station and he can go straight to the radio station, he can go straight to the newspaper, he can spend all he wants, he can say anything he wants, and some folks call that free speech.

Well, if all you do is cater to the rich folks, yes, it is free speech. But what happens to the average Joe who cannot raise $1 million and who cannot squander that kind of money. See, I visited both of the headquarters. The only average Joes I saw there and the only poor folks I saw there were working there. They do not have much of a voice in this town, and they do not have much of a voice in this town because money talks.

So if you think that is right, vote not to change a thing. But if you think that is wrong and that this corrupt system is threatening the very democracy that all of us swore to uphold and defend, then let us have a real debate and let us close some of these loopholes, and let us see that the people can run for Congress and have a fair chance of getting elected, not because they raised the most money but because they are the best person, they have the best character, and they want to do the best things for our Nation.

Mr. HUTCHINSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the Gephardt amendment. While the gentleman from Texas, the majority whip, and I have different views on some of the reform proposals before this House, I think we clearly agree that this constitutional amendment poses a dangerous threat to our liberties.

William Gladstone praised the United States Constitution as the most remarkable work known to man in modern times. Henry Clay, in a speech to the Senate in 1850, said the Constitution was made not merely for the generation that then existed but for posterity. And it is with that high regard for the Constitution that we begin this debate on campaign finance reform.

The gentleman from Texas knows that it is not necessary nor prudent to amend the Constitution in order to accomplish reform. For that reason, I and others have opposed this amendment. While we are in total agreement that the Constitution should not be amended in this fashion, there is a respectful disagreement on the compatibility of campaign finance reform and the Constitution.

I believe that you can summarize three different prevailing approaches to campaign finance reform today. The Supreme Court, luckily, 22 years ago has commented on each approach. Let us examine these.

One approach is for full disclosure. Let us remove all limits and let us just disclose everything. The Supreme Court understands why that might not be a good idea and said that Congress has a right and authority to require more.

A second approach is to impose spending limits, let us take money out of the system. And the Supreme Court has in fact ruled that unconstitutional and that an abridgment of political speech. I reject that.

Then there is a third approach, and that is the approach of the freshman bill, the Hutchinson-Allen bill to put reasonable limits on contributions which the Supreme Court says meets the test of free speech. The case that is most often cited, many times referred to tonight, is Buckley vs. Valeo.

In that case, the Supreme Court of the United States, after reviewing the improper influence of big money in the 1972 presidential campaign, said that it was constitutional and consistent with free speech to put limits on campaign contributions, not limits on campaign spending, and that is the distinction, but restrictions on large campaign contributions.

The Supreme Court described the appropriate limitations and approved the limitation of $1,000 per individual and, of course, corporate and labor union contributions had already been approved as appropriate to be banned. However, as has previously been described, there is the loophole of soft money, and everything worked fine until the loophole came through that those contributions that were illegal, if given individually to a candidate, were permissible through the political parties and went to the benefit of the candidates.

That loophole did not exist when Buckley vs. Valeo was decided by the United States Supreme Court. Despite the Supreme Court's ruling, there are those who want to remove all campaign contribution limits and allow anyone, whether individual or special interest group, to pour as much money as they want into the political system. In other words, let the good times roll, as long as there is full disclosure.

Let me read to you what Buckley vs. Valeo, the Supreme Court, said about disclosure:

While disclosure requirements serve the many salutatory purposes intended, Congress is surely entitled to conclude that disclosure is only a partial measure and that contribution ceilings were a necessary legislative commitment to deal with the reality or appearance of corruption inherent in a system. And so more than disclosure is appropriate. And today we conclude that disclosure is not adequate, that we need more in our system.

The second view of reform today that we have talked about is that we ought to restrict spending limits, and that clearly is unconstitutional, as the Supreme Court has said. And I reject that view.

So the Supreme Court has given us some guidance in all of this, but I believe it comes down to the third approach that I have talked about, the freshman bill, the Hutchinson-Allen, because it respects the rulings of the United States Supreme Court.

This bill does not violate the first amendment because it does not try to regulate campaign spending. The freshman bill reduces the influence of big money contributions in American politics and strengthens the voice of the individual. That is what is important.

The freshman bill adopts that third approach to campaign spending, an approach that addresses the worst abuses in our system, and yet it is consistent with the first amendment.

In fact, the Supreme Court has said that the overall effect of contribution limits is merely to require candidates and political committees to raise funds, and this is important, this is a quote, to raise funds from a greater number of persons.

We do not want to restrict campaign spending. We want to make sure that we raise money from a broad spectrum of people that strengthens the role of the individual. In other words, by saying that the Loral Corporation or the tobacco companies cannot give their millions of dollars to political parties is consistent with the first amendment.

The CHAIRMAN pro tempore (Mr. WATTS of Oklahoma). The time of the gentleman from Arkansas (Mr. HUTCHINSON) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. HUTCHINSON was allowed to proceed for 5 additional minutes.)

Mr. HUTCHINSON. Mr. Chairman, whether the Loral Corporation or other companies give their millions of dollars to political parties, it is consistent to ban those contributions, it is consistent with the first amendment.

It does not limit free speech and it has the beneficial effect of strengthening the role of individuals in our political process. That is why I urge my colleagues, along with the gentleman from Texas, to reject this constitutional amendment before us today and to support campaign finance reform that tells the homemaker, that tells the factory worker, that tells the voice of grass roots America, your voice counts in American politics. The freshman bill does that. If you support empowering individuals in the role of our government, then you will support the freshman bill.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I compliment the gentleman for his approach in trying to protect freedom of speech at the same time trying to regulate campaigns. The gentleman was chairman of the State party in Arkansas. He takes a much more evenhanded approach than the Shays-Meehan approach, and I applaud him for opposing the Gephardt constitutional amendment.

The difference between the gentleman and myself is the gentleman wants to use regulators and bureaucrats to regulate. I want the people to make the decision, my constituents to make the decision, not a Washington bureaucrat. But the gentleman from Mississippi would not yield to me. So I want the gentleman, since he was a State party, I was shocked to hear the gentleman from Mississippi say that the national parties, both Republican and Democrats, exercise undue influence on elected officials that represent their parties. That is shocking to me, that the gentleman would even think of such a thing.

□ 2115

In fact I think in the gentleman's bill, he does not restrict campaign contributions or moneys going to State parties.

Mr. HUTCHINSON. Mr. Chairman, reclaiming my time, let me respond to the gentleman. I was a State party chairman in Arkansas. I think it is important that we do not federalize all of the State elections and all of the State campaign processes. For that reason, the freshman bill does not regulate the States in every aspect.

The gentleman from Texas did point up that there are two different philosophies. One is a regulated fashion, and one is just simply disclosure. I talked about that. That is an important distinction. I have thought about that philosophically. One way is to just have full disclosure. I do not believe we can move in that environment, where political action committees can give a million dollars, where corporations can give a million dollars, where individuals can give a million dollars. I do not believe disclosure can overcome that enormous influence of big money. The court has said that appropriate contribution limits are reasonable and constitutional. He can call it a regulated environment if he wishes, but I think we need rules in our society that recognize the importance of free speech, recognize the importance of the first amendment to the Constitution, but at the same time tries to make sure that everyone has a voice in our democracy, a voice in our freedom, and a voice in the political process.

Mr. DELAY. Mr. Chairman, if the gentleman will yield further, I do not disagree with the gentleman's intent and his good intentions, but it does strike me as odd that the gentleman from Mississippi was making the point that money is the root of all evil and money elects people.

We just had a primary in California where one candidate spent $40 million of his own money, another candidate spent $20 million of her own money, and both candidates lost to the person who spent less than $10 million of other people's money. So this notion that money buys races has been disproved time and time again.

Mr. HUTCHINSON. I thank the gentleman. That is a very good point. I reject the idea that money always controls in politics. In fact in my campaign, I spent $100,000 less than my opponent and I won. We can cite many examples of that. I do not think necessarily that when we have contributions to political parties that there is always corruption. But let me ask the gentleman from Texas, and I think he would agree with me, that whenever $600,000 is given by the Loral Corporation in soft money to the Democratic National Committee which is followed by a waiver of the transfer of technology to China, that that is a legitimate concern by your constituents, that they are concerned about that and the influence of that money, which is soft money, does the gentleman agree that there are people in his district that are concerned about the propriety and the appearance of a quid pro quo of getting something in exchange for $600,000?

Mr. DELAY. I hate the appearance. If the gentleman would yield further, I would just say that through disclosure, then my constituents, not some bureaucrat in Washington, D.C. can express themselves through elections and other means as to their feelings, as to the connection of $600,000 by Loral connected to a waiver to sell the Chinese certain information. That is for our constituents to decide, not a regulated bureaucracy.

Mr. HUTCHINSON. That is the difference in philosophy, whether disclosure is enough. We all know that $600,000 is transferred, but the appearance of impropriety is still there. The appearance. That is the concern of the American citizen. That is why I believe the freshman bill is appropriate. I ask for support for that and rejection of the constitutional amendment.

Mr. BLUNT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to talk for just a few minutes tonight about the amendment itself. I came over here to encourage opposition to the amendment and as I listened to the debate, nobody is for it and so maybe I do not need to do that, but I would like to review why this amendment was introduced and what it would have done.

I think I heard that the sponsor, the gentleman from Missouri, was going to vote "present" on this amendment. I heard the cosponsor, the gentleman from Massachusetts, say that he was no longer for the amendment and it should have taken more time in the committee process and the amendment that they had drafted was not the amendment that he could support today. But I have a letter here that the whip has already referred to that was sent out February 7, 1997 that encourages support of this amendment.

It says, "The current explosion in third-party spending is beyond our ability to legislate." It says, "Legislating where we have constitutional authority to do so is necessary." Then it says, "This amendment is necessary beyond that."

It also says that this amendment would not only allow the Federal Government to regulate spending in Federal elections and set spending limits, it says this amendment would allow State governments to regulate spending in State elections.

So suddenly we move not only beyond what controls Federal elections but now we have decided we are going to see what we can do to control State elections as well as we would with this amendment. This amendment, as proposed, says to promote fair and effective functioning of the democratic process with respect to elections for Federal office and States.

This is not just an amendment that the gentleman from Texas made up and brought up here today. It is an amendment that was filed. It was an amendment that the authors at the time said was necessary to solve the problem of money in politics and that the way to solve that problem was this amendment that would allow the Congress to regulate contributions, would allow the Congress to regulate speech.

The gentlewoman from Idaho has mentioned that quote at the same time that the letter was circulated to our colleagues who were here in 1997. That quote was that we have two important values in direct conflict, freedom of speech and our desire for healthy campaigns and a healthy democracy. Then it says, "You can't have both."

You cannot have both free speech and healthy campaigns? I think that is out of Time magazine, February 1997. And so this amendment would be necessary to do the things that today we are saying can be done in legislation.

In February of 1997, two attorneys, two constitutional scholars, two leaders in the House, said this could not be done with legislation; that in fact it would take a constitutional amendment to limit third-party spending; that you could not legislate that under any authority we had at that time, that it would take this amendment to legislate that. And what did this amendment do? This amendment decided in the balance between free speech and what the sponsor calls healthy campaigning that free speech would be what would have to go.

This amendment is designed to create a hole in the Buckley v. Valeo case. This amendment is designed to do what that case says you cannot do. The Buckley v. Valeo case said you cannot limit spending, so we come up with a constitutional amendment that addresses that very decision and says, no, you can limit spending if we go ahead and resolve this conflict by limiting freedom of speech and saying to the Congress, you can limit spending.

Then again in that letter our colleagues received, it says that not only can we limit spending here, we will even allow the States to limit spending, allow the States to limit speech, allow the States to do what the Supreme Court has said they cannot do.

Amending the first amendment in this way would give Congress sweeping and unprecedented powers that it has never had before. If you can begin to limit speech, I think as the language of the amendment read, the language of the amendment said to limit speech in a way that the Congress did not feel would interfere with elections. What does that mean? How could you possibly do that?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BLUNT) has expired.

(By unanimous consent, Mr. BLUNT was allowed to proceed for 1 additional minute.)

Mr. BLUNT. Then if the Congress later decides that they want to limit the speech of the news media, why could you not do that? Why could you not limit the coverage that news organizations give in the last days of the campaign? Why could you not require that they list their advertisers, list their owners, list all the information that the Congress might decide needs to be listed as part of the speech of the media?

This is an amendment that the sponsor said was necessary to do many of the things that the legislation that we will be dealing with in the next few weeks would do. But now nobody is for the amendment. The sponsors are not for the amendment. They are going to vote "present." They are going to vote "no." Nobody is for the amendment that only months ago was seen as a necessary element to do the kinds of legislation that we are talking about doing today.

Ms. RIVERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, allow me to reflect on inconsistency for just a moment. The majority whip just spoke with the gentleman from Arkansas, and he said, "I appreciate your approach to this issue." But yet I have, "And oppose the bipartisan gag order," the Dear Colleague from the gentleman from Texas that says, "The Hutchinson freshman bill, H.R. 2183, violates the first amendment rights of citizens, citizens groups and political parties."

The gentleman from Texas also said that he believed that constituents were very concerned with quid pro quo kinds of arrangements around fund-raising.

I turn to the Washington Post, Monday, November 27, 1995.

> "See, you're in the book," DeLay said to his visitor, leafing through the list. At first the lobbyist was not sure where his group stood but DeLay helped clear up the confusion. By the time the lobbyist left the Congressman's office, he knew that to be a friend of the Republican leadership, his group would have to give the party a lot more money.

Inconsistency seems to be the order of the day. As I said in my earlier comments, it dogs the concerns that are being raised over and over about the attacks, supposed attacks on the first amendment. Why do I say this? Because those that are so strenuously arguing for a hands-off approach to the first amendment relative to campaign finance reform were in fact more than willing to reject the original language and intent of the Constitution when it came to the first amendment last week and religious freedom, to the first amendment previously regarding the flag burning amendment, to the first amendment previously regarding the Internet, and to the first amendment and individuals' rights to speech whenever we talk about any organization, domestic or foreign, that deals with the issue of abortion. Apparently our indignation around changes to the Constitution are situational.

I sometimes feel like Alice in Wonderland. We are considering a constitutional amendment brought to the floor by people who do not support it. That amendment is being discussed only by people who wish to defeat it. No one is promoting the constitutional amendment. Yet it is consuming the time of the other side. I said I feel like Alice in Wonderland. Like Alice in Wonderland, when the Cheshire cat fades in substance, his little smile is left. That is the hope around this debate, that when the words fade from the debate tonight, people will be left with this lingering concern that there is some sort of attack going on relative to the first amendment, and it is not true.

Why is it happening? I will tell you why. Because we are very, very close in this body to bringing change to the way we do business here, and that terrifies some people. That is what is driving this charade tonight. A consensus is building around Shays-Meehan. There is a bipartisan group that is growing in this body. Good government groups across the Nation have endorsed it. Ethics organizations around the country have said that it is something that we have to do. We are poised to restore integrity to the campaign process in this country. Unfortunately that leads some people to frighten, to misinform, to mislead the public into believing that making our political system one we can trust requires us to amend the Constitution we love. It is not true. Shays-Meehan does not require a change in the Constitution. It is very clear.

When the bill was originally introduced, I had concerns about some provisions which no longer exist in the bill, and I sent the document out to legal scholars all over the State of Michigan. I asked for responses. Any of the concerns that I got back have been addressed in the current iteration. There is no one of any legal stature arguing that Shays-Meehan is unconstitutional. It may be that individuals have looked at this issue and they have a view on it, but it is not necessarily held by people who actually work with the Constitution and the legal system on a day-to-day basis.

I find this whole argument so far this evening to be extremely confusing. We have issues in front of us, plans in front of us that people want to talk about, people want to debate, people want to pass. But this side wants to spend all of their time talking about an amendment that no one is promoting. Why? Because they hope it will frighten people enough that they will reject all change. Do not give them what they want.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentlewoman spoke of inconsistencies and took a shot at the gentleman from Texas, and I just wanted to question her about the inconsistencies she called. First let me say I hope the gentlewoman will submit for the record all the legal scholars and the written opinions that she claims support her position.

The CHAIRMAN. The time of the gentlewoman from Michigan (Ms. RIVERS) has expired.

(On request of Mr. DELAY, and by unanimous consent, Ms. RIVERS was allowed to proceed for 5 additional minutes.)

Ms. RIVERS. Mr. Chairman, I would be willing to put forward any materials that I can put together if the gentleman would do the same and show me who he is relying upon for his conclusions.

Mr. DELAY. I did not make the claim.

Ms. RIVERS. Mr. Chairman, when I see his, I will give him mine.

□ 2130

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding, and I noted the gentlewoman from Michigan takes a shot at the gentleman from Texas but does not want to stand her ground. She claimed that she submitted to all the legal scholars of the State of Michigan and not one legal scholar that she knows of claims our position to be the right position.

I just ask the question, has the gentlewoman from Michigan (Ms. RIVERS) talked to the ACLU, a group that the gentlewoman would probably like their kind of support? She made inconsistent statements, inconsistent statements that no one believes in our position.

Ms. RIVERS. Mr. Chairman, would the gentleman yield, because that is not what I said.

Mr. DELAY. Mr. Chairman, if the gentleman would continue to yield to me, I think it is ironic that the gentlewoman, who had over 5 minutes now, wants us to yield to her after taking shots at the gentleman.

So I just say there are no inconsistencies from this gentleman, particularly in light of the fact that the gentlewoman from Michigan raised the fact that the first amendment that I supported on religious liberty is an assault on the first amendment.

As my colleagues know, the gentlewoman and—well, I retract that. The party, the Democrat party, has for so long tread on the freedoms of Americans that they cannot even understand, understand that when we are trying to pass a constitutional amendment to enhance the first amendment and enhance freedom, and here we are trying to defeat an amendment brought by the gentlewoman's own minority leader that is trying to destroy the first amendment, there are two very clear, consistent approaches to amendments to the Constitution.

(On request of Mr. DELAY, and by unanimous consent, Mr. PETERSON of Pennsylvania was allowed to proceed for 3 additional minutes.)

Mr. MCINNIS. Mr. Chairman, would the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Chairman, I ask the gentleman from Texas, I was interested in the gentlewoman's comments from Michigan and wondered if he had an idea of the political contributions that this particular individual had?

Mr. DELAY. Mr. Chairman, will the gentleman yield to answer the gentleman?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I have no idea.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the last word and oppose the Gephardt-Frank-DeLauro constitutional amendment and any proposal that would limit free speech.

The Buckley decision recognized that campaign finance restrictions proposed severe constitutional concerns because they limit the ability of individuals to advocate candidates and causes in the public forum and require government monitoring and control of political speech activities. Overturning Buckley would cut to the heart of our democratic system by empowering Congress and the States to severely restrict the ability of individuals and groups to communicate their views about candidates and causes if such advocacy were in any way in support or in opposition to a candidate for Federal office.

Overturning Buckley through this constitutional amendment raises many more questions than it answers. The sponsors would grant to Congress the abilities the Supreme Court held the first amendment denied, legislative control over the regulation of campaign finances. Since the common purpose of the proposals is to carve out an exception to the first amendment principles announced by the Court, against what baseline would such legislation limiting contributions and expenditures be measured, or would Congress and the States have largely unfettered discretion to dictate the nature, scope and enforcement of campaign legislation?

What about the press? May news coverage or editorial endorsements be considered contributions or expenditures in support of or in opposition to favored and disfavored candidates? Now, there are times I would like to have those overruled or disallowed. Right now the Federal Elections Commission specifically exempts from the defining definition of expenditure any news story, commentary, or editorial distributed through the facilities of any broadcasting organization not owned by a party.

I think what we really need to be careful about is any proposal, this proposal or any proposal we consider limiting free speech. What about those who are concerned of child pornography and want to raise money and speak against it and support candidates who will do something about it? What about those who have a concern for drunk driving? Mothers Against Drunk Driving; should they be limited in their free speech? How about those who want drug-free schools and want to deal with drug addictions and drug abuse? Should they be limited to free speech when in the process of electing people? Those who are opposed to the expansion of gambling; many of us feel that gambling is a tax on the poor, but there are those who want more gambling. Should they be limited to free speech? I do not think so. Those who are concerned about teen smoking? I have read lots of ads today about teen smoking. I am not opposed to those. Partial-birth abortion. Should people be limited in speaking out against this horrible crime that is going on in this country, partial-birth abortions? For the right to bear arms, should we be limited for those who believe in the right to bear arms?

These are the issues that inappropriate legislation will inadvertently control, and I think we must be very careful. Should we trust future Congresses and State legislatures to determine who and what issues can be discussed? And how much money can be spent?

I happen to come from a State that has no limits, Pennsylvania. Campaign finance reform is not an issue for the State of Pennsylvania because while most of the money comes from people, people give checks, people give money to campaigns, soft money is not a big issue there because people give the money, and people are disclosed, and if my colleagues accept money from somebody with bad character, they are considered someone who they are not going to support in the election process.

This amendment would give Congress, the States, the rights to regulate the press and could limit the right to commentary. Do we want to do that?

In conclusion, I would like to just share with my colleagues from the Washington Times: "This is not so much an amendment to the Constitution as an assault on it. The Founders, in their concise wisdom, said that Congress shall make no law abridging the freedom of speech. There was no wiggle room, nothing ambiguous, and even so, the effort to find the exact practical boundaries of the first amendment had been one of the richest, most contested practical bound areas of the law."

Imagine, if my colleagues will, what would happen if a pernicious and expansive ambiguity were introduced in the first amendment. Imagine the free-for-all we in Congress would have given the power to regulate political speech, bound only by the obligation to be reasonable about it.

The Gephardt amendment would trash the Constitution and the guarantees of free speech, and I think this House better be very careful with a lot of pieces of legislation that have been introduced that in my view, if not changed, will limit the right of people to fight against pornography, to fight against drunk driving, to fight against teen drug abuse, to fight against expansion of gambling, teen smoking, partial-birth abortions, the right to bear arms, and on and on. Those are freedoms that go to the heart of this country and should be talked about in the process of electing candidates at the State and national level, and we should not inhibit that, and we must be careful because in my opinion many of the bills, as written, do just that.

Mr. ALLEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the longer this debate goes on tonight, the weirder it gets. If my colleagues listen to the last few speakers here, some might think that we are engaged in a great legislative debate to defeat a constitutional amendment that required all of the resources of this body to come in here and debate and defeat. We would not even be discussing this amendment if the majority whip had not brought it to the floor. Almost everyone who has spoken here tonight is opposed to this amendment.

This is not a debate about this particular amendment. The Committee on Rules in this case brought to the floor the freshman bill, the Hutchinson-Allen bill, H.R. 2183. The Committee on Rules of this House authorized 11 substitutes to that piece of legislation. This amendment was not one of them. The Committee on Rules authorized hundreds of amendments to this particular piece of legislation. We have plenty of opportunity to discuss campaign reform.

Instead, the majority whip, the gentleman from Texas, brings to the floor a proposal that is a constitutional amendment that no one, the author himself, did not offer; and we are here, in his words, trying to defeat an amendment that we would not have to defeat if it had not been brought to the floor.

Mr. DELAY. Mr. Chairman, would the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I hope the gentleman did not misspeak. He said that the minority leader did not author the constitutional amendment. Did not the minority leader author this constitutional amendment?

Mr. ALLEN. He did not offer it to the Committee on Rules.

Mr. DELAY. The gentleman said offer it. I stand corrected.

Mr. ALLEN. It is not author; offer.

But what is going on here is real simple. The debate about this constitutional amendment is an attempt to drag a red herring across this whole debate, it is a chance to confuse big money and free speech and to defend big money in the name of free speech. And the analysis put forward by the gentleman from Missouri a few minutes ago had everything to do with expenditures, about expenditures and the constitutional problems of regulating expenditures.

Well, there is a problem. The Shays-Meehan bill does not regulate expenditures. It deals with contributions. The Hutchinson-Allen bill does not deal with expenditures, it deals with contributions. Both of these bills are constitutional. It is constitutional to enact a soft money ban, it is constitutional to regulate issue advocacy.

This debate is a fraud. It should stop now.

Mr. McINNIS. Mr. Chairman, I move to strike the last word.

Mr. DeLAY. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Texas.

Mr. DeLAY. Mr. Chairman, I do not understand how the so-called reformers do not want to debate the issue. They make incredible statements on the floor of the House, then yield back and do not want to debate. They claim that this leadership of this House does not keep their word in offering open and fair debate. We are going to have the most open and fair debate on this issue that my colleagues can imagine. Yet they do not want to debate because they do not want to look at the issues of free speech versus regulated speech, free speech versus stopping Americans from exercising their constitutional right.

I was just going to ask the gentleman from Maine about the fact, and I have a USA Today article here dated Monday, September 30, 1996, and I do not blame the gentleman, I congratulate him; he got elected. But in this article it says the AFL-CIO has spent more than $500,000 on a series of television ads criticizing Longley, the gentleman's opponent in the last election, votes on Medicare, student loans and private pensions. The ads have helped make Portland the political advertising capital of the Nation. The gentleman from Maine (Mr. ALLEN) was the total beneficiary of this $500,000, yet he has the audacity to stand up on this floor and talk about the corruption created by big money expenditures especially when they have been made on his behalf.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. Mr. Chairman, I control the time, and I will yield if I can get unanimous consent to continue for 5 minutes after the gentleman concludes.

(By unanimous consent, Mr. McINNIS was allowed to proceed for 5 additional minutes.)

Mr. McINNIS. Mr. Chairman, I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Chairman, the brief answer is labor. Whatever ads the AFL-CIO ran in my district were legal, they were accurate, and they were part of this debate.

As we know, all of us who were involved in the 1996 elections, there was a great deal of outside money on all sides. In my particular district in the last month of the campaign there were no AFL-CIO ads. There were, however, a vast number of ads run by the Republican National Committee.

The truth is, I say to the gentleman from Texas (Mr. DELAY), that in the last 3½ weeks, I will be exactly specific, there were no AFL-CIO ads run against my opponent. There were, however, up to $50,000 a week of ads run by the Republican National Committee.

This is a democracy. These outside ads are constitutional. It is entirely proper that they be run. The important point is that neither Shays-Meehan nor the Hutchinson-Allen bill would prevent these ads from being run. It is perfectly appropriate to have that kind of discussion.

□ 2145

Mr. DeLAY. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Texas.

Mr. DeLAY. Mr. Chairman, I am glad the gentleman is now ready to debate through this gentleman's time, because he would not take his own time to yield to me, but I just ask the gentleman once again, the gentleman, before the September that he is talking about, received benefits of over $500,000 from AFL-CIO, spent on him or against his opponent all the way through to September 15. There was more money spent past then, some claim to be almost over $1 million, spent by the labor unions, attacking his opponent. Then the gentleman admits to a huge amount of money being spent in the last 3 weeks on his behalf, independent expenditures.

Yet I am just asking the gentleman, does the gentleman approve of that kind of expenditure, or does he not? Obviously he does not, because he now wants to support Shays-Meehan and Allen-Hutchinson, that would limit the ability of outside groups to spend that kind of money.

Mr. McINNIS. Mr. Chairman, reclaiming my time, I want to stand here and tell the gentleman, I think the key to campaign reform is disclosure. I know the gentleman earlier talked about the Loral situation, which, in my opinion, is a corporation that ought to hold its head in shame for what occurred. But, you know, no campaign brought that out. None of these do-gooder bills, in my opinion, brought that out.

What brought it out was disclosure. The newspapers got hold of it. If you want better campaign in this country, require disclosure every Friday, and make us put it on the Internet. If somebody in my district gave me $100,000 and you found out about it on Friday, where do you think it would be in Sunday's newspaper? It would be the headline. It is disclosure.

I want to put everybody on this floor on warning, and want to be fair with everybody: Those of you on this floor who stand up, in my opinion, in somewhat of a hypocritical fashion and say, "Let's ban soft money, let's stop the big money," and we heard big money from the previous gentleman, I am going to bring out, I have got your contribution reports here.

For example, the gentleman who just talked about big money, and I say this in due respect, he and I had a debate on C-SPAN, but I want full disclosure.

The gentleman from Maine (Mr. ALLEN), this is his report. In the last reporting period, $55,000 from PACs, $54,900. Page 1, PACs, 12 of them; page 2, PACs, 12 of them; page 3, PACs, 12 of them; page 4, at least 12 of them; page 5, at least 12 of them; page 6, at least 12 of them.

Let us talk about the gentlewoman from Michigan (Ms. RIVERS), who was the previous speaker. The American Trial Lawyers Association, $10,000; the United Steel Workers Union, $10,000; the Education Union, $10,000; Teamsters Union, $10,000; United Auto Workers, $10,000; Human Rights Campaign, $10,000; Machinists, $10,000; American Federation of State, County and Municipal Employees, $10,000.

I just want everybody to be on notice, when you stand up here and talk about the corruption of big money, you had better check your own contribution list. I do not think it is corrupting. I think disclosure saves that. I think disclosure lets the voters make their decision. And if you are going to stand up and act like "holier than thou," I have this book.

You can disclose mine, I am not ashamed of any one of them. But I want to make sure the American public as they see this debate know exactly where you got your money. So if you allege this has corrupted it, you have some self-explaining to do.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. Mr. Chairman, I do not have the time to yield. I will not yield. I control the floor.

The CHAIRMAN pro tempore (Mr. WATTS of Oklahoma). The gentleman from Colorado controls the time.

Mr. McINNIS. Mr. Chairman, the idea here is not for us to attack each other. That is not my intent. My intent is to, first of all, make sure that those of us speak with a true heart, number one; number two, that we have disclosure.

This is a rich man's game, if you let Shays-Meehan go through. If you let this freshman bill go through, it is a rich man's game. The very wealthiest people in this country can play.

Well, I am not wealthy. My dad owned a little hardware store. I raised some contributions. I work hard on raising money, because I know in my district I face the odds of having somebody wealthy run against me. I have to have that money. I have to be armed.

Do not eliminate the poor man, the working person out there that wants to run for political office. If you are worried about what they are getting in contributions, make them disclose it every Friday. Then if the voters do not like who they receive contributions from, let the voters vote no. Let the voters vote.

Some people underestimate the intelligence of the voters out there. Take a look at what happened as a result of disclosure in California to Mr. Checchi. The disclosure showed how many millions and millions and millions of dollars was going into that campaign. What happened, the people rejected it. They did not say he could not use the money. Of course the Supreme Court will protect him using his own money. Even the money contributed, they did not prevent that. In fact, what happened earlier, everybody, before the California reform was, by the way, thrown out because it was unconstitutional, people were concerned, how can anybody ever match Mr. Checchi's money?

It is disclosure that brought accountability and disclosure that will work for us. I intend to practice disclosure. If you or I hear people saying about how corrupt it is, how corrupt the people in this House are, how corrupt you are because you have to go out and raise money because you cannot write your own check, we are going to talk about that. Every one of those contributions we are going to talk about.

Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

POINT OF ORDER

Mr. SHAYS. Mr. Chairman, I rise to a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SHAYS. Mr. Chairman, does the gentleman yield a particular amount of time under the 5 minute rule, or just yield blanket time? I just want to know for future reference as well. I apologize for interrupting. I want to know what the process will be. We are going to do this for weeks.

The CHAIRMAN pro tempore. While the gentleman from Colorado (Mr. MCINNIS) is standing on his feet, he may yield time.

Mr. SHAYS. Can the gentleman yield a particular amount of time, or just yield time?

The CHAIRMAN pro tempore. The gentleman just yields time.

Mr. WHITFIELD. Mr. Chairman, I thank the gentleman very much for clarifying that.

Mr. Chairman, all of us in 1996 have groups that came in and bought television ads for issue advocacy. In my race, the labor unions spent $850,000 on issue advocacy. I did not like that particularly, but I think they have the right to do that.

I find it quite disturbing that anyone would take the notion that you have a right to curtail the right of any group to buy television ads or radio ads or newspaper ads to talk about issues, even if it mentions a candidate by name, as long as they do not expressly ask for the defeat or the election of that candidate.

I would like to say more about this issue, but I appreciate the gentleman letting me get that comment in.

Mr. MCINNIS. Mr. Chairman, reclaiming my time, I see that my respected colleague from the State of Texas is next, and since she will be speaking after me, I would like to go through those political contributions.

The gentlewoman from Texas (Ms. JACKSON-LEE), 58 percent of her funds come from political action committees: $47,000, industrial unions; $41,000, unions; public sector unions, $34,000; transportation unions, $26,750. Let me get a little more specific. Communications Workers of America, $15,000; Teamsters Union, $13,000; Association of Trial Lawyers, $10,000; American Federation of County Municipal Employees Union, $10,000; United Steel Workers Union, $10,000; Laborer Union, $7,500; Food and Commercial Workers Union, $7,000; IBEW Union, $7,000; National Association of Retired Federal Employees, $7,000; United Auto Workers, $6,500.

I think this is very key. This is disclosure. Some people have no objection to that. Actually, I have no objection to it. I think disclosure does it. I just want to be up front where these contributions come from as we listen to the statements throughout this long evening.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have never come on the floor of the House and denied the ability of anyone to present full disclosure. In fact, I support full disclosure, and I am glad my good friend from Colorado has offered to give the record of my contributions, because I am glad to stand with the men and women of America, and particularly the working men and women of America. I hope to stand with them in this debate that we will continue, and also stand with all America.

This amendment that we have on the floor of the House at this time obviously is not a serious amendment. And I appreciate my good friend from Texas as well. I know that in many instances the gentleman comes with a great deal of sincerity. But this constitutional amendment is what it is, it is an attempt to frivolously treat the very serious issue of campaign finance reform.

We have a number of very valid legislative initiatives, one by the freshmen, one by Shays-Meehan, that are real campaign finance reform. My good friends on the other side of the aisle know that they are taking up the people's time and making this discussion. Why? Because they are asking for a constitutional amendment. It takes two-thirds vote in the House and three-fourths of the States that would be required to pass this amendment.

The reason why I came to the floor, not only to have the gentleman from the Committee on Rules recount for this body the contributions that I received legally, by the way, and we are all looking to ensure that we have a system that responds more to the people's needs than to this excessive counting of money, but I do not have a problem with disclosure. What I have a problem with is frivolity.

Mr. Chairman, if I can turn to the Speaker on this whole idea of campaign finance reform, that is why I know my friends on the other side of the aisle are taking up our time to frivolously discuss this issue, the Speaker, the very person who leads them, said, "One of the greatest myths of modern politics is that campaigns are too expensive. The political process in fact is underfunded, it is not overfunded."

So even for all he has recounted that all of us have received, his own Speaker says we need more money, more money, more money. So this is not a serious constitutional amendment.

I came to the floor of the House because we have a serious issue that should be discussed. My good friend the gentleman from Pennsylvania (Mr. PETERSON) started mentioning gun reform, and the gentleman started mentioning partial-birth abortion.

I want to mention tonight James Byrd, in Jasper, Texas, who was killed by hate crimes and a violent group. We are not discussing anything serious when we talk about a constitutional amendment for campaign finance reform. We know it is not going to pass.

Why are we not talking about a man who was picked up by men, and where he was beaten, chained to a truck and then dragged for 2 miles? Why are we not talking about someone whose torso was found on the edge of a paved road, his head and arm in a ditch? Why are we not talking about hate crimes? Why are we not talking about the tragedy that happened in Texas, that happened in Virginia, that is happening around this world?

Why? Because we want to come to the floor of the House and make fun of people, and try to act like we are making some progress on campaign financial reform. Mr. Byrd's family needs the country, this United States of America, to address what happened in Texas, to address the Klan, to address hate crimes. But, no, we are here at almost 11 o'clock at night talking about a constitutional amendment that means nothing, because it is going nowhere, because the very Speaker, the head of the party that they represent, has said, "We are underfunded in campaign finance reform."

I am sad that I have come to the floor of the House asking for some relief for the family of Mr. Byrd, some recognition of the tragedy that has occurred in Texas, and they can count on those of us who care to respond to this devastating, vicious crime.

That is what we need to be on the floor of the House discussing, not a frivolous constitutional amendment that is going nowhere, because if we wanted to be serious about what we are doing, we would move forward on the legislative initiative that is there already.

I would hope my good friend from Texas would join me in offering our sympathy to the Byrd family, but, as well, that we would be counted on to try to address the viciousness that has happened to this man's family, his dismembered body, only because of the color of his skin and because of the hatred that has been promulgated and promoted. I hope we all stand up against it.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from Texas.

The CHAIRMAN. The time of the gentlewoman from Texas (Ms. JACKSON-LEE) has expired.

(On request of Mr. DELAY, and by unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 3 additional minutes.)

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I appreciate the gentlewoman yielding, and I, too, send my sympathy to the Byrd family in Jasper, Texas.

But the gentlewoman is calling frivolous her own minority leader's constitutional amendment, and she quotes the Speaker of the House on too much money. If the gentlewoman would hold it up again, I would like to read the quote again.

I guess the gentlewoman is not going to.

The gentlewoman says the Speaker says there is not enough money in politics. I would just ask the gentlewoman, what is enough money? Is the gentlewoman aware we spent in the Presidential and all elections last time, in 1996, $2.8 billion? That is less than the American people spend on potato chips. That is 1 percent of all the advertising in the country for products. And we are talking about the foundation of our democracy, our electorial politics. We spend 1 percent of all the advertising trying to convince the American people that you ought to be elected or I ought to be elected. What is too much?

□ 2200

It is your time, and I just ask the question: How much is too much?

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming the time then, and I thank the gentleman very much. It was very clear, and I would be happy to emphasize the point. It says, in fact, it is underfunded.

I think that we can take the actual facts from what the Speaker says. It is underfunded. Is not overfunded. So the Speaker seems to be saying, if I can read the clear English, the black-and-white English here that says he wants more money.

What I am simply saying is that this constitutional amendment is not an amendment that is serious about campaign finance reform, realizing that we have serious legislative initiatives that Democrats have been asking time and time again to come to the floor of the House. Yet, we have a constitutional amendment that takes two-thirds of this body, three-fourths of the States, when States have their own individual campaign finance reform structures.

We are asking for Federal legislation that deals with soft money, that deals with PACs, that deals with issue ads. This amendment does not do so.

Might I just close by simply saying I came to the floor of the House to offer my deepest sympathy to the Byrd family and to ask this Congress, this body, to address the question of hate crimes in America and the vicious and horrible and almost outrageous tragedy that has happened to the Byrd family in Texas, my home State.

I am asking and pleading, let us stop this debate and deal with the crisis that we have in hateful and violative vicious acts in America simply because of the color of your skin.

Mrs. NORTHUP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad to have an opportunity to speak in opposition to this constitutional amendment. This debate reminds us of just what this country is. It is a country full of people that have their own opinion. That is what has made it so great is that we have debated all of our opinions in public, and we have had vigorous debates that reflect our democracy.

I think from the last speaker we can see there is somebody that thinks this debate is frivolous, that this amendment is frivolous. Yet, our minority leader, the gentleman from Missouri (Mr. GEPHARDT), and the gentleman from Massachusetts (Mr. FRANK) realized what other reformers have failed to see; you cannot pass the current proposals of campaign finance reform without infringing on the constitutional right to free speech.

At the heart of each of the proposals is a muzzle on first amendment rights. They stated this in their "Dear Colleague" letter last year. So while one person that is a Member of the minority party thinks it is a frivolous amendment and not worthy of our time, their same party's minority leader believes that it is the core and the necessity of campaign finance reform.

I do not believe that we should infringe on the right of free speech. I do not believe that we should amend the Constitution. I think it served our country well that every group and every individual has an opportunity to express their ideas and their perspective in campaigns and outside of campaigns.

It scares me a lot to think that we would begin to change those rules, that we would begin to eliminate the ability for people to freely debate the issues that confront us in elections and confront this country.

The fact is that we spend $9 trillion in this country. We are the most powerful country in the world. There are a lot of people that believe it is worth their time and energy and money to influence the debate. What we need to do is make sure that all of the money spent is clear to the voters that it is reportable and that any law we pass is enforceable.

The reality is that we are not even able to do that today. We had an election in 1996, and there are all sorts of abuses and suspicions that crimes were committed in the course of that election.

The presidential election is the most closely reflective of what proposals today are for the congressional elections. Yet, despite those laws, what we have is probably the most flawed election in our history.

We cannot investigate it. We cannot trace the money. We cannot find people to testify. In fact, what happens in a system like that is the person that is most willing to abide by the law, that is the most careful to do exactly what the letter of the law requires, ends up the person least likely to win, the person the most disadvantaged.

Because when you push the money off the table, when you have people who want to influence elections that cannot do it through the legal process so that the American voters can watch and judge, what you do is create a system that invites the person most willing to abuse the system to do that for their own political advantage.

I am proud to have lived very carefully, not only technically, but within the spirit of the law in the course of my campaigns. I accept that I am in a very tough district and that I will probably have a tough campaign every 2 years. I accept the fact that I may lose.

What I do not accept is that we might go to a system where a person could step forward to run that would be the most likely to collaborate with independent expenditures off the radar screen and have the best advantage. I think that compromises the voters in my district and the voters all across this country.

Secondly, as soon as you start deciding the rules, you start deciding who wins and who loses, what groups are able to affect elections, and what groups are not.

I surely do not think those people that would support campaign finance would begin to restrict what newspapers can print on their editorial page. I have not seen that proposed.

Yet, that is an independent expenditure. No one appoints them. No one asks them to be objective. No one enforces that objectivity.

In fact, you only have to live in my district to see what one editor can do that is not objective to understand the disadvantage that presents. But we cannot regulate that, and we are not going to regulate that, and I do not support regulating that.

The fact is that I have raised money for my campaign. I am proud that very little of my money has come from PACs, about 22 percent last time I checked. Most of my money comes from individuals. Almost all of it comes from my district. I raise money by going from one individual to another and say I am going to commit myself.

The CHAIRMAN. The time of the gentlewoman from Kentucky (Mrs. NORTHUP) has expired.

(By unanimous consent, Mrs. NORTHUP was allowed to proceed for 2 additional minutes.)

Mrs. NORTHUP. Mr. Chairman, what I am proud to do is go from individual to individual, many people who have never given to campaigns before, and say this is what I believe; can you help me?

My husband and I have raised six kids. We could not possibly fund an election ourselves. That is the Democratic process. Any laws that limit individuals from participating in campaigns and in elections and in free speech and in the debate of what direction this country is going in is a terrible opportunity to take away their opportunity to participate in a democracy.

I am tired of people saying that the whole system is corrupt. I believe in the system. I believe in this country. I believe in my colleagues. Not everybody agrees with any of us. None of us wins in a unanimous election. But I believe most of us abide by the laws.

We participate because we believe in a democracy. We believe the debate is good. I am sorry for those people who have decided to gain political advantage by implying to the American people that the whole system is corrupt. I do not know who they talked to or who they work with, but they are not with the people that I work with every day.

Ms. WOOLSEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think I am probably going to be one of the last people to speak tonight. I was over in my office preparing for the next issue we are going to be debating and listening to this charade that is supposed to be a debate on campaign finance reform, finding myself extremely embarrassed, embarrassed for the majority party, embarrassed for the people of this country, embarrassed that my colleagues would think people could listen to this and think they were serious; that they would bring before the House campaign finance not reform, but what they would call a constitutional amendment that they do not believe in, and then they would stand there and talk against the amendment that they brought forward.

I think my colleagues must think that the people of the United States of America are not very bright. They are wrong. The people will listen to this. They will know it is a ruse. They will know that what my colleagues cannot bear is to have us debate the Shays-Meehan bill, that they do not want to talk about doing away with soft money, that they do not care whether we have accountability with our issue ads.

At the same time, when somebody comes before us that speaks well, like my colleague, the gentlewoman from Michigan (Ms. RIVERS), and others, my colleagues bring forward those who have contributed to them and think that will embarrass us, think that because all they do is bring forward our labor contributors, to think that we are not proud to be supported by nurses and teachers and by truck drivers and electricians and the workers of this country, how dare they think that that would be an insult to us. We are proud of that. Those are the workers of the United States of America. Those are the people that also support campaign finance reform.

Let us get over with this this evening. Let us get started. Tomorrow is the anniversary of 3 years that the Speaker and the President shook hands on bringing campaign finance reform to the floor for a vote that will have real meaning on the people of this country so they can support and buy into our political system.

Mr. HILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have found this to be a very interesting and informative debate, and I find it kind of interesting to listen to my colleagues on the other side talk about this frivolous constitutional amendment that we are here debating tonight. I would have to say that "frivolous" is probably not the appropriate word to describe it. Probably "threatening" is the more accurate word.

What is interesting about tonight, our colleagues over there are saying that this is sidetracking the debate. But, Mr. Chairman, one of the things that is very interesting is last year the Senate also debated this constitutional amendment or one very similar to it, and 38 of the Members in the Senate of the other party voted for this constitutional amendment. This has been a serious proposal, a serious suggestion on the other side. I think it certainly is the wrong one.

I think the wrong idea in reforming our campaign finance laws is to limit free speech. That is why I am proud to be part of the freshman task force and a supporter of the freshman bill because it is the only one of the significant bills that deals with soft money that does not seek to restrict free speech. In fact, what it does is, it tries to create a balance so that everybody has an equal opportunity to speak out on the issues.

The soft money issue I think has people kind of confused because there are lots of different kinds of soft money. There is the soft money that our political parties raise. There is the soft money that people give to groups, right-to-life groups or environmental or conservation groups or organized labor dues. That is another form of soft money.

One of the things that the freshman bill tries to do is to create some distinction between those. It says that the parties cannot raise soft money and spend it anymore.

Why is that important? It is important because in 1992, the two parties raised about $35 million in soft money. By 1996, that number had grown to about $275 million. It is estimated that in 1998 it could be as much as $500 million. Some people estimate it could go to as much as a billion dollars in the year 2000.

The gentleman from Colorado spoke earlier and was criticizing Members who had received support from various groups, talking about the big money in politics. When people are giving hundreds of thousands of dollars, even millions of dollars a year in soft money to the political parties, that is really big money.

Do we want to know what, Mr. Chairman? The people who give that money do not even like being asked for that money. More and more of those groups that are being asked to fund the soft money of the political parties are saying we do not want to do it. These are not voluntary contributions in their views.

What we ought to be working for, Mr. Chairman, are competitive elections. One of the innovative things that the freshman bill does is that it allows parties to help its candidates with the hard money, the money that individuals give to make sure that, if an independent group attacks a person, that they have the ability to respond.

My friend from Colorado said that if the freshman bill passes, then politics is just going to be a rich man's game. The truth is just the opposite if the freshman bill passes, because the freshman bill will assure that every election can be a competitive election, because every candidate will have access to the resources in order to support their campaign.

There is a lot of difference between the Shays-Meehan bill and the freshman bill. The big difference is that the freshman bill does not seek to limit speech. It does not seek to limit the ability of independent groups to talk about candidates or talk about office holders. It does not seek to restrict the debate. It seeks to make sure that everybody can participate in the debate in an equal way.

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That is the goal, fair and competitive elections. I would just urge my colleagues tonight to defeat this amendment for certain and also to support the freshman bill.

Mr. WHITFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to point out that a while ago there was some discussion about which groups were contributing to which candidates, and I do not think anyone on this side meant to diminish anyone for the contributions that they had received, or certainly not to diminish the groups that contributed. But I think that what we are speaking from on this side is that we want to guarantee the right of those individuals and those groups to be able to continue that free speech.

I think it is important that we remember that hard money is money regulated by the FEC. It is money that can be used to expressly advocate the defeat or the election of a political candidate. All other money is soft money.

It is interesting that most of these so-called campaign finance reform bills are designed not to cut back on or reduce the money spent by candidates for political office, but they are designed to prevent and reduce the money spent by so-called special interest groups.

What are special interest groups? Special interest groups are labor unions, teachers, right-to-lifers, prochoice, proenvironment, anti-environment. And why should any of those groups be denied the right to spend whatever money they want to spend to bring to the attention of the American voter the voting records of individual candidates, as long as they do not expressly advocate the defeat or the election of that candidate?

I, for one, commend the majority whip for bringing the Gephardt constitutional amendment to the floor. I do not think it is going to pass, but I think it illustrates the fact that the Gephardt amendment to the Constitution is very open in what it attempts to do, and that is that it attempts to diminish speech. It allows the Government, through some bureaucrat at the FEC, to determine what is too much, what is not enough, what is inappropriate, what can be done and what cannot be done.

Even the gentleman from Missouri (Mr. GEPHARDT) himself said, "What we have here is two important values in direct conflict: freedom of speech and our desire for healthy campaigns. You can't have both."

I would ask the gentleman, if he were here, what is a healthy campaign? What is too much money? I think it has been pointed out very clearly here this evening that the amount of money spent on campaigns by all candidates for Federal office in 1996 was a very minute amount compared to the money spent to advertise alcohol, soapsuds, detergents, toothpaste and all sorts of products that are manufactured throughout America.

Is it inappropriate for the American people to be fully aware of all the issues that they are going to be voting upon? I think that if the American people realized that this constitutional amendment that we are going to be voting on maybe tomorrow, that the Shays-Meehan bill and others was going to effectively limit their right to participate in the American political system, that they would be rightfully upset.

Buckley v. Valeo has made it very clear that free speech is a part, and an integral part, of the political system in America, and that we cannot limit the amount of money spent on these political campaigns. We cannot limit the amount that one individual can spend of his own money or her own money in their campaign.

As I said earlier, I find it quite ironic that all of these bills want to limit everybody's money that they spend for issue advocacy, but they do not want to limit the amount of money that the politicians spend in their campaigns.

As a matter of fact, some of these bills go so far as to say that during the last 60 days before an election, no one will be speaking except the candidates themselves or the news media. I do not want, particularly, to have a system that controls our political system in America that is controlled by the news media exclusively or even political candidates, because I think a vital part of our freedom in America guarantees the rights of any group to spend any money they want to to talk about issue advocacy.

Mr. SHAYS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am proud of many things. I am proud to be a Member of Congress. I am proud to be a citizen of the United States. But I am not proud of our campaign laws. I have heard no one say our whole campaign system is corrupt. That is an absurdity.

I have heard some people say that parts of the system are corrupt. Parts of the system are corrupt, and I think we should change those parts that are corrupt. The system of campaign finance in the Nixon administration was corrupt, and I congratulate the Democrats and Republicans who reformed that system in 1974. It worked quite well for several years until people found a major loophole, and it was called soft money, the unlimited sums that individuals, corporations, and labor unions and other interest groups can give to the political parties for party building. These contributions, in a very pernicious way, got redirected to support candidates, not party building, totally subverting the campaign laws that worked quite nicely for 12 years.

Mr. Chairman, I am also proud of the fact that the last Congress passed the Congressional Accountability Act that got Congress under all of the laws that it had exempted itself from for more than 30 years. We did this on a bipartisan basis, I might add. I am proud of the fact that the last Congress banned gifts to Members of Congress on a bipartisan basis. I am proud of the fact that the last Congress on a bipartisan basis passed lobbying disclosure. We had not amended that law since 1946.

The gifts to Members of Congress had become corrupting. The lack of disclosure of lobbying had become corrupting. It had become corrupting that Congress thought it did not have to abide by the laws that it imposed on the rest of the Nation.

Sure, I am proud to be a Member of Congress. I am proud to be an American citizen. But when we see things wrong, we fix them. If we do not, we should not be very proud of our work in Congress.

I've come to the conclusion that soft money makes PAC contributions look saintly. The $262 million that the political parties raised in the last cycle will probably be doubled this year. It is a shakedown of business. I think most people know it. And if anyone wants access to either side of the aisle, they need to contribute or else they do not have access. That fits my definition of corruption.

We want to change the system. We simply want to ban soft money. We want to go back to the way it was after the law of 1974. Ban soft money. Ban the unlimited sums that individuals, corporations, labor unions and other interest groups can give to the political parties that is not being used the way it was supposed to be, for party building and registration. It went right back to candidates. Recently, $800,000 of soft money was spent in the special election in Staten Island. That wasn't party building.

Now, what we seek to do in the Meehan-Shays legislation, is ban soft money on the Federal level and on the State level for Federal elections. We also want to call the sham issue ads, that are clearly campaign ads, campaign ads. We do not limit people's voice. They speak through the campaign process.

We do not say 60 days to an election people do not have a voice. They have a voice. Candidates can raise PAC contributions and they can spend whatever they raise. Groups can run ads for candidates who are right-to-life, right-to-choice, anti-labor, pro-labor. But they cannot use union dues or corporate treasury money, because it is a campaign ad. We cannot do it under current law, and we want to strengthen the definition of campaign ads to make sure people do not use the union dues for campaign ads 60 days to an election, and do not use corporate money 60 days to an election. But union members can speak out through their PAC contributions spent on ads. Members who work in corporations and stockholders can influence the process through a PAC contribution spent on campaign ads.

We codify Beck. We improve the FEC disclosure and enforcement. We ban franking 6 months to an election. And we make it very clear that foreign money and fund-raising on government property is illegal. It is not illegal now. Hello. It is not illegal. It is soft money. Soft money is not campaign money. We had better fix it.

Now, some on my side of the aisle say, no, we are just going to hold President Clinton accountable for everything he has done, but we do not need campaign finance reform. Unfortunately, some on the other side of the aisle say we need campaign finance reform, but we are not going to hold our President and others accountable. We need to do both.

Democrats did it in 1974. They held President Nixon accountable for what he did. And they reformed the system as well. Believe it or not, the Vice President was right. There is no controlling authority. Soft money is not viewed as campaign money. We need to fix that.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we have had a pretty good start on a debate tonight. I wish some on the other side really wanted to debate this rather than just take cheap shots at people, because I think this is a very, very serious debate. We are talking about the most fundamental of freedoms that the American people have when we talk about limiting someone's right to speech and freedom of the press.

Let me try to put it in perspective. I think we are drawing to a close. But just let me try to put in perspective what I saw here tonight.

Where are we today? We found that in the campaigns of 1996, the Clinton administration, some unions, we are investigating the Teamsters right now, others may have violated the law in the ways that they collected campaign contributions, even from foreigners. To cover that up, the President's party and the leadership of his party in the House and the Senate decided that their biggest issue this Congress was going to be campaign reform and that they were serious about it.

In fact, the gentleman from Missouri (Mr. GEPHARDT) the minority leader, wrote a constitutional amendment splitting the first amendment, splitting away free speech so that he could control through government bureaucracies and Washington bureaucracies freedom of people's right to free speech through the campaign process.

I thought it was important and serious to bring the gentleman's constitutional amendment to the floor for serious scrutiny because the gentleman and the Democrat party of this House have been beating their chests for 2 years talking about campaign reform. They were serious, they said. They want an open and fair debate. They wanted to bring it down here and show the abuses and the corruptions of this House.

Mr. Chairman, I am here to tell my colleagues I know most of the Members of this House, Democrat and Republican, and I do not know of one of them that is corrupt. Not one. And I am going to warn the Members of this House, when anyone talks about corruption, I am going to ask the question throughout this debate for that person to name the Member of the House that is corrupt. If they claim corruption and campaigns are corrupt, then they should be able to stand here in this House and have the courage to name the person that they feel is corrupted by campaign contributions. That is serious.

I think it is very serious when some are so arrogant to come to this floor and propose legislation that says that they know better than my constituents about my fund-raising habits, my ability to raise campaigns.

Now, the gentleman who brought the amendment, the gentleman from Missouri (Mr. GEPHARDT), came to the floor of the House, raises more money than me. So anybody that starts attacking me about raising money, I hope that they will look at the gentleman from Missouri. In the last election he raised $3.2 million and spent $3 million.

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I salute him. I think that is wonderful that he has been able to raise that kind of money. No telling how much expenditures, independent expenditures were spent on his behalf. Most people think that the unions spent in the 1996 election $35 million. That was what they assessed their members to spend extra.

We have estimated and we continue to estimate that the unions alone have spent over $350 million in independent expenditures across this Nation. So be it. They have every right to do so. They should be able to express themselves as to who should control this body and who should be elected and who should be unelected.

Most of the Members that have stood up here and complained about this process are the beneficiaries of that money, and yet they have the audacity to come down to the floor of the House and claim that the monies spent in their behalf by independent expenditures are corrupting. I have more confidence in my character than obviously they do, because I do not feel corrupted by participating in the process. We do not spend enough money in the process.

We spend less than $5 a person that votes in this country to try to convince them to be part of this political process and participate in the process, less than $5 per person. That is amazing to me. Yet we call it corrupting to try to convince people to be part of the process and participate in the process.

The CHAIRMAN pro tempore (Mr. WATTS of Oklahoma). The time of the gentleman from Texas (Mr. DELAY) has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, the gentleman from Connecticut was talking about how great it was in 1974 that we had all this campaign reform. The gentleman ought to look at his history: 1974 is after Watergate. We had a huge infusion of Democrats elected after the Watergate election.

The reason that most of the laws that were passed in 1974, I tell the gentleman, was to make sure that challengers could not raise as much money as the incumbents were spending on their franking privileges. My point is, my point is that what this debate is becoming is who wins and who loses. Who are we going to say gets to raise money and who does not?

Why are we doing that? Most Members on my side of the aisle are here because they want to limit government. They want to get government out of our lives. They hate regulation. They want to reform the regulatory process of this government. And yet they turn right around and, in a most fundamental freedom of this country, the freedom to speech, they want to use regulation of campaigns to limit the American people's right to participate in campaigns openly and honestly.

I think full disclosure does that. I do not think limiting people's freedom of speech by more bureaucracy, more laws, more opportunities to get one another, more opportunities to stop one group from being able to raise enough money for the other group, let the people decide. They are incredible when you allow the people the freedom to look at these elections, participate in them and openly and freely decide who they want to represent them.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Connecticut.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. DELAY) has again expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. SHAYS. Mr. Chairman, what I said to this Chamber was that the campaign finance laws in 1974 were designed to cut the unlimited sums that in particular the CREEP organization of the Nixon administration raised and to stop the shakedown of businesses that took place. And that shakedown stopped for a number of years until both parties designed a new system called soft money that just brought us back to the Nixon era.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman's assessment of history, but I remember a different history.

I remember a history that they used that as a great argument, and many are using the same kinds of arguments for the gentleman's bill, have used that for a great argument. But the result, and we all know why they did it, the reason they wanted to ban PACs to begin with is to stop Republicans from raising money and limiting their ability to raise money through PACs. Then they did not like that, because we were pretty good at it. And so they figured, the majority, then the Democrats, figured out another way to keep challengers, Republican challengers from challenging the Democrat incumbents serving in the House, from raising more money than these incumbents could use in free postage called the franking privilege.

Mr. SHAYS. Mr. Chairman, if the gentleman will continue to yield, the bottom line is that the corporations that were being shaken down by the Nixon administration are telling me now that they are being shaken down by both political parties in soft money.

Mr. DELAY. Mr. Chairman, would the gentleman define "shaking down" for me?

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. DELAY) has again expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. SHAYS. Mr. Chairman, shakedown is when leaders from both parties will call up a corporation president, and say we would like $100,000 or $200,000 or $300,000 or a half a million, and make it very clear to those leaders that they can expect no action on their legislation unless they get it. That is a shakedown.

Mr. DELAY. Would the gentleman like to name Members that do that?

Mr. SHAYS. Mr. Chairman, I think during the course of debate, there are going to be a lot of issues that come out.

Mr. DELAY. Mr. Chairman, the gentleman has just made an accusation that leaders of both sides of the aisle shake down corporations. Would the gentleman like to name——

Mr. SHAYS. Mr. Chairman, do not even wonder for a minute about whether I will be able to document that information.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I think it is just outrageous. It is incredible that the gentleman thinks that when you call someone up to raise money for a campaign, that is a shakedown.

Mr. SHAYS. $100,000, $200,000, half a million dollars.

Mr. DELAY. Mr. Chairman, I think it is just incredible.

Mr. SHAYS. But it is true.

Mr. DELAY. Mr. Chairman, I ask for regular order. The gentleman does not even pay me the courtesy. I have yielded to him. I am trying to close the debate. I do not yield to him again.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DELAY) controls the time and should not be interrupted.

Mr. DELAY. I think it is just outrageous that the gentleman would accuse leaders of both sides of the aisle of being able to raise money to participate in the campaign and call that a shakedown. It is not a shakedown to get out and actively participate in the process and ask people to participate in the process, whether it to be ask them for $1 or $100,000.

It is an outrage that someone would come down to the floor and offer a constitutional amendment or write one or offer a piece of legislation that would stymie the freedom of the American people to decide to participate in the process and participate in free speech and free press. I think that is the outrage. That is the shakedown. That is the coverup. That is the thing that the American people ought to be outraged over. That is the thing we are going to stop because we are going to have this debate, and the American people are going to understand both sides.

Mr. MCINTOSH. Mr. Chairman, I stand in oppostion to the Gephardt amendment.

Last Thursday, a very interesting debate took place on this floor. I am speaking of the debate surrounding the Religious Freedom Amendment.

At one point, the gentleman from Texas, Mr. EDWARDS, submitted a motion to recommit the Amendment. He stated that we "do not have the right to change the Bill of Rights every time we disagree with a court decision."

Mr. EDWARDS' argument was while we claim to believe in the First Amendment, supporters of the Religious Freedom Amendment were voting against the Bill of Rights, because we want to get back to the original meaning of the First Amendment.

Well, I hope that Mr. EDWARDS will come to the floor today—perhaps with a motion to recommit—because if he thinks allowing prayer in school is dangerous, this Gephardt Amendment is a frontal assault on the First Amendment—and does much more to undermine Freedom of Speech.

What this Gephardt amendment demonstrates is something which has been clear to me for some time—that campaign finance reform is really all about free speech and the First Amendment.

You see, freedom of speech—the right to say what you want, how you want, when you want, about political opponents, is our most fundamental freedom. Without freedom of speech, there is no integrity to the Bill of Rights, and all our freedoms are on shaky ground.

Mr. GEPHARDT's attempt to redefine the Bill of Rights amounts to an admission that attempts to limit campaign money like the Shays-Meehan bill are indeed efforts to limit free speech.

He even states that we cannot have freedom of speech and healthy campaigns in a healthy democracy—that we must choose between one or the other.

Mr. Chairman, I disagree with that assertion.

When the Founders said that Congress shall make no law abridging the freedom of speech, they left no room for ambiguity.

If Congress grants itself the authority to abridge the freedom of speech, it will amount to a crushing of the Constitution's guarantee of free speech.

Consider the words of the Supreme Court's ruling in Buckley v. Valeo:

> In the free society ordained by our Constitution, it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

There is a key difference between the vote today and our vote on Thursday. The Religious Freedom Amendment would have strengthened the First Amendment by returning to the intentions of the Founding Fathers. The vote on Thursday was compatible with the Bill of Rights.

Our vote tomorrow is not. Instead, it is an effort to severely restrict our freedom, and to violate the spirit of the First Amendment.

I would ask all of you, not only today, but through the rest of our careers in public service, to judge all legislation by what it does to our freedom.

Mr. GEPHARDT. Mr. Chairman, I rise to speak in strong support of reforming our Nation's campaign finance laws. After months of obstruction and delay, after the steady stream of efforts by the Republican leadership to squelch this debate, the House is finally discussing campaign reform.

I support the constitutional amendment which has been brought to the floor today. In my opinion, it is the only comprehensive solution for fixing our campaign finance system. But now is not the right time for a vote on it. This amendment, like all campaign reform bills other than Meehan-Shays, must be put on hold.

There is a crisis of confidence in our system of campaign financing. It is imperative that we pass reform this year—and it is urgent that we take the first step now. But the best way to clean up the system is by voting for the bipartisan Meehan-Shays bill, not through any other campaign reform measure, including this one.

I do, however, believe that the Congress should vote some day—not today—on this amendment. When I introduced it last year, I did so because I believe it is the best way to shut down the sewer pipe of big money which is polluting our political process.

Over the last two decades, Congress and State and local governments have tried to enact limits on the role of money in politics. We have tried to pass legislation that would help put a bigger premium on the quality of a candidate's ideas, not the quantity of contributions to his or her campaign. But we are hamstrung by a Supreme Court which has equated spending money with political speech.

The Founding Fathers did not envision a political system where candidates for Congress routinely raise and spend millions of dollars. They could not have foreseen candidates spending tens of millions of dollars of their own funds to get elected. And they certainly could not have imagined the non-stop fundraising carousel that candidates must ride in order to run for office.

This Amendment would clarify that campaign spending is not an absolute; that we could enact modest restrictions on spending to reduce the dominance of fundraising and campaign dollars in our political process. Some day, I hope Congress will pass this constitutional amendment and fix our broken campaign finance system once and for all. But I will not vote for it today.

The opponents of campaign reform want to kill the process—the only thing that has changed is their tactics. First they tried delay and obstruction, now it's endless debate and amendment. The only way proponents of reform can prevail is through a single-minded focus on Meehan-Shays.

Meehan-Shays is our last, best chance for campaign reform this year. Friends of reform—the majority of House members, I believe—must band together behind the Meehan-Shays bill. It may not suit everyone's taste—campaign reform comes in 435 flavors, after all. But we cannot afford to dilute our strength by supporting every alternative.

The Republican leaders of this House are satisfied with the current system. They stand for the power of big money and against change. They don't want Meehan-Shays or any other effective reform bill to pass.

The Republican leadership brought up this bill and many others as a roadblock to reform. They aren't interested in a debate; they are interested in deadlock. They want to run down the shot clock so that Congress will be unable to deliver the slam-dunk of campaign reform for the American people.

The majority of Democrats, and I believe, the majority of Congress, rejects the status quo. We understand we have reached a critical point in the history of our democracy. We need to take the first serious step to clean up our politics. If we fail to take this first step, our democracy will drown in the fast-rising tide of campaign cash. Campaign reform is the art of the possible—and Meehan-Shays is the best possible bill.

We must keep our single-minded focus. We must reject any alternative to Meehan-Shays, no matter how much we agree with it. I urge the supporters of this Amendment to vote "present," and to redouble our efforts to pass Meehan-Shays.

Mr. BAESLER. Mr. Chairman, I don't know why we are debating this Constitutional Amendment. It was not made in order by the Blue Dog discharge petition, which led to this debate in the first place.

I think what's really going on is the Leadership is not dealing in good faith.

If that continues, I would suggest the discharge petition may have to be resurrected.

Whatever the case, I believe a Constitutional Amendment is unnecessary to get good campaign reform, especially a soft money ban and campaign disclosure.

Congress has plenty of room under the case Colorado Republican Party versus FEC to ban soft money. In the case, the Supreme Court said:

> Reasonable contribution limits advance the government's interests in preventing corruption. Congress might decide to change the campaign laws limitations on contributions to political parties if it decided it needed to.

And in Buckley versus Valeo the Court said:

> Limiting corruption and the appearance of corruption is a constitutionally sufficient justification for campaign contribution limitations. Political quid pro quos or apparent quid pro quos undermine the integrity of our system of representative democracy.

But even if I do not think an Amendment is necessary, I don't question the original sponsors' motives. In fact, a number of Democrats and Republicans have cosponsored such amendments.

Now, the Kentucky anti-reformers condemn the Amendment. But it's worth pointing out that some of the Kentucky anti-reformers have been on the other side of the campaign spending Constitutional Amendment issue before.

I enter into the RECORD an Amendment offered in a previous Congress, championed by the anti-reform brain trust that today denounces such Amendments as being almost un-American.

The anti-reformers' inconsistency doesn't need to be beaten like a dead horse, but it should be noted that it was the anti-reformers themselves who offered more severe Constitutional Amendments limiting campaign speech in the past than one being discussed here today.

So in the future, when the Kentucky anti-reformers give their opinion on the First Amendment and campaign reform, and they say they're taking a rock solid position, I urge everyone to consider that they have changed their position in the past—and weigh the force of their arguments accordingly.

EXCERPTS FROM THE RECORD OF JUNE 19, 1987

S.J. RES. 166

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution, when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"ARTICLE—

SECTION 1. The Congress may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and Congress may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for Federal office.

SECTION 2. The several States may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and such States may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for State and local offices."

* * * * *

Mr. MCCONNELL. Mr. President, we have been on S. 2 for 2 weeks and 2 days.

Clearly, it is possible for the Senate to pass a meaningful campaign finance reform bill. The distinguished majority leader has indicated that his side is willing to talk, and I reiterate the observations of the Republican leader yesterday, that the leadership group on this side consisting of Senator STEVENS, Senator BOSCHWITZ, Senator PACKWOOD, and myself, has been saying for some 2 weeks and 2 days that we would like to sit down with those on the other side of the aisle and have a discussion on formulating a truly meaningful campaign finance reform bill.

There are a number of areas upon which we can agree. The Senator from Oklahoma and I yesterday discussed "soft money." We discussed independent expenditures. We discussed the need for effective controls on PAC's. We have discussed over the weeks the problem of the millionaire's loophole. These are the real problems that our constituents have spoken against, in letters, in calls, and even in editorials supplied by Common Cause. As I mentioned yesterday, only a very small percentage of these editorials that pile up on our desks advocate public financing and spending limits to bring down overall spending. Most just want to control the PAC's.

But today, I'm going to talk about the millionaires' loophole and independent expenditures, under current law, under S. 2, and under McConnell-Packwood. I am proposing today a constitutional amendment to deal with these campaign finance abuses, and I might add that we usually think that constitutional amendments take a long time to pass.

The constitutional amendment that I will be introducing is simple, direct, and strongly supported in this body. It would grant to this body and to the various State legislatures the authority to regulate what an individual could put into his own campaign from personal funds, just as we have the constitutional authority to regulate what any of us can put into somebody else's campaign from personal funds. It would also grant to the Congress and to the various State legislatures the authority to regulate the independent expenditures.

In the course of the debate on campaign finance reform, Members on both sides of the aisle have decried the ease with which wealthy candidates can virtually purchase congressional seats, and the surge of independent expenditures in campaigns.

Both of these campaign abuses are the result of loopholes in the Federal election law, carved out by the Supreme Court decision in Buckley v. Valeo, 424 U.S. 1 (1976). In that decision, the Supreme Court held that restrictions on campaign expenditures from personal funds and on independent political expenditures are violations of the first amendment guarantee of freedom of speech. Thus, the "millionaires' loophole" and the independent expenditure loophole are constitutional problems, and will not be corrected by any clever statutory incentive or spending of public moneys.

That is why I introduce today a joint resolution to amend the Constitution, to allow Federal, State, and local governments to restrict the spending of personal funds in campaigns, and the amount of independent expenditures in election cycles. Unlike a broad amendment to limit all campaign spending, this amendment would quickly pass through the Senate and be ratified by the State legislatures. It is a measure for which I have heard nothing but unqualified support.

I do not dispute that my earlier campaign finance reform bill, S. 1308, offers only imperfect solutions to the millionaires' loophole and independent expenditure problems. It is true, for example, that wealthy candidates could spend up to $250,000 in personal funds before S. 1308 would provide relief to opponents. And although my earlier bill incorporates the same restrictions and reporting requirements that S. 2 applies to independent expenditures, it is unlikely that any of these administrative constraints will curb the negative practices of independent expenditures.

S. 2, the taxpayer campaign finance bill now before the Senate, tries to address these two problems by spending the taxpayers' money. Candidates, facing wealthy opponents or negative ads financed by independent expenditures, would be armed with additional public funds—funds that would be diverted from farm programs, Social Security, education, and our antidrug war. Yet, S. 2 would probably not discourage wealthy candidates from sinking their personal fortunes into campaigns, particularly since S. 2 doesn't give the opponent much to compete with. Under S. 2, a candidate from the State of Arkansas would get a maximum of $1,727,200 to do battle with a millionaire. An Oklahoman would get $1,989,500, and a Coloradan would get $1,998,000. This is a lot of money to our taxpayers, but not much at all to a millionaire, unless he's a rather poor millionaire.

Further S. 2 hopes to limit independent expenditures by compensating each attacked candidate for the full amount spent against him or her. This candidate compensation fund again comes from the American taxpayer. Last year, independent expenditures totaled nearly $5 million in Senate races; thus, we can safely tack another $5 million onto S. 2's $100 million price tag, and another $5 million onto the overall amount of campaign spending allowed under S.2.

Will those who now spend hundreds of thousands of dollars to express their political views independently be deterred simply by the spending of taxpayers' money against them? Mr. President, I think not. Will candidates be compelled to tap the public till every time they believe they are being unfairly treated in an independent ad? Mr. President, I hope not. It is apparent that S. 2's independent expenditure provision is just another loophole to funnel more of the taxpayer's money into our reelection campaigns.

Another $5 million every election year is obviously not very much to those who seek to dominate the political debate with independent expenditures—but it is a lot of money to the American taxpayer, and we shouldn't be throwing it away on a proposal that won't benefit anyone except broadcasters.

Neither administrative constraints nor government entitlements will prevent well-heeled individuals and groups from independently trying to influence elections. Nor will wealthy candidates be deterred from trying to purchase congressional seats merely by S. 2's costly but ineffective millionaires' loophole provision.

There are constitutional problems, demanding constitutional answers. This Congress should not hesitate, nor do I believe that it would hesitate, nor do I believe that it would hesitate, to directly address these imbalances in our campaign finance laws. I offer this constitutional amendment in the sincere hope that the Senate will begin to turn its attention to the real abuses in campaign finance—the millionaires' loophole, independent expenditures, political action committee contributions, and "soft money"—and develop simple, straightforward solutions, rather than strangle the election process with overall spending limits and a larger political bureaucracy.

* * * * *

Mr. McCONNELL. Mr. President, these two areas have repeatedly been agreed by both sides to be at the crux of the problem. What distorts the process, of course, is the ability of an individual of unlimited wealth to put literally everything he has into his own campaign; whereas, if he were contributing to anyone else's campaign, he would be limited to $1,000 in the primary and $1,000 in the general election. That is clearly unfair, and we ought to cure it. We can cure it, however, only with a constitutional amendment.

Another unfairness that we all agree on is the independent expenditure, again a constitutionally protected area of expression, according to the Supreme Court decision in Buckley versus Valeo.

This constitutional amendment that I propose would grant to the Congress and to the various State legislatures the right to deal with that problem.

Mr. President, if we dealt with three areas of great concern: The closing of the millionaires' loophole, the ability to regulate independent expenditures, and the cost of broadcast time, which we can address simply by statute, we would have passed in this body the most meaningful campaign finance reform since Watergate.

The third area I just referred to, Mr. President, is the cost of television. What has driven up the cost of campaigns in the last several years has been the cost of television advertising. Candidates have to use television because it is the most effective day to reach our people and communicate ideas. That is particularly true in the large States. My colleagues from New York, California, Texas, and Florida could shake hands all day, every day, for the rest of their lives, and never make a dent in the huge populations in their States, let alone discuss the issues that concern the citizens of those States. Clearly, both incumbents and challengers should be able to use television to reach our people.

What has happened, Mr. President, is that the broadcast stations in America have raised the rates they charge during key times in political campaigns, and have made handsome profits on the candidates, in terms of the cost of advertising.

We could in this body pass legislation that would, for example, require television stations to grant to candidates television time at the lowest unit rate of the previous year, for the class of time purchased. This would dramatically lower the cost of campaigns, and give us all an ability to afford the broadcast time which is absolutely essential to modern political communication.

What happened in Kentucky last May, just last month, is typical of what goes on all over America. The lowest unit rate skyrocketed just prior to the election, such that the "discount" given to candidates amounted to nothing—it was like offering a 25-percent-off sale after a 100-percent price increase. That problem, Mr. President, could be solved by legislation.

These are the kinds of agreements that we can reach together. I hope we can work together on direct, simple solutions to the real problems that plague our campaign finance system.

The ACTING PRESIDENT pro tempore. The time of the Senator from Kentucky has expired.

Mr. McCONNELL. Mr. President, I ask unanimous consent for 1 more minute.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Kentucky 1 minute from our side.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has yielded 1 minute to the Senator from Kentucky.

Mr. McCONNELL. I thank the distinguished majority leader.

The Senate could solve these key problems by the passage of the kind of constitutional amendment I outlined earlier. I believe that this resolution, unlike most constitutional amendments, would zip through this body and zip through the State legislatures; I believe that, by passing a statute that did something meaningful about the cost of television, we would bring down the cost of campaigns without deterring public participation through contributions.

Those accomplishments would be real reform, Mr. President, and we stand ready on this side to sit down with the leaders on the other side at any time, to work out the kind of bipartisan reform package that we all know will have to be reached, in order to pass any meaningful campaign reform legislation in 1987.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong and stringent opposition to the amendment offered by Congressman TOM DELAY of Texas. This amendment would modify our beloved Constitution to make it allow for the future enactment of mandatory spending limits in campaigns. The Supreme Court has found such limits unconstitutional. It would also give Congress and the state authority to define those expenditures deemed to influence elections, and to prohibit any regulation of the content of elections.

As a member of the House Oversight Committee, I have heard the testimony of over 40 of our colleagues on the issue of campaign finance reform. The issue of a Constitutional Amendment regarding spending limits was not considered during these hearings. As a new Member of Congress, it is no wonder why the taxpayers of our country view us with such cynicism and spite when my colleagues offer amendments that they cannot or will not support themselves. This amendment is exhibit number one of such an example.

It is time for Congress to stop wasting the people's money. It is time for us to get campaign finance reform under control. As I said in remarks that I made on the floor just last week, real campaign finance reform does three things: it bans soft money; it requires full disclosure of contributors, and it cleans up expenditures from special interest groups. We need to restore the faith of the American people in our system of government. We need to ensure the accountability of those who participate in and contribute to candidates. The Shays/Meehan bill does just that.

In closing, I implore my colleagues to stop wasting time and the people's money. It is time for us to bring to a clean, up-or-down vote, the Shays/Meehan bill.

The CHAIRMAN pro tempore. Are there any amendments to the joint resolution?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mr. WATTS of Oklahoma, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H. J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, pursuant to House Resolution 442, he reported the joint resolution back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken.

Mr. HASTINGS of Washington. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on the question of the passage of the joint resolution are postponed until tomorrow.

The point of no quorum is considered withdrawn.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF H.R. 3494, CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–576) on the resolution (H. Res. 465) providing for consideration of the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 2888, SALES INCENTIVE COMPENSATION ACT

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 461 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 461

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 411 is an open rule providing one hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Education and the Workforce.

The rule makes in order the Committee on Education and the Workforce amendment in the nature of a substitute as an original bill for the purpose of amendment which shall be considered as read. The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on a postponed question, if the vote follows a 15-minute vote.

Mr. Speaker, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule provides one motion to recommit with or without instructions.

□ 2245

Mr. Speaker, H.R. 2888 would amend the overtime and minimum wage provisions of the Fair Labor Standards Act as they apply to certain private sector employees.

Presently so-called inside sales employees, that is, those who sell from inside an employer's premises using telephones, faxes and computers, are subject to the overtime requirements of the Fair Labor Standards Act while outside sales employees are exempt. As nonexempt, inside sales employees often suffer from reduced earning opportunities because they are limited to a 40-hour workweek. Outside employees, on the other hand, can choose for themselves whether to work additional hours and thus receive incentive pay for additional sales made. This distinction, written into law in 1938, no longer makes sense in 1998. While inside sales employees are often as skilled and productive as outside sales employees, they are discriminated against under this act.

Mr. Speaker, in order to minimize the potential for abuse, the exemption authorized under H.R. 2888 is narrowly drawn to cover only inside sales employees who meet a number of specific criteria. For example, such individuals must receive specialized training and develop technical knowledge. They must sell predominantly to regular customers and must receive incentive compensation based on their own selling efforts.

Finally, Mr. Speaker, I am pleased that CBO reports the bill would have no significant impact on the budget and contains no unfunded mandates on local governments or private employers. I commend the gentleman from Illinois (Mr. FAWELL) and the gentleman from New Jersey (Mr. ANDREWS) for their efforts to correct this clear inequity in the law and urge my colleagues to support H.R. 2888.

Recognizing that certain Members have expressed reservations about this legislation, the Committee on Rules has reported an open rule in order to provide Members wishing to perfect this bill the freedom to offer their amendments on the floor. Accordingly, I urge my colleagues to support not only the rule but H.R. 2888, the Sales Incentive Compensation Act.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I am not opposed to this open rule, but I am very concerned about the bill that it makes in order. This bill says that employers can require people to work overtime but they no longer have to pay them time and a half. In other words, sales employees who are forced to work long hours could end up with no additional pay at all.

Mr. Speaker, this means that enormous numbers of already low-paid workers would be denied the protections of the Fair Labor Standards Act. My Republican colleagues may argue that the low salary guarantees in this bill takes care of the workers, but, Mr. Speaker, it does not.

According to the Bureau of Labor Statistics, this bill will deny 1.5 million sales employees overtime pay. I for one think that 1.5 million American workers should be paid for the time that they spend at work.

Like many other bills my Republican colleagues have drafted, this bill helps employers at the expense of workers. It is a win-win situation, Mr. Speaker, for the employers and it is a gamble for the workers. If the worker makes big sales, the employer does well. If the worker does not make big sales, the employer still does well because he does not have to pay his worker overtime. Employees who must work long hours but do not make significant sales will be working virtually for nothing.

Anyone with any complaints, anyone who is confused about exactly who is covered under this very complicated, multi-test exemption, please do not look to this bill for clarification.

These confusing standards will create a lot of misunderstandings, a lot of fights, a lot of litigation. Just what we need, Mr. Speaker, more litigation.

My Republican colleagues may argue that the people are begging for overtime in order to make bigger commissions. Mr. Speaker, if that is the case, if so many workers want to work overtime for commission instead of time and a half, then they should be allowed to do so. But as I understand it, the amendment to make this provision voluntary was rejected. So whether you want to work overtime for little pay or you want to go home and see your family, you are really stuck working at the whim of an employer who has little to lose by chaining you in the office. This bill will force people to work longer hours, it will cut employees' incomes, it will promote lawsuits, and it will mean workers are hurt, not helped, by advances in technology.

What we really need, Mr. Speaker, if you really want to help the American worker, is to raise the minimum wage. Let us allow American workers to earn a living wage. Let us enable hard-working full-time employees the chance to take care of their families. I have no opposition to the rule, but I do oppose the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LIMITATION ON FURTHER AMENDMENTS AND DEBATE ON H.R. 2888, SALES INCENTIVE COMPENSATION ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2888 in the Committee of the Whole pursuant to House Resolution 461 after the legislative day of today, no further debate or amendments to the committee amendment in the nature of a substitute shall be in order.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SALES INCENTIVE COMPENSATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 461 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2888.

□ 2251

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, with Mr. Watts of Oklahoma in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to express my strong support for H.R. 2888 and urge my colleagues to support the legislation. I also want to urge my colleagues to reject any amendments that may be offered to weaken or to undercut the bill.

It is not often that we can come to the floor with a bipartisan labor bill. We did it a couple of weeks ago. We are back again with another. I know that the gentleman from Illinois (Mr. FAWELL) has worked very long and hard with the gentleman from New Jersey (Mr. ANDREWS) and others on the Democrat side to put this bill together. That is why particularly I hope that the House will reject any amendments that would undercut the bill that has been so painstakingly negotiated and crafted on a bipartisan basis in our committee.

Mr. Chairman, the reason for this bill was better stated by former Secretary of Labor Robert Reich a few weeks ago than I could when he was describing the changed nature of, quote, sales persons in modern business. Certainly no one can deny the fact that Robert Reich is a strong, strong supporter of the employee. Let me quote just a couple of lines from Mr. Reich's speech to the American Compensation Association:

> A lot of people who are called sales reps are no longer really sales reps. In the best companies they are helping customers define what the customers need, and it's true of business customers as well as individuals. They are not just selling a mass production product or service. They are not just persuading someone to take something. They are actually advising somebody about a package of goods and services that meets the needs of that individual and those sales people are therefore more like management consultants.

I continue quoting from Robert Reich:

> Those sales people are the key glue, the human capital, that advises the company about new and evolving needs among customers, and also advises the people who are developing the goods, and developing the services, and developing the technologies about what the market needs. Those sales people are at the center of this new competitive strategy which relies on customization and value.

The problem that we are addressing with H.R. 2888 is the problem of fitting these 21st century sales persons into a 60-year-old law. The Fair Labor Standards Act already addresses the situations of sales employees who travel from customer to customer, the outside sales person. And it already addresses the situation of sales persons who work in retail stores. But it does not address the situation of these modern inside sales persons who often sell very sophisticated and complex products and services and who do so by using the tools of modern commerce, telephone, fax, computer, and the Internet.

As a result, a law meant to protect workers ends up denying these professional sales employees the flexibility and opportunity to maximize their sales and income. As Mr. Anthony Williams, one of the employees who testified in support of H.R. 2888 before our committee said,

> I consider myself a professional salesman and would like to be treated as such. The inside sales force is certainly every bit as professional, knowledgeable and well trained as the outside sales force. We deserve to be seen as such by the wage and hour laws.

Another employee who testified in support of H.R. 2888, Ms. Leronda Lucky, put it this way:

> I am in this business because I am a sales person. My motivation to sell is the earning potential that I have. I would like to be able to earn as much money as possible. My clients do not necessarily have 9-to-5 work hours. Many start their day early in the morning and work until late in the evening. I need the flexibility to determine when I need to meet with the customers on their hours. Being an exempt employee would provide for that flexibility.

Mr. Chairman, H.R. 2888 is a very carefully negotiated and crafted bill. It does not exempt all sales persons from the Fair Labor Standards Act. It reaches only those who by reason of their specialized and technical knowledge, and their relationship with their customers, meet the conditions laid out in the bill. Those employees must receive a substantial share of income based on commissions from sales. So H.R. 2888 is a narrow bill, and reflects the specific needs and responsibilities of many sales employees in 1998.

It is time to update the 60-year-old law, when the tools that today's sales people use, like faxes and computers, were not even imagined 60 years ago.

Again I urge my colleagues to support this bipartisan legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. OWENS. Mr. Chairman, I yield myself such time as I may consume. I am strongly opposed to H.R. 2888.

Mr. Chairman, why are we here at 11 o'clock tonight? Why is this bill on the floor as an open rule tonight or any other time? This is a very trivial piece of legislation in one sense. By itself it does not have much meaning. But if you look at it in the context of a whole series of small, seemingly trivial bills which harass American working families, then this is a very important bill. It is probably not important to many people because it has an open rule. Nothing comes to this floor with an open rule that is really important. When bills related to budgets and taxes and really important things come to the floor, they do not have an open rule. So it is really being treated in a very trivial way and by itself it would be, but it is part of a bigger guerilla campaign, a guerilla warfare campaign of the Republican majority against the American working families.

At a time like this in America when the stock market is booming, unprecedented prosperity, why are we chipping away at the wages and income of the people at the very bottom? We are talking about sales people and calling them managing consultants. What managing consultant do you know that makes $22,000 a year? That is what we are talking about. When you take the wages plus the commissions, the cutoff point for this is $22,000 a year. At that point, the Fair Labor Standards Act ceases to apply and these people are left out there on their own. If they can sell and make commissions, then good. But since they are inside salesmen and since they are helping customers with the product, giving advice, they are doing a number of things which do not bring a commission. You only get a commission when you sell. If you do not sell, you do not get a commission. But they are doing lots of other work.

□ 2300

So why are we here chipping away at the income of people at that level? As my colleagues know, this is a part of a campaign that I find baffling, the majority party continues. Today we had a series of bills on OSHA where they were chipping away at the safety and health standards for American workers. Now we are going to the heart of the matter, and we are going after their cash. We are taking away the cash.

Now this bill is like a landmine on the way to a bigger objective. As my colleagues know, the bigger objective is to take away overtime cash payment for overtime completely. I think many of us still remember that the 105th Congress opened up with a bill which was a comp time bill, a bill which said that an employer could give comp time instead of cash to employees. I think my colleagues may remember that that bill passed the House of Representatives. It is still out there. The Senate has not acted upon it yet, we have not had a conference, but there is still a danger in this year, and I call this to the attention of all the working families out there. As my colleagues know, I hope they are still awake, I hope they are here. We can take advantage of this maneuver that they are pulling to alert people that the comp time bill is out there still. It passed the House of Representatives, it is waiting, they are waiting to take away overtime, they are going to take away cash for their overtime.

This is part of the whole plot, and if our colleagues pass this, we are one step further along the road to taking cash payment for overtime.

Now at that time when we had that bill on the floor, I proposed a compromise. I proposed that, all right, there is a lot of talk about middle-class families, people who are making $100,000 or more. They want comp time, and they do not want to be bound by having to take their overtime only in cash payments. They want to be able to take time off. So I had a simple proposal, a simple amendment, put it on the floor. I said that all those people who are making minimum wage, and if they are making minimum wage, it meant their salary, their total earnings for the year, assuming they worked every hour of a 40-hour week for the whole year, was less than $12,000 a year. Anybody earning minimum wage, less than $12,000 a year, let them remain under the Fair Labor Standards Act and receive cash payment. They need cash to put food on the table. They need cash for clothing, for shelter. They do not need comp time. That is what they need.

That bill was voted down here. It did get 170-some votes, but it was voted down. As my colleagues know, how can we keep saying with an honest and with a straight face that this prosperous economy cannot afford to have people receive overtime payment when they are making less than $12,000 a year? And here we have another situation, another standard of $22,000 a year.

Now unless somebody complains that I am not germane, let me proceed to say that this piece of legislation, the effect of this legislation is to permit employers to either require workers to work longer hours, how to pay workers less for each hour's work. Far from enhancing the earning opportunity of workers, the primary effect of this legislation is to increase the income of the employers at the expense of the workers. H.R. 2888 exempts an undetermined number of nonretail inside sales personnel from the requirement that employers pay time and a half for hours worked in excess 40 hours a week. Based on data from the Bureau of Labor Statistics, as many as 1.5 million workers may lose overtime protection if this legislation is enacted.

Unlike outside sales people, an inside sales person is directly employed in making and processing sales for their entire time at work, and I want to emphasize again Secretary Reich was right. They are engaged in a large number of activities that do not necessarily end up in sales. They do provide advice, they do explain things. There are a number of ways in which inside sales persons are working all the time and there is no commission attached to their labor.

I agree with the chairman of the committee. As my colleagues know, managing consultants is what we could describe them as in terms of the duties that they perform. They do not get a managing consultant's pay, and that is what we should focus on. We are not talking about people who get paid at the level of managing consultants or any other kind of consultant.

Since the employer is receiving a direct benefit from the employee's labors, from the employee's entire work period, employers should be required to pay overtime when the employee is required to work more than 40 hours in a week as the law currently provides. There is no justification for denying overtime pay to these workers.

There is some confusion. I do not know why there is such confusion. It is a simple matter. They are forcing people to work, and they are not paying them in accordance with the overtime regulations of the Fair Labor Standards Act if they exempt them, force them into an exempt status.

Under this legislation, employees are exempted if they earn wages or salary of $16,000 a year and if they earn an additional $6,500 a year in commissions. In other words, the $16,000 an employee must earn in wages or salary is regardless of the number of hours that he works, that is worked by this employee. An employee, by being required to work more than 40 hours a week may be paid well below the time and a half standards, well below 1.5 times the minimum wage, and still qualify for the exemption so long as the annual wage exceeds $16,068.40. A minimum wage worker who is required to work 60 hours a week without a sufficient base salary, to be exempted from overtime by this legislation.

This legislation further provides that an employer need not pay anything in wages or salary to covered workers for hours worked beyond 40 hours a week. In other words, an employee who earns $7.73 an hour and earns the equivalent of another $3.09 an hour in commissions may be required to work overtime without earning a penny more in wages and salaries.

This bill does not simply repeal the requirement that employees be paid 1.5 times their regular rate of pay for overtime work, it repeals a requirement that an employer provide any wage or salary for hours worked in excess of 40 hours a week. Employers may still require employees to work overtime. If during the overtime period the employee earns no commissions, then the employee would be paid nothing, nothing at all, for the additional hours worked.

Exempting workers who make no more than $22,600 a year from overtime protection is a horrific policy, and that is what it all boils down to. If at this hour of the night I am certain that anybody listening is confused, and there are a lot of folks who seem permanently confused, it all boils down to taking a person who is in combination salary plus commissions at the level of $22,600 a year and saying to them, "You are no longer going to get paid cash for your overtime, you are not going to get anything for your overtime, and your employer can work you as many hours as he wants to because there's no reason why they couldn't schedule you to work. It doesn't cost them anything. It costs you your hours, time away from your family, but at 22,600 you're in another zone."

$22,600 happens to be 12 percent below the average annual income earned for all workers. Let me repeat. $22,600 is 12 percent below the average annual income for all workers. The median income for nonretail sales representatives is $40,000. Under the current law, employees in the computer programing industry must make $57,000 a year before they are exempted from overtime. And I want to repeat that again. The computer programing industry has a unique exemption, and I was a part of the legislation which gave that exemption. Some of us are accused sometimes of not being willing to compromise, of not being willing to change anything that has been in the law for 30 years or being dogmatic, et cetera.

No. We have a clear situation with the computer programing industry. It was clear that they needed some relief from the Fair Labor Standards Act, and we gave it to them, but it was reasonable. The threshold number was $57,000 a year. Employees in the computer programing industry must make $57,000 a year before they are exempted from overtime.

Now considering all the other reasons why they needed to be exempted, and they gave good reasons, if it had not been at a level of $57,000 a year, I would have never agreed to it.

□ 2310

Many others would not have agreed to it. That is the crux of the matter tonight. What is your breaking level, where do you start shutting off cash payments on overtime for the people that the law is designed to protect?

Notwithstanding the unprecedented prosperity the economy has enjoyed over the past 5 years, income disparity between the very wealthy and everyone else is increasing. The drop in overall unemployment rates has not significantly diminished the fact that more and more Americans must work longer hours just to make ends meet. Rather than addressing these matters, H.R. 2888 exacerbates them. The majority party continues to exacerbate the problems faced by working families in America.

Working families in America should know that we are not here to discuss tonight the important issues like a raise in the minimum wage. If we just raise the minimum wage in a very conservative way, 50 cents a year for the next 2 years, by the year 2000 we would have a minimum wage of $6.15 an hour. We would still be behind in terms of not being able to keep up with inflation, but that is not even being entertained. We cannot even talk about that. It is not put on the floor for discussion.

We have something called the American Competitiveness Act, which goes after people who are computer programming specialists and information technology workers. Instead of training more workers and discussing how we can train more workers and have the workers in this country, people who are now being laid off and downsized from other jobs, trained to take these jobs, we just passed something in the other body which is called the American Competitiveness Act, a real outrageous name for such an act.

The American Competitiveness Act will soon be on the floor of this House, and it was not even sent to our committee. It is handled by another committee. But it deals with taking jobs away from workers.

It is going to raise the quota for the admission of professionals into this country and allow more people with computer programming knowledge to come in. Thirty thousand more will be allowed in per year for the first year, and 20,000 a year for the next 3 or 4 years.

That needs to be discussed. We are taking jobs and total income, total salary, away from large numbers of American workers. They are striking, I understand, now in Flint, Michigan, because workers are concerned about their jobs being taken overseas. We are not discussing that in the Committee of Education and Workforce. We do not protect the work force in this committee. The majority makes certain that the work force is harassed and that we are constantly finding ways to downsize the income and downsize the health and safety standards for working people.

This is a serious flawed piece of legislation, and although it looks small, it is a land mine on the way to another catastrophe. The big catastrophe is waiting. We already passed it out of the House, it is waiting out there, and it is called comp time. They are going to take away the protections of the Fair Labor Standards Act from everybody and have comp time replace cash time for overtime, cash payment for overtime.

This is an important bill. Keep your eyes on the guerrilla war being raged by the Republican majority. This is a seriously flawed piece of legislation. I urge its defeat.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. FAWELL), the subcommittee chairman, the engine that is trying to drive labor and management into the 21st Century before it is too late.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, it all depends on how we look at legislation like this, whether we see opportunities, as I see, or whether we see a lot of limitations, as I gather the gentleman from New York (Mr. OWENS) does see.

But this legislation, I do not think, is difficult to understand. It amends Section 13.1 of the Fair Labor Standards Act to simply allow a defined group of people called inside sales people to be exempt from the overtime provisions of the Fair Labor Standards Act.

The reason for that is so that a lot of these people, especially young people in the sales business, they are pretty well prepared professionals, they would like to be able to work on a commission basis. They really prefer that. They really prefer the opportunity that would be afforded to them. Right now they do not have that opportunity, because employers are not wild about going into overtime and all that is involved with that.

These rights, by the way, of working on a commission basis have long been enjoyed by sales people who work outside the office under the title of outside salesmen exemption. That has been granted by the Fair Labor Standards Act ever since it was created.

Nobody has, I think, felt there is a white flag we had to fly for the outside salesmen of America, who have done a pretty good job. These are people who customarily and regularly work away from the employer's place of business for the purpose of selling tangible and intangible items of property.

Now, what we did here, though, was something special. We sat down, and we had the gentleman from New Jersey (Mr. ANDREWS) and I and others on both sides of the aisle thinking, well, how can we do this and settle the fears of those in dealing with labor law about maybe that somehow would be taking advantage of workers? What we tried to do, in a bipartisan effort, and I think we accomplished that, was to specially define those who are in inside sales work who could take advantage of this.

We set forth what is called a duties test, and made clear that only those who have specialized and technical knowledge of the product and detailed knowledge of the customer's needs could take advantage of this, and they are people who are in sales and predominantly serving regular customers, positions that require a detailed understanding of the needs of those to whom the employee is selling.

Then we went a bit further and said that we are going to guarantee, in effect, that, come heck or high water, no matter what happens, if they fail in their commissions earnings, these young people that talked before said nothing about opportunities. They said they really wanted to have these opportunities. But we would require that the employers would guarantee in effect around $22,500. Maybe that is not a good living wage; nobody is necessarily saying that. It is not a cap, it is a floor.

We are simply saying if some catastrophe were to occur here and you did not make as much, these young people are thinking of making $50,000, $60,000, $70,000, if they just had the opportunity to go at it and do it their way with commissions and not be on an hourly wage.

They explain that, look, you know, we have clients to serve, and we can better serve them on the weekends, we can better serve them on Saturday evening, early in the morning when these customers are going to work. We would like to have the opportunities, the very same opportunities that outside salesmen have had for years.

The times have changed. This is now 1998. It was 1938 when that law was drafted. In those days the traveling salesman would kiss the good wife good-bye and go out into the country in a car and rumble around for a couple of weeks before he came back in order to be able to communicate. They did not even have the telephone in very good shape in those days.

Today we have the fax, we have computers, the Internet, and types and kinds of ways of being able to communicate. You do not have to go into the old car and rumble out into Iowa and the Midwest and so forth to do that.

Then we said also before you can qualify here, you have to be on the commission basis, which is pretty vital.

Now, that does not seem to me to be any furtive effort by those of us, both Republicans and Democrats alike here, of trying to do harm and do something bad for the working people of America. Again, I say these were young people who are asking for these advantages.

□ 2320

I simply want to say this is a bipartisan bill. I want to laud the gentleman from New Jersey (Mr. ANDREWS) who has diligently sat down and tried to painstakingly set up these standards so that we would not have people fearing the ways in which I think the very fine gentleman from New York has expressed his fears about this bill.

I think it is an excellent piece of legislation, and I hope people will receive it in the manner in which it should be received.

Mr. OWENS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY), an expert management personnel consultant, a real consultant.

Ms. WOOLSEY. Mr. Chairman, before coming to Congress, I spent over 20 years as a human resources professional; 10 years as an H.R. manager of a high-tech manufacturing company, and 11 years as a human resources consultant. Did I earn more than $22,000 a year? Yes, I did. That is because I know something about the Fair Labor Standards Act.

The Fair Labor Standards Act allows employers to exempt employees from overtime if the employee has specialized skills, a high level of education, advanced training, and/or a minimum level, a professional level of compensation.

This bill would allow an employer to exempt certain jobs from overtime regardless of the credentials of the person filling that job. The job title in H.R. 2888 becomes more important than the person.

Some time ago, as my colleague, the gentleman from New York (Mr. OWENS) mentioned, Congress passed legislation to exempt certain computer industry jobs. They exempted them from overtime. That was if that job paid $57,000 or more a year.

I voted for this. I voted for it because a salary in the $50,000 range does not need overtime nearly as much as the jobs we are talking about tonight. This bill exempts employees who make less than half that amount.

The Bureau of Labor Statistics shows that the median income for nonretail positions is $40,000 a year. At the very least, the income limitation on this bill should be $40,000 to ensure that overtime taken from workers would be a much less significant loss, to ensure that these positions are truly considered professional.

This bill would be acceptable, perhaps, if the decision to work overtime was left to the employee, if it were totally voluntary, but this is not how H.R. 2888 works.

This bill takes away overtime, gives the employer the right to insist on overtime work and insist that the employee work at their straight rate of pay, really, within that week's salary. If they are paid for a 40-hour week, they get paid for 40 hours. Whether or not they work 42, 44, 46, 48, they get paid for 40.

No wonder, Mr. Chairman, we have heard from employers all over the country telling us how employees benefit from this bill, while, I want my colleagues to know, I have not heard yet from one worker that this is what they would prefer.

I ask my colleagues, unless we make overtime voluntary, unless we raise the salary floor to at least $40,000, which is the average for nonretail sales jobs, that we vote against 2888.

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. ANDREWS), the coauthor of the bill.

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding, and I thank the ranking member for his cooperation in this matter.

Mr. Chairman, I rise in support of the bill, and I would like to thank my coauthor, the gentleman from Illinois (Mr. FAWELL) for his diligence in preparing this piece of legislation.

I share with my ranking member opposition to a plan that would replace cash with comp time. I share his sympathies for an increase in the minimum wage. I would oppose a bill that would divest 1.5 million American workers from the right to receive overtime. That is not the bill before us tonight.

The bill before us tonight is not a bill that divests people of overtime. I believe it is a bill that appropriately invests a carefully selected number of people with an opportunity to better themselves.

It is not a partisan bill. Five Democratic members of this committee, including myself, are sponsors of this bill. We believe that this is a bill that opens up opportunity for people.

It is important, first, to talk about what the bill is not and whom it does not cover. If you drive a truck and deliver goods along a route, this bill does not cover you because you are not an inside sales person. If you are a phone solicitor, someone that makes cold calls to people you have never spoken to before and tries to sell them a credit card or a magazine subscription or some other good, this does not apply to you because you are not dealing with an established customer base.

If you stand on your feet in an appliance store or a department store or furniture store and wait for the customers to come in, this does not apply to you because you are not dealing with a sophisticated product and existing customer base; and the law, simply by its terms, does not apply. This bill applies to a carefully selected group of people who are engaged in the process of doing better by working more.

Tomorrow morning, one of the beneficiaries of this bill is going to go to work, and she is going to go to work at a food distribution company. Her assigned clientele will be a group of restaurants or food stores. Her job will be to work with that existing customer base to try to make the best deals and the best connections she can with that existing customer base.

She has the opportunity, provided that she is primarily engaged in sales, provided that she needs specialized consultive knowledge, provided that she can exercise discretion in the relationship with the client or customer, and provided that she is dealing with primarily an existing customer base, she has the opportunity to move ahead and make more and increase her income.

This is not a situation where people who are involved in a cold call selling situation can be compelled to work more hours. This is a situation where people who are engaged in what former Secretary of Labor Reich has described as the new sales force in the economy will be given an opportunity to advance the cause in the income of that particular individual.

It is very important to understand that this is a carefully tailored piece of legislation, designed not to cover people who could be easily exploited by an unscrupulous employer, but rather to open the doors of opportunity for an employee who wishes to improve her situation or his situation by working at hours and times where the customer base and the clientele is more likely to respond.

To understand why this law is needed, my colleagues need to understand how it would be different if my hypothetical individual who is a food sales person were working as an outside sales person. If this same sales person got in her car or her van and drove from customer to customer instead of sitting at her desk and communicating with those customers on the telephone or via the fax machine or via the computer or the Internet, under the present law, if she sits behind the wheel of a car or a van and drives from place to place, she is not subject to the provisions of the 40-hour workweek. But if she sits behind a desk under what I would assume would be more productive and beneficial circumstances and works her customer relations with a phone and a fax machine and a computer, she is covered by the law.

This proposal, with bipartisan support, carefully drawn after due consideration of objections, and made in good faith by both sides of the aisle, this plan is resolved to address that anomaly and treat that person the same if she is sitting in the office making the sales as she would be if she is driving out on the road and making the sales.

In support of H.R. 2888, the "Sales Incentive Compensation Act," I believe the following points should be made.

The bill sets out important criteria for those employees to be exempted. First, employees must be highly skilled. The exemption is directed at professional employees functioning in a similar capacity as "outside sales" employees. In this regard, these employees must have highly specialized and technical knowledge about both the products or services they offer as well as the clients with whom they deal. These "highly specialized" professionals typically receive extensive training to prepare them to sell a variety of products and/or services and they receive frequent follow-up training or related educational instruction.

Second, employees must exercise independent judgment and discretion. It is fundamental that these employees are required, by the nature of their work, to exercise independent judgment and discretion in making these sales. These are not telemarketers or semi-skilled sales staff. Rather, the bill is designed to identify salespeople who act in a professional capacity utilizing substantial discretion in their work.

Third, employees must have continuing and regular contact with customers. These employees can only gain the extensive knowledge of their clients needs envisioned by the law through regular and repeated contact with these customers. One-time calls, whether made by the sales person or the customer, cannot serve as the basis for the type of specialized knowledge of the customers' needs which would permit the employee to act in the consultative or advisory capacity necessitated by the bill. This means in practical terms that the employee must have a continuing relationship with a vast majority of customers to whom he or she makes sales.

In addition to the duties criteria, there are several requirements related to compensation. First, the employee must receive a guaranteed salary. The bill requires receipt of compensation which is not affected by the actual number of hours the employee may work in a given period. As a result, the employee cannot earn an hourly wage, but must be given a predetermined and guaranteed salary regardless of the number of hours actually worked. This is reflective of the professional status the employee must possess.

The second major component is that the compensation earned as incentive pay must serve as an inducement and reward for individual effort. In this regard, the incentive pay should be in the form of individual commissions based on each sale generated by the employee. Such a requirement does not prohibit incentives based on reaching individual or group sales quotas, etc., but these methods must be constructed in such a way as to make individual sale commissions readily identifiable.

Third, employees must be rewarded with at least as high a level of incentive compensation (formula or rate) in hours above forty per week as they received in hours below forty per week. As a result, if quotas or other incentive plans are used which do not explicitly reward employees for each sale generated, the manner and rate of incentive pays must make it perfectly clear that the employee is earning at least as much for sales generated in overtime hours as he or she would earn for same sales in non-overtime hours.

□ 2330

This is carefully drawn. It is narrowly tailored. I very much appreciate the support of my four Democrat colleagues on the committee for this bill, and I appreciate the diligence and persistence of my coauthor, the gentleman from Illinois (Mr. FAWELL).

Mr. Chairman, I too would urge the adoption of the bill and the defeat of amendments that have been proposed.

Mr. OWENS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I want to say with all due respect to the gentleman from New Jersey (Mr. ANDREWS) my good friend, and the gentleman from Illinois (Mr. FAWELL), that I have to take exception with the import of this bill, no matter how well-crafted it may seem or well-intentioned it may be.

Mr. Chairman, for 60 years the Fair Labor Standards Act has operated to protect workers from excessive hours on the job by requiring employers to pay time-and-a-half for overtime. Most Americans accept this and expect it. Work overtime, expect to be paid for it.

This measure before us, the Sales Incentive Compensation Act, would undermine the Fair Labor Standards Act and open up an enormous loophole. It would allow employers to avoid paying overtime to certain categories of employees.

This bill would enable companies to declare that certain workers are in sales positions and then deny them a salary or an hourly wage for the time they work over 40 hours per week. For these specialized employees, companies would only have the obligation to pay them commissions as a substitute for the time-and-a-half pay.

About 1.5 million workers would be affected by this loophole. This bill would provide a powerful incentive for employers to push their employees to work as many hours as possible. It would lead to endless litigation as the courts battle over who does and does not qualify under the vague and broad provisions in this bill. In addition, the Department of Labor has concluded that this bill would impose new paperwork and recordkeeping requirements on businesses. So there are unintended consequences.

Mr. Chairman, I would agree with my colleague that many of the same arguments put forth here parallel the discussion we had on comp time. The reason people work overtime is to get paid for overtime. They do not work overtime to give the money to their employer. They work overtime to give the money to their family. I believe that the argument that people who work overtime ought to get time off in the case of comp time, or a commission or not at the election of their employers, is a misplaced argument.

Now, there are some proponents of this bill who would say that they just want people to make more money, not less, and to do that they are going to cut out time-and-a-half for overtime and replace it with a sales commission. I think that assertion challenges common sense notions of why people work overtime. The harder people work, the more they should get paid from their employer.

This legislation affects employees. So if employees work more than their full-time allotment, they should be paid for it. And if their diligence, their labor produces a higher benefit, then let the employer take the benefit. But let the employee be able to get at least time-and-a-half. In a sense, we are asking the employees to take the risk when it is the employer who gets the benefit.

I say let the employee get the benefit and the employer take the risk. Let the employee get paid time-and-a-half for overtime.

This bill benefits employers at the expense of employees. It is going to result in workers being required to work more hours. The simple fact is, and every American worker knows this, it is the employer who controls the hours that people work, not the employee. The employer controls how long the employee is going to work.

This bill unfortunately discourages employees and it encourages employers to require workers to work overtime. It exempts employers from the requirement that they pay an employee any wage at all for overtime hours. How many people out there would want to work overtime and not get paid anything? Who would take that deal in this country?

Years ago there was an American humorist who said, "Never give a sucker an even break." Working people in this country deserve to be paid time-and-a-half for overtime and employers ought to be challenged to do that.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska (Mr. BARRETT), an important member of our committee.

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentleman from Pennsylvania (Chairman GOODLING) for yielding me this time.

Mr. Chairman, if we mentioned comp time or flex time or telecommuting or inside sales personnel to people back 20 or 30 years ago, we probably would have gotten a very, very strange look. But these terms today, they are a reality. This is today's workplace. And they have gone largely unrecognized in today's antiquated labor laws.

Today we take a small step forward to recognize what is already occurring in the labor force, but the Federal Government has been very, very slow to respond.

H.R. 2888 allows professional sales people working regularly with established clients to be exempt from minimum wage and overtime requirements. The bill permits some inside sales workers to earn a salary and be treated like a professional along with their outside sales counterparts.

In this era of family-friendly workplaces, Congress should embrace a bill giving the people the flexibility to use technological advances and changes in our economy to work near their home in jobs that they enjoy or need and be closer to their families.

This bill enjoys bipartisan support. It lets a fresh breeze into the stale and outdated Federal laws that have restricted the economic liberty of an entire class of professional working people. When the House does pass H.R. 2888, we should be proud of our actions to allow people to again capture the American dream of being rewarded for their hard work.

I also want to take a moment to thank the gentleman from Illinois (Mr. FAWELL) my friend and colleague, for authoring this legislation and for all of his years of hard work to improve the working conditions and benefits of millions and millions of Americans. I am sure that he will take to his retirement the same zeal and determination that has marked his career as a very distinguished public servant and lawyer.

With that, Mr. Chairman, I encourage my colleagues to support H.R. 2888.

Mr. OWENS. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from New York (Mr. OWENS) has 6 minutes remaining, and the gentleman from Pennsylvania (Mr. GOODLING) has 10½ minutes remaining.

□ 2340

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. HOEKSTRA), another member of our committee.

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding time to me.

I also congratulate my colleagues for putting this bill together. I hope that in the coming months and the coming years we can build on this bipartisanship and seriously take a look at America's labor laws, labor laws that were developed in the 1930s and the 1940s.

And now, as we take a look at entering a new millennium, we recognize that the workplace has changed. We have moved into a global economy. The types of products and services that we are excelling in and producing in this country have evolved and changed.

In the last 8, 9 months, we have gone around the country, we have had roundtables. We have had hearings. We are learning that for us to be globally competitive, we need to restructure and reevaluate the legal framework within which we compete. And as we change this framework and as we evolve it, it is going to create more opportunities for American workers. It is going to enable American workers to be more competitive, to be more productive.

And when they are more productive, they can earn a higher standard of living. We want to eliminate bureaucracy. We want to eliminate rules and regulations, rules and regulations that do not fit the 1990s.

One of the facilities that we had the opportunity to visit was an IBM facility in Atlanta. What we saw in Atlanta was a telemarketing center, actually a sales consultant center where people over the phone were selling multimillion dollar computer systems. Ten years ago these would have had to have been sold face to face. Now they can be sold over the telephone.

The nature of the product has changed; the nature of the customer has changed. And the nature of the way that you service these clients has changed.

This bill recognizes the changes that are taking place. It says that we can service these customers in a new and in a better way and in a more productive way.

Again, I applaud my colleagues on this effort and urge my colleagues to support this bill tomorrow.

Mr. OWENS. Mr. Chairman, I yield myself such time as I may consume.

We could have total bipartisan cooperation if we really recognized what is at the heart of this controversy at this point. It is money. It is only money; $22,600 a year is not a proper cutoff point.

I recognize that the Fair Labor Standards Act is 60 years old. We have made some adjustments in situations where adjustments made sense, but here we are proposing to make an adjustment on the backs of the working families. We are proposing an adjustment which has no logical rationale. Common sense has been thrown out the window. We have a cutoff point of $22,600 a year.

We did this same thing for the computer programming industry. They had certain circumstances which made it evident that large amounts of hours were required, and they could not keep paying more and more overtime, but they had a staff of specialized people. They could not go out and get more people because they did not have the skills. We took that into consideration and we amended the 60-year-old Fair Labor Standards Act. And certainly we could work out an amendment now, a bipartisan amendment, if we would just admit the fact that $22,600 a year is not a proper cutoff point.

My colleague from California, an expert in human resources, said that the average is $40,000 a year for retail salespeople, it is $40,000 a year, not $57,000 like the computer programming people.

Well, this particular industry has a set of facts which we should all look at, and maybe she is right, $40,000 is the figure, not $57,000. We cannot just be arbitrary and say $57,000, that is a pretty good living even now. We did that a few years ago. But even now $57,000 looks pretty good compared to $22,600.

So if we are not interested in robbing the working families to make the rich richer, which is what most of the amendments that are brought to the committee by the Republican majority do, if we are not interested in exploiting working families, if we really care about working people, if we are a committee that is concerned with work force protections and not work force harassment, then we could work out a compromise.

We should withdraw this bill now, work out a compromise, and let us arrive at a figure between $40,000 and $57,000, and we can accept a lot of other rather vague things that are here that may make for difficulties in the future.

The whole definition of what a specialist is and who is selling a specialized product. I know people who are in the grocery business, and they insist that they are specialists, they are professionals. Not everybody can come in and sell groceries.

It used to be there was a sitcom at one time where the guy was a hardware store owner and used to get all riled up about what it took to sell hardware. And he would always end his statements by saying, this is not just some little common thing in the street; hardware is something special.

So everybody can make the argument that they are a specialist. Certainly employers who want to make people work more hours without overtime could always say, you are really a specialist. You are selling eggs and milk, but you are a specialist and you do not get any overtime.

There are a lot of pitfalls here. We can settle it all and reach agreement, if we would just talk about a reasonable, commonsense figure that does not exploit working families. Do not put people in a bind where they cannot get any more cash for overtime at the level of $22,600 a year. Let us go on and take a hard look at all the factors and come back and offer the working families something which comes off the table.

The table is full now of goodies. It is a very prosperous time. Wall Street is making more money than they ever made before. The Dow Jones average hovers between 8000 and 9000 on a daily basis. It is just amazing that the energy of the Republican majority is all concentrated at taking things away from working families at a time like this.

We have a window of opportunity. Let us share the prosperity. If we have to set some figures for exemption in the Fair Labor Standards Act, let us raise them high enough to be meaningful for working families.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I rise to support H.R. 2888.

It is obvious to me that those that oppose this bill do not understand the dynamics of sales in this country.

I would ask everybody here tonight, would you like to go back to the rotary telephone, get rid of the systems in your offices that have the rotary phone that you dial by hand that are not connected to each other? No, you would not. It would not make any sense to you. Would you like to go back to the mechanical typewriter and do away with the computer systems that are all networked and go back?

The law that is in place is holding us back in this country from allowing salespeople to do what they do best.

Salespeople are undervalued in your view. The salespeople are the oil and gas of the American economic engine. They are what drives it. As salespeople are successful and they earn a commission, they make more money. And they put their friends and neighbors to work because they sell more goods that make a company go.

Technology today allows companies to do more sales inside instead of wasting travel time. And this bill is narrowly drafted, probably a little more narrowly drafted than I would have agreed to, it is narrowly drafted. You do not have to worry about a $20,000 person. You give them a sales commission, and they are going to make 30, 40, the sky is the limit.

Flexibility of time in the sales force is a benefit to the customer and a benefit to the employee. He or she may want to go home and fix dinner and then make some calls after dinner. They may want to pick up their children at day care and go home and then make some sales calls. It is not a one-way street.

Commission is a huge incentive and do not ever undervalue it. If you are selling by the hour and you are selling by commission and you both have equal sales ability, the commission person will always sell more goods and put more people to work in the overall company.

It is time to unleash the salespersons and stop limiting their ability to incentive sale. They will earn more and you will increase employment in manufacturing, and you will increase employment in the service industry. You will increase employment in wholesale. I want to tell my colleagues, it will increase the economic drive in this country.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from New York.

Mr. OWENS. Mr. Chairman, does the gentleman realize this is about inside sales, which means people cannot go home and make phone calls from home. They have to be on the job. That is the whole thing. They are bound to the job. They are bound at the spot.

□ 2350

They are bound at the spot. They are inside.

Mr. PETERSON of Pennsylvania. It should not be that narrow. Because sales can be made on the telephone at home just as easily as they can be made in the office.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me this time. I want to engage my colleague in a colloquy.

The Sales Incentive Compensation Act does not change the law of impasse in any way. The bill does not create a new right or authority for an employer to implement unilaterally the exemption provided by the legislation in a circumstance where an employer is engaged in collective bargaining negotiations with a labor organization and the negotiating parties have reached an impasse.

As a coauthor of H.R. 2888, I want to make it clear that the bill may not be used as an instrument, if an impasse occurs, to secure an outcome that would never result from the normal ebb and flow of the free collective bargaining process.

Am I correct that it is the understanding of my coauthor of the bill that it does not create a new right to impose unilaterally a settlement during an impasse?

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Illinois.

Mr. FAWELL. It is my understanding that the legislation does not change the laws regarding an employer's rights to unilaterally impose conditions in the face of an impasse in collective bargaining.

Mr. ANDREWS. Under current law, when collective bargaining reaches an impasse, employers have a perverse incentive to bargain to impasse and then compel a union to acquiesce in conditions mandated by the employer.

From a related point of view, it is not the intent of the Sales Incentive Compensation Act to create a new defense for an unfair labor practice perpetrated by an employer or to create an exemption excusing what would otherwise be an unfair labor practice.

The Sales Incentive Compensation Act does not create a right or authority for an employer to implement unilaterally the exemption provided by the legislation in a circumstance where an employer is engaged in collective bargaining negotiations with a labor organization and the negotiating parties have reached an impasse.

As an author of H.R. 2888, I want to make clear that the bill should not be used as an instrument, if an impasse occurs, to secure an outcome that would never result from the normal ebb and flow of the free collective bargaining process. Under current law, when collective bargaining reaches an impasse, employers have a perverse incentive to bargain to impasse and then compel a union to acquiesce in conditions mandated by the employer.

From a related standpoint, it is not the intent of the Sales Incentive Compensation Act to create a new defense for an unfair labor practice perpetrated by an employer.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. FAWELL).

Mr. FAWELL. Mr. Chairman, it seems to me that in the comments, the gentleman from New Jersey (Mr. ANDREWS) made the statement that this bill does not divest people from overtime, rather it gives opportunities. I think that is the key distinction perhaps between the two sides here.

We on this side and a number of my colleagues on the other side of the aisle see that there are all kinds of opportunities, especially young people who are only making $20,000 or less than that. When Leronda Lucky testified before the subcommittee of the gentleman from North Carolina (Mr. BALLENGER), she made this statement:

> There is also a very important customer service component to my job. My clients do not necessarily have to have 9-to-5 work hours. Many start their days early in the morning and work until late in the evening. I need the flexibility to determine when I need to meet with customers on their hours. Being an exempt employee would provide that flexibility.

The gentleman from Pennsylvania (Mr. GOODLING) previously referred to Robert Reich's statement, and I quote:

> A lot of people who are called sales reps are no longer really sales reps. They are actually advising somebody about a package of goods and services that meets the needs of that individual, and those sales people are therefore more like management consultants.

So it is different. Times have changed. We have to recognize that that is so. That is what I think this legislation does. I believe it is going to be very beneficial for a lot of people who see a great deal of opportunity.

Mrs. McCARTHY of New York. Mr. Chairman, I rise in strong support of H.R. 2888, the Sales Incentive Compensation Act. I want to commend my colleagues, Mr. ANDREWS and Mr. FAWELL, for their hard work in developing this bipartisan bill.

I am cosponsor of H.R. 2888 because I believe that it will open up opportunities for inside salespeople to earn more and succeed in the workforce. This bill recognizes that the workforce has changed in the sixty years since the Fair Labor Standards Act was passed. Today, salespeople can be more productive than every by using computers, faxes and E-mail to reach their clients, instead of travelling door-to-door.

But while outside salespeople are exempt from the FLSA, inside salespeople are not. Many inside salespeople are told to go home after 40 hours because their employers do not want to pay them overtime. This limits their chance to earn big commissions.

H.R. 2888 is sensible, balanced legislation. It will give professional, expert salespeople the chance to maximize their sales, while protecting millions of workers who depend upon the FLSA to guarantee their hard-earned benefits.

During Committee mark-up, I offered an amendment to H.R. 2888 to clarify even further that route sales drivers, a class of workers that deserves FLSA protection, would not be affected by this bill. My amendment was accepted.

I am pleased to support this bill not only on its merits, but because of the process that has led to its consideration. This bill is the product of good-faith discussions between members on both sides of the aisle.

It has been developed in an atmosphere of trust and mutual respect, and I would hope that this bill can be a model for other legislation that this body debates. It shows that when we put partisanship aside, everyone wins.

I urge my colleagues to support this bill.

Mr. CLAY. Mr. Chairman, I oppose this bill because it shortchanges some 1.5 million sales employees by denying them overtime pay. Although the bill guarantees that workers will receive the low salary of $22,000 annually, this hardly compensates for the loss of the overtime pay.

The overtime laws, like the minimum wage, were designed to protect working families from exploitation. Employers should not be permitted to make employees work excessive hours away from their families without fair and decent compensation.

It is shameful that we should act to diminish the prosperity of working families at the same time that corporate profits and stock market prices are off the charts.

This assault on working families also makes a mockery of those hollow assertions Republicans made on this floor months ago in support of flex time. Make no mistake, this bill means working families who work in the sales occupation will be required to work more hours for less pay. This bill does not permit employees to refuse overtime work.

This Congress should not support any legislation that benefits special interests at the expense of working families.

I urge all Members to preserve the historic protections of the Fair Labor Standards Act, and reject this mean-spirited attack on workers.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sales Incentive Compensation Act".

SEC. 2. EXEMPTION.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (17) and inserting a semicolon and by adding at the end the following:

"(18) any employee employed in a sales position if—

"(A) the employee has specialized or technical knowledge related to products or services being sold;

"(B) the employee's—

"(i) sales are predominantly to persons who are entities to whom the employee's position has made previous sales; or

"(ii) position does not involve making sales contacts;"

"(C) the employee's position requires a detailed understanding of the needs of those to whom the employee is selling;

"(D) the employee's position requires the employee to exercise discretion in offering a variety of products and services;

"(E) the employee receives—

"(i) base compensation, determined without regard to the number of hours worked by the employee, of not less than an amount equal to one and one-half times the minimum wage in effect under section 6(a)(1) multiplied by 2,080; and

"(ii) in addition to the employee's base compensation, compensation based upon each sale attributable to the employee;

"(F) the employee's aggregate compensation based upon sales attributable to the employee is not less than 40 percent of one and one-half times the minimum wage multiplied by 2,080;

"(G) the employee receives a rate of compensation based upon each sale attributable to the employee which is beyond sales required to reach the compensation required by subparagraph (F) which rate is not less than the rate on which the compensation required by subparagraph (F) is determined; and

"(H) the rate of annual compensation or base compensation for any employee who did not work for an employer for an entire calendar year is prorated to reflect annual compensation which would have been earned if the employee had been compensated at the same rate for the entire calendar year.".

SEC. 3. CONSTRUCTION.

The amendment made by section 2 may not be construed to apply to individuals who are employed as route sales drivers.

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FAWELL:

Page 4, strike lines 8 through 13 and insert the following:

"(B) the employee's—

"(i) sales are predominantly to persons or entities to whom the employee's position has made previous sales; or

"(ii) the position does not involve initiating sales contacts;"

Mr. FAWELL. Mr. Chairman, this amendment is noncontroversial. It would make two technical changes in the bill for the purpose of correcting a provision adopted during the committee markup which inadvertently substituted the words "who are" for the word "are"; and the word "making" for the word "initiating."

It is my understanding that the amendment will not be opposed by the gentleman from New York (Mr. OWENS). I would urge my colleagues to support this technical change.

Mr. OWENS. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FAWELL).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. OWENS

Mr. OWENS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. OWENS:

Page 6, line 9, strike the period, quotation marks, and the period following and insert a semicolon and insert after line 9 the following:

except that an employer may not require an employee who is exempt from overtime payment under this paragraph to work any hours in excess of 40 in any workweek or 8 in any day unless the employee gives the employee's consent, voluntarily and not as a condition of employment, to perform such work.".

Mr. OWENS. Mr. Chairman, this amendment provides that employees who lose their overtime protection as a result of this legislation will have a right to choose whether or not they will work overtime. They will have the right and not the employer. Employers would be prohibited from requiring those sales people to work in excess of 40 hours a week, or 8 hours a day.

The proponents of H.R. 2888 as we have heard tonight contend that workers want to work overtime without overtime pay. For 60 years Americans have had this protection in place for inside sales people and sales have gone very well. The economy has boomed. Why fix it if it is not broken already? We have a working situation here. But they say that workers want to work overtime without overtime pay. They have overtime pay now. Workers are dying to give it up. They have stated repeatedly that this legislation is intended to help workers. I have said that is not the case. I submit that claims that this legislation will help workers are wholly false. This legislation will help employers, but it will harm workers.

Under current law, the only legal restriction on the number of hours an employee may be required to work is a requirement that employers pay time and a half for hours worked in excess of 40 hours a week. This puts a brake on exploitation. This puts a brake on employers who want to drive their workers in order to make greater profits without also compensating the workers.

Under H.R. 2888, an employer would no longer be required to pay a worker anything for overtime work except for such commissions as the employee may earn during that period. Indeed if an employee earns no commission during the overtime period, the employer is not required to pay the employee anything at all for that work. This legislation shifts business risks from the employer to the employee.

H.R. 2888 also creates a powerful incentive for employers to require employees to work overtime by permitting employers to pay a worker less for overtime work than for regular work. In my view, this consequence is obvious and intentional. However, if this legislation is truly intended to benefit employees, then clearly the worker and not the employer should exercise control over how much overtime will be worked. That is all that my amendment would accomplish. Employers may continue to require employees to work 8 hours a day and 40 hours a week. Employers may continue to specify when those hours will be worked. However, if the employee is going to undertake the risk of working additional hours beyond 40 hours, with no guarantee of being paid for those hours, it would be at the employee's own choosing and not the employer.

Even if my amendment is adopted, many workers will not have a true choice. $22,600 is not a living wage for most families. Many workers would be financially compelled to work overtime. However, my amendment ensures that all employees who would otherwise lose overtime protection would at least have some voice as to how much overtime they will work and when they will work it.

□ 2400

If those who support H.R. 2888 are serious about their desire to help workers, they will support my amendment.

Mr. Chairman, I urge the adoption of this amendment.

Mr. FAWELL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. OWENS).

Mr. Chairman, we still have the same dichotomy here in operation. The gentleman from New York again has his eye upon what he sees as a tremendous loss; that is, of the overtime provisions.

The employees who came into our committee and asked for the right to be able to assume commissions as a base of being able to work more and make more look at the opportunities coming from the fact that they now are going to have a commission's basis of earning. Not only are they going to have that commission basis of earning, but they are going to have a foundation of a guarantee of $22,500 a year that the employer is going to have to pay.

Now there are various classifications of employees who are exempt from the Fair Labor Standards Act provisions. We have made reference to some of them: professional, executive, administrative, outdoor salesman, for instance. I do not think that of all of the many examples of exemptions that are in the statute right now, and this is the 18th one that we have put here, that there ever has been a provision that would give to the employee the right to issue some kind of a consent. What is always set forth is not always because with the outside salesmen they did not even get any kind of a guarantee of any kind of a salary. It is zilcho, nothing. They are just out there and working on commissions, but take administrative positions where an exemption from overtime is granted.

The only other, the only other thing that is granted to an administrative employee is, believe it or not, a guarantee of $250 a week. That is all. There is nothing in any those instances where exemptions are granted, and exemptions from overtime have always been a part of the Fair Labor Standards Act.

And there is good reason for that, very good reason for that. Once we start doing that, then, well, what should it be? Oral consent or written consent? When must they set forth this consent? How often can it be? Must it be renewed? We can go on and on with a lot of other provisions, and if the employer should suggest that one ought to be able to go on commissions and give consent here.

Mr. ANDREWS. Mr. Chairman, would the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I want to join the gentleman in respectful opposition to this amendment. I think the point he is making is very important, that the amendment opens an awful lot of questions about how the consent would be expressed, to whom, whether it could be altered, whether someone could be exempt for a week and then go back to nonexempt the next week, whether or not the requests would have to be oral or in writing. And I believe what it would do would be to unduly complicate matters, and for that reason I would join the gentleman in his opposition to the amendment.

Mr. FAWELL. This is precisely why in all of those instances where exemptions are granted, nothing like this has ever been put into the Fair Labor Standards Act.

I want to add also that the gentleman from New York (Mr. OWENS) actually is extending the overtime provisions to now include the 8-hour day as well as the 40-hour work week. The Fair Labor Standards Act has always applied only to a 40-hour work week, not to an 8-hour day, too. So he is bringing in something completely new to the Federal law, the Fair Labor Standards Act.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New York.

Mr. OWENS. In the list of extensions, are there other situations which involve part of the income being derived from commissions?

Part of this 22,000 is commissions. It is only 16,000 that is really salary, and part is commission. Is there any other situation where an exemption is given to some position which makes up commissions, is made up partially with commissions?

Mr. FAWELL. There is, insofar as retail service positions are concerned.

Mr. OWENS. Mr. Chairman, I thank the gentleman..

Mr. FAWELL. Mr. Chairman, that is all that I have to say.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OWENS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OWENS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 461, further proceedings on the amendment offered by the gentleman from New York (Mr. OWENS) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS:

Page 5, line 1, strike "the employee's position requires" and insert "the employee has".

Page 5, beginning in line 4, strike "the employee's position requires the employee to exercise" and insert "the employee exercises".

Mr. ANDREWS (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ANDREWS. Mr. Chairman, I offer this amendment to conform the bill to a provision that was proposed by the gentleman from New York (Mr. OWENS) in committee so that the rest of the bill can conform to that so that the reference would be to the employee's position and the employee. This makes it very clear that the position and the employer are both covered. This conforms the bill that we adopted in committee to the suggestion of Mr. OWENS that was adopted in committee. I would urge its adoption.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Illinois, my coauthor.

Mr. FAWELL. Mr. Chairman, we have no objection to this amendment.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. OWENS. Mr. Chairman, no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

Mr. GOODLING. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETERSON of Pennsylvania) having assumed the Chair, Mr. WATTS of Oklahoma, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, had come to no resolution thereon.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, last week was a big week because this House of Representatives made a commitment to address the marriage tax penalty. Let me explain why this is so important.

Do Americans feel that it is fair that our Tax Code imposes a higher tax penalty on marriage? Do Americans feel that it is fair that 21 million married working couples pay on the average $1,400 more in higher taxes just because they are married?

$1,400 in the south side of Chicago in the south suburbs is real money for real people. $1,400 is one year's tuition at Joliet Junior College and 3 months' day care at a local child care center.

This past week the House of Representatives went on record making a commitment to work towards elimination of the marriage tax penalty with the passage of the Kasich budget, a budget that spends less and taxes less. Let us make elimination of the marriage tax penalty our number one priority this year. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do

Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	6,550	6,550	11,800	13,100 (Singles X2)
Taxable Income	23,950 (x .15)	23,950 (x .15)	49,200 (Partial x .28)	47,900 (x .15)
Tax Liability	3,592.5	3,592.5	8,563	7,185

Marriage Penalty: $1,378; Relief: $1,378.

Weller-McIntosh II Eliminates the Marriage Tax Penalty.

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1,400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or a car, one year tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Let's eliminate the Marriage Tax Penalty and do it now!

WHICH IS BETTER?

Note: The President's Proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act H.R. 2456, will allow married couples to pay for 3 months of child care.

WHICH IS BETTER, 3 WEEKS OR 3 MONTHS?

CHILD CARE OPTIONS UNDER THE MARRIAGE TAX ELIMINATION ACT

	Average tax relief	Average weekly day care cost	Weeks day care
Marriage Tax Elimination Act	$1.400	127	11
President's Child Care Tax Credit	358	127	2.8

Do Americans feel that it's right to tax a working couple more just because they live in holy matrimony?

Is it fair that the American tax code punishes marriage, our society's most basic institution?

WELLER-MCINTOSH II MARRIAGE TAX COMPROMISE

Weller-McIntosh II, H.R. 3734, the Marriage Tax Penalty Elimination Act presents a new, innovative marriage penalty elimination package which pulls together all the principle sponsors of various legislative proposals with legislation. Weller-McIntosh II will provide equal and significant relief to both single and dual earning married couples and can be implemented immediately.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,215 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Weller and McIntosh's new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the women's salary—at a much higher rate than if that salary was taxed only as an individual.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

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Tax Liability	3,592.5	3,592.5	8,563	7,185

Marriage Penalty: $1,378; Relief: $1,378.

Weller-McIntosh II Eliminates the Marriage Tax Penalty.

The repeal of the Marriage tax was part of the Republican's 1994 'Contract with America,' but the legislation was vetoed by President Clinton.

RECOGNIZING THE 100TH ANNIVERSARY OF THE U.S. NAVY HOSPITAL CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. STUMP) is recognized for 5 minutes.

Mr. STUMP. Mr. Speaker, I rise today to bring to the attention of my colleagues the 100th anniversary this week of the United States Navy Hospital Corps, and to thank all of those who have served in the Corps.

As a fellow Naval Hospital Corpsman from World War II, I had the distinct pleasure this morning to join our own House Attending Physician, Admiral John Eisold, to participate in a ceremony marking the 100th anniversary of the Navy Hospital Corps. It was not only a moving ceremony, but served as a worthwhile reminder of the care, the compassion and the dedication of a group of men and women who serve and have served in a unique but often overlooked role in our military.

Force Master Chief Mark T. Hacala has written an eloquent history of the Navy Hospital Corps, which I commend to you as not only an important part of naval history, but also a well-earned public recognition for all of those who have been proud to call themselves a U.S. Naval Corpsman.

Tradition. Valor. Sacrifice. For 100 years, these ideals have marked the history of the U.S. Navy Hospital Corps. Since 1898, hospital corpsmen have cared for wounded and sick of the Navy and Marine Corps. Their continuous dedication to saving the lives of their patients, frequently at the risk of their own, has earned them accolades at sea and on land.

Prior to the establishment of the Hospital Corps, there was a role for enlisted personnel to care for the sick. Junior and senior medical department Sailors changed rating names through the 18th and 19th centuries, using colorful titles at each phase. The nickname "loblolly boy," one who carried loblolly or porridge to the sick, was used until the Civil War when it was replaced by "nurse." In the 1870s nurse was retitled "bayman," the Sailor who worked in sick bay. Senior personnel were known as surgeon's stewards and later as apothecaries.

By the late 1800s, the Surgeon General of the Navy advocated a new system of employing medical department Sailors. Rather than assigning one of the crew out of necessity and teaching him on the job, a trained group of volunteers was advocated. Based on the model of the Army's Hospital Corps, the Navy would seek recruits, pay them better, and train them uniformly. This plan was adopted in the midst of the Spanish American War when President William McKinley signed the law which established the Navy Hospital Corps on 17 June 1898.

Early history of the corps set a pace of conspicuous service that would continue to the present. During the Boxer Rebellion in Peking in 1900, Hospital Apprentice Robert Stanley volunteered for the dangerous mission of running message dispatches under fire. For his bravery, Stanley became the first in a long line of hospital corpsmen to receive the Medal of Honor. Five years later, when the U.S.S. *Bennington's* boiler exploded in San Diego harbor on July 21, 1905, Hospital Steward William Shacklette burned along with almost half the crew. Although seriously hurt, he rescued and treated many of his shipmates. He, too, was given the Medal of Honor.

Within a few short years, the Hospital Corps would face the rigors of combat with the Marines in World War I. Through machine gun fire and mustard gas, hospital corpsmen treated over 13,000 casualties in France. This group of 300 Sailors would earn 2 Medals of Honor, 55 Navy Crosses, 31 Army Distinguished Service Crosses, and 237 Silver Stars. Their 684 personal awards would make them the most decorated American unit in World War I. A Marine regimental commander noted of their performance at Belleau Wood, "there were many heroes who wore the insignia of the Navy Hospital Corps."

Hospital corpsmen set an exceptional record of valor in World War II. From Pearl Harbor to Okinawa, they worked in hospitals and hospital ships, set up beach aid stations in Italy and Normandy, bandaged kamikaze survivors at sea, and dodged bullets and shells during the bloody island campaigns in the Pacific. Their initiative and skill was noteworthy. Pharmacist's Mates First Class Wheeler Lipes, Harry Roby, and Thomas Moore each performed a successful appendectomy, without the aid of a physician, while submerged in submarines in enemy waters.

Pharmacist's Mate Second Class John H. Bradley's heroism with the 28th Marines on Iwo Jima is typical of acts repeated by hospital corpsmen throughout the war. Bradley rushed through a mortar barrage and heavy machine gun fire to aid a wounded Marine. Although other men from his unit were willing to help, Bradley motioned them to stay back. Shielding the Marine from fire with his own body, the hospital corpsman administered a unit of plasma and bandaged his wounds. He then pulled the casualty through the gunfire 30 yards to safety.

PhM2c Bradley was awarded the Navy Cross for his valor, but he is not usually remembered for this act. Days later, he and five Marines were captured in Joe Rosenthal's photograph of the second flag raising on Iwo Jima's Mt. Suribachi. The image was reproduced more than perhaps any photo in history. It was the theme for the Marine Corps War Memorial in Arlington, VA and made Bradley the first U.S. Navy Sailor to appear on a postage stamp. But Bradley's heroism was not an isolated act. In World War II, the Hospital Corps would earn 7 Medals of Honor, 66 Navy Crosses, 465 Silver Star Medals, and 982 Bronze Star Medals, as well as countless other commendations and debts of gratitude.

Although the U.S. commitment to the Korean War was limited, a staggering number of Marines and Sailors, 30,064, were killed or wounded. Here, as in its previous conflicts, hospital corpsmen distinguished themselves. All five enlisted Navy Medals of Honor for Korea were awarded to members of the Hospital Corps. One of those awardees, retired Master Chief Hospital Corpsman (SS) William Charette, reflected years later on his pride in being a hospital corpsman in Korea. "It's amazing that somewhere there are some people walking around that wouldn't be here unless we had been there."

In Vietnam, hospital corpsmen played a critical role in aiding the 70,000 Navy and Marine Corps casualties. At station hospitals in Saigon and Da Nang, aboard hospital ships offshore, with medical battalions, and in the field with Marines, they ensured the best possible care for the wounded, often at the risk of their own lives. When an enemy grenade landed near HM3 Donald Ballard and several casualties, he covered the grenade with his body to save his Marines' lives, earning him the Medal of Honor. "My job was needed," Ballard said recently. "I felt good about it." Bravery earned hospital corpsmen 450 combat decorations in Vietnam, but the war cost them 638 lives.

Hospital corpsmen continued to serve in peace, in war, and in situations which straddled that line during the 1980s. They treated gunshot and shrapnel wounds once again in Beirut in 1983, as a peacekeeping presence escalated into a shooting war. Of the 18 hospital corpsmen in the Marine Battalion Landing Team Headquarters building on 23 October, only 3 survived the truck bombing which killed a total of 241 Americans. Days later, other hospital corpsmen would participate in the invasion of Grenada. In the Persian Gulf, independent duty hospital corpsmen would care for casualties aboard the U.S.S. *Stark* in 1987 and the U.S.S. *Samuel B. Roberts* 1988, and in Panama in 1989.

Iraq's 1990–91 invasion of Kuwait once again provided challenges for the Hospital Corps. Hospital corpsmen around the globe reacted, as their ships, stations, and Marines deployed or prepared to receive casualties. Their numbers were augmented by Naval Reserve hospital corpsmen, 6,739 of whom were recalled to active duty. The first Purple Heart awarded to a Sailor in the Persian Gulf War was given to a hospital corpsman.

While technology and equipment have changed through the years, hospital corpsmen's dedication to duty and devotion to their patients have remained their greatest asset.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SENSENBRENNER (at the request of Mr. ARMEY) for today until 2 p.m. on account of attending his son's graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, today.

Mr. PAPPAS, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. LARGENT, for 5 minutes, today.

Mr. STUMP, for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.

Mr. MCHUGH, for 5 minutes each day, on June 16 and 17.

Mr. SOLOMON, for 5 minutes each day, on June 16 and 17.

Mr. BOEHLERT, for 5 minutes each day, on June 16 and 17.

Mr. WALSH, for 5 minutes each day, on June 16 and 17.

(The following Members (at the request of Mr. OWENS) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. PAYNE.
Mr. PASCRELL.
Mr. KIND.
Mr. HAMILTON.
Mr. CARDIN.
Mr. GUTIERREZ.
Mr. TRAFICANT.
Mr. KUCINICH.
Mr. WEXLER.
Mr. MENENDEZ.
Mr. GEJDENSON.
Mr. SCHUMER.
Mr. BRADY of Pennsylvania.
Mr. LANTOS.
Mr. VISCLOSKY.
Mr. WYNN.
Mr. TIERNEY.
Mr. BAESLER.
Mr. ACKERMAN.
Ms. JACKSON-LEE of Texas.
Ms. KILPATRICK.
Mr. CONYERS.
Mr. BROWN of California.

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. CHRISTENSEN.
Mr. DUNCAN.
Mr. STEARNS.
Mr. ROGAN.
Mr. SHAW.
Mr. CALVERT.
Mr. WOLF.
Ms. ROS-LEHTINEN.
Mr. GINGRICH.
Mr. CUNNINGHAM.
Mrs. NORTHUP.
Mr. BEREUTER.
Mr. BASS.
Mr. RILEY.
Mr. FOX of Pennsylvania.
Mr. PAPPAS.
Mr. PACKARD.
Mr. BALLENGER.
Mr. LATOURETTE.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1531. An act to deauthorize certain portions of the project for navigation, Bass Harbor, Maine; to the Committee on Transportation and Infrastructure.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2709. An act to improve certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

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ADJOURNMENT

Mr. GOODLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 12 minutes a.m.), the House adjourned until today, Thursday, June 11, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9563. A letter from the Congressional Review Coordinator, Animal and Health Inspection Service, transmitting the Service's final rule—Witchweed; Regulated Areas [Docket No. 98-040-1] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9564. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Karnal Bunt Status of the Mexicali Valley of Mexico [Docket No. 97-060-2] (RIN: 0579-AA88) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9565. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Karnal Bunt; Compensation for the 1996-1997 Crop Season [Docket No. 96-016-29] (RIN: 0579-AA83) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9566. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Fees for Official Inspection and Official Weighing Services (RIN: 0580-AA59) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9567. A letter from the Secretary of the Navy, Department of Defense, transmitting a copy of the Department's determination that it is in the public interest to use other than competitive procedures for the procurement of the supplies described therein, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on National Security.

9568. A letter from the Secretary of Education, transmitting the semiannual report to Congress on Audit Follow-Up for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9569. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-355, "National Capital Revitalization Corporation Act of 1998" received June 8, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9570. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-356, "Access to Emergency Medical Services Act of 1998" received June 8, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9571. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-354, "Tax Increment Financing Authorization Act of 1998" received June 9, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9572. A letter from the Acting Comptroller General, Comptroller General of the United States, transmitting a list of all reports issued or released in April 1998, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

9573. A letter from the Acting Chairman, National Railroad Passenger Corporation, transmitting the semiannual report of the National Railroad Passenger Corporation for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9574. A letter from the Chief Operating Officer/President, Resolution Funding Corporation, transmitting a copy of the Resolution Funding Corporation's Statement on Internal Controls and the 1997 Audited Financial Statements, pursuant to Public Law 101—73, section 511(a) (103 Stat. 404); to the Committee on Government Reform and Oversight.

9575. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

9576. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of

Interest Rate [Revenue Ruling 98-32] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2742. A bill to provide for the transfer of public lands to certain California Indian Tribes; with an amendment (Rept. 105–575). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 465. Resolution providing for consideration of the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes (Rept. 105–576). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CHRISTENSEN:

H.R. 4025. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Ways and Means.

By Mr. BASS:

H.R. 4026. A bill to provide grants to states to offset costs associated with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; to the Committee on the Judiciary.

By Mr. CRAMER:

H.R. 4027. A bill to amend title 38, United States Code, to lengthen the accrual period prior to the death of an individual who is owed certain veterans' benefits, for the purpose of determining the amount of payment upon such death; to the Committee on Veterans' Affairs.

By Mr. GREEN:

H.R. 4028. A bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants; to the Committee on Commerce.

By Mr. JOHN:

H.R. 4029. A bill to clarify the applicability of authority to release restrictions and encumbrances on certain property located in Calcasieu Parish, Louisiana; to the Committee on Transportation and Infrastructure.

By Mrs. KENNELLY of Connecticut (for herself, Mrs. Tauscher, Mr. Fazio of California, Mr. Gephardt, Ms. DeLauro, Mr. Levin, Mr. Weygand, Ms. Lofgren, Mr. Doggett, Mrs. Clayton, Mr. McDermott, Mr. Abercrombie, Ms. Slaughter, Ms. Woolsey, Mr. Hoyer, Mrs. Maloney of New York, Mrs. Lowey, Mr. Allen, Ms. Carson, Ms. Stabenow, Mr. Manton, Mr. Moran of Virginia, Ms. Jackson-Lee, Mr. Ackerman, Mr. Andrews, Mr. Baldacci, Mr. Barrett of Wisconsin, Mr. Becerra, Mr. Bentsen, Mr. Blumenauer, Mr. Bonior, Mr. Borski, Mr. Boswell, Mr. Boucher, Mr. Brady of Pennsylvania, Ms. Brown of Florida, Mr. Brown of California, Mr. Brown of Ohio, Mrs. Capps, Ms. Christian-Green, Mr. Clay, Mr. Clement, Mr. Conyers, Mr. Costello, Mr. Cummings, Mr. Davis of Illinois, Ms. DeGette, Mr. Delahunt, Mr. Dicks, Mr. Dingell, Mr. Engel, Mr. Evans, Mr. Faleomavaega, Mr. Farr of California, Mr. Fattah, Mr. Filner, Mr. Ford, Mr. Frost, Ms. Furse, Mr. Gejdenson, Mr. Gordon, Ms. Harman, Mr. Hastings of Florida, Mr. Hefner, Mr. Hinchey, Mr. Hinojosa, Mr. Holden, Ms. Hooley of Oregon, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mr. Kanjorski, Ms. Kaptur, Mr. Kennedy of Massachusetts, Mr. Kennedy of Rhode Island, Ms. Kilpatrick, Mr. Lampson, Mr. Lantos, Ms. Lee, Mr. Lewis of Georgia, Mr. Martinez, Mr. Matsui, Mrs. McCarthy of New York, Ms. McCarthy of Missouri, Mr. McGovern, Mr. McNulty, Mrs. Meek of Florida, Mr. Meeks of New York, Ms. Millender-McDonald, Mr. Miller of California, Mrs. Mink of Hawaii, Mr. Moakley, Mr. Nadler, Mr. Neal of Massachusetts, Ms. Norton, Mr. Oberstar, Mr. Olver, Mr. Pallone, Mr. Payne, Ms. Pelosi, Mr. Poshard, Mr. Price of North Carolina, Mr. Rahall, Mr. Rodriguez, Mr. Romero-Barcelo, Mr. Sabo, Ms. Sánchez, Mr. Sandlin, Mr. Sawyer, Mr. Schumer, Mr. Scott, Mr. Serrano, Mr. Sherman, Mr. Snyder, Mr. Stark, Mr. Stokes, Mrs. Thurman, Mr. Torres, Mr. Underwood, Ms. Velázquez, Mr. Vento, Ms. Waters, Mr. Waxman, Mr. Wexler, Mr. Wynn, and Mr. Yates):

H.R. 4030. A bill to make child care more affordable for working families and for stay-at-home parents with children under the age of 4, to double the number of children receiving child care assistance, to provide for after-school care, and to improve child care safety and quality and enhance early childhood development; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Banking and Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL:

H.R. 4031. A bill to amend the Internal Revenue Code of 1986 to restore and make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 4032. A bill to repeal the authority of the Federal Communications Commission to require contributions from telephone carriers for the connection of schools, health care providers, and libraries to the Internet; to the Committee on Commerce.

By Mr. SMITH of Michigan (for himself, Mr. Minge, Mr. Neumann, and Mr. Paul):

H.R. 4033. A bill to amend title II of the Social Security Act to require investment of the Social Security trust funds in marketable securities, and for other purposes; to the Committee on Ways and Means.

By Mr. TRAFICANT:

H.R. 4034. A bill to amend the Act of June 1, 1948, to provide for reform of the Federal Protective Service; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 59: Mr. Skeen.

H.R. 339: Mr. Talent.

H.R. 588: Mr. McHale.

H.R. 1126: Ms. McCarthy of Missouri, Mr. Hefner, and Mr. Tanner.

H.R. 1215: Mrs. Thurman.

H.R. 1285: Mr. Collins.

H.R. 1375: Mr. Rothman.

H.R. 1401: Mr. Diaz-Balart and Mr. Bonilla.

H.R. 1453: Mr. Waxman.

H.R. 1531: Mr. McIntosh.

H.R. 1549: Mrs. Thurman.

H.R. 1773: Ms. McKinney.

H.R. 1865: Ms. DeGette.

H.R. 1985: Mr. Pickering.

H.R. 2023: Mr. Payne.

H.R. 2094: Mr. Waxman.

H.R. 2130: Mr. Foley.

H.R. 2257: Mr. Pickering.

H.R. 2409: Ms. Carson and Mr. Pastor.

H.R. 2504: Mr. Calvert.

H.R. 2509: Mr. Canady of Florida.

H.R. 2609: Mr. Everett.

H.R. 2661: Mr. Miller of Florida, Mr. Tiahrt, Mr. McIntosh, Mr. Hayworth, Mr. Hefley, Mr. Hoekstra, Mr. Goodling, Mr. DeLay, Mrs. Chenoweth, Mr. Doolittle, Mrs. Cubin, Mr. Sessions, and Mr. Jones.

H.R. 2721: Mr. Pease.

H.R. 2733: Mr. Thune, Mr. Crapo, Mr. Rahall, Mr. Weldon of Pennsylvania, Mr. Blunt, and Mrs. Johnson of Connecticut.

H.R. 2800: Mr. Jenkins, Mr. Cunningham, Mr. Petri, Mr. Skeen, Mr. Fossella, Ms. Granger, and Mr. McNulty.

H.R. 2850: Mrs. Myrick and Mr. King of New York.

H.R. 2908: Mr. Riley, Mrs. Emerson, Mr. Serrano, Mr. Graham, Mr. Condit, and Mr. Gekas.

H.R. 2923: Mr. Frelinghuysen and Mr. Yates.

H.R. 2942: Mr. Goodlatte, Mr. Blagojevich, and Mr. Paul.

H.R. 2990: Mr. Hutchinson, Mr. Pallone, Mr. Rothman, and Mr. Hamilton.

H.R. 3008: Mr. Rothman and Mr. Fox of Pennsylvania.

H.R. 3050: Ms. DeLauro.

H.R. 3067: Mr. Martinez.

H.R. 3126: Ms. Woolsey, Mr. Towns, Mr. Kennedy of Massachusetts, and Mr. Filner.

H.R. 3181: Mr. Sandlin.

H.R. 3243: Mr. Berry.

H.R. 3259: Mr. Mascara, Mr. Shays, Mr. Kennedy of Massachusetts, and Mr. Lantos.

H.R. 3290: Mr. Shays.

H.R. 3376: Mr. Lewis of Georgia and Mr. Barton of Texas.

H.R. 3382: Mr. Talent.

H.R. 3396: Mr. Hill, Mr. Adam Smith of Washington, Mr. Gilchrest, and Mr. Hostettler.

H.R. 3435: Mr. DeFazio, Mr. Sandlin, Mr. Bunning of Kentucky, and Ms. Hooley of Oregon.

H.R. 3445: Mr. Cunningham.

H.R. 3514: Mr. Gilman and Mr. Adam Smith of Washington.

H.R. 3523: Mr. Herger, Mr. Duncan, Mr. Bonior, Mrs. Myrick, Mr. Walsh, Mr. Gibbons, Mr. Sisisky, Mr. Lewis of California, Mrs. LINDA SMITH of Washington, Mr. GOODLATTE, and Mr. SMITH of Oregon.

H.R. 3535: Mr. LATHAM.

H.R. 3547: Mr. SANDERS.

H.R. 3551: Mr. ALLEN and Ms. HOOLEY of Oregon.

H.R. 3559: Mr. PORTER.

H.R. 3566: Mr. GILCHREST.

H.R. 3567: Mr. ENGLISH of Pennsylvania, Mrs. CAPPS, Mr. UPTON, Mr. HULSHOF, and Mr. KENNEDY of Massachusetts.

H.R. 3601: Mr. BLUNT.

H.R. 3605: Mr. DIXON, Mrs. MINK of Hawaii, Mr. REYES, Mr. CRAMER, Mr. HOLDEN, Ms. WATERS, Mr. GUTIERREZ, Mr. HINOJOSA, and Mr. JOHN.

H.R. 3610: Mr. HULSHOF, Mr. GIBBONS, Mr. UPTON, Mr. ALLEN, and Mr. PAYNE.

H.R. 3615: Mr. MCGOVERN and Mr. BONIOR.

H.R. 3636: Mr. YATES and Mr. SCHUMER.

H.R. 3637: Mr. TORRES, Mr. BENTSEN, Ms. CARSON, and Ms. LEE.

H.R. 3654: Mr. CANADY of Florida and Mr. COSTELLO.

H.R. 3682: Mr. REDMOND, Mr. WOLF, Mr. ROGAN, Mr. HILLEARY, Mr. CRAPO, Mr. BOB SCHAFFER, and Mr. BRADY of Texas.

H.R. 3698: Ms. LOFGREN.

H.R. 3774: Mr. YOUNG of Alaska and Mr. PASTOR.

H.R. 3799: Mr. HILLIARD.

H.R. 3835: Mr. FOLEY, Mr. POMEROY, Mr. NEY, Mr. PALLONE, Mr. WEYGAND, Mr. TOWNS, Mr. BAESLER, Mr. HASTINGS of Florida, Mr. WEXLER, and Mr. MINGE.

H.R. 3844: Mr. ENGEL, Mr. BROWN of Ohio, and Mr. BARRETT of Wisconsin.

H.R. 3858: Mr. CALVERT.

H.R. 3862: Mr. NEAL of Massachusetts.

H.R. 3875: Ms. CHRISTIAN-GREEN, Mr. MCDERMOTT, Mr. FAZIO of California, and Mr. WAXMAN.

H.R. 3877: Mr. BOEHLERT.

H.R. 3879: Mr. SENSENBRENNER, Mr. NEUMANN, Mr. WAMP, and Mr. CHRISTENSEN.

H.R. 3888: Ms. CARSON, Mr. MCINNIS, Mr. LIVINGSTON, Mr. COOKSEY, Mr. FRANK of Massachusetts, and Mr. SHIMKUS.

H.R. 3893: Mr. CALVERT.

H.R. 3898: Mr. BUYER and Mr. COMBEST.

H.R. 3915: Mr. WEYGAND.

H.R. 3919: Mr. PAPPAS, Mrs. KELLY, Mr. WATTS of Oklahoma, and Mr. ENGLISH of Pennsylvania.

H.R. 3937: Mr. FROST and Mr. FILNER.

H.R. 3946: Mr. BROWN of Ohio, Mr. SANDERS, Ms. LEE, and Mr. HORN.

H.R. 3976: Mr. MURTHA and Mr. TOWNS.

H.R. 4007: Mr. YATES, Mr. ACKERMAN, Mr. SCHUMER, Mr. TRAFICANT, Mr. TOWNS, Mr. BENTSEN, Ms. NORTON, Mr. MCGOVERN, Mr. WEXLER, Mr. MCDERMOTT, Mr. FOSSELLA, Mr. FROST, Mr. BEREUTER, and Ms. ROS-LEHTINEN.

H. Con. Res. 27: Mr. ROMERO-BARCELO, Ms. MCCARTHY of Missouri, and Mr. PETERSON of Minnesota.

H. Con. Res. 47: Mr. DAVIS of Illinois and Mr. VENTO.

H. Con. Res. 125: Mr. HINCHEY.

H. Con. Res. 188: Mr. BLUMENAUER.

H. Con. Res. 210: Mr. FAWELL.

H. Con. Res. 281: Mr. LIPINSKI.

H. Con. Res. 286: Ms. CARSON, Mr. ROTHMAN, and Ms. PELOSI.

AMENDMENTS

H.R. 2183

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 70: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REDUCTION IN CONTRIBUTION LIMITS FOR CERTAIN PACS

SECTION 401. REDUCTION IN AMOUNT THAT A NONPARTY MULTICANDIDATE POLITICAL COMMITTEE MAY CONTRIBUTE TO A CANDIDATE IN A CONGRESSIONAL ELECTION.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after "$5,000" the following: ", except that, with respect to an election for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the limitation applicable to a nonparty multicandidate political committee under this subparagraph shall be $1,000".

H.R. 2183

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 71: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—CONTRIBUTIONS FROM OUT-OF-STATE SOURCES

SEC. 401. CONGRESSIONAL ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN IN-STATE INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than in-State individual residents that, in total, are equal to or greater than the total of contributions accepted from in-State individual residents.

"(2) The exceptions relating to the name and address of a person making a contribution of $50 or less and the date of such contribution, as contained in subsection (b)(1), subsection (b)(2)(A), and subsection (c)(2) of section 302, shall not apply to contributions with respect to elections for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

"(3) As used in this subsection, the term 'in-State individual resident' means an individual who resides in the State in which the election involved is held.".

SEC. 402. REPORTING REQUIREMENT FOR OUT-OF-STATE CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES ELECTIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Any report of contributions with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, shall segregate and itemize all out-of-State contributions.".

H.R. 2183

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 72: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BETWEEN PACS

SEC. 401. PROHIBITING CONTRIBUTIONS BETWEEN MULTICANDIDATE POLITICAL COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) Notwithstanding any other provision of this Act, a multicandidate political committee may not make a contribution to another multicandidate political committee.".

H.R. 2183

OFFERED BY: MRS. FOWLER

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 73: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REDUCTION IN CONTRIBUTION LIMITS FOR CERTAIN PACS

SECTION 401. REDUCTION IN AMOUNT THAT A NONPARTY MULTICANDIDATE POLITICAL COMMITTEE MAY CONTRIBUTE TO A CANDIDATE IN A CONGRESSIONAL ELECTION.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after "$5,000" the following: ", except that, with respect to an election for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the limitation applicable to a nonparty multicandidate political committee under this subparagraph shall be $1,000".

H.R. 2183

OFFERED BY: MRS. FOWLER

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 74: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—CONTRIBUTIONS FROM OUT-OF-STATE SOURCES

SECTION 401. CONGRESSIONAL ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN IN-STATE INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than in-State individual residents that, in total, are equal to or greater than the total of contributions accepted from in-State individual residents.

"(2) The exceptions relating to the name and address of a person making a contribution of $50 or less and the date of such contribution, as contained in subsection (b)(1), subsection (b)(2)(A), and subsection (c)(2) of section 302, shall not apply to contributions with respect to elections for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

"(3) As used in this subsection, the term 'in-State individual resident' means an individual who resides in the State in which the election involved is held.".

SEC. 402. REPORTING REQUIREMENT FOR OUT-OF-STATE CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES ELECTIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Any report of contributions with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, shall segregate and itemize all out-of-State contributions.".

H.R. 2183

OFFERED BY: MRS. FOWLER

(To the Amendment Offered By Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 75: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BETWEEN PACS

SECTION 401. PROHIBITING CONTRIBUTIONS BETWEEN MULTICANDIDATE POLITICAL COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) Notwithstanding any other provision of this Act, a multicandidate political committee may not make a contribution to another multicandidate political committee.".

H.R. 2183

OFFERED BY: MRS. GILCHREST

AMENDMENT NO. 76: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BY PACS AND NONRESIDENTS

SEC. 401. PROHIBITION OF CONTRIBUTIONS BY NONPARTY MULTICANDIDATE POLITICAL COMMITTEES IN ELECTIONS FOR FEDERAL OFFICE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, no nonparty multicandidate political committee may make any contribution to a candidate for Federal office.

"(2) As used in this subsection, the term 'multicandidate political committee' has the meaning given that term in subsection (a)(4).".

SEC. 402. HOUSE OF REPRESENTATIVES ELECTION PROHIBITION OF CONTRIBUTIONS FROM INDIVIDUAL NONRESIDENTS OF THE CONGRESSIONAL DISTRICT.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

"(j) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions from an individual who is not a resident of the congressional district involved.".

H.R. 2183

OFFERED BY: MR. GILCHREST

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 77: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PROHIBITING CONTRIBUTIONS BY PACS AND NONRESIDENTS

SEC. 401. PROHIBITION OF CONTRIBUTIONS BY NONPARTY MULTICANDIDATE POLITICAL COMMITTEES IN ELECTIONS FOR FEDERAL OFFICE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, no nonparty multicandidate political committee may make any contribution to a candidate for Federal office.

"(2) As used in this subsection, the term 'multicandidate political committee' has the meaning given that term in subsection (a)(4).".

SEC. 402. HOUSE OF REPRESENTATIVES ELECTION PROHIBITION OF CONTRIBUTIONS FROM INDIVIDUAL NONRESIDENTS OF THE CONGRESSIONAL DISTRICT.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

"(j) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions from an individual who is not a resident of the congressional district involved.".

EXTENSIONS OF REMARKS

THE FEDERAL PROTECTIVE SERVICE REFORM ACT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. TRAFICANT. Mr. Speaker, today I am introducing the Federal Protective Service Reform Act of 1998. This legislation makes much needed reforms to the Federal Protective Service (FPS). These reforms will allow FPS to better meet the growing threat posed by terrorism to federal buildings and the people who work in and visit federal buildings.

On April 19, 1995, a truck bomb destroyed the Alfred P. Murrah federal building in Oklahoma City, Oklahoma. The tragic and despicable act killed 168 people and wounded hundreds of others. The Oklahoma City bombing served as a sober reminder that the United States is not immune to acts of terror. The bombing also revealed that we were woefully unprepared for such an act.

I was deeply disturbed to learn that there was only one contract security guard on duty in Oklahoma City on April 19, 1995. That contract guard was responsible for providing security at the Murrah building and two other federal buildings in Oklahoma City. There is evidence that those responsible for bombing the Murrah building cased the building in the days and weeks leading up to the bombing. The fact that the Murrah building was, for the most part, unprotected, could have played a role in the decision of the terrorists to bomb that building.

In the wake of the Oklahoma City bombing, the Public Building Service (PBS) of the General Services Administration (GSA) has made great strides in improving the physical security of the 8,300 federal buildings under its control. But, as a recent hearing by the Transportation and Infrastructure Subcommittee on Public Buildings and Economic Development revealed, the security upgrade program initiated in the wake of the Oklahoma City bombing has been hindered by mismanagement and a reduction in staffing. In addition, structural and personnel problems within the Federal Protective Service are also hindering GSA's ability to upgrade and improve security.

At the present time the FPS is a unit within PBS. The head of FPS reports to the PBS commissioner. The PBS commissioner does not have a law enforcement background and his main responsibility is real estate management—not law enforcement. While we do have a very able and talented PBS commissioner, I did not believe that security is best served by having FPS as a sub-entity within PBS.

While I recognize that the use of contract guards is necessary, I am concerned that the use of contract guards may not be appropriate at certain federal buildings. I am also concerned over the fact that contract guards do not undergo the same type of background checks as FPS officers. All FPS officers undergo a full and detailed background investigation, including a review by the Federal Bureau of Investigation. Contract guards, on the other hand, only undergo a cursory background check. At the present time there are only 648 full-time FPS officers, as opposed to more than 5,000 contract guards. The best deterrent to a terrorist bombing or attack on a federal building is a highly trained, professional and fully staffed FPS.

I have great admiration for the men and women who serve so ably on the FPS. That's why I am deeply troubled that FPS officers are paid significantly less than other federal law enforcement officers that perform the same function. This is not fair. Equally as disturbing, the low level of compensation combined with poor communication between management and the rank and file is causing a morale and turnover problem that could further compromise security. Morale plays a key role in the effectiveness of any law enforcement agency. The Federal Protective Service Reform Act will make the changes needed to boost morale, improve management and make FPS better able to respond to terrorist threats to federal buildings.

Quite simply, Mr. Speaker, the goal of my legislation is to remake the FPS into an elite federal law enforcement agency with a well trained, professionally led, highly motivated and appropriately compensated cadre of officers. Another goal is to ensure that decisions to how best to ensure the security of federal buildings are based on sound law enforcement and intelligence analysis—not on budgetary considerations. The main features of the Federal Protective Service Reform Act will:

Establish, by statute, the Federal Protective Service as a freestanding service within GSA, with the responsibility of serving as the principal law enforcement and security agency in the United States with respect to the protection of federal officers and employees in buildings and areas under GSA's control (under the Public Buildings Act, the GSA Administrator has the authority to appoint special police officers and investigators, but the Act does not require GSA to establish an FPS).

Make FPS a service within GSA, separate from PBS. Under the bill, the FPS would have its own commissioner who will report directly to the GSA Administrator (currently the head of FPS has the title of Assistant Commissioner within the Public Building Service).

Clarify the responsibilities and authority of FPS officers, including giving them the ability to carry firearms to and from work, providing officers with a "buffer zone" of responsibility extending as far as 500 feet from a federal building, and clearly delineating the circumstances under which FPS officers can make arrests.

Establish a pay scale and benefit package for FPS officers similar to that of the Uniformed Division of the Secret Service.

Require GSA to hire at least 730 full-time FPS officers within one year of enactment of the bill into law, and bar GSA from reducing the number of full-time FPS officers unless specifically authorized by Congress (the PBS commissioner recently stated that GSA's long-term goal is to have 724 full-time FPS officers).

Require contract guards to undergo the same background checks as FPS officers, and require GSA to prescribe adequate training standards for contract guards.

Direct a General Accounting Office study of the feasibility of merging all federal building security services under FPS.

Require that the FPS Commissioner be a career civil servant with extensive law enforcement experience.

Direct FPS to work closely with other federal agencies in gathering and analyzing intelligence.

Direct the FPS commissioner to provide assistance, upon request, to other federal, state and local law enforcement agencies.

Mr. Speaker, the Federal Protective Service Reform Act of 1998 is an urgently needed piece of legislation that will allow this country to better protect itself from a terrorist attack. This legislation should be an integral part of our counter-terrorism strategy. I urge all Members to support this bill.

TRIBUTE TO BRIAN STOWE

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. TIERNEY. Mr. Speaker, I rise to salute Mr. Brian Stowe of Lynn, Massachusetts who has received an award from the Lynn Hispanic Scholarship Fund, Inc. for academic excellence.

I hope Brian appreciates and is proud of his accomplishments. At a young age, he has realized the value of helping those less fortunate than himself by volunteering in his community. A particular passion of Brian's has been his involvement with My Brother's Table, a food pantry which services the needy. A native of Lynn, Brian will leave home for the first time in the fall as he begins his college career at Fairfield University in Connecticut. I trust that he understands the value of continuing his education, and I am certain that he will enjoy many new challenges. His dedication and commitment are to be commended. I have no doubt that he will be successful in his future endeavors.

Indeed, Mr. Stowe has worked hard to achieve his goals. Mr. Speaker, I am proud to stand here to recognize the accomplishments of Brian Stowe, and I hope my colleagues will join with me today in wishing Mr. Stowe the very best as he continues his education.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SEXUAL HARASSMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 27, 1998 into the CONGRESSIONAL RECORD.

SEXUAL HARASSMENT

When I came to Congress in the 1960s, women were beginning to define the feminist movement and to provide their own answers to the question, "What do women want?" Women have since advanced in all areas of American life, from Little Leagues including girls, to the military academies admitting women, to women serving in greater numbers in the highest ranks of government and business. Women have also helped shape public policy on a number of fronts, including workplace laws barring sex discrimination and promoting equal pay as well as laws providing for family and medical leave and gender equity in education.

Recent events, including the Paula Jones suit, the Clarence Thomas-Anita Hill hearings, and the sex scandals in the military, are focusing public interest on sexual harassment in the workplace. Sexual harassment claims have increased as more women have entered the workforce and the issue has gained greater attention. The number of sexual harassment complaints filed with the Equal Employment Opportunity Commission (EEOC), the federal agency responsible for enforcing discrimination law, increased from 6,800 in 1990 to nearly 16,000 cases in 1997.

What precisely constitutes sexual harassment, however, continues to be a vexing question. There are few established guidelines for employers and employees in this area, and the relevant federal laws do not even include the words "sexual harassment." The vague nature of current law and the increase in cases before the courts have added pressure on the legislative and judicial branches to clarify the law in this area.

Overview: The Civil Rights Act of 1964 is the primary law addressing sexual harassment. Title VII of this law does not specifically mention sexual harassment, but makes it unlawful for employers with 15 or more employees to discriminate against any applicant or employee on the basis of sex. The law implies that when a supervisor sexually harasses a subordinate because of the subordinate's sex, that supervisor discriminates on the basis of sex.

The EEOC will generally enforce Title VII claims in the following manner: Upon receiving a complaint from an employee, the EEOC investigates the case and renders a decision on whether there is reasonable cause to believe that discrimination has occurred. If the EEOC substantiates the charge but is unable to reach an acceptable conciliation agreement between the employer and employee, then the EEOC will issue a right to sue letter on behalf of the employee. If an employee chooses to file a private lawsuit under Title VII, the employee must begin with filing a charge with the EEOC.

Sexual harassment cases are generally divided into two basic categories, "quid pro quo" and "hostile working environment" harassment. Traditional quid pro quo harassment takes place when an employee suffers tangible harm—the loss of a job, promotion, income or benefits—because the employee has resisted sexual advances. Recently, the legal definition of sexual harassment has been expanded to include hostile working environment harassment. Hostile working environment harassment is defined as an "intimidating, hostile, or offensive environment" or an environment which unreasonably interferes with an individual's work performance.

Unresolved Areas: The federal courts are now wrestling with a range of issues in this area of the law.

Defining quid pro quo: The Supreme Court is considering whether a worker has a legitimate quid pro quo case if the employee neither submitted to the employer nor suffered any tangible detriment for saying no. The employee in the pending case alleges her supervisor made sexually lewd comments throughout her employment, including specific remarks implying her job was on the line if she did not comply with his advances, but the employee never suffered adverse consequences for not complying. The Supreme Court's decision on this case could potentially lower the threshold for what constitutes legitimate quid pro quo harassment, and could directly impact cases pending in federal court, most notably the Jones case.

Defining hostile work environment: In moving a hostile work environment claim, the employee is required to show that the supervisor's conduct was so severe or pervasive that it created a hostile work environment. Federal courts have split on the question of whether an employee must prove not only that the conduct complained of would have offended a reasonable victim, but also that she suffered serious psychological injury as a result of the conduct. The Supreme Court attempted to clarify the matter in 1993, concluding that a victim of sexual harassment need not experience a "nervous breakdown" for the law to come into play. But as the Jones case demonstrated, the issue continues to be hotly debated.

Employer liability: A third issue is whether and when employers are liable for the actions of their employees. Most courts usually hold employers responsible for quid pro quo sexual harassment by supervisors, but employers are not automatically liable for a hostile environment created by supervisors or co-employees. In a hostile environment case, the employee must show that the employer's knew or should have known about the harassment.

Same-sex harassment: A fourth issue is whether sexual harassment can occur between an employer and employee of the same sex. The Supreme Court ruled this year that the law does allow for same-sex claims.

Conclusion: What impresses me about this issue is how much difficulty we have had sorting out relations between men and women in the workplace, how much confusion exists between the genders, and how vague and imprecise the law is in this area, even after three decades of evolution. It will not be easy for Congress or the courts to solve this age-old problem. We must, of course, keep trying for better laws and equal treatment, but men's and women's relationships have always been—and will remain—extremely complicated and filled with ambiguities.

The confusion and uncertainties of the sexual harassment laws create wasteful litigation and disruption in the workplace. Employers and employees may not know what is legal and what is not. A vague law makes justice depend on which judge or jury is deciding any particular case. It is time for Congress or the Supreme Court to clarify the law. With current cases pending, it is more likely the Court will speak first.

IN HONOR OF THE CONGREGATION OF GEORGIAN JEWS' 16 YEAR ANNIVERSARY CELEBRATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. SCHUMER. Mr. Speaker, throughout the past twenty-six centuries the Georgian Jews have carried the torch of the Jewish faith, preserving the traditions, customs and practices of their age-old religion. This special unified community boasts riches of traditions and a unique history and interface with the world's Jewry.

The roots of the Georgian Jewish community extend as far back as the sixth century BCE, where upon expulsion by the Assyrians, as well as the fall of Jerusalem and the destruction of the First Temple, a group of Israelites settled in the Caucasus Region, presently known as the Republic of Georgia. Archaeological discoveries of a number of Jewish settlements from the period of the destruction of the Second Temple, clearly establishes the continuing connection between the Georgian Jews and Jerusalem. Neither Ashkenazi or Sephardi in their affiliation, Georgian Jews represent an independent string to the Twelve Tribes of Israel; a string that has played an integral role in the development and maintenance of the Jewish identity and nationality.

The Georgian Jews' undying devotion to the Jewish faith and patriotism for the Biblical Homeland continues to flourish in this century as well. The Georgian Jews managed to make themselves heard and recognized even from behind the Iron Gates of the Soviet Union in 1969, in the form of a letter sent to the United Nations, which demanded the right to emmigrate to the State of Israel. This unprecedented call for freedom caused the first crack of the Iron Curtain that marked the beginning of the "Aliyah," the migration to Israel, of the oppressed Soviet Jewry to their beloved Homeland.

Today, the Georgian Jews are mostly settled in the United States and Israel and continue to follow in the footsteps of their ancestors, perpetuating the religious and spiritual traditions of their heritage. The Synagogue has always played an integral role in the communities of the Georgian Jews, serving as the center of religious life and the spiritual source of nourishment which feeds the souls of Georgian Jews around the world, from Israel to Georgia to the United States.

The Congregation of Georgian Jews in Forest Hills, New York, the main synagogue, represents the strength of Georgian Jews and is a beacon for their communities throughout the world. The synagogue is a symbol of the survival of the Georgian Jewry, and their dedication to their faith, culture and heritage.

I want to recognize the devotion and determination of the Georgian Jewry that they have continually exhibited towards their religion and communities. The Georgian Jews are truly inspirational. I am confident that their communities will continue to grow and flourish, and that with the future of their children, the light of the past will continue to shine.

LEARN TO FLY MONTH

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. DUNCAN. Mr. Speaker, the General Aviation Industry is one of the most important industries in our Nation. Since the Wright Brothers' first flight in Kitty Hawk, North Carolina, aviation has played a crucial rule in the livelihood of our Nation.

In the United States, business aviation and U.S. air carriers are experiencing record growth and are expected to carry over 1 billion passengers a year early in the next decade.

Aviation is an essential ingredient in the economic success of our Nation. The role of aviation can be seen each and every day at over 13,000 airports and landing facilities here in the United States. It is here that the men and women of the aviation industry strive to make the United States the world's leader in aviation.

The month of June has been designated as "Learn To Fly Month". I hope that more people will take an interest in aviation. In order to maintain our position as the world's leader in aviation, the United States must recognize the importance of highly qualified and well-trained pilots.

These pilots are a key ingredient in the success of the United States Aviation Industry and help to maintain the best aviation infrastructure in the world.

I place the following proclamation by Transportation Secretary Rodney Slater proclaiming June as Learn To Fly Month, in the RECORD and call it to the attention of my colleagues.

THE SECRETARY OF
TRANSPORTATION,
Washington, DC, June 9, 1998.

Whereas aviation is a vital link of our nation's transportation system and economy;

Whereas the growth, safety, and efficiency of aviation requires highly qualified pilots;

Whereas in 1996, fewer people undertook flight training than anytime since the Korean War, and the overall U.S. pilot population declined to the lowest number in over 20 years;

Whereas the United States Military is training fewer pilots than anytime in recent history;

Whereas the United States airlines and business aviation are experiencing record growth and are expected to carry over 1 billion passengers a year early in the next decade;

Whereas the General Aviation Revitalization Act of 1994 has stimulated the rebirth of light general aviation aircraft manufacturing in the United States;

Whereas general aviation is playing an increasingly important role in the nation's air transportation system serving over 13,000 airports and landing facilities;

Whereas the experience of flight offers the opportunity for personal challenge and self fulfillment in professional and personal endeavors;

Whereas GA Team 2000 has been formed by over 120 companies and associations representing all facets of the civil aviation industry with the specific purpose of stimulating more student pilots;

Whereas over 1600 flight training institutions and schools are participating in this national effort;

Therefore in special recognition of rebuilding America's pilot population, I Rodney Slater, Secretary of Transportation, do hereby proclaim June 1998 as Learn to Fly Month with the recognition that highly qualified and well trained pilots are an essential ingredient of our nation's aviation infrastructure.

RODNEY E. SLATER.

TRIBUTE TO PATRICIA FRANCIS

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. TIERNEY. Mr. Speaker, I rise to salute Ms. Patricia Francis of Lynn, Massachusetts who has received an award from the Lynn Hispanic Scholarship Fund, Inc. for academic excellence.

I hope Patricia appreciates and is proud of her accomplishments. She has challenged herself by transitioning from bilingual classes to English only classes after only one year in the bilingual program. She has also successfully balanced several extracurricular activities with her academic responsibilities. Serving in her role as a mentor for elementary school children, Patricia has undoubtedly made an impression upon them about the importance of making a commitment to education. Her dedication is to be commended. I have no doubt that she will be successful in her future endeavors as she pursues her career goals in journalism starting at Salem State College.

Indeed, Ms. Francis has worked hard to achieve her goals. Mr. Speaker, I am proud to stand here to recognize the accomplishments of Patricia Francis, and I hope my colleagues will join with me today in wishing Ms. Francis the very best as she continues her education.

THE BUDGET

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 10, 1998 into the CONGRESSIONAL RECORD.

THE BUDGET SURPLUS

One of the most striking economic developments this year has been the return of the federal budget surpluses. For the first time since the Johnson Administration the federal government will spend less than it receives in revenue. The deficits reached a record $290 billion in 1992 under President Bush, and for many years they have dominated the policy debate in Washington. Turning this around has been a major accomplishment. Now Congress is faced with the quite different question of what to do with the surpluses.

LATEST PROJECTIONS

The latest projections are that the federal budget will run a surplus of around $50–60 billion this year. The projections are even better after that, as the combined surpluses over the next ten years could exceed $1.5 trillion. These surpluses reverse the trend of the past three decades in which the federal government built up most of the national debt, which now stands at $3.8 trillion.

REASONS FOR SURPLUS

Part of the credit for the surplus goes to Congress, especially for passing the 1993 deficit reduction package. That helped to slow the growth of government spending and built greater spending restraint into the budget law. Major factors in holding down spending have been the shift toward managed care in Medicare and defense downsizing after the end of the Cold War.

But even more important than the spending restraint has been the growth in revenues coming into the Treasury because of the strong showing of the U.S. economy. More people have been working and hence paying taxes; the stock market has been booming, generating a sharp increase in capital gains taxes; and corporate profits have been high. Tax revenues during the month of April were some 14% higher than a year ago, and, because of the strong economy, tax receipts as a share of the economy have risen to 21.5%, a postwar record.

NEED FOR CAUTION

Yet that dependence of the budget surplus on the economy's remarkable performance means we must be particularly cautious. Our economy will at some point slow down. The current economic expansion is the second longest since World War II, and the business cycle hasn't been repealed. When the economy slows, incoming revenues will drop and the surplus could be reduced or eliminated altogether. Even an average-sized recession could mean a $100 billion budgetary shortfall for a year or two.

There's a second reason to be careful with these surpluses. Long-range forecasts can be quite unreliable. The forecast of a surplus five or ten years from now is not much better than an educated guess. Early last year, for example, the Administration was forecasting a $121 billion deficit for 1998; now they are forecasting a sizable surplus. If we cut taxes or increase expenditures now, that will be very hard to reverse if the forecasts are wrong.

A third reason to be cautious is that the surpluses are to some degree an illusion. They occur because the tallying of federal spending and receipts includes the surpluses in Social Security. If the Social Security accounts are removed, the remaining tax payments fall tens of billions of dollars short of covering the full cost of providing government services.

The fourth reason for caution about the surpluses is a longer-term one. When the baby-boom generation begins to retire in about ten years, the whole demographic structure of our population changes. Between now and the year 2030 the number of people aged 65 or older will double, but the number of people ages 20 to 64 will increase by only about 15%. As the baby-boomers become eligible for Social Security, Medicare, and Medicaid, that will put an enormous strain on federal spending. The biggest chunk of federal spending, by far, currently goes for programs for older Americans, and that will only increase in the years ahead.

POLICY OPTIONS

The surpluses put us into an altogether new policy field, and there are many proposals in Washington today to cut taxes or increase spending. Yet I think a very strong case can be made for using the emerging surpluses to pay down the federal debt.

Despite the bright projections for the budget, the short-term uncertainties and the future imbalances due to the baby-boomers' retirement are cause for major concern. A key issue before Congress and the President is how to begin to prepare for the budgetary shortfalls that will surely arise. I find it helpful to think about this problem of the immediate surpluses in terms of ourselves and our children and grandchildren. If we cut taxes or increase spending now we can certainly provide benefits for ourselves. On the other hand, if we keep the surpluses to pay down the country's debt, that will boost the supply of private savings and investment and provide higher incomes for the next generations. Passing on a huge debt burden, which today requires interest payments of almost $250 billion each year, is quite unfair to our children and grandchildren and it is a poor way to prepare for the next century.

We cannot count on the favorable trends continuing; the wise thing to do is to wait and see what happens. We should also wait until Congress takes steps to shore up Social Security. We should not be spending the surpluses until the government's revenue and spending excluding Social Security are in balance and Social Security's long-term fiscal imbalance has been addressed. It is certainly premature to talk about spending a surplus when we have huge entitlement costs looming before us in the near future. We shouldn't spend money we may not have. Moreover, I don't see the American people crying out for government action, either on the spending side or the revenue side. And, with the economy performing quite well, I see little reason for changing the government's fiscal approach at the present time. So I think we should resist the proposals calling for new tax cuts or increased government spending. I believe we will get a higher economic return from future surpluses by using them to whittle down the $3.8 trillion in federal debt held by the public.

I understand that it is possible to use the surplus to carefully craft tax cuts or new spending programs that deepen the nation's long-term capital base and encourage economic growth. But I am not at all sure that those sound proposals would emerge from the legislative process. On balance debt reduction probably makes more sense.

CONCLUSION

So my preference is to leave the budget surplus alone, and if sizeable surpluses do in fact arrive they should be committed to our future, not to the present. It seems clear to me that those who want to reduce the surpluses, whether by tax cuts or spending increases, will be impairing the incomes of our children and grandchildren. They are making a clear choice, preferring our generation to future generations.

A TRIBUTE TO THE ISRAELI MIA'S

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. SCHUMER. Mr. Speaker, I rise today to commemorate the capture of several Israeli soldiers who were taken prisoner by the Syrians in the 1982 Israeli war with Lebanon.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in Lebanon's Bekaa Valley. The Syrians succeeded in capturing Sgt. Zachary Baumel, 1st Sgt. Zvi Feldman and Cpt. Yehudah Katz. Upon arrival in Damascus, the identified tank and crew were paraded through the streets draped in Syrian and Palestinian flags.

Since that terrible day in 1982, the Israeli and the United States Governments have been working to obtain any possible information about the fate of these missing soldiers, joining forces with the offices of the International Committee of the Red Cross, the United Nations and other international bodies. According to the Geneva convention, the area in Lebanon where the soldiers first disappeared was continually controlled by Syria, therefore deeming her responsible for the treatment of the captured soldiers. To this day, despite the promises made by the Syrian Government and by the PLO, very little information has been forthcoming about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

June 11 marks the anniversary of the day that these soldiers were reported missing in action. Sixteen pain-filled years have already passed since the families of the MIA's have last seen their sons, and yet President Assad has still not revealed their whereabouts.

One of these missing soldiers, Zachary Baumel, is an American citizen from my district in Brooklyn, NY. A dedicated basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members, and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. But fate had unfortunately decreed otherwise and on June 11, 1982 he vanished.

Zachary's parents, Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, the American Coalition for Missing Israeli Soldiers, and the MIA Task Force of the conference of Presidents of major American Jewish organizations. The Stella K. Abraham High School for Girls forged a project that has increased awareness and support for the MIAs plight for freedom. These groups have been at the forefront of this pursuit of justice. I want to recognize their devoted efforts and ask my colleagues to join me in commending their efforts. These families have been without their children for sixteen years. Answers must be found.

THE 25TH ANNIVERSARY OF THE MARYLAND REHABILITATION CENTER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Maryland Rehabilitation Center, which is celebrating its 25th Anniversary on June 19, 1998. Since opening its doors in 1973, the Center has gained international recognition as a provider of quality comprehensive rehabilitation services. At the Center, more than 50,000 individuals with disabilities have received the services they need to help them reach employment goals and achieve greater independence.

Located on 14 acres in northeast Baltimore, Maryland, the Maryland Rehabilitation Center is operated by the Maryland State Department of Education, Division of Rehabilitation Services. It is one of only nine comprehensive vocational rehabilitation centers in the United States, and has earned an international reputation for its innovative approach to helping individuals circumvent or compensate for their disabilities.

In carrying out its mission, the Center offers a wide variety of services, including evaluations, therapies, and training programs. In helping those with disabilities become as independent as possible, the Center helps identify suitable vocational goals and therapy needs.

Occupational training is offered in 12 areas, including office technology, computer programming, automotive repair and cosmetology. The Center often works with employers to hire qualified individuals who have the skills to do the job. In addition, the Center also offers remedial education, counseling, driver's education and specialized services for individuals who are deaf and/or blind.

I hope that my colleagues will join me in saluting the Maryland Rehabilitation Center for its dedication and commitment to helping those with disabilities achieve their goals for employment and independence. The Center's pioneering work has given thousands of individuals an opportunity to achieve success.

TRIBUTE TO SAMUEL SPINA

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. PASCRELL. Mr. Speaker, I would like to take this opportunity to introduce you to a remarkable man, Samuel Spina, the Mayor of the Township of West Orange, New Jersey. Sam and I have worked together for many years. His colleagues and I agree that he has always been considered to be one of the most dedicated and conscientious public servants in our great state.

Born and raised in West Orange, Sam attended local schools and received his degree from Seton Hall University. Following graduation, Sam served our country in the United States Marine Corps. After completing his service commitment, he returned to marry his high school sweetheart, the former Joan Coen. Settling in West Orange, they raised seven children, and have more recently been blessed with six grandchildren.

Mayor Spina began his distinguished career in public service in 1970 when he was elected to the West Orange Township Council, receiving more votes than any other candidate in that open election. In May 1978, Sam was elected Mayor for the first time. In 1982, Sam became the first candidate for Mayor to run unopposed in the history of West Orange. Clearly his talents and keen insight into public policy were not lost on the electorate. After being elected to an unprecedented fifth term in 1994, he continues to serve in that position to this day.

The citizens' appreciation of Sam's service and the recognition from his peers have been unparalleled. He was elected to serve as the President of the New Jersey Conference of Mayors in April 1988. Mayor Spina took the office to which he was elected seriously, making a concerted effort to educate the people of the Garden State on the fundamentals of local government. In 1991, he was elected Chairman of the Essex County Conference of Mayors.

In addition to his respected political career, Sam has been extremely active in the West Orange community. Known throughout Essex County as a man who gives freely of his time, he frequently can be seen at Our Lady of Lourdes Church. He is also dedicated to recognizing and promoting the interests of our seniors and disabled citizens, often organizing activities devoted expressly to them. Mayor Spina is also a valued member of the World Wildlife Fund, Common Cause, the West Orange Animal Welfare League, and GASP.

Mr. Speaker, I ask that you join me, our colleagues, the citizens of West Orange, and Sam's friends and family as we recognize Mayor Samuel Spina's valuable contribution to the community.

TIME TO PAY OUR U.N. DUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. HAMILTON. Mr. Speaker, it is time to pay the arrears that we owe to the United Nations.

I include for printing in the RECORD a letter form the Honorable John Whitehead, Deputy Secretary of State in the Reagan Administration, and Chair of the United Nations Association. Mr. Whitehead eloquently outlines the reasons we should pay our arrears, and the costs to United States interests if we do not. He further refutes effectively the argument some have made that we do not actually owe this money to the United Nations.

I urge my colleagues to read this letter, and call on the Congress to take action to pay what we owe.

UNITED NATIONS ASSOCIATION OF
THE UNITED STATES OF AMERICA,
June 1, 1998.

DEAR MEMBER OF CONGRESS: The United Nations Association of the USA, representing millions of Americans through its nationwide chapters and affiliated organizations, regrets the continuing impasse over payment of US arrears to the United Nations. We urge you to consider the following points during the weeks ahead as Congress grapples with the problem of meeting longstanding financial obligations to the United Nations.

The United States, first of all, faces the loss of its vote in the UN General Assembly at the end of this year under Article 19 of the UN Charter. This penalty is automatically applied if a member state's arrears at the year exceed the previous two years' assessments. With the world's largest economy by far, the US historically has been the largest contributor to the UN system. But, the US is now responsible for some 60 percent of the debt of all member states—arrearages more than double the UN's annual regular budget, which are crippling UN capabilities and paralyzing peacekeeping. Although various contingencies could avoid America's loss of vote at the start of 1999, the mere possibility that the world's leader may be placed in such a position does not befit our great nation.

On another issue of evident priority to American policymakers, the US now has a limited window of opportunity to negotiate a lowering of its United Nations assessment—from its present rate of 25 percent of the UN's regular budget to 22 percent. UN member states have indicated a willingness to reopen negotiations on the assessment level if a substantial amount of US arrears are paid. One might note that the Reagan Administration—in which I served as Deputy Secretary of State—had opposed such a reduction, fearing diminished influence would follow; other countries oppose it on grounds of equity: A member state's assessment is based primarily on "capacity to pay," largely measured by each member's share of world income—over 26 percent for the United States. The US already pays less than this amount. In contrast, for example the 15 member states of the European Union which account for 30.8 percent of world income, are assessed 36.2 percent of UN costs. The assessment on the Japanese, even with their ailing economy, will rise to just above 20 percent in the year 2000.

Those calling for a lowering of the US rate of assessment argue that this country makes appreciable contributions to the maintenance of international peace and security in other ways, particularly through its defense commitments and refugee and other emergency relief programs. They argue that the United Nations does not reimburse the US for these contributions. When the United States Government decides to launch such operations on its own, under its own control—even if blessed by authorizing United Nations Security Council resolutions—other countries have no say in the mission (and indeed, may see it as susceptible to manipulation for US advantage). We would rightly object to paying through the UN for Russian troops under Russian command in Georgia, or for Nigerian troops under Nigerian command in Sierra Leone—so we cannot claim that the rest of the world owes us money for US operations. The Italians, who led a mission in Albania with very close Security Council oversight, acknowledge they have no claim to reimbursement from other UN members for the costs of that operation. With UN control goes UN financial responsibility—and with national control goes national financial responsibility. If a country asserts exclusive control over its deployments, it volunteers to pay the costs on its own.

Most of the United States' debt to the United Nations actually is owed to past peacekeeping activities, particularly in the former Yugoslavia, which the US voted to create. This means that many countries are owed significant sums for their previous contributions of troops and equipment to peacekeeping operations, and countries are increasingly reluctant to offer troops to the UN when there is no reimbursement. There is no doubt that UN peacekeeping is a cost-effective investment in stability—but if UN peacekeeping is to survive, the United States must pay its share of those expenses.

For all the furious debate over US financial contributions to the agencies and activities of the UN system, the US annually spends only about 0.1 percent of our federal budget—or $7 per American—on all voluntary as well as assessed contributions. These limited amounts provide support to combat malnutrition, contain the spread of infectious diseases, minimize the devastating impact of refugee flows, harmonize actions on global environmental initiative, provide economic assistance to developing countries and provide for a neutral intervener to keep the peace in potentially volatile political situations.

The American people do not want the United States to accept the costs of single-handedly being the world's policemen or to address on its own a host of worldwide social, economic and environmental challenges. It serves the national interest to promote consensus-building and burdensharing at the international level and to strengthen the notion of the rule of law on which international stability rests. Opinion research consistently finds that an overwhelming majority of Americans believe in strengthening the United Nations to meet the challenges before us. In a world characterized by a growing web of global connections, the United Nations and its system of agencies and programs offer unique and essential avenues for the United States to exercise leadership in support of its values and its vision for the future.

Sincerely,

JOHN C. WHITEHEAD,
Chairman.

TRIBUTE TO GISSELLE RUIZ

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. TIERNEY. Mr. Speaker, I rise to salute Ms. Gisselle Ruiz of Lynn, Massachusetts who has received an award from the Lynn Hispanic Scholarship Fund, Inc. for academic excellence.

I hope Gisselle appreciates and is proud of her accomplishments. She is most deserving of the many awards which have been bestowed upon her. Her leadership potential and her willingness to give back to her community are evident by the extracurricular activities she has chosen. She is a role model for her peers and an inspiration to her family, being the first to graduate from high school and go on to college. I trust that she understands the value of continuing her education and hope that she will continue her hard work. Her dedication and commitment are to be commended. I have no doubt that she will be successful in her future endeavors.

Indeed, Ms. Ruiz has worked hard to achieve her goals. Mr. Speaker, I am proud to stand here to recognize the accomplishments of Gisselle Ruiz and I hope my colleagues will join me today in wishing Ms. Ruiz the very best as she continues her education.

THE U.S. ARMY SCHOOL OF THE AMERICAS: LEADING THE FIGHT TO KEEP DRUGS FROM REACHING U.S. BORDERS, WHILE PROMOTING DEMOCRACY AND HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. BEREUTER. Mr. Speaker, as many of my colleagues are aware, there has been a concerted effort on many fronts to close the U.S. Army School of the Americas (SOA). The opponents of the school have often used distorted or false information that only serves one purpose—to mislead the American public. Opponents of the U.S. Army School of the Americas are correct to point out that several of the school's graduates have been implicated in crimes, corruption, and human rights violations. Press reports have accurately noted that former Panamanian dictator Manuel Noriega was a former student, as was one of the Salvadoran officers responsible for the 1989 assassination of six Jesuit priests. However, my colleagues should be aware that more than 60,000 young Latin American officers have graduated from the SOA since its creation in 1946, the vast majority of whom have served their nations honorably and responsibly. Graduates of the SOA are personally responsible for the return of democracy in Latin American nations such as Bolivia and Argentina. Also, many of the school's graduates have lost their lives while combating the Narco-guerrillas and drug lords in Colombia and Peru.

These counterdrug operations are of vital interest to the safety and security of our Nation as the efforts of these brave Latin American soldiers are aimed at reducing the flow of drugs into the United States of America. This Member feels it would be a disservice to brand all the school's graduates as criminals because of the misdeeds of a very few.

The School of the Americas was established to heighten the professionalism of military establishments throughout Latin America. While the early focus of the institution during the Cold War was on combating Soviet-backed insurgencies, in recent years the school's emphasis has primarily shifted towards counterdrug operations to combat drug trafficking. The SOA curriculum also provides training in medical assistance, humanitarian and civil assistance, demining operations, peacekeeping operations, and most importantly human rights training.

One very positive result of the recent exposure of the school has been a much greater emphasis on human rights. They now expose every student at the school to a rigorous formal and informal training program on basic human rights. Specific classes and case studies are used to enhance the training and to make U.S. concerns unambiguously clear. The roles and rights of civilians, clergy, human rights observers, and U.N. personnel are integrated into the training program.

While the SOA has subsequently increased its emphasis on human rights, this Member believes that there is a basic value in encouraging young Latin-American military officers to study and train in the United States. An institution such as the SOA, which annually hosts 1,300 students from almost 20 countries, provides a level of professional training that is not otherwise available. Moreover, exposure to the U.S. lifestyle, values, and ideals offers important lessons for the future military leaders of Latin America.

There have been many false allegations in the past regarding the School of the Americas, such as the alleged existence of SOA torture manuals. This Member can assure my colleagues that there are no such manuals. This Member has contacted the Department of the Army, and the Department confirmed that such manuals do not exist. The SOA does not in any way engage in or endorse such heinous activities. Regarding the allegations that the SOA trains death squads and assassins, this Member can assure my colleagues that this is not true. The SOA is run by Officers of the United States Army that must operate the school in accordance with the governing regulations of the U.S. Army, the Department of Defense, and U.S. Public Law. Therefore, this Member can readily assure my colleagues that the SOA is not operating a training camp for death squads and assassins. The curriculum of the SOA is based on U.S. Military doctrine and practices, and uses the same materials from courses presented to U.S. military personnel. It is really outrageous that some people would tell such lies and sad that any Americans would believe such lies.

In April, a member of my staff traveled to Ft. Benning, Georgia, with a staff delegation from the House Committee on National Security on a fact finding tour of the SOA. The staff delegation received a briefing on the entire curriculum currently being taught at the school. My staff member, with the aid of a translator, was able to engage in dialogue with a group of Latin American enlisted soldiers and asked questions about the type of training they were receiving from the SOA. The soldiers were from various countries such as El Salvador, Ecuador, Peru, Argentina, Columbia, Venezuela, and Mexico. My staff member noted that all of the soldiers were proud to have been chosen to represent their respective countries at the SOA. Many of these soldiers will return to their home and train other soldiers that could not attend the SOA in the proper application of U.S. military doctrine, human rights, and democracy. In addition, my staff member observed no improprieties in the training being given to students during the staff delegation visit. In fact, the School of the Americas readily welcomes both its proponents and opponents to visit the school to gain a better understanding of the type of programs being taught at the school.

While, this Member cannot guarantee that no graduate of the SOA will ever abuse human rights or undermine civilian government. What this Member, can guarantee is that every effort will continue to be made to fully indoctrinate the students on respect for human rights and democracy at the U.S. Army School of the Americas. The training at this school undoubtedly does far, far more good to encourage appropriate human rights practices than any possible harm that could come from even a perversion of such an educational program some student might practice. This Member feels that it is really time for the congressional and religious opponents of the SOA to abandon this misguided attack on the SOA that misleads so many well-intentioned Americans who write their Senators and Congressmen.

IN HONOR OF OSCAR VIDAL BENITEZ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Oscar Vidal Benitez, a true Cuban American hero and outstanding International Lions Club member.

In 1950, Mr. Benitez joined the Lion's Club in Bayamo, Cuba. Once in the club he set out to be a driving force in Lionism. By 1958 he was President of the local club and eventually he became Governor of an entire region of clubs in Cuba. He became well known for his work for the blind by becoming Director of the Rehabilitation for the Blind Program.

Like so many Cubans, he was forced to flee his homeland and settled in the New York/New Jersey metropolitan area. Once in America, while attempting to adjust to his new country, he began his work for the Lion's Club almost immediately. In 1963 he founded and became President of the New York Lion's Club of Cubans in Exile. Mr. Benitez fought to get the club recognized by the International Lions Club and eventually the club branched out to form many active Lions Clubs in the metropolitan area.

Next, Oscar Vidal Benitez moved to Miami where he was founded and President of the Miami Buena Vista Lions Club. In 1971, this club was recognized internationally for gaining one of the largest increases in membership in the world.

In total, Mr. Benitez is responsible for the founding of 15 Lions clubs in the United States and since joining the Lions in 1950, he has never missed a meeting. Mr. Benitez has been internationally recognized for his contributions to Lionism. He has received many President's and Governor's medals of appreciation, he was inducted by the International Board of Directors as a Life Member of Lions International and he has been honored as a Member of the World Humanitarian Fraternity Melvin Jones Fellowship on three separate occasions. Mr. Benitez has done an incredible job of spreading Lionism by starting new clubs, attracting new members and raising money for charity, but his most lasting contributions on behalf of the Lions Club may be his work with the blind.

Mr. Benitez is a life member of the Florida Lions Eye Bank Century Club and the Conklin Center for the Blind and he has received a Presidential Honor for his work with the Lions Home for the Blind, Inc. He is also the founder of the Home for the Blind Foundation which is now funded by Dade County.

On Wednesday, June 10, the West New York Lions Club will honor Oscar Vidal Benitez for his incredible contributions to Lionism and to the community. The West New York Lions Club is the largest in New Jersey and it traces its roots to the New York Lion's Club of Cubans in Exile which Mr. Benitez founded when he first came to the United States.

In closing I would like to thank Mr. Oscar Vidal Benitez for his outstanding work on behalf of the Lions Club. His work across two countries and three states will never be forgotten.

RECOGNIZING THE MORRIS ARCHITECTS

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Ms. JACKSON-LEE of Texas. Mr. Speaker, I, Congresswoman JACKSON-LEE, submit the following document concerning the Congressional Recognition of Morris Architects.

CONGRESSIONAL RECOGNITION OF MORRIS ARCHITECTS

Whereas, Morris Architects was founded in 1938, S.I. Morris and Talbot Wilson sixty years ago, and;

Whereas, throughout the last sixty years, Morris Architects has served the city of Houston and the great state of Texas in fields of entertainment, government, education and health care architectural work and;

Whereas, Morris Architects have always been on the cutting edge of providing monumental landmarks and economic development throughout the United States and;

Whereas, the Alpha Kappa Omega Chapter has always maintained the highest level of excellence, evidenced by the more than sixty awards won by Morris Architects in the last twenty years, to establish a higher standard of life for the residents of Houston and the United States.

Now therefore, be it resolved that Morris Architects, a firm that has prospered through diversification, expansion and a solid commitment to high quality architectural design, is a valued and recognized leader in the world of architecture and the Houston community. Furthermore, be it resolved that Morris Architects continually improves the quality of life through their visionary and innovative architectural works that create a lasting impression on Houston and other cities.

THE HONORABLE CLIFF STEARNS, M.C. HONEST BALANCED BUDGET ACT OF 1998

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. STEARNS. Mr. Speaker, I want to let my colleagues know about legislation I have introduced called the "Honest Balanced Budget Act of 1998." It is identical to the bill introduced by Senator FAIRCLOTH earlier this year.

The Social Security Trust Fund's surplus shouldn't be used to fund other programs. AND it should not be used to mask our nation's debt.

Did you know that the Social Security Trust Fund will be running a $100,000,000,000 Surplus for fiscal year 1999? How is this possible when we keep hearing that the Trust Fund is in trouble?

Let's restore the trust for our seniors. We must ensure that the purpose for which the trust fund was set up is not violated.

No other bill does this this simply.

HONORING ARCHBISHOP SUMBAT LAPAJIAN FOR A LIFETIME OF PUBLIC SERVICE

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. ROGAN. Mr. Speaker, our Nation is as diverse in character as it is in geography. Our communities are held together by faith, spirit, and a commitment to a bright future for our children. Recently many of my constituents celebrated an important anniversary by saluting a prominent religious leader who has exemplified those values. Today, I echo those same sentiments by honoring the life's work of Archbishop Sumbat Lapajian.

A native of Beirut, Sumbat was ordained to the priesthood in 1958 and began a distinguished career of public service. His work was recognized by his peers, and he was soon appointed to serve as rector at the Armenian Apostolic Holy Cross Church of Los Angeles, a position he held until June of 1973 when he was consecrated Bishop by His Holiness Khoren I of Cilicia.

Already well established in his own parish, his work in our community continued to expand. Bishop Lapajian was instrumental in establishing after school and weekend programs for children and worked throughout Southern California to build a strong faith-based educational system. He also worked to build from the ground up three of the largest Armenian Apostolic churches in the Los Angeles area, of which one, St. Mary's Church, is in my hometown of Glendale, California. All continue to flourish today.

In April of 1981, Bishop Lapajian was honored by Catholicos Khoren I with the title of Archbishop in the Armenian Apostolic Church—one of its highest honors.

Mr. Speaker, for 40 years, Sumbat Lapajian has dedicated himself to educating our youth, comforting the sick, inspiring students, and unconditionally working for others. His faith, devotion, and life's work are an inspiration to us all. For his lessons of love, compassion, and humility, and in honor of his lifetime of public service, I ask my colleagues here today to join me in saluting His Eminence Archbishop Sumbat Lapajian.

TRIBUTE TO HEIDY PEREZ

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. TIERNEY. Mr. Speaker, I rise to salute Ms. Heidy Perez of Lynn, Massachusetts who has received an award from the Lynn Hispanic Scholarship Fund, Inc. for academic excellence.

I hope Heidy appreciates and is proud of her accomplishments. She has continually challenged herself and graduated sixth in her class. By not taking the easy path, she has given herself the tools to advance her hopes for the future. I trust that she understands the value of continuing her education and hope that she will continue her hard work. In choosing nursing as a career path, she is following her desire to provide care to many who need it most, and I have no doubt she will do so with compassion. Her dedication and commitment are to be commended, and I am certain that she will be successful in her future endeavors.

Indeed, Ms. Perez has worked hard to achieve her goals. Mr. Speaker, I am proud to stand here to recognize the accomplishments of Heidy Perez, and I hope my colleagues will join with me today in wishing Ms. Perez the very best as she continues her education.

THE HIGHWAY BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 3, 1998 into the CONGRESSIONAL RECORD.

IMPROVING OUR TRANSPORTATION SYSTEM

Last week, Congress, with my support, significantly boosted investment in our nation's transportation system by passing a six-year highway bill. This bill increases federal funding for transportation by 40%, and provides special funding for key projects in southern Indiana, including the Ohio River bridges project in the greater Louisville area and the U.S. 231 project in Spencer County. This highway bill will improve the quality of services throughout our state, and is one of the most important pieces of legislation for Indiana in decades.

The measure includes funding for construction and maintenance of highways and bridges, highway safety programs, and expansion of mass transit systems. It will also help improve air quality, enhance recreational bike and pedestrian trials, assist current and former welfare recipients get to work, and further innovative "intelligent transportation" projects to help move our transportation system into the 21st century.

The transportation bill is of vital importance to Indiana. Maintaining the 93,198 miles of highway in Indiana is a difficult challenge, but the highway bill will help us improve the network of roads and bridges in our state.

THE NEED FOR GOOD ROADS

Indiana is known as the "crossroads of America", a few other states are as dependent on highways. Economic development is not possible without good infrastructure. It helps businesses grow and expand and means more jobs for Hoosiers. I often hear from Hoosier business leaders about how the improvement of a local road has helped community businesses and community development.

Across our state, however, we can see a lot of problems with the condition of our roads.

According to one recent study, 57% of Indiana roads are rated as being in poor, mediocre, or fair condition. There are two primary reasons for this situation. First, a growing Indiana population means more drivers and higher road use, causing more wear and tear on the roads. Second, over the years, funding for highways has persistently lagged far behind the amount needed just to maintain top condition. The combination of these two forces—more drivers and less money—has made the upkeep of our highways difficult.

The concern is that without greater investment in our transportation system, the long-term prospects for our economy will suffer. The global competitiveness of our economy depends in large part on the efficiency of our infrastructure, especially transportation. Our ability to move goods and services to market must be second to none.

FUNDING INCREASES

The bill will benefit Indiana in two important ways. First, the bill boosts our overall share of federal highway funds. Under the old highway formula, Indiana and other so-called "donor" states were paying in more in gas taxes than what they were receiving in federal highway funds, and were thereby subsidizing highway spending in other "donee" states. In particular, Indiana was getting back about 78 cents from every dollar of gas pump taxes. The new highway bill, however, changes the formula so that every state is guaranteed a 90.5% return in highway funding on gas taxes paid by the state. Indiana's share under the new bill equals about 91%.

Second, the highway bill increases overall funding for the federal highway program by 40% over current levels. It provides $204 billion over six years for all transportation programs, including $167 billion for highways. As a result of the new formula and the bill's higher spending levels, Indiana will receive an average of $617 million annually, which is a 52% increase over the approximately $405 million Indiana received on average from 1992–1997. This increased funding will likely accelerate major highway and bridge projects in southern Indiana and throughout the state.

The bill will benefit our state and the nation in other ways as well. Mass transit projects, including commuter rail and bus systems, will receive at least $36 billion over six years. Also, a total of $500 million in grants has been set aside for states which implement anti-drunk driving initiatives.

SOUTHERN INDIANA PROJECTS

Passage of the highway bill will help meet the infrastructure needs of southern Indiana and provides special funding for three important initiatives in our region. First, the bill includes $40 million for the Ohio River Major Investment Study (ORMIS) project, which will entail construction of two new bridges in the greater Louisville area as well as building Spaghetti Junction in downtown Louisville. The funding will enable Indiana and Kentucky, working jointly on the project, to complete required design work on the project and begin acquisition of right-of-way.

Second, the highway bill includes $600,000 for continued design work on the U.S. 231 project in Spencer County. This project involves the construction of a new four-lane highway linking I-64 in Indiana with the Natcher Bridge and the Kentucky Parkway system to the south. Indiana has completed initial environmental work on the project, and aims to move to construction by 2001.

Third, the highway measure includes at least $27 million for continued work on the I-69 project, which will connect Indianapolis to Evansville. The new highway promises to bring growth and development to the southwestern portion of the state and to provide the Evansville area with a critical link to Indiana's interstate system.

ASSESSMENT

I believe the highway bill takes an important step in meeting our crucial transportation needs in Indiana and throughout the nation. One recent study pegged the cost of bringing our nation's transportation system into top condition at $437 billion, including $80 billion to repair the one of every three bridges in the nation that is structurally deficient. This measure will help us start to address these critical problems.

I am especially pleased that the highway bill achieves a more equitable distribution of revenues from the gas tax, thus sending more resources back to the states and increasing the flexibility of state and local governments to meet their most pressing transportation needs. The Indiana congressional delegation has worked in a bi-partisan fashion over the years to address this problem, and these efforts have now paid off.

Investment in our infrastructure is vital to maintaining the high quality of life Hoosiers and all Americans have come to expect. An excellent highway system will make our economy more productive and more competitive. The highway bill recently approved by Congress serves those important goals.

COMMEMORATING 100 YEARS OF RELATIONS BETWEEN PEOPLE OF THE UNITED STATES AND PEOPLE OF THE PHILIPPINES

SPEECH OF

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GUTIERREZ. Mr. Speaker, I rise today in support of House Resolution 404. I also take the floor to call on my colleagues to do more than simply commend the Phillipine people on this historic occasion. I also ask that we pass the Filipino Veterans Equity Act—House bill 836—this year.

House bill 836 does more than offer cursory thank-yous to the thousands of Filipino veterans who fought with us during World War Two. This bill provides the real compensation and veterans benefits that our government promised to these brave veterans in 1946.

100 years ago the people of the Phillipines won their independence from Spain. Since that time, the Phillipines has remained one of our Nation's closest allies in Southeastern Asia. I commend the people of the Phillipines for reaching this important milestone.

The resolution before us today thanks the people of the Phillipines for fighting on our side during the Second World War, Korea and Vietnam. Indeed, thousands of Filipinos died fighting for the freedoms that both our peoples now enjoy.

At the terrible battles of Bataan and Corregidor, Filipino soldiers defended the American flag. They fought side by side with boys from Chicago, the plains of Kansas and other small towns and cities in America. They also suffered the brutality and inhumane treatment that the Japanese army inflicted on allied troops throughout 1941.

These are historical facts that we recognized in resolutions passed in both chambers of Congress last year.

Yet today, as we move to recognize our close ties to the people of the Phillipines, we sadly fail to honor the real debts we owe to these Filipino veterans who helped us keep the world free.

It has been more than a half century since Congress rescinded veterans benefits to members of the Phillipine Commonwealth Army and Special Phillipines Scouts. This is a half century too long. So today, as we commemorate 100 years of relations between the United States and the Phillipines, I ask that we correct the injustices of the past by committing ourselves to greater action for Filipino veterans in the future.

Let us pass House Resolution 404 today and let us pass House bill 836, the Filipino Veterans Equity Act, later this session.

TRIBUTE TO J. WILLIARD (BILL) LINEWEAVER

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. WOLF. Mr. Speaker, I rise today to honor J. Williard Lineweaver, better known in his community as Bill, who recently retired as Mayor of the Town of Warrenton, Virginia, after 39 years of public service. Bill's dedication to the community has resulted in the preservation of Warrenton's small-town charm, and there is little doubt that his legacy will continue for many generations to come.

Bill has served the Town of Warrenton as an elected official since 1955 and became Mayor in 1974. Born in Rockingham County, "the Mayor" moved to The Plains/Middleburg area in 1929 and graduated from Marshall High School in 1939. He is a former president of the Virginia Municipal League, an organization which represents local governments before the General Assembly. Bill has also served as moderator of a televised debate for the United States Senate and as a member of the Governor's Advisory Council. Currently, he is serving on the Vint Hill Economic Development Authority, the Fauquier County Airport Committee, and as a member of a number of other town groups.

President Theodore Roosevelt once said that "The first requisite of a good citizen in this Republic of ours is that he shall be able and willing to pull his weight." Bill Lineweaver is a man who has pulled many times his weight for nearly four decades. Those of us who have had the privilege to know him and work with him over the years know that he exemplifies what a good public servant should be.

Mr. Speaker, I ask my colleagues to join me in applauding Bill Lineweaver for his work and commitment. He will always be "the Mayor" in the hearts of the citizens of Warrenton.

RECRUITING SKILLED TECHNOLOGY WORKERS

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. CHRISTENSEN. Mr. Speaker, I rise today to introduce new legislation that will help cure a problem that is widespread across our Nation. I speak of the difficulties that American businesses are faced with in recruiting skilled, information technology (IT) workers. In my district of Omaha, Nebraska, we recently lost a company due to the fact that they could not recruit enough information technology workers to fill key positions.

As the turn of the century quickly approaches and technology throughout the world continues to progress at a rapid pace, the need for skilled, information technology workers grows as well. A study released by the Department of Commerce, entitled "America's New Deficit: The Shortage of Information Technology Workers," made light of the desperate need for new information technology workers. As a result of this report, the Information Technology Association of America (ITAA) released a study conducted by Virginia Tech—"Help Wanted 1998: A Call for Collaborative Action for the New Millennium." This study estimated that 346,000 information technology positions were currently vacant in three core information technology occupational clusters (programmers, systems analysts, and computer scientists/engineers). In addition, there were 129,000 vacancies in 5,874 information technology companies and 217,000 vacancies in 97,733 noninformation technology corporations with more than 100 employees. Moreover, the need for information technology workers will only get worse as technology continues to progress while the pool of skilled workers continues to decrease.

In response to these concerns, I would like to introduce legislation today that would create a tax credit for employers who provide technological training for their employees. I am confident that this legislation will encourage employers to make an investment in the future of their employees and our Nation.

The credit would be an amount equal to 20 percent of information technology training program expenses; however, not to exceed $6,000 per trainee in a taxable year. The value of the credit would increase by 5 percentage points if the IT training program is operated in an empowerment zone or enterprise community, in a school district in which at least 50 percent of the students in the district participate in the school lunch program, or in an area designated as a disaster zone by the President or Secretary of Agriculture.

Mr. Speaker, let me conclude by saying that I encourage all members of this chamber to consider cosponsoring this piece of legislation and I insert the text of this legislation for printing in the RECORD.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the information technology training program credit determined under this section is an amount equal to 20 percent of information technology training program expenses paid or incurred by the taxpayer during the taxable year.

"(b) ADDITIONAL CREDIT PERCENTAGE FOR CERTAIN PROGRAMS.—The percentage under subsection (a) shall be increased by 5 percentage points for information technology training program expenses paid or incurred by the taxpayer with respect to a program operated in—

"(1) an empowerment zone or enterprise community designated under part I of subchapter U,

"(2) a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.), or

"(3) an area designated as a disaster area by the Secretary of Agriculture or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in the taxable year or the 4 preceding taxable years.

"(c) LIMITATION.—The amount of information technology training program expenses with respect to an employee which may be taken into account under subsection (a) for the taxable year shall not exceed $6,000.

"(d) INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'information technology training program expenses' means expenses paid or incurred by reason of the participation of the employer in any information technology training program.

"(2) INFORMATION TECHNOLOGY TRAINING PROGRAM.—The term 'information technology training program' means a program—

"(A) for the training of computer programmers, systems analysts, and computer scientists or engineers (as such occupations are defined by the Bureau of Labor Statistics),

"(B) involving a partnership of—

"(i) employers, and

"(ii) State training programs, school districts, or university systems, and

"(C) at least 50 percent of the costs of which is paid or incurred by the employers.

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to information technology training program expenses (determined without regard to the limitation under subsection (c)).

"(f) ALLOCATIONS.—For purposes of this section, rules similar to the rules of section 41(f)(2) shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the information technology training program credit determined under section 45D."

(c) NO CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the information technology training program credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45D. Information technology training program expenses."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT OF 1998

SPEECH OF

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. STRICKLAND. Mr. Speaker, I am proud to see the House of Representatives take up the National Underground Railroad Network to Freedom bill. This legislation will allow the U.S. Park Service to initiate public-private partnerships in order to interpret and commemorate the many sites and stories that make up the Underground Railroad.

The spirit and history of the Underground Railroad cannot be confined in a single museum or monument or National Park. Underground Railroad sites are scattered across my district in Southern Ohio, where slaves escaped the states to the South by crossing the Ohio River into freedom. Ohio has the longest border with slave states of any other free state in the union. Many families in Southern Ohio took great risks in order to help their brothers and sisters from the South shed the shackles of slavery. Most of these people had never even met the fugitives they harbored, and never saw them again.

The Underground Railroad Network to Freedom bill will establish a national list of the sites and trails where these daring rescues took place, so that future generations can learn more about the courage and fortitude of the passengers and conductors on the Underground Railroad. I look forward to the implementation of this bill, and I would like to thank my colleagues from Ohio, Representative STOKES and Representative PORTMAN for their hard work on this important legislation.

HONORING THE WORK OF CLIFFORD TURNER OF LOUISVILLE, KENTUCKY

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mrs. NORTHUP. Mr. Speaker, today I would like to recognize someone who has devoted his time and energy to making Louisville, Kentucky a better place to live. Pioneering one of the first high-tech multifamily developments in the United States, Clifford H. Turner has played an invaluable role for the City of Louisville. Nine years ago Clifford Turner's extraordinary vision enabled him to convert an old elementary school into forty-three apartment units. Listed as one of the top ten HUD insured multifamily housing developments, this development is more than housing—it represents community living where neighbors share concerns and dreams.

Building on this success, Clifford Turner continued his vision, converting an old parking lot into an additional twenty-eight housing units. This vision will not only provide new housing opportunities, but will provide new jobs for the citizens of Louisville.

A sense of community spirit is what Clifford Turner has contributed to citizens in Louisville. Working together with local corporations, Turner is involved in a new tutorial program which will teach children, many in the African-American community, to learn how to use computers and to develop pen pals in Africa. Having friends in the community and throughout the world, Clifford Turner is truly an asset to Kentucky and the City of Louisville. His work and his dedication to children and families in Louisville is to be commended.

I hope you will join me in recognizing the great talents of Clifford H. Turner of Louisville, Kentucky.

THE SILICONE BREAST IMPLANT RESEARCH AND INFORMATION ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. GREEN. Mr. Speaker, as a Member of the House Commerce Subcommittee on Health, I am committed to ensuring patients have complete and comprehensive access to information before they make a decision about a medical procedure.

I am rising today as the House sponsor of the Silicone Breast Implant Research and Information Act because I believe it is critical to the advancement of women's health and is the first step towards answering the many questions about the safety and efficacy of silicone breast implants.

By introducing this bill today, Senator BOXER and I hope to draw attention to an issue that has been either neglected or outright ignored for too long.

It is estimated that as many as two million women have received silicone breast implants over the last thirty years. Unfortunately, the information provided to these women before they elected to have silicone breast implants has been both incomplete and even inaccurate.

Moreover, results from past studies have only raised more questions about possible negative effects that ruptured or leaking silicone breast implants may have on breast milk, connective tissue, autoimmune diseases and the accuracy of breast cancer screening tests.

Our legislation ultimately seeks to change this by focusing on three critical points—information, research, and communication.

First, and in my opinion most importantly, this bill will ensure that information sent to women about silicone breast implants contains the most up to date and accurate information available.

Current information packets sent to women do not accurately describe some of the potential risks of silicone breast implants. While recent studies by the Institute of Medicine indicate the rupture rate may be as high as 70 percent, information sent to women suggests the rupture rate is only 1 percent.

Second, this bill encourages the director of the National Institutes of Health to expand existing research projects and clinical trials. Doing so will compliment past and existing studies and will hopefully clear up much of the confusion surrounding the safety and efficacy of silicone breast implants.

Finally, this bill establishes an open line of communication between federal agencies, researchers, the public health community and patient and breast cancer advocates.

Women, especially breast cancer patients, want and deserve full and open access to silicone breast implants. Therefore, it is critical that these products are safe and effective, and that women are provided complete and frequently updated information about the health risks and benefits of silicone breast implants.

While I unequivocally support a woman's right to choose to use silicone breast implants, I believe we have a responsibility to support research efforts that will provide the maximum amount of information and understanding about these products. I hope each of you join me in support of this important legislation.

TRIBUTE TO FOOTHILL PARENT TEACHER ASSOCIATION

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. CALVERT. Mr. Speaker, one of the things that makes America great is the dedication and commitment of many individuals throughout our country who participate in organizations to promote the well being of their community. The Foothill Parent Teacher Association is one of those commendable organizations.

The Foothill PTA represents Foothill Elementary School located in Corona, California. In order to provide an environment of quality programs and a high level of parental involvement, the Home-School Communications project was implemented. One of the purposes of this program is to provide weekly communication between home and school. Once a week each student is sent home with a packet of information, which the parent signs off on when received, allowing continual communication between home and school. The Foothill PTA also sends out a newsletter every month, which includes a calender of upcoming events and encourages parents and students to participate. Finally, the program offers up-to-date information to all parents by providing a 24-hour PTA Information Hot Line and a PTA web page on the Internet. It is important to acknowledge that the Home-School Communications project would not be possible without the volunteers who actively participate in the PTA.

This outstanding program should be applauded for the positive results it has brought to Foothill Elementary School. Since the commencement of the Home-School Communications project there has been an overall increase in parental involvement in school activities. There has been 99 percent participation at parent-teacher conferences and an increase of 110 percent in PTA membership, and it has brought a sense of togetherness and satisfaction to the parents, teachers, and office staff. There also has been an increase in attendance at school events, including the Halloween Carnival and the First Annual Reflections Awards Night.

All this effort and dedication by the members of the PTA has not gone unrecognized. The Foothill PTA received the California State PTA Advocates for Children Award in 1995 and the Outstanding Unit for California and Creative Membership Awards in 1997. In 1998, the Foothill PTA won Outstanding Unit for California and National PTA Outstanding Unit. Also, the Foothill PTA has been recognized as an Outstanding Unit at the council level for the last 4 years.

I want to thank the Foothill PTA for all their hard work and dedication to the children in our community. I am proud to have an organization like the Foothill PTA in my district. I encourage Foothill PTA members to continue with their involvement and wish them the best in their future endeavors.

TRIBUTE TO SISTER JOHN NORTON BARRETT, O.P.

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. SHAW. Mr. Speaker, I rise today with great pleasure to honor Sister John Norton Barrett, who is celebrating her 50th anniversary as an Adrian Dominican sister.

Through her faith, dedication and service, Sister John Norton has become one of the pillars of South Florida. She is widely recognized in our community for her dedication to excellence and her achievements in education.

In 1948, when Sister John Norton entered the Adrian Dominican Congregation, she had a heartfelt passion to serve the Church and the community through education. She graduated from Siena Heights College and later continued her studies at Barry University where she received a Master's Degree in Administration and Supervision.

She began her teaching at St. Mary's Elementary School in 1949 and by 1957 was principal of St. Matthew's School in Jacksonville. In 1963, she moved down to Miami Beach as principal of St. Patrick's High School.

In 1966 Sister John Norton joined the faculty of St. Thomas Aquinas High School. She served at St. Thomas for over thirty years as mathematics teacher, vice principal and principal. After her retirement, she continued her work for St. Thomas as director of the Development Office. Her tireless efforts and strong leadership have made St. Thomas Aquinas High School one of the top Catholic schools in the nation. The many awards and achievements for St. Thomas include the U.S. Department of Education Exemplary School Award as a Blue Ribbon School of Excellence for both 1985 and 1996. This year, alone, the high school boasts 21 National Merit Semifinalists and 26 Commended Students.

One of Sister John's most significant contributions to our community was the establishment of a community service program for St. Thomas Aquinas' students. This program, with the enthusiastic support of the students, requires that students dedicate 20 hours of service to needs in our community. As a result of this program, tens of thousands of service hours are given to the Broward County community each year.

Personally, Sister John Norton has been awarded the Primum Regnum Dei Ward from the Archdiocese of Miami in honor of her devoted service to the Lord and his Church. She has also received the Silver Medallion Brotherhood Award from the National Conference of Christians and Jews for her efforts in encouraging good human relations among all people.

Mr. Speaker, throughout the United States there are unfortunately too few individuals who dedicate their lives to education and community service. For fifty years, Sister John Norton has worked tirelessly for these causes, and we in South Florida are truly grateful. I am sure I speak for all my colleagues in congratulating Sister John Norton Barrett as she celebrates her golden jubilee as an Adrian Dominican sister.

INDEPENDENT COUNSEL STARR ADDRESSES THE MECKLENBURG COUNTY BAR ASSOCIATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. CONYERS. Mr. Speaker, I enter into the RECORD the following transcript of a speech made by Independent Counsel Kenneth Starr to the Mecklenburg County Bar Association in Charlotte, NC on June 1, 1998.

REMARKS BY WHITEWATER INDEPENDENT COUNSEL KENNETH STARR AT MECKLENBURG BAR FOUNDATION, CHARLOTTE, NORTH CAROLINA

Mr. STARR: Thank you very much. Thank you, Bill. It is a great pleasure to be here among a number of friends and new friends, in this great and very dynamic city, building upon a rich tradition of wonderful lawyers, some of whom have graced the leading courts in the country, including the Supreme Court of the United States. So thank you for your very kind invitation.

And let me also say at the outset how grateful I am to the sponsors for directing the very generous gift to the Burger Library Project at the College of William and Mary. I was privileged to serve as a law clerk to the late chief justice, and this, as you might imagine, for those who have been privileged to serve as law clerks for federal judges, is a labor of love when one is given the opportunity to be supportive in some way or another of a project that one knows that—as law clerks like to refer to their judge as either "the judge" or "the boss"—that the boss would say, "That is a good thing, and I'm very grateful." So I am very grateful to you.

Let me also say that in light of the comment about Arthur Miller—how many wives was that?—(laughter)—thankfully, I'm about to celebrate my 28th wedding anniversary. I was thinking about the dog. (Soft laughter.) The dog bit Arthur?

Ms. : Mmm-hmm. (Affirmative.)

Mr. STARR: Now I have argued against Arthur and with Professor Miller, and he's a very distinguished advocate and so forth. But I have a solution. Not only do I have the same wife for the last 20—almost—8 years; we've also had a limited number of dogs. (laughter.) And I've got a dog for Professor Miller—(laughter)—who is a dropout from obedience school. (Laughter.) No Phi Beta Kappa, he.

Thank you again for your hospitality.

Several days ago the nation was once again shocked when a 15-year-old boy walked into a school in a little community in Oregon, of all places, Springfield by name, and opened fire—I should quickly say "allegedly."

One can only wonder what lies behind this horror. The pundits are already thinking and commenting. Some may say it's easy access to guns. Some say it's the culture of violence in the mass media, on television and our movies. Others say it's parental failure, breakdown of families, parental responsibility and the like. But it seems to me that when we gather together as a legal community, we cannot lose sight of the broader cultural backdrop, and to look at these unspeakable tragedies of life against that backdrop.

A very thoughtful person, Professor Steven Carter of the Yale Law School, has recently written yet another thoughtful book entitled simply, "Civility". And in this book—perhaps you have seen it; it's, again, as his books tend to do—gathering a lot of attention, and rightly so, he discussed what he calls the de-civilization of American society. Professor Carter characterizes civility, a term that is very familiar to the legal profession, in a very intriguing way. He says, "It's the sum of the sacrifices that each of us as individuals make in order to live as part of organized society." The sum of our individual sacrifices.

Now, Professor Carter suggests, rather unhappily, that Americans are losing their sense, as a people, of civility. While individualism, and indeed, rugged individualism is a long and cherished tradition in American society, Professor Carter is seeing something different. Nothing wrong with being individualistic and asserting individual autonomy, but he says there is a cultural difference. His thesis is that, increasingly, Americans see themselves traveling through their lifetime journeys alone. Many believe that—again, Professor Carter's thesis—they should be able to act in a self-centered, egocentric, selfish way, and indeed, to act in whatever manner suits their interests, as they determine it at the time, regardless of the effect that it may have on others.

This callous disregard for civility, that sum of self-sacrifice, Professor Carter argues is threatening to this society. In his view, it threatens our very safety, but even more than that it threatens our political foundations, our democratic way of life.

Many observers believe that the legal profession, notwithstanding its greatness and its traditions, has likewise not been immune from this disease of selfishness. Justice O'Connor put it this way: she said, "Many lawyers appear to have forgotten the integrity and civility—" notice her marriage of the two, integrity and civility—"that once distinguished our profession." She used the term "many lawyers," not all. Many seem to have forgotten these twin pillars of integrity and civility.

A striking example of what is said all too frequently, namely the low public esteem of the profession, is the fact that notwithstanding that 25—count them—of our 42 presidents has been lawyers, and some are icons. Think of them. Mr. Jefferson; Mr. Madison; Mr. Lincoln. Lawyers, and successful lawyers; practicing lawyers, lawyers who knew courtrooms, knew how to try cases.

Notwithstanding that storied past, one of the candidates in the Washington, DC, mayoral primary is campaigning on this: "Vote for me because I am NOT a lawyer." Now that's in Washington, DC. Makes one wonder. Times have changed. It was 150 years ago, not too terribly far from here, that one of the great courtroom lawyers of his day, Daniel Webster, had this boast: "Show me a man who is dishonest, and I will tell you, he is not a lawyer." We would say, "He or she is not a lawyer."

The lawyer of yesteryear was seen as a person who upheld the law and who stood steadfast against recklessness, against tyranny, and indeed against prejudice. As recently as 1960, which some of us do remember, a Southern novelist named Harper Lee wrote a little story. She expanded on what had been a short story, and you know it. She created this marvelous character, a lawyer named Atticus Finch, in "To Kill a Mockingbird."

Atticus Finch strove to find the truth while defending a black man who was wrongly accused of rape in a segregated community. The hatred that was directed against the innocent defendant even sparked a lynch mob, and Atticus had to stand and control that mob. And in acting in the story very bravely in the pursuit of truth, Atticus taught his children, through whose eyes we saw the story unfold; the town itself; and now countless Americans, including schoolchildren who across the country happily read this story; some have only seen the movie. But whether one has seen the movie and Gregory Peck or, hopefully, have read the book, have learned important lessons that a lawyer taught about justice, about basic human decency, about tolerance. Now in contrast to this very noble and trustworthy soul, today's popular culture portrays lawyers as greedy and unethical people who will cheerfully hawk their services—and, indeed, their very morals—to the highest bidder.

Whether it is the character Bruiser in John Grisham's novel, also a movie, "The Rainmaker" or Al Pacino in last year's movie "Devil's Advocate," popular culture now sees lawyers as anything but seekers of truth and justice. No Atticus Finches in the movies.

Today's fictional lawyer will do anything for the client. No longer is he or she portrayed as being accountable to society as a whole for the authority, responsibility, and indeed power, that the lawyer is able to wield through the justice system. Now many of us, and certainly many here in this room, question profoundly whether this portrayal of modern day is fair, because each of us, I am confident, knows a great many lawyers out there who fall much more on the spectrum of Atticus Finch than they do to Bruiser.

But we still have to concede that the profession has changed, and we face a host—we all know them—of both economic and structural issues quite familiar to everyone in the room. But now to speak personally, one of these issues has been as baleful to our profession as its apparent loss of respect for truth. Too many of today's lawyers take Mark Twain's old aphorism very much to heart. As Mr. Clemens said, "Truth is the most valuable thing that we have, so let's economize with it." (Laughter.)

Not Atticus Finch. Mr. Finch embodied two of the most important, and indeed noble, values of our system, loyalty to the client and yet respect for truth. For Atticus, these two values were not in conflict. The quest for the truth was very decidedly in his innocent client's best interest. What happens when those values do conflict?

When a search for the truth is not in the client's interest, which value should guide the lawyer's conduct? Lawyers have faced this question for some time, indeed I would say for generations. But the balance that the modern-day profession strikes appears to me to have changed.

As a great lawyer practicing in Boston, Justice Louis Brandeis, one of the most creative lawyers of our century, sided unapologetically with the search for the truth. Before becoming a Supreme Court justice, he consistently lifted up and sought assiduously to follow this credo: Advise a client what he should have, not what he wants. It sounds so odd to many ears, now.

Now, skip ahead a generation and Charles Curtis, a lawyer, very successful, in Boston, declaring a generation after the Brandeisian credo, quote, "One of the functions of the lawyer is to lie for his client." The Brandeis-Curtis debate, as it were, even though they were never on the same platform, continues to rage today among practitioners and scholars alike. But the modern day image of the lawyer is the Speilbergian image, if you will, of lawyers as hired guns, suggests that at least a good many lawyers have given the appearance, at a minimum, and perhaps have decided to pay less than scrupulous regard for the truth, the truth.

Now this choice, to the extent it is being made each day, is most unfortunate. It goes to the basic moral foundation of our system. Truth indeed is intended to be the primary goal of our judicial system, because without truth as a foundation, justice cannot predictably be achieved. Our rules of evidence and of procedure demonstrate this. And after all, at a very basic level that all of us as citizens understand, witnesses are not directed, "Tell whatever is in your interest. Be creative, be imaginative." No, they are sworn to tell, in these wonderful words, "The truth, the whole truth, and nothing but the truth."

Countless judicial opinions have reaffirmed this, "this" being it is the truth and not the service of clients, is the legal system's abiding value. One of the more famous examples that I followed rather closely was a decision from just a decade ago, in a case called Mix (ph) against Whiteside. The defendant in that case was a gentleman by the name of Whiteside, and he indicated to his attorney that he intended to commit perjury on the stand, thought it might go better for him if he did.

The attorney, quite properly, threatened to withdraw from the representation, and in effect, he prevented Mr. Whiteside from getting on the stand and lying. Now, Whiteside was convicted. Beyond a reasonable doubt is a difficult standard, but the jury found it, and so he's on appeal, and he says, among other things, "I was deprived of the effective assistance of counsel within the meaning of the Sixth Amendment because my lawyer declined to allow me to lie on the stand." Speaking for the nation's highest court, and overturning the court of appeals that had accepted the argument——

Mr. STARR: Thank you—(laughter)—Chief Justice Burger, for whom again, I was privileged to clerk long before this opinion was written, very forcefully disagreed. And I know it's not polite to read from opinions whether you're arguing a case or especially subjecting you to an after-luncheon address, but these words are so powerful and simple and they are brief: "We recognize counsel's duty of loyalty and the overarching duty to advocate the defendant's cause. But it is manifest that that duty is limited to legitimate, lawful conduct by the attorney compatible with the very nature of a trial as a search for the truth."

The chief justice continued, "The responsibility of an ethical lawyer as an officer of the court—" what a ring to it, an officer of the court—"dedicated to a search for the truth is essentially the same whether the client intends to commit perjury or to bribe witnesses. A lawyer simply cannot allow the client to commit a fraud on the court."

His final words: "The suggestion sometimes made that a lawyer must, quote, "believe his or her client and not judge him" in no sense means that a lawyer can honorably be a party to presenting known perjury."

Now to many of us—(inaudible)—the Whiteside seemed like an easy case, and the result there was, you'll be pleased to know, 9-zip, against Mr. Whiteside. (Laughs.) Perhaps the more difficult question that lawyers face day in and day out is at what point does a lawyer's manipulation of the legal system become an obstruction of truth?

That issue raises tricky, difficult questions, and I think that the answers are found in the position recently advocated by a professor at the Yale Law School, Akhil Reed Amar. "Our adversary system," Professor Amar has very convincingly, to my mind, argued, "is not an end, but a means to an end. Pleadings, discovery, and the examination of witnesses are not the goals, they are only tools to be employed in a moral enterprise—the search for truth." Anthony Kronman, who is dean of the Yale Law School, has expanded on this idea in his very troubling book about our profession called, "The Lost Lawyer." As Dean Kronman observes, "The good lawyer is not only an advocate, but he or she is also a councilor. A good lawyer, acting as advocate in court, must use arguments to convince others—juries, judges—of the strength of the client's position. And that good lawyer, or other lawyers, acting as councilor, must urge the client against steps that are likely to impede the quest for truth, steps that, as most experienced lawyers and judges will say, will be recognized by juries for what they are."

This vision, by Dean Kronman of Yale, of the virtuous lawyer, rather than the "lost" lawyer, has particular resonance when we talk not about the lawyer for an individual or the lawyer for a private corporation, but when we're speaking about a lawyer for the government, a lawyer for the people, whether it's a prosecutor or some other government lawyer. That public servant lawyer owes a duty not to any individual, but to the people as a whole.

Surprisingly, the basic proposition, grounded in history, tradition and common morality, is the subject to controversy as we speak. But the principle has been resoundingly reaffirmed by two federal courts in the last year. The courts have considered whether the evidentiary privileges that are available to private lawyers are also available to government lawyers paid, as Bill was emphasizing, at taxpayer expense.

The 8th Circuit Court of Appeals in St. Louis, last year, flatly rejected the argument, and it did so in fairly emphatic language, which again I would like to share to you. It's very brief: "The strong public interest in honest government and in exposing wrongdoing by public officials would be ill served by recognition of a governmental attorney-client privilege applicable in criminal proceedings inquiring into the actions of public officials."

The court went on: "We also believe that to allow any part of the federal government to use its in-house attorneys as a shield against the production of information relevant to a federal criminal investigation would represent a gross misuse of public assets." Strong words.

Just a few weeks ago, these principles were emphasized and reaffirmed by the distinguished chief judge for the United States District Court in Washington. She is Judge Norma Hollaway Johnson. She wrote, "A private organization, such as a corporation, and a government institution differ significantly especially in the criminal context." And she emphasized, "Government attorneys are paid by U.S. taxpayers." And she quoted the 8th Circuit's very pointed observations about the duties of the public lawyer, the government lawyer.

These principles aren't new, nor should they be in the slightest bit controversial. They should admit of universal approbation. As District Judge Jack Weinstein (sp) stated some 30 years ago, "If there is wrongdoing"—if—"if there is wrongdoing in government, it must be exposed." The law officer has a special obligation. His or her duty is an obligation to the people and to the law, and his (own?) conscience requires disclosure; not hiding, disclosure. Then in fulfilling their duty to the people, government lawyers traditionally have urged upon courts not to create new testimonial privileges to keep evidence out, to keep evidence away, from fact-finders. And in the same vein, government lawyers have historically said: "Courts, don't expand the old and ancient privileges. Keep them, but don't expand them because they're obstacles to the search for truth."

Now litigants often try, as they're entitled to do, to concoct new privileges by contending that their relationship is just as important as the attorney-client relationship, or the spousal relationship or the priest-penitent relationship. But the problem is, they're arguing in the wrong forum. This is, in very broad compass, a legislative task. Congress is the proper forum for new federal privileges to be recognized in federal grand jury proceedings. An example from another field makes the point—and you will be pleased to know I am drawing to the end. I saw that look: "Is he going to keep going? Are we now going to have a law"—no, we're nearly through.

For many years the accounting industry, our brothers and sisters in the CPA community, have urged and indeed have pleaded for the creation—and many of you are familiar with this—of an accountant-client privilege. The argument is that accountants deserve the same protection as attorneys, and some very interesting policy arguments have been advanced to further that argument. But this effort has been resoundingly rebuffed by the courts. I'm not saying attorneys aren't—that accountants aren't important and the like, but rather saying no, you can't have a privilege. And indeed, the effort was finally resoundingly defeated by a once again unanimous Supreme Court. No such privilege, the court said, is going to be created.

And accordingly, the accounting industry has quite appropriately and properly turned to the Congress of the United States. And indeed, as we speak, on Capitol Hill right now there's a pending bill which, if enacted, would give accountants a narrow privilege in certain civil proceedings.

The point is this: If you want to expand an existing privilege to apply it in a new or unusual area, the place to go is Congress, not federal courts. The courts should not and cannot be in the business of creating new legal privileges from whole cloth, and lawyers ought to tell their clients that.

The search for truth and the proper counseling of clients is equally appropriate outside litigation. I know that there are people in this room who try to avoid courtrooms, so let me say just a brief word in that respect.

What third party will intelligently agree to a one-sided transaction? What court will allow a transaction then to stand if it's based on deception, the hiding of facts, or affirmative misleading and misstatements?

Perhaps Elihu Root, a former secretary of state, a United States senator, and a renowned lawyer in his own right earlier in this century, put it most succinctly: "About half the practice of a decent lawyer consists in telling would-be clients that they are damned fools and they should stop what they're doing." (Laughter.)

Lawyers have great influence in our society. (Chuckles.) I heard a hearty "amen" down there—we have an "amen" bench here. (Laughter.) And as Justice O'Connor has recognized—let me turn to her very modern voice—"Ethical"—what a wonderful word—"Ethical standards for lawyers are properly understood as a means of restraining lawyers in the exercise of the unique power that they inevitably wield in a system like ours."

Dean Kronman of Yale describes the lawyer of yesteryear, the great lawyer of the past, as a lawyer statesman; a person who not only uses the law to benefit society, but helps to develop and refine the law so that it can effectively serve our highest and noblest goals. To that end, Sol Linowitz, the distinguished lawyer, business person, ambassador, also points out in his troubling book, "The Betrayed Profession" that lawyers of the past played a pivotal role in developing and securing the liberties that Americans today take for granted. In fact, Ambassador Linowitz observes other countries have similar constitutions and similar Bills of Rights, but they don't enjoy our liberties, and largely because those countries, in his words, "Lack a bar, a legal community with sufficient courage and independence to establish those rights." According to Dean Kronman, the lawyer statesman has virtually disappeared from our lives. And the lawyer statesman in the last generation has turned instead into a lawyer technician—Dean Kronman's haunting description. And more broadly, that the legal profession itself has become a business.

But, you know, even if this rather gloomy diagnosis is accurate—and I like to resist it, I truly do—but it hardly excuses lawyers from doing their duties. As a distinguished professor at the Harvard Law School, Mary Ann Glendon very aptly states, "Any business, including law, thrives best on cooperation and honesty."

In short, even as technicians, if that is what we have become in a specialized world, lawyers have a duty not to use their skills to impede the search for truth. Imagine the disaster that would consume our profession and indeed our society if lawyers let down their moral guard and simply shrugged when clients declare explicitly or implicitly to commit perjury. No longer in such a world would decisions by our courts be based on a balanced assessment of truth, fairness and justice, and no longer would our society (face/faith?), as it continues to do, in our legal system.

This search for truth, closing on a more cheerful note, advances our profession. I believe that lawyers have a very well-deserved sense of professional pride and a belief that what they do day in and day out has a potential to be worthwhile, rewarding, socially constructive and personally fulfilling. Lawyers serve clients, but they also serve the broader interests of our legal system and society. And in that process, it is important for us as lawyers to maintain a certain degree of independence and detachment. otherwise, we are in danger of becoming that which our ancestors vigorously resisted, the concept of the indentured servant rather than professionals. As the educator and lawyers Robert Maynard Hutchins once put is very well, "There are some things that a professional will not do for money."

The result is this: We cannot, whether in public life or in private practice, look solely to our clients for leadership. Lawyers too have a right, but they also have a responsibility, to exercise independent judgment. And at times, that means saying no to the client. You can't do it. We can't argue it. It means sticking up for the right thing, as our (lights?) lead us to believe what is right.

And in that process, we are, when we are at our best, guided not simply by the client's interest, but by that other pillar, the search for the truth. And that, it seems to me, is the path away from the seedy underworld of Grisham's loser and a rediscovery of the inspiring path that Atticus Finch urged us and urges us today, to walk upon.

Thank you very much.

THOMAS JEFFERSON ELEMENTARY SCHOOL

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Ms. JACKSON-LEE. Mr. Speaker, I Congresswoman JACKSON-LEE, submit the following document concerning the Thomas Jefferson Elementary School.

THOMAS JEFFERSON ELEMENTARY SCHOOL

Whereas, Thomas Jefferson Elementary School has been selected one of three national first place award winners in the 12th Annual "Set a Good Example Contest" sponsored by the Concerned Businessmen's Association of America;

Whereas, Thomas Jefferson Elementary School under the guidance of their teachers and parents has exhibited hard work, dedication and perseverance combating the war on drugs, violence, crime and delinquency;

Whereas, Thomas Jefferson Elementary School will continue to aid in the war on drugs, delinquency, crime and violence in our schools;

Whereas, the need for strong young men and women and community activism is becoming more necessary and vital for the future of our Country;

Now therefore, be it resolved that Thomas Jefferson Elementary School has demonstrated a collective promise to aid in the fight against drug abuse, delinquency, crime and violence invading our nations schools. From this joining of purpose, Thomas Jefferson Elementary School has found effective ways and means to combat these increasing problems and are spreading the message, through the use of the book, "The Way to Happiness, a Common Sense Moral Guide," written by noted author and humanitarian L. Ron Hubbard, to those who have ears to hear. I will never turn from the example set forth by the remarkable work done by Thomas Jefferson Elementary School.

MANOLO DEL CANAL, MIAMI PROMOTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Manolo del Canal, an entertainment promoter in my Congressional district, has had many successes in his field.

Mr. del Canal has had experience as a new director for the radio show "Cuba al Dia" which aired on WFAB in Miami. He was also a pioneer in establishing the idea of listeners calling directly to the shows they were hearing with their comments, otherwise known as radio call-in shows. He was one of the first to use this idea in his show called "Opinion Publica".

Another facet of Mr. del Canal's talents was his experience as a journalist, for he managed and operated a local newspaper called La Prensa. Mr. del Canal is currently in the business of promoting Latin American singers and actors. His goal is to make these Hispanic talents a household name in our great country.

Mr. Speaker, Mr. Manolo del Canal works hard on his craft every day.

TWO PHILANTHROPISTS TO EXPAND PRIVATE SCHOOL GRANTS IN CITIES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. GINGRICH. Mr. Speaker, the attached article from The Washington Post illustrates the frustration across the country over the performance of public schools. Theodore J. Forstmann and John Walton are two of the latest in a series of philanthropists to put up their own money in an effort to send low-income students to private schools. I submit the article to the CONGRESSIONAL RECORD.

[From the Washington Post]

TWO PHILANTHROPISTS TO EXPAND PRIVATE SCHOOL GRANTS TO CITIES

(By Linda Perlstein)

Two wealthy industrialists announced plans yesterday to give 50,000 needy children scholarships that would allow them to abandon public schools in favor of private ones. The $200 million initiative, which would be the largest of its kind, is the latest in a series of efforts by private philanthropists frustrated with the performance of public education.

Wall Street financier Theodore J. Forstmann and Wal-Mart heir John Walton will put up $100 million of the money and will raise the rest from other philanthropists and community groups around the country. The two men say they have lined up $19.4 million in pledges in five cities, including Washington, and are seeking $80 million more by summer's end.

Public schools are a monopoly, Forstmann said, "monopolies produce bad products at high prices. Eventually, if there's no competition, nothing works very well."

Attempts to use taxpayer dollars to send children to private schools have hit roadblocks both in Congress and in the courts. Last month, President Clinton, who opposes publicly funded vouchers, vetoed a bill that would have given District students $7 million to attend private schools.

As a result, donors are moving forward with projects. Last year, philanthropist Virginia Gilder offered $2,000 each for students at an Albany, N.Y., primary school to attend private school. In April, a group of San Antonio business leaders put up $50 million to send 13,000 low-income students to private schools.

The plans announced yesterday by Forstmann and Walton would expand a scholarship initiative the two contributed to last year in Washington and New York. Already, 1,000 District students are offered scholarships through the program. The new initiative, called the Children's Scholarship Fund, will finance 400 more.

In Washington and other cities where the two hope to start the program, $1,000 scholarships will be offered to elementary and high school students whose family income falls below a certain level—typically $18,000. They estimate that the money will cover about half of the annual tuition costs in most cities, with the children's parents committing to make up the balance. Students will be selected by lotteries in 1999.

In addition to Washington, the fund has lined up partners in Los Angeles, New York, Chicago and Jersey City, where Mayor Bret Schundler has chipped in $25,000 of his own money.

Forstmann's supporters include many who oppose publicly funded vouchers. A White House spokesman, Barry Toiv, said that President Clinton supports the effort but still firmly opposes using public money for school voucher programs.

"They are in a position to help kids, and the president thinks that's great," Toiv said. "But the question of how we invest our public resources is an entirely different one. The president thinks that money has to remain in public education."

Even the heads of the two largest teachers unions said they do not object to private citizens giving scholarships. "I have no problem with what is basically a private act of philantropy," said Sandra Feldman, president of the American Federation of Teachers. But "if the idea is that public schools don't work and children must escape, I would oppose that," she said.

HONORING MAJOR GENERAL JAMES C. PENNINGTON, JR., U.S. ARMY (RET)

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. CUNNINGHAM. Mr. Speaker, it is with great admiration but a heavy heart that I rise to pay tribute to an outstanding American and patriot, retired Major General James C. Pennington who passed away on June 5, 1998. General Pennington was the long-time president of the National Association for Uniformed Services. He died while carrying on the crusade which he had devoted much of his life—the crusade to save military health care benefits that were promised and dutifully earned by this country's veterans and military retirees.

The military and veteran community has lost a great leader. His insightful, frank comments and tenacious determination to convince the country's leaders to honor the promises made to those who put their lives on the line were a rallying point and an inspiration to all.

I got to know General Pennington well during the years we fought together to restore the full Cost of Living Allowance (COLA) to our nation's military retirees. A tireless advocate, he traveled all across the country meeting with veterans and their families, senior government officials, the powerful and the disenfranchised in an unwavering effort to advance the cause. He paid particular attention to the "old warriors," the group of veterans who fought and won World War II. He was one of them, having joined the Army on D-Day 1944 right out of high school. And while he fought for all veterans, his compassion for his WWII colleagues was legendary as he sought to take care of those most in need.

A man of boundless energy, Jim Pennington was always ready to lead the charge. He never failed to point out that a promise made should be a promise kept; that our Government made a covenant with its veterans for lifelong health care in return for career service in defense of our country. Regrettably, that covenant has been broken for those military retirees passed the age of 65 who are denied access to the military health system. Each month 36,000 WWII veterans die. Of this amount, approximately 10% are military retirees. Current legislative proposals to study or demonstrate greater health care coverage for many of these veterans are simply too little, too late.

General Pennington's valiant and unceasing efforts on behalf of all members of the military community set him apart. In a word, Jim Pennington was one of the few people in this word who made a difference. We owe an enormous debt of gratitude to the courageous men and women who have defended our nation. Jim Pennington never forgot that and he made sure that the people he met and spoke with never forgot it as well. There would be no better way to honor this great man than to make sure our military men and women receive the care they so rightfully have earned. Jim wouldn't want it any other way.

CONGRESSIONAL BRIEFING ON CALIFORNIA INDIAN GAMING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. BROWN of California. Mr. Speaker, on Tuesday of this week Congressman FILNER of San Diego and I had the opportunity to meet with a very large delegation of Native Americans from California who had traveled to Washington to exercise their Constitutional right to petition their Government for a redress of grievances. In a carefully prepared presentation by numerous representatives of the various Tribes, plus local public officials and business leaders from surrounding communities, they detailed what the impact would be on forcing the tribal governments to sign the Pala Compact. Business and community leaders described the potentially negative effect on local commerce. In addition we must keep in mind the countless individuals, like Maria Figueroa, who have been given a second chance to support their families by being employed by the tribes and being able to leave the welfare rolls. I submit for the RECORD a Declaration of Principles presented by the California Tribal Governments.

A DECLARATION OF PRINCIPLES BY THE CALIFORNIA TRIBAL GOVERNMENTS

For over a century, non-tribal governments and big special interests have used their power to take away the land, resources and even the lives of California Indians. These assaults were called "legal" and the tribes' efforts to keep what they always had were deemed "illegal."

Now, history is repeating itself. We face a shutdown of our gaming operations, the loss of thousands of jobs for non-Indians, millions of dollars to local communities and state and local governments, and the renewed deprivation of our people. Yet for years we have asked the Governor of California to sit down with tribes and negotiate a good faith tribal-state gaming compact, one that would permit the tribes to continue to conduct legal, responsible and regulated gaming. The Governor consistently refused to do so—in our judgment, contrary to the express obligations under the Indian Gaming Regulatory Act (IGRA). Now California's gaming tribes face enforcement actions by the U.S. Government to shut us down because there is no compact! Yet the same U.S. Government, contrary to its historical, legal and moral obligation as the trustee of the Indian tribes, refuses to enforce the law and require the California Governor to negotiate in good faith with us.

Where is the fairness? Where is the justice?

Recently over one million Californian voters signed petitions—in a record-breaking four weeks time—to afford us an opportunity to have a model compact that provides for regulated and legal gaming to be approved by the people. It appears Las Vegas gaming have already invaded our state with tens of millions of dollars in an attempt to prevent

Indian tribes from achieving economic self-reliance. We are determined they will not be successful.

We are no longer willing to be labeled illegal or un-American or be branded criminals for our struggle to support ourselves. We are the first people to know and call California our home and the first people to love this land we now share. Our fathers and mother, brothers and sisters, and sons and daughters fought in every American war to defend the principles upon which the country was founded—the right of self-government and self-determination and the freedom to establish a promising future that our children and our children's children can depend on.

As representatives of the tribal governments of California, we want America's elected leaders to understand the principles that define, inform and guide our actions:

1. The key to our future is the protection of our tribal sovereignty and our right to self-governance.

It is our inherent right and responsibility to protect our culture, our lands, our resources, and our children. It is a precious legacy from our ancestors and a responsibility to our children. The tribe's government-to-government relationship with the federal government, including its agencies, is not merely a philosophical statement. It is based upon federal law and recognized in President Bill Clinton's statement to the tribes in the historic White House meeting in 1994. President Clinton directed the heads of the federal agencies to work with tribes on a government-to-government basis. The U.S. Government must honor its historic, legal and moral obligation to serve as the trustee for the Indian people. Mere words are not enough. Action is required. Under the law set forth in the 1988 Indian Gaming Regulatory Act, the U.S. Government must serve as the tribes' trustees to enforce the State of California's obligation to negotiate tribal-state gaming compacts in good faith with tribal governments consistent with their rights as sovereign nations under federal law.

2. We stand for legal, regulated, and responsible gaming—with the objective of achieving economic self-reliance an improving the quality of life for tribal members and their children.

California tribes stand at the brink of cultural and economic extinction. Economic self-reliance has been, and will continue to be, the true goal of tribal governments through the conduct of legal responsible and regulated gaming operations, particularly to provide the tribes the means to achieve other economic development and (consistent with California law and it's state constitution) diversity for the tribes. The U.S. Government, as trustee of Indian tribes, has a responsibility to support these efforts to achieve economic self-reliance and diversity. Achieving such economic self-reliance for Indians is one of the key purposes expressed by the U.S. Congress when it passed the Indian Gaming Regulatory Act.

3. We believe in sharing. We are committed to the protection of continued economic benefits from tribal gaming for all Californians.

It is a tribal tradition to share. Sharing means sometimes ensuring that our neighbors do not go hungry or that an electric bill gets paid. This tradition did not start when we commenced gaming operations and were able to generate financial resources. When the Pilgrims faced their first winter with little food or shelter, it was the Indians who helped them by sharing their resources. Currently legal, regulated gaming operations provide thousands of jobs, an overwhelming majority of which are provided to non-Indian people; millions in retail sales and tax revenues; and substantial financial support for social programs and charitable organizations—thereby benefiting our neighbors and local communities surrounding the tribes and Californians state-wide. For example, in San Diego County, the Viejas, Barona, and Sycuan Bands of Kumeyaay—combining wages paid, tax revenues generated, and goods and services purchased—are estimated to contribute $186 million to the state and local community economies. We are proud of our legacy of sharing and are committed to seeing our gaming continue as a resource for both gaming and non-gaming tribes, our neighboring communities, and all of California.

4. Consistent with tribal sovereignty and government-to-government relations, we believe in working with local governments, agencies and elected officials who fully recognize and respect tribal sovereignty.

Indian tribes are committed to working towards a process that ensures a partnership with local governments and elected officials. Such a partnership would be premised on mutual respect and assurances of no incursions on tribal sovereignty. Tribes also support strong and fair employment relations. Indian tribes continue to be committed and responsible employers, carrying out tribe-maintained fair employment policies. We want to preserve and encourage amicable relations with our non-Indian neighbors. We will continue to work cooperatively with governmental agencies that respect tribal sovereignty.

5. We support the Tribal Government Gaming and Economic Self-Sufficiency Act—a model compact that recognizes and honors Indian governmental sovereignty while preserving the emerging economic self-reliance provided by Indian gaming.

The California Governor has refused to negotiate with Indian tribes in good faith)—as required under the Indian Gaming Regulatory Act. Therefore, the California Indians have been forced to place their own model gaming compact on the ballot. It is called the Tribal Government Gaming and Self-Sufficiency Act. We support this ballot measure that preserves the ability of tribes to create and sustain the emerging economic self-sufficiency provided by Indian Governmental gaming.

The model compact to be voted on by California voters provides for regulated and responsible gaming operations, licensing and regulatory standards. It also provides for the sharing of resources with non-gaming tribes as well as community programs and charitable organizations.

We are confident the people of California will not permit outside, powerful money interests—mostly from Las Vegas—to alter their support for California tribes in their effort to finally achieve economic self-sufficiency through legal, regulated and responsible gaming operations.

Therefore, be it resolved: We, as tribal nations, stand together at a time when our opponents are determined to keep us powerless and in poverty. We will not allow it! Gaming and non-gaming tribes alike are affected by these struggles. We strongly support the continued operation of Indian gaming consistent with the aforementioned and mutually agreed-upon principles.

Signed this day, June 9, 1998 in Washington, D.C. the California Nations Indian Gaming Association/Assembly for Economic Justice.

DANIEL TUCKER,
Chairman, California Nations Indian Gaming Association.

HONORING THE MEADOWOOD RETIREMENT COMMUNITY

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to the Meadowood Retirement Community which has become one of the finest retirement communities in the country because it has been developed by people who have had a willingness to work, a seriousness of purpose and a genuine interest in the well being of others.

The original root of what has become Meadowood was a response to a growing need in my district to enhance the lives of those men and women who were becoming older and were seeking ways to live where there was a glow in the quality of life.

As a newspaper editor and publisher from the 13th District, William E. Strasburg felt the need to provide retirement living where men and women could live and work together and have the benefit of health care and the totality of life care.

Sylvia Strasburg, his wife, had been working with senior citizen programs in Montgomery County and was fully aware of the need to provide a suitable retirement community.

Sylvia's parents, Blanche and Malcom Schweiker, had lived on the property that is now known as the Schweiker Guest House. It had been handed down through her mother's family, the Schultz family, and when her father died in 1982, Bill and Sylvia together went to several members of the Schwenkfelder Church and the local community to form a Board to sponsor such a retirement community which would be separate from the Church and yet an outreach of the mission of the Church.

Richard Schweiker lived with his parents in the Schweiker Guest House and began his political career there. He was Montgomery County's Congressman for four terms and then United States Senator for two terms when he became Secretary of Health and Human Services in President Reagan's cabinet.

To reflect the location, the meadows and the woods, the new community would take on the name of Meadowood. The independent living apartments would be named for the birds and the trees of the meadows and the woods.

Central to the development and the operation of Meadowood would be a mission statement which would reflect the common objective to create a caring environment where each person is respected and valued. This would be illustrated as a three legged stool where each of the equal legs would provide a solid support. The Schwenkfelder Church as well recognizes that growth toward spiritual maturity is a life-long process.

Additional land was acquired, permits were obtained, the sewer plant was acquired, upgraded and turned over to the Township and financing was completed . . . and then in March of 1986 ground was broken for Meadowood. The first residents moved into their new homes on a rainy day in May of 1988. The dedication took place around the fountain in June of 1989.

The Board has selected dedicated and caring professionals to manage Meadowood. Since 1989 Meadowood has been managed by American Retirement Corporation Management of Brentwood, Tennessee. This caring dedication is a strength that has been woven into the fabric of Meadowood's development and continues today.

God bless the Meadowood retirement community and all of its residents. The mission of creating a caring and respecting environment has truly enhanced Montgomery County.

IN HONOR OF MONSIGNOR LEO TYMKIW

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Monsignor Leo Tymkiw, Pastor of St. Andrew's Ukranian Catholic Church in Parma, Ohio, who is celebrating 50 years as a priest.

Monsignor Leo Tymkiw was born on April 21, 1914 in Boiany, Ukraine. He completed his elementary and secondary education in Stanyslaviv, Ukraine. In 1938, he graduated from Theological Academy in Lviv, Ukraine, with a degree in theology. Subsequently, he graduated from the School of Library Science where he studied church history for several years. On Easter Sunday, May 2, 1948, he was consecrated to the Holy Priesthood by Archbishop Ivan Buchko. His first assignment was as the Spiritual Director for Ukranian students in Munich.

Monsignor Leo Tymkiw emigrated to America in 1950. In 1952, he organized the parish "Under the Protection of Blessed Virgin Mary" in Troy, New York, and he served as its pastor for three years. In 1955 he organized another new parish, also named "Under the Protection of Blessed Virgin Mary" in Bristol, Pennsylvania. Monsignor Leo Tymkiw served as their pastor for four years. He was pastor of a parish in Crisholm, Minnesota for several months in 1959. From 1960 to 1972 he served as pastor of St. John the Baptist Ukranian Catholic Church in Lorain, Ohio. On August 1, 1972 Monsignor Leo Tymkiw was appointed the first pastor of St. Andrew's Ukranian Catholic Church in Parma, Ohio. He has served as their pastor for the past 26 years.

Mr. Speaker, let us recognize the achievements of Monsignor Leo Tymkiw, who will be honored at a dinner on June 14, 1998 for a lifetime of giving, service and achievement.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. BALLENGER. Mr. Speaker, had I been present on June 9 for Rollcall vote 212, Rollcall vote 213, and Rollcall vote 214, I would have voted "yea". In addition, I would have cast an "aye" on Rollcall vote 215, had I voted.

A FOND FAREWELL TO FATHER ANTALL

HON. STEVEN C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. LATOURETTE. Mr. Speaker, I rise today to honor the Rev. Richard C. Antall, who this week will leave St. Mary's Catholic Church in Painesville, Ohio, to return to El Salvador to work as a missionary. He will leave a void that many suspect will never fully be filled.

For the residents of Painesville, Ohio, and indeed all of Lake County, Ohio, Father Antall was much more than simply a local priest. In the four years Antall spent as an associate pastor at St. Mary's, he immersed himself in virtually every aspect of the community, and was often considered the spiritual, legal, and political arm of the Hispanic community.

Not only did Father Antall lead a Spanish-speaking mass each Sunday at the church, but he became intertwined in the lives of the migrant workers who travel to Lake County each year from Mexico to work in the county's many nurseries and farms. For a great number of the workers, Father Antall was not just their spiritual mentor, but also served as their advocate whenever disputes arose over working or living conditions. He was a friend, mentor, translator and a wonderful listener.

Father Antall was tireless in defending the workers, and was of great assistance to me personally when I was new to the Congress, particularly when we began addressing immigration legislation and its effect on seasonal workers. His input was invaluable to me, and I witnessed firsthand the kindness that drew so many to him. Father Antall has a wonderful quality of placing those around him at ease—be they his parishioners, children, educators, lawyers or lawmakers.

So many lives in the Painesville area have been touched by this selfless man, and while many wish he did not have to leave, those who know him certainly understand his need to pursue his lifelong dream of being a missionary in El Salvador. This will mark a homecoming to the remote Central American country where Father Antall spent seven years working with the Cleveland Diocese mission before coming to St. Mary's.

It is my full expectation that Father Antall will provide a voice, a heart and a helping hand to the neglected, the downtrodden, the silenced, and the dreamers in El Salvador, just as he has in Painesville. He will offer an uplifting message centered on the love of God, and the need to be kind to one's fellow man. On behalf of the 19th Congressional District, I thank Father Antall for his many acts of kindness and for the indelible mark he left on his community and his congregation. I wish him well in his new life, and hope that he will always save a space in his heart for Lake County.

RICHARD MELLON SCAIFE FUNDS CLINTON CRITIC LARRY KLAYMAN'S JUDICIAL WATCH ORGANIZATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to enter into the RECORD the following new story from The Washington Post.

[From the Washington Post, June 10, 1998]

SCAIFE FOUNDATION GAVE $550,000 TO ANTI-CLINTON LEGAL GROUP

(By David Segal)

Richard Mellon Scaife, the Pittsburgh billionaire whose foundations have bankrolled an array of anti-Clinton activities, gave one of his largest grants last year to Judicial Watch, the conservative group suing the Clinton administration in 18 separate matters, newly released records show.

Scaife gave Judicial Watch $550,000, according to documents disclosed by the Carthage Foundation, one of four philanthropies underwritten by Scaife. That sum is nearly nine times as large as the $60,000 in outside contributions Judicial Watch said it received in 1996.

"It's a minority of our support and we're very proud to receive it," Judicial Watch founder and president Larry Klayman said yesterday before refusing further comment. In a recent interview, Klayman would not confirm the Scaife grant and deflected financing questions by saying, "Basta! . . . that means 'stop it' in Italian."

Scaife's foundations last year gave away a total of $25 million to conservative groups as well as academic institutions such as Boston University and Carnegie Mellon University. The scion of the Mellon banking family, Scaife has become a major financial resource for those eager to probe Clinton administration controversies, from the Monica S. Lewinsky case to the death of White House deputy counsel Vincent W. Foster.

Independent counsel Kenneth W. Starr had once planned to accept a Scaife foundation-financed deanship at Pepperdine University, leading Clinton allies to criticize the prosecutor's conservative movement ties.

The recipient of the largest single Scaife grant last year—for $1.5 million—was the Free Congress Research and Education Foundation Inc., a think tank run by conservative activist Paul Weyrich. Free Congress is part owner of America's Voice, a TV network formerly known as national Empowerment Television.

The American Spectator magazine took in nearly $1 million last year from two Scaife foundations—Carthage and the Sarah Scaife Foundation. Part of that money paid for the so-called "Arkansas Project," an investigation of alleged Clinton skulduggery in his home state. The project was criticized by several Spectator staffers and has given rise to an investigation into whether some Scaife money improperly went to pay a key Starr witness.

But the financial relationship between the magazine and Scaife's foundations is over. "Let's just say that the Spectator had Scaife foundation money in the past [but] they decided to quit contributing this year," said publisher Terry Eastland.

The Landmark Legal Foundation, a Herndon group that has pounded Pentagon officials for allegedly leaking data from Linda

R. Tripp's personnel file, took in $525,000 from Scaife. "We have a hard and fast rule here," said Landmark president Mark Levin. "We don't accept money laundered through Indian tribes or Buddhist nuns."

The award to Judicial Watch is in some ways the most notable of the Scaife grants, representing a huge financial boon for a group that barely registered on Washington's radar screen until recently. In 1996, the group's largest benefactor was Klayman himself, a formerly obscure international trade attorney; he kicked in about $110,000 of his own money and took in just $60,000 in outside contributions.

Scaife foundation officials did not return calls about why they decided to start giving to Judicial Watch.

Klayman first gained notice when he took a deposition from Democratic fund-raiser John Huang in 1996, just as the controversy about Democratic campaign financing was breaking. By last year, Klayman was becoming a regular on TV chat shows such as "Rivera Live" as he subpoenaed a parade of Clinton allies for depositions in various lawsuits. Klayman has turned up such disclosures as a pentagon official's admission that he authorized the Tripp information leak. But Judicial Watch's advertising also has featured far-fetched theories, including that the late Commerce Secretary Ron Brown might have been shot in the head by top White House officials.

Klayman is deposing witnesses for three lawsuits against the Commerce Department and one against the Justice Department, among others, and he represents Republicans whose FBI files were obtained by White House officials.

THE MEDICARE HOME HEALTH EQUITY ACT OF 1998

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. PAPPAS. Mr. Speaker, I come here today to speak about a bill I have introduced to restore equity to the home health care industry. Congressmen Coyne, Saxton, Smith of New Jersey and I have introduced H.R. 3567, "The Medicare Home Health Equity Act of 1998" to address what we feel are major problems with the implementation of HCFA of the Balanced Budget Act of 1997.

Last year's Balanced Budget Agreement brought much needed common sense to government spending. As part of the Balanced Budget, changes were made to make payment for home health care more efficient. A Prospective Payment Schedule for home health services was created but is not ready yet. HCFA has created the IPS as a transitional approach. However, the IPS is a "one size fits all" plan that continues the practice of rewarding inefficient home health services and punishing efficiency. Agencies which had already implemented efficiency measures to save Medicare money have been penalized for this thrift, while those that have not are rewarded. I do not believe this was the intent of Congress.

H.R. 3567 will level the playing field by basing the per patient cost limit of the IPS on a blend of national and regional data rather than on individual agency data. It already has 69 bi-partisan co-sponsors and has the support of numerous home health care organizations. Congress must act now to avoid further pain to the home health care communities. Moreover, according to Price Warehouse, H.R. 3567 is budget neutral and I hope the CBO will finish a scoring of this bill shortly.

I hope my colleagues will seriously consider this bill and join me in the effort to restore equity to home health care agencies.

HONORING SOL AND JUNE ZIM

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and members of the Hollis Hills Jewish Center as they celebrate the 50th anniversary of this great house of worship, and honor their most distinguished and world-renowned Cantor, Sol Zim and his wife June, for 35 years of distinguished service to the synagogue.

In 1964, Sol and June Zim began a relationship with the Hollis Hills Jewish Center that would not only enhance the spiritual and secular lives of the synagogue's members, but would allow Cantor Zim to perform around the world to share the joy and fulfillment that epitomize his music. As the sixth generation of a family of exceptionally talented cantors, Sol Zim has studied with such outstanding cantorial instructors as Joshua Weisser, Moshe Koussevitzky, Sholom Secunda and Oscar Julius. He has received degrees from the Jewish Theological Seminary of America. Brooklyn College and New York University. His extraordinary voice brought him offers for positions in such distinguished opera companies as the Vienna State Opera Theater and the Israeli National Opera. Yet it was to our great benefit that Sol Zim chose to pursue his musical career as a cantor.

Mr. Speaker, in addition to his unforgettable voice, Sol Zim is a most prolific writer of Jewish popular songs and prayer melodies that are sung in congregations throughout the world. He has composed more than 20 cassettes and tapes of music dedicated to Yiddish, Hebrew, Chassidic and Cantorial themes. A hallmark of his desire for all people to love music is the creation of a children's choir in those cities in which he has appeared. In the 1970's and 80's, he founded "The Brothers Zim" which quickly became America's foremost Jewish singing group.

Both he and his wife June take their role as community leaders most seriously. Through their efforts, they have brought direction and compassion to many viable undertakings. June has served as the synagogues' Vice-President of Sisterhood, Vice-President of Jewish Family Living for the Queens Region of National Women's League, and Co-Chair of many of the Hollis Hills Jewish Center's annual conferences.

Sol serves the National Chairman of the Jewish War Heroes Fund, and has been honored as Man of the Year and received humanitarian awards by such diverse organizations as the United Jewish Appeal, Israel Bonds, Hadassahm Bnai Brith, Amit Women and Shaare Zedek Hospital.

Mr. Speaker, in honor of all their great achievements, I ask all my colleagues in the House of Representatives to join with me and rise to express their appreciation for the Zims.

A TRIBUTE TO WILLIAM AVERY

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor a great Philadelphian, William Avery. Bill Avery began his career as a management trainee with Crown Cork and Seal's Chicago plant in 1959, while he completed his studies at the University of Chicago. His career at Crown advanced steadily through the last four decades, as he rose from the position of Plant Manager, to Area Manufacturing Manager, Vice President of Sales for the Mid-Western Division, and Corporate Vice President. After only four years, Bill was promoted from the Vice Presidency to President and Chief Operating Officer of Crown.

Mr. Speaker, because of Bill's leadership as President, and today, as Chairman and CEO, Crown has grown exponentially. It is a global leader in the packaging industry and a wonderful corporate citizen in my home town of Philadelphia.

Bill Avery is personally active in educational and charitable organizations in the Philadelphia region. His board memberships include the YMCA, Fox Chase Cancer Center, Opportunities Industrialization Center, University of Chicago Graduate School of Business, Gwynedd Mercy College, the Connelly Foundation, PhAME, PAL, Avenue of the Arts, Inc., the Franklin Institute and the Regional Performing Arts Center. Mr. Speaker, Bill has also been honored by His Holiness Pope John Paul II with a knighthood in the Order of St. Gregory.

Mr. Speaker, I am sure that my colleagues join me in honoring a great Philadelphian and a great American, Bill Avery.

COMMENDING MONSIGNOR JOSEPH F. SEMANCIK

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my sincerest pleasure to commend an outstanding leader of Indiana's First Congressional District, Monsignor Joseph F. Semancik. On Sunday, June 28, 1998, Monsignor Semancik will be honored by the Midwest Slovak Cultural Society during their annual Slovak Day Celebration. In honor of Monsignor Semancik's announced retirement, Sunday, June 28, 1998 has been designated as "Monsignor Semancik Day." This highly anticipated event, in its twenty-fifth year, is a cultural celebration combining the best of religious, civic, and ethnic entertainment. Awarding this high honor to Monsignor Semancik clearly shows how valuable and indispensable he has been for the residents of Northwest Indiana, the Catholic Charities of the Gary Diocese, and all the people he has touched through the service of God.

On Thursday, October 1, 1998, Monsignor Semancik will officially retire as the Director of Catholic Charities. Since he finished his master's degree in social work from Loyola University, Monsignor Semancik has spent the last thirty-eight years serving the Northwest Indiana Catholic community as one of the region's most accessible, compassionate, and dedicated spiritual leaders and social advocates. In 1958, Monsignor Semancik was directed by Bishop Andrew G. Grutka to study social work. Though spending most of his time helping others, Monsignor Semancik advanced his own learning by earning a master's degree from Loyola University in 1960 and a doctorate from the University of Chicago in 1977. Driven by his compassion, desire to help people, and education, he spearheaded the efforts that led Catholic Charities to become the great helping organization that it is today. During his long tenure as Director of Catholic Charities, his service on the Lake County Economic Opportunity Council, and the Lake County Community Development Committee, as well as his successful efforts in establishing the Indiana Catholic Conference, Monsignor Semancik has truly earned the love, respect, and admiration of everyone in Indiana's First Congressional District.

Though Monsignor Semancik, at sixty-nine years of age, will soon retire from his position with Catholic Charities, he will maintain his position as Pastor of Sacred Heart Church in East Chicago, Indiana. As well, he will continue one of his lifelong passions: writing. Currently, Monsignor Semancik is planning to write a history of the Catholic Charities in the Diocese of Gary. He also plans to continue his long-standing tradition of researching and writing about Catholic Charities directors. These works, when completed, will go along with the work that he completed on the history of Slovaks in Indiana.

Mr. Speaker, America is made a better place because of the tireless and unselfish service of her citizens. Monsignor Joseph Semancik is a man who has dedicated his entire life to helping those around him, resolutely working to aid the unfortunate and needy, and serving as an upright pillar of morality and conscience. In so doing, he has strengthened his community, Northwest Indiana, and the whole of our country and society. I ask you, and my other distinguished colleagues, to join me in commending Monsignor Semancik for his lifetime of remarkable accomplishments, enduring service, and the unforgettable effect he has had on the people of his community.

PHILIPPINES CENTENNIAL CELEBRATION

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. BASS. Mr. Speaker, I rise to pay tribute to the Philippines Centennial Celebration. On June 12, 1998, the Philippines will celebrate the 100th Anniversary of their independence from Spanish rule.

Nearly a century ago, a revolution in the Philippines ended more than 300 years of Spanish domination in the area and established the first democratic republic in Asia. The makings of the revolution began in the late nineteenth century with the children of the elite business class. They had been educated in Europe and exposed to ideas of independence and revolution. Among these nationalists was Jose Rizal, whose novel Noli Me Tangere sparked the revolt against Spain. Followers of Jose Rizal formed a secret group of reformists and radicals called the Katipunan. Eventually, in August of 1896, tensions in the Philippines had raged to the point that the Katipunan's leader, Andres Bonifacio, declared complete severance from the colonial government and the revolution began.

The Philippine-Spanish Revolution began at the same time that the Spanish-American War was being fought halfway around the world. The Americans came to the aid of the Philippines, and on June 12, 1898, Emilio Aguinaldo, a leader of the Katipunans, declared victory over the Spanish colonial government and established the Philippine Republic.

The survival of the Philippine Republic over the last 100 years has not been without difficulty. The Philippines has survived American colonialism, a four year occupation by Japan during World War II, the complete wartime destruction of Manilla, Ferdinand Marcos' martial law regime, and a devastating volcano called Pinatubo.

However, even with all of these struggles the Philippines is on the road to prosperity. It has been over a decade since the People's Revolution ousted the Marcos regime and instituted the democracy that now exists. The Philippine economy has been rejuvenated and stands poised to join in the globalization of the East-West world market.

It is fitting that in the year of their centennial, the dictators are gone, the volcanoes are quiet, and the Philippines appear to have reached what Emilio Aguinaldo proclaimed nearly 100 years ago: that an independent Philippines, "today begins to have a life of its own."

WELCOMING SOUTH KOREAN PRESIDENT KIM DAE JUNG

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. GEJDENSON. Mr. Speaker, it is a pleasure to welcome South Korean President Kim Dae Jung to our country, on his first state visit. I join my colleagues in wishing President Kim the best as he assumes the duties and responsibilities of his new office. Mr. Kim's victory last fall was a triumph for democracy and reform—and above all, for the people of South Korea. Since assuming office, President Kim has been trying to fulfill his campaign promises, to bring a new era to South Korea, one recognizing democracy and human rights, one that is free of corruption and embraces economic reform and the rule of law.

This is a time of great promise for South Korea. The steps the government has taken are certainly in the right direction, but the path to true reform is long indeed. In particular, the IMF reform package accompanied by the specific reform measures has enjoyed some success. However, much more needs to be done: Justice must be served to those directly wronged by the old regimes, and some punishment should be meted out on the wrongdoers. Old, long held, practices associated with crony capitalism need to be abandoned.

Specifically, one series of crimes allegedly perpetrated by the old regimes that must be investigated involves several companies that were subject to the "rationalization" policy of the mid-80s. The companies included Kuk Je, Jung Woo, Jung A, Nam Kang, and Samho were forced to transfer all of their assets to allies of the Chun government. Samho, formerly one of Korea's largest construction companies, helped to build much of Korea's infrastructure, including the subway, water filtration system, first skyscraper and much of the country's affordable, middle income housing. However, because the owner, Mr. B.K. Cho did not participate in the widespread corruption associated with the government of President Chun, his company and his family's personal possessions were taken by the government.

Samho was one of Korea's largest construction companies valued at over $750 million at the time of this illegal transfer. The company had projects throughout Korea, the Indochina Peninsula, Saudi Arabia, and Kuwait. Subsidiary companies included a textile plant, a chemical company, and one of the Korea's largest chains of stores. Now, Samho is a wholly owned subsidiary of Daelim Construction Company, operating under the same name. Daelim's director in the 1980s was a friend of the Chun family. Daelim is now the third largest construction company in Korea and one of the largest conglomerates with over 11,000 employees and annual revenues in excess of $5 billion. However, it was a relatively minor construction firm prior to the illegal acquisition of the Cho assets.

Many of the individuals in the Chun and Roh governments who were responsible for these illegal activities remain in powerful positions in the country. Kim Mahn Je was Chun's Minister of Finance, and is now the chairman of the Pohang Iron and Steel Company. He serves in his current position at the discretion of the Kim government. Kim threatened the director of Samho with physical force if he did not sign over the company, saying his orders came from "the Blue House," or from President Chun himself.

Lim Chang Yuel, who worked with the Minister of Finance Kim Mahn Jae under Chun, recently guided Korea through its IMF negotiations, and is currently running for governor of the Seoul province for President Kim's party. Lim was in charge of "forced liquidations" of corporations for President Chun.

Only one meager effort has been made to right the wrongs of the past for these companies. In July 1993, the Constitutional Court of the Republic of Korea held that the liquidation of Kuk Je was invalid, and awarded modest, although not fair, compensation to its former owners. I strongly believe that an investigation of these crimes would engender even greater confidence in the government of President Kim and his plan of implementation of the necessary reforms. By demonstrating that the era of corruption and crony capitalism is in the past, the Korean Government can foster greater economic growth and demonstrate that Korean corporations and government alike abide by the rule of law.

TRIBUTE TO SAMUEL L. GINN

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. RILEY. Mr. Speaker, I rise today in recognition of Samuel L. Ginn of Hillsborough, California. A graduate of Auburn University, located in Auburn, Alabama, Sam is being presented an honorary Doctor of Science Degree from his alma mater, Auburn. In addition, he is the Commencement Speaker at this year's ceremonies.

Mr. Ginn's contributions in the field of telecommunications is uncontested. A pioneer in wireless communications, Sam Ginn has been innovative in creating one of the largest, international communications companies in the world. AirTouch serves over 20 million individuals, fully 10 percent of the market.

In addition to being an exemplary businessman, Sam Ginn is an active member of his community, including both civic and professional organizations. He is a member of: The Business Council, Industry Policy Advisory Committee on JOBS, California Business Roundtable, and The Institute for International Studies at Stanford University. In addition he retains corporate board memberships with Chevron Corporation, Hewlett-Packard Company, Safeway Inc., and Transamerica Corporation.

Finally, Sam lives with his wife, Ann, in the San Francisco Bay Area. They have two sons and a daughter.

Mr. Speaker, Sam Ginn returns to Auburn University to not only receive an honorary degree, but to share with graduating students some of the wisdom and experience that he has gained over the last thirty years. Mr. Speaker, I would ask that my colleagues join me in congratulating Sam on his degree, and I would also ask my colleagues to join me in congratulating and wishing the best of luck to all of the students of Auburn University's Class of 1998.

THE LINK BETWEEN ANIMAL VIOLENCE AND VIOLENCE AGAINST INDIVIDUALS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to the important connection between violence against animals and violence against humans. Recently, we held an important Congressional briefing to explore the link between animal abuse and domestic violence. This briefing was jointly cosponsored by the Congressional Friends of Animals, which our colleague, Christopher Shays of Connecticut, and I chair; the Congressional Caucus on Women's Issues, chaired by Congresswomen Eleanor Holmes Norton and Nancy Johnson; and the Congressional Children's Caucus chaired by Congresswomen Sheila Jackson-Lee and Ileana Ros-Lehtinen, and with the support of Congresswoman Elizabeth Furse, Congressman Jon Fox, and Senator Robert Torricelli.

Mr. Speaker, it is no surprise that individuals who brutalize animals are very often guilty of committing similar crimes against people. Not all of us are aware of the well defined link between cruelty to animals and both domestic violence and violent crimes like murder, assault and serial crimes.

Violence towards animals precedes and coexists with domestic violence including: spouse abuse, child abuse, elder abuse, as well as murder and assault. Unfortunately, pets often serve as surrogate targets of a troubled offender's wrath. A 1997 survey found that 85.4 percent of women in shelters talked about violence towards pets as part of the cruelty at home. Mr. Speaker, Animal Abuse is recognized as a symptom of mental disorder by the American Psychiatric Association, which considers animal abuse one of the diagnostic criteria of a conduct disorder.

Animal abuse can also be an important indicator of future violent behavior. When a child is caught hurting an animal, this problem should be addressed immediately because this problem is not self-correcting. Abusing animals is often a precursor to more violent offenses, and a child that is abusing animals must be taught the value of all life. The FBI has used this connection between animal abuse and violent behavior for two decades in profiling serial killers and violent criminals.

Mr. Speaker, we must focus attention on this important connection. If we can help increase reverence for the life of animals, we will foster a greater respect for human life. Strengthening laws against animal abuse and publicizing this issue will serve to protect humans in the long run. Animal abuse is a warning sign, and we must learn to look for it and recognize it.

This past week, Mr. Speaker, I introduced H. Con. Res. 286 which expresses the view that the link between violence against animals and violence against humans should be given greater emphasis and that it should be used to identify and treat individuals who are guilty of violence against animals. This resolution notes that animal abuse is a crime in its own right in all 50 states, but such abuse should also be identified and treated because of the link with violence against humans. The resolution also urges research to increase understanding of the connection between cruelty to animals and violence against humans.

Mr. Speaker, I would like to call the attention of my colleagues to statements that were given at the recent briefing on this issue. I want to mention the remarks of Barbara Sweeney, a social worker from Alexandria, Virginia. She testified that individuals who batter often abuse animals to threaten, control, and intimidate their partner. Ms. Sweeney also discussed how the Alexandria Domestic Violence program addresses the link of violence through such programs as counseling and humane education for children who witness this form of abuse and are deeply affected. The Alexandria Domestic Violence Program has taken this link seriously and should be considered a model program.

A number of distinguished and well-informed experts provided outstanding testimony at this important briefing. They were Kim Roberts, M.S.W., First Strike Campaign Manager for the Humane Society of the United States; Special Agent Alan C. Brantley of the Federal Bureau of Investigation; Julie Bank of the ASPCA (the American Society for Prevention of Cruelty to Animals) and founder of the ASPCA'S Family VISION (Violence Information Sharing, Intervention, and Observation Network); and Suzanne Barnard, M.S., Assistant Director of the Children's Division of the American Humane Association.

Mr. Speaker, I ask that their statements be placed in the RECORD, and I ask that my colleagues give careful and thoughtful attention to their remarks.

CONGRESSIONAL INFORMATIONAL BRIEFING—ANIMAL ABUSE AND DOMESTIC VIOLENCE

(By Kim Roberts)

The HSUS' campaign about the connection between animal cruelty and human violence is called "First Strike" because the first strike is often against the family pet. The family pet may be the most vulnerable victim in a violent household. Violence against a family pet is often used to control, manipulate or terrorize family members. Animal abuse can also be a warning sign that the violence is escalating. Taking animal cruelty seriously offers an opportunity to intervene in violent households and with violent individuals, and strong anti-cruelty laws can provide the means. Through enforcement of laws and intervention with perpetrators we may prevent future violence against animals and people. In a violent household, all family members are victims. Enforcement of strong anti-cruelty laws can also provide an opportunity to provide assistance to other victims in the family.

Strong state anti-cruelty laws are a major focus of The HSUS. Some of the key components of a strong anti-cruelty law include a wide range of options such as felony provisions, psychological evaluation and counseling, a wide range of available fines and prison sentences, restitution, reimbursement of costs, seizure of animals and community service. Cross-reporting and cross-training of humane investigators and those charged with investigating child abuse and domestic violence are also valuable tools in the identification of current and possible future victims of violence, both human and animal.

In addition to supporting strong anti-cruelty laws elected officials and other leaders can also help address this issue by encouraging data collection and research at the local, state and federal level; support emergency housing programs for pets of individuals seeking to leave a violent situation and the development of community coalitions; stronger penalties for perpetrators who abuse animals in front of a child; and mandatory reporting of animal cruelty.

The next steps to prevent violence include formal recognition by the federal government of the connection between animal cruelty and various forms of human violence;

assistance in making others aware of the connection through inclusion of this connection in discussions of violence-related issues; cooperation between various government agencies and organizations interested in anti-violence efforts; inclusion of animal cruelty in state and federal level crime data collection; and the incorporation of animal abuse into the Justice Department's comprehensive plans for research and program development in violence-related areas such as domestic violence, child abuse, youth violence, etc.

The main message I would like to leave you with is that strong anti-cruelty laws don't just protect animals, they protect people too.

CONGRESSIONAL BRIEFING

(Remarks of Alan C. Brantley)

I come to you today from your National Center for the Analysis of Violent Crime, which is part of the FBI's Critical Incident Response Group located at Quantico, Virginia. The National Center for the Analysis of Violent Crime or NCAVC, was formed in the mid-1980's as the direct result of the then burgeoning phenomena of stranger-to-stranger homicides or so called murders with no apparent motive. At that time, we in the NCAVC were tasked with the identification and tracking of serial killers and other violent offenders who committed unusual or particularly vicious offenses.

It is our belief that since all crimes are committed by human beings then at some stage along the crime commission continuum there will be the display of behavior that lends itself to analysis and interpretation. From this interpretation, information of lead value can be gleaned from the results and provided to investigators, prosecutors, judges, and juries who may not encounter these types of behaviors in their professional or personal life experiences.

Since the mid-1980's to the present, the NCAVC has expanded its examination of criminals and offenses to include not just the serial offenders but all types of violent crime. One of the services provided by the NCAVC is in the area of threat analysis and the assessment of dangerousness. To aid in the prediction of dangerousness in law enforcement settings, we have developed a checklist or guide which enumerates sixteen categories. These categories and the elements within each, serve as risk indicators or warning signs that when critically reviewed and recognized can assist during assessments of subjects suspected or known to be dangerous.

Provided to you today is a copy of the checklist which is entitled the "Traits and Characteristics of Violent Offenders." You will note categories number twelve and sixteen which are two of the most important warning signs. Both of these categories concern an individuals history of actual violence to include violence against people and animals. It has long been accepted among professionals who must assess dangerous populations that the best predictor of future behavior is past behavior and a past history of violence is the single most important predictor of future violence.

Some in our society make too much out of qualitatively distinguishing between violence against humans and violence against animals. Ladies and gentlemen, violence against animals is violence and when it is present, it is considered by the people I work with to be synonymous with a history of violence. In many cases reviewed at the NCAVC we have seen examples whereby violence against animals is a prelude to violence against humans. We in the NCAVC find ourselves in the unenviable position of literally seeing the absolute worst that human beings can do to other human beings and animals. Some offenders kill animals as a rehearsal for targeting human victims and may kill or torture animals because to them, the animals symbolically represent people.

In many cases, depending on the context and quality of the behavior, animal violence does not occur in a vacuum and co-exists with other major adjustment problems. It is not only highly predictive in identifying children at risk for committing future acts of violence but also in identifying children being abused and cases of spousal abuse. The most profound predictor of future violence against humans, in my opinion, is when the animal abuser kills the animal in a very public way and flaunts the act in order to seek attention and gain a perverted sense of status. They begin to identify with the role of becoming a violent criminal and in many cases achieve their goal.

To close I will leave you with some insight into how convoluted the thinking of such individuals can become. For them what is good is bad, what is bad is good, and what is cruel, violent and inhumane is even better.

TRAITS AND CHARACTERISTICS OF VIOLENT OFFENDERS

The prediction of dangerousness in law enforcement settings has long been a topic of interest, especially for those who must make arrests, conduct threat assessments, are hostage negotiators, and who preside over parole decisions. A number of factors have been identified by researchers as risk indicators for future violence to include past violence, substance abuse, mental disorders, brain damage, and a history of witnessing violence in the home. While the above risk indicators are well known to many, there has been no systematic method of combining all that is known about risk indicators into an off-the-shelf, user friendly model that can be applied to individual cases.

The following checklist was developed by Supervisory Special Agent (SSA) Alan C. Brantley of the Critical Incident Response Group's National Center for the Analysis of Violent Crime. It is intended to serve as a guide when conducting assessments of subjects suspected or known to be dangerous. The items included on the checklist were selected primarily on the basis of both law enforcement and mental health experience with violent offenders. Questions about this checklist may be directed to SSA Brantley at (540) 720-4902.

1. ANGER/LOW FRUSTRATION TOLERANCE—Reacts to stress in self-defeating ways, unable to effectively cope with anxiety, acts out when frustrated. Frustration leads to aggression.

2. IMPULSIVE—Is quick to act, wants immediate gratification, has little or no consideration for the consequences, lacks insight, has poor judgment, has limited or impaired cognitive filtering (A–C vs. A–B–C).

3. EMOTIONAL LIABILITY/DEPRESSION—Quick-tempered, short-fused, hotheaded, "flick," rapid mood swings, moody, sullen, irritable, humorless.

4. CHILDHOOD ABUSE—Sexual and physical abuse, maternal or paternal deprivation, rejection, abandonment, exposure to violent role models in the home.

5. LONER—Is isolated and withdrawn, has poor interpersonal relations, has no empathy for others, lacks feelings of guilt and remorse.

6. OVERLY SENSITIVE—Hypersensitive to criticism and real or perceived slights, suspicious, fearful, distrustful, paranoid.

7. ALTERED CONSCIOUSNESS—Sees red, "blanking," "blackouts, derealization/depersonalization" ("it's like I wasn't there; it was me but not me"), impaired reality testing, hallucinations.

8. THREATS OF VIOLENCE—Towards self and/or others, direct, veiled, implied, conditional.

9. BLAMES OTHERS—Projects blame onto others, fatalistic, external locus of control, avoids personal responsibility for behavior, views self as "victim" vs. "victimizer," self-centered, sense of entitlement.

10. CHEMICAL ABUSE—Especially alcohol, opiates, amphetamines, crack, and hallucinogenics (PCP, LSD), an angry drunk, dramatic personality/mood changes when under the influence.

11. MENTAL HEALTH PROBLEMS REQUIRING IN-PATIENT HOSPITALIZATION—Especially with arrest history for any offenses prior to hospitalization.

12. **HISTORY OF VIOLENCE**—Towards self and others, actual physical force used to injure, harm, or damage. **This category is the most significant in assessing individuals for future dangerousness.**

13. ODD/BIZARRE BELIEFS—Superstitious, magical thinking, religiosity, sexuality, violent fantasies (especially when violence is eroticized), political, social, delusions.

14. PHYSICAL PROBLEMS—Congenital defects, severe acne, scars, stuttering, any of which may contribute to poor self-image, lack of self-esteem, and isolation. History of head trauma, brain damage/neurological problems.

15. PREOCCUPATION WITH VIOLENT THEMES—Movies, books, TV, newspaper articles, magazines (detective), music, weapons collections, guns, knives, implements of torture, S&M, Nazi paraphernalia.

16. PATHOLOGICAL TRIAD/SCHOOL PROBLEMS—Firesetting, enuresis, cruelty to animals, fighting, truancy, temper tantrums, inability to get along with others, rejection of authority.

CRUELTY TO ANIMALS THROUGH MY EYES

(By Julie Bank)

Thank you for the opportunity to speak with you today. I'm honored to be here but I'm saddened by the need to describe the world of animal cruelty to you. You see, I have been crusading against cruelty for over a decade and although I have seen positive results of mine and other advocates' efforts, there still seems to be much to do. Working at the ASPCA has given me a first hand look into the eyes of the victims of abuse and not only the four legged victims. I remember working as an adoption counselor, eager and energetic to find animals a home. One afternoon, a man walked in, he was a tall man, he was dragging a dog that was so thin I could almost count his ribs. The dog had almost no hair and was bleeding from the ears. It had looked like the ears had been chopped off with scissors. You could see the terror and the panic in the dog's eyes as he tried to pull away from the man. Trailing behind the man was a young boy, about eight, carrying a box. The box was filled with puppies. Two of them were already dead. I could swear the boy had the same look in his eyes as the dog. He too was thin, pale, and dirty. The man dumped the dog on the counter, turned to the boy and said, "I am going to teach that bitch a lesson once and for all." When the boy bent down to say goodbye to his once beloved friend, the father smacked the boy in the face, grabbed him by the arm and said, "Just you wait till we get home." The man and the boy left and the dog was humanely euthanized by ASPCA technicians. One of the puppies survived, and is now living in a happy home.

I think it was that day that I began to recognize the cycle of violence. I couldn't help but wonder what other abuse was occurring in this home since the man was willing to show us a brutal display in the shelter. Was there anything I could do as an individual or as an animal worker to stop the abuse from happening again?

Eight years later, and a lot of hard work, we have begun to make headway. I am proud to say that the ASPCA is part of a network in NYC which is recognizing that animal abuse is an important piece of the abuse puzzle. The network consists of a whole range of city social service and protection agencies including:

The NYPD, Administration for Children's Services, Department of the Aging, Human Resource Agency, mental health, education, animal welfare, and other public and private agencies.

NYC Family VISION, as it's called looks at violence as a societal issue and is working on programs to address it. All members of Family VISION bring to the table different perspectives and experiences. Many of us define abuse differently but, no matter what our background is or who the population is we are serving, whether adult, child, or animal, abuse is abuse and must be stopped.

NYC Family VISION has five goals: Cross training animal, law enforcement, and social service workers to recognize animal and human abuse. For example, in January of this year, ASPCA staff trained 800 Domestic Violence police officers on animal abuse.

Cross reporting so that we can gather statistics and make sure that the proper agency is informed when an abuse case occurs. Recently, ASPCA humane law enforcement officers went into a home to investigate an animal abuse complaint and found three children under five home alone. They immediately called the Family VISION NYPD and ACS representative and the mother who was found in the local bar was brought up on child abuse charges.

Intervention which is a new program where adjudicated offenders of animal abuse are sent to the ASPCA by the courts for a twelve-week psycoeducational program.

Education. As an educator, I recognize the importance of establishing school and family programs that will continue to foster the human animal bond that exists in millions of households. NYC Family VISION is helping educators support their students, and to continue to promote programs that stimulate responsible, empathetic behaviors toward all life.

Foster care. Helping victims of domestic violence by temporarily placing their animal so they can leave an abusive situation quickly.

Programs like Family VISION are not limited to NYC. Humane Organizations around the country already understand the impact violence has on humans and animals.

In Colorado Springs, the DIVERT program receives federal funding to collaboratively review Domestic Violence cases.

The Toledo Humane Society has developed a comprehensive training program for law enforcement personnel to recognize all forms of abuse.

At Purdue University, an animal foster care program was developed to address the needs of human victims of domestic violence.

The Quad Alliance Against Abuse in Alabama run by the Civitan Club, has a logo that reads, "There's No Excuse for Abuse, Child, Elderly, Spousal, and Animal."

And, in Oregon, the Domestic Violence Assistance program's motto reads, "Protecting Women, Children and their Pets."

The Emergence of programs like the ones mentioned above show a clear recognition by all individuals working on preventing abuse, that abuse does not stand in isolation. Working together to understand family dynamics, the role of each individual (and animal) in the household, and to develop programs to address the needs of the family, can only help to put an end to the awful violence that exists today. As part of the legislative process you have the opportunity to support programs like NYC Family VISION in your community.

In the past, child abuse used to be considered a family affair where people shouldn't meddle. Today we are all concerned with child abuse. We are becoming more sophisticated to seeing the connection among all abuses.

It is no longer acceptable to look the other way when someone is hitting an animal on the street.

It is no longer acceptable to say "Boys will be boys" when there is a news report about a peer group setting fire to a cat singeing its whiskers off.

It's no longer acceptable for the court to let someone off with a slap on the wrist for tying up an animal to a car and dragging it throughout the streets for the whole neighborhood to see.

It's time that we take animal abuse seriously, look at it for inherent wrongs, and look at it as an indicator of other problems in society. As leaders, you have a responsibility to stand up for all your constituents and their families. If any of you currently have or had a pet in the past, you can remember how important an animal is in the entire picture of a family. I applaud your efforts in the past on behalf of animals, and plead with you to continue to support stronger laws, and programs that can help to solve America's abuse problem.

Thank you for this opportunity to speak with you today.

AMERICAN HUMANE ASSOCIATION

(Presented By Suzanne Barnard)

As the jury deliberated the death penalty for convicted pedophile and child murderer Jesse K. Timmendequas, whose crimes were the incentive for Megan's Law, lawyers argued that Timmendequas allegedly endured years of childhood physical and sexual abuse during which family pets were tortured in front of him to ensure his silence. In Janesville, Wisconsin, police arrested a man after finding numerous cats and dogs, in his home, that had been beaten to death. In his statements to police, the man indicated that he had been beaten as a child and killing the animals helped to release his anger. And finally, a teenager accused of murdering his mother and two classmates in Pearl, Mississippi wrote of his torturing and killing of the family pet. He described how he and an accomplice beat his dog, then set it on fire and threw it in a pond . . . "it was true beauty", he wrote.

Good morning, my name is Suzanne Barnard and I am with the Children's Division of the American Humane Association. I am a social worker with over 20 years of experience in the field of child protection.

My organization has a long history of concern for and involvement in the protection of both children and animals. In 1877 The American Humane Association was founded by those concerned with both animal and child abuse. Using rudimentary animal protection laws to remove an abused child from horrifying conditions, a church worker and an attorney made history with one of the first recorded cases of legal child protection in this country. Today, the fate of children and animals is more linked than ever, and both child welfare organizations and animal protection groups are beginning to refocus their attention on recognizing and responding jointly to abuse, neglect, and cruelty toward both children and animals.

This refocused attention brings forward several issues for consideration. First, and at the heart of any discussion concerning the links between human and animal abuse must be the understanding that we are not talking about child welfare vs. animal welfare, but rather about creating a more comprehensive response to both children and animals. Second, we must focus attention on teaching children compassion toward animals as a regular part of any school curriculum. Although the issue of the relationship between childhood cruelty to animals and later violence to adults is far from settled, enough information currently exists that illustrates the association between repetitive acts of severe cruelty in childhood and severe antisocial behavior in adulthood. Groundbreaking studies by Alan Felthous, Stephen R. Kellert, Fernando Tapia, Frank Ascoine and others indicate that those who have been cruel toward people share a common dual history of cruelty to animals. There is also a need to research and develop treatment techniques for those children who do show early antisocial behavior toward animals. Third, we must ensure that training for different professions such as social work, psychology, law, law enforcement, veterinary medicine, medicine, animal control and others includes information about the research linking different forms of violence and abuse including child abuse, animal abuse, and domestic violence. Lastly, the significance of these links must be fully explained and understood across professions and specific programmatic linkages and treatment protocols must be created that in practice produce a linked response.

Those of us who work in child protection know that animal abuse, by a parent or a child is one indicator that abuse may be occurring in the family. Animals, especially pets, get caught in the family "cycle of violence." The sexual abuse of children has also been associated with cruelty to animals. Sometimes, adult perpetrators of abuse will threaten to harm or destroy the family pet if the child victim tells of the abuse.

Other times, animal abuse may indicate that a child is deeply disturbed as is indicated in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders which includes cruelty to animals as a behavioral characteristic of the diagnosis of conduct disorder.

My colleague, Dr. Frank Ascione, a Developmental Psychologist at Utah State University, indicated in a chapter we co-wrote that in some cases animal maltreatment may come from the natural curiosity and exploration common in very young children. In those cases, parents or guardians may use existing education programs to help instill values concerning the humane treatment of animals in the children. Peer pressure in the form of group initiation or proof of loyalty or to shock adults may also account for some cases of cruelty to animals where the child, if alone would not have harmed an animal. Children may also mistreat animals if that is what they have learned as a model for animal treatment within the family. If the family practice is to beat or torture animals to discipline them, the child may assume that this is part of regular animal care.

AHA's campaign against violence toward children and animals has taken us to many states where we have organized collaborative programs in communities, at the grass roots level, and trained both animal control officers and social workers about how to recognize and report abuse. We have also designed a curriculum on recognizing and reporting child abuse and neglect for animal control officers nationally and for third year veterinary medical students in Colorado, where veterinarians are now mandated to report suspected child abuse. We provided support for the passage of legislation, in San Diego, California, that modified an existing municipal code which required animal control officers to report suspected child abuse to additionally require child protection social workers to report abuse of animals.

On June 4, 1997 Colorado Governor Roy Romer signed HB 1181 into law. This historic piece of legislation has both severe financial penalties for animal cruelty and a mandatory requirement for mental health treatment/anger management as part of the penalty phase for convicted adult and juvenile perpetrators of animal cruelty.

AHA is also working jointly with Dr. Ascione to develop a book titled Children and Animals, Kindness and Cruelty which would be directed at a lay audience, especially parents, counselors, teachers, clergy, children care and other child serving professionals and which will explore the relational issues between cruelty to animals and child development—particularly as they pertain to the development of childhood interpersonal skills such as compassion, empathy, and nonviolent problem solving. This is a topic on which very little has been researched or written.

We urge you to join in our efforts to awaken and inform the public about the need to take both animal abuse and child abuse seriously. By keeping issues like animal cruelty and human violence separate in nature, in implication, and in remedy, we risk taking a dramatic step backward in our efforts to protect both children and animals.

Some excerpts taken from Protecting Children, a publication of the American Humane Association.

PERSONAL EXPLANATION

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

Mr. WEXLER. Mr. Speaker, yesterday, on roll call votes number 211, 212, 213, 214, 215, I was detained due to personal matters. Had I been present, I would have voted "yea" on all five of these roll call votes.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 11, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 12

9:30 a.m.

Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

To hold hearings to examine how the Year 2000 computer conversion will affect utilities and the national power grid.

SD–192

JUNE 15

2:00 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 1166, to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits, and to review the judgeship needs of the 10th Circuit.

SD–226

JUNE 16

10:00 a.m.

Armed Services

To hold hearings on the nominations of Louis Caldera, of California, to be Secretary of the Army, and Daryl L. Jones, of Florida, to be Secretary of the Air Force, both of the Department of Defense.

SR–222

Judiciary

To hold hearings to examine mergers and corporate consolidation.

SD–226

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of State.

SD–192

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 1398, S. 2041, S. 2087, S. 2140, S. 2142, H.R. 2165, H.R. 2217, and H.R. 2841, bills relating to water and power construction projects.

SD–366

Foreign Relations

To hold hearings on the nominations of Shirley Elizabeth Barnes, of New York, to be Ambassador to the Republic of Madagascar, William Davis Clarke, of Maryland, to be Ambassador to the State of Eritrea, Vivian Lowery Derryck, of Ohio, to be Assistant Administrator for Africa, Agency for International Development, George Williford Boyce Haley, of Maryland, to be Ambassador to the Republic of the Gambia, Katherine Hubay Peterson, of California, to be Ambassador to the Kingdom of Lesotho, Charles Richard Stith, of Massachusetts, to be Ambassador to the United Republic of Tanzania, and William Lacy Swing, of North Carolina, to be Ambassador to the Democratic Republic of the Congo.

SD–419

4:00 p.m.

Foreign Relations

To hold hearings on the nominations of Paul L. Cejas, of Florida, to be Ambassador to Belgium, Eric S. Edelman, of Virginia, to be Ambassador to the Republic of Finland, Nancy Halliday Ely Raphel, of the District of Columbia, to be Ambassador to the Republic of Solvenia, Michael Craig Lemmon, of Florida, to be Ambassador to the Republic of Armenia, Rudolf Vilem Perina, of California, to be Ambassador to the Republic of Moldova, Edward L. Romero, of New Mexico, to be Ambassador to Spain and to serve concurrently and without additional compensation as Ambassador to Andorra, and Cynthia Perrin Schneider, of Maryland, to be Ambassador to the Kingdom of the Netherlands.

SD–419

JUNE 17

10:00 a.m.

Finance

To hold hearings on S. 1432, to authorize a new trade and investment policy for sub-Saharan Africa.

SD–215

Judiciary

To hold hearings to examine the extent of drug abuse among children.

SD–226

10:30 a.m.

Foreign Relations

To resume hearings on S. 1868, to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; and to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council, focusing on views from the religious community.

SD–419

2:00 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

2:30 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

JUNE 18

10:00 a.m.

Finance

To hold hearings to examine new directions in retirement income policy, focusing on social security, pensions, and personal savings.

SD–215

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine congressional views of the U.S.-China relationship.

SD–419

Judiciary

Business meeting, to consider pending calendar business.

SD–226

Labor and Human Resources

To hold joint hearings with the House Commerce Committee to examine organ donation allocation.

2123 Rayburn Building

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 469, to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System, S. 1016, to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, S. 1665, to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, S. 2039, to designate El Camino Real de Tierra Adentro as a National Historic Trail, and H.R. 2186, to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

SD–366

United States Senate Caucus on International Narcotics Control

To hold hearings to examine United States efforts to combat drugs, focusing on international demand reduction programs.

SD–628

JUNE 24

9:30 a.m.

Indian Affairs

To hold hearings on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".

SR–485

10:00 a.m.

Governmental Affairs

To resume hearings to examine the state of computer security within Federal, State and local agencies.

SD–342

JUNE 25

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine the adequacy of procedures and systems used by the Department of Agriculture Food Safety and Inspection Service and the Department of Health and Human Services Food and Drug Administration to oversee the safety of food imported into the United States.

SD–342

Labor and Human Resources

To hold hearings to examine health insurance coverage for older workers.

SD–430

JULY 21

10:00 a.m.

Judiciary

To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.

SD–226

OCTOBER 6

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.

345 Cannon Building

CANCELLATIONS

JUNE 11

2:00 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

POSTPONEMENTS

JUNE 11

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD–226

HOUSE OF REPRESENTATIVES—*Thursday, June 11, 1998*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your spirit so purify our spirits, O God, that our motivations will be made clear, that our actions will be more respectful, that our vision will be raised, that our thoughts will be more considerate, and that our words will testify to integrity and honor. We recognize, gracious God, that we often miss the mark and follow too narrow a path, so help us open our eyes to the truth which shall surely set us free. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. LAMPSON) come forward and lead the House in the Pledge of Allegiance.

Mr. LAMPSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

> H. Con. Res. 131. Concurrent resolution acknowledging 1998 as the International Year of the Ocean and expressing the sense of Congress regarding the ocean.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1900) "An Act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes."

The message also announced that the Senate passed bills of the following titles, in which concurrence of the House is requested:

> S. 1364. An act to eliminate unnecessary and wasteful Federal reports.
>
> S. 2069. An act to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize eight 1-minutes on each side.

CHILDREN'S SCHOLARSHIP FUND

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I simply want to take a moment to praise two great Americans who are taking positive action to help educate the children of America. Ted Forstmann and John Walton announced Tuesday the creation of the Children's Scholarship Fund, a $200 million matching funds scholarship program that will allow children in grades K through 12 to attend schools they and their parents choose, schools that will give them the best possible education and the best possible chance to succeed in life.

They set up this fund in a unique way. They have invited the mayors of 310 cities in America, all with populations over 75,000, to participate by finding local partners to contribute funds for scholarships for needy children. Forstmann and Walton will match these local partners with $100 million of their own money.

I want to first recognize them and thank them for their commitment to helping students here in our Nation's capital, and I stand here today because I am enthused that they have taken this tremendous next step.

But I want to drive two points home: No child anywhere in America should be trapped in a bad school with a bad education with a bad safety record. No child anywhere, of any background, in any neighborhood should be trapped. It is tragic that the Federal Government does not meet the citizenship of Mr. Forstmann and Mr. Walton.

Second, I praise their generosity and the spirit of Tocqueville's Democracy in America. Their commitment, as citizens, of their own money, voluntarily, because they care, is what America is really all about. That is why, when we cut taxes, it is to increase the take-home pay of citizens so citizens can then be active in their community, because they have more time and more take-home pay.

I would simply say that Mr. Forstmann and Mr. Walton are models of the kind of citizenship we are supporting.

HATE CRIME IN JASPER, TEXAS, WILL BE FULLY PROSECUTED

(Mr. TURNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TURNER. Mr. Speaker, last Sunday morning James Byrd, a constituent of mine from Jasper, Texas, was brutally murdered when he was beaten, chained and dragged from the back of a truck. This senseless act of violence was committed against a black man by three white men with a criminal record.

The people of Jasper, Texas, both black and white, have joined in denouncing this shocking act. The local officials have called upon the Justice Department to fully prosecute the perpetrators and to seek the death penalty.

□ 1015

I have urged the U.S. Attorney to prosecute with the full force of Federal civil rights laws.

For those of us who believe that racial prejudice and hatred have no place in American society, this tragic event is a reminder that much is left to be done, that no American is safe until every American treats his neighbor with dignity, regardless of the color of his skin.

Let us renew our commitment to root out the vestiges of racial prejudice, that the tragic death of James Byrd be not in vain.

Our hearts go out today to the Byrd family, their grief is shared by the people of Jasper, Texas, and by the American people.

SECURITY INTERESTS OF U.S. SHOULD OUTWEIGH COMMERCIAL INTEREST WITH REGARD TO CHINA

(Mr. BALLENGER asked and was given permission to address the House

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I would like the White House to answer a serious question: Why does the President believe that the Commerce Department, and not the State Department, should have the final say about a matter of national security?

Technology transfers to Communist China is a matter of highest national security. Why then did the Clinton administration take the authority for the granting of waivers from the State Department and give it to the Commerce Department?

Here we have a case of two interests in conflict. We have an important and legitimate economic interest in selling goods and technology to China, and we have a national security interest in preventing Communist China from acquiring technology that can be used for military purposes.

These two interests are at times absolutely in conflict, but it is not difficult to decide that national security must always come first. Why then would this administration put commercial interests above national security interests?

Mr. Speaker, it is wrong, wrong, wrong for this administration to have made this policy change. This administration has its priorities utterly backward.

PLAY NOW, PAY LATER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I hope all of the Members in this body remember that old saying, "Play now and you can pay later." It seems that the antics of the Clinton Commerce Department have made it clear that their motto is, "Let's play now and we will all pay later."

One would think that even the most naive administrative appointee would understand the law of cause and effect and unintended consequences. Take, for example, Japan when it sold $40 million worth of high-tech machine tools to Russia to help them develop quieter submarines. That innocent sale cost the U.S. Navy billions of dollars to compensate for losing their advantage in anti-submarine warfare.

Now the Clinton administration has sold the Communist Chinese advanced tool machinery for a measly $5 million. Lo and behold, those tools immediately turned up in a Chinese factory where anti-ship cruise missiles are built.

Who knows what that little snafu will cost us in years to come? We can bet that it will not be cheap. What is next? Stealth technology?

American technology has given our military the very best. Let us stop this "play now, pay later" attitude.

BILL OF RIGHTS APPLIES TO TAXPAYERS, TOO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS and Treasury Department want to soften the language of the burden of proof provision in the IRS reform bill. Let us tell it like it is. The administration wants the accused taxpayer to remain under the gun.

Beam me up, Mr. Speaker.

If "innocent until proven guilty" is good enough for the murderers of Jasper, Texas, good enough for Charlie Trie in China, good enough for Bill Clinton, then innocent until proven guilty is good enough for mom and dad, good enough for grandma and grandpa, good enough for he and she, you and me, good enough for my colleagues' constituent and for my constituent.

Mr. Speaker, they should keep their hands off that provision. It is the only real discipline in the reform bill. The Bill of Rights should apply to taxpayers, too. With that, I yield back any common sense left and advise the administration to come clean.

JUDGE STARR'S INVESTIGATION SLOWED BY WHITE HOUSE TACTICS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, one of the famous lines of a song that our beloved former Member, Sonny Bono, sang was, "The beat goes on." That in some way describes Judge Starr's investigation into perjury, suborning perjury, and other possible violations of the law that may have been committed by our President.

Some of Judge Starr's critics say that he has taken too long and has cost too much, but the irony of their criticism is that the investigation would be over except for the delaying tactics from the White House, except for the claims of executive privilege, except for the claims of attorney-client privilege, except for the stone wall that is built around the White House.

Mr. Speaker, Judge Starr could have completed his investigation, but the President will not come forward and the White House has prevented the investigation from being completed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. EWING). The Chair would remind the Member to refrain from personal references to the President in his remarks.

NOW IS THE TIME FOR CAMPAIGN FINANCE REFORM

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, every time there is a new scandal that involves campaign finance, whether it be a Democrat or Republican, we all lose. This institution is damaged and democracy is diminished.

Now is the time for all of us to act and enact meaningful campaign finance reform. There is only one proposal that can pass this House and that is the Shays-Meehan bill. It is a reasonable limitation on the use of soft money and independent expenditures. So if Members are for campaign finance reform, the first step must be to support Shays-Meehan.

How do we get this done? Later today there is going to be a rule considered by this House that is trying to kill the Shays-Meehan, by the amendment process, by allowing over 200 nongermane amendments to be made in order. If Members are for campaign finance reform, they should reject the rule that will be on the floor later today.

The way that the bill will be considered on this House floor requires us to support Shays-Meehan and reject all of the other substitutes. I urge my colleagues to do that.

PARENTAL CHOICE IN EDUCATION

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, even the hard-core liberals generally do not think people are better served by monopolies when it comes to making computers, televisions, or automobiles. Yet they prefer a government monopoly over parental choice when it comes to education in the public schools.

No floor speech will convince them that parental choice is morally superior to the education monopoly, even when children suffer, and when the so-called reforms that bureaucrats embark on year after year are proven to be utter failures.

No, Mr. Speaker, neither a speech nor the anguished cries of parents desperate to give their kids a real chance in life will change their minds—because the liberal mind-set does not admit the failures of government monopolies on this subject.

But to those Democrats on the other side of the aisle who stand with the Republican majority in trying to give kids a chance in the poorest schools, I salute their courage and I urge them to stand fast, because what we will accomplish in a bipartisan fashion is greater than any loyalty to a party. It is giving children in the poorest neighborhoods a chance for a world-class education. That is our supreme obligation as Members of this body.

PEOPLE WANT REAL CAMPAIGN FINANCE REFORM

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, today is the third anniversary of President Clinton's handshake agreeing with Speaker GINGRICH to have real campaign finance reform here in the House of Representatives.

Last night, the majority whip actually said when he was talking about campaigning, and I quote him, he said, "We don't spend enough money in campaigns."

While he and his cohorts talked against a constitutional amendment that he himself brought to the House of Representatives, it was absolutely clear to everybody listening that they do not get it. They do not understand that the people of this country want a real debate about campaign finance reform. They do not want a ruse. They do not want stalling. And the people of this country want back into the election process.

TAX CODE TERMINATION ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, confusing, cumbersome, complicated, intimidating. These are words that have been used to describe America's tax laws. Anyone who has prepared his or her own tax returns understands why many Americans are so intimidated by the Tax Code's complexity that they do not even try to prepare their own tax returns.

If preparation of personal returns is difficult, preparing business returns is almost impossible unless, of course, we hire an army of highly trained professionals to assist us.

Each year in America, taxpayers spend 5 billion man-hours and $225 billion preparing their tax returns.

Mr. Speaker, that is why I have joined the gentleman from Oklahoma (Mr. LARGENT) and the gentleman from New York (Mr. PAXON) in cosponsoring the Tax Code Termination Act. This bill sunsets the Federal Tax Code as of December 31, 2002.

Under our proposal, today's complicated Tax Code would expire and be replaced with a new Tax Code. It would ensure that America will have a new tax system for a new millennium. It should be lower, simpler, and flatter, one that the average person can finally understand.

RACIAL VIOLENCE AND HATRED WILL NOT BE TOLERATED

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, I take to the floor today to express the outrage of the good people of southeast Texas, and my own personal outrage, at the actions of the three men in Jasper, Texas who brutally beat, chained, and savagely dragged James Byrd, Jr., an innocent man, behind their pickup truck to his painful death.

This brutal attack should serve as a wakeup call to people who sit comfortably in their seats and blatantly say that racism does not exist. The only reason that Mr. Byrd was singled out for attack by these people is because of his race.

It is unbelievable that in this day and age hate crimes against people of color are still occurring, yet they do. We must speak out against all hate crimes toward any person and be strong leaders for tolerance in our society.

Mr. Speaker, we must take the lead to challenge the good people of this Nation to come together to condemn such heinous acts. I am personally pained by the continued violence and cruelty levied against people who simply want to live in this country in peace.

African Americans and people of color have suffered enough in this Nation because of racism and bigotry. We must not sit idly by and allow this evil to take play. Let us join together as a Nation to say that violence and hatred will not be tolerated.

McCOLLUM-DUNN CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT

(Ms. DUNN asked and was given permission to address the House for 1 minute.)

Ms. DUNN. Mr. Speaker, today I urge my colleagues to support the McCollum-Dunn Child Protection and Sexual Predator Punishment Act, which will be considered later today on the floor.

This legislation is an integral component of our continuing effort to combat sex crimes against children. With both the Jacob Wetterling Crimes Against Children Act and Megan's Law, we told sex offenders, "You can run, but you cannot hide." These laws have given neighborhoods a greater sense of security by informing them when a sexual predator might be back living in their midst.

But what about cyber-predators? They may live anywhere, in our neighborhoods, in another State, across the country, and still have access to our children. These predators think that they now can hide behind the faceless, voiceless world of the Internet. But make no mistake. They are wrong.

Mr. Speaker, the McCollum-Dunn bill will ensure that cyber-predators become real-life prisoners by providing law enforcement with the tools it needs to bring justice to those who would prey on vulnerable children.

□ 1030

A vote in support of McCollum-Dunn will affirm Congress's commitment to protecting our children. I urge the support of my colleagues.

COMPREHENSIVE CAMPAIGN FINANCE REFORM

(Mr. SNYDER asked and was given permission to address the House for 1 minute,).

Mr. SNYDER. Mr. Speaker, it was 3 years ago today, June 11, 1995, the famous handshake, the promise between the President and the Speaker of the House to do something about the big money in politics.

Where are we today? The President has said he will sign a comprehensive campaign finance reform bill. He supports the Shays-Meehan bill.

The problem continues to be the Republican leadership of this House which has delayed and delayed and delayed proper consideration of campaign finance reform.

Today we continue to have a few hours a week with this debate on campaign finance reform spread out so that the continuity is lost for the American people to follow this debate. The delay is long enough. It is time now for bipartisan campaign finance reform. Millions of dollars continue to be donated to the parties as the debate continues. The debate has gone on long enough. It is time to proceed with comprehensive campaign finance reform.

A TRIBUTE TO FLAG DAY

(Mr. NEUMANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, I rise today to ask all Americans to join me in remembering a very special day in our Nation's history. This Sunday, June 14, we will once again be observing the birth and preservation of the United States flag as part of our annual Flag Day celebration.

The United States flag is the symbol of America which inspires patriotism and unity within all who call this country home. It has come to represent the American dream to which so many aspire in our great land. Our flag also serves as a perfect reminder of the millions who have fought for our freedom and who continue to risk their lives every day to protect our great country. So many have done so much to defend our land and the ideas it stands for.

So in honor of this great day and the flag that represents our Nation we so love, I wish to share with my colleagues a poem written by my 11-year-old niece, Kate Link, entitled "Stars and Stripes":

Stars and stripes, what does it mean?
It means courage, bravery, and honor.
Our soldiers fought through the night,
and the flag stood strong and
tall through the war.
After that our country won its freedom after all.

CAMPAIGN FINANCE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, once again the Republicans are trying to kill meaningful campaign finance reform by allowing hundreds of irrelevant amendments and scheduling debate on campaign finance reform in the wee hours of the night. Do not just take my word for it.

The New York Times called the GOP tactics a "death by amendment strategy," and a "filibuster in disguise." The Los Angeles Times calls it "a dirty ploy." Even Republican Congressman, the gentleman from Illinois (Mr. LAHOOD) has admitted that, We tried squelching it first, this is a quote, "now we are going to try to talk it to death."

Perhaps USA Today said it best, "Republican leaders are sparing no device in their efforts to keep the flood of special interest money flowing."

I call on the Republican leadership of the House, stop listening to the special interests. Start listening to the American people. Let us pass real campaign finance reform. Let us past the Meehan-Shays bill today.

IMPOSITION OF ECONOMIC SANCTIONS ON REPUBLICS OF YUGOSLAVIA, SERBIA, AND MONTENEGRO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–273)

The Speaker pro tempore (Mr. EWING) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

In response to the ongoing use of excessive military force in Kosovo by the police and armed forces of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia, which has exacerbated ethnic conflict and human suffering and threatens to destabilize other countries in the region, the United States, acting in concert with the European Union, has decided to impose certain economic sanctions. Consistent with decisions taken at the meetings of the Contact Group of countries, consisting of the United States, the United Kingdom, Germany, France, Italy, and Russia, in Birmingham, England, on May 16, 1998, and in Rome on April 29, 1998, the United States will impose a freeze on the assets of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro, and a ban on new investment in the Republic of Serbia. It is our intent to exempt the Government of Montenegro from these sanctions wherever possible.

The Contact Group originally agreed in Rome on April 29 to impose these sanctions in response to the increasingly dangerous situation in Kosovo and Belgrade's failure to meet crucial requirements concerning the adoption of a framework for dialogue with the Kosovar Albanian leadership and a stabilization package, as set out in earlier Contact Group meetings in London on March 9, 1998, and in Bonn on March 25, 1998. The G8 Foreign Ministers reaffirmed the need to impose sanctions at their meeting in London on May 8–9, 1998. The Russian Federation did not associate itself with these sanction measures.

At the May 16 meeting in Birmingham, England, the Contact Group welcomed the establishment of a dialogue between Belgrade and the Kosovar Albanian leadership. With the start of this dialogue, those Contact Group countries that had previously agreed to implement economic measures against the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia agreed that the proposed measure to stop new investment in the Republic of Serbia would not be put into effect and that they would review at their next meeting the implementation of the freeze on funds. However, the use of indiscriminate force by the police and armed forces of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia has undermined the basis for dialogue.

The Contact Group has concluded that the current situation in Kosovo is untenable and the risk of an escalating conflict requires immediate action. It has also found that, if unresolved, the conflict threatens to spill over to other parts of the region. The United States attaches high priority to supporting the security interests of the neighboring states and to ensuring security of borders. It is also of particular importance that developments in Kosovo should not disrupt progress in implementing the Dayton peace agreement in Bosnia and Herzegovina. This threat to the peace of the region constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States.

On June 9, 1998, by the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code, I declared a national emergency to respond to the unacceptable actions and policies of the Belgrade authorities and issued an Executive order to implement the measures called for by the Contact Group. That order freezes the assets of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro that are under U.S. jurisdiction and, in concert with the other Contact Group countries, restricts access of those governments to the international financial system. That order also prohibits new investment by United States persons, or their facilitation of other persons' new investment, in the Republic of Serbia. It is our intent to exempt the Government of the Republic of Montenegro, by means of licenses, from the prohibitions contained in the order wherever possible. That government has been included in the order to ensure effective implementation of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro), of which the Republic of Montenegro is a constituent part.

The order carries out these measures by:

—blocking all property, and interests in property, of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro, including the prohibition of financial transactions with, including trade financing for, those governments; and

—prohibiting new investment by United States persons, or their facilitation of other persons' new investment, in the territory of the Republic of Serbia.

The order provides that the Secretary of the Treasury, in consultation with the Secretary of State, is authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. Thus, in the event of improvements in the actions and policies of Belgrade with respect to the situation in Kosovo, the Secretary of the Treasury, in consultation with the Secretary of State, would have the ability, through the issuance of general or specific licenses, to authorize any or all transactions otherwise prohibited by the order. Also, in implementing the sanctions, we intend to license transactions necessary to conduct the official business of the United States Government and the United Nations. We further intend to issue licenses to allow humanitarian, diplomatic, and journalistic activities to continue.

The declaration of a national emergency made under Executive Order

12808, and expanded in Executive Orders 12810 and 12831, remains in effect and is not affected by the June 9, 1998, order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 10, 1998.*

USE OF CAPITOL GROUNDS FOR DISABLED AMERICAN VETERANS EVENT

Mr. KIM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 102) recognizing Disabled American Veterans, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. TRAFICANT. Mr. Speaker, reserving the right to object, I yield to the gentleman from California (Mr. KIM) for an explanation of the Senate concurrent resolution.

Mr. KIM. Mr. Speaker, I thank the gentleman for yielding to me.

Senate Concurrent Resolution 102 authorizes the use of the west front lawn of the Capitol for a public event sponsored by the Disabled American Veterans. The event is to commemorate the donation by the Disabled American Veterans of 147 new passenger vans to the Department of Veterans Affairs to aid tens of thousands of sick and disabled veterans across the country obtain medical attention.

The event, which is scheduled to take place on June 16 and 17, or such dates as the Speaker of the House and the Committee on Rules and Administration of the Senate may jointly designate, will commence with 147 vans arriving on the grounds the first day, at 1st Street, N.W. and S.W., where the street will be closed, and the vans will remain overnight. In addition, eight vans will be placed on platforms on the lawn for display purposes.

On the second day of the event, the sponsors will hold a formal press meeting on the lawn to announce the donation, and the vans will then depart in procession through the District of Columbia to the Department of Veterans Affairs for other ceremonial duties.

The resolution authorizes the Architect of the Capitol, the Capital Police Board, and the Disabled American Veterans to negotiate the necessary arrangements for carrying out the event in complete compliance with the rules and regulations governing the use of Capitol grounds. The event is open to the public and free of charge, and the sponsor will assume the responsibility for all the expenses and liabilities related to this event.

In addition, sales, advertisements, and solicitations are explicitly prohibited on the Capitol grounds for this event. I support the concurrent resolution.

Mr. TRAFICANT. Mr. Speaker, continuing my reservation of objection, the donation of these vans is part of their program to provide transportation to help the sick and disabled receive the essential medical care that they need and they deserve. This program was started in 1987, and, to date, they have donated 750 vans for such purposes.

Disabled American Veterans was chartered by Congress in 1932, and it is perhaps the strongest advocate for our Nation's disabled veterans. I join forces today to salute Disabled American Veterans. I support this concurrent resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR DISABLED AMERICAN VETERANS EVENT.

Disabled American Veterans shall be permitted to sponsor a public event on the West Front Lawn of the Capitol on June 16 and 17, 1998, or on such other dates as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, in order to announce the donation of 147 vans to the Department of Veterans Affairs by Disabled American Veterans.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized by section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—Disabled American Veterans shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, Disabled American Veterans may erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment as may be required for the event authorized by section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event, including arrangements to limit access to First Street Northwest and First Street Southwest as required for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event authorized by section 1.

SEC. 5. PHOTOGRAPHS.

The event authorized by section 1 may be conducted only after the Architect of the Capitol and the Capitol Police Board enter into an agreement with Disabled American Veterans and the manufacturer of the vans referred to in section 1 that prohibits Disabled American Veterans and such manufacturer from using any photograph taken at the event for a commercial purpose. The agreement shall provide for financial penalties to be imposed if any photograph is used in violation of this section.

The Senate concurrent resolution was concurred in.

A motion to reconsider is laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on S. Con. Res. 102, the concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3494, CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 465

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill of amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 465 is a structured rule to provide for consideration of H.R. 3494, the Child Protection and Sexual Predator Punishment Act.

This common-sense legislation responds to the menace of sex crimes against children, including those facilitated by use of the Internet.

As is customary, the rule provides for 1 hour of debate, equally divided between the chairman and ranking member of the Committee on the Judiciary. The rule makes in order the Committee on the Judiciary's amendment in the nature of a substitute, and all points of order against it are waived.

As my colleagues know, the Committee on Rules prefers to provide open rules for consideration of legislation by this House. However, in the case of H.R. 3494, the committee felt it was necessary to structure the debate process to ensure that the laudable goals of this legislation are not jeopardized by controversial amendments dealing with a host of criminal issues unrelated to the bill's purpose.

Proof of the Committee on Rules' good intentions is evident in the rule before us. The committee allowed every Member who filed a germane amendment the opportunity to offer it on the House floor. These 10 amendments, offered by both Democrats and Republicans, are printed in the Committee on Rules report.

The amendments may be offered in the order printed by the Member designated in the report and will be debatable for the time specified, equally divided between a proponent and an opponent. All points of order against the amendments are waived. They are not subject to amendment, nor are they subject to demand for division of the question.

To provide for expeditious consideration of the bill, votes may be postponed and reduced to 5 minutes, as long as the first vote in any series is a 15-minute vote.

Finally, the rule provides the minority with another opportunity to change the bill through a motion to recommit with or without instructions.

□ 1045

Mr. Speaker, for most of us, the Internet has opened up an exciting world of opportunity where we have almost instant access to vast resources that can enhance education and facilitate communication among our citizens. Many parents and teachers are eager to share this valuable tool with our Nation's children. But, sadly, criminals have also recognized an opportunity in the appeal of the Internet. Sexual predators have found a window through which they can prey upon our children.

These predators can safely hide behind their computer screens, create a fictional identity, and make direct contact with our children. These young victims cannot possibly know that instead of making a friend, they are communicating with an adult who is hoping to lure them into a life-altering, illegal sexual experience.

We are not sure how many pedophiles are stalking our children through their computers, but we do know that these incidents are becoming more and more common. We must act to protect our children from this sickening practice.

The legislation, which this rule makes in order, will prohibit contacting a child over the Internet for the purposes of engaging in illegal sexual activity. It will also outlaw using the Internet to knowingly transfer obscene materials to a child. These commonsense provisions are long overdue.

Several months ago, I was shocked to read that an incarcerated child molester was convicted of trafficking in child pornography on the Internet while he was still in prison. It is unacceptable that prisoners have the privilege of using Internet resources and are finding ways to reach beyond prison walls to continue their attacks on the most vulnerable in our society.

I authored language that prohibits unsupervised access to the Internet by Federal prisoners, and encourages States to do the same. I want to thank the Committee on the Judiciary for including this provision in their bill.

There are a number of other common-sense provisions in this bill, as well. It authorizes the court to detain child sex offenders while they await trial, it permits the FBI to immediately initiate an investigation in a kidnapping case, and it allows for a Federal investigation of serial murder offenses when States or localities request such assistance.

The Child Protection Act does not stop at Internet crimes. The bill recognizes that it is when children are lured to meet their predator, face to face, that the most heinous crimes occur. Children who have met with their stalkers have been kidnapped, photographed for pornography, raped, beaten and worse.

Through tough penalties and prison sentences, H.R. 3494 cracks down on these crimes as well. For example, the legislation doubles the maximum prison sentence for repeat sex offenders who commit the Federal crime of transporting a person for sexual activity. The bill mandates life in prison for serial rapists and double prison sentences for abusive sexual contact with children under the age of 12.

These strong sentencing provisions are important, because the recidivism rates for sex offenders and pedophiles are 10 times higher than that of other criminals. Frankly, chances are that these predators will strike again. Yet child molesters serve prison sentences averaging less than 3 years.

Mr. Speaker, we cannot afford to wait to offer these basic protections to our children. I urge my colleagues to support this fair and balanced rule so that we can begin debate on this important legislation. I urge a "yes" vote on the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, this is a structured rule. It will allow for the consideration of H.R. 3494, the Child Protection and Sexual Predator Punishment Act. As the gentlewoman from Ohio described, this rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule makes in order only those amendments printed in the report of the Committee on Rules accompanying this resolution.

Mr. Speaker, some of the most horrible crimes committed are sexual offenses against children. It is fitting that laws require severe penalties against offenders. However, the technology of computers and the Internet have gotten ahead of the law. This bill is an attempt to catch up by providing new penalties for crimes against children that involve the Internet. This bill will help protect children from pedophiles who stalk children on the

Internet. It will also crack down on child pornography on the Internet.

I wish we could go further and eliminate children's access to pornography through the Internet, especially in schools and public libraries. Unfortunately, we have not yet been able to come up with more protective laws that pass a constitutional test. We must find a way. Too many people who promote pornography in this country hide behind the first amendment.

Mr. Speaker, yesterday the Committee on Rules heard stirring testimony from Members who support this bill. There is strong sentiment in the House for tougher sentences for people who use the Internet to prey on children. Regretfully, this is a restrictive rule. It permits only 10 floor amendments. I do note, though, that the Committee on Rules did make in order all germane Democratic amendments submitted to the Committee on Rules. A completely open rule would permit more full debate on this important bill. However, under the circumstances, it is important for the House to move forward in the process and take up the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I rise today to support the rule for today's consideration of the Child Protection and Sexual Predator Punishment Act. With the passage of this act, we will send a strong message to sexual predators and pedophiles all across this Nation: Make no mistake, sex crimes against children will not be tolerated.

This rule makes in order several important amendments that will further strengthen an already strong bill, ensuring that we leave no doubt of Congress' desire to put a stop to Internet sex crimes. This important legislation, introduced by the gentleman from Florida (Mr. MCCOLLUM) and myself, is for mothers and dads throughout this country who are doing everything they can to keep their children safe and innocent, but may not be aware of the pedophiles who are cruising the Internet.

In an era where the boundaries of our communities are increasingly irrelevant, pedophiles are using the anonymity of the Internet to pose as minors and befriend vulnerable children who are unknowingly lured into very dangerous situations. That is why the McCollum-Dunn bill is so critical to families across America. This legislation helps law enforcement crack down on those who enter the safety of our homes to prey on our unsuspecting children. By creating new punishment for cyber predators, we will give our communities the tools they need to beat back those who use the Internet to satisfy their deviant behavior.

I ask my colleagues to help stop cyber predators in their tracks. Support this rule and support the McCollum-Dunn bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, thank you for this opportunity to speak on this important issue. I am strongly opposing the restrictive rule imposed upon us by the Rules Committee. This bill is a crucial step in the fight to protect our children from crime and violence, yet the rule under which this bill is made is far too restrictive and limits us from doing as much as we can to keep our children safe.

Crime on the Internet is an especially invasive and terrifying crime. Our children can be terrorized while they are seemingly safe inside our homes, in our living rooms, and in front of our family computers. We must increase penalties for those enticing or coercing any person under the age of 18 through the Internet to engage in sexual activity.

This Congress must send a message that this type of criminal activity will not be tolerated by our criminal justice system. As chair of the Congressional Children's Caucus, I believe our children are our future and must be nurtured, protected and guided. How can we protect them? By making sure that those people who are out to harm them and exploit them are restricted from their access to our children.

Under current law, the Federal Government has the burden of proving that a pedophile "persuaded, induced, enticed or coerced" a child to engage in a sexual act. However, this new legislation, H.R. 3494 would create a new federal offense to use the phones, mail or Internet to contact someone for the purpose of committing rape, child sex abuse, child prostitution or statutory rape.

It would also create a separate new federal offense for using the mail or Internet for knowingly transferring obscene material to a minor. I introduced an additional amendment to this legislation which would further protect our children from the types of predators who may be currently lurking behind our family computer screens. However, due to the restrictive rule, this amendment which could strengthen this legislation and further protect our children from Internet violence, will not make it to the floor today.

This amendment would have directed that the Federal Bureau of Investigation conduct a study of computer-based technologies and other approaches that could help to limit the availability to children of pornographic images through electronic media including the Internet and on-line services.

What could be more important to all of us than protecting our future and our children? Any amendment which seeks to keep our children safe from sexual predators and child abusers is for the benefit of all of our communities.

My colleague, Representative SLAUGHTER has introduced a similar amendment, a good amendment to protect our children by authorizing the National Institute of Justice to conduct a study of persistent sexual predators and report to Congress on their results.

I am happy to see that my colleagues have offered legislation which has been made in order, yet, the restrictive rule under which they have been offered will prevent many good plans to protect our children from ever reaching the floor! H.R. 3494, and additional amendments to this legislation would be a start to effectively preventing a predator from initiating a harmful relationship with a child for illegal sexual activity, and to subjecting children to damaging pornographic material that our children can currently access.

In December of 1996, the FBI announced that it had executed search warrants in 20 cities as part of an ongoing nation-wide investigation into the use of computer online services and the Internet to lure minors into illicit sexual relationships.

We have all heard far too many horror stories involving child pornography and sexual abuse on the Internet. In May, in Illinois, a nine-year-old began getting strange phone calls at night. After her parents searched the Internet, they discovered that someone had posted Internet messages saying that their daughter was sexually active and wanted to have sex with other men. The messages included their home telephone number and said the child could be reached 24 hours a day. Current law does not prevent children from being exposed to sexually explicit material on the net, but hopefully this law will allow us to prosecute those who seek to commit such damaging and dangerous acts against children.

We must and should act directly to protect our young people from the scourge of child predators seeking to harm them through Internet communication, and we must act now!

I hope that you, my colleagues, will support this legislation and oppose the restrictive rule under which we are required to observe, while we strive to support our nation's families and children by protecting them from pornography and predators on the Internet.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING

The SPEAKER pro tempore (Mr. EWING). The unfinished business is the question de novo on the passage of the joint resolution, House Joint Resolution 119, on which further proceedings were postponed on Wednesday, June 10, 1998.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken.

Ms. PRYCE of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 29, nays 345, answered "present" 51, not voting 8, as follows:

[Roll No. 226]

YEAS—29

Barrett (WI)
Bereuter
DeFazio
Dingell
Doyle
Duncan
Engel
Ford
Gillmor
Green
Harman
Hinchey
Holden
Kennedy (MA)
Kennedy (RI)
LaFalce
Leach
Lipinski
Luther
McHugh
Minge
Moran (VA)
Obey
Porter
Poshard
Sandlin
Smith, Adam
Stupak
Vento

NAYS—345

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED "PRESENT"—51

Abercrombie
Becerra
Blagojevich
Bonior
Borski
Brady (PA)
Brown (OH)
Cardin
Coyne
Delahunt
DeLauro
Deutsch
Eshoo
Fattah
Frank (MA)
Frost
Furse
Gephardt
Gordon
Gutierrez
Hoyer
Jackson-Lee (TX)
Kanjorski
Kaptur
Kucinich
Levin
Lowey
Maloney (CT)
Maloney (NY)
McCarthy (MO)
McGovern
Meehan
Menendez
Miller (CA)
Moakley
Nadler
Neal
Pallone
Pomeroy
Rothman
Sanchez
Sawyer
Slaughter
Stabenow
Tauscher
Thurman
Tierney
Waxman
Wexler
Wise
Woolsey

NOT VOTING—8

Berman
Boyd
Cramer
Etheridge
Farr
Gonzalez
Lewis (GA)
Schumer

□ 1117

Messrs. MANZULLO, SKAGGS, BURTON of Indiana, STEARNS, RUSH, PAXON, and McCOLLUM changed their vote from "yea" to "nay."

Ms. HARMAN and Messrs. FORD, McCOLLUM, LIPINSKI, and POSHARD changed their vote from "nay" to "yea."

Ms. WOOLSEY, and Messrs. WISE, FATTAH, GUTIERREZ, WEXLER, BLAGOJEVICH, BRADY of Pennsylvania, DELAHUNT, LEVIN, WAXMAN, COYNE, Ms. KAPTUR, and Mr. GORDON changed their vote from "nay" to "present."

Mr. GREEN and Mr. SANDLIN changed their vote from "present" to "yea."

So (two-thirds not having voted in favor thereof) the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1119

SALES INCENTIVE COMPENSATION ACT

The SPEAKER pro tempore (Mr. EWING). Pursuant to House Resolution 461 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for further consideration of the bill, H.R. 2888.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirement certain specialized employees, with Mr. WICKER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on the legislative day of Wednesday, June 10, 1998, a request for a recorded vote on Amendment No. 2 by the gentleman from New York (Mr. OWENS) had been postponed.

Pursuant to the order of the House of that day, no further debate or amendments to the committee amendment in the nature of a substitute are in order.

AMENDMENT OFFERED BY MR. OWENS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. OWENS), on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment Offered by Mr. OWENS:

Page 6, line 9, strike the period, quotation marks, and the period following and insert a semicolon and insert after line 9 the following:

except that an employer may not require an employee who is exempt from overtime payment under this paragraph to work any hours in excess of 40 in any workweek or 8 in any day unless the employee gives the employee's consent, voluntarily and not as a condition of employment, to perform such work.".

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 246, not voting 6, as follows:

[Roll No. 227]

AYES—181

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
English
Eshoo
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—246

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berman
Boyd
Etheridge
Farr
Gonzalez
Lewis (GA)

□ 1138

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. WICKER). There will be no further amendments.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BEREUTER. Mr. Chairman, this Member rises today, as a co-sponsor in support of H.R. 2888, "The Sales Incentive Compensation Act." This bill would amend the 1938 Fair Labor Standards Act by providing an exemption from overtime and minimum wage laws for certain types of employees. These employees are defined in this bill as those who work within or inside an employer's establishment and are engaged in selling to non-retail customers by using forms of electronic commerce such as the telephone, fax, and/or the computer.

Under the current Fair Labor and Standards Act, there is a provision which allows an exemption from the overtime and minimum wage requirements for certain retail sales' employees. This exemption does not currently apply to wholesale establishments.

The original intent behind this distinctive treatment between wholesalers and retailers was due to the nature of the retail field. In 1938, when the Fair Labor Standards Act was passed, retail business consisted of employees involved in sales outside the place of business. Employees involved in sales physically went to the consumer for a transaction.

Since 1938, American society and the world for that matter have undergone a technological transformation. Various forms of electronic communication have altered the manner in which business is conducted. Whether it is faxes, telemarketing, E-mail or other types of electronic commerce, a bulk of sales transactions are now performed from the office. Electronic communication has reduced the distinction of duties between those involved in wholesale and retail sales transactions.

This Member supports H.R. 2888 because it provides consistency for small businesses.

It is a common principle of governing that people or businesses that are similarly situated should be treated in a similar manner. Due to the electronic transformation that has transpired over the last forty years, retailers and "inside sales" employee wholesalers are similarly situated and as a result should be treated consistently. H.R. 2888 would grant this consistent treatment by allowing for an overtime and minimum wage exemption for those "inside sales" employees whether they are involved in retail, service, or wholesale establishments.

This Member would ask his colleagues to support H.R. 2888.

Mr. VENTO. Mr. Chairman, I rise in opposition to this act which cuts the pay of sales jobs, H.R. 2888. This legislation is being promoted as a modernization, by sidestepping the Fair Labor Standards Act which requires overtime pay and establishes the 40 hour work week. The net effect of this legislation actually shifts business risk from employers to employees and results in decreased benefits for workers. When workers lose benefits, workers lose choice!

The Sales Incentive Compensation Act has been justified by its proponents on the basis that so-called outside sales persons are exempt from overtime. Therefore, inside sales persons should be exempt as well, in an effort to level the playing field. However, outside sales persons exemption is justified upon time spent traveling. Certainly, this isn't applicable to inside sales persons. Technology, some argue, means employers have relocated the outside sales force inside, where they are more efficient. However, workers should be able to benefit from this increased technology. The fact that more sales persons are able to work inside and fewer must work outside is simply not justification for eliminating overtime or paying them less in premium overtime compensation.

The Fair Labor Standards Act designed the 40 hour work week and the time-and-a-half requirement to protect workers from excessively long hours, to allow them greater freedom for personal endeavors, and to ensure that workers who are required to work extra hours are fairly compensated. Now, employers are fighting this federal, time-honored workplace requirement, as they have in the past, as if it's in the interest of employees. Let's allow workers speak for themselves; give them the pay and let them make the choices about time off. The flexibility that employers want already exists, they can give workers time off whenever it suits them.

Proponents of this bill argue that salespersons should be allowed to work longer hours to perform their jobs more efficiently, in order to make more money. However, the time-and-a-half requirement of the Fair Labor Standards Act was not intended as a means to reward or enrich workers; rather it was regarded as a penalty of required premium payment by imposed upon employers who insisted on subjecting their employees to work weeks in excess of the 40 hour standard. H.R. 2888 exempts employees from overtime pay protection if they earn $16,078 a year in either hourly wages or as a salary, and an additional $6,431 annually in commissions.

Under this legislation, an employee who earns these threshold amounts would not be entitled to overtime pay, or even additional wages for hours worked. This bill provides Congressional endorsement of employers action which would demand more hours from employees by taking away the benefit of premium overtime pay currently required by law. In what way is this benefiting workers? The simple answer is, it does not.

The Sales Incentive Compensation Act is simply a thinly veiled scheme for employers to boost their profits by increasing sales while simultaneously decreasing benefits to their employees, who are actually working to generate profits. The overall effect of this legislation would be to shift business risk form employers to employees. Employees who work long hours but are unable to make significant sales to boost their own commissions will receive little or no additional pay for the extra hours they work.

H.R. 2888 just doesn't make good sense, because it upsets the balance and worker benefits which have been in place for more than sixty years. At a time in our economic history when managers are receiving exorbitant compensation and the wage earner is receiving a reduction in power and reward, this legislation is a step backwards. The disparity in wages and compensation is growing. H.R. 2888 increases the wage gap, with wage workers as the losers. I strongly urge my colleagues to join me in opposing the Sales Incentive Compensation Act.

Mr. ROEMER. Mr. Chairman, I would like to voice my support for H.R. 2888, The Sales Incentive Compensation Act. This bill is a bipartisan, narrowly targeted approach to helping people in a career that makes up less than one percent of the total workforce. It provides relief for inside sales employees who currently are restricted from reaching their full earning potential by a forty year old provision of the Fair Labor Standards Act.

The benefits proposed in this bill are already afforded to traditional outside sales employees. In the past, you had to drive around your sales territory to personally check on your customers, see if they needed additional product, and offer technical assistance. Today, thanks to advancements in communications technology, a sales employee can remain in the office and be in continual contact with all of his or her customers. This is particularly evident in the burgeoning computer and technology sectors, where sales and technical support are frequently combined into one customer service position. These highly trained people have a group of regular clients to whom they both sell product, and provide technical support and assistance.

This bill would allow them to put in the extra time to earn additional commissions that traditional sales employees are already allowed to do. It explicitly details their need to have a regular clientele, not initiate sales contacts, and have extensive knowledge of the products they sell. Fees that this legislation could effect telemarketers or route sales drivers have already been addressed in Committee, and provisions are in place that categorically exempt these jobs from the provisions of the bill.

Mr. Chairman, I urge my colleagues to give their full support to this intelligent, bipartisan bill that has all the necessary protections, and allows a small group of professionals to make more money than the law currently allows. Thank you for you support for the Sales Incentive Compensation Act.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BEREUTER) having assumed the chair, Mr. WICKER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, pursuant to House Resolution 461, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OWENS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 165, not voting 7, as follows:

[Roll No. 228]

AYES—261

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Dickey
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Manzullo
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—165

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Berry

Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doyle
Edwards
Engel
English
Eshoo
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McDade
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Stark
Stokes
Strickland
Stupak
Taylor (MS)
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Berman
Boyd
Etheridge
Farr
Gonzalez
Lewis (CA)
Lewis (GA)

☐ 1202

Mr. HINOJOSA and Mr. SPRATT changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2888, SALES INCENTIVE COMPENSATION ACT

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2888, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 2888.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

The SPEAKER pro tempore. Pursuant to House Resolution 465 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3494.

☐ 1205

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes, with Mr. McHugh in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3494, the Child Protection and Sexual Predator Punishment Act of 1998, is a very important piece of legislation that responds to the horrifying threat of sex crimes against children, particularly crimes against children facilitated by the Internet.

Industry experts estimate that more than 10 million children currently spend time on the Information Superhighway, and by the year 2002, 45 million children will use the Internet to talk with friends, do homework assignments, and explore the vast world around them.

Computer technologies and Internet innovations have unveiled a world of information that is literally just a mouse click away. Unfortunately, individuals who seek children to sexually exploit and victimize them also use the mouse click.

"Cyber-predators" often "cruise" the Internet in search of lonely, curious, or trusting young people. Sex offenders who prey on children no longer need to hang in the parks or malls or school yards. Instead, they can roam from Web site to chat room seeking victims with no risk of detection.

The anonymous nature of the on-line relationship allows users to misrepresent their age, gender, or interests. Perfect strangers can reach into the home and befriend a child.

Parents are confronted with new challenges regarding the World Wide Web. While they may warn their children about the dangers outside the home, they may not be aware of the dangers posed to a child on the Information Superhighway. Children are rarely supervised while they are on the Internet. Unfortunately, this is exactly what cyber-predators look for. We are seeing numerous accounts in which pedophiles have used the Internet to seduce or persuade children to meet them to engage in sexual activities. Children who have been persuaded to meet their new on-line friend face to face have been kidnapped, raped, photographed for child pornography, and worse. Some children have never been heard from again.

Law enforcement have also found a close relationship between child pornography and victimization by pedophiles. Even more than a snapshot of one child's horrible victimization, child pornography is a horrible tool for child molesters to recruit new victims. Often used to break down inhibitions and introduce and validate specific sex acts as normal to a child, pedophiles frequently send pictures to young people to gauge a child's interest in a relationship. Child pornography is often used to blackmail a child into silence, once molestation ends.

Three factors, the skyrocketing online presence of children, the proliferation of child pornography on the Internet, and the presence of sexual predators trolling for unsupervised contact with children, has resulted in a chilling mix which has resulted in far too many terrible tragedies that steal the innocence from our children and create scars for life.

H.R. 3494, the Child Protection and Sexual Predator Punishment Act, provides law enforcement with the tools it needs to investigate and bring to justice those individuals who prey on our Nation's children, and sends a message to those individuals who commit these heinous crimes that they will be punished swiftly and severely.

H.R. 3494 targets pedophiles who stalk children on the Internet. It prohibits contacting a minor over the Internet for the purposes of engaging in illegal sexual activity and prohibits knowingly transferring obscene materials to a minor, or an assumed minor, over the Internet.

H.R. 3494 also prohibits transmitting or advertising identifying information about a child to encourage or facilitate criminal sexual activity. This bill doubles the maximum prison sentence from 5 to 10 years for enticing a minor to travel across State lines to engage in illegal sexual activity, and increases the maximum prison sentence from 10 to 15 years for persuading a minor to engage in prostitution or a sexual act. Moreover, the bill establishes a minimum sentence of 3 years for using a computer to coerce or entice a minor to engage in illegal sexual activity.

In addition to Internet-related crimes, the bill also includes other very important provisions such as cracking down on serial rapists (those who commit Federal sexual assaults and have been convicted twice previously of serious State or Federal sex crimes), and authorizing pretrial detention for Federal sex offenders.

Mr. Chairman, nearly two-thirds of prisoners serving time for rape and sexual assault victimize children. Almost one-third of these victims were less than 11 years old.

The bill also increases the maximum prison sentence from 10 to 15 years for transporting a minor in interstate commerce for prostitution or sexual activity and requires the U.S. Sentencing Commission to review and amend the Federal sex offenses against children.

H.R. 3494 also doubles prison sentences for abusive sexual contact if the victim is under the age of 12, and doubles the maximum prison sentence available for second-time sex offenders.

H.R. 3494 also gives law enforcement the tools it needs to track down pedophiles, kidnappers, and serial killers. The bill allows for administrative subpoenas in certain child exploitation investigations and provides for immediate commencement of Federal investigations into kidnapping cases.

The bill also allows for Federal investigation of serial murder offenses when such an investigation is requested by a State or local law enforcement agency with jurisdiction over the offense.

Finally, the bill prohibits unsupervised access to the Internet by Federal prisoners. It expresses a sense of Congress that State governors, State legislators, and State prison officials should also prohibit unsupervised access to the Internet by State prisoners.

Mr. Chairman, as Members can see, this is a substantive bill that the subcommittee has worked very hard to put together. It is comprehensive. In fact, it is the most comprehensive package of new crimes and increased penalties we have ever developed in response to this horrible problem.

It is a bipartisan effort. It is supported by the administration. Moreover, this bill received a great amount of input from several Members of Congress, Federal, State and local law enforcement, child advocacy groups, and victims' parents. Were it not for their invaluable assistance, I would not be proposing this essential package of legislation today.

Mr. Chairman, this is an important bill and I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join in support of House Resolution 3494. I commend the cooperation between the staffs and the members of the committee. This is truly a bipartisan piece of legislation. We are united in recognizing the heinous crimes that are committed against children, particularly sex crimes involving children.

We also are sensitive to the new perils of the Internet and the phone lines. Modern technology is now making this a place for predators to try to get young children involved in conduct that we consider reprehensible.

Mr. Chairman, we are creating new Federal offenses for using the mail or any facility or means of interstate commerce, including phone lines and the Internet, to contact anyone who is under 18 for the purpose of engaging in sexual activity, provided that the sexual activity would expose the other person to criminal prosecution. Essentially, what we are doing today is making it a Federal offense to use the phones, mail, Internet, to contact anyone for the purpose of committing rape, child sex abuse, child prostitution, or statutory rape.

Now, legally it is already a Federal offense to persuade someone to cross State lines to engage in sexual activity for which someone can be prosecuted. The purpose of these provisions is to eliminate the need for prosecutors to prove that the victim was persuaded to travel.

Another important feature of this bill creates a new Federal offense for using the mail or any facility or means of commerce to transfer obscene material to a minor. We consider this to be very important. Unfortunately, one of the scary prospects of high technology is the fact that there is a great deal of obscenity, sexually charged material and offensive material, that is too frequently available to young people as it is to adults. It is creating a very complicated problem.

This legislation, primarily authored by the gentleman from Florida (Mr. McCOLLUM), Chairman of the Subcommittee on Crime, is intended to try to address that.

Now, there are Federal statutes prohibiting the use of the mail or the Internet for interstate transportation of obscenity. But this provision would be to reach intra-State transactions as well.

□ 1215

I was not successful in dissuading the distinguished gentleman from Florida from adding new mandatory minimums, but in this case it is hard to argue against life imprisonment for a three-time rapist.

I am hopeful that these provisions will not just be sending a message, as is so frequently referred to, but that they actually have an effect, an impact upon those who would commit these kinds of offenses.

Now, frequently in the Federal Code rape is a Federal offense if it is committed on Federal property. Otherwise, it is a State offense. But under these new proposals, anyone with prior Federal or State convictions that commits a third such offense, whether or not it would have been under Federal jurisdiction, can now be prosecuted in the Federal court and could receive a mandatory life sentence.

The measure before us also establishes a 3-year penalty for using a computer to coerce a minor to cross State lines to engage in illegal sexual activity.

So for all of those reasons, I commend favorably this measure to my colleagues in the House.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 5 minutes to the gentlewoman from Washington (Ms. DUNN), who is a prime sponsor of this bill and many others related to the sexual predator question.

Ms. DUNN. Mr. Chairman, first I would like to thank the gentleman from Florida (Mr. McCOLLUM) and our ranking member the gentleman from Michigan (Mr. CONYERS) for their very good work on this issue. Their continuing commitment to fighting sex crimes against children is very commendable.

I rise today to speak in support of the Child Protection and Sexual Predator Punishment Act, a bill that is for families throughout the country who are doing everything they can to keep their children safe and innocent, but may not be aware of the pedophiles who are cruising the Internet. This legislation makes it crystal clear to the most heinous of criminals, those who would prey on innocent children, make no mistake, you will be punished, and you will be punished to the full extent of the law.

As we approach the 21st century and an age of ever-expanding technology, Congress must continue to enact laws that are one step ahead of the criminals in a changing, constantly changing environment.

When my two boys were growing up, I, like most mothers, worried about their safety and did everything within my power to protect them from harm. Whether I watched as they played outside in their earlier years or drove them to and from their soccer practice when they were a little older, I was always aware of the dangers of the outside world. I was like all the other moms who would tell my kids, do not talk to strangers, do not accept rides, do not accept candy from people you do not know.

But I never had to say, be careful of strangers on the Internet. Back then it was a novelty to have a personal computer in the house, but times have changed, Mr. Chairman. Nowadays, many homes and most schools and libraries are equipped with computers and, therefore, with access to the information superhighway. That superhighway is a two-way street. Children can explore the world, and criminals unfortunately can get right into your house.

Hailing from Washington State, which is home to a flourishing high-tech industry, I am not surprised that 20 million children will have access to the Internet by the year 2002. That is 20 million children who will have the opportunity to see images of Neil Armstrong's historic first steps on the moon, or to see the actual Titanic, or to communicate with other children who are halfway around the globe. That part is wonderful.

But then I read about the 36-year-old Seattle man charged with second degree rape, accused of having sex with an 11-year-old girl he met in an Internet chat room. Just today in the National Journal there is a story about a team of psychologists who, based on a comprehensive poll, concluded that "erotic pursuits are among the most frequent uses of the Internet" and that sex is the most searched word on line. So while our children may experience all the wonders of the world with one click of the button, the sad truth is they may also eventually fall victim to the most horrifying of sex crimes.

That is why the Child Protection and Sexual Predator Punishment Act is so critical to families across the country. This bill addresses a growing concern for parents whose children are growing up in the information age. By severely punishing those who use computers to target children for sexual acts or who knowingly send children obscenity over the Internet, this bill cracks down on cyber-predators and pedophiles. But the bill goes beyond punishing those who lure kids over the Internet for sex crimes. Over a dozen provisions increase Federal penalties for sex offenders and help facilitate Federal investigations of crimes committed against children.

For example, a Federal child sex offender will not be released prior to his trial, and, by sentencing serial rapists to life in prison, the bill sends a signal that a civilized society cannot and will not tolerate rape.

The McCollum-Dunn bill tells cyberpredators that the information superhighway is not a detour for deviant behavior, but, rather, a dead end.

Our message is clear. We will not stop until every mother and father has the peace of mind that their children are safe from sexual predators. Again, I thank the chairman, the gentleman from Florida (Mr. McCOLLUM), and the ranking member, the gentleman from Michigan (Mr. CONYERS), for their thoughtful work. I encourage the support of my colleagues in enacting this important and timely bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

First, I would like to thank the gentleman from Florida (Mr. McCOLLUM) for his steadfast attention to this very important issue. The Child Protection and Sexual Predator Punishment Act is crucial in a time like this, albeit many of us would wish we did not have to come to the floor of the House and promote such legislation.

But as the previous speaker has mentioned, we are living in both difficult times and different times. And our children now become prey, they become victims. The sickness of child predators is prevalent. It is growing. So many States and so many different cities and jurisdictions have tried themselves to track these sexual predators and work, if you will, to fight against the siege upon our community.

It is important that we, on the national level, do two things. One, in fact, make it known that there will be no tolerance, in fact zero tolerance, for sexual predators in this Nation; and then, secondly, that if there are such individuals thinking that they can get away with these heinous crimes, they will find serious punishment.

So I am delighted to be able to join the gentleman from Florida (Mr. McCOLLUM) on issue. This bill is a crucial step in the fight to protect our children from crime and violence.

Crime on the Internet is an especially invasive and terrifying crime. Our children can be terrorized while they are seemingly safe inside our homes and in our living rooms, in our schools and in front of our family computers.

As a parent, just a few months ago I received a permission slip for my 12-year-old. The permission slip from the school asked whether or not he could use the Internet in school. One of the items of which I would be signing is that the school would not be responsible for any obscenity or pornographic images that this 12-year-old might access in the course of using the Internet at school. How many of us can counter and fathom any kind of horrible situation where our children, in a learning environment, are subject to these heinous and ugly-type episodes?

We must increase penalties for those enticing or coercing any child under the age of 18 through the Internet to engage in sexual activity. This Congress must send a message that this type of criminal activity will not be tolerated by the criminal justice system.

As chair of the Congressional Children's Caucus, I believe our children are our future and must be nurtured, protected and guided. How can we protect them? By making sure that those people who are out to harm them and exploit them are restricted from their access to our children.

Under current law the Federal Government has the burden of proving that a pedophile persuaded, induced, enticed or coerced a child to engage in a sexual act. In essence, we really make the child the victim, because the government, who must move the case, has this high bar to come over.

However, this new legislation, H.R. 3494, would create a new Federal offense to the use of phones, mail or Internet to contact someone for the purpose of committing rape, child sex abuse, child prostitution or statutory rape. Every day in our community we are seeing episodes where someone, an adult, has solicited a child over the computer or over the Internet. It would also create a separate new Federal offense for using the mail or Internet or knowingly transferring obscene material to a minor.

I introduced an additional amendment to this legislation that would further protect our children from the types of predator who may currently be lurking behind our family computer screens. This amendment would have directed that the Federal Bureau of Investigation conduct a study of computer-based technologies and other approaches that would help to limit the availability to children of pornographic images through electronic media, including the Internet and online services.

My colleague, the gentlewoman from New York (Ms. SLAUGHTER), has introduced a good amendment that deals with the research and the definition of why sexual predators engage in recidivism.

It is my concern that, with the help of the gentleman from Florida (Mr. McCOLLUM), who was very much a supporter of my amendment, I am extremely disturbed that the Committee on Rules would not see fit to have made it in order. I think that in this time where we are working in a bipartisan manner, it certainly troubles me that Members of goodwill and good faith going to the Committee on Rules with legislation that is well needed, my amendment would research, through the FBI and the Attorney General's office, it would ensure that there would be an adequate study to determine the technology that would help us prohibit or inhibit pornographic images on the Internet that are now confronting our children. It strikes me as completely confusing why this Committee on Rules and its chairman would see fit not to make this particular amendment in order.

H.R. 3494 and additional amendments to this legislation would be a start to effectively prevent a predator from initiating a harmful relationship with a child for illegal sexual activity and to subjecting children to damaging pornographic material that our children can currently access.

In December of 1996, the FBI announced that it had executed search warrants in 20 cities as part of an ongoing nationwide investigation into the use of computer on-line services and the Internet to lure minors into elicit sexual relationships.

We have all heard far too many horror stories involving child pornography and sexual abuse on the Internet. In May in Illinois a 9-year-old began getting strange phone calls at night. After her parents searched the Internet, they discovered that someone had posted Internet messages saying that their daughter was sexually active and wanted to have sex with other men.

I do not know how any of us could tolerate this outrageous behavior, outrageous attack on our children. The messages included their home telephone number and said the child could be reached 24 hours a day.

Current law does not prevent children from being exposed to sexually explicit material on the net, but hopefully this law will allow us to prosecute those who seek to commit such damaging and dangerous acts against our children.

My amendment would have sped us along this process because it would have allowed the FBI and the Attorney General's office to do their duty by researching the kind of technology that could have been utilized in keeping in mind the first amendment. How horrendous to have a child's home phone number put on the Internet saying that she was sexually active and she is only 9 years old. How would we accept that if it was one of our children? We must act to protect our young people from the scourge of child predators seeking to harm them through Internet communication, and we must act now.

I hope that our colleagues will support this legislation, and I hope that our colleagues will see fit to acknowledge the importance of doing the research that is so very important to prohibit these heinous acts.

I would like to engage the chairman, the gentleman from Florida (Mr. McCOLLUM), in a colloquy for, as I have said, I appreciate his leadership on this issue. We have worked together in the Subcommittee on Crime on issues dealing with children and particularly issues confronting children as it relates to sexual predators.

I would like to ask the chairman and solicit his help in working to get the amendment that deals simply with researching the question of prohibiting these sexual sort of, if you will, examples of pictures and other type of visuals on the Internet and enticements on the Internet which my amendment would have provided for a study.

Mr. Chairman, I yield to the gentleman from Florida (Mr. McCOLLUM).

□ 1230

Mr. McCOLLUM. Mr. Chairman, I strongly support her amendment, as she knows. I supported it in committee. I urged the Committee on Rules to make it in order. I do not know technically why it was not. But I certainly will continue to work with her to get it into this legislation or in separate legislation. She has my commitment to it. I see no problem with the amendment at all. It is a good proposal.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much. I know that we will be looking as this debate proceeds at a possible opportunity to work with this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a strong advocate and a strong supporter of this legislation.

Mr. CUNNINGHAM. Mr. Chairman, God bless the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Michigan (Mr. CONYERS) for this effort.

The loss of a child, or even the abuse of a child, I think is the most lifelong, hurtful, terrible event that can happen to a family. Sexual predators or drunk drivers, a gunshot wound at school, the loss of a child. Just think about what the families go through.

I would like to also mention, we have named too many laws after dead children. I think of Megan Kanka and Polly Klaas and Jon Benet Ramsey. I want my colleagues to know where all of this started. The gentleman from Georgia (Mr. DEAL) who was a Democrat when I first got here and the gentlewoman from Washington (Ms. DUNN) worked on Megan's Law. There were absolutely Members in this body that opposed it. And the gentlewoman from Washington and the gentleman from Georgia got together and dragged me as a wingman to Speaker Foley at the time and demanded that we be able to pass this on the floor. It then went to the President of the United States and he signed this bill. That is where it started. A good idea took off. And recently, Megan's Law underwent some changes.

For example, if a person is a student or in the military and changes States, then they were not required to register as a sexual predator. So the changes adopted recently by the House have been a good thing.

I would also like to thank Rick Roberts, a local talk show host in San Diego who announces the top 20 sexual predators every week in San Diego County. We have got Jerry Sanders with San Diego PD and Sheriff Bill Kolender, Dan Lungren who is our Attorney General and Governor Pete Wilson who has made it a point to work on Megan's Law and the protection of children and our most vulnerable, children, women and our seniors.

Of all of the things in this bill, here are items in this thing that protects children. But the one thing that law enforcement has told us they need is time. Time in the first hours are very important in saving the life of a child. In San Diego, the San Diego PD literally went down and caught a sexual predator as he was packing and on his way out the door, because they had him, they had his profile, they had him on a computer before he could escape, and they found and saved the life of that child.

Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS), the gentleman from Florida (Mr. McCOLLUM), the gentlewoman from Washington (Ms. DUNN), the gentleman from Georgia (Mr. DEAL) and the people that have worked on this for treeing this individual and bringing me along as a wingman to work on this type of material. It protects children. It protects families. But life imprisonment is not enough for these sexual predators.

I do not know if you have ever had a child. Once, very briefly, I lost track of my daughter. I never used to let her out of sight in a store. One time she just got out of sight and I did not know where she was. I remember the panic, the death thoughts that we had.

Do not wish this on anyone.

I would like to thank both members of the Republican and the Democrat Party for coming together on this issue. God bless you.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. LAMPSON) who is cochair of the Missing and Exploited Children's Caucus.

Mr. LAMPSON. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, as chairman of the Congressional Missing and Exploited Children's Caucus, I want to commend the gentleman from Florida (Mr. McCOLLUM) for his leadership on a fine piece of legislation. I do, however, want to express my very strong concern that my amendment, the Children's Protection from Internet Predators Act of 1998, was not made in order by the Committee on Rules.

My amendment would have authorized $2 million annually, until 2002, for the United States Customs Service Child Pornography Enforcement program, the International Child Pornography Investigation and Coordination Center. Currently ICPICC has only six dedicated agents for tracking child porn on the Internet. My amendment would have provided funding for an additional 14 agents.

To help combat the problem of child pornography through the Internet, through computer technology, the U.S. Customs Service established the

ICPICC in April 1996. ICPICC is staffed by special agents with expertise in both child pornography and computers.

There is a need to adequately direct Federal resources toward attacking the problem of child exploitation over the Net. The U.S. Customs Service has long been recognized by law enforcement and the international community for its knowledge and skill in investigating cases of child pornography and child exploitation.

Mr. Chairman, it is my understanding that all members of the Committee on Rules expressed support for my amendment, so it should have been made in order, but it was not. My amendment would have strengthened this bill and provided means to track these criminals and more specifically to make arrests.

Mr. Chairman, I ask this body, is $2 million too much to spend to protect our children? I am sure Members will agree that this would have been a small price to pay to reduce the exploitation of our children.

I have offered my amendment as a freestanding bill, and I urge the leadership to take a strong look at my legislation. I indeed support this good bill by the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I rise today in strong support of H.R. 3494, the Child Protection and Sexual Predator Punishment Act. I particularly want to commend the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Michigan (Mr. CONYERS) for their bipartisan efforts in bringing this important legislation to the floor, legislation designed to protect children from the weirdos, the wackos and slimeballs who use the latest technology to prey on children and their families.

This legislation contains language that resulted from legislation I introduced late last year, H.R. 2815, the Protecting Children from Internet Predators Act. I very much thank the gentleman from Florida for working with us to clarify the language and include it in this legislation during subcommittee markup.

I would like to explain today why this provision is so very important, not only to the people in my district but all across our country. This past summer a family in my district, the Boehle family from Joliet, Illinois, began receiving phone calls at all hours of the day and night, strange adult men asking for their 9-year-old little girl by name. After receiving more and more phone calls, the father discovered that someone had posted messages on the Internet posing as his 9-year-old daughter. The messages implied that she was sexually active with her father, that she wanted to have sex with other grown men, and that she had photos for sale. These messages were posted on boards targeted to pedophiles. They included her full name, her home phone number, and her hometown. Obviously it was a result of these messages that they began receiving the disturbing phone calls. Think about it. How would any parent feel if this happened to your own family?

When Mrs. Boehle read, with horror, the messages that were posted about her daughter, she called the police. They told her that nothing could be done, that there was no law against this type of action. She contacted the FBI, they worked for 3 weeks to try to find a law they could use to prosecute the perpetrator, and they came up empty. The police told the Boehles to move, to leave town, for their own safety. While there was nothing that could be done legally, they knew that any pedophile who read these messages could find their home and find their daughter. Due to this imminent, grave danger, they disrupted and uprooted their lives, selling their home, leaving their church and schools and moving out of their home community.

When Mrs. Boehle contacted me early last fall, I introduced legislation to make this type of action illegal and put in place penalties. Working closely with the gentleman from Florida as well as Federal, State and local law enforcement, this legislation makes it illegal to use the Internet to transmit identifying information of a child to encourage, offer, or solicit sex or sexual activity.

Let us remember, this person posted this little girl's full name, phone number and hometown while posing as her and asking people to contact her for sex. It is unbelievable that this is not already illegal. However, as technology advances, we need to bring our laws up to speed. Passage of this legislation will protect others. I believe it deserves bipartisan support.

I want to thank the gentleman from Florida (Mr. McCOLLUM), the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) for their leadership.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Alabama (Mr. CRAMER) who is also a member of the Missing and Exploited Children's Caucus and serves with great leadership in this body.

Mr. CRAMER. Mr. Chairman, the gentlewoman from Texas knows, we serve together on the Children's Caucus as well, and I want to congratulate her for her leadership there. I congratulate the gentleman from Florida (Mr. McCOLLUM) for this bill, H.R. 3494, the Child Protection and Sexual Predator Punishment Act. I rise in strong support of that piece of legislation.

Mr. Chairman, in my prior life, I was a district attorney in Alabama from 1980 until 1990. In 1980 through our criminal justice system there, we took four cases involving victimization of children in sexual situations into the criminal justice system. Unfortunately when I left there in 1990, we had hundreds of cases that we took into the criminal justice system that involved child victims of sexual abuse. The criminal justice system has not been equipped to deal with this very difficult subject matter. We needed to reach out and bond with one another. We needed to reach out and establish bridges to the mental health communities to make sure that the State level, the Federal level, the local level were working effectively and to make sure that in today's world, today's technologies, that we were doing everything that we needed to do in order to prevent these kind of offenses from occurring.

Unfortunately, prosecutors react to cases that have already occurred. The gentlewoman from New York (Ms. SLAUGHTER) has an amendment that I assume will be accepted, or I hope will be accepted, that authorizes the National Institute of Justice to conduct a study of sexual predators. We need that information. We need that helping hand. We are punishing these offenders, we are sending them to institutions, they are staying there for a brief period of time, and they are coming back into our communities and they are reoffending against children. We need to know what works and what does not work. We need to know what resources can be available for children, what resources we can take advantage of in order to hopefully rehabilitate some of these people that will be preying on our children. But we cannot make this system tough enough. We cannot punish these offenders enough. We have got to put them away. We have got to protect our children.

The gentleman from New Jersey (Mr. FRANKS) will speak about an amendment in a few minutes as well. I have enjoyed working with him as a cochair of the Caucus for Missing and Exploited Children. I was on that national board for a number of years while I was district attorney. There are people all over this country that are reaching out saying that we need to work better together to protect our children. This is a growing problem in our local communities.

Mr. Chairman, I rise in strong support of this bill. I can only say, I hope we can put more money where our mouth is. I hope that we can eventually not just tell these agencies what we want them to do but give them a helping hand, give them the funding that they need, give them the legislation that they need, give us the studies that we need in order to better protect our communities and our children. Again, I congratulate the chairman of the committee and say this is a good piece of legislation. I hope to work with him down the line to make sure that we fill in the gaps and make this even stronger.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Chairman, as cochairman of the Missing and Exploited Children's Caucus, I want to congratulate the gentleman from Florida (Mr. McCOLLUM), the gentleman from Illinois (Mr. HYDE) and the gentlewoman from Washington (Ms. DUNN) for bringing this bill forward. But even more importantly, as the father of 7-month-old Kelly Amanda, I want to thank them for their excellent work on this bill. Nothing is more important to a parent than the safety and security of their child.

I want to touch on just one important provision of this bill. Twenty-five years ago, 7-year-old Joan D'Alessandro left her home in Hillsdale, New Jersey, to deliver Girl Scout cookies to a neighbor. Three days later that neighbor, a 26-year-old school teacher, confessed to sexually molesting and killing little Joan.

But for the D'Alessandro family, the nightmare was far from over. For the past 12 years, they have had to live with the very real prospect that one day very soon their daughter's killer will walk out of jail a free man. He has twice been eligible for parole. Recently a New Jersey appeals court ordered yet another parole hearing.

Rosemarie D'Alessandro has fought back against this terrible injustice. She has been the driving force behind a provision in this bill that would mandate a sentence of no less than life imprisonment with no opportunity for early release for anyone who commits a serious violent felony which results in the death of a child. I want it to be absolutely clear that this provision will still enable Federal prosecutors to seek the death penalty in all those cases where it is permitted under current law.

Joan's law sends a clear signal that Americans will not tolerate the killing of innocent children. If a criminal takes the life of a child during the commission of a serious violent crime, that criminal will die in jail.

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No family should ever have to endure the double tragedy of losing a child to a heinous act of violence and then watching their child's killer walk out of prison a free man.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I thank the speakers that have recognized the necessity of this legislation, and I would simply like to close by indicating that there are three provisions in here that I think are crucial. As I heard the gentleman from New Jersey (Mr. FRANKS) speak of great tragedy, so many of us can cite incidences in our neighborhoods or in our cities or in our States that we much rather not discuss, and I am reminded of the time I was on the city council in Houston when a 3-year-old was sexually molested and then killed by a recently released sexual predator who continued to deny to the very end. And not only did that occur, but they had to have two trials. One of the trials wound up with a hung jury, and so it put the family through that crisis again. In fact, I hope that this legislation, when passed, will be a tribute to that little life that was unnecessarily lost.

And so the provision in this bill that clarifies that Federal kidnapping investigations do not require a 24-hour waiting period and can be initiated immediately is crucial. How many times we have frustrated the law enforcement officers who have wanted to go out immediately once they have determined that there has been an abduction. This bill clarifies that. It also permits the government to seek pretrial detention of someone accused of a Federal rape and child sex abuse or child pornography. That means that individual is not out and able to attack others. And then, of course, it directs the Justice Department to establish a special center to investigate child abductions, child homicides and serial homicides.

These particular provisions in this legislation are extremely crucial for untying the hands of our law enforcement officers and, of course, paying really a tragic tribute to those lives that we have lost and hoping that we will have this kind of legislation to prevent future loss.

Mr. Chairman, I have no additional speakers at this time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise here in strong support of this legislation and really to focus on an important part of this bill that is known as Joan's Law. First, however, I want to stress the importance of the total bill and that we must strongly punish this obscene behavior of predators, and I want my colleagues to know, be assured, that knowledgeable professionals in the field, psychiatrists, psychologists, all know of the implicit, persisting compulsive behavior that leads to this type of violence against children.

But right now I want to rise in memory of Joan D'Alessandro. As the gentleman from New Jersey (Mr. FRANKS) has mentioned, we already have a law in New Jersey in memory of Joan, who was sexually assaulted and murdered in 1973. Her family has suffered through all these years, but we have gotten that law in New Jersey, and now with this legislation we will extend that right to protect the children in all 50 States.

But I want to particularly commend Rosemary D'Alessandro, the mother of Joan, who had to endure this inhumane threat to her peace of mind, but also to thank her so that other families will no longer have to endure the emotional travesty that the D'Alessandro family has endured. This legislation protects those families, but of greatest importance is that we are now going to say to the children of our country that they will no longer have to be fearful in their neighborhoods or in their shopping centers of released sexual predators preying on them. But I do this in memory of not only Joan, but in the name of Mrs. D'Alessandro without whom this reform either in New Jersey or across the Nation would not have been realized. She has protected children for all times from these predators.

Mr. Chairman, I rise today in strong support of H.R. 3494—the Child Protection and Sexual Predator Punishment Act of 1998. I would like to thank the Committee and Mr. FRANKS, who have joined me in this endeavor.

There is no greater resource in the nation than our children. And whenever a child is harmed or injured by violent crime it is a tragedy. But that tragedy is made even worse when it could have been prevented.

This bill's purpose is to strongly punish the obscene behavior of sexual predators who prey on children. Knowledgeable professionals in the field—psychiatrists, psychologists—all know the implicit persistent compulsive behavior that leads to this type of violence against children.

But I rise here today to focus on an important part of this bill and its incorporation of New Jersey's Joan's Law and in honor of the memory of Joan D'Alessandro. Joan's Law mandates a prison term of life without parole for a person who causes the death of a child during the commission of a violent crime. It was named after Joan D'Alessandro—an innocent seven year old girl from Hillsdale, New Jersey who was sexually assaulted and murdered in 1973.

We have a responsibility to protect the most volnerable people in our society—our children. The state of New Jersey has led the way. Now Congress must protect children in ALL fifty states.

The purpose of life without parole is twofold. First, someone who kills a child does not deserve Ever to step outside prison again. And second, it will provide families who lost innocent children with the knowledge and emotional relief that they will not have to relive the horror of losing their child every few years at endless parole hearings.

Rosemarie D'Alessandro, Joan's mother, has had to endure this inhumane threat to her peace of mind. But thanks to her, other families will no longer endure such emotional travesty. This legislation protects those families and of greatest importance are the children who will no longer have to be fearful in their very own neighborhoods and shopping centers.

Thanks to the bill, families who have suffered the worst tragedy known to parents—the loss of a child—will at least have the comfort of knowing the murderer will never be released from prison.

I strongly urge passage of this important family protection bill in the name of Mrs. D'Alessandro without whom this reform—protecting children could never have been achieved.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. BONO) for the purposes of debate.

Mrs. BONO. Mr. Chairman, I rise today to support the Child Protection Sexual Predator Punishment Act of 1998 and to urge its adoption by the House. As a longtime computer user, I am very aware of the many benefits the Internet presents. It allows people to communicate, learn, appreciate art and music, and collaborate across great distances. However as a parent of two young children, I am disturbed by what we have learned.

Personally I can say that my children already use computers and take advantage of the World Wide Web. As we move into the 21st century and the high technology future, America's children will not have a choice. They will be expected to use computers at a young age to get ahead.

Unfortunately the growing problem of child stalkers and predators is all too real and alarming. The situation will only increase as computers find their way into more homes. We know that children will always find a way onto the computer; for example, their schools or the home of a friend, so we must make sure cyberspace is a safe place.

The evidence of the type of dangerous, sick behavior of predators presented to the Committee on the Judiciary is an issue that we must confront and develop intelligent approaches to protect our Nation's youth. Congress has a role of protecting our most precious resource, our children. The Subcommittee on Crime did it the right way, holding much more hearings and listening to an array of experts.

The Internet and computers pose very difficult and novel questions for lawmakers, as I am sure the gentleman from North Carolina (Mr. COBLE) and the rest of the intellectual property community know. Yet, I urge each Member to support this bill that will help make the Internet a safer environment for family and legitimate users.

In closing I want to commend the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Illinois (Mr. HYDE) for developing a well crafted, narrowly tailored solution to an extremely serious problem. They can count on my support to help monitor this issue and revisit it, if necessary, in the future.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I thank the gentleman from Florida (Mr. McCOLLUM) for yielding this time to me.

When we consider an issue like child pornography, we need to understand that issue. A recent poll showed that most people in the United States know little about child pornography and understand little about it. They are surprised when they learn that child pornography is the tool of choice used by child molesters and pedophiles to entice young children into sexual activity. They also are unaware that most sexual pedophiles, sexual predators, possess child pornography that is usually on their person or found in their homes. They also, in fact, ask very often how does child pornography, how is it even created? How does it begin?

Mr. Chairman, we can answer all three of those questions with one answer, and that is, and the final report of the Commission on Pornography outlined this, why sexual predators use pornography, why they always possess it, how child pornography is created. And Dr. Shirley O'Brien, there was an attachment of her study on this, and it shows that this is how child pornography is created.

Child pornography is shown to a child by an adult; 2, the adult uses the materials to convince the child that the depicted sexual act is acceptable, even desirable; 3, the material desensitizes the child, lowering his or her inhibitions; 4, some of the sessions progress to sexual activities involving the child; 5, photographs or home movies are taken of the activity, and finally the nude pornographic material is used to lure more child victims and also to keep the victim from talking about the experience.

So, as we discuss this issue, bottom line, let us remember that child pornography is used in every community in America to lure children into this child abuse.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Chairman, I am pleased to join many of my colleagues on both sides of the aisle in support of this very important bill, and I want to publicly thank the gentleman from Florida (Mr. McCOLLUM) and the gentlewoman from Washington (Ms. DUNN) for the work they have done and put into this legislation.

We hear much today about family values, but I ask do we really value families? The bill I am proud to support today is one which values our families by protecting our children.

The Child Protection Sexual Predator Punishment Act does two important things. It protects our children, and it punishes their predators. The goal of the bill is simple, to keep pornography out of the sight of children and to keep our children out of the reach of sexual predators.

To do this the bill does several important things. First, it prohibits knowingly transferring obscene materials to a minor over the Internet. Second, the bill increases penalties for using a computer to entice a minor to engage in illegal sexual activity. This information superhighway must not be allowed to be used by sexual predators as a gateway to their prey. Third, the bill increases penalties for sending child pornography to any child anywhere by any means. Whether it is on the Internet or in person, this bill says child pornography in any form is ill-advised and illegal.

Finally, the bill puts the blame on the criminals and the predators, and it puts the law on the side of families and their children. This legislation doubles the penalties for repeat sex offenders. It also requires the U.S. Sentencing Commission to review and amend the sentencing guidelines to increase penalties for sexual abuse offenses. In short, it protects our children by punishing their stalkers.

Why is this strong legislation needed? Because cyberpedophiles have discovered that the information superhighway can be a path to a new victim. In the last 2 years the FBI and the Customs Service have arrested 600 people on Federal charges of trading child pornography on the Internet. Even scarier still, many of these predators use cyberspace to meet children and ask them out.

Earlier this year a South Houston teenager ran away to see someone she never met before. That night Edward Dub Watson sexually assaulted her. And why did she leave home to see this person? Because she talked to him on the Internet, and she thought he sounded like a nice person.

This is the issue we are trying to deal with. It is sick, and it has simply got to stop. I urge my colleagues to join us in supporting this important bill to help protect our young people from those who misuse the Internet.

It has often been said that the opposite of love is not hate, but indifference. This legislation says that the indifference stops right here and right now. Let us help create the world our children deserve, our future demands and our values dictate. Let us pass the Child Protection and Sexual Predator Punishment Act for our children, for our families and for our future.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to retrieve my time.

The CHAIRMAN. The gentlewoman from Texas is seeking unanimous consent to retrieve 9 minutes previously yielded.

Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume just to inquire if the gentleman from Florida has an additional speaker. Someone was trying to come to the floor.

Mr. McCOLLUM. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I do not, just myself to close. That is all I have over here on this side.

Ms. JACKSON-LEE of Texas. Let me see if they arrive, and I will simply indicate to the Chair that there are loopholes that this legislation is looking to shore up, if my colleagues will, and I believe that it is important that, if we talk about this blight on our country of sexual predators and protecting children, that this legislation answers some of the questions. We are not completed with our work after hearing all the recalling of these different tragedies, we are just beginning really. We have got to get to a point where sexual predators know that they are totally intolerated in this country.

Mr. Chairman, I reserve the balance of my time.

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Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to say this debate has been good. The bill we have before us today, the sexual predator bill, is one which has been long overdue, dealing with serial killers, serial rapists, but, most of all, pedophiles who use the Internet.

It is amazing how many of them go into the chat rooms of this Nation and actually engage children. Usually they do this, as I understand it, for a considerable period of time, when they pretend often to be other children. What they are doing is gaining the confidence of this child, without the child realizing it is an adult on the other end, let alone a pedophile. Then they will gradually engage in sexually explicit conversations, and building up, often times, sending pornographic material to that child, and, finally, trying to meet that child out on the street somewhere.

Current laws at the Federal level do not allow for the arrest and the conviction of somebody until they have actually induced in some manner the child to actually go meet with them somewhere to engage in a sexual activity.

The key portion of this bill, and there are a lot of other things in it, is to make sure when there is contact made over the Internet for the first time by a predator like this with a child, with the intent to engage in sexual activity, whatever that contact is, as long as the intent is there to engage in that activity, he can be prosecuted for a crime. I think that is an exceedingly important change in this bill. There are a lot of other things in here with wide-ranging importance, but that is number one, and it is the heart of this bill, to get to the Internet problem.

Mr. WHITE. Mr. Chairman, I would like to thank Representative FRANKS for working with me to improve upon his amendment, which requires Internet Service Providers (ISPs) to report to the Attorney General when they obtain knowledge of facts or circumstances that appear to indicate a violation of child pornography statutes. I believe we are working in good faith and will continue in our combined efforts to improve this language.

We all want to protect kids from child pornography. There is a lot of activity in this area already, and we need to recognize this. ISPs are good corporate citizens and are very involved in combating child pornography on the Internet. For instance, a "Zero Tolerance Policy" was adopted after the "Internet Online Summit: Focus on Children" on December 2, 1997. This policy states, "When child pornography is appropriately brought to our attention and we have control over it, we will remove it. Subject to constitutional and statutory privacy safeguards, we will cooperate fully with law enforcement officials investigating child pornography on the Internet. We will not allow this valuable new medium to be exploited by child pornographers and child predators." This policy has led ISPs across the nation to simply shut down, block access to, or remove child pornography from the Internet.

In addition, the National Center for Missing and Exploited Children has led in providing a conduit for reporting online evidence of child pornography and other crimes. The CyberTipline at <www.missingkids.com/cybertip> or at 1–800–843–5678, provides every Internet user with the opportunity to pass along tips, which are then reported to the appropriate law enforcement agencies. It is not necessary for ISPs to serve as the conduits for this information to law enforcement when there is an existing mechanism in place.

As we look at the obligations we will be placing on ISPs in this legislation, we need to consider some basic principles. The privacy of individual Internet users should not be compromised in our efforts to ensure ISPs work more closely and consistently with law enforcement. The trigger for reporting and what a report consists of should be absolutely clear and workable, with minimal burden. ISPs should not be seen as the conduit for tips on child pornography, but should focus on sharing information they discover. Finally, it is not appropriate for ISPs to become gatekeepers of content on the Internet. The Internet should continue to be the most vibrant and inclusive medium for the exchange of information we know.

The privacy of individuals should not be compromised. Any change to federal privacy law that would allow disclosure of private communications to law enforcement without a warrant would be a dramatic erosion of Americans' privacy rights in contravention of both the Constitution and long-established electronic surveillance laws. This is troublesome to say the least. On the other hand, I understand and support Mr. FRANKS' desire to make sure ISPs, when they actively seek out and shut down or block access to child pornography, can report that information to law enforcement. Since Congress never held hearings on this provision, very little public scrutiny has been applied. We must spend more time discussing the implications of language that would eliminate the requirement to comply with the Electronic Computer Privacy Act.

ISPs should not be seen as the conduit for tips on child pornography. There is an existing mechanism for concerned individuals to report tips or other evidence to law enforcement. The CyberTipline is very accessible. The narrow focus on the bill should be on child pornography discovered by the ISP. Multiple efforts to combat child pornography are desirable. On the other hand, duplicative efforts are not efficient and could result in a loss of valuable investigative time by law enforcement agents forced to follow up on the same report received through multiple venues.

The standard for reporting should be absolutely clear and workable. ISPs should not be held liable for information of which they are not aware. Nor should they inundate law enforcement with information that does not appear to violate the law for fear of liability. I believe the addition of the knowledge standard is a significant step forward. There is still more work we can do to clarify the reporting requirement and I look forward to being involved in that discussion.

We should not mandate that ISPs become gatekeepers of information. It is clearly not the intent of this legislation to require ISPs to monitor all information flowing over the Internet. It must be absolutely clear that the government should not be involved in such a scenario. Many ISPs voluntarily seek to remove child pornography, but a mandatory requirement with concomitant liability would hold ISPs responsible for the content of the World Wide Web. This significantly strays from their core responsibility of providing millions of consumers access to the Internet.

I have four children and I am concerned about their safety, and the safety of all children, in cyberspace. We can and will do more to combat child pornography in this new medium. As we do so, we want to be absolutely sure that we are making wise choices about the best way to protect our kids and the privacy of adults. We want our solutions to work. And we want government to take a back seat to the technological solutions that the creative minds who work in the technology industry will come up with in the future. Again, I look forward to working with my colleagues on further improvements to this bill.

Mr. HOYER. I rise today in support of H.R. 3494, The Child Protection and Sexual Predator Punishment Act of 1988, and the important work that the National Center for Missing and Exploited Children is doing to locate and recover missing children. In 1990, the Justice Department released a study reporting that there are as many as 4,600 abductions by non-family members reported to police, 114,600 attempted abductions of children by non-family members, and 354,000 children abducted by family members annually.

The National Center for Missing and Exploited Children works in cooperation with the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention to coordinate the efforts of law enforcement, social service agencies, elected officials, judges, prosecutors, educators and the public and private sectors to prevent these heinous crimes against children. The Fiscal Year 1998 Treasury, Postal Service and General Government Appropriations Conference Report contained $571,000 for the Exploited Child Unit of the National Center for Missing and Exploited Children. In my role as Ranking Member of the Subcommittee on Treasury, Postal Service and General Government Appropriations, I will, once again, this year be supporting funding for this most important organization.

Mr. Chairman, the National Center for Missing and Exploited Children is doing critical work throughout the country to ensure the safety of our Nation's children. I urge my colleagues to vote for the bill and to support the National Center for Missing and Exploited Children.

Mr. BLUMENAUER. Mr. Chairman, although the Sherman amendment is well intentioned, I voted against it because of the real danger it will undermine efforts at the local level to identify sexual offenders. This amendment, which establishes a national hotline to access the FBI's database of sexual predators, is opposed by the Department of Justice, the FBI, and the National Center for Missing and Exploited Children. There are a number of problems inherent to a national name-check system. Such a system could result in many misidentification and cause the government and any misidentified individuals much embarrassment and unnecessary complications in their lives. Perhaps more serious is the possibility of failing to identify a convicted sexual predator, providing a false sense of security for the American public. This amendment only complicates local efforts to deal with sexual predators.

Mr. POSHARD. Mr. Chairman, I rise today to express my strong support for H.R. 3493, the "Child Protection and Sexual Predator Punishment Act," a critical measure to protect America's children from the dangers that lurk on the Intenet. The McCollum-Dunn bill increases federal penalties for sexual predators and defines new sex crimes against children, ensuring that our criminal code keeps pace with rapidly-expanding technology. This measure provides the tools we need to keep our children safe while allowing them to take advantage of all the benefits of the information superhighway.

We live in an age of incredible access to vast amounts of information, and the Internet is quickly becoming an integral part of our lives. For our children, this represents a wonderful opportunity to gain knowledge and enhance their educational experiences. Unfortunately, it also represents a terrifying new way for some in our society to prey on innocent children. Increasingly, pedophiles and sexual predators are using the anonymity of the Internet to lure children into dangerous situations. Given the estimates that 20 million children will have access to the Internet by the year 2000, it is clear that urgent action is needed to combat this situation.

In addition, Mr. Chairman, I would like to register my support for the amendment offered by Representative CONYERS regarding violence against women. Domestic violence is one of the most disturbing and pervasive problems in our society, and I commend my colleague from Michigan for his efforts on behalf of women throughout this country who should not be forced to live in fear of emotional and physical abuse to themselves and their children.

I hope my colleagues will join with me today in sending a strong message to sexual predators that we will not tolerate the abuse of our children any longer. The Internet is quickly causing community boundaries to disappear, and we have learned that it is no longer enough to focus our efforts on the local level. We must ensure that children are safe not only at home and at school, but also as they continue to explore the exciting new world of cyber-space. H.R. 3494 provides the strong protections required to combat the unconscionable and indefensible actions of pedophiles and sexual predators, wherever they may occur, and I will proudly vote for its passage.

Mr. PAUL. Mr. Chairman, I rise today in opposition to the Child Protection and Sexual Predator Punishment Act of 1998. This bill, if passed, will further expand the authority of this country's national police force and further "justify" the federal Justice Department's intrusion into mail, telephone and Internet communications.

Mr. Chairman, today the Congress will collectively move our nation yet another step closer to a national police state by further expanding the notion of federal crimes and paving the way for a deluge of Federal criminal justice activity. Of course, it is much easier to ride the current wave of federally "criminalizing" all human malfeasance in the name of saving the world from some evil than to uphold a Constitutional oath which prescribes a process by which the nation is protected from what is perhaps the worst evil, totalitarianism. Who, after all, and especially in an election year, wants to be amongst those members of Congress who are portrayed as soft on child-related sexual crime irrespective of the procedural transgressions and individual or civil liberties one tramples in their zealous approach.

In the name of the politically popular cause of protecting children against sex crimes, the Members of Congress will vote on whether to move the Nation further down the path of centralized-Government implosion by appropriating yet more Federal taxpayer money and brandishing more U.S. prosecutors at whatever problem happens to be brought to the floor by any Members of Congress hoping to gain political favor with those embracing some politically popular cause. The Child Protection and Sexual Predator Punishment Act of 1998 is no exception.

Who, after all, can stand on the House floor and oppose a bill which is argued to make the world safer for children with respect to crimes? It is a sad commentary when members of this body only embrace or even mention federalism when it serves their own political purposes and, at the same time, consciously ignore federalism's implications for these politically popular causes. It seems to no longer even matter whether governmental programs actually accomplish their intended goals or have any realistic hope of solving problems. No longer does the end even justify the means. All that now seems to matter is that Congress pass a new law.

Crimes committed against children (as well as adults) are a problem that should concern all Americans. As a doctor of obstetrics I have enjoyed the privilege of bringing more than 3,000 new lives into the world. I know there are few things more tragic than crimes committed against young people. In fact, the types of crimes this bill attempts to federally punish are among the most despicable criminal acts committed. Undoubtedly, strong measures and penalties need to be imposed to deter and punish these criminal actors. Nevertheless, the threshold question in Congress must always be: "under what authority do we act?" Should we cease to concern ourselves about the Constitution in all that we do and moved by emotion speak only of vague theoretical outcomes?

Any federal usurpation of criminal law, no matter how flexible, violates the 10th amendment to the U.S. Constitution. The 10th amendment limits the Federal Government to those functions explicitly enumerated in the Constitution. Other than in these few areas, the States are sovereign. Therefore the Federal Government has no authority to federalize crimes whether committed against children, women, or some specific race. Additionally, ours is an individual Bill of Rights rather than a system of rights dependent upon to which group (gender, race, or age) one happens to belong.

The drafters of the Bill of Rights knew quite well that it would be impossible for a central government to successfully manage crime prevention programs for as large and diverse a country as America. The founders also understood that centralized federal involvement in crime prevention and control was dangerous and would lead to a loss of precious liberty. The bill's implication of federal monitoring of conversation on phone lines, the Internet, and U.S. mail is frightening and opens the door to unlimited government snooping.

Some will argue that federal legislation is necessary because communications cross state lines. Fortunately, the Constitution provides for the procedural means for preserving the integrity of State sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow States to exact judgments from those who violate their State laws. The Constitution even allows the Federal Government to legislatively preserve the procedural mechanisms which allow States to enforce their substantive laws without the federal government imposing its substantive edicts on the States. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one State to another and in 1783 Congress passed an act which did exactly this.

I too find most despicable the criminal acts this bill attempts to make federal crimes, but under the U.S. Constitution criminal law jurisdiction lies with the States. This is why I oppose yet another step toward a national police state. And because I fear the bill's implications regarding federal monitoring of voice, mail and data communications, I cannot support H.R. 3494.

Ms. DELAURO. Mr. Chairman, I stand today in strong support of the Conyers Amendment. The provisions in this amendment will strengthen the Child Protection and Sexual Predator Punishment Act and help us continue our work to combat domestic violence.

Every nine seconds, as we stand here on the House floor, another woman will be physically abused. Three-quarters of these women will be assaulted by someone they know. It is impossible for us to know how many cases of this appalling crime go unreported.

The Violence Against Women Act has helped us to combat this problem by providing grants to states to help set up rape crisis hotlines, counseling programs, and professional training for police officers to help them recognize and deal with domestic violence.

The Conyers Amendment will strengthen the Violence Against Women Act. It contains provisions to help limit the effects of violence on children, to help prevent sexual assault from ever happening, and to protect women who have been the victims of domestic violence.

Mr. Speaker, when we pass the Child Protection and Sexual Predator Punishment Act, Congress will be taking a tremendous step to protect our children from harm that could come to them over the Internet.

We must also pass the Conyers Amendment, to protect them and their mothers from harm at home. Let's commit ourselves to ending domestic violence so that women and children are safe in their own homes. Vote yes on the Conyers Amendment.

Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 3494, the "Child Protection and Sexual Predator Punishment Act of 1998."

Our nation's children are our most precious resource. H.R. 3494 will ensure that children are protected from pedophiles and sexual predators while continuing to protect them as they expand their minds and explore the Internet. The Child Protection and Sexual Predator Punishment Act will toughen penalties for sexual predators, ensuring that they are held accountable for their actions.

This bill will not only make our Internet safe for our children's young minds, but safer for their young lives. The stories of children being lured away from their homes and parents to be murdered by pedophiles are haunting. Nearly two-thirds of the prisoners serving time for rape and sexual assault victimized children, and almost one-third of those victims were less than 11 years old. These are alarming numbers.

Mr. Chairman, I rise in support of H.R. 3494. We must show these offenders that we will not stand for the abuse and murder of our nation's children.

Mr. HASTERT. Mr. Chairman, I'm proud to rise in support of this legislation today. I'm especially pleased with the lengths to which this bill goes in punishing those who utilize the Internet to prey on our children.

The great need for protecting children from Internet-based crimes was reinforced to me last fall when Deborah Boehle (*Bay-Lee*), the mother of a 9-year-old girl, met with me in my Batavia, IL, office.

Mrs. Boehle explained to me the hardship which her family endured because of an incident on the Internet, and which then led her to move her family into my district from their home in Juliet, IL.

At the time, my colleague, JERRY WELLER was moving quickly to address this incident legislatively, and I am proud that I was able to work with him and Chairman MCCOLLUM in addressing this ever-increasing problem.

The culmination of those efforts is this legislation which establishes fines, and sets prison sentences of up to 5 years for individuals using the Internet to facilitate the contact of a minor for illegal sexual activity.

Just like those who recklessly drive on our roadways and pose a danger to the traveling public, we have to pull over and lock up those criminals who are abusing the information superhighway. Although the Internet is by and large used for well-intentioned purposes, we have to be mindful of those twisted individuals who want to use it as a vehicle to threaten our children and their families.

As we've seen in northern Illinois, crimes against our kids over the Internet can and do happen. It's for that reason it's so essential we update our laws for the information age. Although there are no legislative fixes for the anxiety and anguish the Boehle's have suffered, I'm hopeful that this legislation will prevent future crimes against kids over the Internet, and keep other families from having to experience the same heartache and hardship that the Boehle's have had to endure.

Ms. DEGETTE. I believe H.R. 3494, the Child Protection and Sexual Predator Punishment Act, is a good bill and will dramatically improve our ability to protect children from sexual predators who use the Internet and other forms of communication to target children.

I am concerned, however, by the inclusion of Representative SHERMAN's amendment to this important bill. While I believe the intention of the amendment is laudable. I believe it could have negative implications. First, I am concerned that the amendment would undermine the effectiveness of Megan's law. I support Megan's law and in fact, was an original cosponsor of Megan's law in Colorado. States have spent significant time and resources promulgating laws to appropriately notify communities of sexual predators. I am concerned that this amendment would undermine that effort. I am also concerned that this amendment infringes on individual privacy rights.

I believe this issue merits further attention by Congress. Yet until we have hearings on this issue and hear more from the Department of Justice, we should not move forward hastily.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection and Sexual Predator Punishment Act of 1998".

TITLE I—PROTECTING CHILDREN FROM SEXUAL PREDATORS AND COMPUTER PORNOGRAPHY

SEC. 101. CONTACTING MINORS FOR SEXUAL PURPOSES.

Section 2422 of title 18, United States Code, is amended by adding at the end the following:

"(c) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States—

"(1) knowingly contacts an individual who has not attained the age of 18 years; or

"(2) knowingly contacts an individual, who has been represented to the person making the contact as not having attained the age of 18 years;

for the purposes of engaging in any sexual activity, with a person who has not attained the age of 18 years, for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both. It is a defense to a prosecution for an offense under this section that the sexual activity is prosecutable only because of the age of the individual contacted, the individual contacted had attained the age of 12 years, and the defendant was not more than 4 years older than the individual contacted.".

SEC. 102. TRANSFER OF OBSCENE MATERIAL TO MINORS.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§1470. Transfer of obscene material to minors

"Whoever, using the mail or any facility or means of interstate or foreign commerce—

"(1) knowingly transfers obscene matter to an individual who has not attained the age of 18 years, or attempts to do so; or

"(2) knowingly transfers obscene matter to an individual who has been represented to the transferor as not having attained the age of 18 years;

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding at the end the following new item:

"1470. Transfer of obscene material to minors.".

SEC. 103. INCREASED PRISON SENTENCES FOR ENTICEMENT OF MINORS.

Section 2422 of title 18, United States Code, is amended—

(1) in subsection (a), by adding at the end "If the individual had not attained the age of 18 years at the time of the offense, the maximum imprisonment for an offense under this subsection is 10 years."; and

(2) in subsection (b), by striking "10" and inserting "15".

SEC. 104. ADDITIONAL JURISDICTIONAL BASE FOR PROSECUTION OF PRODUCTION OF CHILD PORNOGRAPHY.

(a) USE OF A CHILD.—Subsection (a) of section 2251 of title 18, United States Code, is amended by inserting "if such visual depiction was produced with materials that had been mailed, shipped, or transported in interstate or foreign commerce by any means, including a computer," before "or if".

(b) ALLOWING USE OF A CHILD.—Subsection (b) of section 2251 of title 18, United States Code, is amended by inserting ", if such visual depiction was produced with materials that had been mailed, shipped, or transported in interstate or

foreign commerce by any means, including a computer," before "or if".

SEC. 105. INCREASED PENALTIES FOR CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS OR CHILD PORNOGRAPHY AND TECHNICAL CORRECTION.

(a) INCREASED PENALTIES IN SECTION 2252.—Section 2252(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by inserting "the offense consisted of the possession of 50 or more items of the sort described in subsection (a)(4) or" after "if".

(b) INCREASED PENALTIES IN SECTION 2251(d).—Section 2251(d) of title 18, United States Code, is amended by striking "or chapter 109A" each place it appears and inserting ", chapter 109A, or chapter 117".

(c) INCREASED PENALTIES IN SECTION 2252A.—Section 2252A(b)(2) of title 18, United States Code, is amended by inserting "the offense consisted of the possession of 50 or more images of the sort described in subsection (a)(4) or" after "if".

(d) TECHNICAL CORRECTION.—Section 2252(a) of title 18, United States Code, is amended so that paragraph (4) reads as follows:

"(4) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151 of this title), knowingly possesses—

"(i) 3 or more books, magazines, periodicals, computer disks, films, video tapes, or other matter that contain any visual depiction, if—

"(I) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) such visual depiction is of such conduct; or

"(ii) any book, magazine, periodical, computer disk, film, videotape, computer disk, or any other material that contains 3 or more visual depictions, if—

"(I) the producing of each visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) each visual depiction is of such conduct; or

"(B) knowingly possesses—

"(i) 3 or more books, magazines, periodicals, computer disks, films, video tapes, or other matter that contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if—

"(I) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) such visual depiction is of such conduct; or

"(ii) any book, magazine, periodical, computer disk, film, videotape, computer disk, or any other material that contains 3 or more visual depictions, if—

"(I) the producing of each visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) each visual depiction is of such conduct;".

SEC. 106. CRIMINAL FORFEITURE FOR SOLICITATION OF MINORS AND INTERSTATE PROSTITUTION.

Section 2253(a) of title 18, United States Code, is amended by inserting ", or who is convicted of an offense under section 2421, 2422, 2423, 2252A, or 2260 of this title," after "2252 of this chapter" in the matter preceding paragraph (1).

SEC. 107. PRETRIAL DETENTION OF CHILD SEX OFFENDERS.

Subparagraph (C) of section 3156(a)(4) of title 18, United States Code, is amended to read as follows:

"(C) any felony under chapter 109A, 110, or 117; and"

SEC. 108. INCREASED PRISON SENTENCES.

Subsection (b) of section 2422 of title 18, United States Code, is amended by adding at the end the following: "If in the course of committing the offense under this subsection, the defendant used a computer to transmit a communication to the minor, the minimum term of imprisonment for the offense under this subsection is 3 years.".

SEC. 109. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.

(a) GENERALLY.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§2425. Repeat offenders

"(a) The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) As used in this section, the term 'prior sex offense conviction' means a conviction for an offense—

"(1) under this chapter or chapter 109A or 110; or

"(2) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States or in any Territory or Possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by adding at the end the following new item:

"2425. Repeat offenders.".

SEC. 110. DEFINITION AND ADDITION OF ATTEMPT OFFENSE.

(a) DEFINITION.—

(1) GENERALLY.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§2426. Definition for chapter

"For the purposes of this chapter, sexual activity for which any person can be charged with a criminal offense includes the production of child pornography, as defined in section 2256(8).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by adding at the end the following new item:

"2426. Definition for chapter.".

(b) ATTEMPT OFFENSE.—Section 2422(a) of title 18, United States Code, is amended by inserting "or attempts to do so," after "criminal offense,".

SEC. 111. USE OF INTERSTATE FACILITIES TO TRANSMIT IDENTIFYING INFORMATION ABOUT A MINOR FOR CRIMINAL SEXUAL PURPOSES.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§2260A. Use of interstate facilities to transmit information about a minor

"Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly transmits, prints, publishes, or reproduces, or causes to be transmitted, printed, published, or reproduced, the name, address, telephone number, electronic mail address, or other identifying information of an individual who has not attained the age of 18 years for the purposes of facilitating, encouraging, offering, or soliciting any person to engage in any sexual activity for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2260A. Use of interstate facilities to transmit information about a minor.".

TITLE II—PUNISHING SEXUAL PREDATORS

SEC. 201. SENTENCING ENHANCEMENT IN SECTION 2423 CASES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the sentencing guidelines to provide a sentencing enhancement for any offense listed in section 2423 of title 18, United States Code.

(b) INSTRUCTION TO COMMISSION.—The Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other guidelines.

SEC. 202. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

Section 2423 of title 18, United States Code, is amended to read as follows:

§"2423. Transportation of minors and assumed minors

"(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly—

"(1) transports an individual who has not attained the age of 18 years; or

"(2) transports an individual who has been represented to the person doing that transportation as not having attained the age of 18 years;

in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual activity, with another person who has not attained the age of 18 years or who has been represented to the traveler or conspirator as not having attained the age of 18 years, for which any person can be charged with a criminal offense, shall be fined under this title, imprisoned not more than 15 years, or both.".

SEC. 203. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

"(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.".

SEC. 204. PUNISHMENT FOR REPEAT OFFENDERS.

Section 2241 of title 18, United States Code, is amended by inserting after subsection (d) the following:

"(e) PUNISHMENT FOR REPEAT OFFENDERS.—(1) Whoever has twice previously been convicted of a serious State or Federal sex crime and who—

"(A) violates this section; or

"(B) in a circumstance described in paragraph (2) of this subsection, engages in conduct that would have violated this section if the conduct had occurred in the special maritime and territorial jurisdiction of the United States;

shall be imprisoned for life.

"(2) The circumstance referred to in paragraph (1) of this subsection is that—

"(A) the person engaging in such conduct traveled in interstate or foreign commerce or used the mail or any facility or means of interstate or foreign commerce in furtherance of the offense; or

"(B) such conduct occurs in or affects interstate or foreign commerce and would have violated this section if the conduct had occurred in the special maritime and territorial jurisdiction of the United States.

"(f) SERIOUS STATE OR FEDERAL SEX CRIME.—For the purposes of subsections (e) and (f), the term serious State or Federal sex crime means a State or Federal offense for conduct which—

"(1) is an offense under this section or section 2242 of this title; or

"(2) would have been an offense under either of such sections if the offense had occurred in the special maritime or territorial jurisdiction of the United States.".

SEC. 205. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.

Section 2247 of title 18, United States Code, is amended to read as follows:

"§2247. Repeat offenders

"(a) The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) As used in this section, the term 'prior sex offense conviction' has the meaning given that term in section 2425.".

SEC. 206. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.

Section 2255(a) of title 18, United States Code, is amended by striking "2251 or 2252" and inserting "2241(c), 2243, 2251, 2252, 2421, 2422, or 2423".

SEC. 207. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.

(a) REDUNDANCY.—Section 2243(a) of title 18, United States Code, is amended by striking "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or".

(b) MAKING CONSISTENT LANGUAGE ON AGE DIFFERENTIAL.—Section 2241(c) of title 18, United States Code, is amended by striking "younger than that person" and inserting "younger than the person so engaging".

(c) DEFINITION OF STATE.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking the period and inserting a semicolon; and

(2) by adding a new paragraph as follows:

"(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.".

SEC. 208. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(d) DEATH OR IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—Notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if the victim of the offense is under 14 years of age, the victim dies as a result of the offense, and the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).".

TITLE III—FEDERAL INVESTIGATIONS OF SEX CRIMES AGAINST CHILDREN AND SERIAL KILLERS

SEC. 301. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§3064. Administrative subpoenas

"(a) AUTHORIZATION OF USE.—In an investigation of an alleged violation of section 2241(c), 2243, 2421, 2422, or 2423 of this title where a victim is an individual who has not attained the age of 18 years, the Attorney General may subpoena witnesses, compel the production of any records (including books, papers, documents, electronic data, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing, except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where the witness was served with a subpoena. Witnesses summoned under this section shall be paid the same fees and commissions that are paid witnesses in the courts of the United States.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or the refusal to obey a subpoena issued to any person under this section, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the person is an inhabitant or in which the person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony regarding the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding at the end the following new item:

"3064. Administrative subpoenas.".

SEC. 302. KIDNAPPING.

(a) 24-HOUR RULE.—Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: "However, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the twenty-four hour period has ended.".

(b) JURISDICTIONAL ELEMENTS.—Section 1201(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (4); and

(2) by adding after paragraph (5) the following:

"(6) the mail or any facility or means of interstate or foreign commerce is used in furtherance of the offense; or

"(7) the offense affects interstate or foreign commerce, or would do so if the offense were consummated;".

(c) CLARIFICATION OF ELEMENT OF OFFENSE.—Section 1201(a) of title 18, United States Code, is amended by inserting ", regardless of whether such person was alive when transported across a State boundary provided the person was alive when the transportation began" before the semicolon at the end of paragraph (1);

SEC. 303. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by inserting after section 537 the following:

"§540B. Investigation of serial killings

"(a) The Attorney General and the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, when such investigation is requested by the head of a law enforcement agency with investigative or prosecutive jurisdiction over the offense.

"(b) For purposes of this section—

"(1) the term 'serial killings' means a series of 3 or more killings, at least one of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors;

"(2) the term 'killing' means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed; and

"(3) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by adding at end the following new item:

"540B. Investigation of serial killings.".

SEC. 304. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall establish a Child Abduction and Serial Murder Investigative Resources Center to be known as the "Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center" (hereinafter in this section referred to as the "CASMIRC").

(b) PURPOSE.—The purpose of this section is to establish a Federal Bureau of Investigation Child Abduction and Serial Murder Investigative Resources Center managed by the FBI's Critical Incident Response Group's National Center for the Analysis of Violent Crime (NCAVC) and multidisciplinary resource teams in FBI field offices to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearance of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) DUTIES OF THE CASMIRC.—The CASMIRC shall perform such duties as the Attorney General deems appropriate to carry out the purposes of the CASMIRC, including but not limited to—

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialities to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearance of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal,, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the Federal Bureau of Investigation's NCAVC in coordination with the National Center For Missing and Exploited Children (NCMEC) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to provide appropriate training to Federal, State, and local law enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

(d) APPOINTMENT OF PERSONNEL TO THE CASMIRC.—

(1) SELECTION OF MEMBERS OF THE CASMIRC AND PARTICIPATING STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.—The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with FBI personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearance of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) STATUS.—Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except where appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) TRAINING.—CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the NCMEC, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the NCMEC and OJJDP to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(e) REPORT TO CONGRESS.—One year after the establishment of the CASMIRC, the Attorney General shall provide a report to Congress that describes the goals and activities of the CASMIRC. The report shall also contain information regarding the number and qualifications of the members appointed to the CASMIRC, provision for equipment, administrative support, and office space for the CASMIRC, and projected resource needs for the CASMIRC.

(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1999 and each of the two succeeding fiscal years.

(g) CONFORMING REPEAL.—Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.) is repealed.

TITLE IV—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICE

SEC. 401. PRISONER ACCESS.

Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any interactive computer service without the supervision of an official of the Government.

SEC. 402. RECOMMENDED PROHIBITION.

(a) FINDINGS.—Congress finds that—

(1) a Minnesota State prisoner, serving 23 years for molesting teenage girls, worked for a nonprofit work and education program inside the prison, through which the prisoner had unsupervised access to the Internet;

(2) the prisoner, through his unsupervised access to the Internet, trafficked in child pornography over the Internet;

(3) Federal law enforcement authorities caught the prisoner with a computer disk containing 280 pictures of juveniles engaged in sexually explicit conduct;

(4) a jury found the prisoner guilty of conspiring to trade in child pornography and possessing child pornography;

(5) the United States District Court for the District of Minnesota sentenced the prisoner to 87 months in Federal prison, to be served upon the completion of his 23-year State prison term; and

(6) there has been an explosion in the use of the Internet in the United States, further placing our Nation's children at risk of harm and exploitation at the hands of predators on the Internet and increasing the ease of trafficking in child pornography.

(b) SENSE OF CONGRESS.—Congress strongly urges State Governors, State legislators, and State prison administrators to prohibit unsupervised access to the Internet by State prisoners.

SEC. 403. SURVEY.

(a) SURVEY.—Not later than 6 months after the date of the enactment of this Act, the Attorney General shall conduct a survey of the States to determine to what extent each State allows prisoners access to any interactive computer service and whether such access is supervised by a prison official.

(b) REPORT.—The Attorney General shall submit a report to Congress of the findings of the survey conducted pursuant to subsection (a).

(c) DEFINITION.—For the purposes of this section, the term "State" means each of the 50 States and the District of Columbia.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order unless printed in House Report 105–576. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in House Report 105–576.

AMENDMENT NO. 1 OFFERED BY MR. RILEY

Mr. RILEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. Riley:

Page 5, line 23, strike "TECHNICAL CORRECTION" and insert "MODIFICATION OF POSSESSION OFFENSE".

Page 6, beginning in line 7, strike "possesses" and all that follows through line 4 on page 8 and insert the following:

possesses a book, magazine, periodical, computer disk, film, video tape, or any other matter that contains a visual depiction of sexually explicit conduct and the production of which involves the use of a minor engaging in that conduct; or

"(B) knowingly possesses a book, magazine, periodical, computer disk, film, video tape, or any other matter that—

"(i) has been mailed, or has been shipped or transported by any means, including computer, in interstate or foreign commerce, or which was produced using materials which were mailed or so shipped or transported; and

"(ii) contains a visual depiction of sexually explicit conduct and the production of which involves the use of a minor engaging in that conduct;".

(e) CHILD PORNOGRAPHY POSSESSION OFFENSE.—Section 2252A(a)(5) of title 18, United States Code, is amended in each of subparagraphs (A) and (B), by striking "3 or more images of" and inserting "an image of".

The CHAIRMAN. Pursuant to House Resolution 465, the gentleman from Alabama (Mr. RILEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in support of H.R. 3694 and would like to commend the gentleman from Florida (Mr. MCCOLLUM) for introducing this very important legislation that will go a long way in protecting the children from sexual predators. However, the gentleman from Alabama (Mr. BACHUS) and I are offering an amendment that will eliminate a loophole in the current law that currently allows individuals to legally possess child pornography. Unfortunately, this loophole was not addressed in H.R. 3494.

Mr. Chairman, under existing Federal law, an individual can only be prosecuted for possessing child pornography if they have three or more books, magazines, periodicals, films, videotapes or any other matter which contain a visual depiction of a minor engaging in sexually explicit conduct. Unfortunately, that means a pedophile can legally possess a book or magazine with literally hundreds of pictures of children being sexually abused. Worse yet, it is also possible that these predators can legally possess two videotapes up to several hours long featuring children being molested.

Mr. Chairman, the current law is disgraceful, and this amendment will correct it. Given the devastating effects that child pornography is known to have on all of its victims, I do not believe that anyone can justify its production, justify its distribution or its possession.

Simply put, child pornography is nothing more than a frozen record of the sexual victimization of a child. There should be no exception for anyone to possess any amount of child pornography, just as there is no exception for the possession of any amount of cocaine or heroin. We in this Congress must not pass up this opportunity to do what is right for our Nation's children. If we do, we will be contributing to the sexual abuse and the exploitation of the most vulnerable and the most innocent members of our society.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to claim the time in opposition, though I am not opposed to the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The CHAIRMAN. The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for five minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this amendment, which makes it clear that the possession of child pornography is a crime. There is simply no legitimate reason for anyone to possess any amount of child pornography, and that is what this amendment says.

There is nothing sadder or more outrageous than the depiction of children involved in sexually explicit conduct. We in the Congress must do everything in our power to prevent the creation, dissemination and possession of such materials. I believe that this amendment furthers this goal, and I urge my colleagues to support it.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, as a cosponsor of H.R. 3185, the Riley-Bachus Abolishing Child Pornography Act, I rise in support of this amendment, which contains elements of this bill.

Mr. Chairman, this is an important step for Congress to take. Both bodies and the President must send an unambiguous message of absolute zero tolerance for sexual exploitation of children. This is not a first amendment issue; this is about the safety of our children. Pedophiles have no right to sex with minors or photographic depictions of such acts. Such behavior is a horrible crime and an irreparable crime against children. It robs them of their innocence and it shatters their trust in our ability to protect them.

I urge support for this amendment.

Mr. RILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, first of all, I would like to thank the gentlewoman from Michigan and the gentlewoman from Texas for their remarks, and I would like to associate myself with those remarks.

Mr. Chairman, this amendment addresses something that is wrong and does what is right.

What is wrong? Present Federal law, which says it is legal to possess one or two pieces of child pornography, but not three or more. Now, that was said to be the result of a compromise with civil libertarians, but I would say that it was an insane compromise with the devil, a compromise which exposes every American child to pedophiles and child predators who lurk in every American community, armed with items of child pornography. Let us also say that any item of child pornography, one item, is the ultimate example and evidence of the ultimate child abuse.

What is the right thing to do? The right thing to do is full protection for American children against these predators, zero tolerance for this perversion. We have seen pictures from Paducah, Jonesboro, Pearl, Mississippi, Pennsylvania and Oregon, cruel examples of children gunned down, of lives lost. Less graphic, but equally destructive and disturbing and more widespread, is that we have allowed under the Federal law pedophiles and child predators in every community of our country to legally possess child pornography and to use this child pornography to destroy our youth. That is wrong.

Therefore, the gentleman from Alabama (Mr. RILEY) and I have offered this amendment. The amendment is right, and I urge each Member to do what is right and vote yes on the Riley amendment.

Mr. RILEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Chairman, I rise in strong support of the Riley-Bachus amendment, because stopping the sexual exploitation of our children simply cannot be thoroughly achieved without it. As impossible and amazing as it seems, current law actually allows individuals to possess up to two items of child pornography. It means that somebody can own two magazines or two videotapes containing thousands of pictures depicting children engaged in explicit sexual conduct. I have no idea where this came from. I did not know it was part of the law. I think it is appalling.

We have got the opportunity now and we must act now to ensure that possession of any child pornography be made illegal. That is why it is important for this amendment and it is so crucial.

It is also time, Mr. Chairman, that we set the record straight with child pornographers and pedophiles. The sexual exploitation of our children will not be tolerated in any way, shape or form.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me congratulate the gentleman for this very important amendment. I agree with the previous speaker; we are absolutely appalled that sick people or criminal-minded people would take innocent children and abuse them by capturing pictures and utilizing these on the Internet or for sale. This is important legislation. I think I heard one quote, "One pornographic picture of a child is one too many." So we congratulate the gentleman on this legislation and amendment. I ask my colleagues to support it.

Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. RILEY), and ask unanimous consent that he may control it.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Mr. RILEY. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM), the distinguished chairman of the subcommittee.

Mr. MCCOLLUM. Mr. Chairman, I just want to comment, the gentleman has offered a fine amendment. It is a zero tolerance amendment. It gets the law squared away where it should be, and there should be no confusion after this. So I strongly support the gentleman's amendment, and appreciate the gentleman authoring it. It has been very positive.

Mr. RILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in conclusion, let me just say that I think this is a bill that is past due. It has been brought before this floor a couple of times before. For whatever reason, at that time it was not passed. But I think in this day, when you have the ability to download off of the Internet, we all know it is hard to take a computer to a playground, but we have to get to the point where we keep a pedophile or a sexual predator from taking an individual picture and going to a school playground. This amendment will do this. We will have zero tolerance for the first time in history in this country, and I urge all Members on both sides to please support the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Alabama (Mr. RILEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105–576.

AMENDMENT NO. 2 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. SLAUGHTER:

Page 11, after the matter following line 13, insert the following:

SEC. 112. STUDY OF PERSISTENT SEXUAL OFFENDERS.

The National Institute of Justice, either directly or through grant, shall carry out a study of persistent sexual predators. Not later than one year after the date of the enactment of this Act, such Institute shall report to Congress and the President the results of such study. Such report shall include—

(1) a synthesis of current research in psychology, sociology, law, criminal justice, and other fields regarding persistent sexual offenders, including—

(A) common characteristics of such offenders;

(B) recidivism rates for such offenders;

(C) treatment techniques and their effectiveness;

(D) responses of offenders to treatment and deterrence; and

(E) the possibility of early intervention to prevent people from becoming sexual predators; and

(2) an agenda for future research in this area.

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The CHAIRMAN pro tempore (Mr. BLUNT). Pursuant to House Resolution 465, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been a joy working with the gentleman from Florida (Mr. MCCOLLUM) and with his staff on this critical issue. I have spent about 4 years here in Congress working on what to do about child protection against sexual predators, and I am so pleased that the provisions that are already in this bill will answer this.

I think it is a very important step that we have taken here today to address what is really a national epidemic of serial rape. I specifically want to call attention to the section of the bill which calls for imprisonment of rapists with two prior rape convictions in either State or Federal court.

These provisions regarding serial rapists are based on similar provisions in the bill that we had passed in last Congress by a vote in the House of 411 to 4. Unfortunately, it languished in the Senate.

I thank the chairman again for allowing the full House to consider this important issue. When this bill passes and becomes law, I hope that we will see the last time that we are naming laws in this country after dead children.

This amendment today is not controversial and also stems from the previous bill that we had. It authorizes the National Institute of Justice to conduct a study of persistent sexual predators and to report to Congress on the results. The report will include a synthesis of current research regarding persistent sexual offenders, including the common characteristics of such offenders, the recidivism rate for such offenses, the treatment techniques and their effectiveness, responses of offenders to treatment and deterrence, the possibility of early intervention, which is most important to prevent people from becoming sexual predators and thereby preventing people from becoming their victims, and also an agenda for future research in this area.

I would note that the measure has 63 bipartisan cosponsors and endorsements by more than a dozen organizations, including the National Center for Missing and Exploited Children, the Jacob Watterling Foundation, the Vanished Children's Alliance, the National Federation of Republican Women, LOCK, the National Coalition Against Sexual Assault, the Klaas Foundation for Children, the International Union of Police Associations, and the Jimmy Ryce Center for Victims of Predatory Abduction.

Sadly, Mr. Chairman, this is an issue that simply will not go away. A survey of criminal activity throughout our country during the past few weeks reveals a familiar pattern: Police arrest a rape suspect only to find out that he has a laundry list of prior convictions. In Oakland, a convicted felon was arrested for raping a 74-year-old woman in a pre-dawn attack. He is also accused of raping a 50-year-old woman twice, once on February 7 and again on March 26. With prior convictions for everything from burglary to false imprisonment, this man was a walking time bomb.

A few years back, in my own district of Rochester, New York, a chronic felon named Edward Laraby attacked a 16-year-old girl walking along Monroe Avenue, one of our main streets. My community was horrified to learn that Mr. Laraby's previous convictions were numerous and included raping a 15-year-old at knife point while wearing a ski mask in 1973, raping a 17-year-old at knife point in 1980, attacking a woman and her child along the Erie Canal walking path in 1983.

During the past several years, I worked closely with law enforcement officials, prison psychologists, and victims rights groups to determine what can be done to protect our communities from these sexual predators. There is strong agreement that serial rapists are a unique brand of criminal. In fact, many experts conclude that the sociopathic behavior can never be cured.

But we need to know more. Too many walking time bombs are on our streets. Constituents deserve to be protected from society's worst offender, the repeat sexual predator.

This is what we know about them: A small number of hardened felons make up this group. Their crimes are vicious, and their sentence is short.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would like to support the gentlewoman's amendment, and I have a statement that I would like to add in support of it. I want to commend the gentlewoman for all of the years in the Congress and before the Congress and outside of the Congress in which she has worked on this subject with such great vigor and success.

Ms. SLAUGHTER. I thank the gentleman from Michigan very much.

Mr. CONYERS. I commend the gentlewoman for the amendment.

I support this amendment authorizing the National Institute of Justice to conduct a study of persistent sexual predators and report to Congress on the results. People who commit sex crimes have a higher recidivism rate than those who commit other crimes and we need to know why.

The effect of sex crimes on their victims is devastating. Such crimes often leave life-long scars. Yet despite the devastation caused by these crimes, and despite the fact that we know sex crime perpetrators are very likely to repeat their crimes, remarkably little research has been conducted.

This is an area that would clearly benefit from further research. If we could learn why sex crimes perpetrators are so likely to repeat their crimes, and what types of people are most likely to become sexual predators, perhaps with early intervention, we could prevent some of those individuals from becoming criminals. More importantly, perhaps we could learn how to stop some sex crimes from occurring at all.

Ms. SLAUGHTER. Mr. Chairman, the serial rapists' crimes are vicious. The sentence is short. The average rape sentence is just 10.5 years; and the average time served in jail is only half of that, 5 years.

The Department of Justice statistics show that 60 percent of convicted sex offenders are on parole or probation. Moreover, preliminary data shows that the recidivism rates of sex offenders are astonishingly high. Released rapists are 10 times more likely to repeat their crime than any other criminal.

We all share a conviction that no man, woman, or child should have to live in fear of serial rapists or habitual child molesters. Honest citizens should be able to walk safely into their garages at night.

I urge my colleagues' support of this amendment.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. McCOLLUM) is recognized for 5 minutes.

Mr. McCOLLUM. Mr. Chairman, I do not oppose this amendment; but unless there is somebody here in opposition, I ask unanimous consent to claim the time that would otherwise be in opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this amendment. I think the gentlewoman is to be commended. She congratulated me. I am really very pleased with the work product the gentlewoman did, not only on this amendment that authorizes a study that needs to be done by the National Institute of Justice that she has described very adequately, but she is a principal author of the bill which we liberally plagiarized, I guess is the best way to put it, and put provisions in the underlying bill.

If it were not for the work product and suggestions of the gentlewoman from New York (Ms. SLAUGHTER), we would not have a serial rapist provisions in the law today. I want to thank the gentlewoman and compliment her for that and for the work that the gentlewoman did in making that possible.

We did modify it somewhat from the gentlewoman's original intent because I had concerns, and others did, about the possibility we were going a little too far in terms of invading State jurisdictions, but we got a good product out of it. I think the gentlewoman thinks we did. I know she does. I want to compliment the gentlewoman on that score.

I certainly want to support this report. The report is going to include a synthesis of current research regarding persistent sexual offenders. I think this is important that we know what their characteristics are, we know what the recidivism rates are, and so on, things again that she described that I am not going back into today. But it is important to have that information, and I strongly support this study. Again, I compliment the gentlewoman for it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 195-576.

AMENDMENT NO. 3 OFFERED BY MR. FRANKS OF NEW JERSEY

Mr. FRANKS of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 printed in House Report 105-576 offered by Mr. FRANKS of New Jersey:

Page 11, after the matter following line 13, insert the following:

SEC. 112. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, learns of the creation, distribution, production, or transfer of child pornography (as defined in section 2256), shall as soon as reasonably possible make a report of that child pornography to an agency or agencies designated by the Attorney General. The Attorney General shall make a designation of the agency or agencies described in the preceding sentence not later than 180 days after the date of the enactment of this paragraph. A person who fails to make a report required under this section shall be fined not more than $100,000. A term used in this section has the same meaning given that term when used in section 226(a) of the Crime Control Act of 1990 (42 U.S.C. 13031(a)).

(b) EXCEPTION TO PROHIBITION ON DISCLOSURE.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

"(6) to a law enforcement agency—

"(A) if such contents—

"(i) were inadvertently obtained by the service provider; and

"(ii) appear to pertain to the commission of a crime; or

"(B) if required by the Child Protection and Sexual Predator Punishment Act of 1998.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, the gentleman from New Jersey (Mr. FRANKS) and a Member in opposition each will control 10 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Information Superhighway has dramatically changed the way that our society communicates. Today it is hard too find a school, a library, or even a business that does not have access to the Internet.

Today, fully 60 million Americans have access to this wonderful tool. For our children, the trip to the library to look up information for a homework assignment has been replaced by turning on the family computer and surfing the net.

While the wealth of information that our kids can find on the Internet continues to amaze us, this extraordinary technology, when put in the wrong hands, has a dark and threatening side.

In recent years, the Internet has become a major avenue of child exploitation as kiddie porn operators have begun peddling their smut in cyberspace. The challenge that we face is to make sure that law enforcement has the ability to fight this serious new threat to our children's safety.

The amendment that I am offering would require the providers of Internet services, such as America Online, Prodigy and CompuServe, often called OSPs, to report evidence of child pornography to law enforcement authorities. They also would have to turn over to police any evidence that would substantiate this alleged crime.

With this vital information in hand, law enforcement could move quickly to investigate and, in appropriate circumstances, arrest and prosecute those sick individuals who exploit our children for profit.

Importantly, this amendment would protect Internet service providers from any criminal or civil liability if they, in good faith, contact law enforcement to report suspected child pornography.

This amendment has been endorsed by a number of organizations that are dedicated to protecting children, including the National Law Center for Children and Families.

Enough is enough. I want it clearly understood that this amendment in no way requires any new or additional monitoring by ISPs. It merely requires them to report any complaints of child pornography that they receive from customers or any evidence that they uncover during their own internal routine monitoring. The requirement is similar to one that we now impose on photo-development labs when they discover evidence of child exploitation.

I appreciate the fact that most Internet service providers act responsibly and respond to complaints of suspected kiddie porn by immediately removing the offender from the system. But under current law, they are not required to report these instances to law enforcement authorities for prosecution. As a result, these peddlers of child porn are free to move to a new service provider or reregister under a different name.

The current law simply must be changed. Today these Internet service providers are actually prohibited from divulging to law enforcement the contents of communication that could indicate criminal activity unless it was obtained inadvertently. In effect, peddlers of kiddie porn are given free rein to exploit our children into cyberspace.

Abuse of our children cannot be tolerated on the Internet. We all need to work together, law enforcement, Internet service providers, legislators, and parents to make sure the Internet is an exciting avenue of discovery for our children and not a source of exploitation.

This amendment would give law enforcement a powerful new tool in combating child pornography in cyberspace. I urge support of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member seek the time in opposition? Is the gentleman from Michigan (Mr. CONYERS) opposed to the amendment?

Mr. CONYERS. Yes, Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 10 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

The reason that this is not a clear opposition is because I want to be in support of the amendment. As the gentleman from New Jersey knows, there is one little problem that is being worked out, and we are in the process of working it out, as the author of the amendment knows. I think we can accomplish that end.

First of all, I think the purpose of the amendment is laudatory. On-line liability by providers is a complex problem. One of the things we are doing in the Committee on the Judiciary is sorting out who is responsible for all of these new kinds of problems that may lead to liability, legal liability; and that is what is presented here.

We have been working on intellectual property considerations with the subcommittee. I might add that the gentleman from Florida (Mr. MCCOLLUM) is involved deeply in this as well as myself in terms of on-line copyright liability. So there has been negotiation, compromise, give-and-take, to reach a compromise which allows such liability, but only after certain conditions are met.

Example: The pending OSP bill requires actual knowledge before a liability can ensue. Unfortunately, as the gentleman has written this amendment, it does not meet that test. It is a test that may be considered too vague. We are trying to work that language out.

So it is my understanding that there is such an effort that is continuing as we speak, and we would agree to a unanimous consent request to alter the amendment if this agreement is reached. On that basis, I would be delighted to reserve the balance of my time, hoping that this can be worked out.

Mr. Chairman, I reserve the balance of my time.

□ 1330

Mr. FRANKS of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

First, Mr. Chairman, I want to say I appreciate the cooperation and help of the gentleman from Michigan (Mr. CONYERS). I am confident that in the next few moments we can bring this to fruition and work it out.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding me the time.

First of all, I want to thank the gentleman from New Jersey (Mr. FRANKS) for his work product on this. We have been working with him in the committee for many weeks to try to come up with something which would be acceptable to the concerns of the online service providers, the Internet service providers, as well as to the concerns he wants to address. He has been extraordinarily accommodating in this regard.

Second, the gentleman from New Jersey (Mr. FRANKS) authored one of the key provisions in this bill already that is in the underlying bill that creates a life sentence for individuals who commit a serious crime against a child in which death of the child results. I want to compliment him for doing that. I am very pleased that we were able to incorporate his initiative in the underlying legislation today. I think it is a good provision.

I also want to support, as does the gentleman from Michigan, the underlying amendment here today. I intend to do that. I did not rise to oppose it, but I understand that we are, even as we speak, working on some perfecting legislation that the gentleman may ask unanimous consent for.

But let me say at the beginning that a lot of progress has been made in this regard. We are attempting here today in this amendment of the gentleman from New Jersey (Mr. FRANKS) to have a provision that requires the Internet service provider to report child pornography to law enforcement.

I think that is a good provision. We do need to have those reports. Otherwise there is no way we are going to be able to to get at this. The only way that is going to be done is if they actually have knowledge.

They are worried about the term "knowledge," and to what degree that knowledge is going to be, and so forth. Each step of the way we have been trying to work that out. They have also been worried about the fact that initially they have started with criminal provisions, the gentleman from New Jersey, and now we have gone to civil liability. I think that is very important, too, that we have done that as well.

However, I would like to ask a question as a result of this to make sure that some of the reporting requirements are as easy as we think they are. If an Internet service provider such as America Online receives a report of child pornography on one of its websites, could a system be devised which would allow America Online to simply forward that information through an e-mail to the FBI, say, or would the service provider be required to make a phone call, file a report, or how would that work? Could e-mail be used?

Mr. FRANKS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New Jersey.

Mr. FRANKS of New Jersey. Absolutely, Mr. Chairman. E-mail is what we anticipated as being the principal vehicle to communicate this information.

Mr. McCOLLUM. I think that is exceedingly important, because we want to make this as simple as possible. The ISPs have said to us they communicate electronically, they need to be able to make that report electronically. I appreciate it.

The vagueness we have talked about is the question of learning of the existence, exactly what that means, of child pornography; what it looks like. I am sure, quite frankly, that the Attorney General is going to have to clarify some of this in his ultimate guidelines he issues.

Does the gentleman contemplate that the Attorney General will have to issue some guidelines clarifying and spelling out in more specificity than the gentleman's proposal does what exactly they are looking for in learning of the existence of child pornography?

Mr. FRANKS of New Jersey. Mr. Chairman, it seems to me, after talking to a large number of these parties in interest concerning this amendment, that all of them would like to see further guidance from the Attorney General in terms of being more specific about establishing guidelines for what it is that would trigger the reporting requirement.

I absolutely envision the Attorney General making those recommendations to help provide meaningful guidance to ISPs.

Mr. McCOLLUM. Mr. Chairman, I certainly want to support the gentleman's amendment. As I had said him, I fully intend to. I know work is in progress here. If for some reason it is not accomplished by the time we get to the point where we have to vote on the amendment, I am going to support the amendment, knowing we are going to correct that and add these changes in conference ultimately, but it is still preferable if we have that.

Again, I compliment the gentleman on his work product, and all the efforts he has done.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, could I ask the subcommittee chair and the author of the amendment that we allow this to go through, with the understanding that we will have a conference? It is likely we will not get anything in time here to make the corrections.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I certainly would do that, although it appears as literally the gentleman is speaking we are now getting the typed copy of the corrections the gentleman from New Jersey (Mr. FRANKS) wants to satisfy the gentleman's and my concerns.

In the work of Congress, by the way, as the gentleman from Michigan knows, Members work like this. We amend products and we work right through, and staff work right through the time that we debate these amendments, a lot of times.

We are probably getting a better demonstration of that for civics classes out here than we get in most bills. But while Members debate these bills, lots of other people who toil hours and hours on these matters are back there doing things in handwriting, which is what this is. And we have done it any number of times that way, just usually do not have it quite coming up to the hour this much.

I say to the gentleman from New Jersey (Mr. FRANKS), I think he now has an amendment at the desk he would like to offer. I would certainly sit down and yield back to the gentleman from Michigan (Mr. CONYERS), and hopefully he will yield to allow the gentleman to do that.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

We do have this civics class hot-off-the-press information, handwritten. It looks like it is a step in the right direction. I hate to report for Civics 101 that we cannot find who on our staff worked on the compromise, so tell me, what do I do now?

We agreed to the good faith bona fides of both the author and the subcommittee chair with whom we worked, and I think the question has been flagged sufficiently, that if we need to go back and look into it, I am sure that particularly my colleague on the Committee on the Judiciary will help us revisit this, if it is necessary.

Mr. Chairman, I have withdrawn my reservations about the measure, and based on this new compromise language which I hope the gentleman will find acceptable, I will support the amendment.

Mr. FRANKS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Jersey.

Mr. FRANKS of New Jersey. Mr. Chairman, first let me express my heartfelt gratitude to the gentleman from Michigan and the subcommittee chair for their extraordinary cooperation. This has been a difficult and complicated matter to discuss. It has been ongoing for literally hours, but just came to fruition during the course of this floor debate.

AMENDMENT NO. 3, AS MODIFIED, OFFERED BY MR. FRANKS OF NEW JERSEY

Mr. FRANKS of New Jersey. Mr. Chairman, I ask unanimous consent that my amendment be modified with the modification I have now placed at the desk.

The CHAIRMAN pro tempore. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment No. 3, as modified, offered by Mr. FRANKS of New Jersey:

Page 11, after the matter following line 13, insert the following:

SEC. 112. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce obtains knowledge of facts or circumstances from which a violation of sections 2251, 2251A, 2252, or 2252A of title 18, United States Code, involving child pornography as defined in section 2256 of such title is apparent shall, as soon as reasonably possible make a report of such facts or circumstances to an agency or agencies designated by the Attorney General. The Attorney General shall make a designation of the agency or agencies described in the preceding sentence not later than 180 days after the date of the enactment of this paragraph. A person who fails to make a report required under this section shall be fined not more than $100,000. A term used in this section has the same meaning given that term when used in section 226(a) of the Crime Control Act of 1990 (42 U.S.C. 13031(a)).

(b) Exception to Prohibition on Disclosure.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

"(6) to a law enforcement agency—

"(A) if such contents—

"(i) were inadvertently obtained by the service provider; and

"(ii) appear to pertain to the commission of a crime; or

"(B) if required by the Child Protection and Sexual Predator Punishment Act of 1998.

"(c) Civil liability.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

(D) A Report may include information or material developed by an electronic communication service or a remote computing service but the government may not require a remote computing service or electronic communication service include such information or material in said report.".

Mr. FRANKS of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Is there objection to the modification to the amendment offered by the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment is modified.

Is there further debate?

The question is on the amendment, as modified, offered by the gentleman from New Jersey (Mr. FRANKS).

The amendment, as modified, was agreed to

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 105-576.

AMENDMENT NO. 4 OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 105-576 offered by Mr. ACKERMAN:

Add at the end the following new title:

TITLE V—ENHANCED PENALTIES FOR VULNERABLE VICTIMS

SEC. 501. ENHANCED PENALTIES FOR VULNERABLE VICTIMS.

Section 240002 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"SEC. 240002. ENHANCED PENALTIES FOR VULNERABLE VICTIMS.

"(a) In General.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than 5 levels above the offense level otherwise provided for a crime of violence, if the crime of violence is against an elderly person or other vulnerable person.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code;

"(2) the term 'elderly person' means a person who is 65 years of age or older; and

"(3) the term 'vulnerable person' means a person whom the defendant knew or should have known was unusually vulnerable due to age, physical or mental condition, or otherwise particularly susceptible to the criminal conduct, or is a victim of an offense under section 2241(e) of title 18, United States Code.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, the gentleman from New York (Mr. ACKERMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here today debating legislation to increase protections for a vulnerable population, our children. The amendment that I offered gives us the opportunity to fulfill our additional responsibility to strengthening protections for other vulnerable populations; notably, the elderly and the disabled. They, too, are especially vulnerable to being victimized by violent criminals. They, too, are often preyed upon by sick, despicable individuals who rob them of their innocence and their security.

Those criminals who rape, rob, or assault the elderly and the mentally or physically disabled should be appropriately punished as well. My amendment makes a strong statement. It speaks loud and clear to seniors and the disabled: We will severely punish criminals who seek you out because of your vulnerability.

Mr. Chairman, my amendment does not require mandatory sentences, nor does it remove the court's discretion, but it makes these crimes crimes of a higher magnitude.

Crime is a concern to all of us. Violent crime such as rape, robbery, and assault, is of grave concern, and violent crime against the elderly and the disabled adds to our outrage. We are outraged because vulnerable victims, whether they be children, the elderly, or the disabled, cannot defend themselves from violent acts.

When criminals inflict physical injuries on the vulnerable, the wounds take longer to heal, the bones take longer to mend, and the scars are permanent. It is more difficult for them to reintegrate into society once more. I urge all of our colleagues to stand up for the most vulnerable among us, the children, as well as our seniors and disabled, and to support this amendment.

The CHAIRMAN pro tempore. Does any Member seek time in opposition?

Mr. CONYERS. I am opposed to the amendment, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes in opposition to the amendment.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I say to the gentleman from New York (Mr. ACKERMAN), this is the problem we have in criminal law, is that every time something sensitive happens somebody jumps up and says, let us put more sentencing on it, let us add to the penalty. Many times the persons asking to raise the penalty do not even know what the penalty is.

I have been on the committee all my career. The gentleman and I have worked together all the gentleman's career. We support each other year in and year out, and yet, the gentleman never consulted me or my staff about this at all, at all. On Monday, on Monday we got a copy of what the gentleman was going to do, with no consultation.

Here is the problem, since the gentleman waited until this point to put it on. The problem is, what kind of increases? We create a sentencing commission to advise us, and then we come back and pass laws telling them what they had better do. Therein lies the problem.

We never had any hearings. The gentleman never came before any committee of the Committee on the Judiciary. The gentleman wrote a law, let us increase it. How much should we increase it? Well, I do not know. How much? And then another person will come along, perhaps a distinguished Member of the body, who will say, let us rachet it up some more. Then what do we do then? And someone else comes along and says, the Ackerman ratchet and the other ratchet is not enough, let us ratchet it up one more time. So what do I do? So we get into this spiral of who is the toughest on disabled victims of crime.

I am getting a little sick of that. Why does the the gentleman not send it through the right process, and maybe there is a great logic residing somewhere on this that I will support it, but I cannot just support every Member sitting in his office deciding there ought to be some more sentencing imposed on a crime that they consider particularly heinous.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am sorry if the gentleman has some concern about not being notified, but I assure the gentleman that this amendment was sent over to the gentleman's staff, that there were discussions between my staff and the gentleman's staff on it. I know of the gentleman's concern, but we submitted this during the course of the appropriate process. The rule permits the amendment. We submitted it to the Committee on Rules. They made it in order.

I do not come here frivolously. I do not offer very many of these amendments. I think this is probably the first time in 16 years that I have served in this House of Representatives that I have offered this kind of an amendment. But I think that this is a very, very serious amendment. It speaks to an issue within our society that I do not believe has been appropriately addressed.

The crimes against senior citizens and mentally and physically disabled in our country are very serious. This just expresses the concern of Congress by making this a crime of a higher magnitude. It does not mandatorily impose a sentence or increase of sentence on anybody.

As the distinguished gentleman from Michigan (Mr. CONYERS) knows, there are many factors considered in the imposition of a sentence by the commission. This is but one of them. All of the others the gentleman is very much aware of. This just says that this goes from a crime in the nature of somewhere 20th down on the totem pole to one that is much, much more important.

□ 1345

And calls this to the attention of the commission as one of the multiple of factors that they should take into consideration.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I thank the gentleman and I know he is sincere. Does my friend from New York know how much ratcheting goes on in his amendment?

Mr. ACKERMAN. Yes, I do.

Mr. CONYERS. How much?

Mr. ACKERMAN. Mr. Chairman, this will increase the penalties an average, the category by an average of 50 percent.

Mr. CONYERS. Five levels.

Mr. ACKERMAN. Mr. Chairman, the gentleman is correct.

Mr. CONYERS. Mr. Chairman, would the gentleman object to hearings on this matter?

Mr. ACKERMAN. Mr. Chairman, I certainly would not object to hearings on this matter.

Mr. CONYERS. Mr. Chairman, again reclaiming my time, would the gentleman kindly withdraw the amendment? I will give him and his staff every courtesy and consideration in terms of increasing the penalty levels on this. I promise.

Mr. ACKERMAN. Mr. Chairman, if the gentleman would again yield, with the gentleman's assurance, I have always found the gentleman to be a gentleman indeed, I would be willing to withdraw the amendment with that assurance.

Mr. CONYERS. Mr. Chairman, I give it to the gentleman and I thank him very profoundly.

Mr. ACKERMAN. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore (Mr. BLUNT). Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore (Mr. CHAMBLISS). It is now in order to consider amendment No. 5 printed in House Report 105–576.

AMENDMENT NO. 5 OFFERED BY MR. BASS

Mr. BASS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. BASS:

Add at the end the following new title:

TITLE V—SEX OFFENDER MANAGEMENT ASSISTANCE PROGRAM

SEC. 501. GRANTS TO STATES TO OFFSET COSTS ASSOCIATED WITH THE JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT.

(a) IN GENERAL.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by—

(1) redesignating the second subsection (g) as subsection (h); and

(2) adding at the end the following new subsection:

"(i) GRANTS TO STATES TO COMPLY WITH THE WETTERLING ACT.—

"(1) PROGRAM AUTHORIZED.—

"(i) IN GENERAL.—The Director of the Bureau of Justice Assistance shall award a grant to each eligible State to offset costs directly associated with complying with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. Such grant program shall be known as the "Sex Offender Management Assistance Program (SOMA)".

"(ii) USES OF FUNDS.—Grants awarded under this subsection shall be—

"(I) distributed directly to the State for distribution to State and local entities; and

"(II) used for training, salaries, equipment, materials, and other costs directly associated with complying with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

"(2) ELIGIBILITY.—

"(i) APPLICATION.—To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit an application to the Director of the Bureau of Justice Assistance (in such form and containing such information as the Director may reasonably require) assuring that—

"(I) the State complies with (or made a good faith effort to comply with) the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; and

"(II) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in such Act.

"The Director of the Bureau of Justice Assistance may waive the requirement of subclause (II) if a State demonstrates an overriding need for assistance under this subsection.

"(ii) REGULATIONS.—

"(I) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible state's monitoring and notification programs.

"(II) CERTAIN TRAINING PROGRAMS.—Prior to implementing this subsection, the Director of the Bureau of Justice Assistance shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322). In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.".

(b) STUDY.—The Director of the Bureau of Justice Assistance shall conduct a study to assess the efficacy of the SOMA program and submit recommendations to Congress not later than March 1, 2000.

(c) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (i) of section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211), $25,000,000 for each of fiscal years 1999 and 2000.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from New Hampshire (Mr. BASS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of H.R. 3494 and I want to thank the gentleman from Florida (Mr. MCCOLLUM) for having taken bold leadership in this area. As the father of a 6-year-old daughter, Lucy, who is just beginning to become familiar with the Internet, and having witnessed the horror of a rape and murder last year in New Hampshire of a 6-year-old girl, and subsequent to that the rape, mutilation, and murder of a 10-year-old boy, the crime occurred in Massachusetts, he was murdered in New Hampshire, and he wound up in Maine, I can tell my colleagues that we cannot do enough to prevent these kinds of atrocities from being committed against the children in our country.

H.R. 3494 is the latest in a number of important steps that Congress has taken to protect our children from sexual predators and an effort that in many ways began with the enactment of the Jacob Wetterling Act and subsequent amendments, including Megan's Law. And it is in the spirit of this comprehensive approach that I offer my amendment which would create the Sex Offender Management Assistance Program, which would provide flexible block grants to States to offset costs directly associated with meeting the Federal requirements for sex offender registration and community notification programs.

Mr. Chairman, it authorizes for appropriation $25 million for fiscal year 1999 and $25 million for fiscal year 2000. It would help States fund needs such as training, salaries, equipment, and other necessary costs associated with compliance with the law.

States that have been making good faith efforts to comply with the Federal requirements would be able to receive funds under this new program.

I am, as I said a minute ago, a strong supporter of the Jacob Wetterling Act and Megan's Law, which last year we waived the compliance requirements for 2 years. Now, many States around the country are struggling to comply not only with the regulations but the cost of this. If they do not comply by October of next year, fiscal year 1999, they will be subject to a 10 percent penalty for appropriations under the Byrne Grant program.

These costs of compliance can be significant. In New Hampshire, for example, we are looking at a cost somewhere around $300,000, and we are a very small State. But other States, such as New York and California and Florida and so forth, will face costs that will be considerably greater than that.

If the goals of the Wetterling Act are important enough to merit financial penalties, as is envisioned in the Byrne Act penalties, then I think they are important enough to merit the modest financial assistance that would be provided by my amendment.

I would hope, Mr. Chairman, that the Committee can adopt this amendment. I think it is important in the process of making sure that these important laws that we passed in the last Congress are properly applied in the States and done so in such a fashion to make it possible to have them work nationwide.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to claim the time in opposition, though I am not opposed to the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, I rise in support of the Bass amendment and commend the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. BASS. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Chairman, I rise in support of the Bass amendment. This amendment would assist States in meeting the requirements of the sex offender registration and notification laws that my colleagues and I passed in previous Congresses.

While the registration and notification programs in my home State of Washington are exceptional, because that is where the idea of Megan's Law began and that is where the specific community notification program began, the resources to implement the programs are very scarce.

Mr. Chairman, during a recent trip home, I had the opportunity to meet with some police chiefs in my district. They are doing everything they can, Mr. Chairman, to ensure that released sexual predators are registered and that the communities into which they move are properly notified. But at the same time that I recognize their efforts, such as the recent two-week sweep where a special task force caught and arrested 23 unregistered sexual predators, I must also recognize that they need additional resources.

That is why the Bass amendment is so important. I think with this amendment, States will be able to offset some of their costs with flexible grants. I support the Bass amendment.

Mr. BASS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BASS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in House Report 105-576.

AMENDMENT NO. 6 OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. FOLEY:

Add at the end the following:

TITLE V—FACILITATING FINGERPRINT CHECKS TO PROTECT CHILDREN FROM SEXUAL PREDATORS AND VIOLENT CRIMINALS

SEC. 501. SHORT TITLE.

This title may be cited as the "Volunteers for Children Act".

SEC. 502. ACCESS TO CRIMINAL FINGERPRINT BACKGROUND CHECKS.

(a) STATE AGENCY.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), youth-serving volunteer organizations and institutions may contact an authorized agency of the State to request national criminal fingerprint background checks. Entities requesting background checks under this paragraph shall follow the guidelines in subsection (b) and procedures, if any, for requesting national criminal fingerprint background checks established by the State in which they are located.

(b) FEDERAL LAW.—Section 3(b)(5) of such Act (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by youth-serving volunteer organizations and institutions for national criminal fingerprint background checks pursuant to subsection (a)(3)".

(c) AUTHORIZATION.—Section 4(b)(2) of such Act (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. FOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, let me thank the gentleman from Florida (Mr. MCCOLLUM), the gentleman from Illinois (Mr. HYDE) and the gentlewoman from Washington (Ms. DUNN) for bringing this bill to the floor. It is an important bill in our efforts to eliminate child molestation and sexual abuse.

Mr. Chairman, I also deeply appreciate the support of my amendment. The amendment is based on the Volunteers for Children Act that I introduced last year to give volunteer organizations access, if they want it, to FBI national fingerprint checks so that they can make sure they are not inadvertently hiring sexual predators to tend their young charges.

Mr. Chairman, organizations like the Boys and Girls Clubs have been asking for this access, because fingerprint checks are virtually the only way they can know whether a person who shows up in the community to volunteer around children has a criminal background in another State.

In fact, last year a report by the General Accounting Office put it this way: "National fingerprint-based background checks may be the only effective way to readily identify the potentially worst abusers of children; that is, the pedophiles who change their names and move from State to State to continue their sexually perversive patterns of behavior."

I deeply appreciate the strong support that has been given to the Volunteers for Children's amendment by the chairman and members of the Committee on the Judiciary.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Mrs. FOWLER).

Mrs. FOWLER. Mr. Chairman, I rise in strong support of H.R. 3494, the Child Protection and Sexual Predator Punishment Act, and the Foley amendment.

Mr. Chairman, this amendment is very simple. It will provide youth-serving volunteer organizations such as the Boys and Girls Clubs with access to Federal fingerprint checks. This will allow these organizations to provide a safe place for the children they serve.

Although we all wish that our communities were places where everybody knows everybody, unfortunately, that is not true in today's transient and mobile society. That is why it is so important for the organizations which serve our most vulnerable citizens to be able to ensure that their volunteers are not criminals.

This amendment will merely provide access to important information that is directly related to providing the safest possible environment for children served by volunteer organizations.

Mr. Chairman, I urge my fellow Members to support this amendment. It is a good idea for volunteer organizations, a good idea for communities, and a good idea for America's children.

Mr. FOLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), the vice chairman of the conference.

Ms. DUNN. Mr. Chairman, first I would like to commend the gentleman from Florida (Mr. FOLEY) for his work on the Volunteers for Children Act. In our ongoing war against sexual offenders and child abusers, one of our most powerful weapons is information. Empowering volunteer groups with information about would-be volunteers who have criminal histories is a crucial step in preventing an unforeseen incident. Volunteer groups should be able to benefit today's youth without fear that the children they serve may be harmed.

As one of the many Members who worked on Megan's Law during the past few years, as well as sex offender registration laws, I realize how critical information is in helping to prevent crimes against children. The Volunteers for Children Act enables youth-serving volunteer organizations to help ensure the safety of those children they serve by providing them with access to FBI information on would-be volunteers.

The Foley amendment allows, but it does not mandate, volunteer organizations to request FBI background checks on each of their volunteers.

Mr. Chairman, I support this amendment because individuals who volunteer their time to youth groups like the Boys and Girls Club of King County in Washington State, come in direct, often unsupervised contact with thousands of youngsters, 7 days a week, 52 weeks a year. Although most volunteers offer their time and their assistance unselfishly and with great generosity, we can never be too careful when it comes to protecting our children.

That is why I support the act proposed by the gentleman from Florida. I think he is offering a great amendment. I encourage him on this amendment, and I encourage each of my colleagues to support the Foley amendment.

Mr. FOLEY. Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment, though I rise in support of the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. LOFGREN. Mr. Chairman, I support this amendment and Democrats support this amendment, which allows youth-serving volunteer organizations to request access to FBI criminal fingerprint background checks.

I believe it is enormously important for such organizations to be able to assure themselves that volunteers who show up to provide good work for the Nation's youth do not prey upon those very same children. There is nothing more important than maintaining the safety of the children of our Nation, and I support this amendment.

Mr. McCOLLUM. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I just want to say, on the gentlewoman's time, and I have not spoken because of the limited time the gentleman from Florida (Mr. FOLEY) has had over here, but I strongly support this amendment too.

The gentleman appeared in front of our subcommittee and made an eloquent case for his amendment a few weeks ago. I think that everybody who is involved with a volunteer organization like this around the country is going to be relieved by the fact that the Foley amendment is adopted.

Ms. LOFGREN. Mr. Chairman, I yield 1½ minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I rise in strong support of the Foley amendment. I was an original cosponsor of this bill which is now the subject matter of this amendment.

While all States have approved laws providing background checks for school personnel or day care workers, only about six give access to that information to youth-serving nonprofit volunteer organizations. It is very important that we cover that loophole.

So I applaud this amendment. I applaud the subject matter here today, and I have enjoyed working with the gentleman from Florida in regard to this end result.

Ms. LOFGREN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman from California (Ms. LOFGREN) for yielding me this time.

Mr. Chairman, this is extremely important, this particular amendment. Coming from local government, we in Houston consider ourselves a leader on this issue because we had huge recreational programs, which most cities have, and one of the concerns we raised was those volunteers who participated in the recreational programs.

This amendment will allow nonprofit groups who do so much for our children and work with our children, including the Boy Scouts and Girl Scouts, to have access to the FBI computer system.

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I think that we could certainly find that this will be not only instructive, but it will give them some relief, because one of the concerns we had in local government was the burden of trying to determine the many wonderful volunteers, and I know that in most instances we will find that these are sincere and wonderful people, but in that one instance where we can save a life, we are much appreciative.

With that, I add my support to this amendment.

Ms. LOFGREN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FOLEY. Mr. Chairman, I yield myself the balance of my time.

Let me again thank my colleague, the gentleman from Florida (Mr. McCOLLUM), and the folks on the other side of the aisle for their extremely hard work on this, the gentleman from Texas (Mr. LAMPSON), chairman of the Congressional Missing and Exploited Children's caucus, the gentleman from Alabama (Mr. CRAMER), cochairman, and all the organizations that stood with us to support this: Boys and Girls Clubs, National Center for Missing and Exploited Children; Girl Scouts Kids Safe; the Marc Klass Foundation; the John Walsh Foundation; the Florida Catholic Conference; Child Help; the National Foundation to Prevent Child Sexual Abuse, and its founder Jody Gorran, who first brought to my attention the need for this bill; Robbie Callaway from the Boys and Girls Clubs of America, and Liz Nicolson, my staff director, for her hard work on this initiative; and all those who joined together in the protection of our children. I appreciate their involvement; I appreciate their hard work. I thank the Members of this House for their support of my amendment.

The CHAIRMAN pro tempore (Mr. BLUNT). The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 7 printed in House Report 105–576.

AMENDMENT NO. 7 OFFERED BY MR. GUTKNECHT

Mr. GUTKNECHT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GUTKNECHT:

Add at the end the following new title:

TITLE V—MODEL NOTIFICATION

SEC. 501. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) States are now required to release certain relevant information to protect the public from sexually violent offenders.

(2) Many States have not established guidelines regarding the notification and release of a sexually violent offender.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that each State should enact legislation based on the model notification process described in sections 502 through 514.

SEC. 502. ESTABLISHMENT OF ADVISORY BOARD FOR RISK ASSESSMENT.

(a) ESTABLISHMENT.—The State shall establish an Advisory Board for Risk Assessment (referred to in this title as the "Board") which consists of not less than 5 members appointed by the Chief Executive Officer of the State.

(b) DUTIES.—The Board shall comply with the requirements and guidelines established for a State board under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 and the provisions of this title.

(c) MEMBERSHIP.—Each member shall, by experience or training, have a personal interest or professional expertise in law enforcement, crime prevention, victim advocacy, criminology, psychology, parole, public education, or community relations.

(d) TERM.—The term of office of each member of such Board shall be determined by the Chief Executive Officer of the State in guidelines issued pursuant to this section.

(e) VACANCY.—Any member chosen to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.

(f) CHAIRPERSON.—The Chief Executive Officer of the State shall designate 1 of the members of the Board as chairperson to serve in such capacity at the pleasure of the Officer or until the member's term of office expires and a successor is designated in accordance with law, whichever occurs first.

(g) TERMINATION.—Any member of the Board may be removed by the Chief Executive Officer for cause after an opportunity to be heard.

(h) QUORUM.—Except as otherwise provided by law, a majority of the Board shall constitute a quorum for the transaction of all business of the Board.

SEC. 503. GUIDELINES FOR TIER DETERMINATION.

(a) IN GENERAL.—The Chief Executive Officer of the State or a designee shall develop guidelines and procedures for use by the Board to assess the risk of a repeat offense by such sex offender and the threat posed to the public safety. Such guidelines shall be based upon the following:

(1) Criminal history factors indicative of high risk of repeat offense, including—

(A) whether the sex offender has a mental abnormality;

(B) whether the sex offender's conduct was found to be characterized by repetitive and compulsive behavior, associated with drugs or alcohol;

(C) whether the sex offender served the maximum term;

(D) whether the sex offender committed the felony sex offense against a child; and

(E) the age of the sex offender at the time of the commission of the first sex offense.

(2) Other factors to be considered in determining risk, including—

(A) the relationship between such sex offender and the victims;

(B) whether the offense involved the use of a weapon, violence, or infliction of serious bodily injury;

(C) the number, date, and nature of prior offenses;

(D) conditions of release that minimize risk of another offense, including whether the sex offender is under supervision, receiving counseling, therapy or treatment, or residing in a home situation that provides guidance and supervision;

(E) physical conditions that minimize risk of another offense, including advanced age or debilitating illness;

(F) whether psychological or psychiatric profiles indicate a risk of recidivism;

(G) the sex offender's response to treatment;

(H) recent behavior, including behavior while confined;

(I) recent threats or gestures against persons or expression of intent to commit additional offenses; and

(J) review of any victim impact statement.

(b) INFORMATION TRANSFER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any State or local correctional facility, hospital, or institution shall forward relevant information pertaining to a sex offender to be discharged, paroled, or released to the Board for review prior to the release or discharge for consideration by the Board in its recommendations. Information shall include the commitment file, medical file, and treatment file pertaining to such person.

(2) CONFIDENTIALITY.—All confidential records provided under paragraph (1) shall remain confidential, unless otherwise ordered by a court, by the lawful custodians of the records, or by another person duly authorized to release such information.

SEC. 504. BOARD RECOMMENDATIONS.

The Board shall use the guidelines established pursuant to section 503(a) to recommend to an appropriate court of the State 1 of the following 3 levels of notification:

(1) TIER I.—If the risk of a repeat offense is low, a tier 1 designation shall be given to such sex offender. In such case the designated law enforcement agency having jurisdiction and the law enforcement agency having had jurisdiction at the time of his conviction shall be notified in accordance with section 170101(b)(4) of the Violent Crime Control and Law Enforcement Act of 1994.

(2) TIER II.—If the risk of a repeat offense is moderate, a tier 2 designation shall be given to such sex offender. In such case the designated law enforcement agency having jurisdiction and the law enforcement agency having had jurisdiction at the time of conviction shall be notified and may notify any victim of the proposed release of such offender and any agency, organization, or group, serving individuals who have similar characteristics to the previous victim or victims of such offender. The notification may include the approximate address (by ZIP Code), background information relating to the crime, type of victim targeted, conviction, including release of a photograph of the offender, and any special conditions imposed on the offender.

(3) TIER III.—If the risk of a repeat offense is high and there exists a threat to the public safety, a tier 3 designation shall be given to such offender. In such case, the appropriate law enforcement agencies shall be notified of such an offender's release and may use the notification procedures described in paragraph (2), except that a precise address may be released and any relevant information necessary to protect the public concerning a specific person required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 shall be released.

SEC. 505. JUDICIAL DETERMINATION.

(a) NOTIFICATION LEVEL.—

(1) IN GENERAL.—An appropriate court of the State also shall make a determination with respect to the level of notification, after receiving a tier recommendation from the Board. In making the determination, the court shall review any statement by a victim or victims and any materials submitted by the sex offender. The court shall also allow the sex offender to appear and be heard, and inform the sex offender of the right to have counsel appointed if necessary.

(2) APPEAL.—A sex offender may appeal a determination made by the court made under paragraph (1) in accordance with State law.

(3) NOTIFICATION AND REGISTRATION.—The filing of the appeal shall not stay the designated law enforcement agency's notification actions unless the court orders otherwise. Such petition, if granted, shall not relieve the petitioner of the duty to register pursuant to section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 upon conviction of an offense requiring registration in the future.

(b) REVERSAL.—Upon the reversal of a conviction of a sexual offense, the court shall order the expungement of any records required to be kept pursuant to this title.

SEC. 506. PENALTY FOR MISUSE OF REGISTRATION INFORMATION.

(a) FINE.—Any person who uses information disclosed pursuant to this title in violation of the law shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) CIVIL ACTION.—The State attorney general, a district attorney, or any person aggrieved by information disclosed in violation of the law is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for such action.

(c) ADDITIONAL REMEDIES.—The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law.

SEC. 507. JUVENILE OFFENDERS.

(a) IN GENERAL.—A juvenile residing in a State who has been adjudicated delinquent for any sex offense or attempted sex offense, or who has been convicted of any sex offense or attempted sex offense, or who has been acquitted by reason of insanity for any sex offense or attempted sex offense shall be required to comply with the registration requirements established pursuant to section 170101 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) YOUTH FACILITY.—Any person who is discharged or paroled from a facility in another State that is equivalent to a Department of the Youth Authority to the custody of such a facility because of the commission or attempted commission of specified sex offenses, is required to register pursuant to section 170101 of the Violent Crime Control and Law Enforcement Act of 1994.

SEC. 508. OFFICIAL IMMUNITY FROM LIABILITY.

(a) IMMUNITY.—No official, employee, or agency, whether public or private, shall be subject to any civil or criminal liability for damages for any discretionary decision to release relevant and necessary information pursuant to this section, unless it is shown that such official, employee, or agency acted with gross negligence or in bad faith.

(b) INFORMATION RELEASE.—The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

(c) FAILURE TO RELEASE INFORMATION.—Nothing in this section shall be deemed to impose any civil or criminal liability upon or to give rise to a cause of action against any official, employee, or agency, whether public or private, for failing to release information as authorized in this title unless it is shown that such official, employee, or agency acted with gross negligence or in bad faith.

SEC. 509. IDENTITY OF THE VICTIM.

Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded from public access or dissemination.

SEC. 510. GENERAL STATE REQUIREMENTS.

The Chief Executive Officer of a State or designee shall establish reasonable notification requirements under this title, including notification to an offender of any procedures for which the offender is required or is permitted to participate, including the hearing process, appeal rights, and submission of information to the Board.

SEC. 511. ADVISORY COUNCIL FOR COMMUNITY EDUCATION.

(a) IN GENERAL.—The Chief Executive Officer of a State shall appoint a voluntary advisory council to design a policy to assist communities in which a sex offender resides to plan and prepare for such a resident.

(b) COMPOSITION.—Each such advisory council shall include representation from—

(1) law enforcement;

(2) law enforcement organizations;

(3) local corrections agencies;

(4) victims groups; and

(5) other interested members of the public.

(c) DUTIES.—In developing a policy pursuant to subsection (a), an advisory council should make recommendations that include—

(1) the method of distributing community notification information;

(2) methods of educating community residents at public meetings on how they can use such information to enhance their safety and the safety of their family;

(3) procedures for ensuring that community members are educated regarding the right of the sex offender not to be subjected to harassment or criminal acts; and

(4) other matters the council considers necessary to ensure the effective and fair administration of the community notification law.

SEC. 512. EXPUNGEMENT OF OUTDATED INFORMATION.

In accordance with section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, the department required to coordinate the sex offender registration program shall compile and update information regarding the offenders. Any offender whose duty to register has expired or who has been relieved of the duty to register shall be removed from any public database.

SEC. 513. EXCEPTIONAL CIRCUMSTANCES.

Nothing in this title shall be construed to prevent law enforcement officers from notifying members of the public of individuals that pose a danger under circumstances that are not described in section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 or under this title.

SEC. 514. DEFINITIONS.

For purposes of this title:

(1) The term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(A) kidnapping of a minor, except by a parent;

(B) false imprisonment of a minor, except by a parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of a minor to engage in sexual conduct;

(E) use of a minor in a sexual performance;

(F) solicitation of a minor to practice prostitution;

(G) any conduct that by its nature is a sexual offense against a minor; and

(H) an attempt to commit an offense described in any of subparagraphs (A) through (H) if the State—

(i) makes such an attempt a criminal offense; or

(ii) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for purposes of this section.

For purposes of this paragraph, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(2) The term "sexually violent offense" means any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse (as described in such sections of title 18, United States Code, or as described in the State criminal code).

(3) The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(4) The term "predatory" means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

Any offense committed in another State, which if committed in the State at issue would be one of the above enumerated offenses, is considered a sexual offense for the purposes of this title.

(5) The term "juvenile" has the meaning given such term under State law.

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, the gentleman from Minnesota (Mr. GUTKNECHT) and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am honored to join my colleagues to discuss how we can better protect and ensure the safety of our Nation's children. I can think of no issue that is more important than this one.

Over 2 years ago, this Congress passed Megan's Law, which requires States to develop a program to notify communities when a sexual predator is released from prison and moves into their neighborhood. While most States are moving forward to implement Megan's Law, we have seen that many are facing both legal challenges and confusion as to what plan would be both constitutional and effective.

Because Megan's Law is too important to risk creating any confusion, I have introduced a resolution to provide States with a model community notification program that they can follow if they choose. Let me emphasize, this is in no way a congressional mandate. It is only a model which is an amalgamation of successful notification programs of 11 States, including my home State of Minnesota.

Very simply, Mr. Chairman, this resolution first encourages States to set up an advisory board when a sex offender is released from prison. The board will recommend that the sentencing court give him a designation based on the degree of likelihood that he will repeat his crime. If the risk is low, the individual will be assigned to tier I designation and local law enforcement agencies will be notified.

If the risk of repeat offense is moderate, he will be assigned a tier II designation, and law enforcement officials, victims organizations and any of the offender's past victims are notified of his address.

Finally, if the risk of repeat offense is high, the offender is given a tier III designation, and the general public is notified of his new residence.

This resolution also encourages States to implement a community education program where neighborhoods and law enforcement officers can meet together before a convicted sex offender moves into their community. This has proved to be very helpful in Minnesota where over 1,000 members of the general public met at the first of these meetings in the Twin Cities last year.

Let me say that I am very pleased with the support that this bill has received here in Congress. This resolution has over 40 cosponsors, which is almost evenly split between Republicans and Democrats. I am also extremely grateful to have the support of the National Center for Missing and Exploited Children, the Klass Foundation for Children, the Jacob Wetterling Foundation, and the Boys and Girls Clubs of America. In addition, Senator CHARLES GRASSLEY of Iowa is introducing this resolution in the Senate. I hope my colleagues will join us in this important effort to help our States protect our kids.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I do not oppose the amendment, but I would ask unanimous consent to claim the time in opposition.

The CHAIRMAN pro tempore (Mr. CHAMBLISS). Without objection, the gentlewoman from California (Ms. LOFGREN) is recognized for 5 minutes.

There was no objection.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

I support this amendment, and Democrats support this.

The amendment does not impose anything on States. It simply establishes a set of guidelines for community notification of sex offenders.

This model statute is balanced. It reflects both the need of the community to be protected as well as the rights of individuals to privacy and the right to be left alone once they have paid their debt to society.

I note further that we have already approved an amendment that will direct that additional research be undertaken into the whole area of child sexual predators. I am sure that the author of this amendment, who is really to be commended for the work that he has put into this, will be looking forward to receiving the results so that we may work together in a bipartisan basis to update these model statutes as more scientific data becomes available to us.

I commend the gentleman from Minnesota (Mr. GUTKNECHT), as well as our colleague, the gentleman from Texas (Mr. LAMPSON), who is a sponsor of this proposal on the Democratic side of the aisle, for their leadership on this issue.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, I thank the gentlewoman for yielding me the time. I also want to thank my colleague, the gentleman from Minnesota (Mr. GUTKNECHT) for his leadership on this issue and for allowing me to join him in this effort.

When we formed the Missing and Exploited Children's Caucus a year ago, this was the sort of effort I had in mind. There are a number of Members of Congress who have great interest and ideas on these issues that we needed to bring together. Together we promote our cause with a stronger voice. I appreciate that.

The trial and resulting conviction of Jesse Timmendequas for the murder of Megan Kanka was harrowing for all Americans. The thought that someone so violent and dangerous could live across the street from any family in America is chilling.

In Friendswood, Texas, in my district, we are still looking for the individual who kidnapped and murdered 12-year-old Laura Kate Smither last year. When we do find this individual, there is a strong likelihood that we will find someone who has committed a sexual offense against a child in the past.

We can make that assumption based on the research that shows that the typical sex offender molests an average of 117 children. It is a sad reality that community notification is an absolute necessity. Megan's Law was a giant step forward, and today we try to fill in the last few remaining gaps.

The model program we have presented is based upon the knowledge we have gained from the individual community notification laws passed in 46 States. I hope that we will have the three-tiered notification system in place across the Nation. The recidivism rate is so great among those who commit sex crimes against children that we must be proactive in our vigilance. We cannot pretend that a sexual offense against a child is an isolated act. Most of the time, it is a pattern of behavior.

Families need and deserve our help in keeping their children safe. As we talk about Megan's Law and the Wetterling Act, we are reminded of the victims of these predators. They reaffirm our resolve to do what we can to prevent more tragedies.

Mr. GUTKNECHT. Mr. Chairman, I yield 30 seconds to the gentleman from Florida (Mr. MCCOLLUM), chairman of the Subcommittee on Crime.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me the time.

I want to take the time to congratulate him on the model that he has developed. I think the States will be benefited by having this model for implementation of Megan's Law. I think his work product continues a tradition he has had in the House for some time on issues related to child molestation and concerns such as Megan's Law, this bill.

So my hat is off to the gentleman. I certainly fully support this amendment.

Ms. LOFGREN. Mr. Chairman, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the committee

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman very much.

It is a pleasure that we can always find such common ground on important issues dealing with our children. One of the, again, speaking on behalf of my prior life, which is local government, the frustration of trying to implement a system that would translate into an effective notification process and the fact that this legislation gets Congress on record of trying to establish the tier-based community notification system for notifying communities when sex offenders are released from jail is crucial and important and may give some comfort level to our law enforcement, our neighborhoods, our schools, when they can have such a system so that they can protect, if you will, when these predators come into the community.

We always get these news articles that say, did you know such and such has moved in quietly. I think it is extremely important, and in tribute to the tragedy of little Megan and in tribute to this law that was passed, which we appreciate very much, we thank you for this legislation.

Mr. GUTKNECHT. Mr. Chairman, I yield myself the balance of my time.

I just want to thank the chairman of the Subcommittee on Crime. I want to thank the gentleman from Texas (Mr. LAMPSON) for all of his work, the National Center for Missing and Exploited Children. This amendment is the work product of working together with all of the States attorneys general, people from the Justice Department, people on the Subcommittee on Crime.

I want to thank all of them for their work because, as I said at the beginning, I can think of no issue that is more important to this Congress or to this Nation than protecting the safety of our children. This is a good example of, working together on a bipartisan basis, how we can make real progress, send a clear signal to the States and those who would abuse our children that we are serious about this issue.

I hope that Members will join me in support of this amendment.

Ms. LOFGREN. Mr. Chairman, noting that it is a pleasure to work on a bipartisan basis on such an important matter, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 8 printed in House Report 105–576.

AMENDMENT NO. 8 OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mrs. KELLY:

Add at the end the following new title:

TITLE V—CHILD HOSTAGE-TAKING TO EVADE ARREST OR OBSTRUCT JUSTICE

SEC. 501. CHILD HOSTAGE-TAKING TO EVADE ARREST OR OBSTRUCT JUSTICE.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1205. Child hostage-taking to evade arrest or obstruct justice

"(a) IN GENERAL.—Whoever uses force or threatens to use force against any officer or agency of the Federal Government, and seizes or detains, or continues to detain, a child in order to—

"(1) obstruct, resist, or oppose any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ, process, or warrant of any court of the United States; or

"(2) compel any department or agency of the Federal Government to do or to abstain from doing any act; or attempts to do so, shall be punished in accordance with subsection (b).

"(b) SENTENCING.—Any person who violates subsection (a)—

"(1) shall be imprisoned not less than 10 years and not more than 25 years;

"(2) if injury results to the child as a result of the violation, shall be imprisoned not less than 20 years and not more than 35 years; and

"(3) if death results to the child as a result of the violation, shall be subject to the penalty of death or be imprisoned for life.

"(c) DEFINITION.—For purposes of this section, the term 'child' means an individual who has not attained the age of 18 years.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1205. Child hostage-taking to evade arrest or obstruct justice.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, the gentlewoman from New York (Mrs. KELLY) and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

I rise today to introduce an amendment that addresses a problem that is increasing in our Nation, children being taken as hostages. Far too many scenarios have been documented in which children taken as hostages are exposed to violence, emotional trauma or physical harm at the hands of adults.

For example, in New York, a woman's estranged husband took her and their three children hostage at the point of a loaded shotgun. He held them for nearly 4 hours, and at one point he even allegedly traded his 7-year-old son for a pack of cigarettes.

It was only when he threatened to use the children as human shields that a SWAT team rescued the children, and that resulted in something that was a very difficult situation in my State.

In Baltimore, a man broke into a second floor apartment, stabbing a young mother, holding her 9-month-old child hostage for 2 hours before a quick response team could rescue the baby and apprehend the suspect.

Situations like these are unacceptable and should not be tolerated by anyone. All over the country children are being used as pawns by violent adults. We in Congress must do our part to help prevent these scenarios from developing in the first place. This amendment is based on my bipartisan legislation, H.R. 3438, and will give new protections to children, our Nation's most precious resource.

It establishes the strictest punishments for those who would evade arrest or obstruct justice by using children as hostages. This provision toughens penalties against any person who takes a child, 18 years of age or younger, hostage in order to resist, compel or oppose the Federal Government. Such a person would serve a minimum sentence of 10 years to a maximum of death depending on the extent of injury to the child. A number of States, including California, Illinois and Florida, already enforce tougher penalties on people convicted of stealing children for their own personal gain.

Please join me in this important effort to protect the lives and well-being of our Nation's children. I hope that together we can make our Nation a safer place for everyone, especially those in our society least able to protect themselves.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment, although I do support personally the amendment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Ms. LOFGREN) is recognized for 5 minutes.

There was no objection.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

I believe that this amendment makes a statement that is an important statement about how we value children. Whereas it is true that it is possible under current law for the sentence up to life in prison to be imposed, this amendment would require a mandatory minimum sentence whenever someone engages in the unconscionable act of using a child as a hostage.

□ 1415

I think that it is important that the United States Government make that statement that we will not tolerate the use of children in this manner, and that is why I am proud to be a cosponsor of the Kelly bill and proud to support her amendment today.

I am aware, and we may yet have individuals rushing to the Chamber to speak, that there are some who in good faith disagree with this amendment for the following reasons. There are some Members who do not believe in mandatory minimum sentencing, who believe that that is an impermissible and inappropriate intrusion into judicial decision-making. There are some Members who because of their religious faith oppose the death penalty. I actually support the death penalty, but I respect that there are some whose religious beliefs lead them to a contrary conclusion.

Let us not, however, be confused that even those who might disagree with us as to mandatory minimum sentences and as to the death penalty do not join with us in ensuring that every wrongdoer in America knows that it is beyond human conscience, it is beyond what is acceptable in a civilized society to use a child as a hostage. I commend the gentlewoman for her amendment. I urge my colleagues to vote "aye."

Mr. Chairman, I yield back the balance of my time.

Mrs. KELLY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I thank the gentlewoman for yielding me this time and allowing me to express my strong support for her proposal.

Frankly we had not reviewed this in the committee. Lots of times when we do not, you say, "Boy, there must be some problem, maybe we should go and have a hearing," blah-blah-blah.

But when I saw this yesterday and examined it, and it is so clear on its face that this is something we need to do, that I immediately said to her then and I say it again today publicly, I believe we should put this in this bill. Hostage taking of children under these conditions that she is trying to address is too important to delay. It is straightforward what she is doing. It creates some penalties and punishments that are really tough, that I think are deterrents. I strongly support this amendment. I believe that it is very, very important that we send the message she is sending. I commend her for drafting the legislation.

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

Once again, Mr. Chairman, passage of this amendment would give law enforcement across the country a new and powerful weapon to fight against violent criminals. As I mentioned earlier, there are disturbing examples of hostage situations involving children from across the country. I hope that my colleagues will join me and pass these new protections from crime for America's children.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. DUNCAN). The question is on the amendment offered by the gentlewoman from New York (Mrs. KELLY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment number 9 printed in House Report 105–576.

AMENDMENT NO. 9 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SHERMAN:

At the end of the bill, add the following new title:

TITLE V—PUBLIC ACCESS TO FBI DATABASE ON SEXUAL OFFENDERS

SEC. 501. ESTABLISHMENT OF TELEPHONE ACCESS FOR THE PUBLIC TO FBI DATABASE ON SEXUAL OFFENDERS.

Subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071 et seq.) is amended by adding at the end the following new section:

"SEC. 170103. TELEPHONE ACCESS FOR THE PUBLIC TO FBI DATABASE.

"(a) ESTABLISHMENT.—(1) The Attorney General shall establish, publicize, and operate a national telephone service by which a person (as defined in subsection (f)(2)) may request the information described in paragraph (2).

"(2) The information described in this paragraph is whether an individual (as defined in subsection (f)(3)), other than a victim of an offense that requires registration under this subtitle, is listed in the database established under section 170102.

"(b) PREREQUISITE FOR ACCESS TO INFORMATION.—The Attorney General shall not disclose the information described in subsection (a)(2) unless the person seeking such information provides his or her full name, the full name of the individual, and one or more of the following:

"(1) The address of the individual's residence.

"(2) The individual's Social Security number.

"(3) The individual's driver's license number or the number the identification card issued by State or local authorities in lieu of a driver's license.

"(4) The individual's date of birth.

"(5) Such other information as the Attorney General determines to be appropriate for purposes of identification of the individual.

"(c) NOTICE TO CALLER.—Prior to disclosing information described in subsection (a)(2), and without charging a fee for the same, the Attorney General shall provide the following general information in the form of a recorded message:

"(1) The requirements described in subsection (b).

"(2) The fee for the use of the telephone service.

"(3) A warning that information received pursuant to such request may not be misused, as described in subsection (e), and notice of the penalties for such misuse of the information.

"(4) A warning that the service is not be available to persons under 18 years of age.

"(5) Such other information as the Attorney General determines to be appropriate.

"(d) FEES FOR USE OF SERVICE.—

"(1) FEE FOR ACCESS TO INFORMATION IN DATABASE.—The Attorney General shall charge a fee for each use of the service for information described in subsection (a) from the service.

"(2) LIMITATION ON NUMBER OF REQUESTS.—A person may not make more than two requests for such information per use of the service.

"(3) USE OF FEES TO DEFRAY EXPENSES OF SERVICE.—To the extent provided in advance in appropriations Acts, moneys received under paragraph (1) shall be used to pay for the expenses of the operation of the service.

"(e) PENALTIES FOR MISUSE OF INFORMATION.—

"(1) PROHIBITIONS.—Whoever, having obtained information described in subsection (a)(2) from the service, knowingly uses such information—

"(A) for any purpose other than to protect a minor at risk; or

"(B) with respect to insurance, housing, or any other use that the Attorney General may determine—

"(i) is unnecessary for the protection of a minor at risk or;

"(ii) which creates a disproportionate prejudicial effect,

shall be punished as provided in paragraph (2).

"(2) CIVIL PENALTY.—Each person who violates the provisions of paragraph (1) shall be subject to a civil penalty imposed by the Attorney General of not more than $1,000 for each violation.

"(f) DEFINITIONS.—As used in this section:

"(1) MINOR AT RISK.—The term 'minor at risk' means a minor, as that term is defined in section 2256(1) of title 18, United States Code, who is or may be in danger of becoming a victim of an offense, for which registration is required under this subtitle, by an individual about whom the information described in subsection (a)(2) is sought.

"(2) PERSON.—The term 'person' means a person who requests the information described in subsection (a)(2).

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, the gentleman from California (Mr. SHERMAN) and the gentleman from Florida (Mr. MCCOLLUM) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Sherman-Fox amendment, an amendment which is based on H.R. 2194 which was submitted to this House last year. That bill, which has not been heard by the House, secured the cosponsorship of over 13 Republican Members and over 20 Democratic Members.

The purpose of this amendment is to allow parents who are the first line of defense that every child has against sexual predators to get the information that they need to protect their children from convicted sexual predators. Ever since Megan's Law was adopted and ever since that case came to the national fore, there has been a national consensus that parents need information about sexual predators, convicted sexual criminals who may come into contact with their children. The question is, what is the best way to effectuate that? One method, and not a method used in this particular amendment, is community notification. This works in small and closely knit communities where a town of a few thousand people, or even a community of tens of thousands of people may become aware that a particular individual is a sexual predator. However, we also have large cities in this country where it is impossible to notify the entire city that a particular person is dangerous. Even if a community within Los Angeles County is notified, a sexual predator may choose to operate at an amusement park in one part of Los Angeles County or seek a job as a child care worker in another part of Los Angeles County. A sexual predator may be convicted in one State but may move to a large city in another State.

We in California have devised an excellent system to deal with those sexual predators who choose to lose themselves in big cities, who may be known by their neighbors but are not known by those at the amusement park across town or the child care center across town. That system is known as the California Sexual Predator Hotline. It is administered by California Attorney General Dan Lungren whose office has indicated that they support this amendment.

The way it works is that a database is maintained in Sacramento. Parents who are concerned about their children, those who employ child care workers at schools, et cetera, can call that line to determine whether a particular individual is identified as a convicted sexual predator.

There are two problems with the California line. First, it only tells you if an individual has been convicted in California. Second, it is available to protect only California children. What this amendment does, at no cost to the Federal Government except a small setup charge at the beginning, at no cost to the Federal Government, is it solves these problems. It provides us with a national database and it is available to parents across this country.

For that reason, I urge my colleagues to vote in favor of amendment number 9, the Sherman-Fox amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Chairman, I rise today as a cosponsor of this amendment to the Child Protection and Sexual Predator Punishment Act of 1998 to establish a national hotline to facilitate public access to the FBI database on sexual offenders.

I would like to take this opportunity to congratulate the distinguished gentleman from Florida (Mr. MCCOLLUM), chairman of the subcommittee, for bringing this bill to the floor and thank him for bringing this critical issue to the attention of the body. This is sound legislation that will be of great benefit to this country. Through this amendment, I believe that we will strengthen what will already go a long way to protecting families.

The most precious resource we have in this country are our children. Unfortunately, they are also our most vulnerable. This amendment would empower parents by providing them with the tools that they need to protect their children from elements in our society that wish to do them harm.

This amendment protects our children by providing better access to public information. It will help parents reduce the risk of their children becoming victims of sexual predators through a national hotline. It will build on the success of hotlines established in California and New York because it will provide information on sex offenders in their State as well as in other States. The hotline is budget neutral, financed by callers and costing the Federal Government virtually nothing. Individuals will be limited to two inquiries per call, so someone will not be able to abuse the hotline or tie it up by making requests about everything that is happening but that is not relevant. Callers must provide their full name and the full name of the person they are inquiring about. No one will be able to call up and just ask if there are any sex offenders in the area. It is modeled after a very successful line already in operation in California which is supported by their Attorney General. It is endorsed by KIDS SAFE as a valuable tool for protecting children.

Mr. Chairman, I urge my colleagues to support this measure that will provide peace of mind to American families across our Nation. I would like to thank the gentleman from California (Mr. SHERMAN), the cosponsor of this amendment, for yielding me this time. I appreciate his leadership on this.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at first blush this seems like a very fair amendment. It seems like it would be something anybody would want to do. Unfortunately, it flies in the face of an existing program that is already out there. Many of the people who are operating the kind of law that we have today for notification, parental notification of sexual offenders who have been released from prison believe that it would undermine that program, primarily because it would establish a national hotline whereas the program that exists today in the States where it is a State program, with a registry for sex offenders and a multi-tiered notification process where the sheriffs, police and others in certain cases are notified when a sex offender is released from prison and he goes back into that area. In certain cases not only are they notified but they then have an obligation to go out into the community and to notify the community. They have manners and means of making sure in that setting precisely who it is that they are telling the community about who is dangerous, and there is a set process for that. The National Center for Missing and Exploited Children has expressed opposition to the Sherman proposal, citing that it prefers the local approach in which the local law enforcement does what I have just described, to notify targeted members of the community who are likely to encounter the sex offender as many States are currently doing under Megan's Law.

The reason why again this would undermine this effort in my judgment is based primarily on the fact that if you have this national system of calling in a hotline, you are going to wind up with lots of folks in those States saying, "Well, why should I go through the State process? Why do we need that?" And the fear, which I think is justified, we have not had maybe as many hearings on this as we would like, but I believe this from what I am hearing from the folks who are critical of it is, the fear is that the States will stop doing the detailed type of notification multi-tiered process that has now been established and has, I might say, withstood constitutional tests up to this point. There has been a lot of litigation over the Megan's Law sexual predator notification when somebody is released from prison going back into the community. We have not had the same type of constitutional challenge, at least not to my knowledge, to clarify whether there may be problems with the gentleman from California (Mr. SHERMAN's) proposed approach.

What is involved in the current case is a multi-tiered notification program. It involves going door to door actually by law enforcement to notify people in a community where this sexual offender has been released and is going to live. Only those people are going to be notified who have a need to know. Other people are not going to be. If we were to take up the national call-in approach that is here, one of the things that I envision as a problem with it is that somebody could call up trying to find out if John Smith has ever been released or whatever from prison, and where is he living now. There might be lots of different John Smiths. Maybe one spells his name J-o-n or otherwise. The hotline approach is based upon identification by name only, and a confusion could result where somebody who is perfectly innocent could be identified by mistake over the telephone in the hotline as to who they are. That is also a problem in terms of our desire to protect people's rights and privacy as much as possible and not to provide them with a situation in which they could be not only embarrassed publicly but damaged by this process.

I realize that this program has been tried in California. It has not had horrors like that occur, but it does raise the specter of that possibility which the current notification system does not because there is careful screening, there are police and sheriffs who go through this process, they know absolutely who it is who is coming into their community by fingerprint and other identification, and then they proceed to do specific neighborhood notifications rather than having this hotline proposal.

While I understand perfectly well what the gentleman wants to do and I know that he would believe this and argue that this is complementary to the existing State registry and notification systems and is well intended for that purpose, I have to unfortunately conclude that based on information I have that the risk to the existing programs is too great to support this amendment, and that instead I am fearful that it will do damage to those programs.

□ 1430

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, as a Californian I have a great deal of appreciation for the amendment that the gentleman from California (Mr. SHERMAN) has proposed, and actually when I saw his amendment, the first thing I thought was, great, I want to support that amendment, it is important to empower the parents, it has worked well in California, and I commend him and his coauthor for having the grit to pursue this.

Having said that, I do believe that we need some further research on this concept.

As I reviewed the concerns expressed by the Department of Justice, one thing in particular did catch my attention, which was the need to do fingerprint checks to make sure that there is a positive ID rather than, as my colleagues know, somebody who has got the same name and the concern expressed that we might get negative information back, and actually the guy could be a very serious problem because of the nature of the data.

So I, with a great deal of reluctance, am suggesting that we not approve this amendment today, but I am very hopeful and would actually plead and ask the gentleman to schedule some hearings to see whether we could not perfect and pursue and explore this because this is a wonderful tool in California for parents. And if we could overcome some of the issues that have been expressed in the defects that he has rightly pointed out, perhaps we could be very happy with the result.

And so I join with the gentleman in indicating that I cannot support this today, but I do commend the authors of the amendment for their great passion for the well-being of children and their parents and would love to work with the chairman of the committee as we pursue it, as I think all the Californians on the committee would do.

Mr. McCOLLUM. Mr. Chairman, I would just simply state to the gentlewoman that I certainly intend to continue to work with the gentleman from California (Mr. SHERMAN) if that is the case.

Mr. Chairman, I reserve the balance of my time.

Mr. SHERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding this time to me.

I urge my colleagues to support the Sherman-Fox amendment. This amendment will ensure that a hotline is established so that our children are protected from the evil and ill-intentioned hands of sexual predators.

California has taken this progressive step, and its attorney general reports that thanks to this hotline, which has received a great percentage of hits and calls in which the sexual molesters identified positively. There have been almost 500 hits thus far. Even though California State law requires a sexual predator to register upon moving in the State, there are not, as in the reality, many States' enforcement provisions that will guarantee that he registers before he is to strike again. This hotline, as proposed by the Sherman-Fox amendment would grant access to registration records in other States so that children are protected from those sexual molesters who have failed to register.

It is clear, Mr. Chairman, from the success in California that this hotline will aid in protecting our children from sexual predators and their horrible acts, and I implore my colleagues to support the Sherman-Fox amendment so that America's children will be safe.

Mr. SHERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding this time to me, and I have great respect for the chairman of this subcommittee, the gentleman from Florida (Mr. McCOLLUM) who has worked long and hard to make sure that we have passed laws here in the House that will protect children, seniors and families from all kinds of problems, especially sexual predators.

As a former prosecutor myself, assistant district attorney from Pennsylvania, I know well that when we have multiple systems for protecting individuals, whether it be for Megan's Law, other State statutes, other Federal statutes, we need the composite to make sure that we have a safety net so that no sexual predator who has been convicted in this country will not have a community and a law enforcement team out there to tell unsuspecting neighbors about what could go on. So I believe that Mr. SHERMAN's amendment goes a long way in amplifying and underscoring the importance of existing laws, and rather than being something that is an impediment, it is actually going to boost all efforts to have more knowledge to the public, less sexual predators infecting the neighborhood and more public safety in the United States.

Mr. SHERMAN. Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. CONYERS) the ranking member on the full Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I thank the subcommittee chairman, the gentleman from Florida (Mr. McCOLLUM) for yielding this time to me.

Mr. Chairman, it is hard to oppose this amendment, but I think it is necessary that we follow the lead of the gentleman from Florida (Mr. McCOLLUM) and have a little bit more careful hearing about it. I mean, there have been no hearings on this. The gentleman agrees that there will be hearings. He has assured the gentlewoman from California (Ms. LOFGREN), and the gentleman from Florida (Mr. McCOLLUM) has never disappointed us yet, his word has been his been his bond throughout his career.

But in all due honesty, I say to the gentleman from California (Mr. SHERMAN) I can name some other things that we maybe ought to have hotlines for criminals on, too. So, as my colleague knows, if we are turning into the hotline society, let us do it in an orderly fashion. I mean, this is something that may have merit, but to walk up on the floor and throw this on our 434 colleagues might not be as orderly. And guess what? Some of us that are not sure about this may end up supporting the gentleman.

So for that reason, as my colleagues know, we have two options. One, we can desperately inform Members when they come through for a vote on this and ask about it, and some side will win and one side will lose, or the gentleman could in his usually gentlemanly fashion withdraw the amendment and allow the ordinary processes that the gentleman from Florida (Mr. MCCOLLUM) has agreed to proceed.

Mr. Chairman, I yield to the gentleman from California (Mr. SHERMAN) for that purpose.

Mr. SHERMAN. Mr. Chairman, I appreciate the distinguished gentleman's remarks, but I submitted this as a bill virtually a year ago. In that time we have sent out several dear colleagues, we have secured nearly 40 cosponsorships, and I believe that I have done everything in a reasonable manner.

Mr. SHERMAN. Mr. Chairman, I yield myself 20 seconds to simply continue the sentence and say:

When a Member submits a bill, secures bipartisan cosponsorship, informs the Members of the House, works on it for almost a year, it is not appropriate to say that I am trying to short-circuit the process and ask for a quick decision.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. SHERMAN) has expired.

Mr. SHERMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I appreciate the response, and I am pleased to know it has been a year of working on it, but that does not take the place of hearings. We can send each other letters, as my colleagues know, every day in the week, but the point of the matter is they have to be Committee on the Judiciary Subcommittee on Crime hearings.

Now it is not that the gentleman from Florida (Mr. MCCOLLUM) is sitting around with not much to do, but he has assured the gentleman of hearings. I pledge to help the gentleman get hearings. We will go see the chairman, the gentleman from Illinois (Mr. HYDE), we will go to the Speaker, we will do everything we can for the gentleman, but let us not pass legislation like this.

Mr. MCCOLLUM. Mr. Chairman, I yield the balance of the time to myself.

The CHAIRMAN pro tempore. The gentleman from Florida is recognized for 1½ minutes, and he has the right to close.

Mr. MCCOLLUM. Mr. Chairman, I will yield in any event to myself, and thank the Chair very much for pointing this out.

I have to continue to oppose this amendment. I think that it is a well-meaning amendment. Unfortunately the gentleman from California (Mr. SHERMAN) has not had the hearings, as the gentleman from Michigan (Mr. CONYERS) has said. We will conduct those if this amendment is not successful at some time to give everybody an opportunity to hear the issue. In fact, we probably ought to revisit the procedures of Megan's law and the registry in an oversight format in any event. But I think this is an untimely amendment.

We have had expressions of great concern from the Center For Missing and Exploited Children that by adopting this amendment, we will undermine the State registry programs whereby today we have a tiered, orderly way for those States to participate, to go through the process when some sex offenders are released from prison of notifying people in the community where that person goes. We know it works, we know it is being tested, and, so far, successfully, in the courts. It is something that, if we adopted this amendment today to have a national call-in, check-in hotline system, might well disappear because people would say in those States, what the heck, the Federal Government is going to pay for this and do it; why should we?

And yet those involved with it believe this multitiered law enforcement hands-on approach of notification and fully knowing who it is is the better approach than simply saying to the general citizenry of the country, "When you hear about somebody getting released, you can make a hotline telephone call to find out."

If indeed it were complementary, that is, just a supplement to existing law, and did not negatively impact the other, it might be something we consider. That is why holding a hearing, debating this further, might be meritorious. But adopting it today, knowing there is risk that we would undermine the existing, well-working, well thought out Megan's Law program of notifying communities of sex offenders would be a mistake, and I strongly urge a no vote on the Sherman amendment.

Mr. SHERMAN. Mr. Chairman, I yield 20 seconds to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Chairman, the fact is we have hotlines in this country for almost every imaginable purpose, but what could be more important than have a hotline to protect our children?

And the fact is if we can have more than one method to make sure we protect our children under Megan's Law and under the Sherman amendment, I think we do the right thing today and pass the Sherman amendment. It will only add to the bill and make it better, not make it worse.

Mr. SHERMAN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from California is recognized for 1 minute.

Mr. SHERMAN. Mr. Chairman, earlier today I was in contact with the National Center for Missing and Exploited Children. They have informed me that while they do not, cannot currently support this amendment, they gave me no indication that they opposed it, and a year ago they gave me a letter simply saying they do not support it. They are trying to evaluate their situation now in light of additional arguments I gave them.

But the gentleman from Pennsylvania (Mr. FOX) is absolutely right. We need more than one system.

There is nothing in this national system that undermines the local system, and that is why those in California involved in informing children, involving parents that their children face a risk, the Kids Safe Organization and everyone else who got us the State hotline, prefers and strongly supports the idea of a national hotline. People all over America should be able to determine whether somebody applying to work in their child care center, which may be 10 miles, 20 miles from where that individual lives, has been convicted of a sexual predatory offense anywhere in the United States.

The CHAIRMAN pro tempore. The question on the amendment offered by the gentleman from California (Mr. SHERMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 465, further proceedings on the amendment offered by the gentleman from California (Mr. SHERMAN) will be postponed.

It is now in order to consider amendment number 10 printed in House Report 105–576.

□ 1445

AMENDMENT NO. 10 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. CONYERS:

Add at the end the following (and conform the table of contents accordingly):

TITLE V—CONTINUING THE COMMITMENT OF THE VIOLENCE AGAINST WOMEN ACT

Subtitle A—Law Enforcement and Prosecution Grants To Combat Violence Against Women

SEC. 501. PURPOSE OF THE PROGRAM AND GRANTS.

(a) General Program Purpose.—The purpose of this subtitle is to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women.

(b) Purposes for Which Grants May Be Used.—Grants under this subtitle shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, and specifically, for the purposes of—

(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

(5) developing, enlarging, or strengthening programs addressing stalking;

(6) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence; and

(7) developing, enlarging, or strengthening State court programs, including training for State, local, and tribal judges and court personnel, addressing violent crimes against women, including sexual assault, domestic violence, and stalking.

SEC. 502. STATE GRANTS.

(a) General Grants.—The Attorney General may make grants to States, for use by States, units of local government, and Indian tribal governments for the purposes described in section 501(b).

(b) Amounts.—Of the amounts appropriated for the purposes of this subtitle—

(1) 4 percent shall be available for grants to Indian tribal governments;

(2) $500,000 shall be available for grants to applicants in each State; and

(3) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States (not including populations of Indian tribes).

(c) Qualification.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this subtitle upon certification that—

(1) the funds shall be used for any of the purposes described in section 501(b);

(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

(3) up to 30 percent shall be allocated to law enforcement, up to 30 percent to prosecution grants, and at least 10 percent to State court systems; and

(4) any Federal funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

(d) Application Requirements.—Each application shall include the certifications of qualification required by subsection (c). An application shall include—

(1) documentation from the prosecution and law enforcement programs to be assisted, demonstrating—

(A) need for the grant funds;

(B) intended use of the grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity, and language background;

(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 505; and

(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 506.

(e) Disbursement.—

(1) In general.—Not later than 60 days after the receipt of an application under this subtitle, the Attorney General shall—

(A) disburse the appropriate sums provided for under this subtitle; or

(B) inform the applicant why the application does not conform to the requirements of this section.

(2) Regulations.—In disbursing monies under this subtitle, the Attorney General shall issue regulations to ensure that States will—

(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

(B) determine the amount of subgrants based on the population and geographic area to be served;

(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes;

(D) recognize and address the needs of underserved populations; and

(E)(i) if, at the end of the 9th month of any fiscal year for which funds are appropriated under section 507, the amounts made available are unspent or unobligated, such unspent or unobligated funds shall be reallotted to the current fiscal year recipients in the victim services area pursuant to section 502(c)(3)) proportionate to their original allotment for the current fiscal year; and

(ii) for the first 2 fiscal years following the effective date of this Act, the Attorney General may waive the qualification requirements of section 502(c), at the request of the State and with the support of law enforcement and prosecution grantees currently funded under this section, if the reallocation of funds among law enforcement, prosecution, victims' services, and State court systems mandated by this subtitle adversely impacts victims of sexual assault, domestic violence, and stalking, due to the reduction of funds to programs and services funded under this section in the prior fiscal year.

(f) Federal Share.—The Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

(g) Indian Tribes.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this subtitle.

(h) Grantee Reporting.—

(1) In general.—Upon completion of the grant period under this subtitle, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this subtitle.

(2) Certification by grantee and subgrantees.—A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

(3) Suspension of funding.—The Attorney General shall suspend funding for an approved application if—

(A) an applicant fails to submit an annual performance report;

(B) funds are expended for purposes other than those described in this subtitle; or

(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

(D) for failure to provide documentation, including memoranda of understanding, contract, or other document of any collaborative efforts with other agencies or organizations.

SEC. 503. DEFINITIONS.

In this subtitle—

(1) the term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies;

(2) the term "Indian country" has the meaning stated in section 1151 of title 18, United States Code;

(3) the term "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United

States to Indians because of their status as Indians;

(4) the term "law enforcement" means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

(5) the term "prosecution" means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs);

(6) the term "sexual assault" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

(7) the term "underserved populations" includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

SEC. 504. GENERAL TERMS AND CONDITIONS.

(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this subtitle, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State, tribal, and local assistance efforts.

(b) REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this subtitle, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State and for each grantee Indian tribe—

(1) the number of grants made and funds distributed under this subtitle;

(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

(4) an evaluation of the effectiveness of programs funded under this subtitle.

(c) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this subtitle, the Attorney General shall publish proposed regulations or guidelines implementing this subtitle. Not later than 180 days after the date of enactment, the Attorney General shall publish final regulations or guidelines implementing this subtitle.

SEC. 505. RAPE EXAM PAYMENTS.

(a) RESTRICTION OF FUNDS.—

(1) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subtitle unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

(2) REDISTRIBUTION.—Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

(b) MEDICAL COSTS.—A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity—

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams if—

(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

(C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

(D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

SEC. 506. FILING COSTS FOR CRIMINAL CHARGES.

(a) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subtitle unless the State, Indian tribal government, or unit of local government—

(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; or

(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of—

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years.

(b) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $185,000,000 for each of fiscal years 2001, 2002, and 2003.

Subtitle B—Grants to Encourage Arrest Policies

SEC. 511. PROGRAM AUTHORIZED.

(a) PURPOSE.—The purpose of this subtitle is to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

(b) GRANT AUTHORITY.—The Attorney General may make grants to eligible States, Indian tribal governments, or units of local government for the following purposes:

(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations.

(2) To develop policies and training in police departments to improve tracking of cases involving domestic violence.

(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

(5) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

(c) ELIGIBILITY.—Eligible grantees are States, Indian tribal governments, or units of local government that—

(1) certify that their laws or official policies—

(A) encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

(B) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

(4) certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

SEC. 512. APPLICATIONS.

(a) APPLICATION.—An eligible grantee shall submit an application to the Attorney General that—

(1) contains a certification by the chief executive officer of the State, Indian tribal government, or local government entity that the conditions of section 511(c) are met or will be met within the later of—

(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

(B) 2 years of the date of enactment of this Act;

(2) describes plans to further the purposes stated in section 511(a);

(3) identifies the agency or office or groups of agencies or offices responsible for carrying out the program; and

(4) includes documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

(b) PRIORITY.—In awarding grants under this subtitle, the Attorney General shall give priority to applicants that—

(1) do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

(2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

SEC. 513. REPORTS.

Each grantee receiving funds under this subtitle shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this subtitle and containing such additional information as the Attorney General may prescribe.

SEC. 514. REGULATIONS OR GUIDELINES.

Not later than 120 days after the date of enactment of this Act, the Attorney General shall publish proposed regulations or guidelines implementing this subtitle. Not later than 180 days after the date of enactment of this Act, the Attorney General shall publish final regulations or guidelines implementing this subtitle.

SEC. 515. DEFINITIONS.

For purposes of this subtitle—

(1) the term "domestic violence" includes acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; and

(2) the term "protection order" includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

SEC. 516. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $63,000,000 for fiscal year 1999;

(2) $67,000,000 for fiscal year 2000;

(3) $70,000,000 for fiscal year 2001;

(4) $70,000,000 for fiscal year 2002; and

(5) $70,000,000 for fiscal year 2003.

TITLE VI—LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

SEC. 601. DEFENSE TO CRIMINAL CUSTODIAL INTERFERENCE OR PARENTAL ABDUCTION CHARGE.

Section 1073 of title 18, United States Code, is amended by striking "Whoever moves" and inserting "(a) Whoever moves" and by adding at the end the following:

"(b) For any charge of parental abduction, of custodial interference, or of felony criminal contempt of court related to an underlying child custody or visitation determination, that would otherwise provide a basis for prosecution under this section, it shall be a defense to such prosecution that the individual against whom this section is invoked—

"(1) acted pursuant to the provisions of a court order valid when and where issued—

"(A) which granted the defendant legal custody or visitation rights;

"(B) which was obtained in compliance with section 1738A of title 28;

"(C) which is not inconsistent with such section or with the Uniform Child Custody Jurisdiction Enforcement Act as promulgated by the Uniform Law Commissioners; and

"(D) which was in effect at the time the defendant left the State;

"(2) was fleeing an incident or pattern of domestic violence or sexual assault of the child, which had been previously reported to law enforcement authorities; or

"(3) would otherwise have a defense under the terms of the International Parental Kidnapping Prevention Act (18 U.S.C. 1204).

"(c) The Attorney General shall issue guidance to assist the United States Attorneys and the Federal Bureau of Investigation in determining when to decline to initiate or to terminate an investigation or prosecution under subsection (b) due to the potential availability of any defense.".

SEC. 602. FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS.

(a) Section Intent.—Section 1738A(a) of title 28, United States Code, is amended by adding at the end the following: "This section is intended to preempt any inconsistent State law and to apply to every proceeding in the United States or its territories that is not governed by inconsistent aspects of any treaty to which the United States Government is a signatory or has ratified that involves custody and visitation concerning a minor child. Any provisions of a protection order regarding the custody and visitation of a minor child, whether consensual or not, otherwise consistent with section 2265 of title 18 and with this section shall be given full faith and credit by the courts of any State where the party who sought the order seeks enforcement.".

(b) Definitions.—Section 1738A(b) of such title is amended—

(1) by inserting after paragraph (3) the following:

"(4) 'domestic violence' includes acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction;

"(5) 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known to the victim or related by blood or marriage to the victim;";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (6), (7), and (8), respectively;

(3) by redesignating paragraph (7) as paragraph (9) and by striking "and" after the semicolon;

(4) by inserting after paragraph (9) (as so redesignated) the following:

"(10) 'predominant aggressor' means the individual who has been determined to be the principal perpetrator of violence, by factors including—

"(A) history of domestic violence;

"(B) relative severity of the injuries inflicted on each person;

"(C) the likelihood of future injury to each person;

"(D) whether one of the persons acted in self-defense; and

"(E) the degree to which one of the persons has acted with more deliberate intent to control, isolate, intimidate, emotionally demean, or cause severe pain or injury, or fear of harm to the other or a third person"; and

(5) by redesignating paragraph (8) as paragraph (11).

(c) Condition for Custody Determination.—Section 1738A(c)(2)(C) of such title is amended—

(1) by striking "he" and inserting "the child, or a sibling or parent of the child,"; and

(2) by inserting ", including acts of domestic violence by the other parent" after "abuse".

(d) Jurisdiction.—Section 1738A(d) of such title is amended by inserting before the period at the end the following: ", except that after 2 years have passed while a child is living in another State after relocation due to domestic violence or sexual assault of the child, the court of the original State shall decline jurisdiction provided that the courts of the new State would have personal jurisdiction over the other parent under that State's law".

(e) Child Custody Determinations.—Section 1738A of such title is amended by adding at the end the following:

"(h) A court may decline to exercise jurisdiction on behalf of a parent who has engaged in domestic violence as a predominant aggressor, if a court of another State has emergency jurisdiction under subsection (c)(2)(C)(ii). A court may decline to exercise jurisdiction on behalf of a parent who has wrongfully taken the child from a State without justification, or engaged in similar unjustifiable conduct, unless no other State would have jurisdiction under any provision of subsection (c).

TITLE VII—SEXUAL ASSAULT PREVENTION

Subtitle A—Standards, Practice, and Training for Sexual Assault Examinations

SEC. 701. SHORT TITLE.

This subtitle may be cited as the "Standards, Practice, and Training for Sexual Assault Examinations Act".

SEC. 702. STANDARDS, PRACTICE, AND TRAINING FOR SEXUAL ASSAULT EXAMINATIONS.

(a) In General.—The Attorney General shall—

(1) evaluate existing standards of training and practice for licensed health care professionals performing sexual assault forensic examinations and develop a national recommended standard for training;

(2) recommend sexual assault examination training for all health care students to improve the recognition of injuries suggestive of rape and sexual assault and baseline knowledge of appropriate evidence collection; and

(3) review existing national, State, and local protocols on sexual assault for forensic examinations, and based on this review, develop a recommended national protocol, and establish a mechanism for its nationwide dissemination.

(b) Consultation.—The Attorney General shall consult with national, State, and local experts in the area of rape and sexual assault, including but not limited to, rape crisis centers, State sexual assault and domestic violence coalitions and programs, criminal justice, forensic nursing, forensic science, emergency room medicine, law, social services, sex crimes in underserved communities as defined in 42 U.S.C. 3796gg-2(7).

(c) Report.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, a report of the directives in subsection (a) is submitted to Congress.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $200,000 for fiscal year 1999.

Subtitle B—Prevention of Custodial Sexual Assault by Correctional Staff

SEC. 711. SHORT TITLE.

This subtitle may be cited as the "Prevention of Custodial Sexual Assault by Correctional Staff Act".

SEC. 712. FINDINGS.

Congress finds the following:

(1) According to an extensive 1996 report by the Women's Rights Project of Human Rights Watch, sexual abuse of women prisoners by correctional officers is a serious problem in our Nation's prisons, jails, and correctional facilities.

(2) Custodial sexual assault of women by correctional officers includes documented incidents of vaginal, oral, and anal rape.

(3) Because correctional officers wield near absolute power over female prisoners, officers may abuse that power to sexually assault and abuse female prisoners, as well as engage in constant groping, harassment, and other abuse.

SEC. 713. ESTABLISHMENT OF PREVENTION PROGRAM.

(a) Program Guidelines.—

(1) In general.—The Attorney General shall establish guidelines for States and disseminate such information to the States regarding the prevention of custodial sexual misconduct by correctional staff.

(2) Requirements.—Such guidelines shall include requirements that—

(A) prohibit a State department of corrections from hiring correctional staff who have been convicted on criminal charges, or found liable in civil suits, for custodial sexual misconduct; and

(B) each State department of corrections maintain databases, including the names and identifying information of individuals who have been convicted on criminal charges or found liable in civil suits for custodial sexual misconduct and to check these databases prior to hiring any correctional staff.

(3) National database.—This information shall also be submitted to the Department of Justice where it will be maintained and updated on a national database.

(b) Release of Information.—The information collected under subsection (a)(2) shall be treated as private data except that—

(1) such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) such information may be disclosed to government agencies conducting confidential background checks; and

(3) the designated State law enforcement agency and any local law enforcement agency authorized by the State agency may release relevant information that is necessary to protect prisoners concerning a specific person whose name is included in the database, except that the identity of a victim of an offense that requires information to be maintained under this section shall not be released.

(c) Immunity for Good Faith Conduct.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from criminal or civil liability for good faith conduct in releasing information under this section.

(d) Ineligibility for Funds.—

(1) In general.—A State that fails to implement the program as described under this section shall not receive 10 percent of the funds that would otherwise be allocated to the State under subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13701).

(2) Reallocation.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

(3) Compliance date.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement this section, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement this section.

SEC. 714. DEFINITIONS.

For purposes of this subtitle—

(1) the term "correctional staff" means any employee, contractual employee, volunteer, or agent of a correctional department who is working in any contact position with any prisoners under the jurisdiction of that department; and

(2) the term "custodial sexual misconduct" means any physical contact, directly or through the clothing, with the sexual or intimate parts of a person for the purpose of sexual gratification of either party, when the—

(A) parties involved are a person in custody of a correctional department and a member of the correctional staff; or

(B) contact occurs under circumstances of coercion, duress, or threat of force by a member of the correctional staff.

TITLE VIII—FULL FAITH AND CREDIT FOR PROTECTION ORDERS

SEC. 801. FULL FAITH AND CREDIT FOR PROTECTION ORDERS.

(a) Section 2265 of title 18, United States Code, is amended by adding at the end the following:

"(d) Formula Grant Reduction for Noncompliance.—

"(1) Reduction.—The Attorney General shall reduce by 10 percent (for redistribution to other participating States that comply with subsections (a) and (b)) the amount a State would receive under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 if such State fails to comply with the requirements of subsections (a), (b), and (c).

"(2) Effective date.—The Attorney General may begin to reduce funds described in paragraph (1) on the first day of each fiscal year succeeding the first fiscal year beginning after the date of the enactment of this subsection.

"(e) Registration.—Nothing in this section shall require prior filing or registration of a protection order in the enforcing State in order to secure enforcement pursuant to subsection (a). Nothing in this section shall permit a State to notify the party against whom the order has been made that a protection order has been registered and/or filed in that State."

"(f) Notice.—Nothing in this section shall require notification of the party against whom the order was made in order to secure enforcement by a law enforcement officer pursuant to subsection (a).".

(b) Definitions.—Section 2266 of title 18, United States Code, is amended—

(1) by inserting "issued pursuant to State divorce and child custody codes" after "custody orders"; and

(2) by adding "Custody and visitation provisions in protection orders are subject to the mandates of this chapter." after "seeking protection.".

(b) Compliance—Full Faith and Credit.—Within 180 days, the Attorney General shall issue regulations to determine whether a State is in compliance with 18 U.S.C. 2265(a), (b), and (c), taking into account the following factors:

(1) The State's documented good faith efforts to ensure compliance by judicial, law enforcement, and other State officials, including the extent and nature of any training programs, outreach, and other activities.

(2) The degree to which any case of noncompliance by a State official represents an isolated incident, rather than a pattern of nonenforcement.

(3) Any barriers to compliance presented by outdated technology, recordkeeping problems, or similar issues, and the State's documented good faith efforts to removing those barriers.

SEC. 802. GRANT PROGRAM.

(a) In General.—The Attorney General may provide grants to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and recordkeeping strategies to assist States, Indian tribal governments, and units of local government to enforce protective orders issued by other States, Indian tribal governments, or units of local government.

(b) Uses of Funds.—

(1) In general.—Grants under this section shall provide training and enhanced technology compatible with existing law enforcement systems including the National Crime Information Center to enforce protection orders.

(2) Uses of funds.—Funds received under this section may be used to train law enforcement, prosecutors, court personnel, and others responsible for the enforcement of protection orders, and to develop, install, or expand data collection and communication systems, including computerized systems, linking police, prosecutors, and courts for the purpose of identifying and tracking protection orders and violations of protection orders and training.

(c) Authorization of Appropriations.—There are authorized to carry out this section, $5,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

TITLE IX—FEDERAL WITNESS PROTECTION FOR VICTIMS OF DOMESTIC VIOLENCE

SEC. 901. WITNESS PROTECTION.

(a) Generally.—Section 3521(a)(1) of title 18, United States Code, is amended by inserting "or of a victim of an offense set forth in chapter 110A of this title directed at victims of domestic violence," after "other serious offense,".

(b) Other Actions.—Section 3521(b)(1) of title 18, United States Code, is amended by inserting "or a victim of domestic violence," after "potential witness,".

(c) Guidelines.—Not later than 180 days after the date of enactment of this section, the Attorney General shall establish guidelines for determining eligibility for the Federal witness protection program of persons who are eligible for that program under the amendment made by subsection (a).

TITLE X—CIVILIAN JURISDICTION FOR CRIMES OF SEXUAL ASSAULT AND DOMESTIC VIOLENCE

SEC. 1001. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES BY PERSONS ACCOMPANYING THE ARMED FORCES.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 211 the following new chapter:

"CHAPTER 212—DOMESTIC VIOLENCE AND SEXUAL ASSAULT OFFENSES COMMITTED OUTSIDE THE UNITED STATES

"Sec.

"3261. Domestic violence and sexual assault offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States.

"3262. Definitions for chapter.

"§3261. Domestic violence and sexual assault offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States

"(a) IN GENERAL.—Whoever, while serving with, employed by, or accompanying the Armed Forces outside of the United States, engages in conduct that would constitute a misdemeanor or felony domestic violence or sexual assault offense, if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be subject to prosecution in the Federal District Court of the jurisdiction of origin.

"(b) CONCURRENT JURISDICTION.—Nothing contained in this chapter deprives courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by courts-martial, military commissions, provost courts, or other military tribunals.

"(c) ACTION BY FOREIGN GOVERNMENT.—No prosecution may be commenced under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General of the United States or the Deputy Attorney General of the United States (or a person acting in either such capacity), which function of approval shall not be delegated.

"§3262. Definitions for chapter

"As used in this chapter—

"(1) the term 'Armed Forces' has the same meaning as in section 101(a)(4) of title 10;

"(2) a person is 'employed by the Armed Forces outside of the United States' if the person—

"(A) is employed as a civilian employee of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

"(B) is present or residing outside of the United States in connection with such employment; and

"(C) is not a national of the host nation; and

"(3) a person is 'accompanying the Armed Forces outside of the United States' if the person—

"(A) is a dependent of a member of the armed forces;

"(B) is a dependent of a civilian employee of the Department of Defense;

"(C) is residing with the member or civilian employee outside of the United States; and

"(D) is not a national of the host nation."

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 211 the following:

"212. Domestic Violence and Sexual Assault Offenses Committed Outside the United States .... 3261".

TITLE XI—PREVENTING VIOLENCE AGAINST WOMEN IN TRADITIONALLY UNDERSERVED COMMUNITIES

SEC. 1101. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

(a) DEFINITIONS.—In this section:

(1) IN GENERAL.—The terms 'elder abuse, neglect, and exploitation', 'domestic violence', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

(2) SEXUAL ASSAULT.—The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).

(b) CURRICULA.—The Attorney General shall develop curricula and offer, or provide for the offering of, training programs to assist law enforcement officers and prosecutors in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

TITLE XII—VIOLENCE AGAINST WOMEN TRAINING FOR HEALTH PROFESSIONS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Violence Against Women Training for Health Professions Act".

SEC. 1202. DOMESTIC VIOLENCE AND SEXUAL ASSAULT FORENSIC EVIDENCE.

(a) IN GENERAL.—In the case of a health professions, the Attorney General shall award grants and contracts, giving preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training developed in consultation and collaboration with national, State, and local domestic violence and sexual assault coalitions and programs in carrying out the following functions as a provider of health care:

(1) Identifying victims of domestic violence and sexual assault, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

(2) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice.

(b) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing, a program for the training of physician assistants, or a program for the training of allied health professionals.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Violence Against Women Training for Health Professions Act, the Attorney General shall submit to the House of Representatives, and the Senate, a report specifying the health professions entities that are receiving grants or contracts under this section; the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided, including the extent of involvement of nonprofit nongovernmental domestic violence and sexual assault victims services programs in the training.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "domestic violence" includes acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; and

(2) the term "sexual assault" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known to the victim or related by blood or marriage to the victim.

TITLE XIII—VIOLENCE AGAINST WOMEN INTERVENTION, PREVENTION, AND EDUCATION RESEARCH

Subtitle A—Violence Against Women Prevention, Detection and Investigation Research

SEC. 1301. FINDINGS.

(a) FINDINGS.—Congress finds the following:

(1) According to a Panel on Research on Violence Against Women convened by the National Research Council in response to the mandates by the Violence Against Women Act of 1994—

(A) significant gaps exist in understanding the extent and causes of violence against women and the impact and the effectiveness of education, prevention, and interventions;

(B) funding for research on violence against women is spread across numerous Federal agencies with no mechanism through which to coordinate these efforts or to link with other federally sponsored research initiatives; and

(C) research on violence against women would benefit from an infrastructure that supports interdisciplinary efforts and aids in integrating these efforts into practice and policy.

(2) Despite the increased funding to prevent and respond to violence against women in underserved populations, few studies have examined incidence and prevalence data from the perspective of racial, ethnic, language, age, disability, and other underserved populations. Moreover, little is known about the types of prevention, detection, and investigation strategies that are most effective in underserved populations.

(3) Most studies currently focus on aspects of domestic violence related to physical abuse. Few studies explore the harm caused by emotional and psychological abuse and the appropriate prevention, detection, and investigation strategies for victims experiencing this form of abuse.

(4) Violence exposure as a risk factor for disease must be examined for a range of diseases and diagnoses to better understand the correlation between violence and disease including intervening variables.

(5) Violence against women occurs within the context of a sociocultural environment that should be studied to assist in a greater understanding of those factors that promote

and maintain violence against women and to provide a framework for developing and assessing education, prevention, and intervention strategies.

SEC. 1302. TASK FORCE.

(a) PURPOSES.—The Attorney General shall establish a task force to coordinate research on violence against women. The task force shall comprise representation from all Federal agencies that fund such research.

(b) USES OF FUNDS.—Funds appropriated under this section shall be used to—

(1) develop a coordinated strategy to strengthen research focussed on education, prevention, and intervention strategies on violence against women;

(2) track and report on all Federal research and expenditures on violence against women;

(3) identify gaps in research and develop criteria for all Federal agencies for evaluating research proposals, taking into account the context within which women live their lives, including the broad social and cultural context as well as individual factors; and

(4) set priorities for research efforts that explore factors such as race, social, and economic class, geographic location, age, language, sexual orientation, disability, and other factors that result in violent crimes against women.

(c) AUTHORIZATION OF APPROPRIATION.—There shall be appropriated $500,000 for each of fiscal years 1999, 2000, and 2001 to fulfill the purposes of this section.

SEC. 1303. PREVENTION, DETECTION, AND INVESITIGATION RESEARCH GRANTS.

(a) PURPOSES.—The Department of Justice shall make grants to entities, including domestic violence and sexual assault organizations, research organizations, and academic institutions, to support research to further the understanding of the causes of violent behavior against women and to evaluate prevention, detection, and investigation programs.

(b) USE OF FUNDS.—The research conducted under this section shall include, but not be limited to the following areas and others that may be identified by the Task Force established under section 1302 of this title—

(1) longitudinal research to study the developmental trajectory of violent behavior against women and the way such violence differs from other violent behaviors,

(2) examination of risk factors for sexual and intimate partner violence for victims and perpetrators, such as poverty, childhood victimization and other traumas;

(3) examination of short- and long-term efforts of programs designed to prevent sexual and intimate partner violence;

(4) outcome evaluations of interventions targeted at children and teenagers;

(5) examination of and documentation of the processes and informal strategies women experience in attempting to manage and end the violence in their lives; and

(6) development and testing of effective methods of screening and providing services at all points of entry to the health care system, including mental health, emergency medicine, and primary care.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for each of the fiscal years 1999, 2000, and 2001 to carry out this section.

SEC. 1304. ADDRESSING GAPS IN RESEARCH.

(a) PURPOSES.—The Department of Justice shall make grants to domestic violence and sexual assault organizations, research organizations and academic institutions for the purpose of expanding knowledge about violence against women, with a particular emphasis on exploring such issues as they affect underserved communities.

(b) USES OF FUNDS.—Funds appropriated under this section shall be used to examine, but not be limited to, the following areas—

(1) development of national- and community-level survey studies to measure the incidence and prevalence of violence against women in underserved populations and the definitions women use to describe their experience of violence;

(2) qualitative and quantitative research to understand how factors such as race, ethnicity, socioeconomic status, age, language, disability, and sexual orientation that result in violent crimes against women;

(3) study of the availability and accessibility of State and local legal remedies to victims of intimate partner violence within the context of a same sex intimate relationship;

(4) the use of nonjudicial alternative dispute resolution (such as mediation, negotiation, conciliation, and restorative justice models) in cases where domestic violence is a factor, comparing nonjudicial alternative dispute resolution and traditional judicial methods based upon the quality of representation of the victim, training of mediators or other facilitators, satisfaction of the parties, and outcome of the proceedings, as well as other factors that may be identified; and

(5) other such research as may be determined by the Task Force established under section 1302 in consultation with domestic violence and sexual assault advocates, coalitions, national experts, and researchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,500,000 for each of fiscal years 1999, 2000, and 2001 to carry out this section.

SEC. 1305. STUDY.

The United States Sentencing Commission shall study the following and report to the Congress—

(1) sentences given to persons incarcerated in Federal and State prison for assault or homicide crimes in which the relationship to the victim was a spouse, former spouse, or intimate partner;

(2) the effect of illicit drugs and alcohol on domestic violence and the sentences imposed for offenses involving such illicit drugs and alcohol where domestic violence occurred;

(3) the extent to which acts of domestic violence committed against the defendant, including coercion, may play a role in the commission of an offense;

(4) analysis delineated by race, gender, type of offense, and any other categories that would be useful for understanding the problem; and

(5) recommendations with respect to the offenses described in this section particularly any basis for a downward adjustment in any applicable guidelines determination.

SEC. 1306. STATUS REPORT ON LAWS REGARDING RAPE AND SEXUAL ASSAULT OFFENSES.

(a) STUDY.—The Attorney General, in consultation with national, State, and local domestic violence and sexual assault coalitions and programs, including, nationally recognized experts on sexual assault, such as from the judiciary, the legal profession, psychological associations, and sex offender treatment providers, shall conduct a national study to examine the status of the law with respect to rape and sexual assault offenses and the effectiveness of the implementation of laws in addressing such crimes and protecting their victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required under subsection (a), the Attorney General shall prepare a report, including an analysis of the uniformity of the rape and sexual assault laws including sex offenses committed against children and sex offenses involving penetration of any kind among the States and their effectiveness in prosecuting crimes of rape and sexual assault offenses as follows:

(1) Definitions of rape and sexual assault, including any marital rape exception and any other exception or downgrading of offense.

(2) Element of consent and coercive conduct, including deceit.

(3) Element of physical resistance and affirmative nonconsent as a precondition for conviction.

(4) Element of force, including penetration requirement as aggravating factor and use of coercion.

(5) Evidentiary matters—

(A) inferences—timeliness of complaint under the Model Penal Code;

(B) post traumatic stress disorder (including rape trauma syndrome) relevancy of scope and admissibility;

(C) rape shield laws—in camera evidentiary determinations;

(D) prior bad acts; and

(E) corroboration requirement and cautionary jury instructions.

(6) Existence of special rules for rape and sexual assault offenses.

(7) Use of experts.

(8) Sentencing—

(A) plea bargains;

(B) presentence reports;

(C) recidivism and remorse;

(D) adolescents;

(E) psychological injuries;

(F) gravity of crime and trauma to victim; and

(G) race.

(9) Any personal or professional relationship between the perpetrator and the victim.

(10) Any recommendations of the Attorney General for reforms to foster uniformity among the States in addressing rape and sexual assault offenses in order to protect victims more effectively while safeguarding due process.

(c) DEFINITION.—For purposes of this section, the term "rape and sexual assault offenses" includes carnal knowledge of a child, abduction with intent to defile, indecent liberties, beastiality, forcible sodomy, sexual penetration with an animate or inanimate object, forced sexual intercourse (labia majora penetration or anus penetration), cunnilingus, fellatio, anallingus, anal intercourse, sexual battery, aggravated sexual battery, and sexual abuse, accomplished by use of force, threats, or intimidation.

(d) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to Congress.

(e) AUTHORIZATION OF APPROPRIATION.—It is authorized that $200,000 be appropriated to carry out the study required by this section.

SEC. 1307. RESEARCH CENTERS.

The Attorney General shall establish 3 research centers to support the development of research and training program to focus on violence against women, to provide mechanisms for collaboration between researchers and practitioners, and to provide technical assistance for integrating research into service provision. Each Center shall be organized around a research area such as epidemiology and measurement of violence against women, causes and risk factors, and prevention and intervention evaluation research. At least one of the centers shall be established at an entity other than an academic institution. There are authorized to be appropriated $3,000,000 for each of the fiscal years 1999, 2000, and 2001 to carry out this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, the gentleman from Michigan (Mr. CONYERS) and a Member opposed will each control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in some respects, this may be the most significant amendment to this legislation. It has been worked on by many Members and many organizations, and I urge its consideration, because it would add several important titles to the bill, all designed to combat violence against women.

Mr. Chairman, the amendment provides grants to states for law enforcement and prosecution to combat violence against women and to encourage police departments to initiate pro-arrest policies in domestic violence cases. It provides standards, practices and training for sexual assault examinations in order to assure that the necessary forensic evidence is gathered to prosecute sexual assault cases.

It has a provision designed to protect children from domestic violence and sexual assault, allowing those with legal custody or visitation rights to a child to use as a defense to the charge of parental kidnapping the fact that the child has been subject to domestic violence or sexual assault. In order, however, to maintain this defense, the domestic violence must have previously been reported to law enforcement authorities.

The amendment also provides standards and training for sexual assault examinations, in order to ensure that such examinations are conducted in a uniform and professional manner that best preserves the evidence and to improve recognition of injuries suggestive of sexual assault. The Attorney General is also directed to develop a recommended protocol for these examinations.

The amendment that is before us now includes a section to prevent custodial sexual assault. The problem of custodial sexual assault is an extensive one, well-documented by the Women's Rights Project of Human Rights Watch. Because correctional officers wield near absolute power over female prisoners, officers occasionally abuse that power to assault and abuse female inmates. This amendment requires the Attorney General to establish guidelines for states to initiate programs to prevent such conduct.

In addition, we provide for reducing states' Byrne grant funding if they fail to give full faith and credit to the protections issued by other states. In the 1994 Crime Bill, as part of the original Violence Against Women Act, we enacted a provision requiring states to enforce the protective orders of other states. Notwithstanding, many states still refuse to enforce the protective orders of other states.

What we do in this part of our amendment is put teeth into the original law by advising states that if they fail to enforce protective orders, they will lose money. I think as a result of this section that this problem will rapidly disappear. Once states realize that failure to enforce protective orders has serious financial consequences, I am confident that they will step up their enforcement efforts.

In another effort to prosecute serious domestic violence offenders, this amendment contains a provision to allow the victims of Federal domestic violence to enter the Federal Witness Protection Program, if necessary. In this way, we ensure victims will be willing to testify against those who are the most serious offenders. This is a problem that I have had judges comment on more than once, about people who are afraid to go to court because they are afraid of the consequences that they had been threatened with.

There are other provisions here that include a section providing civilian jurisdiction for sexual assault in domestic violence crimes committed outside of the United States by individuals accompanying the armed services, and another place where we authorize the Attorney General to develop a curricula to train law enforcement officers and prosecutors in recognizing, addressing, investigating and prosecuting elder abuse, negative and exploitation.

Mr. Chairman, finally, the last title of the amendment provides research for prevention, detection and investigation of violence against women, requiring that the United States Sentencing Commission study the sentences given domestic violence defendants and to make recommendations regarding those sentences, if adjustment is necessary.

This title would require the Attorney General to, again, conduct a study to examine the status of the law with respect to rape and sexual assault offenses and the effectiveness of the implementation of existing laws in addressing such crimes and protecting victims. Because the provisions contained in this are all geared to fighting those who prey on women and children, and because this amendment is drawn from the Violence against Women Act, which the gentlewoman from Maryland (Mrs. MORELLA) has done an outstanding job in helping us garner over 100 sponsors for, I urge all Members to support the amendment and vote in favor of the only legislation related to violence against women that will likely come through this 105th Congress.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I do not oppose this amendment. Unless there is another Member in opposition, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. McCOLLUM) is recognized for 30 minutes.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I indicated, I do not plan to oppose the Conyers amendment, but I do have, as the gentleman knows, serious reservations about some of the features in this amendment. I feel the gentleman has worked diligently with my team in the subcommittee to work out some of the problems that they perceived. Others we may need to address down the road in the conference.

First of all, the Republican side of the aisle, our side, has a record on domestic violence and the 1994 Crime Bill's Violence Against Women Act that I think is abundantly clear. We have been highly supportive of many programs that have become crucial resources to battered and abused women throughout the country. By the end of this year, the Republican Congress will have spent nearly $1 billion over four years on the Violence Against Women Program.

The Conyers amendment focuses almost entirely on domestic violence and elder abuse, but contains no provisions pertaining specifically to sexual crimes against children, which is the heart of the underlying bill. While domestic violence and elder abuse are very important issues, to which Congress has responded in numerous ways over the fast fiscal years, H.R. 3494 is focused specifically on sex crimes against children.

Subtitle A of the amendment provides for reauthorization of a 1994 Violence Against Women Act program which provides grants to states for law enforcement and prosecution to combat violence against women. While we support the goals of the grant program and the strong enforcement of the domestic violence laws, the need to reauthorize the program is not imminent. It does not expire until the year 2000. We may want to examine the currently existing program to see if it could be improved upon between now and then.

Title 8 will reduce states' Federal crime fighting funds in the Byrne Grant Program if they fail to enforce protection orders issued by other states, as is currently required by Federal law. While I certainly support the goals of the proposal, I am generally opposed to provisions which further reduce Byrne Grant penalties for failing to do something required by Congress.

Title 181 allows victims of Federal domestic violence to enter into the Federal Witness Protection Program. This program originally was established for witnesses for organized crime prosecutions. No assessment has been made as to the cost and the ability of the program to incorporate this influx of women or families entering into the program.

While I have these concerns that I have expressed about the amendment, as I said earlier, the gentleman from Michigan has been very accommodating when we worked with his staff to bring the amendment to the floor, and, consequently, I will support the amendment in the form it is in today, with the understanding we can work out some of these concerns further in conference, and I believe the gentleman is agreeable to that.

Mr. Chairman, with that in mind, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I am pleased to yield such time as she may consume to the gentlewoman from Michigan (Ms. STABENOW), who has worked at not only the Federal level, but at the state level as a state senator and with national organizations for many years.

Ms. STABENOW. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would first rise to commend the gentleman from Florida (Mr. McCOLLUM) for his leadership on the underlying bill. This is a critical issue in terms of protecting children. Having been involved for the last 20 years in Michigan on the issue of child abuse and neglect, I am very aware of the need for this legislation, and appreciate the gentleman's leadership.

I also rise to support the amendment that adds to what I believe is an important bill and strengthens it to focus on domestic violence. Every 18 seconds in our country, a woman is abused in her home or by someone that she knows very closely, and usually there are children involved in that situation. So this is a family issue. If we wish to stop this cycle of abuse and certain child predators that are familiar to the child, we need to focus on the broad issue of domestic violence.

I am very pleased that the gentleman from Michigan (Mr. CONYERS) has included H.R. 3910 into this amendment, which is legislation that I introduced a month or so ago that focuses on the issue of training. I would just emphasize for a moment that this amendment is important as we take the next step in protecting women and children from domestic violence.

We have on the books around the country now laws that say domestic violence is a crime. We have shelters. I was very pleased in 1979 to lead the effort in Lansing, Michigan, to create one of the first two domestic violence shelters in Michigan. We have the laws on the books; we have the shelters.

However, we do not see the level of enforcement happening evenly across our country because we have not provided the resources to train and support law enforcement officers, to provide them with the tools they need to work in a team, to provide the resources and the equipment that they need, and to be able to allow them to collect data and have the technical assistance to be able to fully utilize the laws that are on the books.

The Conyers amendment is critical in guaranteeing that the resources are available for our judiciary, our prosecutors, our law enforcement agencies, so that the training and the support is there, so that the protections that are now on the books for women and children can be fully utilized.

Mr. Chairman, I believe one of the most basic issues affecting us today in our society is the issue of violence in the home. If we in our communities can band together, if we can provide resources at the Federal level so that our local communities can develop the teams that they need to enforce, to educate, to be involved, to help our victims, and, preferable, to prevent domestic violence before it happens, we will save undue costs, immeasurable costs, in other systems, that we will not have to employ all across the community to pick up the pieces from domestic violence.

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I urge the adoption of the amendment, the inclusion of it as it moves through the process. Again, I commend the sponsor of the underlying amendment and the gentleman from Michigan (Mr. CONYERS) for his foresight in focusing on domestic violence in this important legislation.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding to me, and I thank him also for his leadership as chair of the Subcommittee on Crime of the Committee on the Judiciary, and his willingness to support allowing the Conyers amendment.

I rise in strong support of the Conyers amendment. Again, I want to thank the gentleman from Michigan (Mr. CONYERS) for the yeoman's work he has done championing the fight against domestic violence in all regards.

This is an amendment that has bipartisan support. I also want to thank the gentlewoman from Michigan (Ms. STABENOW) who has always been there, the gentlewoman from New York (Mrs. LOWEY), and a lot of others, the gentlewoman from Washington (Ms. DUNN) who support very strongly what we are doing and can do against domestic violence.

I am very pleased and very excited about this amendment because it adds several critical provisions to the Violence Against Women Act to H.R. 3494, and it strengthens the commitment of this Congress to our Nation's families, protecting women and children from the crimes of domestic violence, child abuse, and sexual assault.

The legislation will also provide, I am assured, funding for victims services. I am pleased the legislation will help train medical personnel in treating victims of domestic violence and sexual assault legislation that I have introduced.

Every year, more than 3 million children are exposed to violence in their homes. Children who witness such violence then often suffer from depression and anxiety. They frequently react in two ways. They either learn aggressive behaviors, or they become passive and indifferent. The result is often school violence, truancy, street crime, drug abuse, teenage pregnancies, and even suicide.

In a national survey of over 6,000 families, 50 percent of the men who assaulted their wives also frequently abused their children. A 1994 Child Welfare League of America report indicated that children from homes where domestic violence occurs are physically abused and/or seriously neglected at a rate 15 times the national average.

The abuse does not always stop at separation and divorce. Sometimes it escalates. Custody litigation or the threat of it becomes another weapon for the batterer. Shared custody, when there is a history of abuse, often sets the stage for continued access to the victim and her children.

Fearing for their own lives and their children's, many battered women flee with their children to family, friends, and shelters, many crossing over State lines. Many live as fugitives. In desperation, these parents defy court visitation and custody orders and, as a result, face prosecution by State and Federal authorities on charges of kidnapping, custodial interference, and/or contempt of court.

Today these protected parents have no defense against these criminal charges. Currently, some States will consider an affirmative defense based on credible evidence of domestic violence or child abuse for women fleeing to protect themselves and their children. But there is no Federal law guaranteeing that defense.

Moreover, such a defense would extend the protections for battered women and their children that already exist under the International Parental Kidnapping Prevention Act.

Mr. Chairman, the Conyers amendment will protect and save the lives of

America's women and children. I urge my colleagues to support it.

Mr. CONYERS. Mr. Chairman, I yield as much time as she may consume to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I thank the author of this amendment, the gentleman from Michigan (Mr. CONYERS), the distinguished ranking minority member on the committee, and I thank the gentleman from Florida (Mr. MCCOLLUM) for their work on this important issue.

I rise in strong support of the Conyers amendment. My colleagues, the Child Protection and Sexual Predator Punishment Act is a good bill. The Conyers amendment will make it even better. Domestic violence strikes every 15 seconds in our Nation. Six million women are battered every year, 4,000 of them battered to death. These figures are absolutely unacceptable. We must ensure that every American household is free from the scourge of violence.

Mr. Chairman, for too long, our Nation turned a blind eye towards domestic violence. Thankfully that has begun to change.

In 1994, this Congress took a significant step forward in the war against domestic violence by passing the Violence Against Women Act. The amendment offered by the distinguished ranking member today will build on this landmark legislation by giving law enforcement additional resources to fight violence against women.

The Conyers amendment, which includes provisions contained in recently introduced Violence Against Women Act II will help protect women and their children by encouraging local communities to initiate pro-arrest policies by educating prosecutors, judges, and medical professions about domestic violence and by shielding victims from further abuse.

It will keep children safe by allowing States to refuse to recognize a custody order from another State if evidence of domestic violence or sexual assault was overlooked in the custody decision. It will improve the way we investigate and prosecute sexual assault cases.

It is my hope, Mr. Chairman, that this House will also pass the other important provisions in the Violence Against Women Act II this year, provisions that would increase resources to battered women's shelters, encourage employers to establish antiviolence protections at work, improve student safety, expand prosecution for hate crimes, and increase domestic violence victims' access to legal services.

Once again, I thank the gentleman from Michigan (Mr. CONYERS) for his leadership on this amendment. I thank my colleague, the gentlewoman from Maryland (Mrs. MORELLA) with whom I have worked on this issue for a very long time, and we have had some very important results. I thank the gentlewoman from Michigan (Ms. STABENOW) and all my colleagues who have been leaders and understand the importance of domestic violence reform.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume for a colloquy with the gentleman from Florida (Mr. MCCOLLUM).

In an effort to satisfy the germaneness concerns in title IV of this amendment, I deleted a reference to victim services and to change a formula for grant distribution.

The long and short of this discussion is that we want to fully encompass all of the program's purposes under the current law, and we are hoping that we can keep this in mind because we had to satisfy the bottleneck requirement of parliamentary germaneness. That is where this discussion goes.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I am pleased to yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I understand the gentleman's concern and agree there was no intent to remove the victims services from the grant program, which is what the gentleman had to do, as I understand it, to get germaneness satisfied. I will be happy to work with the gentleman in the conference to restore the reference to victims services as well as the original grant distribution formula. I am more than happy to do that.

Mr. CONYERS. I thank the gentleman from Florida.

Mr. MCCOLLUM. I am sorry it did not meet the germaneness requirement.

Mr. CONYERS. Mr. Chairman, how much time remains on our side?

The CHAIRMAN pro tempore (Mr. CHAMBLISS). The gentleman from Michigan (Mr. CONYERS) has 15½ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding to me. I especially thank him for his leadership. I can do that with respect to at least some of the bills in his package for the entire Women's Caucus because the Women's Caucus has agreed that Title I in the reauthorizations of a Violence Against Women Act should all be enacted, and two of the gentleman's provisions come from Title I.

I want this body to know, therefore, that the women of the House do want, especially these two provisions, to be enacted. One is subtitle A for law enforcement and prosecution grants to States to strengthen law enforcement and prosecution strategies to combat violent crimes against women. The other are grants to encourage arrest policies.

We cannot say enough about the need to encourage and implement arrests when, in fact, we know that, in very many of these cases, that is really the only strategy to prevent violence against women and children.

Beyond these two sections of the gentleman's amendment are a number that I personally support, and I believe the great majority of the women in the House support, but are not on our list of bills.

We have already met with the minority leader because the Women's Caucus has seven must-pass bills this year that we have overwhelming support in our caucus for. We believe since we are a strongly and rigorously bipartisan caucus that we have support, therefore, in the entire House. I have indicated what the two provisions are from the amendment of the gentleman from Michigan (Mr. CONYERS).

Let me say for myself and for so many other Members that his provision from title 6 limiting the effects of violence on children is so important. Perhaps Members saw the piece that was on national television this week about an underground that seeks to take children who are or have been abducted or have been sexually abused. This provision would free a custodial parent from a kidnapping or child abduction charge if that parent, of course, has custody.

I must say the gentleman has chosen carefully the provisions of his amendment. It is difficult for me to believe that there is any Member of this House who would oppose any of his amendments, and I think only a few dollars here and there stand between him and this entire amendment.

I compliment the gentleman for saying he does not oppose the gentleman's amendments. Some of them should be slam dunk. Taking 10 percent of a State's Byrne grant when it fails to support the protective order of another State is absolutely essential as one more example of why this bill is, for all intents and purposes, a motherhood bill. I appreciate the gentleman for bringing it forward.

Mr. CONYERS. Mr. Chairman, I am delighted to yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in support of the Conyers amendment which seeks to combat the frightening realities of domestic violence. Domestic violence robs its victims of their health, their dignity, and their personal safety.

We speak so often in this chamber about the importance of keeping our families safe and healthy. I believe that, as well as protecting our families from the dangers of the outside world, we must also protect them from the violence which may occur inside the home.

The Conyers amendment continues the efforts begun by the landmark Violence Against Women Act of 1994, and I urge my colleagues to vote in favor of it.

Mr. CONYERS. Mr. Chairman, I am delighted to yield 4 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary who has given yeoman service in this area.

Ms. JACKSON-LEE of Texas. Mr. Chairman, the gentleman from Michigan (Mr. CONYERS) has been more than persistent and dedicated on this issue and with the joint cooperation, collaboration, and help of the gentleman from Florida (Mr. McCOLLUM).

It is very vital that I rise to the floor of the House to support the Conyers amendment. But when I say vital, it is vital for the survival and continuity of the Violence Against Women Act, which is part of that act for 1998. But we now have the opportunity to move this forward.

I think it is keenly important to emphasize what your purpose was and why it is so important to move this aspect of the legislation to be part of H.R. 3494.

First of all, it deals with the assistance to local law enforcement and Federal law enforcement who are overwhelmed. They tell you they are overwhelmed with these insidious crimes. Of course we would like to be able to say that we have extinguished these violence acts against women, that there is a recognition there that this will not be tolerated, but, tragically, that is not the case.

□ 1515

So the gentleman provides assistance to law enforcement agencies, important research. Many times we believe that a crime is only finding the perpetrator, locking that person up. Crime has a lot to do with researching how best to implement the laws, how best to stop the crime from happening.

The Violence Against Women Act deals with violent acts against women, and I am here to say that, unfortunately, those acts have not stopped. In fact, they are increasing or still existing. Whether it is a domestic violence question, whether it is date rape, whether it is another altercation, these kinds of tragedies still occur. I think this is an appropriate vehicle for which we can implement these particular aspects that are so very important.

It is well that the gentleman has included the limits on violence on children, and one thing that we do not talk a lot about, and that is elderly abuse. It is a silent, if you will, action, where maybe the person who is taking care of the elderly person is under stress, maybe it is a sickly elderly person that has been sick, and that brings about, in someone's mind and heart, frustration.

We know doctors have documented the extensive amount of violence against the elderly, sometimes in nursing homes. This is not a blanket indictment of nursing homes. Sometimes it is personally in homes. I have read stories where they have taken the older child into custody because, out of frustration, they have done something. They have abused, whether it is physical abuse or actually mental abuse, they have abused that elderly person. This deals with elderly abuse, and I think it is so very important.

Prevention of custodial sexual assault by correctional staff, which includes the concerns that we have with sexual misconduct in the custody of correctional staff.

Full faith and credit for protective orders. We are very gratified that we live in the United States of America, and we hold very sacred the sovereign rights of States. In fact, this Congress has many times risen to affirm States' rights. But I tell the Members, States' rights is not adequate to ensure that Illinois laws to protect women, children, and the elderly, are as well respected, particular orders, by New York or California or my own State of Texas. So the full faith and credit for protective orders are key, as well.

The Federal witness protection program for victims of domestic violence. Many times we will hear stories of women, such as in my own Houston area women's center, that works so hard with women who have been involved in domestic violence. Most women leave in the dark of night, or leave when the spouse is away, frightened for themselves. This provides protection for them, sending them off into witness protection programs, so the perpetrator can come to his own justice without the future intimidation of going after that woman and her children.

I believe, Mr. Chairman, this is a valid amendment, and I would simply ask that we quickly pass this, and thank the gentleman from Michigan (Mr. CONYERS) for his leadership, and thank the gentleman from Florida (Mr. McCOLLUM) as well for his leadership.

Mr. CONYERS. Mr. Chairman, I am pleased to yield such time as he may consume the gentleman from Massachusetts (Mr. DELAHUNT), a former prosecutor with a great deal of experience in this area and a member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Chairman, let me begin by congratulating and acknowledging the work of the gentleman from Florida (Mr. McCOLLUM), chairman of the Subcommittee on Crime; the gentlewoman from Maryland (Mrs. MORELLA), whose work in this area is well known nationally; of course, my friend, the ranking member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS); and also a colleague of mine, a new Member, but clearly someone who understands that the issue of domestic violence and the necessity for training in terms of police officers, the courts, the probation service, and the community at large is essential if we are going to continue to deal with the issue of domestic violence in America. That is the gentlewoman from Michigan (Ms. STABENOW).

The ranking member made reference to the fact that, in my former life for more than two decades, I was a prosecutor. I am proud to say that back in 1978 I initiated the first domestic violence unit in the United States. It was not simply out of a concern for women, nor for their children. It was because of a recognition that this is not simply a woman's issue. It is far more. It talks and speaks to what we are about as a community and what we are about as a Nation.

For far too long we have ignored the fact that women and their children were the victims of violence behind closed doors. But it did not stop there. When I initiated that effort back in the mid-1970s, it was because I happened to have within my jurisdiction, as district attorney in the greater Boston area, the maximum security prison in the Commonwealth of Massachusetts.

It became very clear to me quickly that if we were ever going to do anything serious about crime, not just in Massachusetts but in this Nation, we had to address the issue of the violent family, because believe me, violence is a learned behavior.

As a result of that responsibility, of investigating and prosecuting crimes within that institution, I became very familiar with the social history of the inmates that resided in that institution, all male. In excess of 95 percent of the men that were incarcerated in that institution were the legacy of the violent family. They were either the victims of violence or they were witnesses to it.

They learned at home that violence was the norm and it was acceptable. But their conduct did not stop at the threshold of the house, it went into the community. They were not there, incarcerated for crimes of domestic violence, they were there for the whole range of crimes, from drug trafficking to armed robbery to housebreaks to rape against strangers. They had learned violence and carried it into our communities.

Domestic violence is the breeding ground, if you will, for all categories of crime. So the most important crime initiative that we as a Congress can ever, ever institute is to deal with that issue, and that is being done today. That is being done on the floor of this House by these men and women who recognize that particular fact.

I congratulate them, and I urge passage.

Mr. CONYERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not consume much time. I simply want to conclude the debate on the amendment by again reiterating that this side supports the amendment offered by the gentleman from Michigan (Mr. CONYERS). We have supported legislation many times over the years that is designed to help the situation with violence against women, including the Violence Again Women Act.

While there are some technical matters we still have to work out in conference, the gentleman from Michigan (Mr. CONYERS), myself, and others, when this bill goes with the other body, the amendment in its present form is one that I do support to get it there. I think it does contain the germ of improving this current status, and it has some really good ideas in it, so I urge its adoption.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to House Resolution 465, proceedings will now resume on amendment No. 9 offered by the gentleman from California (Mr. SHERMAN) on which further proceedings were postponed.

AMENDMENT NO. 9 OFFERED BY MR. SHERMAN

The CHAIRMAN pro tempore. The pending business is a demand for a recorded vote on the amendment offered by the gentleman from California (Mr. SHERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 175, not voting 11, as follows:

[Roll No. 229]

AYES—247

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (NE)
Bartlett
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bono
Borski
Boswell
Brady (TX)
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Calvert
Camp
Campbell
Cannon
Capps
Carson
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clyburn
Condit
Cook
Costello
Cox
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
DeFazio
Diaz-Balart
Dickey
Doggett
Doolittle
Doyle
Dreier
Emerson
Engel
English
Ensign
Etheridge
Evans
Fawell
Fazio
Filner
Forbes
Ford
Fossella
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Green
Gutierrez
Hall (TX)
Hansen
Harman
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kleczka
Klink
Kucinich
LaFalce
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (KY)
Lipinski
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Metcalf
Minge
Moran (KS)
Morella
Nadler
Neal
Neumann
Ney
Nussle
Oberstar
Olver
Ortiz
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Serrano
Sherman
Shimkus
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snowbarger
Solomon
Souder
Spratt
Stearns
Stenholm
Strickland
Sununu
Talent
Taylor (MS)
Taylor (NC)
Thune
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wise
Woolsey
Wynn
Yates
Young (AK)
Hastings (FL)
Hastings (WA)
Hefner
Hobson
Houghton
Hunter
Hutchinson
Hyde
Jackson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kilpatrick
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Lee
Lewis (CA)
Linder
Livingston
Lofgren
Matsui
McCollum
McCrery
McDade
McDermott
McIntosh
McKinney
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Mollohan
Moran (VA)
Murtha
Myrick
Nethercutt
Northup
Norwood
Obey
Owens
Oxley
Paul
Pelosi
Pickett
Pitts
Pombo
Porter
Portman
Rahall
Rangel
Regula
Riggs
Rogers
Rohrabacher
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Smith (OR)
Smith (TX)
Smith, Linda
Snyder
Spence
Stabenow
Stark
Stokes
Stump
Stupak
Tanner
Tauscher
Tauzin
Thomas
Thompson
Thornberry
Thurman
Vento
Visclosky
Waters
Watt (NC)
Wexler
White
Wolf
Young (FL)

NOES—175

Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (WI)
Barton
Bass
Bateman
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Boucher
Boyd
Brady (PA)
Brown (FL)
Burr
Buyer
Callahan
Canady
Cardin
Castle
Clay
Clement
Coble
Coburn
Collins
Combest
Conyers
Cooksey
Coyne
Cramer
Crane
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Dicks
Dingell
Dixon
Dooley
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Eshoo
Everett
Ewing
Fattah
Foley
Fowler
Frank (MA)
Gekas
Gilchrest
Gillmor
Goss
Granger
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hastert

NOT VOTING—11

Becerra
Berman
Farr
Gonzalez
Hilliard
Inglis
Lewis (GA)
Moakley
Parker
Paxon
Shays

□ 1611

Ms. MILLENDER-McDONALD and Mr. COYNE changed their vote from "aye" to "no."

Messrs. HORN, METCALF, BRYANT, RADANOVICH, HALL of Texas, Mrs. CHENOWETH, and Messrs. GOODE, WATKINS, LEWIS of Kentucky, McHUGH, STRICKLAND, YOUNG of Alaska, WHITFIELD, GUTIERREZ, STENHOLM, TALENT, REDMOND, CRAPO, MASCARA, JONES, McNULTY, TAYLOR of North Carolina, SKELTON, POSHARD, COSTELLO, SOLOMON, NEUMANN, LIPINSKI, KILDEE, ENSIGN, OBERSTAR, DAN SCHAEFER of Colorado, RILEY, POMEROY, CHABOT, HILL, COX of California, HERGER, WYNN, PETERSON of Pennsylvania, ROEMER, Ms. DANNER, and Messrs. SHIMKUS, LEVIN, QUINN, Ms. SLAUGHTER, and Messrs. WALSH, GIBBONS, KLECZKA, EVANS, Ms. SANCHEZ, Mrs. KELLY, and Messrs. FRELINGHUYSEN, PETRI, RODRIGUEZ, MANZULLO, Ms. McCARTHY of Missouri, Mr. DOGGETT, Ms. WOOLSEY, and Messrs. NEY, TURNER, HINOJOSA, COOK, SKEEN, TOWNS, BENTSEN, CLYBURN, PASCRELL, SMITH of New Jersey, HANSEN, SERRANO, BALDACCI, WEYGAND, Mrs. MALONEY of New York, Mr. McINNIS, Mr. ALLEN, Mrs. McCARTHY of New York, Mr. WICKER, Ms. CARSON, and Messrs. WATTS of Oklahoma, LATHAM, McGOVERN, NUSSLE, Ms. VELÁZQUEZ, Ms. PRYCE of Ohio, and Messrs. CHAMBLISS, GORDON, DICKEY, YATES, MANTON, ENGLISH of Pennsylvania, SAXTON, JOHNSON of Wisconsin, TRAFICANT, Mrs. LOWEY, and Messrs. KUCINICH, REYES, FORD, PAYNE, KIM, MARTINEZ, NEAL of Massachusetts, MARKEY, ISTOOK, BERRY, OLVER, JENKINS, Ms. RIVERS, and Messrs. SMITH of Michigan, RAMSTAD, CALVERT, BARTLETT of Maryland, CUNNINGHAM, PRICE of North Carolina, ETHERIDGE, Ms. FURSE, Mrs. CLAYTON, and Messrs. SUNUNU, BURTON of Indiana, HOSTETTLER, MEEHAN, UPTON, PETERSON of Minnesota, Mrs. CAPPS, and Messrs. PACKARD, BARCIA, WAMP, CHRISTENSEN, GRAHAM, ABERCROMBIE, BARRETT of Nebraska, DREIER, BUNNING, Ms. JACKSON-LEE of Texas, and Messrs. FOSSELLA, GOODLING, HOYER, BROWN of Ohio, HOEKSTRA, RYUN, BISHOP, CAMP, GANSKE, Mrs. CUBIN, and Messrs. JOHN, HULSHOF, GOODLATTE, TIERNEY, WELDON of Pennsylvania, TIAHRT, SAWYER, WISE, CUMMINGS, LUCAS of Oklahoma, PEASE, and Mrs. BONO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. Chambliss). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LaTourette) having assumed the chair, Mr. Chambliss, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes, pursuant to House Resolution 465, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. JACKSON-LEE of Texas. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. Jackson-Lee of Texas moves to recommit the bill H.R. 3494 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Add at the end the following:

TITLE V—LIMITING AVAILABILITY OF PORNOGRAPHY ON COMPUTERS

SEC. 501. LIMITING AVAILABILITY OF PORNOGRAPHY ON COMPUTERS.

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Federal Bureau of Investigation and the Attorney General shall begin a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to this problem.

(b) Contents of Study.—The study shall address the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(5) Policy and criminal law and law enforcement options for promoting the deployment of such control technologies and the costs and benefits of such options.

(6) The possible constitutional limitations or constraints with respect to any of the matters described in paragraphs (1) through (5).

(c) Final Report.—Not later than 2 years after the date of the enactment of this section, the Federal Bureau of Investigation shall make a final report of the results of the study to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate. The final report of the study shall set forth the findings, conclusions, and recommendations of the Council and shall be submitted to relevant Government agencies and congressional committees.

Ms. JACKSON-LEE of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

□ 1615

The SPEAKER pro tempore (Mr. LaTourette). The gentlewoman from Texas is recognized for 5 minutes in support of her motion to recommit.

Ms. JACKSON-LEE of Texas. Mr. Speaker, during the debate of this legislation we have found that there are many ways of our children being attacked by pornographic images. The motion to recommit instructs the Federal Bureau of Investigation and the Attorney General to begin a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to this problem. Mr. Speaker, I would like to thank the gentleman from Florida (Mr. McCollum) and the gentleman from Michigan (Mr. Conyers) for their leadership on this issue.

Finally, this motion would address the capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images and our ability to impose technological restrictions on the access of these images by children. It will also address research needed to develop a computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images. Our children should have continuous access to the Internet, but they should not have to be subjected to pornographic images.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. Conyers) and thank him for his leadership.

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman from Texas (Ms. Jackson-Lee) and I merely want to say that this is one of the most important issues that we have in dealing with children. Pornography on the Internet is a very serious problem, and I urge that the gentlewoman's motion be agreed to.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Michigan very much again for his leadership.

Mr. Speaker, I yield to the gentleman from Florida (Mr. McCollum) chairman of the Subcommittee on Crime of the House Committee on the Judiciary.

Mr. McCOLLUM. Mr. Speaker, this is an amendment that is being adopted, and I hope it will be in this motion to recommit that really was technically flawed and was not permitted under the rule because of the germaneness problem. The gentlewoman has corrected it. It is a study that we really would like to do, something I have embraced and support the gentlewoman on.

So I urge a yes vote on the motion to recommit and thank the gentlewoman from Texas (Ms. Jackson-Lee) for it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. Does any Member seek time in opposition to the motion to recommit?

If not, without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. McCOLLUM. Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report the bill, H.R. 3494, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

Add at the end the following:

TITLE V—LIMITING AVAILABILITY OF PORNOGRAPHY ON COMPUTERS

SEC. 501. LIMITING AVAILABILITY OF PORNOGRAPHY ON COMPUTERS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Federal Bureau of Investigation and the Attorney General shall begin a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to this problem.

(b) CONTENTS OF STUDY.—The study shall address the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(5) Policy and criminal law and law enforcement options for promoting the deployment of such control technologies and the costs and benefits of such options.

(6) The possible constitutional limitations or constraints with respect to any of the matters described in paragraphs (1) through (5).

(c) FINAL REPORT.—Not later than 2 years after the date of the enactment of this section, the Federal Bureau of Investigation shall make a final report of the results of the study to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate. The final report of the study shall set forth the findings, conclusions, and recommendations of the Council and shall be submitted to relevant Government agencies and congressional committees.

Mr. McCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were— yeas 416, nays 0, answered "present" 1, not voting 16, as follows:

[Roll No. 230]

YEAS—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
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Frank (MA)
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Johnson, E. B.
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Lewis (CA)
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Lipinski
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Maloney (CT)
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Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
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McKeon
McKinney
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Meek (FL)
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Mica
Millender-McDonald
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Northup
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Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
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Petri
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Pomeroy
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Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
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Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
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Strickland
Stump
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Taylor (MS)
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Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
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Watt (NC)
Watts (OK)
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Weldon (FL)
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White
Whitfield
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Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Paul

NOT VOTING—16

Becerra
Berman
Farr
Gillmor
Gonzalez
Hilliard
Hutchinson
Inglis
Johnson, Sam
Lewis (GA)
Meeks (NY)
Moakley
Parker
Paxon
Shays
Smith, Adam

☐ 1637

Mr. DELAHUNT changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3494, CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3494, the Clerk be authorized to correct section numbers, cross-references, tables of contents, and punctuation, and to make such other stylistic, clerical, technical, conforming, and other changes as may be necessary in reflecting the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3494.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2497

Mr. BARCIA. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2497.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3396

Mr. REYES. Mr. Speaker, I ask unanimous consent that my name be deleted as a cosponsor of H.R. 3396, the Citizens Protection Act of 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONDEMNING THE BRUTAL KILLING OF MR. JAMES BYRD, JR.

Ms. WATERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Resolution 466, condemning the brutal killing of Mr. James Byrd, Jr., and ask for its immediate consideration in the House; that debate on the resolution continue not to exceed 20 minutes, equally divided and controlled by the gentlewoman from Kentucky (Mrs. NORTHUP) and myself; and that the previous question be considered as ordered on the resolution to final adoption without intervening motion or demand for a division of the question.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California (Ms. WATERS)?

There was no objection.

The text of House Resolution 466 is as follows:

H. RES. 466

Resolved,

SECTION 1. FINDINGS.

The House of Representatives finds as follows:

(1) Mr. James Byrd, Jr., a 49-year-old disabled African American male from Jasper County, East Texas, was last seen walking home from a niece's bridal shower on June 6, 1998, and allegedly was offered a ride by 3 young white men, who then proceeded to physically and mercilessly beat Mr. Byrd in Jasper, Texas, then chained him to the back of a pickup truck and dragged him until the torso of his body was torn to pieces.

(2) Mr. James Byrd, Jr.'s body was found Sunday, June 7, 1998, on a bumpy, winding country road about 10 miles from his Jasper home, at the end of a trail of blood along a 2-mile stretch of road with his head, neck, and right arm severed.

(3) Mr. Byrd was so brutally disfigured that his head and torso were completely severed, with his head, neck, and right arm found about a mile away, and only finger prints could be used to identify him.

(4) Mr. Lawrence Russell Brewer, 31, of Sulphur Springs, Texas and Mr. Shawn Allen Berry, 23, and Mr. John William King, 23, of Jasper, Texas, all of whom have past criminal records and have served time in prison or were on probation, have been charged with murder and are being held without bail.

(5) The police released an affidavit of probable cause in which Mr. Berry said they had been out drinking and picked up Mr. Byrd as he walked down Martin Luther King Drive in Jasper early Sunday.

(6) Mr. Berry said that he stopped at a convenience store, but Mr. King was angry that he was giving a ride to a black man, so he took over at the steering wheel and drove to a remote area 7 miles outside of town, where they killed Mr. Byrd.

(7) The 3 men were known to be members of various hate groups, including the Ku Klux Klan and the Aryan Brotherhood.

(8) This was not a random act of violence, but a senseless, hate-filled crime.

(9) The Federal Bureau of Investigation also is investigating to see if the 3 could be charged with violating Mr. Byrd's Federal civil rights.

(10) One of the suspects allegedly said that they wanted to "start the Turner Diaries early," referring to a novel about race war that is popular reading among some hate groups and white supremacists.

(11) This incident is reminiscent of the brutal slayings that occurred at the turn of the century and in the 1920s and 1930s, with brutal hangings which brought the National Association for the Advancement of Colored People into existence and contributed to its growth in its early days.

(12) This and similar incidents threaten the peaceful coexistence, security, and foundation of all communities.

SEC. 2. CONDEMNING THE KILLING OF JAMES BYRD, JR.

The House of Representatives—

(1) condemns the actions which occurred in Jasper, Texas as unacceptable and outrageous, to be condemned by all people of all races, creeds, and religions;

(2) pledges to do everything in its power, including holding public hearings, to probe the underlying causes of this brutal killing and to make sure that the United States does not return to the days when such hatred, brutality, violence, hangings, and murder were deemed acceptable;

(3) calls on the Federal Bureau of Investigation, the Department of Justice, the White House, and all other Federal law enforcement agencies to conduct an immediate, full, and fair investigation into all of the facts of the case to aggressively respond to this tragedy with indictments, and urges the prosecution to proceed aggressively with a fair but speedy trial;

(4) calls upon each Member of Congress and every citizen of the United States, in his or her own way, through his or her church, synagogue, mosque, workplace, or social organization, to join in denouncing and getting others to denounce this outrageous murder of another human being; and

(5) pledges to join in efforts to bring an end to racism and an end to the fear and hatred which underlie it, and to encourage all Americans to dedicate themselves to ending racism and violence in the United States.

The SPEAKER pro tempore. Pursuant to the unanimous consent request, the gentlewoman from California (Ms. WATERS) will be recognized for 10 minutes and the gentlewoman from Kentucky (Mrs. NORTHUP) will be recognized for 10 minutes.

Ms. WATERS. Mr. Speaker, I ask unanimous consent that the gentlewoman from Kentucky (Mrs. NORTHUP) and I be permitted to add the names of any Members desiring to be original cosponsors by the end of business today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. NORTHUP. Mr. Speaker, I ask unanimous consent that the following Members be considered as original cosponsors of the resolution: Messrs. GINGRICH, ARMEY, HASTERT, BOEHNER, LINDER, WATTS of Oklahoma, GEPHARDT, BONIOR and FAZIO of California, Ms. DUNN, Ms. PRYCE of Ohio and Mrs. KENNELLY.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from California (Ms. WATERS) is recognized for 10 minutes.

Ms. WATERS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, today the Congressional Black Caucus members and our colleagues on both sides of the aisle join with many other citizens of this country in sending our heartfelt condolences to the family of James Byrd, Jr. We, too, are pained by this senseless and racist killing. We are outraged that three young white men with ties to white supremacist hate groups apparently believed that Mr. Byrd's life had no value, simply because he was black.

These men, who allegedly offered Mr. Byrd a ride home, beat him, chained him to the back of a pickup truck and dragged him until his body was torn to pieces. Mr. Byrd's head, arm and neck were severed and strewn along a two mile stretch of country road about 10 miles from his home in Jasper, Texas.

This is a hate crime, pure and simple, that is what it is, and it should be charged as one.

Each and every Member of this body should join the Congressional Black Caucus on this House resolution to condemn the murder as unacceptable and outrageous and to pledge to do everything in his or her power to probe the underlying causes of this brutal killing, to make sure that the United States does not return to the days when such hatred, brutality, violence, hangings and murder are deemed acceptable.

Mrs. NORTHUP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also welcome this opportunity, however it is a very, very sad time for this country in light of the very brutal slaying of James Byrd. It is important and it is appropriate that this House pass this resolution and state emphatically how important it is that we resolve the racial separation that exists in this country today.

Officially we have to protect everybody's civil rights, and we know that this resolution requests that we do that. But, far beyond the legal responsibilities of protecting civil rights, we have to put the prestige and the leadership of this Congress forward and say that it collectively represents our personal sense of outrage.

□ 1645

This goes way beyond our outrage at the violation of Mr. Byrd's legal civil rights. Racial hatred is wrong. It is wrong in actions, it is wrong in the mind, and it is wrong in the heart.

While the legal system will attack the actions, we have to, through our message, say that racial hate is wrong in our heart and in our mind. Every one of us and every American has to say in every way they can I love you, I accept you, and I want to reach out to you.

We in this country of every race and especially to those that are most vulnerable and in the minority have to say every way possible that we want to share our lives, we want to share our neighborhoods, we want to share our schools, we want to share our families.

In every way possible, we have to reach across whatever divides us. This means every American. This means every neighborhood. This means every economic group. In the end, this country will rise or fall as one. We will be part of the same community, the same neighborhood, and the same great country.

I believe in this country, Mr. Speaker. I believe in my friends on this floor. I believe in our communities. I believe if we all use this occasion to reach down as deep as possible and find as many ways as possible to reach across the divisions we share and resolve to close those gaps, to open those discussions, and to unite our hearts and minds, that we will make a difference, and that James Byrd's very brutal and outrageous killing will not be in vain.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, we are indebted to the gentlewoman from California (Ms. WATERS) and the gentlewoman from Kentucky (Mrs. NORTHUP) for bringing us together on this resolution. I join it.

I also would like to mention that, out of a discussion with the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), there is an agreement that we will hold hearings very shortly on the measure, House Resolution 3081, which would make this a Federal criminal offense.

Ironically, these kinds of civil rights violations are not violations unless they occurred on Federal property or unless they are connected to voter rights or civil rights activity. So it is with pleasure that, out of this tragedy, it can bring us forward and move us, move us forward, because every hate crime is an offense against the most basic values of the American system.

Mrs. NORTHUP. Mr. Speaker, may I ask how much time is remaining?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentlewoman from Kentucky (Mrs. NORTHUP) has 7 minutes remaining. The gentlewoman from California (Ms. WATERS) has 7½ minutes remaining.

Mrs. NORTHUP. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, words are very inadequate to encompass the dimensions of this tragic event. Everybody is shocked by it. It is a tragedy of immense proportions. It is right that the gentlewoman from California (Ms. WATERS) and her colleagues bring this resolution to the floor. Attention has to be paid to these acts of inhumanity.

It is my strong feeling that the problems of racism will never be solved without a spiritual component until people realize we do share a common humanity. We are made in the image and likeness of our creator, and we are, indeed, brothers and sisters in the most profound way, not in the superficial way.

These events have to shock the conscience of the country. When they stop shocking us, then we have lost some sensitivity and some of our humanity. So let us not forget that these things happen. They happen today. They happen in our country. Let us not look away. Let us not avert our eyes. Let us focus, let us try to find out what crazy, irrational impulses cause this. Let us try to root them out. Let us, again, take a renewed look at each other and try to find the things that we share in common and remember we are children of God.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, this week, we have been revisited by an ugly period in the life of our country. We know that we have had this in the past, and most of us thought it was a thing of the past. I know that it can happen. It happened in Jasper.

My sympathy goes out to the families, to that community, to my colleague who has stood up and been on target with the family and his district. It is clear that we cannot allow this kind of incident to go unnoticed. It is time for us to talk about it, educate each other, to alert all of America that this kind of act will not be accepted in this country.

It is clear that this community should not be singled out as a community that perpetuates this kind of attitude. This is not that kind of community. But it is an alertness to this entire Nation that the time is here, that we must address this type of dastardly act.

Mrs. NORTHUP. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Speaker, I appreciate the gentlewoman from Kentucky yielding me this time. I can tell you obviously this is tragic. It shocked everybody that has heard about it. I am not one of those kind of people that have a lot of forgiveness in my heart. I cannot forgive them. I tell you, in my opinion, this is an example of death. That is why I support the death penalty. This is inexcusable what those people did.

But I also want to point out to our colleagues this is horrible, it has got to stop, but it is not the only thing that has occurred in this last week. In Albuquerque, New Mexico last week, a couple days before this, did not get this kind of attention, we had a policewoman shot and killed. We had a border patrolman shot and killed last week in the State of Texas.

In my district, I am in the Four Corners, so actually within a mile or two of my district as well, we had methodically, in four separate incidents, two people, three people, one of them is now dead, shoot methodically four separate police officers. They are still on the loose.

The fact is we have some very, and I hate to use the word "sick", because I am afraid the defense attorney will pick up my utilization of the word "sick" on the congressional floor and have it assist in the defense of insanity or something, but we have some very different individuals out there.

In my opinion, the way to stop this, we can have lots of hearings, but until we have punishment that really means something in this country, we are not going to stop these kind of outrageous crimes.

I commend the gentlewoman from California for standing up and bringing this resolution forward. Obviously the merits are very substantial. I pass my sympathies on to the family.

But I do want to say to all of my colleagues this is not an isolated incident. We do have problems with race out there we have also got to overcome. We also have other problems out there with crime, like shooting cops and some of the other shooting incidents. We need to stand up and stop talking about all this forgiveness and punish these people for what they are doing. That will stop them.

Ms. WATERS. Mr. Speaker, I yield as much time as he may consume to the gentleman from Missouri (Mr. GEPHARDT), our minority leader.

Mr. GEPHARDT. Mr. Speaker, I rise with my colleagues to condemn this senseless, horrible, dastardly act of violence based on racial hatred. I personally want to extend the prayers and thoughts of all of us and our families to the family of James Byrd. They are in our hearts, in our prayers, in our minds at this time of overwhelming sadness and sorrow.

This death brings to mind the worst chapter in our Nation's history, when violent racial intolerance was practiced regularly in our land.

While it is the Byrd family that will bear the greatest burden in this tragedy, every one of us in America, every person is diminished by this act of violence.

I would simply ask our entire Nation that we all reach out and embrace this family as part of our American family and somehow help them heal the wounds that have been opened by this act of violence. I hope that some way we can work together so that this will not happen again to someone else in Texas or in Missouri or some other State in our union.

This is a shameful act. It is a dastardly act. It must not happen again. I thought, and I believe you thought, that we had ended this era. It has not ended. It must end. It must end.

Our prayers and thoughts, our belief, our compassion is with the family of James Byrd.

Mrs. NORTHUP. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to thank the chairperson of the Congressional Black Caucus for her leadership, and I thank the gentlewoman from Kentucky for her kindness in yielding me this time.

I think we are well aware that each Member who has come to the floor has not been in a shrieking voice. We have been in a strong voice. We have been demanding, but we have not been shrieking.

The reason is because what has happened to Mr. Byrd and his family is so very overwhelming that it takes almost a calmness to appreciate it and understand it.

This was a physically challenged individual, someone who was leaving a celebration by the family, walking home in a quiet, rural area of Texas; and, tragically, people like Lawrence Brewer and Shawn Berry and John King thought that they would have some fun and disregard his human dignity and drag him through the streets of Jasper, Texas, not reflecting upon those citizens, as my colleague and representative of that area has already said and will say, the gentleman from Texas (Mr. TURNER), but yet bringing to that community something that they will never, never forget.

A question was asked earlier today: What do you think about this happening in Texas? I simply said that Texas is not a poster child for hatred. This happens all over the Nation. That is why it is so very important that this resolution be confirmed, if you will, affirmed by the entire body of the United States Congress.

I would ask the Attorney General to establish a task force that is ongoing on investigating hate crimes across this Nation on why these kinds of incidences continuously occur.

Lastly, I would ask, as was asked in this particular resolution, that, as we go to our respective houses of worship this weekend wherever we may be, we should denounce what happened, but we should also pray. We should also ask that this cancer be removed from the soul of America. We can not go into the 21st Century if we are to take this cancer with us.

My sympathy to the family of Mr. Byrd. We should vote for this resolution.

Mr. Speaker, I rise today to give my full heart felt support for this powerful resolution from the members of the Congressional Black Caucus and the Texas Delegation as we all stand united in our horror as the gruesome reports about the brutal slaying of Mr. James Byrd in Jasper, Texas this weekend, have been diligently uncovered. I surely do not intend to sound callous, but as we all know, people in this country die every day. Some people die peacefully, some painfully, some die quickly, while others die patiently, but I can say without any reservation, that only a handful of people to have ever lived, died as savagely as James Byrd, Jr. did on a muggy Saturday night in Jasper, Texas this weekend.

Mr. Byrd, a physically challenged African-American man of 49 years old was discovered by his three Caucasian murderers because he was minding his own business; I guess they felt outdone because he dared to walk home in their presence after leaving the celebration of his niece's bridal shower. Little did James know that this would be the last walk he would ever take in his life. These three savage butchers, Mr. Lawrence Brewer, Mr. Shawn Berry, and Mr. John King, took it upon themselves to mercilessly and relentlessly beat James Byrd until he reached the door of death, but somehow, even as they proudly stood over his convulsing carcass, their unquenchable blood lust was still not satisfied. So after taking a brief moment to decide what other pleasures they could derive from torturing James Byrd's shivering body, his murderers decided to take him on a "ride".

After making sure to thoroughly finish their vicious beating of a defenseless man, these three social and moral deviants proceeded to chain James Byrd's bloody and broken body to the back of their pick-up truck, and just drive away. For two miles, 3,500 yards, 11,000 feet, James Byrd's body was ripped and battered against the hard terrain of that East Texas country road, for two miles, for two miles, for two miles. The "ride" was so remarkably brutal that not only was James Byrd's body disfigured beyond recognition when found, but different parts of his body, like his head and arm, were found littered in a trail of blood stretching two miles long.

My first request is that the President of the United States order the Attorney General, Janet Reno, and the Director of the Federal Bureau of Investigation, Louis Freeh, to take swift and decisive action in this matter. The President, as a man I know to be genuinely concerned about the state of race relations in America today, has found a sad and disheartening answer to his nationwide inquiries about race in the broken, bloody and disfigured body of James Byrd. Mr. President, let's not allow James Byrd to have suffered and died in vain.

Secondly, I hope that those of my colleagues who can legitimately appreciate the brutality of this inhumane act will not casually discount this slaying as an uncharacteristic, once-in-a-lifetime manifestation of bitter racial hatred. Hopefully, they will see it for what it is, merely the tip of the iceberg. Much like the scorching lava that steadily boils from under the surface of the earth, so do the fires of racial prejudice and hatred burn in the hearts of thousands upon thousands of racially insensitive men and women in this country. Some of them may not have the courage to beat a man and drag his dying body from the back of their speeding car, but nevertheless, they still find the courage to hate in their own special way.

Hate. It is always there, boiling just under the surface of where the eye can see, always ready to explode. But every now and then, even though America seems to have changed, a volcanic eruption of hatred and prejudice spews forth, and an innocent man like James Byrd is engulfed in the tragedy of its consuming liquid fire. I promise you, the name of James Byrd, Jr. will not be soon forgotten in the Chamber of this House, or in any arena within the supervision and oversight of this body. Racism is the one disease that all of the brilliant minds to have passed through this world have not been able to find a cure for.

The famed sociologist W.E.B. DuBois said that the color line was the great dilemma of the 20th century, as historian and Presidential Race Initiative Chairman John Hope Franklin has predicted that it will continue to be so on into the 21st century. Frankly, I stand in awe of the endurance of color line, and eventually, before more innocent people have to suffer and die, someone will have to muster courage to erase it, once and for all. Thank you, I urge the entire House to fully support this unfortunate, but sorely needed resolution.

□ 1700

Ms. WATERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I rise in strong support of the resolution and in deep dismay of the action.

Mr. Speaker, I rise in strong support of this resolution. The heinous crime that we unanimously condemn today is a reminder that racism continues to be far too prevalent in our society. The brutal death of James Byrd, Jr. at the hands of ignorant, racist men should serve as a wake up call to every American and signify that there is still work to be done to promote and protect racial tolerance in our Nation.

It is unfortunate that we, as a Nation, have yet to appreciate the diversity of our country. How shameful that we have not reached a united point of tolerance and respect for our neighbors, judging them not by their race, color or nationality, rather, by the quality of their character, morals, and contributions to society. The children of this Nation should not be the unwitting witnesses to those who continue to foment racial hatred and violence, and they should be given the opportunity to extinguish the blemished record of racial intolerance that mar this century and the ones before it and start anew in the next millennium.

There is no explanation for the loss of life that was a result of racism and hatred and I condemn this act of cowardice. I join my colleagues and extend my heartfelt condolences to the family of Mr. Byrd and the people of Jasper, Texas.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Speaker, it is difficult to fathom how people could be so hateful, so completely cruel, and so utterly evil as to drag a man behind a pick-up truck until he was dead. This hate crime is a terrible reminder that racial hatred still infects this land, and it leaves us all feeling a sense of outrage and a sense of deep grief.

Ironically, for me, the night before I had just finished reading the beautiful book by John Lewis on his courageous struggle, his memoire of the civil rights movement, Walking with the Wind, in which he documents and talks about the courageous struggle by him and others to fight the ugliness of racism in America.

My colleague, the gentlewoman from California (Ms. MAXINE WATERS) has offered a resolution condemning this heinous crime, calling for a swift prosecution, and urging all Americans to raise their voice in condemnation of this atrocity.

I urge my colleagues to support this resolution, and I also offer my deepest condolences to the family of Mr. Byrd.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER), whose district this incident occurred in.

Mr. TURNER. Mr. Speaker, James Byrd, Junior, was a constituent of mine. His brutal death has shocked the conscience and saddened the hearts of all of us. The people of Jasper, Texas, black and white, have joined in denouncing this tragic hate crime.

Local law enforcement officials have called upon the Justice Department to assist in fully prosecuting the perpetrators, and are committed to seeking the maximum punishment authorized by State and Federal law, including the death penalty.

I have personally urged the United States attorney to prosecute with the full force of Federal civil rights laws. For all of us who believe that racial prejudice and hatred have no place in American society, this tragic event is a reminder that much is left to be done, that no American is safe until every American treats his neighbor with dignity, regardless of the color of his skin.

Let us today renew our commitment to root out the vestiges of racial prejudice, that the tragic death of James Byrd be not in vain. I urge Members' support for this resolution for the Byrd family, for the people of Jasper, and for the American people.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. JESSE JACKSON, JR.)

Mr. JACKSON of Illinois. Mr. Speaker, let me first begin by associating myself with the remarks of all the speakers who have preceded.

I want, for the 50 seconds or so that I have left, to address my remarks to the people of Jasper. They are hearing today the outrage of people across the United States, through their elected representatives, of what has occurred in their part of the country.

But they alone in Jasper share the burden and responsibility, the pain of rebuilding the spirit and the soul of their community. It is now their obligation to move beyond black and white, rebuilding the hopes of every child in Jasper whose self-esteem will be questioned by the entire country because of the acts of just a few.

So our colleagues today have come across the lines, Democrat and Republican, across lines of black and white, of liberal and conservative, to let you know that we are with you. We pray for you and the Byrd family during this very difficult time. Justice, we hope, is swift. We hope it is accurate. There was a time when laws did not protect people who were dragged across our streets, but we have laws on the books now that can make the difference.

Ms. WATERS. Mr. Speaker, I ask unanimous consent to continue for 5 minutes to accommodate those who have been waiting, and I think there is an agreement from the other side to do that.

The SPEAKER pro tempore (Mr. LATOURETTE). So that the Chair is clear, is the gentlewoman from California (Ms. WATERS) making a unanimous consent request that 5 minutes be added to each side?

Ms. WATERS. Yes, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. The majority and minority side will each have 5 additional minutes.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. ELIJAH CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I rise in support of the resolution to condemn the brutal murder of James Byrd in Jasper, Texas. This cruel and evil act is a shocking reminder to all Americans, regardless of race, that the threat of racial violence is alive and well in this country.

James Byrd was a 49-year-old father of three children. He was attacked by men who have espoused white supremacist motives for the killing. This man accepted a ride and lost his life. He was dragged behind a pick-up truck for nearly 3 miles. His head and arms were torn from his body. Lynching in 1998 in any part of this country is totally unacceptable.

Many may view this as an isolated incident. I am afraid to tell the Members, it is not. Similar acts have been committed in the State of Virginia and my home State of Maryland within the past 12 months. I call for a united, strong, and clear message from this body that this type of hateful and sick behavior will be dealt a swift and just blow.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. JULIA CARSON).

Ms. CARSON. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I will be very quick, because we have heard very eloquent and profound statements in support of the resolution. I, too, obviously, rise in support of the resolution.

Let me paraphrase, if you will, a commentary that appeared in the San Antonio press. It said, "The monster of racism is born in fear, it is fathered by hate, and mothered by ignorance. Byrd's murder is a reminder that, left unchallenged, the monster grows stronger, always ready to strike."

It is important to note, I believe, that the last street on which James Byrd walked before he was murdered was named Dr. Martin Luther King, Junior. Dr. Martin Luther King, as we all know, stood for nonviolence, and the fact that Mr. Byrd has met an untimely fate in the manner that he has drives us to renew our support of Dr. Martin Luther King's movement on nonviolence. Indeed, Jasper, Texas, does not have a monopoly on incidents of this kind. They occur too often across America. I encourage Members' support of this resolution.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. CARRIE MEEK).

Mrs. MEEK of Florida. Mr. Speaker, first of all, I want to thank my chairman, the gentlewoman from California (Ms. MAXINE WATERS) and my friend on the Committee on Appropriations on the Republican side for having the insight to bring this tragedy to the attention of America, and to help America understand that until we reach across both sides of these aisles, until we join hands, until we forget about race, color, or creed, we will not be able to solve the kinds of problems that caused the murder and killing of James Byrd.

It takes me back to the time when this happened in America very, very often. I want to plead to my colleagues and to America, do not let this happen again. Let us not turn back the clock. Let there not be any more James Byrds. Let us be sure that the ugly head of racism does not begin to raise its head again.

The only way we can keep it from raising its head is to be sure there is no one who is perpetuating this sense of racism or alienation.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. ELEANOR HOLMES NORTON).

Ms. NORTON. Mr. Speaker, I thank the chairman of the Congressional Black Caucus for her leadership on this matter, and the gentlewoman from Kentucky (Mrs. NORTHUP) for managing this resolution.

Mr. Speaker, this is the end, not the beginning of the century, but this crime is a throwback to the sorriest period of American history, and reminds us that that history is not all done yet. Those who deprecated the President's race commission, take notice. Race is more complicated today.

This, however, is real simple. This is the worst of American racism, this is racist terrorism. I commend the local sheriff who made the arrests. I ask that the Federal officials remain involved until justice is done.

At the same time, I remind this body that if these were black men, we would be rushing them to the death penalty now, and as a principled opponent of the death penalty, I stand here to ask that these men not be executed. This country does not need to execute black men and it does not need to execute white men. I part company with those blacks in Texas that have called for execution. I ask that these men get life without parole.

Ms. WATERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of this resolution, and echo the sentiments of all my colleagues who have spoken.

Ms. WATERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I rise in strong support of this resolution, and to underscore that this act is condemned by people of all races in this country, black, white, and brown.

Mrs. NORTHUP. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I think it is important that we remember that when one black man is brutalized, every other person of race feels a greater sense of unease, and rightfully so. The effects of what happened in Texas will live long beyond one person. It would be impossible to measure the sense of dis-ease, dis-ease, that black Americans all across this country feel as a result of this act. Because of that, it is important that we register our outrage and our agony.

I want to thank the gentlewoman from California (Ms. WATERS) for her resolution, for giving Congress and for giving this body the collective opportunity to share our outrage. Many white Americans wish that they had the opportunity to share their sympathy and their sorrow over what happened.

So on behalf of them, I wish to thank the gentlewoman from California (Ms. WATERS) and the Black Caucus for this opportunity, and to share with the Members the sympathy that so many Americans feel all across this country, and our commitment to a better America, where this will not happen in the future.

Ms. WATERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I rise in strong support of this resolution, and join our colleagues on the Congressional Black Caucus and our other colleagues in expressing our sorrow and our anger and our sympathy for the family of this very unfortunate victim.

Ms. WATERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Speaker, I rise in support of this resolution, and to decry with the greatest of outrage the violence and the cowardice, the cowardice, of this act. I stand in support of my colleagues on this resolution.

Ms. WATERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I stand here today proud of my colleagues. I would like to thank the gentlewoman from Kentucky (Mrs. NORTHUP) for joining with me and others as principal cosponsors on this resolution.

Mr. Speaker, we are very tired. We are very pained, and we wish that this nightmare would stop and it would go away. Unfortunately, we are perhaps saddled with the responsibility of fighting against racism and discrimination and marginalization, and all of those evils that we find ourselves confronted with.

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And while I am disgusted and I am tired and I am pained, I will not go away. The Members of the Congressional Black Caucus will not go away. And Members who want to live in this Nation in peace and harmony will not go away.

So to those who would dare think they can frighten us, they can scare us, they can cause us to want to resign ourselves to the fact that there will be violence, let me just say that is not going to be the case. We will never resign ourselves to that inevitability.

We will fight, we will work, we will provide leadership, we will do everything that is possible to make this Nation what it could be and what it should be.

Mr. Speaker, we end this week of work with these little cards that we spread out throughout the United States, and it is just the Congressional Black Caucus 10-Point Alert, and it gives 10 points about what to do to avoid violence and confrontation, no matter how much racism may be any place, any time, anywhere.

I stand here as a Member of Congress, a Member of the Congressional Black Caucus, knowing that when I leave here with many of the Members of this caucus that we go to our districts, we go to other places around this country, we do not know what we will encounter. We are proud black Americans who intend to make America everything that we ever dreamed it could be.

Ms. LEE. Mr. Speaker, I rise today to join my CBC colleagues, and so many others, in support of this bi-partisan resolution condemning the outrageously brutal slaying of Mr. James Byrd, Jr. on June 6, 1998 in Jasper County, East Texas. I also want to send my heartfelt condolences to the family and friends of Mr. Byrd.

I am gratified that this Congress has acted expeditiously to publicly express its collective outrage at this horrific incident. It is almost unfathomable that today, in 1998, we are still plagued by this kind of hatred. When I heard the details of this murder, my blood went cold, and chills went up my spine. The details are painful to hear, but it bears repeating so that we fully understand the severity of the problem.

Mr. Byrd was walking home from his niece's bridal shower on June 6, 1998. As he walked home three young white men offered him a ride home. They then drove to a remote area

7 miles outside of town where they mercilessly beat him and then proceeded to chain him to the back of a pickup truck and dragged him until the torso of his body was torn to pieces. His head, neck and right arm were severed and located a mile away from his body. Fingerprints were the only means possible to identify the body. Mr. Byrd was a son, a brother, a father. He was known as a friendly spirit. Unfortunately, it was this friendliness and belief in humanity that led to his ultimate demise. It is unfortunate for all of us that we need to be suspicious of the kindness of strangers for fear that they may in fact have ulterior motives.

The three men charged with this heinous crime have past criminal records and have ties to white supremacist groups. It is easy to dismiss this act and its perpetrators as aberrations, so outside of the norm, that they do not warrant much of our attention. But it is exactly this complacency that has allowed this insidious hatred and violence to continue to reach into our communities and our young people. This is not an isolated incident. We have seen hate crimes around this country escalate. We cannot turn a blind eye any longer. We must act swiftly and quickly to end our complacency and condemn these acts.

This action is clearly a hate crime and I expect that it will be charged as one. Justice should be swift but fair. I hope if the accused are found guilty that they are imprisoned for the remainder of their lives. I believe in the sanctity of life, even for those who do not value the lives of others.

These incidents threaten the security and foundation of our communities and this very nation. We cannot return to the days when lynchings, and similar acts of brutality, such as this one, were acceptable. I feverently hope that this horrifying murder will spur all people of conscience to act within their own communities to ardently work to stem the tide of hate that invariably leads to these violent acts of brutality.

Ms. MCCARTHY of Missouri. Mr. Speaker, it is always difficult for me to describe my thoughts when my feelings so overwhelm me. I would first like to extend my heartfelt sympathy and admiration to the Byrd family, their strength in the face of such sorrow is truly a testament to the power of the human character. Their pain most of us can only imagine. All Americans are affected by this tragedy.

This lynching, this hate crime, this murder, is a throwback to days that remain an affront to our national dignity, to our American way of life, and we cannot tolerate such actions and still call ourselves Americans. It is a horrifying reminder that while we have made so much progress in our quest for civil equality and civil society, we still have so far to go.

Mr. Speaker, I call on all of us to steal the power of this act, to twist this tragedy into something that we can use to fight the hatred that caused it, something that will instill fear in the hearts hatemongers everywhere . . . let us use this shared outrage, this shared anger to solidify our commitment to the pursuit of true civil equality, to real civil rights. And let us make the senseless death of James Byrd mean something . . . we must not let such actions continue in America.

Mr. PAYNE. Mr. Speaker, I rise to express my outrage at the vicious, cold-blooded murder of Mr. James Byrd, Jr. in Jasper, Texas. My heartfelt sympathy goes out to his family—his parents, Mr. and Mrs. James Byrd, Sr., his siblings, and his children, Renee, Ross and Jamie. They are in our thoughts and prayers during this time of such enormous pain and anguish. May they be comforted by the outpouring of support and concern from so many people throughout the nation.

Mr. Speaker, sadly, this horrific incident did not occur in a vacuum. Atrocities such as this happen in part because of a national climate which is far too tolerant of racial hatred. Militia groups, skinheads, neo-nazis and other hate groups spread messages of hate and bigotry. Certain talk radio shows encourage racial division and mistrust. Even some police officers, who are sworn to be our protectors, have engaged in racist patterns of behavior by targeting African American motorists in what has been labeled "racial profiling" or Driving While Black. In my home state of New Jersey, four young black men were recently shot by two white state troopers after they were pulled over for allegedly speeding. This was just the latest of a string of similar incidents, many of them resulting in fatalities. It is time to say "enough." It is time for all Americans to stand up and say that racially motivated violence is wrong and will not be tolerated in the most powerful democracy in the world.

Mr. FROST. Mr. Speaker, I am a strong supporter of this resolution condemning the brutal murder of Mr. James Byrd, Jr. I was outraged when I heard about the vicious and hateful crime that took place in Jasper, Texas over the weekend. It sickens me to know that in this day and age, what amounted to a lynching can still take place in America. There can be no question that this crime happened because of the hardened criminal nature of the attackers, who made vile references to the killing of both blacks and Jews during the attack.

One of the men has already confessed to being part of this senseless act of violence. All three of them should be tried and quickly convicted for this heinous crime. My sympathies go out to the family of the victim, Mr. Byrd, and I hope that the penalties are swift and severe for his killers.

Mr. RODRIGUEZ. Mr. Speaker, race violence reared its ugly head in the small Texas town of Jasper this past weekend, making it all too clear in our minds that racism is no phantom of a bygone era. A 49-year-old father of three children, James Byrd, Jr., appears to have been brutally murdered because his skin color is black. All of us must stand up, here in Congress at every street corner across America, and shout out this hatred from our midst.

The murder was especially brutal. According to local authorities and media reports, the hate-motivated perpetrators tied Mr. Byrd by the ankles to the rear bumper of a pickup truck and then dragged him for at least a mile. When it was all over, only a decapitated and dismembered corpse, with clothes bunched up around the ankles, remained. It took fingerprint records to identify the body as that of Mr. Byrd.

The alleged murderers appear to have significant ties to hate groups such as the Ku Klux Klan and other white supremacist groups. These organizations prey on the disaffected and convert their fears into venom. They preach of race wars against African-Americans, Jews and other minorities. Ultimately, they are at war with all of us.

Even as we castigate those who committed this brutality, it is worth remembering the many good people of Jasper, people of different races and backgrounds who work and live together in peace. They too are victims, because this act of hatred has shattered their peace.

We should all take this tragedy and give it meaning by committing ourselves to fight bigotry and senseless hatred, and to build even stronger bonds of trust and understanding among all people. The San Antonio Express-News in its editorial stated that the "monster of racism is born in fear, fathered by hate, and mothered by ignorance." We can and must challenge racism. Together, we can chain the beast.

The full text of the editorial is reprinted below.

[From the San Antonio Express-News, June 11, 1998]

RACISM AND VIOLENCE EXPLODED IN JASPER

Two of America's great obsessions—race and violence—intersected on a small-town Texas street last weekend.

They collided in an act so barbaric as to transform James Byrd Jr. into the Emmitt Till of his generation.

In 1955, while visiting relatives in Mississippi, the 14-year-old Till became a symbol for racial violence when he was beaten to death by two white men who then tied him to a cotton fan and dumped him into a river.

Forty-three years later, 49-year-old Byrd, a father of three, was murdered because he was black. Not for acts he did, words he spoke or for something valuable he possessed.

That is what has transfixed the nation's horrified gaze on the East Texas town of Jasper.

At least two of the ignorant thugs accused of his murder sport tattoos suggesting they are members of a white supremacy group.

When they looked at Byrd, they did not see a human being.

So they beat him, tied him to a pickup truck and dragged him for two miles until he was literally torn to pieces, his body parts strewn along a country road.

It's easy to condemn this murderous act and to denounce the murderers. What's not so easy is to be vigilant against the more subtle acts and attitudes of racism out of which such violence grows.

The racism exhibited by these men did not spring full-blown from their hearts. As long as its seeds are planted and nurtured, such atrocities will persist.

The monster of racism is born in fear, fathered by hate, and mothered by ignorance. Byrd's murder is a reminder that lift unchallenged, the monster grows stronger, always ready to strike.

The last street on which James Byrd Jr. walked before he was murdered is named after Dr. Martin Luther King Jr.

The distance between King's vision of a nonviolent nation living in racial harmony remains greater than the two miles of country road on which Byrd was dragged and murdered.

Murdered because he was black.

Mr. GILMAN. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Tennessee (Mr. FORD) as well as of the other Members of the Congressional Black

Caucus who so eloquently expressed themselves regarding the recent outrage in Texas.

Our hearts and sympathies go to the family, friends, and loved ones of James Byrd, Jr., whose senseless, brutal death has shocked the soul of our nation. A two mile long trail of blood was left behind along the road upon which his body was dragged.

While the horror of this tragedy cannot be minimized, it is a lesson to all Americans—a lesson that we have a long way to go before the diseases of prejudice and bigotry are finally stomped out. As long as one American believes that an atrocity such as this is appropriate, then no American can sleep soundly at night.

We are hopeful that the perpetrators of this horrendous hate crime are quickly brought to justice, and that they serve as an example that we as a nation will not tolerate this kind of criminal behavior.

The Rev. Jesse Jackson stated that the murder of James Byrd., Jr., is especially horrifying because it was "arbitrary" and thus, according to the Reverend, "worse than a conspiracy." Rev. Jackson went on to state that: "all of us must be concerned. It means none of us are safe."

Let us all in solidarity proclaim our indignation at this assault on human decency.

Mr. BENTSEN. Mr. Speaker, as an original cosponsor of House Resolution 466 I rise to join my colleagues from Texas and across the nation in condemning the racially motivated murder of James Byrd, Jr., in Jasper, Texas.

It isn't easy to find words strong enough to express my feelings and those of my fellow Texans about this act of evil. Revulsion, shock, outrage, and sadness are the first that come to mind.

First and foremost, Mr. Speaker, justice must be swift and sure. We need to bring all federal, state, and local resources and laws to bear in investigating, prosecuting, and punishing those responsible. At the federal level, the Federal Bureau of Investigation and the Department of Justice must investigate this incident as the racially motivated hate crime that it is. Our society must determine whether this was an isolated incident or whether the perpetrators were connected to or motivated by hate groups.

Second, this murder is a wake-up call to all of us that such feelings of racial hatred unfortunately continue to exist in our nation today. It is difficult for most Americans to imagine how anyone could harbor such feelings, let alone understand how someone could act on them in such a sadistic manner. But this act is a reminder that we continue to need strong laws to protect the civil rights of all Americans and strong enforcement of these laws. This is racism at its most extreme, but we must remember that racism still exists in other settings as well—our workplaces, schools, and neighborhoods. We must fight racism wherever it raises its ugly head.

Third, this is a reminder to all Americans as individuals that we should not and must not tolerate hatred and discrimination based on personal characteristics. Government and laws can help, but we need a transformation of hearts and minds, and the best way to bring that about is through the example each of us sets, especially for our children. The people of Jasper and Texas, indeed people across the nation, have risen in condemnation of this awful act and in outreach to the family of James Byrd.

But the search for common ground and understanding cannot end when the funerals and trials do. The best way to honor the memory of James Byrd is to have zero tolerance for discrimination and hate every day.

The SPEAKER pro tempore (Mr. LATOURETTE). All time for debate has expired.

Pursuant to the order of the House of today, the previous question is ordered.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. WATERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 36, as follows:

[Roll No. 231]

YEAS—397

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—36

Baker
Barr
Barton
Becerra
Berman
Callahan
Cooksey
Everett
Farr
Gejdenson
Gillmor
Gonzalez
Gutierrez
Hall (OH)
Hefner
Hilliard
Houghton
Inglis
Johnson, Sam
Kasich
Kennedy (MA)
Largent
Lewis (GA)
Meehan
Meeks (NY)
Moakley
Murtha
Parker
Paxon
Riggs
Roukema
Schumer
Shaw
Shays
Smith, Adam
Waxman

□ 1735

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BRADY. Mr. Speaker, I was unavoidably detained and missed rollcall vote 217. Had I been present, I would have voted "yes." As a cosponsor of H.R. 3150, I would have voted "yes" on rollcall vote 225, had my vote been recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3629

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3629.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Kansas?

There was no objection.

PERSONAL EXPLANATION

Mr. BOYD. Mr. Speaker, I was unavoidably detained during rollcall votes 226 and 227 and 228 this morning.

I ask that the RECORD reflect that had I been present, I would have voted "no" on rollcall 226; "no" on rollcall 227; and "yes" on rollcall 228.

LEGISLATIVE PROGRAM

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, I want to inquire about the schedule for next week, and I yield to the gentleman from Illinois (Mr. HASTERT).

Mr. HASTERT. Mr. Speaker, I thank the gentlewoman from Connecticut for yielding to me.

I am pleased to announce that we have concluded legislative business for the week.

The House will meet next week on Monday, June 15, at 12 noon for a pro forma session. There will be no legislative business and no votes that day.

On Tuesday, June 16, the House will meet at 1:30 p.m. for morning hour and at 2:00 p.m. for legislative business.

On Tuesday, we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices. Members should note that we do not expect any recorded votes before 5:00 p.m. on Tuesday, June 16.

On Wednesday, June 17, the House will meet at 10:00 a.m. to consider the following legislation: the conference report for H.R. 2646, the Education Savings Act for Public and Private Schools; and H.R. 3097, the Tax Code Termination Act. The House will also resume consideration of H.R. 2183, the Bipartisan Campaign Integrity Act of 1997.

On Thursday, June 18, the House will meet at 10:00 a.m. to take up H. Res. 463, a resolution to establish the Select Committee on U.S. National Security and Military/Commercial Concerns for the People's Republic of China. We will also continue consideration of H.R. 2183, the Bipartisan Campaign Integrity Act of 1997, on Thursday afternoon and on Friday, June 19.

Mr. Speaker, we hope to conclude legislative business for the week by 2:00 p.m. on Friday, June 19.

I thank the gentlewoman for yielding to me.

Ms. DELAURO. Mr. Speaker, if I may ask the gentleman one or two questions, when might we expect the second rule for campaign finance reform to come up next week?

Mr. HASTERT. I believe that rule will be up on Wednesday afternoon.

Ms. DELAURO. Wednesday, June 17?

Mr. HASTERT. Yes.

Ms. DELAURO. And are there any late nights expected next week?

Mr. HASTERT. We expect late nights both on Wednesday night and Thursday night.

Ms. DELAURO. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, JUNE 15, 1998

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania). Is there objection to the request of the gentleman from Illinois?

There was no objection.

HOUR OF MEETING ON TUESDAY, JUNE 16, 1998

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, June 15, 1998, it adjourn to meet at 12:30 p.m. on Tuesday, June 16, 1998 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MURDER IN JASPER, TEXAS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning as a Texan and as an American to express my disbelief over the horrendous crime that occurred in Jasper, Texas, that is now being called one of the most vicious racial crimes in modern Texas history.

In fact, the local prosecutor there in Jasper said that in his 20 years of being a prosecutor, he had never seen such a brutal crime.

I would like to send my deepest condolences to the family of James Byrd, Jr. This family is now dealing with the harsh realities of hate crime in America. Three men, who are alleged to be connected with white supremacy groups, have been charged with murdering a black man by chaining him to a pickup truck and dragging him almost three miles on a winding road through the woods of east Texas.

The victim's torso was found one place, his head another place, and his arm another place. Along the way, the victim was dismembered. This murder painfully illustrates the racial hatred that still exists in our society today.

Mr. Speaker, we absolutely cannot and should not tolerate any form of hate. I am glad that the good people of Jasper, who as well abhor this terrible crime, have asked for America's prayers. Violence motivated by a bias against a person's personal characteristic represents a serious threat to all communities. Experts estimate that a bias-related crime is committed every 14 minutes.

Today, Mr. Speaker, I call on the Federal Bureau of Investigation and Attorney General Janet Reno to conduct a full investigation into this heinous crime. Let us join together as Americans to say now is the time to cease and desist these horrible incidents across our country.

Mr. Speaker, I rise today to express my disbelief over a horrendous crime that occurred in Jasper, Texas, that is now being called one of the most vicious racial crimes in modern Texas history.

I would like to send my deepest condolences to the family of James Byrd, Jr. This family is now dealing with the harsh realities of Hate Crime in America.

Three men, who are alleged to be connected with white supremacy groups, have been charged with murdering a black man by chaining him to a pickup truck and dragging him almost three miles on a winding road through the woods of East Texas.

Along the way, the victims head and right arm were ripped from his mangled body.

This murder painfully illustrates the racial hatred that still exists in our society today. We absolutely can not and should not tolerate any form of hate.

Violence motivated by a bias against a victim's personal characteristic represents a serious threat to all communities.

Experts estimate that a bias-related crime is committed every 14 minutes, a statistic that highlights a pervasive problem warranting immediate action.

Last year in my home state of Texas, 72 percent of the hate crimes reported in the state were fueled by racial or ethnic hatred.

Today, I call on the Federal Bureau of Investigation and Attorney General Janet Reno to conduct a full investigation into this heinous crime.

And I hope the public outrage surrounding this murder will motivate the federal authorities to strengthen federal hate crime legislation to help bring about an end to these crimes in America.

Hate Crimes must be afforded special attention because we have a compelling interest in protecting our communities from bigotry and violence. Hate violence is not only a crime against an individual, but an assault against an entire group of people. It affects all of us.

The consequences of hate crimes reach far beyond the harm inflicted on an individual victim, they polarize citizens and exacerbate tension in a diverse community. Of the 7,947 hate crime incidents reported to the FBI in 1995, sixty percent—4,831—were motivated by race. Of these, 2,988 were anti-black.

The greatest number of hate crimes of any kind are perpetrated against African-Americans. Anti-black violence has been and still remains the prototypical hate crime.

Hate crimes against African-Americans have a profound impact on the entire society not only for the hurt they cause but for the history they recall.

It is my hope that the perpetrators of this crime receive a quick and speedy trial and that justice, in this case, is both swift and deliberate. These criminals should never walk the streets as free men again.

For the sake of the Byrd family and all Americans of all races, I urge Congress to act in a timely manner to address this issue to bring about racial harmony so every American can walk the streets without fear.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INDEPENDENT COUNSEL'S "INTERIM" REPORT WOULD BE A MISTAKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I take the floor today to join many of my Democratic and Republican colleagues in voicing concerns about reports that the Office of the Independent Counsel, headed by Mr. Starr, is considering sending an interim report to the House concerning his investigation.

□ 1745

Just this week, the distinguished gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, as well as several other Republican Members, including the gentleman from Louisiana (Mr. LIVINGSTON) and the distinguished Senator of the Senate Judiciary Committee, ORRIN HATCH, have addressed themselves to this topic and have expressed serious reservations about the wisdom and propriety of any referral to Congress that is incomplete or unfinished.

I agree with these Members of the majority as well as several of my Democratic colleagues on the Committee on the Judiciary, including the gentleman from Massachusetts (Mr. FRANK), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Virginia (Mr. SCOTT), the gentlewoman from California (Ms. WATERS), the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from New York (Mr. NADLER) that if such a partial report were actually to be delivered prior to Mr. Starr's having completed his investigation, it could only be viewed as a partisan act intended to influence this fall's election. How else could it be viewed?

The independent counsel has already sacrificed some of his credibility through his insensitivity to the many conflicts of interest, some real, some apparent, under which he has labored. The referral to Congress of an incomplete report would likely exhaust whatever remaining patience the public has for Mr. Starr's activities.

Mr. Starr has previously acknowledged in one of his many interviews with the press that his duty is to uncover all the evidence, both the evidence that may tend to establish that crimes may have occurred and the evidence that would tend to suggest that allegations of wrongdoing are unfounded.

It is quite obvious that Mr. Starr has not yet completed his investigation. Until he does so, simple fairness dictates that any report to the House must not precede the long-awaited conclusion of the investigation.

When we passed the Independent Counsel Act, we gave the independent counsel a great deal of power to conduct investigations as he sees fit. Some think too much power. The very breadth of the investigative powers granted to Mr. Starr at the very least entitle a Congress to the fruits of a complete investigation. The statements issuing from the Office of Independent Counsel about the possibility of an interim report are simply irresponsible. After 4 years and $40 million, we are entitled to a complete report on the findings of Mr. Starr's investigation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me briefly thank the gentleman from Michigan (Mr. CONYERS) for his statement but as well he has raised some very important issues. I join with the gentleman from Illinois (Mr. HYDE) and the leaders of the Republican Party to acknowledge that an interim report would not do us justice in this House. We want to make sure that we have a full report.

With respect to the independent counsel statute, I think that we are now seeing how many issues it raises, how many questions the American people are even raising as I travel about who have asked me, "Why is Mr. Starr continuing this type of investigation?" I think it draws question to what we do in 1999 on the assessment of the independent counsel statute.

We want full and open investigations, we want a better government, a proper government, an appropriate government. But I think even a suggestion of an interim report will not do justice to the House Committee on the Judiciary in the need for a full review of any report that Mr. Starr may have. I hope he listens to our calling for a full report so that we can do the business of this House in the right and proper manner.

Mr. CONYERS. I thank the gentlewoman for her comments.

TRIBUTE TO THE PEOPLE OF SPENCER, SOUTH DAKOTA

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania). Under a previous order of the House, the gentleman from South Dakota (Mr. THUNE) is recognized for 5 minutes.

Mr. THUNE. Mr. Speaker, I would like to take a few moments here today to publicly commend the people of South Dakota for their courage, their bravery and their generosity in the face of disaster.

On the evening of Saturday, May 30, 1998, a tornado struck the small town of Spencer, South Dakota. When the storm passed, a handful of buildings remained standing on the far edge of town. Otherwise, the entire city of 322 people was gone. Six people were killed and 150 were injured.

It was a difficult time, not just for the people of Spencer but for those in surrounding communities as well. The residents who lost their lives in the storm were elderly people who had lived in or near the community their entire lives. They were the fixtures of the community, the local historians. Now they and part of our prairie history are gone.

Many of the other residents of Spencer had spent their entire lives there as well. They woke up every morning in the same house, said good morning to the same neighbors, went to work at the same business, came home again to the same house, day after day for most of their lives. So imagine what it would be like to suddenly emerge from what is left of the concrete pit that was your basement to find that it is not there anymore. None of it is there anymore. The house is gone, the car is gone, the streets are gone, the business is gone, the neighbors are gone. Poof. Gone with the wind.

That is what life is like today for the residents of Spencer, South Dakota. It is a terrible adjustment, and many are not sure what the future holds or how to begin building a new future without a home or a hometown.

But here is where my pride in the people of South Dakota begins. The call went out for volunteers to help clean up the ravaged city. Governor Bill Janklow asked for a thousand people to show up. Guess how many he ended up with. Eight times that amount. Eight thousand people showed up to pick through piles of rock and debris in search of torn wedding pictures and beat up toys. Eight thousand people.

They ran out of food. The call went out for more. It arrived. People brought pizzas, they brought soft drinks, they brought sandwiches. They did not exactly start with five loaves and two fishes, but through the miracle of generosity that food multiplied to feed 8,000 hungry volunteers. I am told that by the end of the day, they had 16,000 meals before it was done.

Those who could not show up in person found other ways to help. A local television station held a telethon to raise money. They collected more than $600,000 for the disaster victims. When the phone lines got busy, people jumped into their cars and started dropping the money off at the station in person. The response was nothing short of overwhelming.

The volunteers are not the only ones who came through when the call went out. I would like to commend all the fine people who work for the Federal Emergency Management Agency for the job that they do in responding immediately, thoroughly and professionally when disaster strikes. I know the people of Spencer are grateful for their help.

As with any crisis, heroes emerge from the wreckage to remind us that we still have heroes walking among us, real heroes of the common, sturdy and lasting type. The kind of heroes that do not earn millions or play basketball or football or disappoint us later on.

Rocky Kirby is one of those heroes. He is the mayor of Spencer. He says his most difficult decision prior to the storm was deciding whether or not to pave the streets. Now he faces the daunting job of steering what is left of his community through the difficult months ahead. He is doing it because it is his duty to his town and his neighbors. He certainly is not doing it for the money. As mayor he draws a salary of $30 a month.

Donna Ruden is another ordinary person who has shown extraordinary courage. Her home was one of the few in town left standing, so she has turned her one home into a one-building Main Street. Her home now serves as the town bank, the insurance office and city hall. She is running all three from her home, grateful to have a place to live. She wants to help her neighbors who do not.

We hear so often in this country about the bad, Mr. Speaker, about kids shooting kids and neighbors robbing from neighbors, about crimes and drugs and hate and violence. I want to tell my colleagues today that the core of what is good in this country and the core of what is good in human beings is still alive and well in a little town called Spencer, South Dakota. We as a Nation can all be proud of what we have witnessed there. I know I certainly am.

NAGORNO KARABAGH PEACE PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to share with my colleagues and the American people some new ideas on how we can work to promote greater cooperation and stability in the Caucasus region of the former Soviet Union, and specifically how we can jump-start the peace process in Nagorno Karabagh. During the Memorial Day recess, the gentleman from Rhode Island (Mr. KENNEDY) and I had the opportunity to travel to the Republics of Armenia and Nagorno Karabagh to meet with government officials from both countries as well as with U.S. officials in the region.

As I have mentioned in the House on several occasions, the people of Nagorno Karabagh fought and won a war of independence against Azerbaijan. A tenuous cease-fire has been in place since 1994, but a more lasting settlement has been elusive. The U.S. has been involved in a major way in the negotiations intended to produce a just and lasting peace. Our country is a cochair, along with France and Russia, of the international negotiating group, commonly known as the Minsk Group, formed to seek a solution to the Nagorno Karabagh conflict.

Mr. Speaker, this so-called Minsk process, under the Organization for Security and Cooperation in Europe, OSCE, a process of shuttle diplomacy whereby the American and other negotiators travel between the various capitals seeking agreement on a resolution of the conflict, has so far not been successful in trying to resolve the Nagorno Karabagh conflict. What is needed are some new ideas and more realistic approaches that will lead to a just and lasting settlement of this conflict.

Unfortunately, the U.S. position has thus far sided with Azerbaijan's claim of so-called territorial integrity, despite the fact that this land has been Armenian land for centuries, and the borders which gave the land to Azerbaijan were imposed by Soviet dictator Joseph Stalin.

It is time, Mr. Speaker, for the U.S. and our Minsk Group partners to forget about the idea of territorial integrity as the foundation for peacefully resolving this conflict. In addition, we should be pushing for direct negotiations involving Nagorno Karabagh and Azerbaijan.

Instead of sticking with the unworkable notion of Karabagh as an inseparable part of Azerbaijan, subordinate to the Azeri capital of Baku, I believe we should consider the idea of horizontal links, a federation among equals. This model has been used in resolving the Bosnia war and in the current negotiations aimed at resolving the Cyprus conflict.

I am pleased to report, Mr. Speaker, some positive changes in the position of our State Department, including their apparent willingness to push for direct negotiations between Nagorno Karabagh and Azerbaijan. I am sensing a newfound flexibility by the State Department in terms of dropping the old adherence to the failed approaches of the Minsk Group in the past.

I would stress the importance of strengthening the current, shaky cease-fire as a priority for the Minsk Group. The recent negotiations in Northern Ireland could provide a model where separate, direct negotiations were held on the issue of militia armaments. In the case of Karabagh, making a priority of securing the cease-fire would help end the violence, stop the continuing casualties and help build confidence for additional agreements between the parties.

The other key is the need for ironclad security guarantees for Karabagh, with the Republic of Armenia given a central role in the process. As I mentioned, Karabagh won the war and holds the strategic advantage. It's unrealistic and unfair to expect Karabagh to give up its gains on the battlefield for vague promises at the negotiating table.

Another key point on the Karabagh negotiations. It is no secret that Azerbaijan has had the support of big oil interests in its corner. Azerbaijan's territory may have significant oil reserves beneath it in the Caspian Sea area, although some new studies question just how significant these resources may be. Unfortunately, powerful and well-connected lobbyists for the oil industry have basically backed up Azerbaijan's intransigence in the negotiating process over Karabagh. I am afraid our administration's policy has tended to side with Azerbaijan because of the oil issue. I hope that Members of Congress who are involved in this issue can work with me in getting the administration to convince Azerbaijan and the oil industry that the development of those resources will continue to be complicated until the Karabagh issue is resolved.

Finally, Mr. Speaker, another very troubling aspect of this issue is the indications of possible illegal transfers of U.S. or NATO standard weapons and other military supplies being sent to Azerbaijan by Turkey. Turkey has long sided with Azerbaijan. One of the major complications of the conflict is the blockade of Armenia and Karabagh by Azerbaijan, and Turkey's blockade of Armenia, in support of Azerbaijan. These blockades have made life hard for the Armenian people, stopping vitally needed humanitarian relief supplies from the U.S. and other countries. Now there are growing indications that Turkey is funneling military equipment to Azerbaijan, something I have seen myself in a previous visit to the front lines in Nagorno Karabagh. As part of our efforts to resolve the conflict over Karabagh, we must restrain our NATO ally Turkey from contributing more fuel to the fire in the form of arms and other military supplies.

Just a few weeks ago, I opposed the suggestion that appeared in the media that Turkey may want to transfer American F–16 fighter planes to Azerbaijan. That country already has air superiority because it inherited a lot more airplanes from the Soviet Union than did Armenia. F–16s would give Azerbaijan overwhelming air superiority.

There are now suggestions that Turkey may transfer advanced NATO howitzer (cannon artillery) to Azerbaijan. The U.S. government cannot allow its military equipment to be used against our Armenian friends.

I am currently working with some of my colleagues in this body to determine the level of Turkish support for Azerbaijan's military and in putting pressure on Turkey to be a partner in the search for a lasting peace in the region—not a contributor to a continuing cycle of violence and tensions.

CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, President Clinton seems like he is absolutely committed on this upcoming trip to China. We have asked him to reconsider this trip and, no, he will not reconsider the trip. And Congress officially asked him whether or not he would at least attempt not to do something in Tiananmen Square which would then make a mockery of the human rights commitments of this country by holding some sort of meeting with people who murdered hundreds if not thousands of human rights activists at that very same location 10 years ago. But, again, we were rebuffed in that request as well. The President of the United States as the President of the world's leading democracy will visit, then, the world's leading human rights abuser, the world's most powerful totalitarian regime.

Well, this President does have an excuse. Yes, in the past President Reagan visited China and so did President Bush. But in the past when Presidents have visited China, I think it is important for us to understand that China at that time was in a transition, or going through changes that made it appear that China would someday evolve out of its dictatorship.

☐ 1800

And thus it is all right to visit a country that is not free, but it seems to be going in the right direction in that its government is permitting more freedoms. Unfortunately that is not the case for this Presidential visit. China, since the killings at Tiananmen Square, has become even more tyrannical, and more belligerent, and more aggressive and has more power to commit aggression against its neighbors.

Spokesmen for the administration say that the President will be calling for a strategic partnership with this Communist regime. Well, naturally calling for a strategic partnership with this totalitarian regime, this powerful totalitarian regime, is causing concern among other countries in that region that are democratic countries.

We have already seen the results of the folly of the President's policies. India felt obliged to reaffirm its own nuclear arsenal with an explosion, of a nuclear explosion. The Pakistanis followed. So what we have is an unrest in the subcontinent and a greater chance for conflict, a massive, horrible conflict, between the Pakistanis and the Indians because of this unrest and this proliferation that can be traced right back to the President's China policies. In other words, the world is not as safe as it was.

Then we have lesser gangsters in the world like you find in Kosova where you have a murderous regime next door in Serbia thinking that they can go into Kosova and murder people in order to get them to submit. Now why are they doing this? Why does the regime, Milosevic's regime, which was guilty of so many human rights abuses in Bosnia earlier, now feel that they could perhaps do it again? It is because this administration has lost its moral basis, has lost its standing, has lost the principles in which it had so that in which people gave it respect if residing with those principles.

There are credible reports from Kosova that indicate that a repeat of the most horrific acts that we have seen in the Balkans is going on right now. Milosevic and his goons, the Serbian dictatorship, the last Communist dictatorship on the continent of Europe, have turned their bloody knives on the people of Kosova especially targeting vulnerable civilian populations for ethnic cleansing, not only in the border areas, but deep into the heartland of Kosova where the people are almost all Albanian, of Albanian extraction. It is incredible that despite the assurances by this administration that their diplomacy is succeeding in calming down Mr. Milosevic and keeping him under control, we are seeing numerous reports of entire villages being wiped out, with the news media discovering pools of blood in the streets of these villages. We have reports from family members of Albanians, men having their throats slit right in front of their families and of indiscriminate artillery bombardment of marketplaces.

Mr. Speaker, our government and our European allies should not stand by and wring their hands. We must act forcefully, and we must stand on principle. Unfortunately the pronouncements of this administration as far as tyrants, whether they are big and small, it seems that these pronouncements by this administration are not being taken seriously.

We can see in China where they continue their own proliferation of the nuclear technology that we have given them as well as building up their forces, their military forces, and stepping up their opposition and here with a small dictatorship when we face that dictatorship of Milosevic in Serbia.

The world is a less safe place because we strayed from our fundamental principles.

IMPROVEMENTS IN THE DISTRICT

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I have informed this body a few weeks ago that I would be coming to report on how the District of Columbia is proceeding as it moves to improve itself in the city. But my internal campaign is behind the times because the improvements are coming so fast and furious.

Have you seen this morning's Washington Post? On the front section of the Metro section, two stories lead. D.C. Test Results Seen as Progress; that is about our youngsters who were doing so poorly in the schools. The other, Mr. Speaker, says For Washington a Positive Mark of Distinction.

Let me be explicit. The District of Columbia is the best large city or place to live in the eastern United States, according to Money Magazine's latest ranking of the 300 most livable areas in the Nation. It is not us, Mr. Speaker;

that is an objective observer, Money Magazine, which has not always rated your Nation's Capital thusly. New York City has already been heard to complain, but I do not believe that anyone in this Chamber has any reason to complain, because, Mr. Speaker, while this is our hometown, it is your capital of the United States.

We have all be criticizing that capital. It is time for us to now start rooting for that capital as it pulls itself up by its own bootstraps.

Money Magazine has an objective formula which it uses to designate the city. The entire details of that formula are not public, but we do know that they rated air quality, medical care, property taxes and cultural facilities.

There are other improvements in the District that we know cleared the way for this designation. For example, Money Magazine noted our higher than average crime rate. But, Mr. Speaker, the crime rate in the District of Columbia went down 20 percent, virtually the largest reduction in the country last year.

The national news recently had a story about crime going down in the country, and they used as an example public housing in the District of Columbia.

Something important and different is happening in this city, and this body needs to take note of it.

Much else has happened in hometown Washington that cleared the way for this designation. A surplus, Mr. Speaker, not a balanced budget, but a surplus 2 years ahead of when it was expected. Public housing now off the troubled housing list; a Summer Stars program which will end social promotion here in the District of Columbia, one of the first cities to do so in the Nation.

Scores up in our schools, and, Mr. Speaker, I do want to read from that so that you will hear it from the newspaper and not from the Member:

D.C. Public School System showed improvements in most grade levels in the last scores from standardized tests. That follows last year when students showed no improvements whatsoever. Our hats should be off to Dr. Arlene Ackerman, the new superintendent who has helped make this happen.

Mr. Speaker, the control board is going to set 2 years earlier than anticipated because the District has moved ahead with such energy to improve its finances and now to improve its management. Money Magazine has gotten the word. I come to the floor this evening to make sure that this House gets the word, too.

CONDEMNATION OF HUMAN RIGHTS ABUSES IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, Mr. Speaker, on June 1, 1998, the Islamic Republic of Iran claimed its latest Jewish victim. Rouhollah Kadkodazadeh, a 60-year-old Jewish businessman, disappeared about 10 weeks ago. His relatives did not know where he was, and his relatives' search for him led nowhere until June 1, when the authority, the Iranian authorities, called the relatives in and said, "Pick up the body."

No trial date was ever supplied. In fact, it is not even clear whether a trial ever took place or whether Kadkodazadeh was afforded legal representation or the ability to prepare a credible defense. Reportedly, Mr. Speaker, he was charged with being a Zionist, a spy for Israel and a corrupting person on earth; those are all quotes; which can mean anything defined as corrupt in the opinion of the tyrannical Iranian regime.

Recent perceptions of moderation and openness and public declarations by Iranian authorities, especially President Mohammed Khatemi, about respect for human rights and the rule of law were beginning to restore a glimmer of hope to Iranian religious minority groups after years of persecution, arrests and extrajudicial killings. This latest execution of a Jewish Iranian only serves to undermine any notion that a meaningful restoration of civility is coming to Iran any time soon.

With all the economic hardships, pressures and social and ideological fragmentation which today characterize Iranian society, it is safe to assume that if Israel or anyone else even needed spies in Iran, they could easily locate many less watched people who would probably have better access to confidential information than a 60-year-old Jewish businessman.

In this vein the claim that Kadkodazadeh was conducting espionage for Israel does not appear to be credible at all. It is more of the same, more nonsense from the Iranian regime which has no credibility whatsoever. More likely it was an effort to keep an already fearful population, the Jewish population in Iran, about 10,000 strong, living in fear.

As to the charge of Zionism, the fact that such an accusation still carries the death penalty in Iran speaks volumes about that country's respect for the freedom of thought and expression. But even if one was to accept this notion as a reality, the simple truth about Kadkodazadeh attested to by those who knew him well is that he was not a Zionist. In fact, according to information I have been provided, he was not politically oriented at all. In Iran very few people are willing to engage in Zionist activities given the government's open hostility to Israel and Zionism itself.

All indications are that Kadkodazadeh was an ordinary Jewish person in Iran with no significant distinguishing characteristics from other average Iranian Jews. Making the logical assumption that those who brought him to execution knew these facts, one would conclude that some power within the Iranian regime wanted a Jew killed.

As with similar cases throughout the past, the reasons for such killings have been varied. Some believe that radical elements who oppose the somewhat more moderate government's rapprochement with the West and also happened to control the security apparatus as well as the judiciary undertake these sorts of actions in order to discredit the government. Others contend that the execution is simply the result of open hostility to religious minorities in Iran.

Whatever the reason for Kadkodazadeh's execution, the world needs to understand that Iranian Jews can no longer carry the burden of supplying a constant stream of sacrificial lambs so that the various factions in Iran can play out their political games. No matter which faction was responsible for the actual killing, the Government of Iran must be on notice that they and only they are responsible for preserving the rights and safety of all citizens of Iran, be they Jewish, Christian, Baha'i, Muslim or otherwise.

Mr. Speaker, we in the United States Congress must condemn this brutal act of execution, we must call attention to this brutal act of execution and serve notice in Iran that as a rogue state, she will not be allowed normalization within the international community until there is respect for human rights, democratization and an end to encouraging terrorism and extremism both inside and outside of its borders. What happened in Iran with Mr. Kadkodazadeh is a disgrace, a sham, and should be condemned by all freedom-loving people all across the earth.

□ 1815

COMMEMORATING THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CHICAGO BOARD OF TRADE

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to recognize the 150th anniversary of the Chicago Board of Trade. It is a milestone that certainly deserves recognition, and I am pleased to have introduced a resolution last week commemorating its 150th year anniversary.

The Chicago Board of Trade, which sits in my Congressional District, has been an integral part of the development of the City of Chicago, and, indeed, of the world. Chicago Board of

Trade was founded by 82 visionary Chicago merchants, and made its mark by revolutionizing how grain was stored and sold. Little did these visionaries know 150 years ago that their efforts would lead to the creation of the world's largest futures market and a centralized marketplace for the sellers and buyers of grain. Just last year, the Chicago Board of Trade opened the world's largest trading floor, 60,000 square feet, for financial futures and futures options, and a record one million Treasury bond futures were traded in a single day.

The Chicago Board of Trade has had a significant impact on the lives of all. Food prices in the United States are lower because of the Board of Trade; interest rates on Federal securities are lower than they otherwise would be because of the Chicago Board of Trade. The existence of this extremely efficient, vital marketplace has saved us all money, whether we have ever purchased a futures contract or not.

It is not by accident that this market is located in Chicago. Due to its central location, access to waterways and proximity to farmland, Chicago is the natural crossroads of commerce in the United States.

The Chicago Board of Trade has served as host to Presidents, Members of Congress and dignitaries from throughout the world.

They have been on the cutting edge of technology. In 1995, it became the first futures exchange to open a commercial service on the Internet, and since then they have established an electronic system for overnight trades.

The Chicago Board of Trade has been a real leader in the world. Just this year, the Board of Trade entered into a cooperative agreement with EUREX, its Swiss-German counterpart, and plans are in the works to add a partner in Asia.

The success of the Chicago Board of Trade has not only created huge benefits for our Nation generally, it has also contributed enormously to the economy of Chicago. Chicago's two futures exchanges have created over 150,000 jobs and puts millions of dollars each night in the city's banks. In a world class city, renowned for its architecture, the beautiful Board of Trade structure stands out as a major example of art, Deco style, and one of Chicago's most treasured landmarks.

The Chicago Board of Trade is a shining example of the ingenuity, hard work and creativity that is respected throughout the world. As members of the board prepare for your gala celebration on June 13th, I wish you another 150 years of success.

Again, congratulations, and I urge all of my colleagues to join with me in congratulating the Chicago Board of Trade on its 150 years of success and benefit to the American economy.

CAMPAIGN FINANCE PROBE: 94 WHO AREN'T TALKING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Indiana (Mr. BURTON) is recognized for 60 minutes as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, I do not anticipate taking the whole 60 minutes, but I did think it was important to illuminate a few issues for my colleagues and for anybody in the country that might be paying attention.

We have been investigating the illegal campaign contributions that have come into the Democrat National Committee and the Clinton-Gore Committee of 1996 for about a year now. One of the biggest problems we have had, Mr. Speaker, is that 94 people, 94 people, have either taken the Fifth Amendment or fled the country.

Now, when I had the FBI director, Mr. Louie Freeh, before my committee not long ago, I asked him if he had ever seen anything of that magnitude, and the FBI director said, "Well as a matter of fact, Mr. Chairman, I have." And I said, "Really? When was that?" He said, "When I was investigating organized crime in New York City."

Now, during this past week, the Washington Post, on the Federal Page, for the first time of any major newspaper in the country listed everybody who has taken the Fifth Amendment or fled the country, and I commend them for that. The Washington Post is not a bastion of conservatism, as most people know, but the fact of the matter is, they have listed all these people and given a brief explanation as to why they have not testified before our committee or any committee of the Congress.

I want to go through these real briefly for my colleagues and the American people, who have a right to know why people are leaving the country or taking the Fifth Amendment and not telling why these contributions came in from Communist China, from Macao, from Indonesia, from Egypt, from Taiwan and from South America.

Now, this is very important, because these people who are giving contributions from other parts of the world are not doing it for their health. They are doing it because they want something from the United States.

We just heard about the technology transfer that took place, giving China the ability to target more accurately American cities with their ICBM's and nuclear warheads. We also gave them MRVing technology, which allows them to put as many as three or four warheads on each rocket. That means that not just 18 cities are targeted here in the United States by the Communist Chinese government and the Chinese Communist Army, but 54 cities are possibly targeted at one time if we ever have a confrontation with them. That is a very, very sobering thought.

Every man, woman and child in this country ought to be asking the question, was there a quid pro quo? Was there an exchange of contributions for technology? Was the Loral Company, headed by Mr. Schwartz, involved, and did the contributions he gave have anything to do with it? He was the largest single contributor to the Democrat National Committee and the Clinton-Gore campaign.

But let us get to the issue at hand. John Huang, the first person on this chart, he was born in China. He is a U.S. citizen, raised in Taiwan, and a former executive of the Lippo Group in Indonesia. He started out with the Worthen Bank in the United States, in Little Rock, Arkansas, and became a friend of the President of the United States.

Mr. Huang met with the President and others at the White House ten times between June 21 and June 27, 1994, and, right after that, Mr. Webb Hubbell, who was about to be indicted by a Federal grand jury, received $100,000 from the Lippo Group. Many people believe that was hush money, and that is one of the things we have been investigating.

Shortly after this possible hush money was given to Mr. Hubbell, Mr. Huang, two weeks later, got a job over at the Commerce Department as Assistant Secretary of the Commerce Department, which was a very influential department, because they had a hand in determining technology transfers and other transfers that went to places like Communist China. Anyhow, Mr. Huang has taken the Fifth Amendment. His wife, Jane Huang, has taken the Fifth Amendment.

Arief and Soraya Wiriadinata, they have left the country. They fled the country. Those people, he was a gardener over in Virginia, a gardener in Virginia, yet he gave $450,000 to the DNC. Now, I do not know how much gardeners make in other parts of the country, Mr. Speaker, but $450,000 from a man who is probably making $20,000 to $25,000 a year is a lot of money. It makes you wonder where that money came from.

Soraya's father, Hashim Ning, was a business partner of Mochtar Riady and the Lippo Group in Indonesia, and he wired $500,000, which the couple used to make these $450,000 in contributions. Evidently they kept $50,000 of that. But that was obviously money that was laundered from Indonesia through the Wiriadinatas into the Democrat National Committee, and they fled the country.

The next person on the list is Agus Setiawan. He was another Lippo employee of Indonesia who worked with John Huang and donated $5,500 to the Federal Campaigns and Political Action Committees, which has all since been refunded by the Democrat National Committee because it was illegal. He fled the country.

Pauline Kanchanalak, a business consultant from Thailand and a legal resident of the United States who was solicited by John Huang for donations, the DNC returned all of $253,000 she contributed, because they thought that money came from outside the United States as well, illegal contributions coming from abroad, for what reason we know not. She has fled the country.

Duangnet Kronenberg, she is the sister-in-law of Pauline Kanchanalak. She donated $50,000 to the DNC on the day of a White House coffee that she attended in June 1996. She has taken the fifth amendment.

Irene Wo, she worked for Johnny Chung's fax machine business. She has taken the Fifth Amendment.

Na-chi "Nancy" Lee, an engineer at Chung's fax machine business who has allegedly solicited contributions from co-workers and reimbursed them, she has taken the fifth amendment.

Yah Lin "Charlie" Trie, an American citizen and one of the first two suspects, along with Antonio Pan to be indicted on January 29, 1997, as a result of the Justice Department's Task Force Campaign Finance Investigation.

Charlie Trie had a Chinese restaurant in Little Rock, Arkansas, was a close personal friend of the President of the United States, came to Washington without any experience whatsoever, and he gathered $640,000 for President Clinton's legal defense fund. All of that money was returned because it was in sequential money orders, 1, 2, 3, 4, 5, with the same handwriting, but different names on them. So the head of the President's legal defense fund thought this was "phony money" coming from someplace it should not have, and it was returned.

He also gave an additional $645,000 to the Democrat National Committee. Most of this money was from illegal foreign sources and the money was returned. He fled the country, but ultimately did come back and was indicted by the Justice Department, mainly because our committee proved beyond a reasonable doubt that his sister and her boyfriend and some others were laundering money for Charlie Trie, even though they did not know they were doing it. He used them as dupes to launder money coming from outside the country.

Suma Ching Hai, leader of the Taiwan Buddhist sect whose members gave the bulk of $640,000 that Trie delivered to the President's legal defense fund, they refused to be interviewed.

Wang Jun, a Communist Chinese arms dealer and chairman of the China International Trust and Investment Corporation, the largest Communist Chinese government-owned company. Wang Jun was invited to a February 6, 1996, coffee at the White House at the behest of Charlie Trie, and he refused to be interviewed.

Ng Lap Seng, a Macao businessman and Trie's business partner, they jointly owned a Macao company which, according to the FBI, through which Ng wired Trie more than $900,000, we believe it was well over $1 million which went into New York and Virginia banks, part of which Trie donated to the Democrat National Committee.

Now, listen to this. All these millions of dollars were coming from outside the United States, from all over the world. What did Communist China want in exchange for these campaign contributions being laundered erred .to the DNC?

Could it have been the Long Beach Naval Station in Long Beach, California, where the Chinese Shipping Company, which is owned by the Chinese communist government, wanted that whole facility? The DIA, the Defense Intelligence Agency, and the CIA both have concerns about the Chinese Communist Shipping Company having control of the Long Beach Naval Station, and they gave, we believe, millions of dollars through conduits into the United States of America.

Johnny Chung, whom I will talk about in a minute, we know got $300,000 from the head of the aerospace company in Communist China to be laundered and given to the Democrat National Committee, and her father was the head of the Chinese Communist Army, the People's Republican Army in Communist China.

Now, what did they want for that? Could it have been the technology transfer that allowed the Chinese communist military to be able to target American cities more accurately through a technology transfer that the President signed a waiver on? We need to know these things. That is why these people need to testify. But, unfortunately, 94 of them have fled the country or refused to testify or taken the Fifth Amendment.

□ 1830

Ming Chen, general manager of a restaurant in Beijing owned by Ng Lap Seng. Ng Lap Seng is a man called Mr. Wu, who is a man I am going to talk about in just a minute. Mr. Wu, or Ng Lap Seng, reimbursed Ming Chen's wife for the checks she co-wrote to the DNC, thousands of dollars.

Ming Chen's wife, Yuefang Chu, a resident of Gaithersburg. She testified before the Senate about conduit campaign contributions and has taken the fifth amendment.

Stanley Ho, a Macao developer who gave $250,000 to a fund for the FDR Memorial. He refused to be interviewed.

Antonio Pan, former Lippo executive who was indicted on charges related to illegal fund-raising in January of 1997. Pan allegedly received $80,000 in August 1996 from Mr. Wu, or Ng Lap Seng, in Macao and used some of the money to reimburse people he persuaded to write checks to the DNC.

David Wang, one of the people we had before our committee, a California used car dealer. Wang is alleged to be one of Pan's straw donors through whom they ran these payments. He testified before our committee, along with Charlie Trie's sister and her boyfriend, and they all were conduits for campaign contributions.

Daniel Wu, apparently another Pan straw donor. Wu is a Taiwan-based businessman.

Mark Middleton, who worked at the White House, one of the President's close personal aides at this White House. He was a former Democrat fundraiser and White House aide who left the administration in 1995 to pursue business deals with Asian businessmen, sometimes facilitated by Charlie Trie. I am going to talk about Mr. Middleton more in a minute.

Mark Jimenez, a Miami computer entrepreneur and donor who made his largest contribution, $50,000, to the DNC after a February 6, 1996 coffee at the White House. He has taken the fifth amendment.

Manlin Foung, Charlie Trie's sister, whom I have already talked about, who has admitted she was a conduit and whom we have immunized.

Joseph Landon, romantically linked to Manlin Foung, he was involved in the $35,000 donation that Manlin Foung made, and he was immunized by us and explained why that conduit payment was made.

Dia Maria Mapili, a longtime employee of Trie's Daihatsu International Trading Company. An indictment against Trie claims he ordered Mapili to destroy subpoenaed documents. She has taken the fifth amendment.

Keshi Zhan worked for Trie and Ng as an office manager. He has taken the fifth amendment.

James Riady. The Senate draft report on campaign finances accuses the Riady family of having a long-term relationship with the Communist Chinese intelligence agency. They are out of Indonesia. James Riady is an Indonesian who once lived legally in the United States, is the deputy chairman of the family's main business, the Lippo Group in Indonesia. The family, including its businesses and partners, donated more than $700,000 to the Democrats between 1991 and 1996, much of which has been returned. Riady has denied any wrongdoing in a written statement. He has refused to be interviewed.

And the Riadys. James Riady was one of those that met at the White House, along with John Huang, to talk about the problems, we believe, of Webb Hubbell 10 times between June 21 and June 27, 1994. Shortly thereafter, $100,000 came from his company to Webb Hubbell who was about to be indicted. As I said before, many think that was hush money.

Later, John Huang, an associate, employee of the Lippo Group and a friend of James Riady, got a job at the Commerce Department which was very influential in making decisions regarding foreign commerce.

Mochtar Riady, James Riady's father and chairman of the Lippo Group, he refused to be interviewed.

Stephen Riady, another son of Mochtar Riady. Stephen heads the Chinese operations of the Lippo Group, Lippo Limited, and the Hong Kong Chinese Bank.

Roy Tirtadji, he is the managing director of the Lippo Group. He refused to be interviewed.

Ken Hsui, a dual national. Hsui gave at least $300,000 to the Democrats, half soon after he attended a dinner at the Jefferson Hotel with Clinton and three other Asian businessmen.

Eugene Wu, chairman of one of the largest corporations in Taiwan, Shin Kong Life Insurance. He attended the Jefferson Hotel dinner, and he refused to be interviewed.

James Lin, Wu's brother-in-law and owner of a Taipei construction company. Lin attended the Jefferson Hotel dinner and gave money.

John Muncy, executive vice president of the Lippo Group's Hong Kong Chinese Bank, refused to be interviewed.

Webster Hubbell. He received hundreds of thousands of dollars, we believe as much as $700,000, and possibly more, between the time he left the White House and the time he was indicted by Mr. Starr and the grand jury. We believe that is, in large part, hush money. We believe that is a real possibility because he did very little work for this money. He has taken the fifth amendment and has been once again indicted by the grand jury and Mr. Starr.

Hogen Fukunaga, a leader of the Honohana Sampogyo, a Japanese cult. In 1995, a follower wired $500,000 to Yogesh Gandhi, a man who tried to flee this country but was caught by the FBI at the airport before he left and went to New Delhi. This fellow refused to be interviewed.

Yogesh Gandhi is a great-grandnephew of Mohandas Gandhi, he says, and a California businessman. Gandhi gave the DNC $320,000, which has since been returned. Again it was foreign money, illegally given.

Ten Sioeng, an Indonesian-born businessman who travels on a Belize passport, suspected by committee members of working, along with his family, on behalf of the Chinese Government interests in the United States. Senate investigators have found that more than half of the $400,000 that Sioeng's family contributed to the Democratic National Committee in 1996 was transferred from a Hong Kong based firm. This is unbelievable, all this money coming from overseas.

Jessica Elnitiarta, Sioeng's daughter, took the fifth amendment.

I can go on and on and on. I think my friends and colleagues get the message. All of this money, millions and millions of dollars, was coming from foreign sources into the Democratic National Committee and all of these people, all 94 of them, have taken the fifth amendment.

I want to give a graphic illustration of how some of this worked. Ng Lap Seng, better known as Mr. Wu, from Macao, came into the country on June 20, 1994, and he brought with him a suitcase with $175,000. Two days later, he met at the White House with Mark Middleton, one of the President's chief aides. Two days later, the same day, he went to a DNC dinner with the President and was seated at the number one table. He gives $175,000, and 2 days later, he is meeting at the White House and going to a presidential dinner.

On July 31, 1994, he comes back in with another satchel, $42,000 later. One and 2 days later, he meets at the White House with Mark Middleton and went to the DNC birthday party for President Clinton, $42,000.

On October 19, 1994, he came into the country with $25,000 in a suitcase or a bag. One day later, he met with Mark Middleton again at the White House.

On February 15, 1995, he brought $12,000 into the country. How do we know he brought all this money in? Because he had to declare it if it was over $10,000. He brought in $12,000. One day later, he met with Mark Middleton at the White House, and he met with the President upstairs at the President's residence.

February 18, 1996, he brought $19,000 into the country. One day later, he went to the President's Asian dinner at the Hay Adams Hotel.

Mr. Trie, a friend of his, to whom he wired, we believe, well over a million dollars to New York and Virginia banks, gave $12,500 to the President's Asian dinner. Two days later, Ng met with Susan Levine at the White House.

On August 17, 1996, just before the election, he brought $70,000 into the country. And 2 days later, he went to the President's 50th birthday party. Charlie Trie and his friends contributed over $100,000.

My colleagues might say all this is coincidence, that nobody at the White House knew about this, they did not know this money was coming in from Ng Lap Seng and Macao, and possibly the Communist Chinese Government. But you have hundreds and hundreds of thousands of dollars coming in, and right after he comes in, he goes to the White House and meets with Mark Middleton or goes to some function with the President or at the DNC.

It sure sounds suspicious. But, once again, we cannot get people to testify to get to the bottom of this. It is something that we cannot tolerate.

I want to read to you a little bit about the Ng Lap Seng connection, Mr. Wu here. He is one of the most prominent people we are going to have on this list. He is a wealthy Macao businessman with strong ties to the Chinese Communist Government and has refused to be interviewed.

A former DNC fund-raiser, his good friend and friend of the President, Charlie Trie, received $1.4 million in wire transfers from this fellow, in addition to all this money they brought in, $1.4 million in addition to this money, which is about $400,000 between 1994 and 1996. It became, in addition to all these contributions, Mr. Trie's main source of income, who had been appointed by President Clinton to a major international trading commission.

Ng Lap Seng visited the White House 12 times during the time he was wiring hundreds of thousands of dollars to the United States as well as bringing all this money in. These funds enable Trie, his wife, and two of Trie's sham corporations, Daihatsu International Trading and San Kin Yip International Trading, to contribute $215,000 to the DNC. The President appointed Trie to the Commission on U.S. Pacific Trade and Investment Policy in April of 1996.

Our committee released documents this year showing that Ng Lap Seng carried large amounts of cash, this money, totaling $330,000 and possibly more with him on trips to the United States between 1994 and 1996. Why do I say possibly more? Because he only had to declare, I believe, the money he brought in over $10,000. So he may have come in several times in between here and met at the White House with money that did not exceed the $10,000 limit.

The committee compared the dates of Ng's trips with his visits to the White House, as I just illustrated, to show that on five occasions when Ng arrived in the United States with cash, he visited the White House within 2 days of his arrival.

The American people have the right to know the facts. The reason we have a right to know the facts is that strange things have happened. The Long Beach Naval Station, strategically located, that was closed down during the base closure bill that we passed here not long ago, a couple years ago, the Long Beach Naval Station is being given to the Chinese Communist shipping company.

It is strategically located on the West Coast. Our Defense Intelligence Agency and the Central Intelligence Agency and the customs people have grave concerns about giving the Chinese Communist Government that whole facility because it is so large.

The Chinese shipping company owned by the Chinese Communist Government, the People's Liberation Army over there, we know have brought thousands of AK-47s in to be given to street gangs in Los Angeles on their ships. Customs has a very difficult time policing all of that.

Yet the President has been involved in a number of meetings trying to help the Chinese Government get the Long Beach Naval Station. Why is that? Why was the President involved in that? We wonder sometimes if there is any connection between all these contributions coming from the Far East and the President's decision to be involved in that.

The Riady Group and the Lippo Group, the President made the Utah Monument a national park. What is the significance of that? The largest clean-burning coal facility in the United States, billions and billions of dollars of clean-burning coal are in the Utah Monument. It could have been mined environmentally safely according to U.S. engineers.

Who would benefit from turning that into a national park so you cannot mine there? The Riady Group, the Lippo Group, and Indonesia has the largest clean-burning coal facility, mining facility, in southeast Asia. They were one of the largest contributors. Their hands are all over, all over these contributions coming in from Communist China, from Macao and from Indonesia. Could there be a connection there? We need to know. The American people have a right to know, but we do not know.

These things are of grave concern to me because some of them involve our national security, as I talked to you about earlier, the technology transfer that allows the Communist Chinese to be able to more accurately target targets halfway around the world; i.e., American cities.

These are things that we need to find out about. These are things the American people have a right to know. We have 94 people, 94 people that could shed light on this but have taken the fifth amendment or fled the country. That is a huge number.

I would like to state one more time, FBI Director Freeh said the only time he had heard of anything like this was when he was investigating organized crime in New York, the John Gotti's and so forth. This is huge. The American people ought to be outraged because national security questions have been raised. These people can help us get to the bottom of it.

The President of the United States, after this technology transfer took place, and I might add the President signed a waiver which okayed that after the Justice Department and the FBI had started investigation into the Loral Company which gave that technology to the Communist Chinese, and the FBI and the Justice Department told the White House that they did not think that a waiver should be signed because they were investigating whether or not national security had been breached or whether the law had been violated by the Loral Company, and Mr. Schwartz, the largest Democrat contributor and the largest contributor to the President's reelection committee, they did not think there should be a waiver signed.

□ 1845

Yet the President, after the fact, signed that waiver, which weakened the Justice Department investigation of the possible case against the Loral Company and Mr. Schwartz. Why did that happen?

We need to know. These people can testify to many of these issues. Yet, the President has not insisted that these people, many of whom worked at the White House, who were friends of his, testify before the Congress of the United States.

When Ronald Reagan was President we had the Iran-Contra affair, and he did not hold back any documents. The White House has been unbelievably hard to get documents from relating to any of this. He insisted that his staff come down and testify. Nobody took the fifth amendment. Yet, we have 94 people who have taken the fifth or fled the country. There is a real contrast between the Reagan administration and the Clinton administration.

National security questions need to be answered, commerce questions need to be answered, and the only person who can really force the issue is the President. He needs to tell these people to come and testify before our committee.

I do not believe the President should be going to Communist China, especially after this technology transfer took place. We need to find the answer to these questions before he goes over there. But he is taking 1,250 people with him.

He is going to go to Tiananmen Square, where they have a reception center. Members remember Tiananmen Square, where 9 years ago many young people were ground under tanks, and hundreds, possibly thousands, were murdered, and then many thousands later went into Communist gulags.

We now know the Communist Chinese government is killing people in their prisons and harvesting their kidneys, livers, and hearts, and selling them around the world for $30,000 to $100,000 a crack. They are getting at least $60 million by killing people in prisons and giving their body parts for money around the world. Some of those people are probably these political prisoners who were at Tiananmen Square. We do not know.

But all these things bother me a great deal. That is one of the reasons why I think the President should not be going to Communist China.

My committee has been investigating this for over a year. I must tell my colleagues that I have a great sense of frustration, because every time we ask for documents, every time we try to get to the bottom of this, the White House throws up another stone wall. They will not give us documents. They will not let people testify, even people who have worked at the White House and are friends of the President.

All I can say is the American people ought to ask, why? Why, Mr. President, are we not allowing people to testify? Why is the President not insisting that all of these friends of his come before the Congress of the United States and tell the truth?

All we have to do is get the truth. Lincoln said, let the people know the facts and the country will be saved. We are talking about national security. We are talking about foreign entities, from South America to Egypt to southwest Asia, Macao, China, Taiwan, Indonesia, giving campaign contributions to the DNC through illegal conduits in this country.

Why, Mr. President, did these things happen? I submit that the White House cannot be ignorant of all of this, because most of these people were going in and out of the White House on a regular basis, meeting with the President, getting their pictures taken with him, going to dinners, and raising funds for him.

The American people have a right to know the facts. I hope the President of the United States will help us get the facts. If he does go to China, which I do not think he should, but if he does go to China, I hope he will ask the Chinese government to let our investigators in there.

They will not let our investigators in there to talk to the Bank of China or to find out why these Communist Chinese contributions were coming into the United States, and from whom they were coming. They will not let us in there. So if the President is going over there, I think he ought to ask the President of China to work with us to get to the bottom of this. But I doubt that that will happen.

I would like to end up by saying one more time, the American people have a right to know. As long as I am chairman of this committee, I am going to work my dead level best to get to the bottom of this so that they do have all the facts.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SHAYS (at the request of Mr. ARMEY) for after 12:30 today on account of attending his daughter's high school graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:

Mr. CONYERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

The following Members (at the request of Mr. THUNE) to revise and extend their remarks and include extraneous material:

Mr. ROHRABACHER, for 5 minutes, today.

Mrs. CHENOWETH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. ENGEL) and to include extraneous matter:

Mr. PAYNE.

Mr. RANGEL.

Mr. KIND.

Mr. MENENDEZ.

Mr. KILDEE.

Mrs. MCCARTHY of New York.

Mr. EDWARDS of Texas.

Mr. STARK.

Mr. CLAY.

Mr. WYNN.

Mr. KUCINICH.

Mr. SCHUMER.

Mr. VISCLOSKY.

Ms. SANCHEZ.

Mr. HINCHEY.

Mr. FAZIO of California.

Mr. BENTSEN.

Mr. ACKERMAN.

Mr. FROST.

The following Members (at the request of Mr. THUNE) and to include extraneous matter:

Mr. RIGGS.

Mr. PACKARD.

Mr. MCCOLLUM.

Mr. SPENCE.

Mr. BASS.

Mr. BOB SCHAFFER of Colorado.

Mr. BURTON of Indiana.

Mr. POMBO.

Mr. KINGSTON.

The following Members (at the request of Mr. PEASE) and to include extraneous matter:

Mr. NEAL of Massachusetts in two instances.

Mr. HOYER.

Mr. ACKERMAN.

Mr. MCGOVERN.

Mr. GOODLING.

Mr. WELDON of Pennsylvania.

Mr. WHITE.

Mrs. MORELLA.

Ms. CARSON.

Mr. CLYBURN.

Mr. LAHOOD.

Mrs. LOWEY.

Mr. GEKAS.

Mr. WATTS of Oklahoma.

Mr. KINGSTON.

Mr. HUTCHINSON.

Mr. ROGERS.

Mr. PAYNE.

Mr. HINCHEY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1364. An act to eliminate unnecessary and wasteful Federal reports; to the Committee on Government Reform and Oversight.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 423. An act to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2709. An act to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until Monday, June 15, 1998, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9577. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Phospholipid: Lyso-PE (lysophosphatidylethanolamine); Time-Limited Pesticide Tolerance [OPP-300672; FRL-5795-1] (RIN: 2070-AB78) received June 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9578. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Reclassification: Anchorage, Alaska Nonattainment Area; Carbon Monoxide [AK 19-1707; FRL-6108-6] received June 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9579. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Removal of the Prohibition on the Use of Point of Use Devices for Compliance with National Primary Drinking Water Regulations [FRL-6109-7] received June 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9580. A letter from the Secretary of Defense and Secretary of State, transmitting the report of discussions with regional allies and likely coalition partners to enhance their preparedness to conduct military operations under threat or attack by chemical and biological weapons, pursuant to Senate Executive Resolution 75, Section 2, Condition (11), agreed on April 24, 1997; to the Committee on International Relations.

9581. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 [Docket No. 971208297-8054-02; I.D. 052998A] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9582. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Bycatch Rate Standards for the Second Half of 1998 [Docket No. 961107312-7021-02; I.D. 052098B] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9583. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—South Atlantic Swordfish Fishery; Fishery Reopening [I.D. 042398A] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9584. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species Fisheries; Import Restrictions [Docket No. 970702161-7197-02; I.D. 041097C] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9585. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels using Hook-and-Line Gear in the Gulf of Alaska [Docket No. 971208297-8054-02; I.D. 052698A] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9586. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Shark Fisheries; Quota Adjustment [I.D. 051998A] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9587. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Transfer of Marine Equipment to Ship Operators and Shipyards Removal of Obsolete Regulations

[Docket No. R— 175] (RIN: 2133—AB34 (Final)) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9588. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia [CGD 05–98–037] received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9589. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; San Pedro Bay, CA [COTP Los Angeles-Long Beach, CA; 98–004] (RIN: 2115–AA97) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9590. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Marion, OH [Airspace Docket No. 98–AGL–20] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9591. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D and Class E Airspace; St. Joseph, MO; Extension of Comment Period and Correction [Airspace Docket No. 98–ACE–6] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9592. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Realignment of Jet Route J–66; TN [Airspsace Docket No. 97–ASO–28] (RIN: 2120–AA66) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9593. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; Minot AFB, ND; and Class E Airspace; Minot, ND [Airspace Docket No. 97–AGL–61] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9594. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France (Formerly Aerospatiale, Society Nationale Industrielle, Sud Aviation) Model SA–365N, SA–365N1, AS–36N25, and SA–366G1 Helicopters [Docket No. 96–SW–22–AD; Amendment 39–10564; AD 98–12–08] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9595. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; SOCATA Groupe Aerospatiale Model TBM 700 Airplanes [Docket No. 97–CE–76–AD; Amendment 39–10559; AD 98–12–02] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9596. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–6, PC–6/A, PC–6/B, and PC–6/C Series Airplanes [Docket No. 97–CE–09–AD; Amendment 39–10558; AD 98–12–01] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9597. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Models ASW–19 and ASK 21 Sailplanes [Docket No. 97–CE–102–AD; Amendment 39–10560; AD 98–12–03] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9598. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–500M Gliders [Docket No. 98–CE–09–AD; Amendment 39–10561; AD 98–12–04] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9599. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes [Docket No. 98–CE–15–AD; Amendment 39–10567; AD 98–12–11] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9600. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Madison, SD [Airspace Docket No. 98–AGL–17] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9601. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Rush City, MN [Airspace Docket No. 98–AGL–18] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9602. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Fergus Falls, MN [Airspace Docket No. 98–AGL–6] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9603. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Colorado Springs, CO [Airspace Docket No. 98–ANM–06] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9604. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29241; Amdt. No. 1871] (RIN: 2120–AA65) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9605. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29242; Amdt. No. 1872] (RIN: 2120–AA65) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9606. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Rugby, ND [Airspace Docket No. 98–AGL–13] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9607. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Traverse City, MI [Airspace Docket No. 98–AGL–16] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9608. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Wooster, OH [Airspace Docket No. 98–AGL–19] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9609. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Stemme GmbH & Co. KG Models S10 and S10–V Sailplanes [Docket No. 97–CE–129–AD; Amendment 39–10562; AD 98–12–06] (RIN: 2120–AA64) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHAYS (for himself, Mr. Towns, Mr. Snowbarger, Mr. Sanders, Mr. Gilman, Ms. Norton, Mr. Burton of Indiana, Mr. Metcalf, Mr. McHugh, Mr. Allen, Mr. Lantos, Mr. Barrett of Wisconsin, Mr. Condit, Mr. McIntosh, Ms. Stabenow, Mr. McGovern, Mr. Pappas, Mr. Souder, Mr. Kucinich, Mr. Kennedy of Massachusetts, Mr. Davis of Virginia, Mrs. Johnson of Connecticut, and Mr. Upton):

H.R. 4035. A bill to amend the Federal Food, Drug, and Cosmetic Act and title 10, United States Code, with respect to the administration to members of the Armed Forces of certain drugs without the informed consent of the members; to the Committee on Commerce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. Towns, Mr. Snowbarger, Mr. Sanders, Mr. Gilman, Ms. Norton, Mr. Burton of Indiana, Mr. Metcalf, Mr. McHugh, Mr. Allen, Mr. Lantos, Mr. Barrett of Wisconsin, Mr. McIntosh, Ms. Stabenow, Mr. McGovern, Mr. Pappas, Mr. Souder, Mr. Waxman, Mr. Kucinich, Mr. Kennedy of Massachusetts, Mr. Davis of Virginia, Mrs. Johnson of Connecticut, and Mr. Upton):

H.R. 4036. A bill to amend title 38, United States Code, to establish certain presumptions of service connection for veterans who served in the Persian Gulf War, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. GRANGER (for herself and Mr. Roemer):

H.R. 4037. A bill to require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets; to the Committee on Education and the Workforce.

By Mr. BOSWELL:

H.R. 4038. A bill to establish the National Commission on Reforming and Simplifying the Federal Tax Code; to the Committee on Ways and Means.

By Mr. BURTON of Indiana (for himself, Mr. SESSIONS, and Mr. HUTCHINSON):

H.R. 4039. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

By Mr. CLYBURN:

H.R. 4040. A bill to designate the building in Eau Claire, South Carolina, which houses the operations of the United States Postal Service as the "Mamie G. Floyd Post Office"; to the Committee on Government Reform and Oversight.

By Mr. CLYBURN:

H.R. 4041. A bill to designate the United States Post Office located at 557 East Bay Street in Charleston, South Carolina, as the "Marybelle H. Howe Post Office"; to the Committee on Government Reform and Oversight.

By Mr. CLYBURN:

H.R. 4042. A bill to designate the United States Post Office located at 78 Sycamore Street in Charleston, South Carolina, as the "Richard E. Fields Post Office"; to the Committee on Government Reform and Oversight.

By Mr. CLYBURN:

H.R. 4043. A bill to designate the building in Eastover, South Carolina, which houses the operations of the United States Postal Service as the "Layford R. JOHNSON Post Office"; to the Committee on Government Reform and Oversight.

By Mr. CLYBURN:

H.R. 4044. A bill to designate the building in Orangeburg, South Carolina, which houses the operations of the United States Postal Service as the "J.I. Washington, III, Post Office"; to the Committee on Government Reform and Oversight.

By Mr. COOK (for himself and Mr. CANNON):

H.R. 4045. A bill to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Paralympic Games; to the Committee on Ways and Means.

By Mr. DAVIS of Florida (for himself, Mr. BILIRAKIS, Mr. DINGELL, Mr. SHAW, Mr. BROWN of Ohio, Mr. CANADY of Florida, Mr. WAXMAN, Mr. YOUNG of Florida, Mr. DEUTSCH, Mr. FOLEY, Mr. WEXLER, Mrs. FOWLER, Mr. MARKEY, Mr. DIAZ-BALART, Mr. HASTINGS of Florida, Ms. ROS-LEHTINEN, Ms. BROWN of Florida, Mr. BOUCHER, Mrs. THURMAN, Mrs. MEEK of Florida, Mr. BOYD, Mr. MANTON, Mr. TOWNS, Mr. PALLONE, Ms. FURSE, Mr. RUSH, Ms. ESHOO, Mr. STUPAK, Mr. GREEN, Mr. KENNEDY of Massachusetts, and Mr. BISHOP):

H.R. 4046. A bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program; to the Committee on Commerce.

By Mr. DEUTSCH:

H.R. 4047. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to the Florida Keys Aqueduct Authority and other appropriate agencies for the purpose of improving water quality throughout the marine ecosystem of the Florida Keys; to the Committee on Transportation and Infrastructure.

By Mr. DOOLITTLE:

H.R. 4048. A bill to convey the Sly Park Dam and Reservoir to the El Dorado Irrigation District, and for other purposes; to the Committee on Resources.

By Mr. GEKAS (for himself, Mrs. BONO, Mr. BUYER, Mr. ENGLISH of Pennsylvania, Mr. GRAHAM, Mr. HALL of Texas, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. PICKETT, Mr. SENSENBRENNER, Mr. SISISKY, Mr. SMITH of Texas, Mr. STENHOLM, Mr. STRICKLAND, and Mr. TALENT):

H.R. 4049. A bill to amend titles 5 and 28, United States Code, to provide for a limitation on sanctions imposed by agencies and courts in certain circumstances; to the Committee on the Judiciary.

By Mr. LATOURETTE (for himself, Mr. KASICH, and Mr. NEY):

H.R. 4050. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Ms. MCKINNEY:

H.R. 4051. A bill to provide a mechanism for the final resolution of certain complaints of discrimination arising out of the administration of programs of the Department of Agriculture; to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MEEK of Florida (for herself, Mr. SCARBOROUGH, Mr. BOYD, Ms. BROWN of Florida, Mrs. FOWLER, Mrs. THURMAN, Mr. STEARNS, Mr. MICA, Mr. MCCOLLUM, Mr. BILIRAKIS, Mr. YOUNG of Florida, Mr. DAVIS of Florida, Mr. CANADY of Florida, Mr. MILLER of Florida, Mr. GOSS, Mr. WELDON of Florida, Mr. FOLEY, Ms. ROS-LEHTINEN, Mr. WEXLER, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. SHAW, and Mr. HASTINGS of Florida):

H.R. 4052. A bill to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida; to the Committee on Government Reform and Oversight.

By Mr. NEAL of Massachusetts (for himself and Mr. RANGEL):

H.R. 4053. A bill to amend the Internal Revenue Code of 1986 to simplify the individual income tax by repealing the adjusted gross income limitations on itemized deductions and the personal exemption deduction, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 4054. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets; to the Committee on Government Reform and Oversight.

By Ms. NORTON:

H.R. 4055. A bill to amend the District of Columbia Home Rule Act to eliminate Congressional review of newly-passed District laws; to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS (for himself, Mr. DELAY, Mr. TAUZIN, Mr. ARMEY, Ms. PRYCE of Ohio, Mr. HYDE, Mr. ARCHER, Mr. KASICH, Mr. HASTERT, Mr. SOLOMON, Mr. HALL of Texas, Mr. BURTON of Indiana, Mr. CUNNINGHAM, Mr. BACHUS, Mr. BONILLA, Mr. DICKEY, Mr. CANADY of Florida, Mr. FOLEY, Mr. FOX of Pennsylvania, Mr. MCCRERY, Mr. BILBRAY, Mr. HAYWORTH, Mr. POMBO, Mr. SMITH of Michigan, Mr. ROHRABACHER, Mr. SALMON, Mr. SCARBOROUGH, Mr. EWING, Mr. SMITH of Oregon, Mr. MCINTOSH, Mr. BARTLETT of Maryland, Mr. ENSIGN, Mr. SOUDER, Mr. COMBEST, Mr. SNOWBARGER, Mr. TRAFICANT, Mr. MANZULLO, Mr. COOK, Mr. HORN, Mr. WALSH, Mr. DOOLITTLE, Mr. BAKER, Mr. LINDER, Mr. BLUNT, Mrs. CUBIN, Mr. BARRETT of Nebraska, Mr. PICKERING, Mr. HOBSON, Mr. LAZIO of New York, Mr. WAMP, Mr. KINGSTON, Mr. BURR of North Carolina, Mr. EHRLICH, Mr. GILLMOR, Mr. MCINNIS, Mr. TALENT, Mr. PAUL, Mr. SMITH of Texas, Mr. PAXON, Mr. GOODLING, Mr. SHAYS, Mr. MCCOLLUM, Mr. GREENWOOD, Mr. ISTOOK, Mr. RYUN, Mr. NUSSLE, Mr. BARR of Georgia, Mr. ROYCE, Mr. SENSENBRENNER, Mr. HERGER, Mr. REDMOND, Mrs. EMERSON, Mr. YOUNG of Alaska, Mr. WATTS of Oklahoma, Mr. GRAHAM, Mr. CHABOT, Mr. HILL, Mr. BUNNING of Kentucky, Mr. JONES, and Mr. METCALF):

H.R. 4056. A bill to prohibit the use of funds appropriated or otherwise made available for the Department of Defense for fiscal year 1999 or any subsequent fiscal year for the deployment of any United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1999, and for other purposes; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAHOOD:

H. Con. Res. 290. Concurrent resolution expressing the sense of Congress with respect to the fair and equitable implementation of the amendments made by the Food Quality Protection Act of 1996; to the Committee on Agriculture, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself, Mrs. NORTHUP, Mr. CONYERS, Mr. CLAY, Mr. STOKES, Mr. RANGEL, Mr. DIXON, Mr. OWENS, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. PAYNE, Ms. NORTON, Mr. JEFFERSON, Mrs. CLAYTON, Mr. BISHOP, Ms. BROWN of Florida, Mr. CLYBURN, Mr. HASTINGS of Florida, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. RUSH, Mr. SCOTT, Mr. WATT of North Carolina, Mr. WYNN, Mr. THOMPSON, Mr.

FATTAH, Ms. JACKSON-LEE, Mr. JACKSON, Ms. MILLENDER-MCDONALD, Mr. CUMMINGS, Ms. CARSON, Ms. CHRISTIAN-GREEN, Mr. DAVIS of Illinois, Mr. FORD, Ms. KILPATRICK, Mr. MEEKS of New York, Ms. LEE, Mr. GEPHARDT, Mr. BONIOR, Mr. TURNER, Mr. LAMPSON, Mr. GONZALEZ, Mr. FROST, Mr. STENHOLM, Mr. HALL of Texas, Mr. ORTIZ, Mr. EDWARDS, Mr. GREEN, Mr. BENTSEN, Mr. DOGGETT, Mr. RODRIGUEZ, Mr. HINOJOSA, Mr. REYES, Mr. SANDLIN, Mr. GINGRICH, Mr. ARMEY, Mr. WATTS of Oklahoma, Mrs. TAUSCHER, Mr. BRADY of Pennsylvania, Mr. HASTERT, Mr. BOEHNER, Ms. DUNN of Washington, Ms. PRYCE of Ohio, Mr. LINDER, Mr. FAZIO of California, Mrs. KENNELLY of Connecticut, Mr. TRAFICANT, Mr. MCNULTY, Mr. WAMP, Mr. SHAYS, Mr. MENENDEZ, Mrs. CHENOWETH, Mr. SISISKY, Mr. ENGEL, Ms. FURSE, Mr. MILLER of California, Mr. OLVER, Ms. HARMAN, Mrs. BONO, Mr. KING of New York, Mr. BACHUS, and Mr. POSHARD):

H. Res. 466. A resolution condemning the brutal killing of Mr. James BYRD, Jr.; to the Committee on the Judiciary. discharged; considered and adopted.

By Mrs. MALONEY of New York:

H. Res. 467. A resolution providing for the consideration of the bill (H.R. 3526) to reform the financing of Federal elections; to the Committee on Rules.

By Mrs. MALONEY of New York:

H. Res. 468. A resolution providing for further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes; to the Committee on Rules.

By Mr. HALL of Texas (for himself, Mr. SESSIONS, Mr. HINOJOSA, Mr. BENTSEN, Mr. DELAY, Mr. FILNER, Mr. SMITH of Oregon, Mr. ARCHER, Mr. ROHRABACHER, Mr. BRADY of Texas, Mr. CUNNINGHAM, Mr. ORTIZ, Mr. MCGOVERN, Mr. PASTOR, Mr. KOLBE, Mr. BONILLA, Mr. BARTON of Texas, Mr. SANDLIN, Mr. FROST, Mr. SKEEN, Mr. MANTON, Mr. EDWARDS, Mr. REDMOND, Mr. ARMEY, Mr. STENHOLM, and Mr. TURNER):

H. Res. 469. A resolution expressing the sense of the House of Representatives regarding assistance to Mexico to combat wildfires, and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. SCARBOROUGH and Mr. BEREUTER.

H.R. 65: Mr. MCDERMOTT.

H.R. 165: Mr. LOBIONDO.

H.R. 303: Mr. MCDERMOTT.

H.R. 464: Ms. DEGETTE.

H.R. 611: Ms. LEE and Ms. DANNER.

H.R. 872: Mr. PALLONE.

H.R. 1126: Mr. MCNULTY, Mr. SCARBOROUGH, and Mr. RANGEL.

H.R. 1173: Mr. DEFAZIO, Ms. MILLENDER-MCDONALD, and Mr. HOLDEN.

H.R. 1231: Mr. ROMERO-BARCELO.

H.R. 1382: Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Mr. MCGOVERN, Ms. DELAURO, Mr. QUINN, Mr. BLAGOJEVICH, Mr. BISHOP, Mr. BARCIA of Michigan, and Mr. FORBES.

H.R. 1401: Mrs. BONO and Mrs. CAPPS.

H.R. 1404: Mrs. TAUSCHER, Mr. FROST, Mr. BORSKI, Mr. OBEY, and Mrs. MEEK of Florida.

H.R. 1450: Mr. DELAHUNT.

H.R. 1560: Mr. PORTMAN, Mr. LAZIO of New York, Mr. NEAL of Massachusetts, Mr. COSTELLO, Mr. ENGLISH of Pennsylvania, and Mr. SKAGGS.

H.R. 1671: Mr. SANDERS.

H.R. 1689: Mr. THOMAS and Mr. MORAN of Kansas.

H.R. 1737: Mr. LEWIS of California.

H.R. 1995: Mr. JOHN, Mr. BOUCHER, Mr. ROTHMAN, Mr. BARRETT of Wisconsin, and Mr. DEUTSCH.

H.R. 2023: Mr. BORSKI, Mr. CUMMINGS, Mr. BALDACCI, Mr. GEJDENSON, Ms. LEE, Mrs. MINK of Hawaii, Mr. SANDERS, Ms. SANCHEZ, Ms. VELÁZQUEZ, and Mr. FORD.

H.R. 2321: Mr. BARCIA of Michigan.

H.R. 2372: Mr. BARTON of Texas.

H.R. 2455: Mr. MASCARA and Mr. BOSWELL.

H.R. 2499: Mr. KOLBE, Mr. RAHALL, Mr. MCGOVERN, Mr. THOMPSON, and Mr. JOHN.

H.R. 2525: Mr. WEXLER and Mr. TOWNS.

H.R. 2547: Mr. WAXMAN.

H.R. 2560: Mr. SPRATT, Mr. CRAMER, Mr. LEWIS of California, and Ms. LEE.

H.R. 2635: Mr. UNDERWOOD, Ms. STABENOW, Mr. CUMMINGS, Mr. MORAN of Virginia, Mr. WEXLER, Mr. SCHUMER, and Mr. NEAL of Massachusetts.

H.R. 2752: Mr. DAN SCHAEFER of Colorado.

H.R. 2754: Mr. TORRES and Mrs. CAPPS.

H.R. 2800: Mr. FROST.

H.R. 2884: Mr. ISTOOK, Mr. FOLEY, and Mr. FOX of Pennsylvania.

H.R. 2914: Mr. GILMAN.

H.R. 2936: Mr. GILCHREST.

H.R. 2995: Mr. WELLER and Mr. FROST.

H.R. 3008: Mr. FROST and Mr. BARCIA of Michigan.

H.R. 3099: Mr. DUNCAN.

H.R. 3125: Mr. KING of New York.

H.R. 3127: Mr. LEWIS of Kentucky and Mr. ISTOOK.

H.R. 3140: Mr. YOUNG of Alaska and Mr. ALLEN.

H.R. 3162: Mr. GILMAN.

H.R. 3207: Mr. HOYER, Mr. MANTON, Mr. TORRES, Ms. LOFGREN, Mr. BARRETT of Wisconsin, Mr. LANTOS, Mr. HINCHEY, and Mr. FALEOMAVAEGA.

H.R. 3229: Mr. JONES.

H.R. 3230: Mr. JONES.

H.R. 3240: Ms. MCCARTHY of Missouri and Ms. DANNER.

H.R. 3281: Mr. TOWNS, Mr. COSTELLO, Mr. OLVER, Mr. FILNER, Mr. CLYBURN, and Mr. KENNEDY of Massachusetts.

H.R. 3283: Mr. ACKERMAN and Ms. PELOSI.

H.R. 3288: Mr. ISTOOK.

H.R. 3396: Mr. MARTINEZ, Ms. NORTON, Mr. GILLMOR, Mr. EDWARDS, and Ms. DANNER.

H.R. 3398: Mr. BARR of Georgia, Mr. DREIER, and Mr. RADANOVICH.

H.R. 3484: Mr. PICKERING.

H.R. 3506: Mr. TIERNEY, Ms. CHRISTIAN-GREEN, Mr. YOUNG of Alaska, Mr. OBERSTAR, Mr. LIPINSKI, Mr. SAWYER, Mr. BRYANT, Mr. BORSKI, Mr. CRAMER, Mr. DOYLE, Mr. HASTINGS of Florida, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KLINK, Mr. LAMPSON, Mr. MOLLOHAN, Mr. MURTHA, and Mr. SHERMAN.

H.R. 3561: Mrs. MALONEY of New York.

H.R. 3570: Mr. WEXLER.

H.R. 3572: Mr. SHAYS, Mr. KING of New York, and Mr. PETERSON of Minnesota.

H.R. 3584: Mr. CANADY of Florida, Mr. METCALF, Mr. SANDLIN, Mr. MATSUI, Mr. GANSKE, Mrs. MINK of Hawaii, Mr. WATKINS, and Mr. BALLENGER.

H.R. 3610: Mr. PASCRELL, Mr. SMITH of New Jersey, and Mr. PRICE of North Carolina.

H.R. 3632: Mr. METCALF.

H.R. 3636: Mr. LAMPSON, Mr. RAHALL, and Ms. FURSE.

H.R. 3639: Mr. OXLEY.

H.R. 3654: Mr. LEWIS of Kentucky.

H.R. 3672: Mr. STARK and Mr. UNDERWOOD.

H.R. 3743: Ms. DELAURO and Ms. CARSON.

H.R. 3745: Mrs. ROUKEMA.

H.R. 3747: Mr. SNOWBARGER.

H.R. 3795: Mrs. KELLY.

H.R. 3814: Mr. GREEN, Mr. ROMERO-BARCELO, Mr. MASCARA, Mr. MEEHAN, Mr. MANTON, Mr. POMEROY, and Mr. BONIOR.

H.R. 3821: Mr. CRANE, Mr. BLUNT, Mr. CALVERT, Mr. ROMERO-BARCELO, Mr. RAMSTAD, Mrs. FOWLER, and Mr. MCNULTY.

H.R. 3830: Mr. PAPPAS and Mr. FRELINGHUYSEN.

H.R. 3833: Mr. YATES and Ms. FURSE.

H.R. 3855: Mr. POSHARD, Mr. BILBRAY, Mr. KENNEDY of Massachusetts, Mr. WAXMAN, Mr. ABERCROMBIE, and Mr. MOAKLEY.

H.R. 3862: Mr. MENENDEZ and Mrs. THURMAN.

H.R. 3870: Mr. MANZULLO, Mr. POMEROY, Mr. ENGLISH of Pennsylvania, Mr. BALDACCI, Mr. MCCOLLUM, Mr. BAKER, Mr. PETERSON of Pennsylvania, Mr. MCHUGH, Mr. SUNUNU, Mrs. KELLY, and Mr. SMITH of Oregon.

H.R. 3875: Mrs. TAUSCHER, Mr. MATSUI, Mr. PALLONE, and Mr. BILBRAY.

H.R. 3879: Mr. WELDON of Florida, Mr. STUMP, Mr. BARCIA of Michigan, Mr. LEWIS of Kentucky, Mr. DEAL of Georgia, and Mr. HASTERT.

H.R. 3885: Mr. COSTELLO.

H.R. 3907: Mr. WAMP.

H.R. 3911: Mrs. CAPPS.

H.R. 3927: Mr. RAMSTAD.

H.R. 3930: Mr. CHABOT, Mr. INGLIS of South Carolina, and Mr. HOSTETTLER.

H.R. 3937: Mr. SANDLIN.

H.R. 3942: Mr. BILBRAY, Mr. ROMERO-BARCELO, Mr. DIXON, Mr. MARTINEZ, and Mr. BROWN of California.

H.R. 3949: Mr. BOB SCHAFFER, Mr. KASICH, and Mr. PICKERING.

H.R. 3975: Mr. ENGLISH of Pennsylvania, Mr. CALVERT, and Mr. GOSS.

H.R. 4018: Ms. STABENOW, Mr. RUSH, Mrs. MALONEY of New York, Mr. BARCIA of Michigan, and Ms. LOFGREN.

H. Con. Res. 114: Mr. LUTHER.

H. Con. Res. 122: Mr. BERMAN, Mr. DEUTSCH, Mr. MCGOVERN, Mr. MCNULTY, Mrs. MEEK of Florida, Mr. MENENDEZ, Mrs. MORELLA, Mr. PALLONE, Mr. SAXTON, Mr. SCHUMER, Mr. SHERMAN, Mr. WATTS of Oklahoma, and Mr. WEXLER.

H. Con. Res. 254: Mr. DICKEY, Mr. BRYANT, and Mr. HUTCHINSON.

H. Con. Res. 258: Mr. LAMPSON.

H. Con. Res. 288: Mr. SNOWBARGER, Mrs. ROUKEMA, Mr. RILEY, Mr. FOX of Pennsylvania, Mr. CRAMER, Mr. HASTERT, and Mr. CALVERT.

H. Res. 144: Mr. PORTMAN and Mr. LAZIO of New York.

H. Res. 312: Mr. GUTIERREZ, Mr. KENNEDY of Rhode Island, Mr. LIPINSKI, and Mr. CALVERT.

H. Res. 353: Mr. LEACH and Mr. PORTER.

H. Res. 456: Mr. LARGENT, Mr. SOUDER, Mr. PETERSON of Pennsylvania, and Mr. MICA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII sponsors were deleted from public bills and resolutions as follows:

H.R. 2497: Mr. BARCIA of Michigan.
H.R. 3396. Mr. REYES.
H.R. 3629: Mr. TIAHRT.

DISCHARGE PETITIONS

Under clause 3, rule XXVII, the following discharge petition was filed.

Petition 4, June 11, 1998, by Ms. SLAUGHTER on H.R. 306, was signed by the following Members: LOUISE MCINTOSH SLAUGHTER, MICHAEL R. MCNULTY, EVA M. CLAYTON, and NANCY PELOSI.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following members added their names to the following discharge petition:

Petition 1 by Mr. YATES on House Resolution 141: JESSE L. JACKSON, JR. and LUIS V. GUTIERREZ.

SENATE—*Thursday, June 11, 1998*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, our purpose is to glorify You by serving our Nation. We want to express an energetic earnestness about our work today. Help us to know what You want and then want what we know; to say what we mean, and mean what we say. Give us resoluteness and intentionality. Free us to listen to You so intently that we can speak with courage. Keep us in the battle for truth rather than ego-skirmishes over secondary issues. Make us party to Your plans so we can give leadership to our parties and then help our parties work together to accomplish Your purposes. Make us one in the expression of our patriotism. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. SMITH of Oregon. Thank you, Mr. President.

SCHEDULE

Mr. SMITH of Oregon. Mr. President, this morning, the Senate will be in a period for morning business until 11:15 a.m. Following morning business, the Senate will resume consideration of the tobacco bill, and it is expected that a Republican amendment will be offered regarding attorneys' fees. It is hoped that a short time agreement can be reached on that amendment so that remaining amendments can be offered and debated throughout today's session. At 12 noon, the Senate will proceed to a vote on the motion to invoke cloture on the modified tobacco committee substitute. Assuming cloture fails, the Senate will continue debate on the tobacco bill. The Senate may also consider any other legislative or executive items that may be cleared for action. Therefore, rollcall votes are possible throughout today's session of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I know my colleague wants to address the Senate and I will only take a minute on the business side. It is my understanding with respect to the tobacco bill, in a discussion with the majority leader last night, that there would be a Democratic amendment, I believe, at 11:15, with the understanding that the attorneys' fees amendment will follow that. I can say to a certainty that on the Democratic amendment, we will gladly enter into a time agreement. It will not be a long time agreement. So we can anticipate moving to the attorneys' fees amendment, hopefully, in the early afternoon.

Mr. SMITH of Oregon. Mr. President; the last amendment last night voted on was a Democratic amendment, and going back and forth, I believe the next one will be a Republican amendment. However, the chairman is not here. We will check with him, and if an accommodation is necessary, we will pursue that.

Mr. KERRY. Mr. President, let me just say to my friend, that is accurate in the sense there was a Democratic amendment. But the discussion we had with the majority leader and the manager of the bill is the Democratic amendments that have flowed to date were essentially responsive amendments on the same subject to the Republican amendment. Effectively, there hasn't been a proactive, freestanding Democratic amendment. I think that is why the majority leader was happy to say he will allow the Democrats to have sort of a substantive amendment of their own choosing, and then we can proceed forward. But we can work this out. I just wanted to make sure at least that was on the record at this time.

Mr. SMITH of Oregon. Mr. President, I don't suspect that will be a problem. We are going to check with the chairman and try and accommodate.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a period for the transaction of morning business until 11:15 a.m, with Senators permitted to speak for up to 5 minutes, with the following exceptions: the Senator from West Virginia, Mr. ROCKEFELLER, for 10 minutes; the Senator from New Jersey, Mr. TORRICELLI, for 15 minutes; the Senator from Montana, Mr. BAUCUS, for 30 minutes; the Senator from Maine, Ms. COLLINS, for 15 minutes; the Senator from Massachusetts, Mr. KERRY, for 15 minutes; and the distinguished Senator from Oregon, Mr. SMITH, for 5 minutes.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

STATE OF RURAL OREGON

Mr. SMITH of Oregon. Mr. President, this coming weekend the President of the United States will travel to my home State of Oregon to deliver the commencement speech at Portland State University. As Oregon's junior Senator, I welcome President Clinton. I look forward to seeing his remarks and want him to know he is welcome in my State.

While in Portland, he will find a vital, vibrant community, like much of the Nation, which has enjoyed very good economic times. Because of this, the President might leave Portland thinking his administration's policies, even those regarding natural resources and the environment, have been good for Oregon. And if he does that, if he has that impression, he will be sadly mistaken.

During the last recess, I traveled through the rest of Oregon. I returned from Washington last weekend having spent 5 days in eastern Oregon. I went to the communities of Condon, Boardman, Hermiston, Pendleton, LaGrande, Baker City, Ontario, Nyssa, Burns, John Day, Enterprise, Milton-Freewater, and Ione.

This region is the home to honest, hard-working people. It is a region that is also home to some of the most breathtaking scenery on the Earth. It is a region of forests and rivers, mountains and valleys. It is a region where people earn their living from the land. But it is a region in dire economic straits. It is a region which is fighting for its survival.

Many States have what I term country-city divides, conflicts between rural and urban areas. I happen to be the first Senator elected in Oregon who has lived in rural Oregon in nearly 70 years. I take the issues with respect to all of my State very seriously. I take the issues that affect rural Oregon very personally.

I would like to report to my colleagues on the State of rural Oregon, the rest of Oregon, today, and to invite the President not just to go to Portland but to come with me to John Day, to come with me to Nyssa, to come with me to Burns, OR, and to see for himself an area of my State that has been terribly damaged by many of his administration's policies.

These are Oregonians who have made their living off the land for generations. They are now being forced out of business by policies of this administration. These policies are often driven by emotionally generated, questionable science to institute severe restrictions on agriculture, forestry, grazing, and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

mining on both public and private lands.

Mr. President, there are people in the administration now who talk with straight faces, without blinking, about tearing out the Columbia River dams. These are assets built by the Federal Government in the Second World War. They were built to serve a multiple of purposes. They were built to provide public safety from spring flooding; they were built to provide irrigation for agriculture; they were provided to move crops from country to city, the city of Portland, the Port of Portland, where 40 percent of the wheat in the West goes right through and down that river.

They were built also to produce electricity. Heaven forbid, people need electricity. They were built specifically to provide the production of metals for weaponry in the Second World War. But now we are being told that all of these values must be subordinate to the single value of supposedly protecting the environment. They want to blow up these dams.

I am afraid I probably motivated some of my environmental opponents when I told them that when they blow the dams I will be on top of them, because I feel very strongly that the multiple of public values that are to be served by these are still worthy values. And there are many things we can do to make them more environmentally friendly, and we are doing that as we speak.

Well, that is an aside. But the people that I know in rural Oregon are good stewards of their land. After all, they need their land for their livelihoods, and they desperately would like to pass it on to their next generation, to their children. Moreover, these people make their living by producing food and wood fiber that all Americans need and use in our everyday lives.

I sometimes begin to think that we are so removed from rural communities in our modern society that we think we do not need farmers because there is a Safeway down the street, we do not need foresters because there is a lumber yard down the street, and we forget this connection.

As we forget this connection, we begin to enact laws that shut down all of our basic American industries of mining, grazing, farming, forestry, fishing, drilling—all of these things that we have done that have produced this American standard of living.

I fear as we shut these things down, we will then lament the day when our economy takes a very serious downturn. And it is difficult to reverse, because even in this room, Mr. President, everything around us is the product of the Earth in one way or the other. It came out of the Earth, and we bring these materials into commerce to produce products. Well, we all use them.

The PRESIDING OFFICER. The time requested by the distinguished Senator has expired.

Mr. SMITH of Oregon. I ask unanimous consent to have an additional 5 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Oregon. For all the talk of a postindustrial service economy, Mr. President, people's most basic needs are still food and shelter.

Let me offer some facts and figures to help put things in perspective. Eleven of Oregon's thirty-six counties had double-digit unemployment in March, including Grant County with a rate of nearly 20 percent, Lake County at 15 percent, Wallowa County at 14.4 percent. It is about to get much worse.

For example, Mr. President, people do not like the way a clearcut looks, but nature has a way of clearcutting, too. It is called a forest fire. We have them very commonly in my part of the world, and yet even the salvage of burnt timber is not being allowed to be harvested in my State now. That makes no sense.

And 122 mills have shut down in Oregon since 1990. Timber receipts to Grant County for roads and schools declined from a high of $12.4 million in 1992—$12.4 million—to $1.9 million in 1997. What are we saying about schools? What are we saying about roads?

The amount of timber harvested from our public lands has been reduced by approximately 80 percent. Under the President's Northwest Forest Plan, only 3 million of the 24 million acres—or 12 percent of the available acreage—is open for sustainable timber production. All this despite the fact that tree growth rates exceed harvest rates by 85 to 90 percent.

The Clinton administration would have us believe that they need to take over the management of Oregon's natural resources because we are incapable of doing so. Nothing could be further from the truth. In fact, Oregon has some of the toughest land use laws in the Nation. Despite the utilization of forest lands for agriculture, urbanization, and infrastructure, 91 percent of the forest land base that existed in Oregon in 1630—in the year 1630—91 percent of that land still exists as forests and for growing trees.

Mr. President, the final visit of my week in eastern Oregon was to the Ione High School commencement, where I had the privilege of delivering the graduation address. Ione is a small community, and its class of 1998 is also small. There were nine graduates. Yet nearly 500 people packed the high school gymnasium on a Friday evening to lend their support as a community to these outstanding young people.

As I looked at the graduates, I could not help but wonder what future there was for those who wished to live and work and raise a family in eastern Oregon. Will there be jobs for them? Will there be good schools for their children? Will this administration sentence them to a future with no option but to move to a city, to an urban area, in order just to make a living?

I returned from that trip, Mr. President, with a commitment to redouble my efforts on behalf of the good people of rural Oregon and to do everything within my power to ensure that their communities and their way of life will survive.

Finally, the next indignity to be visited upon rural Oregon involves the implementation of the Glenn amendment which now may invoke unilateral sanctions that unjustly impact our farmers. I think the distinguished Senator who has just left the Chair has a bill, I think Senator MURRAY has a bill, and I have a bill to address this very issue. Now, I know Senator GLENN and I know he is a good and decent man, and I know his bill was designed to deter nuclear proliferation. I am all for it. It didn't work.

Now we are about to witness the incredible spectacle of wrestling ourselves to the ground. The government is about to impose sanctions that will ultimately not hurt Pakistan because the truth of the matter is our competitors love this. The people that will be hurt are the people of rural Oregon, Washington, Idaho and others, who will lose 40 percent of their markets to U.S. sanctions on U.S. farmers that have had no ability to deter nuclear nonproliferation.

I hope my colleagues will look at a bill which I am proud to cosponsor. It is a bill by Senator LUGAR that has a "stop, look, and listen" provision to this whole episode of unilateral sanctions, which in effect makes war on our own people. I think we need to stop and look at this very, very seriously.

Mr. President, I indicated how devastated wheat farmers will be in the rural parts of Oregon, Idaho, and Washington by the sanctions now about to be imposed by the Clinton administration by the Arms Export Control Act. Food aid under this act is supposed to be exempted. It is important that credits and credit guarantees for export of wheat also be exempted.

For that reason, I am introducing legislation this morning to exempt credit guarantees from any sanctions to be imposed.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Massachusetts is recognized for 15 minutes.

Mr. KERRY. Mr. President, I thank the Chair.

(The remarks of Mr. KERRY, Mr. CLELAND and Mr. ABRAHAM pertaining to the introduction of S. 2157 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CLELAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. TORRICELLI. Mr. President, last month the Senator from Massachusetts, Mr. KENNEDY, came to the floor to urge the Republican leadership to allow the body to consider reform of managed health care in our country. Today, I also want to join his plea that this institution be allowed to consider the consequences for American families of the managed health care system in our country.

The simple truth is health care in America is in a state of crisis—not a crisis of competence or technology. Most assuredly, it is a crisis of confidence. Confidence in health care in many respects is as important as the quality of the providers or the level of our technology. I have rarely in my life seen an issue where so many Americans are of a similar mind with such a depth of concern regarding the availability and quality of health care under the HMO system.

I realized myself the depth of these feelings when, only a few months, ago I joined with my colleague, Congressman PALLONE from New Jersey, in a field hearing in our State. During the hearing, families told me about their own experiences in attempting to care for their children, gaining access to the best health care providers, and the enormous frustration and feeling that the costs of operations were being placed before the health of their children.

Perhaps the best example came from a single family in New Jersey, the Bolingers. Their daughter, Kristin, is 15 years old, and lives in Spotswood, NJ. She has experienced the frustration of managed care that has been visited upon many American families. As an infant, Kristin developed unexplained intractable seizures which left her in need of very specialized care and expensive diagnostic tests. Five years before, Kristin's parents had enrolled themselves in an HMO. But because of the rules of the HMO, Kristin could no longer see the pediatricians and the specialists who had been treating her for her entire life. Those who had the experience with Kristin, had seen her symptoms and knew her case, were now separated from her treatment, and in their place the HMO on its list of available doctors made a pediatrician available who was not qualified, who had no experience with her condition, and did not know her or how to treat her.

Her family then was left in an extraordinary position. In caring for their 15-year-old daughter, do they absorb all of the financial costs which they are unable to bear when treating their child or do they go to doctors who, on their face, were not qualified to deal with the case?

The family was left in a desperate financial position. The HMO refused to pay many of her medical bills deeming them "not medically necessary." The case only gets worse.

In 1994, scoliosis, caused by Kristin's condition, required the use of a back brace. The HMO gave her a back brace which was inferior and not usable.

Last year, Kristin had to undergo corrective spinal surgery. Her physician prescribed home nursing care and physical therapy. For a long time the HMO refused to pay for the physical therapy or the home care. They would pay for nothing. After they started to pay, the physical therapy was only half complete when payments stopped.

This, of course, leaves Kristin Bolinger's family with a question that they will ask themselves all their lives. The bills were not being paid, the family had to make these sacrifices in spite of the fact they were paying an HMO all of this time on time in full. The finances aside, the Bolinger family for the rest of their lives is left with the question: How much did their child suffer, and how much of her condition might have been reversed if she had gotten the right care at the right time?

Obviously, Mr. President, Kristin Bolinger and her family are not alone. She is one of 4 million people in my State of New Jersey and 50 million in our country who have absolutely no protection from the judgments of their health maintenance organizations. They live at the whim of whatever decisions may come from the officials who manage these health care organizations. That is true, even though I am very proud that in New Jersey we probably have the best patient protection system for those in managed care of any State in the Nation. But it doesn't work. State protections don't work because only 25 percent of those in health maintenance organizations in New Jersey can be covered by State protections. The other 75 percent, who like Kristin Bolinger are in ERISA-based plans, are left to their own devices to fight their insurance companies for their rights because State protections cannot shield them.

It is no wonder that more than half of all Americans who are enrolled in health maintenance organizations are significantly dissatisfied with the quality of their care.

Fifty-one percent of Americans believe that health maintenance organizations are eroding the quality of health care for their families. Fifty-five percent fear that if they become ill while in a managed health care plan, those who administer their plan would have their highest priority in saving money rather than caring for their patients. And if that is not bad enough, the worst indication may be that this lack of confidence of those who are enrolled in the plan is mirrored by health care professionals themselves. Forty percent of all physicians who work in these very plans every day watching these judgments believe that the quality of health care and of the judgments made by health care professionals is eroding and prevent them from making the best medical judgments for patients.

I cannot tell you that the movement in America to managed health care plans has not had benefits. The truth is the spiraling upward costs of health care in America are being contained. I do not believe we ever could have developed the current Federal budget surplus without managed care. It has been of enormous benefit to the American economy as corporations have contained costs, but there is a loss of balance. If we are achieving the controlling of these costs, but the price is that families and physicians do not have confidence they can get the care they are purchasing, we are paying a very high price for this efficiency. What is required is to restore the balance between the efficiencies of delivering care and ending the upward spiral of rising health care costs, but assuring quality and access and balance of judgments.

The truth is this loss of balance is not necessary. Patients should have access to health care professionals who are qualified to treat their conditions and not forced to accept people without the proper professional credentials simply because they are preferred by health care managers in these organizations. Insurance companies should not withhold the care that family physicians and specialists alike deem necessary. If a health care professional, a doctor believes a certain treatment is necessary, as a matter of right that doctor's judgment should prevail. Obviously, if a doctor believes that an HMO is making the wrong judgment for the health of an individual, there should be a fair and speedy appeals process to someone who can make the best judgment for the patient.

Mr. President, this case is so obvious, it is so compelling, it comes as close to a consensus judgment as can ever be reached in a country of this size and complexity. It is at issue in every State, in millions of American families, borne out by the practical experience of people that Senators meet every day. It is true today. It was true yesterday. It was true last month. It was true last year.

I join with the Senator from Massachusetts, Mr. KENNEDY, in urging that this Congress this year deal with health maintenance organization reform. There is legislation before this Senate that is prepared. It is ready. It is comprehensive. It deals with the issue. Senator DASCHLE's legislation, S. 1890, would deal with the very issues that Kristin Bolinger had to face in her own life. Senator DASCHLE's Patients' Bill of Rights, consistent with the call of President Clinton in his State of the Union Address, would ensure that patients like Kristin would have (1) access to providers who are qualified to treat their conditions, including referrals to specialists when necessary; (2) that any member of a health maintenance organization, wherever they are in America, wherever they travel, whatever community they are in, have access to emergency care in a hospital that is proximate to them when they are in trouble or in need; (3) have access to a fair and immediate appeals process.

More than anything else, this would convince the American people that their interests and the needs of their families are being put before the profits of these organizations. It is obviously too late to deal with Kristin Bolinger's pain or the terrible financial plight of her family. Kristin's experience and those of millions of other Americans can be instructive to this Senate and remind us of our obligations to deal with the problems of health care in America. We can still acknowledge the enormous efficiencies of managed care and its benefits of ending the rising costs, helping with corporate efficiency and the predictability of health care costs. But simply because these organizations are working to add efficiency, does not attest to the fact that all families are being treated fairly as demonstrated by Kristin Bolinger's experience. Senator DASCHLE's legislation, his Patients' Bill of Rights, deals with that balance. I urge the majority leader, Senator LOTT, to bring the Patients' Bill of Rights for managed health care reform before the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

METHAMPHETAMINE CHALLENGE

Mr. BOND. Mr. President, I rise today to discuss a serious challenge to law enforcement, to communities, to our youth, and to the future of our country.

Methamphetamine, as most of us in this body know, is a growing danger in many of our communities. We have the dubious distinction in Missouri of having achieved the highest ranking in the number of clandestine methamphetamine labs busted in the last year. Seven hundred labs were busted where they were cooking up this deadly brew to endanger their neighbors, to threaten the lives and the future of our young people and our adults. Methamphetamine, or crank, is a hot new drug, and it is supposed to have a wonderful temporary feeling. The problem is it destroys the body and the minds of the users. It also, when it is prepared, leaves a deadly residue and threatens explosion and fires that have injured many innocent people.

Methamphetamine dealers are the very worst kind of social predators, far worse than even an average drug dealer, and that is saying something. They have the same disregard for young lives they seek to spoil, but they also possess a callous indifference to the entire public. Meth cookers prepare their drugs in homes, in rented apartments and hotel rooms, but the meth cooking process is a very dangerous one because it produces dangerous byproducts including carcinogens and toxins and combustible gases. While it is being cooked, it is highly explosive.

I have talked with law enforcement officers who go in who have to use low-powered flashlights because a really hot flashlight could set off a spontaneous combustion in a meth lab. I have seen the pictures of young children who have been on cooking sites with their parents or care givers when the mess caught fire and burned them horribly. The aftermath of the process is a mini toxic waste site. The waste sites litter my State of Missouri.

Despite the danger, law enforcement officers in my home State continue their heroic effort every day to bring more of these labs down. They are currently outgunned because the methamphetamine production and sales have been spreading. The problem is severe, and many of the lab sites are so dangerous that local law enforcement agencies cannot handle the responsibility alone.

We have been very gratified that many of the local police agencies and law enforcement agencies in my State have been provided invaluable assistance by the Drug Enforcement Agency, the DEA. As I said, last year, 700 labs were taken down. This year, it looks like they may even exceed that number.

The lab sites must be cleaned up promptly, and that is where the problem comes in. The responsibility initially falls on local law enforcement officials, and the drug dealers are not very concerned about what mess they leave with the community. Cleaning up the waste on these sites can cost anywhere from $4,000 to $40,000. Our law enforcement agencies are not funded to do this. Our law enforcement agencies, when I talked with the DEA and the local police and the local sheriffs around Missouri, find out they have to waste valuable manpower just babysitting the sites, keeping people away from these sites so they do not stumble in and get caught in one of these dangerous meth sites.

For that reason, I believe we should embark on a State-Federal partnership to ensure that these labs are fully cleaned up and the nuisance is removed immediately from local communities. In the HUD-VA appropriations bill, we have included a pilot project for $2 million to go to our Department of Natural Resources for the State of Missouri, to institute a cleanup partnership between the State and local law enforcement.

With these valuable resources, the State environmental expert will team up with local law enforcement agencies on the sites promptly and rid the town of toxic waste. The State will have funds to outfit a cleanup detail, expand that detail, and equip itself to respond to all corners of the State. The State will also have the resources to share with local governments, who must move in and respond to emergency cleanups, a process that could otherwise bankrupt many small communities.

On a broader basis, we recognize this problem is a nationwide problem. In the Superfund measure that has been reported out of the Environment and Public Works Committee, that I hope this body will be able to take up, we provided that brownfields money can be used for toxic waste cleanups of methamphetamine sites because, in fact, they are toxic waste sites and, in essence, may be more dangerous than many of the sites already classified as toxic waste sites.

What happens when one of these sites becomes a site for cooking meth is deadly. The meth labs can blow up—blow the front off the building. If they are in a motel, people innocently taking a room in the adjacent room may find themselves victims of a blast. But whoever comes on a site, a methamphetamine site, after cooking has occurred there, is in a very dangerous position.

We need to crack down to the fullest extent of the law on these predators, but until we win that war we must protect our community. This effort will go a long way toward helping our law enforcement fulfill that responsibility.

I yield the floor.

Mr. GORTON. Mr. President, I ask unanimous consent for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. FOREIGN POLICY

Mr. GORTON. Last week, Mr. President, Secretary of State Madeleine Albright traveled to Geneva to meet with the other permanent members of the U.N. Security Council. The purpose of her meeting was to convince the world's declared nuclear powers to join the United States in condemning India and Pakistan for their recent nuclear tests and somehow to prevent an arms race from escalating in South Asia. To no one's surprise but her own and President Clinton's, no agreement was reached.

The foreign policy of the United States in the Clinton Administration has now come down to this. In dealing with the People's Republic of China, a country with a developing internal free market, but repressive of any political dissent, with systematic restrictions against competitive American products, and a blind eye toward billions of dollars of intellectual property piracy, we not only don't defend the victims of these practices, we generously supply the PRC with missile technology that allows it to increase in its already immense threat to its neighbors.

The Clinton Administration gives "Most Favored Nation" treatment for China a whole new meaning. What it means now is, what China wants, China gets—even an American president to be greeted on Tiananmen Square, insulting the memory of its martyrs.

And then we are surprised when India tests nuclear weapons, joining a club we founded fifty years ago. We react by sanctioning—unilaterally—the world's most populous democracy. And we follow up by imposing the same sanctions on Pakistan, a long time ally, for a natural and justified reaction to India's tests.

As Charles Krauthammer so eloquently put it in his column in Friday's Washington Post, the President:

> . . . is guilty of more than mere fatuousness, however, in dealing with the India-Pakistan nuclear arms race,. He is guilty of fueling it. While for years his administration has claimed deep concern about proliferation, [he] has shamelessly courted the world's worst proliferator of weapons of mass destruction: China.

Not only is the administration in large part to blame for the current crisis, but is now taking steps to ensure that our economy will suffer together with our national security. The President has decided to impose harsh economic sanctions on both India and Pakistan.

It has already been made alarmingly clear that unilateral sanctions do not work. For the law the President stands behind in his decision to impose sanctions was designed not to punish other nations for flexing their nuclear muscle, but to deter them from entering the nuclear club. As David E. Sanger wrote in The New York Times on May 24, "passionate national causes—particularly the urge for self-sufficiency—almost always trump economic rationality." Mr. Sanger goes on to say, wisely, that "unilateral sanctions almost never work—precisely because they are unilateral. In a global economy, there are too many producers of almost everything."

The President has told the American people that he has no choice but to impose the sanctions, claiming that they are required under the Nuclear Proliferation Prevention Act of 1994. What he doesn't say is that Sections 102(b) (4) and (5) of that law provide the President authority to waive the sanctions in whole or in part if he uses the 30-day delay allowed him before imposing the sanctions. The President did not use the 30-day delay. The reason for his rush to impose sanctions is clear. The President has no other solution.

But unilateral sanctions do little to produce results. Instead, they harm U.S. workers, farmers, and families. My home State of Washington has a lot at stake in this international dispute. In 1996, Washington exports to India totaled $429.39 million and India was the state's fourteenth largest export market. Boeing airplane sales to India totaled $372.8 million in 1996 and accounted for a large majority of overall Washington state exports to that country. Most of the planes India purchases from Boeing are financed by the Export-Import Bank. If the President cuts off Ex-Im Bank loans to India, Boeing, and Washington state's economy will feel a major strain.

Washington is the largest producer of soft white wheat, Pakistan's grain of choice. Pakistan is the largest market for Washington state wheat exports.

During Fiscal Year 1997, Pakistan purchased 2 million metric tons of soft white wheat from the Pacific Northwest—32 percent of total soft white wheat exports from the region. So far in FY 1998, Pakistan has purchased 2.14 million metric tons of soft white wheat—37 percent of total wheat exports from the region, with purchases from Washington totaling $140 million.

While American farmers and manufacturers stand today at risk of losing these important markets, their counterparts in Canada, Europe, and Australia are celebrating the shortsightedness of the U.S. Administration. For the U.S. sanctions are better for their businesses than the most ingenious of marketing campaigns. They are happy to step in and fill the place of American exporters in India and Pakistan.

Mr. President, if the U.S. is the only country imposing sanctions on India and Pakistan for actions strongly supported by a large majority of their people, then the Indian and Pakistani governments and the Indian and Pakistani people will turn to nations that are not criticizing their actions for their imports. Airbus and Canadian or Australian grain farmers will benefit from U.S. actions, while Boeing and U.S. farmers will be left out in the cold.

The President must take action now to resolve the situation in South Asia and end the sanctions. If he does not, the American people will suffer the consequences of his mistakes for a long time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered

Mr. BREAUX. I ask unanimous consent to be recognized for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO LEGISLATION

Mr. BREAUX. Mr. President, we are in the middle of the debate on the so-called tobacco legislation which has been ongoing for a number of days. I think that it is appropriate to pause for a moment and to consider where we are and where we have been and to try to come up with an idea of where this debate is likely to go. Because I think that with all the debate and discussion we have had, there is some confusion as to exactly what has been happening.

I think it is very important to recognize that in order to know where you are going, it is also important to actually know from where you started. I think if you look at where we started, Congress became involved in this tobacco legislation really as a result of attorneys general litigation on behalf of all the various States trying to recover money for the States' Medicaid programs, which had suffered a loss because of payments for people who had suffered disease and injury because of smoking-related activities.

When it comes to this issue, I want to make one point very, very clear. I do not think any of us need to be lectured to about the problem that is facing us. All of us have examples and instances in our own lives that make the problems associated with cigarette smoking and the tobacco industry very, very clear. In my own family, my mother died of lung cancer—lung cancer that was clearly and directly related to years of tobacco use. In addition, my father-in-law died of lung cancer and tumors related clearly to smoking and exposure, probably at the same time, to asbestos.

Probably each Member of this body and also the other body has similar stories they can relate that personally affect them in their approach to this legislation. You simply cannot divorce it. People are affected for a lifetime by personal experiences, and mine are not any different from probably many of my colleagues'. So when I approach this issue, it is with the intent of wanting to do something to reduce underage smoking in this country.

In order to determine where we are going, it is important to look where we started. The June 20 agreement was the baseline. It was the agreement the attorneys general of this Nation, who deserve a great deal of credit, were able to reach as a result of litigation in the courts of America against the tobacco companies of America. That settlement that was immense in what it did, It was immense in the proportions of good that it did. I would like to outline it for a moment to show where we started.

That June 20 agreement would have settled the lawsuits brought by all 40 States. It would have settled them. The States would have been compensated in their State Medicaid programs for funds that they spent to treat smokers. That is what the States wanted. It affected literally millions of people.

In addition, it would have settled all of the individual lawsuits around this country, and people would have been compensated as a result of that settlement. In addition, it provided funds to cover the costs of implementing and enforcing several public health programs related to solving the problems of underage tobacco use and also to try to find ways to cure diseases caused by smoking.

The tobacco companies, under that agreement, would have paid $368.5 billion, not including the attorneys' fees, over a 25-year period. Payments at the rate of $15 billion per year would have continued forever.

It is important for us to note that for the previous 40 years there was not an individual in this country who ever put a nickel in their pocket as a result of litigation against tobacco companies. So to say that you get $368 billion-plus to cover the costs of individual suits, and to use those moneys for health programs, is monumental in what it achieved because no one had ever walked off with a nickel in their pocket as a result of that litigation. This settlement did that.

It also did something that the FDA was never able to do. It said in the agreement that the FDA would regulate tobacco products under the Food, Drug and Cosmetic Act, and the FDA would have the authority to reduce nicotine levels in those products.

It also said we are going to set some goals, and the goals are going to be that you would have to show a 30-percent decline in cigarette and smokeless tobacco use by minors within 5 years—a 30-percent reduction—a 50-percent reduction within 7 years; and a 60-percent reduction within 10 years. If not successful, penalties would be assessed against the companies of up to $2 billion a year.

That had never been done before in the history of this country, where you set absolute targets that companies agreed to and suffered penalties if they did not meet those targets, which were substantial.

It also said, on advertising and marketing, that tobacco advertising would be banned on billboards, in store promotions, and displays over the Internet. No more Marlboro Man, no more cartoon characters like Joe Camel. Tobacco would also be banned from sponsoring all sporting events. No more race car events, no more race track events, no more anything from a sporting standpoint at which they would be able to sell or advertise. No more clothing, no more baseball caps, no more jackets, none of that would have been allowed under this agreement. Tobacco companies agreed to that. Companies agreed to the targets; companies agreed to the FDA regulation; companies agreed to pay $368.5 billion.

Also, the warning labels were stronger than ever. Like, "Smoking can kill you." Can you get it any stronger than that? You read that and still want to do it? Is there something loose somewhere in your head? That was going to be part of it.

It includes substantial restrictions on youth access to cigarettes; a ban on cigarettes being sold from vending machines unless they are adult-only facilities; minimum standards for retailers. All of that was in there.

If you had said this was possible to have 5 years ago, they would have looked at you and said, "No way. You can't get that done." But that is all part of the agreement. That is where we started.

I would just like to talk about some things that I think are part of this agreement that are not going to be able to be accomplished if we do not have an agreement that includes the companies.

Marketing and advertising restrictions under this agreement took everything that the FDA wanted to have done and said, it is part of the agreement. It bans nontobacco brand names or logos on tobacco products. It bans tobacco brand names, logos and selling messages on nontobacco merchandise, i.e., the T-shirts, baseball caps, jackets; no more of that.

It bans the sponsorship, as I said, of all sporting and cultural events in the name, logo or selling message of a tobacco product brand. It restricts tobacco advertising to black text on white background only, like this chart. It requires tobacco advertising to have a statement, "Nicotine delivery device." It bans offers of nontobacco items or gifts based on the proof of purchasing a cigarette product. All gone. That is all what the FDA would like to have done, which, incidentally, is being litigated. Companies accepted that as part of that settlement agreement.

It also said, we are going to do a lot more than that beyond what FDA wanted to do on marketing and advertising. This agreement spelled out some other things. We talked about it; that is, banning all outdoor tobacco product advertising, as in stadiums; and for indoor facilities directed outdoors. It bans the human images, again, like the cartoon characters of Joe Camel and the Marlboro Man. No more advertising on the Internet. It limits point-of-sale advertising to black-on-white. All of these things that no one has ever been able to accomplish was agreed to by the lawyers, agreed to by the defendants, agreed to by the tobacco companies as part of the settlement agreement.

In addition to that, we also have youth-access restrictions. Retailers are prohibited from selling cigarettes or smokeless tobacco to children under 18, and all of the things they have to do under a youth-access restriction program.

The point that I make is that all of this is part of their agreement. I am concerned that what we have done is to take this agreement, which no one would have thought possible 5 years ago, 4 years ago, and have turned it into an attempt to make a Christmas tree, to take care of all kinds of additional items, increase the amount everywhere you possibly can. I understand that.

It is a race to see who can be the toughest on tobacco companies, and I understand that, too. My concern is, in our race to be the toughest, that we will lose all of the things that I have just outlined. Because I am absolutely convinced, from testimony in the Commerce Committee, that those restrictions on marketing and advertising that are in the current legislation, without the companies agreeing to it, is not going to be constitutionally upheld by the courts of this country—will not be. We cannot restrict advertising to adults. We cannot restrict advertising of legal products to adults that only incidentally affect children.

The court cases are very, very clear with regard to what we can do and cannot do. The first amendment applies, yes, even to tobacco products, as long as they are legal, and no one is yet saying we will outlaw tobacco products like we tried to outlaw alcohol.

I am concerned that as we increase everything that we are increasing, we lose the company's participation in this effort, and we are going to end up with something that may make us feel good temporarily but will not get the job done. An analogy is of the little boy who puts his hand in the cookie jar and tries to take all the cookies out of the jar; he has so many in his hand, he can't get anything out.

We went from the base of $368.5 billion from the settlement; we increased that with a tax of $1.10, so now it is $574.5 billion. Then after we added to the base payments, we also added the look-back provisions. The look-back was the penalty for companies that didn't meet the targets I talked about. The June 20 agreement had penalties. The Commerce bill raised the penalty potential to $706 billion. Floor amendments raised it to $810 billion on the look-back.

I think that is questionable constitutionally. I think it is questionable whether you can say to a company, you have to do all kind of things, but if you do all those things and still don't meet the targets we will penalize you. I think it is questionable constitutionally for the ability to do that unless the companies agree to it. I think what we are doing is penalizing companies without any fault on their part. We are saying, do all of these things, but if you don't reach these targets we are going to hit you with $810 billion worth of penalties. They can agree to that; but if they don't agree to it, I doubt whether it will pass constitutional muster.

I think the marketing and advertising restrictions happen to be the most important thing we can do in order to get teens to stop smoking. The $1.10 is not going to do it. Kids pay $100 for a pair of sneakers. Do you think $1.10 will get that many to quit smoking when they are paying $100 for a pair of tennis shoes? I doubt it. Marketing and advertising restrictions are very important—probably not constitutional.

The look-back provisions: Sounds good. Let's make it as high as we can. If the companies don't agree, I question whether that is constitutional.

Look what we did when you add it up. The base payments were increased, the look-back provisions, and now the judgments. We used to have a $5 billion annual cap for liability payments. This is for future suits. People say we are giving them all kinds of limitations on liability. Individuals can still sue in the future, can still have criminal actions against companies in the future, under the agreement. You can still have punitive damages in the future for companies who do wrong, and intentionally do it, but what we have done—we have gone from adding an increase in base payments, increased the look-back penalties, and took the cap off any annual limitations on future payments. We have gone from $435 billion to $906.4 billion, and now we add it up and there is no limit. Why would a company agree to all of those marketing and advertising restrictions, agree to all these look-back penalties and targets that they have to meet, and get nothing in return?

I am not arguing their case. I made it very clear where I come from in the beginning. An agreement, unless it is comprehensive, an agreement, unless everybody is involved in it, is an agreement on paper that may make us feel good temporarily but is not an agreement that is going to get the job done.

It is incredibly important that we look at reality and come up with something that works. I suggest that we take the June 20 agreement as the basis, pass it, go to conference in the House, and we can work out something that will work. Senator HATCH, I understand, and Senator FEINSTEIN and others on our side are working together to take what people thought was impossible and pass it.

Let's get out of the cookie jar. Let's get back to reality. Let's do something that will pass, that will work, and that will make good sense.

I yield the floor.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I am deeply concerned about the continuing lack of commitment by the Republican Leadership to schedule floor debate on legislation to end abuses by health insurance managed care plans. Today, more than 100 groups have sent a letter to Senator LOTT and Speaker GINGRICH asking for quick, full and fair floor consideration of this legislation, which is called the Patients' Bill of Rights. These groups represent millions of patients, doctors, nurses, therapists, and working families.

Yet, in a memo sent to all Senators and in recent floor statements, it appears that our patient protection legislation—the Patients' Bill of Rights—is not even on the Republican Leader's radar screen. It is not on the list of priorities designated by the Republican Leadership to be taken up this month, or even this session. I have here a list of more than 20 bills, ranging from regular appropriations bills and reauthorization bills to the nuclear waste disposal legislation and a constitutional amendment on flag burning.

But, I have yet to see any interest from the Republican Leadership in taking action to ensure that medical decisions are made by treating physicians, and not by insurance company accountants. And I have yet to see any interest from the Republican Leadership in curbing abusive activities by the worst plans and insurance companies that are dedicated to their profits, not their patients. Instead, it appears that, by this inaction, the Republican Leadership is interested only in defending the indefensible, the status quo.

In addition, the House Republican Leader, DICK ARMEY, recently lashed out at doctors, nurses and other health care professionals by grossly misinterpreting and distorting a provision in the Patients' Bill of Rights that allows health care professionals to support their patients in appeals procedures, and to report concerns about the quality of care without fear of retaliation. These are reasonable patient-oriented protections. Congressman ARMEY's misguided effort offends and impugns the character and professionalism of hundreds of thousands of nurses, doctors and patients.

In fact, his harsh attack has helped mobilize even more organizations to support the bill. Representatives LOIS CAPPS, CAROLYN MCCARTHY and EDDIE BERNICE JOHNSON, who are former nurses, and nurses from communities around the country have rallied around the Patients' Bill of Rights. Today, they have sent a letter to Congressman ARMEY asking for a meeting on these critically important issues. They are supported, in a separate letter, by a number of groups who represent persons with disabilities, mental illness and HIV/AIDS, and other organizations that rely regularly on trained and devoted health care professionals.

These issues matter a great deal to families across the country. Too often today, managed care is mismanaged care. In state after state across the country, patients are paying for these industry abuses with their lives.

Just ask Frances Jennings of Andover, Massachusetts. In November, 1992, at the age of 57, her husband Jack was diagnosed with mild emphysema by his pulmonologist. A few years later; in March, 1997, Mr. Jennings was hospitalized for a pneumothorax, which can lead to a collapsed lung. His physician, Dr. Newsome, determined that a lung reduction procedure would improve Jack's health and overall quality of life.

Two months later, in May, 1997, Jack's condition was stable enough for the operation, and he was referred to Dr. Sugarbaker, a top surgeon who specialized in the procedure.

But in late May, Jack's insurance plan—U.S. HealthCare—denied his referral to the specialist. Frances and Jack were disappointed that the plan refused to authorize the referral, and they requested a referral for consultation with a plan-approved physician. This appointment was finally scheduled for June 12. But, on June 11, the new doctor's office called Jack to cancel his appointment, stating that the physician no longer accepted patients from the health plan.

Immediately following this cancellation, Jack's primary care physician—Dr. Newsome—contacted the health plan to obtain yet another referral. On June 18, a new appointment was confirmed for mid-July, four months after his initial hospitalization.

Tragically, Jack Jennings never had the opportunity to benefit from the procedure recommended by his doctor. Jack had been having trouble breathing, despite his continuous use of oxygen, and had been hospitalized at the end of June. During this hospitalization, they discovered a fast growing cancer in his chest. Lung surgery was out of the question, and it was too late for chemotherapy to be effective.

Mr. Jennings died on July 10—four days before his long-awaited appointment with the specialist. In fact, this appointment would have been with Dr. Sugarbaker's group, the same physician that U.S. HealthCare had prevented Jack from seeing in May.

This is a clear case where needed health care was unnecessarily delayed, with tragic implications. Timely care could have saved Jack's life. The health plan's inability or unwillingness to provide it cost him his life.

Unfortunately, such abuses are far too common in managed care plans

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today. Congressional offices are flooded with letters and calls from constituents who need assistance. Newspapers tell story after story of the human costs of these abuses.

The Patients' Bill of Rights will help solve these problems, and restore confidence in the health care system. The Patients' Bill of Rights is a common sense solution. Nearly all of its provisions were recommended by the Presidential Advisory Commission on Quality in the Health Care Industry. Many are included in the voluntary code of conduct for members of the American Association of Health Plans, the managed care trade association. Some of the provisions are already being implemented for Federal health programs, including Medicare. Still others are included in model laws written by the National Association of Insurance Commissioners. The Senate should act on this important legislation, and it should act now.

Mr. President, I ask unanimous consent that the letters I have mentioned may be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JUNE 10, 1998.

Hon. RICHARD K. ARMEY,
Majority Leader, House of Representatives,
Washington, DC.

DEAR MAJORITY LEADER ARMEY: As organizations representing health care consumers, we strongly support efforts to establish meaningful patient and quality protections. We believe that an essential component of that effort is to protect the rights of physicians, nurses and other health care professionals to speak out about quality concerns without fear of retribution. While the rise of managed care has created strong incentives to reduce costs and cut corners, many of those impacts are not evident to patients. Instead, patients need to rely on the ability of health care professionals to provide information and advocate on their behalf.

For that reason, we take strong exception to your May 15th "Dear Colleague" expressing your opposition to H.R. 3605, the Patient's Bill of Rights. First, we do not believe that patients are served when those who care for them are gagged or handcuffed, unable to speak out because of contractual arrangements or the very real threat of retaliation. This is not just a question of being informed of all available and appropriate treatment options; it is also a question of knowing when patient safety is the risk because of quality problems.

Second, we strongly disagree with your contentions that nurses and doctors are only seeking financial gain and would use "good faith" reporting protections "to rationalize a financially motivated lie." Nurses and doctors across this country have had the courage to challenge managed care and other health industry abuses, often at personal risk. Those abuses will not disappear if the health industry is allowed to continue using retaliatory threats to shield itself from investigation. If nurses, physicians and other health care professionals are afraid to speak out, quality concerns will go unreported and problems will be ignored. If this situation is allowed to continue, patients will be the real losers.

Our organizations understand that health care consumers benefit when workers have the ability to report poor quality, including medication errors, problems created by early discharges from hospitals, or fraud and abuse. We hope that you will come to realize the need for such patient protections and reverse your opposition, both to this provision and to the entire Patients' Bill of Rights. Patients know that nurses and doctors have been their advocates. It remains our hope that you and the Republican leadership will demonstrate that you also are advocates in the fight for quality care.

Sincerely,

AIDS Action Council; The Arc; Bazelon Center for Mental Health Law; Center on Disability and Health; Children and Adults with Attention Deficit Disorder (CHADD); Communications Workers of America; Consumer Federation of America; Consumers Union; Epilepsy Foundation of America; Families USA; Friends Committee on National Legislation; Gay Men's Health Crisis.

National Association of People with AIDS; National Association of Protection and Advocacy Systems; National Association of Social Workers; National Council of Senior Citizens; National Multiple Sclerosis Society; National Partnership for Women and Families; Neighbor to Neighbor; Older Women's League; San Francisco AIDS Foundation; Summit Health Coalition; United Cerebral Palsy Association; United Church of Christ, Office for Church in Society.

JUNE 9, 1998.

Hon. RICHARD K. ARMEY,
Majority Leader, House of Representatives,
Washington, DC.

DEAR MAJORITY LEADER ARMEY: On behalf of over 200,000 nurses, we would like to express our deep disappointment with Your May 15 "Dear Colleague" letter accusing nurses and other health care workers of being willing to lie about quality concerns in order to improve their financial status. Your letter demonstrates a profound lack of awareness of the integrity and concerns of nurses as well as the problems facing patients throughout this country.

The major impetus behind the patient protection bill is health care quality. An important part of that is providing patients with accurate information and ensuring that the health care professionals who treat them are able to meet their professional and ethical obligations to advocate on their behalf.

Every day, nurses are confronted with situations that place their patients in jeopardy. Insufficient numbers of nurses, the replacement of skilled nurses with untrained personnel, and incentives for early discharge are just a few of the problems. In some facilities, the growing crisis in quality has forced families to hire private duty nurses in order to ensure that their loved ones receive adequate care.

Nurses know about patient conditions and are justifiably alarmed. Yet, nurses who speak out risk termination, cutbacks in hours, and other forms of retaliation. The Patients' Bill of rights, H.R. 3605, seeks to protect nurses, doctors and other health care professionals who report quality problems to their employers, public entities and private accreditation organizations. It is an important first step in improving patient conditions.

Your opposition to even this limited provision is surprising and disturbing. Your statements that this provision is motivated by financial considerations is an insult to every nurse who struggles to provide the best possible care to her or his patients.

As Congress considers legislation to improve health care quality, we would like the opportunity to meet with you to discuss our views and describe the real world situation nurses see every day. We understand that your views as Majority Leader are likely to reflect, or at least influence, those of the Republican leadership and the task force appointed by the speaker to make quality care recommendations. Therefore, we would appreciate meeting with those representatives as well. Please contact Cathy Hurwit at (202) 429-5006 if you have any questions or to arrange a meeting.

Sincerely,

Martha Baker, RN, President SEIU Local 1991, Miami, Florida, Candice Owley, RN, Wisconsin FNHP, President, FNHP Local 5001, Milwaukee, Wisconsin, Kathy Sackman, RN, President United Nurses' Association of California Pomona, California, Sandra Alexander, LVN, Vice President, AFSCME Local 839, Council 57, Daly City, California, Norma Amsterdam, RN, Executive Vice President Registered Nurse Division 1199NY/SEIU, New York, New York, David Bailey, LPN, Director AFSCME District #3, Mt. Vernon, Ohio, Sylvia Barial, RN, New Orleans Public Schools, School Nurse Chapter Chair, AFT Local 0527, New Orleans, Louisiana, Rowena Blackman-Stroud, NMS, SUNY-Brooklyn College of Medicine, Treasurer, AFT Local 2190, Brooklyn, New York, Glenda Canfield, RN, SETU Local 707. Santa Rosa, California.

Pia Davis, Vice President, SEIU Local 73, Chicago, Illinois, Carol Flynn, RN, Danbury FNHP, President, FNHP Local 5047, Danbury, Connecticut, Anne Goldman, RN, Federation of Nurses/UFT, Special Representative, AFT, Local 0002, New York, New York, Rhonda Goode, RN, SEIU Local 535, Pasadena, California, Pat Greenberg, RN, SEIU Local 200A, Fayettville, New York, Jacqueline Himes, RN, Philadephia Public Schools, Executive Board Member, AFT Local 00003, Philadelphia, Pennsylvania, Doris Lee, RN, AFSCME Local 152, Mililani, Hawaii, Bonnie Marpoe, LPN, President, AFSCME Local 2245, Shippensburg, Pennsylvania, Linda McDonald, RN Rhode Island Hospital, President, FNHP Local 5098, Providence, Rhode Island.

Mary Lou Millar, RN, President, CHCA/NUHHCE, Wallingford, Connecticut, Carol Moore, LVN, AFSCME Local 1550, Houston, Texas, Sylvia Rawson, LPN, AFSCME Council 71, Sicklerville, New Jersey, Jan Salsich, RN, Westerly Hospital, President FNHP Local 5075, Westerly, Rhode Island, Katherine Schmidt, RN, Oregon FNHP, President, FNHP Local 5017, Portland, Oregon, Darla Shehy, RN, SEIU Local 1199P, Hummelstown, Pennsylvania, Diane Sosne, RN, President, SEIU Local 1199NW, Seattle, Washington, Al Thompson, RN, SEIU Local 660, Los Angeles, California, Ann Twomey, RN, Health Professionals and Allied Employees, President, HPAE/FNHP, Emerson, New Jersey, Nancy Yalanis, RN, CHCA/NUHHCE 1199, Southington, Connecticut.

JUNE 11, 1998.

Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

Dear Mr. Majority Leader:

The American people want and need the protection of Patients' Bill of Rights. As more and more families face unreasonable barriers to getting necessary health care approved from health maintenance organizations (HMOs) and other health insurance plans, it is clear that legislative action is needed. Public opinion surveys repeatedly show that the public's desire for managed care consumer protections is both wide and deep.

It is more than half a year since the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry proposed, virtually unanimously, the adoption of a Bill of Rights. For many months it has been clear that strong support exists for the enactment of a genuine Patients' Bill of Rights. A number of bills including the Patients' Bill of Rights Act (S. 1890), the Patients' Access to Responsible Care Act (S. 644) and others have such support and demonstrate that many members are in favor of bipartisan patient protection legislation.

It is therefore both troubling and puzzling that there has been a delay in consideration of this legislation. We believe that it is wrong to obstruct congressional consideration of genuine patient protection legislation. Your colleagues want such legislation. America's families need it. And it is a violation of fundamental fairness, and a disservice to families seeking health care, for you to block a vote on this important legislation.

We hope that you will lend your support to efforts to enact genuine managed care patient protection legislation—not a watered-down version and not one that is combined with "poison pills." We urge you to schedule quickly a full and fair debate on such legislation. Protecting America's families should be your number one priority. We urge you to act now.

Sincerely,

ACT UP Golden Gate, AIDS Action, AIDS Legal Referral Panel, AIDS Policy Center for Children, Youth and Families, AIDS Treatment News, Alzheimer's Association, American Academy of Child & Adolescent Psychiatry, American Academy of Neurology, American Academy of Physician Medicine and Rehabilitation, American Association for Marriage and Family Therapy, American Association for Psychosocial Rehabilitation, American Association for Respiratory Care, American Association of Children's Residential Centers, American Association of Pastoral Counselors, American Association of Private Practice Psychiatrists, American Association of University Women, American Association on Mental Retardation, American Board of Examiners in Clinical Social Work, American Cancer Society, American Chiropractic Association, American Counseling Association, American Dental Association, American Federation of Labor-Congress of Industrial Organizations (AFL–CIO).

American Federation of State, County and Municipal Employees (AFSCME), American Group Psychotherapy Association, American Lung Association, American Medical Association, American Medical Rehabilitation Providers Association, American Nurses Association, American Occupational Therapy Association, American Protestant Health Alliance, American Psychiatric Association, American Psychiatric Nurses Association, American Psychoanalytic Association, American Psychological Association, American Society for Adolescent Psychiatry, American Society of Plastic and Reconstructive Surgeons; American Speech-Language-Hearing Association; American Therapeutic Recreation Association; American Thoracic Society, Anxiety Disorders Association of America; Arc of the United States, Asian & Pacific Islander Wellness Center, Association for Ambulatory Behavioral Healthcare, Association for the Advancement of Psychology, Association of Women's Health, Obstetric and Neonatal Nurses.

Bazelon Center for Mental Health Law, Brain Injury Association Inc (BIA), Center for Patient Advocacy, Center on Disabilities and Health, Child Welfare League of America, Children and Adults with Attention Deficit Disorders (CHADD), Clinical Social Work Federation, Consumer Coalition for Quality Health Care, Consumer Federation of America, Corporation for the Advancement of Psychiatry, Families USA, Family Voices, Friends Committee on National Legislation (Quaker), Gay Men's Health Crisis, Health Initiatives for Youth, Human Rights Campaign, International Association of Psychological Rehabilitation Services, League of Women Voters of the United States, Legal Action Center, Lutheran Office for Governmental Affairs of the Evangelical Lutheran Church in America.

National Alliance for the Mentally Ill, National Association for Rural Mental Health, National Association for the Advancement of Orthotics and Prosthetics (NAAOP), National Association of Alcoholism and Drug Abuse Counselors, National Association of Developmental Disabilities Council, National Association of People with AIDS, National Association of Protection & Advocacy Systems, National Association of Psychiatric Treatment Centers for Children, National Association of School Psychologists, National Association of Social Workers, National Caucus and Center on Black Aged, Inc., National Citizens' Coalition for Nursing Home Reform, National Council for Community Behavioral Health, National Council on Aging; National Easter Seal Society, National Education Association, National Marfan Foundation, National Mental Health Association, National Minority Aids Council, National Organization for Rare Disorders (NORD), National Organization on Disability, National Osteoporosis Foundation, National Parent Network on Disabilities, National Partnership for Women & Families, National Patient Advocate Foundation.

National Therapeutic Recreation Society, National Women's Law Center, Neighbor to Neighbor, OWL, Paralyzed Veterans of America, Project Inform, RESOLVE, The National Infertility Association, San Francisco AIDS Foundation, Service Employees International Union (SEIU), Summit Health Coalition, United Cerebral Palsy Association, United Church of Christ, Office of Church in Society, Women's AIDS Network.

MEASURE READ THE FIRST TIME—H.R. 3978

Mr. ROCKEFELLER. I ask for regular order of H.R. 3978, for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

A bill (H.R. 3978) to restore provisions agreed to by the conferees to H.R. 2400, entitled the "Transportation Equity Act for the 21st Century," but not included in the conference report to H.R. 2400, and for other purposes.

Mr. ROCKEFELLER. I ask unanimous consent for the second reading of H.R. 3978.

The PRESIDING OFFICER. Is there an objection?

Mr. MCCAIN. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ENZI). Morning business is closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we have now been on this legislation for 3 weeks. We have taken some very important votes, and the bill has been significantly modified. I think it is time for us to complete our business and do so with dispatch. Obviously, if we don't, the proponents of the status quo will achieve by delay what they can't with a majority of votes; and that is, obviously, to kill tobacco legislation that is aimed at saving the lives of over 1 million children.

The bill, as it has been modified, contains measures of enormous benefit to the Nation, including vital antiuse smoking initiatives that will stop or reduce the compelling aspect of this entire legislation—that is, the 3,000 children a day from taking up a habit that will kill a third of them. There is critical funding for ground-breaking health research, assistance to our Nation's veterans who suffer from smoking-related illnesses, a major antidrug effort to attack the serious threat that is posed by illegal drugs, the magnitude and importance of which was described very effectively by the Senator from Georgia, the Senator from Idaho, and others.

This legislation contains one of the largest tax decreases ever, and it eliminates the marriage penalty for low- and moderate-income Americans and achieves 100 percent deductibility of health insurance for self-employed individuals. It provides the opportunity to settle 36 pending State cases collectively and in a timely fashion.

I argue that those provisions which I just described—research, veterans, tax cut, attacking the problem of illegal drugs, and settling pending legislation—I believe have made this legislation far more important than it was when it was introduced.

We all know that the time is to finish the business and move the process forward. I think it is also clear for anyone who has turned on the television or listened to the radio or read the newspaper that the objective of the tobacco companies is to kill the legislation. I am sure they have come to expect a return on their enormous campaign contributions.

If we kill the bill, it doesn't do anything to stop tobacco companies from marketing to kids, it doesn't do anything to stop the death march of teenagers who are taking up a killer habit, and it does nothing to promote groundbreaking research on new treatments and cures for these terrible diseases, including cancer and heart and lung disease. We will not take a step forward to stop the flow of abuse of illegal drugs, and we will do nothing to assist our Nation's veterans. Inaction doesn't do anything to relieve the burden on the Nation's taxpayers, a burden not only in the form of a marriage penalty but in the $50 billion taxpayers have to shell out to treat smoking-related disease, which is almost $455 tax per household per year.

As I was driving from one place to another last night, I heard another one of these commercials. I do want to again express my appreciation to the tobacco companies for raising my name ID all over America, especially in the States of Arizona, Iowa, and New Hampshire. So I am very appreciative of almost making my name a household word—what kind of a household word, obviously, is up to interpretation. But I just want to repeat that there are two attacks that the tobacco companies are making on this legislation. We polled it, and one is that it is a "big tax bill," and the other is the issue of "contraband." I have addressed those issues before, but I want to point out again and again because the attacks are made again and again. Right now, today, $50 billion per year is paid by the taxpayers to treat tobacco-related illness. Mr. President, that number is bound to go up. If teenage smoking is going up, then the tax bill is going up.

Now, you can argue, as some in the tobacco companies have argued, and some of my colleagues particularly on this side of the aisle have argued, that there is no way you can reduce teen smoking; that there is nothing you can do; that raising the price of cigarettes won't work and antismoking campaigns won't work.

This tax bill is big and it is getting bigger. Some don't accept—and I am not clear why—the view of the Centers for Disease Control that teenage smoking is on the rise in America. I think a visit to any local high school in your State or district might indicate that teenage smoking is on the rise. But, more important, people whose statistics on these public health issues that were unchallenged are now being challenged as to whether teenage smoking is on the rise or not. I think the burden of proof is on those who disagree to prove that these statistics are wrong, given the credibility of the organizations who state that teenage smoking is on the rise. If you accept the fact that teenage smoking is on the rise, then over time there would be more people who would require treatment for tobacco-related illnesses. The tax bill goes up. It is sort of elemental, but it needs to be said over and over again. If we are paying this huge tax bill to treat people as a result of tobacco-related illness, and it is getting bigger, then it seems to me that you have a much bigger tax bill than the costs associated with this legislation.

Mr. President, I believe we are reaching a crucial point, as I mentioned earlier in my remarks. We are either going to have to invoke cloture and address the germane amendments, which is still part of cloture, part of the Senate procedures after the invocation of cloture, or we are going to have to move on to other things. At that point, as is usual, we assess winners and losers. That is appropriate and fun here, especially inside the beltway. I don't disagree with that approach.

I think we ought to understand who the losers will be. The losers will be the children of America. They are the only ones who lose. Anybody else who loses can probably survive, probably go on to other things, probably lead their well and healthy lives. But I don't believe that the American people will treat us kindly, nor should they, if we fail to act on this issue. Is it the most important and compelling issue that affects America today? Probably not. Crime is important, drugs are important, education is of critical importance. But do we use that rationale to ignore this problem? Is that appropriate logic? Do we say, well, crime and education are far more important issues to the American people than teenage smoking; OK, so therefore ignore it?

I don't get that logic, Mr. President. I was reading in some of the newspapers this morning that there are polls out now that have convinced some Americans—and perhaps in the view of some pollsters, a majority of Americans—that this is a "big tax bill." A lot of Americans believe we really aren't going to do anything about kids smoking. Why would anybody be surprised at that? If you spend $100 million, which is what many—or suppose only $50 million on advertising, it is going to sway American public opinion. But the effect of those kinds of advertising campaigns fades. The American people then focus back on the problem because the problem will remain. And if we do nothing to address it as a body, I think the American people have every reason to be less than pleased at our performance at addressing what I believe most Americans correctly view as a very important issue, which is—obviously, we have stated many times—our children.

So I think it is important that we recognize that we are now ending the third week of considering this legislation, and we are going to have to either file cloture and move forward with a vote on it, and if the vote carries, move to a conclusion. Otherwise, I believe that we should obviously move on to other things, and with the full and certain knowledge that the issue is not going away because the problem is not going away.

I understand that my friend from Massachusetts will have an amendment, and that an agreement has been made with the majority leader. I hope we can reach a time agreement on that and then move to our side for an amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I will be sending up an amendment shortly. When that amendment is called up, I will ask unanimous consent that we have 1½ hours—Mr. President, a small change, a quick change in plan, which is not unusual in the last 2½ weeks. We are going to debate this amendment. It is our intention to debate this amendment for an hour, at which time there will be a motion to table, and hopefully after we have disposed of this amendment, should we be able to do so, we would proceed to the Faircloth-Sessions-McConnell amendment on attorneys' fees.

That is the current plan. We hope to be able to proceed with that plan. I, therefore, ask that amendment No. 2541 be called up.

AMENDMENT NO. 2689 TO AMENDMENT NO. 2437

(Purpose: To reduce youth smoking)

Mr. KERRY. Mr. President, I withdraw that request, and I send this amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KERRY), for himself, and Mr. BOND, Mr. CHAFEE, Mr. KENNEDY, Mr. DODD, Mr. WELLSTONE, Mr. JOHNSON, Mrs. BOXER, Mr. SPECTER, Ms. LANDRIEU, Mr. DURBIN, and Mr. GRAHAM proposes an amendment numbered 2689 to amendment numbered 2437.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following:

( ) ASSISTANCE FOR CHILDREN.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) of section 452 for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

Mr. KERRY. Mr. President, the amendment that I am offering, together with Senator BOND, Senator CHAFEE, Senator KENNEDY, Senator DODD, Senator WELLSTONE, Senator JOHNSON, Senator BOXER, Senator SPECTER, Senator LANDRIEU, Senator DURBIN, Senator GRAHAM, and others is a bipartisan amendment with considerable support, I believe, both in the Senate and outside of the Senate. It would be my hope that we would be able to dispose of it rapidly.

Over the course of the last couple of weeks we have had some very contentious issues on the floor of the Senate regarding liability, regarding lookbacks, the marriage penalty, and drugs. I won't suggest that the drug penalty didn't have some focus with respect to children. Of course it does.

But this is primarily children. This amendment is the primary focus of this legislation. This amendment goes to the core effort of how we will best get this legislation to assist in the effort to reduce our young people from smoking. That is why this amendment, I believe, has broad support. That is why this amendment has been supported by editorials across the country. That is why this amendment is supported by different advocacy groups on behalf of children across the country.

We have been debating for 2½ weeks now about the Nation's first opportunity to try to deal comprehensively with tobacco, and, in so doing, comprehensively try to address the question of reducing teenage smoking. This is an amendment that can directly improve the lives of our children by adopting a national policy with respect to tobacco and our approach to children that is workable, proven, and fair.

I believe the reason that a number of colleagues on both sides of the aisle, from different political ideologies, have come together on this amendment is for the very simple reason that not only is it focused on children, not only is it about children, but it comes with a proven track record of making an impact on choices that children will make.

This is, frankly, not about politics. This is certainly not an effort to stall the bill. This is an effort to make this bill as constructively as possible a bill that is really going to assist us in accomplishing the purposes of the bill; that is, principally to raise a generation of young people who are able to live up to their potential, free from the grasp of what we know to be a dangerous drug.

This is an effort to try to guarantee that those 3,000 children who we have talked about day in and day out who begin smoking won't start smoking, and they won't start smoking because there is an intervention in their lives that is significant and meaningful at the time that it counts.

Senator BOND, I am pleased to say, comes to this amendment with considerable experience in how these kinds of efforts work. When he was Governor of Missouri, he started the parents and teachers plan there. There are few people in the Senate who I think speak with as much conviction about the difference that it makes for young people when adults are adequately involved in their lives and when the kind of structure is available in their lives so that we can make a difference when it makes the most importance to those children.

In my judgment, and I think in Senator BOND's judgment, Senator CHAFEE's judgment, Senator SPECTER, and others who are part of this legislation, this seeks to have an impact at the most direct connected level with our young people.

The legislation on the floor, Mr. President, currently directs that about 40 percent of the funds that are raised through the tobacco revenues be directed directly to the States over 5 years. That is in the billions of dollars. Those billions of dollars that are directed straight back to the States are divided into two groups. Half of that money is restricted to a certain set of programs in which the States can engage. Half of it is completely unrestricted, as many people in the Senate think it ought to be. That is so that the States can choose, on their own, what they think might make the most difference with respect to tobacco and how they would like to spend the proceeds in an effort that, after all, the States were significantly involved in. The States' attorneys general are the ones who brought the lawsuits and helped significantly to put us in the position to be able to be trying to arrive at a comprehensive national settlement. So that is the theory behind which those funds were distributed appropriately to the States.

However, given what has happened in the last days here on the floor, where a considerable portion of this legislation has now been diverted to a specific tax cut, and another considerable portion of the legislation has seen money directed specifically to the Coast Guard, or to the DEA, or to other drug-fighting efforts, it is even more compelling and more appropriate that at this point in time we seek to guarantee that some of those available funds are really going to go to the children on those activities that will most impact those children's choices.

So we want to assure that at least 50 percent of the restricted funds—not the unrestricted but 50 percent of the already restricted funds—will be spent on those activities that already exist within the menu of what the restricted funds can spend it on. We want to guarantee that it will go to the after-school programs, to the early childhood development, and to the child care that every expert in the field will tell you will make an enormous difference to the lives of those children.

Mr. President, let me just share with my colleagues an article that appeared in the Washington Times yesterday. It is called "After-School Crime Busing." It is an article by Edward Flynn. In fact, he is the chief of the Arlington Community Police Department. He writes:

> In fact, the tobacco bill is an opportunity for Congress to take its most powerful step ever to fight crime—by investing half the new revenues in the child care and after-school programs proven to prevent crime and make communities safe.

This chief of police says to all of us in the Washington Times:

> The tobacco companies are worried about their bottom line. I look at crime's bottom line. Educational child care for young children and after-school programs for school age kids are two of the most powerful weapons to fight crime and protect our kids from getting hooked on tobacco. For example:
>
> Studies have shown that denying at-risk toddlers quality educational child care may

> multiply by up to five times the risk that they will become chronic lawbreakers as adults, and by up to ten times the risk that they will be delinquent at age 16.
>
> What's more, as a recent Rand report shows, these programs actually produce savings to Government—primarily from lower criminal justice and social service expenditures—as much as four times higher than their cost.
>
> But today millions of Americans who must work earn less than the cost of quality child care for two kids.

And then it goes on to discuss the availability of child care.

Police Chief Flynn says the following:

> FBI data tells us that violent juvenile crime triples in the hour after the school bell rings, and half occurs between 2 p.m. and 8 p.m. The good news: After-school programs can cut crime by as much as 75 percent. And they help kids do better in school, treat adults with respect and resolve conflicts without violence.
>
> Unsupervised after-school hours aren't just prime time for juvenile crime. They're also prime time for youngsters to become crime victims and for other threats to children's health like teen sex and substance abuse.

That is what we are talking about here—substance abuse, tobacco.

> There is good evidence that after school supervision can cut in half the risk that kids will smoke, drink or use drugs.
>
> So in addition to their proven anticrime impact, after-school programs—because of the supervision they can offer while parents are at work and their positive effect on kids' values—are powerful antismoking and antidrug programs as well.

Mr. President, I ask unanimous consent that the full text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> [From the Washington Times, June, 10, 1998]
>
> ### AFTER-SCHOOL CRIME BUSTING
>
> (By Edward A. Flynn)
>
> If you've been reading the huge ads the big tobacco companies have been running recently, you might think tobacco legislation will cause a new American crime problem by creating a black market in cigarettes.
>
> In fact, the tobacco bill is an opportunity for Congress to take its most powerful step ever to fight crime—by investing half the new revenues in the child care and after-school programs proven to prevent crime and make communities safe.
>
> The tobacco magnates' claims deflate when you look at the facts:
>
> They use grossly inflated projections of cigarette cost increases, as much as three times higher than the $1.25 or so the Treasury Department and most economists agree will be added to the price of cigarettes.
>
> They ignore protections in the bill like requiring that each pack of cigarettes carry a serial number so it can be daily traced, that will probably reduce the smuggling that now occurs between states.
>
> While there could be some increase to international smuggling, the best way to deal with that is to make sure a bit of tobacco revenues are left available to enforce the new law—not to eliminate tobacco penalties that would reduce smoking, save lives and compensate taxpayers for the billions we've paid to treat health problems caused by smoking.
>
> In fact, if Congress allocates at least half of the new revenues to support educational child development and after-school programs, it can dramatically reduce crime, violence and addiction.
>
> The tobacco companies are worried about their bottom line. I look at crime's bottom line. Educational child care for young children and after-school programs for school-age kids are two of the most powerful weapons to fight crime and to protect our kids from getting hooked on tobacco. For example:
>
> Studies have shown that denying at-risk toddlers quality educational child care may multiply by up to five times the risk that they will become chronic law breakers as adults, and by up to ten times the risk they will be delinquent at age 16.
>
> What's more, as a recent Rand report shows, these programs actually produce savings to government—primarily from lower criminal justice and social service expenditures—as much as four times higher than their cost.
>
> But today millions of Americans who must work earn less than the cost of quality child care for two kids. Because Head Start and child care block grants don't have the resources to help most of those who need them, parents are forced to leave their children in poor-quality care—little more than "child storage." That damages child development, including kids' ability to get along with others and succeed in school, and ultimately puts your family's safety at risk.
>
> FBI data tells us that violent juvenile crime triples in the hour after the school bell rings, and half occurs between 2 p.m. and 8 p.m. The good news: After-school programs can cut crime by as much as 75 percent. And they help kids do better in school, treat adults with respect, and resolve conflicts without violence.
>
> Unsupervised after-school hours aren't just prime time for juvenile crime. They're also prime time for youngsters to become crime victims, and for other threats to children's health like teen sex and substance abuse. There's good evidence that after-school supervision can cut in half the risk that kids will smoke, drink or use drugs.
>
> So in addition to their proven anti-crime impact, after-school programs—because of the supervision they can offer while parents are at work, and their positive effect on kids' values—are powerful anti-smoking and anti-drug programs as well.
>
> Law enforcement leaders nationwide—from the Police Executive Research Forum and the Major Cities Chiefs organization to the National District Attorneys Association and Fight Crime: Invest In Kids—have called on legislators this year to provide the funds so communities can ensure all kids access to educational child care and after-school programs while parents are at work.
>
> The way to do that—the one-two punch that also fights teen smoking—is by designating at least half of new federal tobacco tax revenues to support child care and after-school programs.
>
> This would be one of the most powerful steps Congress has ever taken against crime, and a tremendous investment to help America build a healthy and productive generation for the twenty-first century, decrease long-term government financial burdens like welfare and crime costs, and start saving innocent lives today.

Mr. KERRY. I will discuss some further evidence of why this is so vital, but let me emphasize to my colleagues what we are doing in restricting this 50 percent of the already restricted funding is not a new program. We are not creating any new program. We are not creating any new bureaucracy. We are not requiring any new line of expenditure. We are using the existing child care development block grant, and we employ a mechanism that both parties, in a bipartisan fashion, have already accepted.

This existing, successful bipartisan program already helps States to invest in child care but not adequately. And it already helps this investment in early childhood development programs but still not adequately. I believe all we have to do is look at the example of President Bush, who signed the block grant into law originally, and the bipartisan effort of Senator HATCH and Senator DODD, who pushed the Senate to make this investment a reality.

This amendment spells out explicitly the truth that has been implicit in all of this debate, that children are at the heart of the debate about tobacco in this country. We know—and we now know it to a shocking degree because we have discussed it at length on the Senate floor—through the tobacco companies' own memoranda, the degree to which tobacco companies targeted young children for decades. We went through, about a week ago, some of the extraordinary documents that now exist as a result of the lawsuits that show the million dollars of advertising that researched ways in which the tobacco companies could target young children and, the tobacco companies themselves acknowledged, "get them when they're most vulnerable." The language was the most shocking and explicit statement of a kind of craven policy of how to corrupt young people that you have ever seen. And literally they said, get them hooked early, get them with all these symbols, get them with the advertising, and we won't say anything about the aftereffects because the pharmacological impact, they said—that is the way they politely labeled getting hooked—the pharmacological impact would see to it that the kids continued to buy down the road.

So here we have an opportunity to protect our children from exactly that kind of predatory practice that is unacceptable. We believe that is the compelling reason why the Senate should adopt this amendment.

According to a January 1998 poll, 83 percent of American voters support what I just said—83 percent of American voters believe that tobacco legislation ought to include significant investments in our children. It is a bipartisan consensus in this country that we ought to do that.

Two-thirds of the Republicans who were polled by Lake, Sosin and Associates strongly agreed that the funds from the tobacco bill ought to be invested in child care and other childhood development programs that will make a difference as to whether or not those kids would then pick up smoking.

In the Philadelphia Inquirer, the editorial page recently praised this amendment, saying, "Using tobacco settlement proceeds for child care meshes with the goal of cutting the health toll of smoking and could produce benefits that go far beyond that."

The Deseret News in Salt Lake City, UT, recognized that support for child care programs "saves billions of tax dollars down the road." The Syracuse Herald-Journal on its editorial page, in urging the Senate to pass this amendment, said, "Let the tobacco bill do some good." The editors of that newspaper reminded us that "there are good reasons why tobacco revenues should go into child care. Child care and development block grant program, put in place during the Bush administration, simply doesn't have enough of a budget to fulfill the needs of working families—it wouldn't even if $20 billion is allotted. But it would be a start." And that is what these voices are telling us—that we ought to make the start.

There is, in addition to broad editorial support, Mr. President, the coalition of more than 100 national, State, and local organizations, called Child Care Now, fighting for this amendment because they recognize the connection between kids and smoking. And in that coalition you will find the National Council of Churches of Christ in the USA, the YWCA of the USA. I have a letter that I received from the children and parents of Camp Fire Boys and Girls, 700,000 members strong, asking each Senator to support this amendment because, "Children engaged in constructive after-school activities are less likely to smoke." These are mothers and fathers of working families, and they understand the tremendous pressures and temptations of smoking, and they have asked each and every Senator to support the notion that that is where a significant component of this revenue ought to go, to give their kids a fighting chance.

This amendment responds directly to the plea of parents who desperately seek help in the area of child care and early childhood development to help keep their kids away from the cigarettes that they know they are being exposed to during the hours when, because they are working, because they are compelled to be away from the home, and because they do not have enough money to provide adequate support otherwise, their kids are being exposed. And we have an opportunity here to help them do that.

Scientific research at the University of Southern California and the School of Public Health at the University of Illinois shows that 13-year-olds who are left home alone after school or during the day are significantly more likely to smoke cigarettes than children who participate in structured after-school activities. But today, only one-third of inner-city schools offer those programs, and, not coincidentally, it is in those very inner cities where youth smoking rates are now rising and going the highest.

The National Women's Law Center, committed to protecting the rights of women, but also committed to the economic security of low-income women, wrote to Senator BOND and to me in favor of this bill, because they recognize that under the child care development block grant today only 1 out of 10 eligible children in a low-income working family currently gets the child care assistance they need.

So if we are intent on reducing the number of kids who are smoking, and if we are really worried that smoking among high school seniors is at a 19-year high, and we are really worried about what the Senator from Georgia said when he came to the floor and talked about the drug problem, the marijuana increase among young people, then it is critical we focus on the 3 million young children in this country who are eligible but do not get it. We need to leverage the capacity of every State and local community to be able to take kids off the street corners, where they too often cave in to peer pressure and smoke each day, and put them instead into a structured environment that brightens their future, not one that jeopardizes it.

So if we are serious about reducing youth smoking, it is imperative that we engage now in this effort to cultivate a whole generation of young people who have the capacity to make the right decisions.

I have a letter from Dr. T. Berry Brazelton of the Harvard Medical School. Many people in America know him well, personally, and think of him as America's pediatrician. I would like to point out that he wrote, along with over 50 other doctors, public health officials and child development experts, to Senators about the early child development component of sound decisionmaking for our children. Among those who joined Dr. Brazelton were Julius Richmond, former Surgeon General of the United States, and the Chairman of Pediatrics at Johns Hopkins University School of Medicine, and Elizabeth McAnarney, the Chairwoman of the Department of Pediatrics at the University of Rochester. They tell all of us that scientific study after scientific study shows that the brain development in those first years of life is the most important—I quote from the letter of Dr. Brazelton:

> . . . for laying the foundation for adequate development, which results in self-confidence, smart decisionmaking, and the ability to later resist destructive habits like smoking.

So these aren't ideas that have been cooked up on a political basis somehow. These are the foremost experts in the field. They are telling us if we want to raise a generation of children who are able to make these decisions, who will not fall prey to the lure of tobacco, it is vital that we invest in their capacity to do so.

Again, I return to their letter, and read directly from it:

> We urge Congress to craft a comprehensive program for reducing teen smoking—and to ensure that such an effort includes an essential investment in early childhood development and after-school programs. You can support a down payment on this investment by voting for the Kerry-Bond amendment.

I think Dr. Brazelton said it best in a recent editorial when he said—simply—

> As a prescription for preventing teen smoking, I'd say that early childhood development and child care programs are just what the doctor ordered.

We also know from police officers and prosecutors like Ed Flynn, Chief of Police in Arlington, Virginia, who are leading a fight to invest tobacco money in child care. Chief Flynn has said that child care and after school programs "help kids learn the valuable skills to become responsible adults." An entire organization led by police, prosecutors, and crime victims is pushing the Senate to pass this amendment because:

> The hours from 2:00 p.m. to 8:00 p.m. are not only the peak hours for juvenile crime, teen sex and teen experimentation with drugs, but also the hours when teens are most likely to get hooked on tobacco. After-school programs are not only our best protection against juvenile crime, but also may be the most powerful anti-smoking programs available. Being unsupervised in the afternoon doubles the risk that kids will smoke, drink, or use drugs.

It is those individuals closest to our children who know this is the right way to deal with youth smoking.

This is an amendment every Senator ought to support.

I want to especially thank Senator MCCAIN for supporting this amendment. In view of the pressure on Senator MCCAIN, the Senator's support means a lot to me. I think I can speak for Senator BOND when I say we are honored to have JOHN MCCAIN by our side on this fight. I also want to thank Senators CHAFEE, CAMPBELL, and SPECTER for cosponsoring this amendment.

I think it proves that this is an amendment which is based not on Republican ideas or Democrat ideas, but simply on good ideas in touch with the mainstream view in this country.

Under the Kerry-Bond amendment states will enjoy the flexibility of the child care development block grant. The truth is we would simply be articulating once and for all the important standard which the public health community and most Governors have already endorsed: that child care and early childhood development are vital tools in reducing the rates of children smoking in this country. We then leave it to the leadership at the state and local level to meet that standard, to design the programs that meet the local needs in places as different and diverse as Illinois, where Gov. Jim Edgar, a Republican, is experimenting with child care, and Rhode Island, where Gov. Almond has made after school care an integral part of preparing children in his state for the next century.

The Kerry-Bond amendment empowers communities to find their own way of saving a new generation from smoking. We know how after school programs like Girls Inc. of Worcester, MA have effectively incorporated anti-smoking curriculum designed to teach their participants about the dangers of tobacco and equip them with the values to resist the peer pressure to smoke. I have met with the case workers from Central, MA who tell you that the "Home Instruction Program for Preschool Youngsters" helps parents and teachers join in community partnerships to raise healthier kids. But in all these communities and around the country you will find that there are waiting lists for the services—for the programs which teach kids about responsible decision-making, for the anti-smoking programs and the programs which take kids off the streets and give them structure—and the demand far exceeds our capacity to serve. At the Castle Square Early Child Development Center in Boston, there were 67 kids in the program and 500 on the waiting list. I believe it's a moral dilemma that you have 500 children there who aren't receiving the structure they need to resist smoking, that today we have limited ourselves to saving just 67 of those kids. The Kerry-Bond amendment can change that, by ensuring that half of the restricted funds would go to child care programs which can play such an important role in reducing youth smoking.

I return to the original premise of this debate, the reason we are here on the floor of the Senate debating a bill that a few years ago would have been considered too hot to handle. We are all fortunate to have Republicans like Senator BOND here in the Senate who believe it is wrong to ignore our children in this tobacco debate. I want to especially thank him for his leadership in this discussion, for his initiative in pushing to include children in our legislation. Senator BOND has helped set a tone of bipartisan cooperation and along with Senator MCCAIN I think he has laid the benchmark for fairness. KIT BOND and I believe this Senate can find room in fair and workable tobacco legislation to put hundreds of thousands of children on the road to good health and responsible decisionmaking. In truth I wonder if we can really believe that fair tobacco legislation could ignore the kids who brought us here today as one unified Senate. Let us prove once again that the moral center can hold in this debate and let us join together in passing the Kerry-Bond amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. BOND. Mr. President, I particularly thank my distinguished colleague from Massachusetts for yielding to me. I am very pleased to join with him in offering this critically important amendment.

Late last year, Senator KERRY and I introduced legislation, which is bipartisan legislation aimed at providing support to help families give their children the kind of encouragement, love, early training and a healthy environment they need to develop their social and intellectual capacities. I have had the opportunity in my years both as Governor and in the Senate to work with children and work in the development of children. I am convinced that many of society's problems today—the high school dropout rate, drug and tobacco use, juvenile crime, even adult crime—can all be linked to inadequate child care and early childhood development opportunities.

Let me just tell you a brief story about the first really broad-based early childhood development program that we put into effect in Missouri. Our Parents As Teachers Program was designed to provide assistance through educating and informing and giving helpful advice to parents of children from birth to 3 years old—how they could relate to the children, how they could establish better contact with the children, how they could excite the child's curiosity, to get involved with reading and learning. I was having a difficult time getting it through the Missouri legislature. I recommended it in 1981 and 1982 and 1983, and someone always had a reason to vote against it. I never got it through.

Finally, in my last year as Governor I said we are going to make an all-out push because this program is making a difference. We were seeing in the pilot projects in four school districts that children whose parents had been in Parents As Teachers came to school ready to learn. Their parents had taken responsibility. The parents were involved in their education. They had developed the pattern of involvement. The program itself identified potential learning disabilities or physical disabilities early on, which could be best corrected at those early ages.

I told everybody I was going to focus attention on early childhood development. Without my direct suggestion or intervention, the Director of Corrections, the Missouri Department of Corrections, the man who managed all of the prisons and the parole and probation efforts in Missouri, Dr. Leroy Black, on his own, came before the committee that was hearing testimony on Parents As Teachers. We had just gone on a major prison-building exercise in Missouri. In that 4 years of my second term we had increased the prison spaces 88 percent. People were wondering whether we could ever catch up with the prison population.

He came before that committee with a very simple, straightforward message. He said if we want to cut down on the need to keep building prisons in the future, we are going to have to deal with early childhood development. He said the failures in early education, the failures of parental responsibility, the failures of the parents to be involved—for some care giver to make sure these children were getting an education, being taught responsibility—is the greatest cause of the increase in crime and the increase in prison population.

He was successful. He was a great help in getting this program established on a Statewide basis. Yes, as Senator KERRY mentioned, we now have studies based on this program and others that show a child's social and intellectual development is deeply rooted in the early interaction and nurturing a child receives in his or her early years and the scientific research shows that infant brain development occurs much more rapidly than previously thought.

We used to think of those cute little infants, birth to 3 years old, as being cuddly, wonderful things without much going on. But brains are developing—50 percent of a child's mature learning capabilities are developed by the age of 3. They are in a very rapid mode of development.

Anybody who has tried to teach a child to speak two languages instead of one language will find a very small child—you think they would learn English slowly—but they will learn another language, too, just as quickly, where an adult is having a great deal of difficulty trying to learn another language. They are in a rapid mode where they can accept new inputs and they are learning rapidly.

The role parents and adults play is critical. That is when the patterns are established for the future learning of future responsibility of the children. I had long said the first 3 years of life was the greatest learning experience for a child. I found when our son Sam was born, that the first 3 years of his life were the fastest learning experience in my life. I learned a lot more in those 3 years than I had learned in many years as Governor and various offices that I had held.

Learning about a child and learning how important that education is, is quite an experience. Frankly, some of the people who attacked our early childhood development program, Parents As Teachers, were accusing it of being subversive. They thought it was subversive because we were encouraging government to come in and take over the raising of children. That is not the purpose of the program. We provided the parents the tools to be the first educators of the children.

Guess what happened. It was subversive in that it hooked the parents into the child's development and well-being and welfare and education. When we are talking about discouraging children from using tobacco, and as we did in the amendment adopted this week, from using drugs, from using alcohol, parental responsibility is a vitally important part of that program.

We believe establishing responsibility can best occur with assistance through early childhood development. Parental responsibility is very important. Yet, there are times when parents need some help. That is what the other part of this bill does. Parents today face a variety of stresses that were unheard of a generation ago. Many families with children rely on more than one paycheck. That doesn't necessarily mean two 9-to-5 paychecks. Many families are working tag-team shifts or part-time only, or own home-based businesses so one parent can always be with the children. The challenges are tremendous and the challenges are not going to get any easier.

As we all know, the most dangerous time of the day when children engage in harmful activities, such as tobacco or drug use or crime, is between the hours after school and before parents get home from work.

In an average week in America, over 5 million children under the age of 13 come home to an empty house. These are the kids who are most vulnerable and who engage in activities which may threaten their future.

Providing increased funding for early childhood development and constructive after-school activities will serve as a powerful deterrent to these damaging behaviors.

Ultimately, however, it is important to remember that the likelihood of a child growing up in a healthy, nurturing environment is most impacted by his or her parents and family. While government cannot and should not become a substitute for parents and family, we can help them become stronger by equipping them with the resources to meet every day challenges.

The Kerry-Bond amendment achieves that goal.

This amendment will lay the foundation needed to realize meaningful reductions in tobacco and drug use, juvenile crime, and other social ills which plague our society.

Again, prevention is the key. Investing in early childhood development initiatives and before and after school activities is an important weapon in our fight against our Nation's unhealthy and life-threatening activities.

The future well-being of our children is too important for us to break continually along partisan lines. I urge my colleagues to adopt this amendment, and I thank my distinguished colleague from Massachusetts for his hard work and dedication to this cause.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. HAGEL). The hour of noon having arrived, under rule XXII, the clerk will report the motion to invoke cloture on the modified committee substitute to S. 1415, the tobacco legislation.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute for S. 1415, the tobacco legislation:
>
> Thomas A. Daschle, Carl Levin, Jeff Bingaman, Daniel K. Akaka, John Glenn, Tim Johnson, Daniel K. Inouye, Dale Bumpers, Ron Wyden, Mary L. Landrieu, John D. Rockefeller IV, Paul S. Sarbanes, Harry Reid, Richard H. Bryan, Kent Conrad, J. Robert Kerrey.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute amendment to S. 1415 shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—43

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Specter

AMENDMENT NO. 2689

Mr. KERRY. Mr. President, I ask unanimous consent Senator BINGAMAN and Senator KOHL be added as cosponsors to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. What is the pending business?

The PRESIDING OFFICER. The pending business is amendment 2689, offered by the Senator from Massachusetts.

Mr. DODD. Mr. President, I think this is a very fine amendment. I want to commend our colleagues, Senator KERRY and Senator BOND, for offering this amendment. I strongly support it.

This amendment is designed to invest in the well-being of our children in this country. It is a measure that ensures that the children of our Nation will get the right start for a far brighter tomorrow.

As our colleagues have already discussed, the amendment will earmark 50 percent of the Federal share of the tobacco funds going to the States for child care. Specifically, Mr. President, these funds will be used to increase our investment in child care and development block grants—a piece of legislation we were very proud to offer with my good friend from Utah, Senator HATCH, some 8 years ago.

The idea, Mr. President, is not to create here a new Federal child care program, but rather to do a better job with the well-established program that enjoys wide support from our States and Governors, Republicans and Democrats alike, across this Nation.

The child care and development block grant was created in 1990, as a partnership between the States and the Federal Government, to improve the availability and affordability and quality of child care. The block grant is a very efficient and popular way of providing States with sorely needed child care funds, and the States enjoy it. The reason is because it is so flexible. Perhaps most important, this is why parents also support the program.

Our colleagues on the other side of the aisle, in some cases, raised concerns during the child care debates that somehow our intent with this child care legislation is to limit the ability of parents to choose how their children would be cared for, that somehow we would like to see the Federal Government deciding how to raise them. Of course, Mr. President, this rhetoric could not be further from the truth.

The child care and development block grant is predicated upon parental choice. With assistance from the block grant, parents can choose to enroll their children in church-based care, they can choose to have their children cared for by a neighbor down the street, or they can choose to have a family member care for their child. If they wish, they can choose to enroll their child in a child development center. But the benefits of this program are offered to far too few families. It is terribly underfunded. Only 1 out of 10 children in America who are eligible for child care assistance receives it. That still leaves far too many families without the help they need in child care. Full day care can easily cost $4,000 to $10,000 per child per year, which is equal to what some families pay for college tuition plus room and board in a public university in America.

I know concerns have been raised and are apt to be raised about giving any direction to the States in their use of these funds. I would like to remind our colleagues that half of the tobacco funds that would go to the States are unrestricted. These are the funds that reimburse States for their tobacco-related Medicaid expenses. Many States do with this money what they will, and they should be able to do so. However, since the other half of the funds to the States represents the Federal contribution, we feel we should have something to say about how those dollars are spent.

As this bill is currently written, the Federal share of the money earmarked for States would be restricted to a list of six programs. While child care is on the list, there is no guarantee that any of the funds would be used for that care. There is no guarantee that child care would get a single dime of these dollars. I think that would be unfortunate, Mr. President. We have talked a lot about child care, about caring for children during this debate on tobacco. We have talked a lot over the past weeks about things that, frankly, have little or nothing to do with the well-being of children in this country. Affordable, accessible, high-quality child care is about the well-being of children. The tobacco industry has preyed on America's children—all of us agree on that—stunting their growth and stealing their futures. This amendment is about turning the tide and making an investment in children and their families from the very beginning.

Mr. President, experts tell us that the first 3 years of the life of a child are critical to brain development and to laying the ground for self-confidence—a sound foundation for a healthy future. Investing early in childhood development is the best prevention against a whole host of problems, not the least of which is teenage smoking. Experts, again, including Fight Crime, Invest in Kids, an organization representing law enforcement officials from around the country, tell us time and time again that quality after-school activities are extremely important to preventing problem behaviors and criminal activity. Scientific studies support their claims that nearly 5 million children left home alone in the afternoon are much more likely to engage in at-risk behavior, from smoking to drugs and sex than their peers who are engaged in stimulating, productive activities.

Mr. President, the Senate has an opportunity in the next few hours to ensure that we make a concrete commitment to investing in the health and safety of America's children. Setting aside a specified percentage of funds—funds that we have already agreed to spend for the child care needs in this country—says to the American public that we will provide for a solid foundation for the future good health of America's children. Many of my colleagues know that I have introduced a comprehensive child care bill along with 26 other colleagues, including the sponsor of this amendment. This amendment is an important first step that I think we can take in making good and fulfilling the promise of that bill. Is this all we need to do? Obviously not, but it is a good beginning.

I hope that our colleagues, in considering this amendment offered by Senators KERRY and BOND, in a bipartisan way, would find a way to support expanding this block grant. It doesn't create any new programs. It is designed to give maximum flexibility to families across this country. It can make a huge difference for those parents, who don't have the choice about whether or not to be at home, to be able to afford that needed child care.

That $10,000, as I said a moment ago, is equivalent to the cost of a higher education and room and board. It is expensive. Child care is very expensive. If we can assist in the cost of that and relieve the financial burden and the tremendous anxiety the parents feel about wondering where their child is as they must work, then, in addition to doing something about reducing smoking among young people in this bill, that will be amplified by providing assistance to these families and seeing to it that their child care needs are going to be met, or at least it will take a significant step in meeting those needs. I commend my colleagues for offering this amendment and urge colleagues to support it.

I yield the floor.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I join my colleague, Senator DODD from Connecticut, and commend him, Senator BOND, and Senator KERRY for offering this very important amendment to this very important bill. I want to say a few words, if I could, as a supporter.

The issue that has been most contentious about this tobacco legislation has been how do we really stop people—children, adults and young people—from smoking? We have debated that. Many of us feel like the best way, the surest way to stop people from smoking, from using a dangerous product that has now been proven beyond a shadow of a doubt to be dangerous, is to raise the price of a pack of cigarettes high enough to discourage as many young people as possible from even starting to smoke and, frankly, discourage adults, who most certainly have a choice, from continuing a habit. It is a purposeful levy. If we could stop people from smoking by not raising the price of a pack of cigarettes, perhaps we should consider that. But I am convinced, as many Members of this Chamber are, that this is the best and most effective way, along with counteradvertising, advertising restrictions, and other restrictions, which, in fact, will be effective.

The question becomes, what do we do with the proceeds generated? Because it is going to fall regressively, in a sense, on poorer people, I think we should try to get the money back to those who are going to pay the tax. We can do that in a number of ways. One way is to target a general tax relief, which, as this bill moves through, I hope we can do. But another way that my colleagues have come up with is targeting some of this money back to hard-working American families—in most instances, with both parents working full time and, in some instances, there is only one parent—to help them with the great costs they are incurring and the great challenge that they have, which is how to be good workers and how to be good parents. It is incumbent upon us to try to get some of this money back to these families that are going to pay this tax and their children for one reason: Because children were targeted by the industry. There is no question about it. They were targeted by the industry. In my opinion, they should benefit from the proceeds generated in this tobacco settlement. To leave the children out and not specifically designate a portion for them, even though they are going to get some benefit from their research that is done, would be a shame. It still gives States discretion about how they would like to spend a part of the money coming in. But it says that we want you to use at least 50 percent of your restricted funds to support child initiatives, child care particularly, and to improve the quality of child care. Because children were targeted, they should benefit. Because families who are paying the tax—poor families primarily, lower-income families—this amendment targets this benefit to them and allows them to get accessible, affordable, and quality child care.

Let me say one other thing that in some way angers me as a working mom myself. Some people would like to maybe make judgments about families that choose to work, or parents outside of the home, or inside of the home. I would like to say maybe ideally it would be great for every child in America to have two parents, and perhaps it would be ideal if one of those parents would stay home full time. But this is not an ideal world; this is a world where families have to make tough choices.

Frankly, we have an economy now in America that depends on almost every able-bodied person over 18 to work. If people haven't noticed, there is a worker shortage in America for skilled work, for talented work. Our businesses can't survive unless there are workers working. So we have to do both. We have to work outside of the home. We have to be good parents to our children, and one way is to have the Government help parents who are doing everything that they can do. One way we can do that is to help them, be a partner with them, to find good-quality child care, because investing in our children is the best thing we can do to help our families, to help our country, to keep our economy strong, and do what is right with the proceeds of this tobacco bill.

So I urge all of my colleagues. I think this has great bipartisan support. It would be a shame to pass this bill without this amendment on it and to fall down in our commitment to the children and working families of our country.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, good afternoon.

ENGAGING CHINA IN THE 21ST CENTURY

Mr. BAUCUS. Mr. President, I rise today to address the upcoming summit in China and to stress the importance of this visit to U.S.-China relations.

Mr. President, as the age old adage says, "A journey of a thousand miles begins with a single step." We should begin this journey with the first step—by defining our goals in Asia, and, more directly, in China.

America's goals are simple: we want peace; we want prosperity and fair trade; and we want a decent world to live in.

How do we achieve these goals? First, by guaranteeing peace and stability in the Pacific. That means preserving our permanent military presence in Asia. Remaining committed to our alliances with Japan, Korea and Southeast Asia. Defining our interests clearly to China.

But it also means preventing unnecessary conflicts. And to do that we must find common ground. Remain engaged. Preserve and foster our working relationship with China. We must build and strengthen our diplomatic ties.

In many ways China remains a challenge—a great wall in and of itself. Its intransigence in many areas of trade, human rights and arms proliferation presents a clear challenge for U.S. policy. Whether the topic is pirated software or the incarceration of political prisoners, China has often proved unwilling to adopt practices that the rest of the world perceives as reasonable and just. And when China behaves contrary to accepted norms, or to the rule of law, we must not look the other way.

But we also must not fail to recognize China's importance to the United States and the rest of the world. And to engage China, we must understand China. This is a vast and old nation. When Kublai Khan conquered southern China in 1279, he presided over the largest empire the world had ever seen. And at that time the Chinese empire was already 1,500 years old, and Chinese history 2,500 years old. Today's People's Republic of China is the world's most populous nation, accounting for one-fifth of humanity; a nuclear power; and one of the world's fastest-growing economies.

It is also a diverse nation. China is a mosaic of language, religion and culture. The majority of its 1.2 billion population are Han. The remaining 70 million people belong to 55 different ethnic minorities. China has eight major languages and 600 dialects. Yet we often think of China as one mind, one voice. China has many voices.

Those who have not traveled to China may find it hard to truly grasp the differences in lifestyles. How many Americans today live without a telephone? Many have two or more. In China, one in four homes has telecommunications capability. And about six out of ten have a radio.

The average per-capita income in China is estimated at $360 to $700. Yet it is possible that in the next century China will become the world's largest economy. At the same time, it will continue to face enormous problems of unemployment, overpopulation, a low level of education, and poverty.

Now is the time for the United States to help bring China into the 21st Century. Now is the time to engage China with great expectations. In the areas of weapons proliferation, Most Favored Nation Trading status and the World Trade Organization. And with human rights and the environment.

Mr. President, Secretary Albright recently stated that "we have an abiding political interest in a region whose cooperation we seek in responding to the new global threats of proliferation, terrorism, illegal narcotics, and the degradation of our environment. And we have an abiding interest as Americans in supporting democracy and respect for human rights in this, the most populous region of the world."

Our relationship with China will be essential to all these interests. And we must begin with peace and security, because our diplomatic and security interests in China are critical to maintaining a peaceful and strategic relationship in Asia, as recent events in the Taiwan Strait, South Asia and the Korean Peninsula show.

China regards our Taiwan policy as the most critical and sensitive issue in this relationship. So while we must treat Taiwan policy with great care, our historic policy, based on commitments to Taiwan's security through the Taiwan Relations Act, and our commitments to acknowledge China's view of sovereignty under our three Joint Communiques, remains sound today. And the events of the past few years show that. China has made its point about how seriously it views independence in the crisis of 1996; and former Secretary Perry made our point about Chinese threats of military force.

Today the situation has calmed. Taiwan and China are beginning to talk once again. And we can, with caution and foresight from all three sides, expect if not reconciliation, at least stability in the Taiwan Strait. We need make no major changes, and in particular should avoid deals at Taiwan's expense as relations with China improve.

For us, the division of the Korean Peninsula, and the continuing threat posed by the 1.2-million-man North Korean Army just above the demilitarized zone, is equally sensitive. In fact, this is the only issue that ever brought the U.S. and China to war

And to maintain the peace, we need a cooperative working relationship with China; and on this issue we have it. China is doing precisely what we hope it will do. It offers the North Koreans advice that only a one-time ally can give. It provides food aid. And it does what it can to move the four-party talks ahead, even if that is limited to figuring out seating and handshake arrangements that the two Koreas will accept.

Then let us look to the spread of nuclear weapons in South Asia. This has created an immense danger for the world of a breakdown in the Non-Proliferation Treaty; an immediate danger of war between India and Pakistan; and a new strategic question for China, as the Indian government has indicated that its decision to test nuclear weapons was due to fears about China.

China's potential as a positive mediator in South Asia cannot be underestimated. I remain concerned that China may have contributed to the arms race by aiding Pakistan in its development of a nuclear device. It is incumbent on all nations to prevent the spread of nuclear weapons, and we must hold China to its signed commitments on this issue. Just as China worked constructively to avert further spread of the recent Asian currency crisis, so too must it be expected to work towards preventing the further proliferation nuclear arms in Asia.

Mr. President, before I speak about the issue of China and trade, let me say a few words regarding the recent flap over satellite launches.

First, the concept of allowing China to launch American satellites is sound. It can be done without transferring technology useful for ICBMs. And to suggest that we would willingly facilitate the process of other countries launching ICBMs does not make any sense.

However, the controversy over this question indicates the large emerging question of a proper approach to the rapid advance of technology from military to commercial fields. This is the basic question not only in satellite launches but in software encryption, technology exports and many other issues. Our country needs a strategic approach to the entire question, and the time to begin is now. With respect to the specific question of satellite launches, if oversight was weak, we should strengthen our policy. If any American companies broke the law they should be punished. But derailing potential progress in U.S.-China relations does not improve the situation one iota.

The second thing we need is a fair, mutually beneficial economic relationship. And that begins with the most urgent question—the Asian financial crisis.

I think China's performance—along with that of the Hong Kong S.A.R. government—during the Asian financial crisis has been impressive. With Southeast Asia's currencies suffering, China's competing exports are under intense pressure. A devaluation of the yuan could ease life for many Chinese businesses. But it would start a new panic in the currency market, just as Thailand, South Korea, the Philippines and other Asian nations are beginning to rebuild from last year's collapse. Up to now, China and Hong Kong have remained committed to avoid devaluations. And if Asia recovers this year, it will be in no small part because of China and Hong Kong.

We also need a stable bilateral trade relationship. And the foundation for this relationship is Most Favored Nation Status.

President Clinton has just put forth his annual request for renewal of Most Favored Nation status for the Republic of China. Not surprisingly, this request has been greeted with suggestions that the United States should use MFN as a tool. As a weapon, to convince China into making dramatic reforms. It is not. It is the foundation of commercial relations and should be left alone.

As Winston Churchill once said: "A pessimist sees the difficulty in every opportunity. An optimist sees the opportunity in every difficulty." Those are good words to live by. I stand here today because I believe that we should use MFN as our way of helping China address its internal reforms while preparing for its accession to the World Trade Organization.

I do not believe that an open trade policy means Americans should be indifferent to human rights abuses in China. The United States should take a strong stand against serious infractions against workers, dissidents, women and children. But restrictions, such as the denial of MFN trading status or the use of sanctions that hurt Chinese people and fail to directly punish the abusers of power, do little to encourage social reconstruction on the mainland.

In fact we should do the opposite. We should give China unconditional MFN trading status, upon China's accession to the World Trade Organization. I have long promoted this process. And I will do so again as we prepare for this historic summit. The extension of permanent MFN status to China would benefit both of our countries. It would reduce uncertainty in our trade relations. It would increase the chances of China moving to a more open economy. In addition, it would ensure that the U.S. is able to benefit fully from the economic liberalization measures that China must adopt in order to be accepted as a WTO member.

Finally, we need a fair trade relationship. China's market should be as open to our goods and services as we are to theirs. And today it is not. In this case, the numbers speak for themselves. It may be true that we have a large and growing deficit with China. At the same time, U.S. exports to China have increased from $11.7 billion in 1995 to $12.8 billion in 1997. In the first quarter of 1998, our exports have reached $3.3 billion. My home state of Montana exported $6.2 million worth of products to China just last year.

Furthermore, our agriculture industry relies on Asia. Ag exports to Asia constitute 40 percent of all agricultural exports. In the United States we produce more than we could ever possibly consume. Our agricultural producers simply cannot survive without markets in China and the Pacific Rim.

Our economic goals and China's economic goals are not so far apart. China seeks a working market economy for China's people. We seek that as well. We want a fair and open market for our goods and services. Yet we continue to face the startling implications of the trade imbalance between the United States and China—our deficit is almost $50 billion and growing.

British writer G.K. Chesterson once said: "Do not free a camel from the burden of his hump; you may be freeing him from being a camel." We cannot change China to make its leaders think like Americans, act like Americans, and participate in the world marketplace like Americans. We should accept our differences. But we must insist on a minimum standard of behavior.

We must continually push for the elimination of unfair trade barriers, such as the phony ban on Pacific Northwest wheat due to TCK smut. We must encourage private investment over State-Owned Enterprises. We must fight for market transparency. We must insist that President Jiang Zemin and Premier Zhu Rongji open China to more U.S. imports. And the way to do that is a commercially meaningful accession for China to the WTO.

This is in everyone's best interest. It is good for China and it is good for the United States for the world's largest country to become a member of the WTO.

But the accession is going too slowly. It is not good enough to wait for China to reach internal consensus on WTO membership. We need to show China that the status quo is not acceptable. I believe that by engaging China, we can help China's reformers balance internal change and global opening. This does not mean delivering WTO carte blanche. Rather, the Administration and Congress should pursue a three-pronged approach to serious engagement.

First, the United States must give China a material incentive to enter the WTO. The Administration should endorse, and Congress should pass, a law to make permanent MFN status automatic when China enters the WTO.

Second, the United States should target China's moral incentive to enter the WTO. With our bilateral talks on Taiwan's WTO membership complete, the Administration should push for Taiwan's rapid entry into the WTO, regardless of where talks stand with China.

Third, the United States must convince China that unnecessary delay in entering the WTO is costly and counterproductive. Distribution and market access are just two issues that farmers and traders want fixed. At the same time, we want to make certain that China will be able to agree to, live with and abide by a signed agreement. If talks remain stagnant after President Clinton's visit to China at the end of this month, we should strongly consider opening a broad market access case under Section 301 of our trade law. It should begin with the areas where China is violating our 1992 agreement. It should set a deadline for sanctions if they do not shape up.

Let me now turn to our third goal: a decent world to live in.

President Clinton is right to go to Tiananmen Square when he visits China this month. But he will also be right to speak out on human rights and the rule of law.

It is a sad fact that those who would speak out against the government are still in danger of being imprisoned or subject to house arrest. Just as China will be expected to abide by the standards of nuclear non-proliferation and the WTO, it also should be expected to live up to the international standards of human rights, beginning with the Universal Declaration of Human Rights.

Although I welcome the recent release of political prisoners Wang Dan and Wei Jingsheng, I am disheartened that they are subject to a de facto exile, unable to return to their homeland because of their political activities. Upwards of 2,000 political prisoners remain in China, imprisoned for the simple expression of their beliefs.

Mr. President, Americans hold freedom of expression as one of their most cherished rights. It is a prerogative that is all too often denied the Chinese people, but one that I view as essential to that country's political and economic viability. Where ideas are suppressed, creativity and innovation are lost. And we need look no further than the world's leading economy to see the importance of innovation and expression. America's economic power is indicative of its political and economic freedom and the extent to which ideas and innovation are exchanged. It is true that China's economic success in the last 20 years is impressive. But how far can innovation and growth proceed in the absence of true freedom to carry out discourse and exchange ideas? The global marketplace grows increasingly competitive every day. China and the rest of the world stand to lose if that great country's people aren't allowed maximum ability to express, innovate and progress.

Finally, Mr. President, we must also engage China when it comes to environmental concerns. As economies develop throughout the world, they use more fossil fuels. Of course, with increased usage often comes significant pollution. Nowhere is that more true than in China. In the coming years, China will likely burn more fossil fuels, dispose of more chemical and industrial waste and emit more carbon dioxide than any country in the world. As economic growth in China accelerates, demand for electricity and the coal used to generate it will also increase.

Mr. President, 9 of the last 11 years have been the warmest of the 20th century. If the emissions from China's burgeoning power plants are not subject to controls, our efforts to prevent global warming will be undermined. China is part of the problem, and should be part of the solution. Although this is true for all developing nations, it is especially true for China, its appetite for hydrocarbons being what it is

When I worked on the Clean Air Act 1990, emissions trading was proposed as an alternative to inflexible, across-the-board efforts to control emissions. Initial reports indicate that the system of emissions trading works. I am interested in possibly applying the concept on a global scale, to include developing countries such as China.

Again, Mr. President, if we are to minimize the impact of these outputs, the United States must engage China in a cooperative relationship. We must do it in the areas of environmental protection, international security, human rights and trade. Although I agree with the Chinese proverb that says, "It is better to light a candle than curse the darkness," I also think that the words of that great American Henry Ford are apropos here: "Coming together is a beginning, staying together is progress, and working together is success." Mr. President, the United States and China have come together. For our benefit and that of the rest of the world, let us continue to work together for success.

Finally, Mr. President, let me say a few words about the approach I see developing in Congress.

We have not covered ourselves with glory recently. We have not passed our IMF replenishment. We have not passed our UN dues. We have not passed the Comprehensive Test Ban Treaty. We have not passed fast track. And some have seen the recent satellite launch controversy as an opportunity to make points in domestic politics.

This is not the way a great power behaves. We have serious responsibilities in our foreign affairs—whether in peace and security, in economics and trade, human rights or environmental protection. And we diminish our institution at home, and our country abroad, if we do not take these responsibilities seriously.

We have time to fix our deficiencies. But it is not unlimited time, and as we see in South Asia; in Hong Kong; in Korea; events will not wait for us. So as the President makes this historic trip, let us reflect a little more deeply on ourselves, on our responsibilities, and on what we can do for our national, rather than political, interest.

Thank you, Mr. President, and I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Texas.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2689

Mr. GRAMM. Mr. President, I know our dear colleague from Nebraska is here to speak, and I will try to be brief. I do not want to hold him up, knowing he has something we need to hear and I am eager to hear it. But I want to talk just a moment about the pending amendment.

Let me remind my colleagues that in this bill before us, one of the things the proponents of the bill say is good about the bill is that it transfers money to the States. While this bill allows attorneys to be paid $92,000 an hour, while this bill provides $18,615.55 per Native American who smokes for smoker abatement, while this bill pays farmers $21,000 an acre who are currently under the tobacco program while allowing them to keep their land and to continue to farm tobacco, we are told that at least a good thing about the bill is that it gives money back to the States.

However, when you open up the bill to page 201, you find that we do give money back to the States, but only half the money can be spent by the States as they choose to spend it. Basically this bill dictates Federal mandates as to how the other half of the money has to be spent.

The bill requires that "a State shall use not less than 50 percent of the amount received" for the following kinds of programs: maternal and child health services block grant, child care under section 418 of the Social Security Act, federally funded child welfare and abuse programs under title IV–B of the Social Security Act, programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title 19 part B of the Public Health Service Act, the Department of Education Dwight D. Eisenhower Professional Development Program under title II.

It is obvious that there is some lobbyist somewhere who has all these pet programs and is now having the Federal Government dictate to the State of Texas and to other States in the Union how they are supposed to spend the money that they are getting under this tobacco settlement.

If this weren't bad enough, if this weren't outrageous enough, now Senator KERRY and others come along and say, "Well, this is not enough. What we are going to do in addition to all these things is we are going to tell the States that they have to spend half of 50% on a specific program. "A State shall use not less than 50 percent of the amount described in subsection (b)(2) of section 452 for each fiscal year to carry out activities under the Child Care and Development Block Grant Act."

In other words, not only are we making them do all these things, but now Senator KERRY and others want to say that 50 percent of the 50 percent that we are forcing the states to allocate has to go for this one particular use.

Yesterday and the day before, we went back and forth with amendments.

Senator COVERDELL got to offer a real amendment to try to target drug use among teenagers, and those who were opposed to it got to offer their supposed alternative. Yesterday, I offered an amendment to give a third of the money back to moderate-income working people by repealing the marriage penalty, and those who were opposed to it got a chance to offer their alternative. I have an amendment that will eliminate all the restrictions in the bill related to the Federal Government telling the States how to spend this money.

I want to make it clear I don't intend to see this Kerry amendment voted on up or down until I have an opportunity to offer my alternative. My amendment takes all these earmarks out of the bill and gives the Members of the Senate the opportunity to decide if they want to serve in the State legislature and allocate State moneys, or do they want to be U.S. Senators? If I wanted to tell the State of Texas how to spend money, I would have run for the Texas Senate or for the Texas Legislature. I didn't run for the Texas Legislature. I never served in State government, and I don't want to get into State government now by trying to tell my State how they have to spend this money.

We can have a motion to table this Kerry amendment. But, if it is not tabled, before this amendment is going to come to a final vote, I want to have the right to offer my alternative and give the Senate, as we did on drugs, as we did on taxes, two alternatives: One, do more to make the States spend the money they get under the bill the way Congress and all these special interest groups that have written this bill dictate it should be spent; or, two, rip out all the provisions of the bill relating to mandating how the States spend the money and let the States spend the money as they choose to spend the money.

I think the Senate ought to have that choice, not a choice between a bad provision and making it worse, but a choice between making it worse and getting rid of the whole process of telling the States how to spend their money.

I thank the Senator from Nebraska for his patience, and I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, let me say I appreciate the suggestion the Senator from Texas just made, because I intend to do approximately the same thing, only with the entire piece of legislation. Perhaps I am the only Member of the Senate who is becoming increasingly confused about what is in this bill. Perhaps everybody is crystal clear. I am not.

As I understand it, the tobacco companies will be required under law to pay into a trust fund, $15 billion in the first year, growing to $23 billion. If I were to make an inquiry, I suspect, of the managers of the bill right now as to what is in this bill, I am not sure I would like the answer.

What we have been doing since the bill was introduced is we have been deciding how we are going to allocate that money. As I understand it, the amendment of the Senator from Texas, which was accepted, will allocate a piece of that money for tax cuts, and the amendment of the Senator from Georgia will allocate a piece of that $15 billion to $23 billion for antidrug efforts, drugs other than nicotine.

What the Senator from Massachusetts and the Senator from Missouri, Senator BOND, have is an amendment before this body that will allocate an additional amount for child care. What the Senator from Texas is saying is he wants to have all that money undesignated. So do I, only I believe that a substantial portion of the $15 billion to $23 billion needs to be allocated in as unrestricted a fashion as possible to the States so that we can help people who choose to stop smoking stop smoking.

I appreciate that many Americans do not want to stop smoking. And if they have the freedom to choose, with full disclosure of what is in the substance, fine. Choose, and let the substance do to you what it is going to do.

However, I have approximately 350,000 Nebraskans who smoke, and they spend about $250 million a year on cigarettes alone, they smoke over 100 million packages of cigarettes a year. My belief is, if we organize this correctly, we can help those who choose to stop smoking stop.

We now know that nicotine is addictive. That is one of the reasons the tobacco industry was willing, on June 20, 1997, to say that, "We will pay in $15 billion a year as well as a $50 billion punitive damage payment." Indeed the 37 million documents in the Minnesota case showed far worse.

Yesterday, as we all know, a case in Florida was decided in the favor of an individual. I listened to a member of the jury this morning on television say he voted to give this individual damages because the tobacco industry is still saying that nicotine is not addictive, still saying it does not produce a powerful physical addiction.

Now, back when dinosaurs roamed the Earth, I was a pharmacist. That was 1961 to 1965. I went to the University of Nebraska and graduated with a degree in pharmacy. I was given a physical examination by the Government and served time in the Navy, so I did not have a chance to practice very much. But in those days we understood addiction. We were trained to study it.

So I am impressed with nicotine as a drug, because it crosses the blood-brain barrier and it is a powerful addictive substance. It is not just habit forming; it is as addictive, according to scientists, as cocaine, as heroin, and other drugs that produce such a strong physical pull on an individual that about a month ago a former mayor of Omaha, Gene Leahy, a wonderful human being, announced he is dying of lung cancer; and at the press conference he was smoking a cigarette because he can't stop. It isn't that he is choosing to smoke cigarettes; he has no choice; he is addicted to the nicotine.

So I have 350,000 people in Nebraska who smoke, who spend hundreds of millions of dollars a year on cigarettes. By my calculations, if they are spending all that money, and if we are asking them to pay all of this additional money to continue to smoke, we ought to at least offer to help those who want to quit, quit. And if we can help them stop smoking—not only are they going to become healthier as a result of that help, they are going to be more prosperous because they are not spending money on tobacco anymore.

I have never been convinced by the arguments that simply raising the price of cigarettes is going to dramatically reduce smoking. Not if you are addicted. What does the price increase of cocaine do to an addict? They just steal the money and buy the substance. If it is an addictive substance, I do not care what the price is—a person is addicted to it—they are going to do what is necessary to buy the product. That is what we are dealing with.

What we are doing with this piece of legislation, as I see it, is we are nicking away at the money raised as a result of this bill's increase in the price of cigarettes and thereby decreasing the chance we have to help those individuals who want to stop smoking not only become healthier but to become more prosperous. Again, the funds raised by this bill should be spent on reducing the number of people who are smoking in this country. In Nebraska, we should be concerned about reducing dollars spent on cigarettes from say $250 to $200 million—which is a relatively modest though difficult goal to achieve. And while it may not sound like an enormous decrease, it is a quarter of a billion dollars every 5 years into the pockets of those individuals.

So all the talk about this being a tax increase, to me, is misleading. It takes us in the wrong direction, puts us on the slippery slope of cutting taxes instead of reducing smoking. What we ought to be trying to do is cut people away from an addictive substance that, taken as directed, would decrease their chance of living a long and healthy life and decrease their chance, as well, of getting a shot at the American dream of having a little bit of prosperity.

One of my friends in life is an extremely conservative businessperson. He will not hire anybody who smokes. I understand that the U.S. Chamber of

Commerce opposes this legislation. I am a member of the Chamber of Commerce in my business. I think they are wrong. I think they have looked at this thing only as a tax increase, because some are describing it as that, and they are not understanding that if their employees decrease their addiction to this substance, that they are healthier. And if they are healthier, the cost of their insurance goes down, their absentee rates go down.

Everybody who has employees working for them wants their employees to be as healthy as possible. The Chamber of Commerce, in my judgment, and the National Restaurant Association are missing the point. If there is cessation money in this bill, I can go to Nebraska and appeal to the business community, to the Nebraska restaurant association, to the Nebraska Chamber of Commerce, and say, "Let's get involved with this cause of helping the people in Nebraska who want to quit, quit." You say, "Well, that ought to be easy enough to stop." Mr. President, again, it is addictive, and to stop and to get off an addiction is not an easy thing to do. As a result, it is extremely hard for these people to not pay the price increase being imposed on them—they have a physical need for the product.

And it is made even more difficult—I have met, on a number of occasions now, with Nebraskans who smoke, especially with young people who smoke; and one of the interesting things that I acquire from those conversations is an answer to the question, "Why don't you just do smoking cessation if you want to stop?" And one of the answers is, it is not only easier, it is cheaper to smoke than to stop smoking.

Most places where you buy cigarettes, they are right there in the open. They are right there in the open. You can go and buy them for a current per pack price of about $2.50.

But if you want to stop smoking—as we all know who have had friends who have either been addicted to this substance or addicted to alcohol or addicted to other sorts of substances, who are trying to get off the urge—the desire for this substance comes back. You need much more than just an opportunity to buy.

But go into a store, go into any store in your home State, and try to buy a smoking cessation kit. No. 1, you are going to find out that it is substantially more expensive than a pack of cigarettes. For lower-income people, who tend to smoke in higher percentages, it is a barrier. And it is especially a barrier as I have talked to young people who say they simply do not have the out-of-pocket money to be able to buy it. So it is easier for them to buy cigarettes. The physical environment for buying smoking cessation kits in stores is more difficult, oftentimes kept under lock and key.

So as I see this legislation, the original purpose of the legislation was to collect from the tobacco companies a fee, which started at $15 billion, and increased to $23 billion as a result of the Minnesota court decision, to help adults who want to quit, quit as well as to stop young people from smoking. That is a laudable goal—40 percent of my underage teenagers in Nebraska smoke; one out of three of them will die prematurely as a consequence. A very high percentage of them believe they are going to stop, even though all the statistics show that they do not stop because they are addicted. They do not understand the nature of addiction. They do not understand that nicotine is addictive. They have been told otherwise by the tobacco companies for all of these years.

So, Mr. President, I have heard the distinguished Senator from Texas say that before he will allow a vote on this amendment by Senator KERRY and Senator BOND, which seems like an altogether reasonable amendment to me—at least it puts money into children; he wants an agreement that he is going to get a vote on his amendment.

Well, I want the same. I am here to say that I will insist on the same, an amendment that allows us to say that this legislation will give each of our States a designated amount of money, that we will know what that amount of money is going to be, for a block grant that will go for smoking prevention and cessation. Let the States decide. I do not believe any of us really understands what it is going to take to get people to stop smoking. I think the people at the community level understand it an awful lot better.

It is not going to be easy to get the job done. My amendment would create a single block grant, not only to help young people not to smoke, but also to help those who currently smoke to stop. I believe it will make our people not only healthier, as a consequence of getting off an addiction that causes them to have significant health care problems, but it will also make them more prosperous by decreasing the amount of money they are spending on a substance that, taken as directed, will make them unhealthy.

So the Senator from Texas gave me an excellent idea. I had not intended on doing that when I came to the floor. One of the things I am trying to get to is—as I said earlier, I am confused about what is left in this bill. I understood it in the beginning that it was a $15 billion fee from the tobacco companies, growing to $23 billion; that 26 percent of it was going to be allocated to research; that 16 percent of it was going to be allocated to farmers; that 40 percent of it was going to be allocated to States; and the balance was going to be allocated to public health for education, cessation. As I understand it, of the total amount only 6 percent would go to smoking cessation programs.

As I said, I had drafted an amendment that would have taken a significant portion—46 percent—of the funds raised by this legislation and given it to the States in a single smoking cessation and prevention block grant.

I have prepared numbers that show what every single State would get under this block grant designed to work to reduce those people who are addicted to smoking, reduce their health care costs, and increase their prosperity by helping them kick the habit and get off of an addiction that is not only costing them their health but also costing them a great deal of money.

I will insist on my amendment that will restore the money that was taken out of the $23 billion in the Gramm amendment, that will restore the money that was taken out with the Coverdell amendment, that will restore any other money that is taken out.

I believe if this bill is going to be effective, if it is going to help us organize the coalitions at the community level to help Americans become healthier and more prosperous, we have to help especially those adults who are addicted to a substance that is extremely difficult to kick.

One of the most frustrating things I am dealing with right now on this piece of legislation is I don't know what is in it. I believe before we proceed further with any additional amendments we need to know how that $15 to $23 billion is allocated. I heard some who are arguing in favor of the amendment of the distinguished Senator from Texas having to do with the marriage penalty, that we would still have 40 percent going to the States. It is 40 percent of a much smaller number. Forty percent of the people on the floor of this chamber is a much smaller number than forty percent of the people in this country.

My math tells me the best way to look at this is to start off and say, $15 billion coming from the tobacco companies, growing to $23 billion, how much is going to be designated under this law for various items? At this stage of the game, I am not able to get an answer. I understand that the managers of the bill are going to try to crunch the numbers and give us an answer, but I don't think we can seriously consider it unless we presume we will accept every single amendment and write the bill in conference, which I think is a bad way of doing things.

Our most distinguished Senator, George Norris, served in this body for a number years. He went back to Nebraska, hating the conference committee—hating the process by which House and Senate differences are resolved. We keep hearing that the problems with this bill can be fixed in conference, that a conference committee will take care of them. That is undemocratic. We should not be writing a piece of legislation as important as this one in a conference committee. I think it is a very bad thing to do, and I think we need to consider every single amendment that is brought down here as seriously as possible, based upon an understanding of what is in the bill.

I do not know what is in this bill right now. I do not know how the $15 to $23 billion is being allocated. I know every single amendment that has been passed has changed that allocation, but I don't know what we are left with. I knew prior but I don't know now. I am hopeful we are able to get that.

I will declare, as the Senator from Texas did, that before we have a vote on the Kerry-Bond amendment, which I support, I want to vote on my amendment which will take this bill back to what I think it was originally intended to do, which is to reduce addiction in the United States of America on a substance called nicotine, that we discovered on the 20th of June, 1997, is addictive.

For those who understand the nature of addiction, it is a very serious public health problem. I thought we were going to try to solve a very serious public health problem. I thought we were going to try to empower our citizens to participate in solving that problem, as well. I hope that at some point in this debate we are able to get back to that.

As I said, I appreciate very much that there is a lot of enthusiasm to move this thing along. I read in the paper we have dealt with this controversial tax issue and all that is left is the controversial farm provision—we just deal with that thing and this thing will move out and put pressure on the House then to pass it. All of that legislative process confuses me, let alone confuses the people I represent. What they are not confused about is their desire to have an opportunity to improve their health and improve their prosperity through this legislation. As I see it, we decrease the chances of that happening with the amendments that have been agreed to thus far.

I have come to the floor to ask for two things, and I hope at some point I can get them. One, what is in the bill? How is that $15 to $23 billion allocated? How much goes to the reduction in tax in the marriage penalty and whatever else was in the Gramm amendment? How much of it goes now to fight the war on drugs? For gosh sakes, we don't have the political courage to put enough money in the drug war on our own without taking it from this bill—I don't understand that, frankly. How much is now going to the war on drugs? How much will be going to child care under the Kerry-Bond amendment? I want to know what the lay of the land is.

Second, I will insist, as the Senator from Texas has just done, that my amendment be considered as well, that we convert this bill into what it was intended to do in the first place, and that is to give our people at the community level the opportunity to fight this war against nicotine addiction. I believe when we win this war, this piece of legislation is going to be seen as a very important piece of legislation. But if we don't win this war, if all we do is go home and issue press releases saying I cut your taxes, I gave you some more money for this and some more money for that, then it seems to me, Mr. President, that whatever else it is that we get done through those peripheral efforts, we will have not empowered the people in our States and our communities to be able to fight a battle that we now know—and, indeed, I argue one of the problems we are having is we don't know the full ramifications and details of all of the new information that we have since the 20th of June, 1997—about the seriousness of this health care problem.

I am hopeful, as I said, that not only can I get the information about what is in the bill right now, but I will hopefully not offend too many by insisting, as the Senator from Texas has, that my amendment be given an opportunity to be voted on at the same time that the Kerry-Bond amendment is considered.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent to address the Senator for 15 minutes on the bill and the underlying amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I take this opportunity to talk about the underlying bill and the Kerry amendment that is pending. This is, obviously, the most serious effort ever by any Congress to address the critical public health issue of smoking.

Now, what has brought us to this point? Obviously, the historic settlement negotiated last year by the States and the tobacco industry provided the most incentive for this, but the tremendous success of several States—and I particularly note the State of Minnesota and their attorney general, Skip Humphrey, in aggressively pursuing their claims against the tobacco industry—has revealed what has been the massive deception that underlies the tobacco industry's traditional position.

It has been now conclusively demonstrated that tobacco is, in fact, addictive. That is a claim which the tobacco industry had consistently denied and, frankly, covered up. We have learned that the tobacco industry has targeted children to addict them to tobacco products, another claim that the tobacco industry has lied and covered up. We have also learned if you do not start smoking when you are underage, it is unlikely that you will ever become addicted to tobacco. All the more reason, then, all the more incentive, then, for some to try to addict children to this product.

I support adult choices and adult responsibility, but when an industry targets kids, knowing full well the children are vulnerable to addiction, and then argues for adult choice, it is time for this Congress to step up and protect our kids.

I don't need to recite the statistics that everyone in this Chamber has heard the past couple of weeks now. Let me just say this: 3,000 children start smoking every day; 1,000 of them will die prematurely due to this addiction. Every day we delay this process, we sentence another 1,000 children in America to die early.

There are many critical amendments to be reviewed and debated, but let us not lose sight of the fact that we have to act now. There is an urgency to act now. Any further delay would be unconscionable. The lives of our children are at stake, literally. We must protect them from the predatory industry that views youth as "our replacement smokers" good for many decades of addiction to their deadly product.

Cigarettes are one of the most heavily marketed consumer products in our country. Tobacco companies currently spend almost $6 billion a year to promote and advertise products, and they have increased their spending by more than 12 times since 1971, when advertising on radio and television was banned.

Children are, obviously, the most vulnerable to tobacco company tactics. They have targeted kids because of this vulnerability to nicotine addiction, and they are the most easily affected by slick advertising and promotional ploys. The evidence is overwhelming that smoking is a pediatric disease. I support a comprehensive approach to ensure success in our efforts to protect kids. For every 10 cents added to the price of cigarettes, approximately 700,000 fewer teens will begin smoking.

To further promote public health, I have supported investment in public health and research. We must maintain and support FDA authority to restrict advertising directed at teens. Finally, we have to strengthen the look-back provisions and, ultimately, hold tobacco companies responsible for their efforts to addict kids. These important decisions will influence companies to stop marketing to children with advertising and promotional techniques.

I commend my colleagues on both sides of the aisle who have supported our efforts to address this critically important issue.

My own State of South Dakota holds the dubious distinction of having the second-highest rate of underage tobacco use in America. Now, I am committed to doing what I can to see these rates reduced.

Almost one out of every nine high school boys in my State will die prematurely from tobacco use. Of the teenagers in our State, we can now expect 15,000 South Dakota teenagers to die early because of their tobacco use. These odds are way too high to be permitted or to be tolerated by this body. The expeditious passage of this tobacco bill will have a real and immediate impact on releasing those rates. We cannot delay any longer. I am also pleased that as we debate this issue, Senator KERRY, Senator BOND, and others, have joined in an effort, which I have joined in as well, to direct a modest portion of the revenue generated for child care purposes.

I appreciate that there has been a significant debate on the floor of this body on the use of revenue generated by this legislation. I think it is correct that this legislation ought to be directed at cessation of smoking and tobacco use and not as a revenue generator. However, the reality is that any realistic bill that has a chance of reducing tobacco usage will generate revenue, and this body has a responsibility of determining how best, then, to use that amount of revenue generated—some $62 billion over the first 5 years.

It makes sense to me the first emphasis ought to be on health care, reimbursing the States, clearly, for the health care expenses they have incurred. It makes sense to me that there ought to be a high emphasis on medical research, on cancer, lung cancer, heart disease, and other diseases that are smoking-related. There ought to be a huge effort in that direction. There ought to be an effort and a priority for smoking cessation programs. But it also seems to me that some of these dollars ought to roll back to families and to children through some tax relief. No doubt, that will be a part of the package. But I think it is a mistake to include a tax package that is so enormous that it drains, overall, the revenue, or a large share of the revenue that could otherwise have been utilized for medical research, help for the States, smoking cessation, or for child care. I think there needs to be a balance in that regard.

I am particularly troubled by the amendment that was passed yesterday, which would, in fact, not only drain these resources away, but would ultimately dip into the budget surpluses and, in fact, Social Security surpluses to make good on its obligation. But I believe that if we can use the revenue that Senators KERRY and DODD have proposed, it would go a long way toward promoting at least a portion of the goals of our Early Childhood Development Act, which I have cosponsored with them.

This amendment, if adopted, would go a significant way toward assisting working families, recognizing the reality that more and more families now have both parents in the workforce, and in the case of single-parent families, quality child care is all the more essential. Each day, an estimated 13 million children younger than 6 years old, including 6 million toddlers, spend all or part of their day in child care of some form, and child care experts tell us it easily costs between $4,000 and $10,000 a year for a child.

Now, augmenting the block grants to the States where we do not create a Federal bureaucracy, we do not federalize child care, we do not run things from Washington, but we give the resources necessary for States to devise their own innovative, strong child care strategies, makes all the sense in the world, particularly given the fact that, as I have held child care meetings all around the State of South Dakota, it has become obvious to me that not only do people have too few choices—quality choices—but all too often the child care providers themselves find themselves on the economic edge, with good people leaving that particular profession because of the low salaries and the high stress of that particular occupation. So we have children at the most vulnerable point in their lives, where the greatest share of brain development is taking place in the course of their lives, with a patchwork system that has simply not received the national attention it deserves. This amendment would go a long way toward augmenting the child care options, the affordable quality options that working parents in our country deserve to have.

I appreciate that there are people in this body and around the country on the far political right who seem to lie awake nights worrying that somehow this legislation may generate the resources essential for the Government to actually do something for kids. I don't lie awake nights worrying about that. I worry about how can we work on a partnership basis with States, local governments, and private organizations to provide more affordable and quality options for child care and improve the health of the next generation of Americans. I think that is the underlying concern. For that reason, I am very supportive of this amendment and the underlying bill.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, my understanding is that we may have a vote soon on the amendment, so I will take a couple of minutes. My colleague from Massachusetts is here and others are here on the floor. Let me just say that I am honored to be a part of this effort and to join with Senators KERRY and BOND. And I appreciate the words spoken by my colleague from South Dakota.

Mr. President, I will try to be succinct. The focus of this legislation is children. The focus of this legislation is, of course, to go after the addiction of children to tobacco, to focus on cessation programs, to focus on the goal of making sure that we don't have children addicted to this very lethal drug any longer, and to make sure that we, in fact, focus on the overall health of children in our country, and that we focus on ways in which children cannot only be healthy, but have hope and can do well in school and do well in their lives.

In that respect, I think this amendment is right on point, right on target. We are talking about at least trying to make sure that about $6 billion-plus over the next 5 years would go to early childhood development, both for children before they go to kindergarten and also for afterschool care.

I will just raise two questions in 2 minutes. No. 1, to tell you the truth—that is an interesting expression; it is not like everything else I have said has not been the truth—but to tell you the truth, I don't even know why it is that for some reason, somebody decided the only way we are going to have funding for child care in this country is out of a tobacco bill. I think if we really care about this, we are going to make the investment. But I also believe this is a very appropriate vehicle on which to have this focus. As my colleague from South Dakota said—and I know my colleague from Massachusetts will focus on this—we have all this research, and the Federal evidence is irrefutable, irreducible. We have to make sure that children by the age of 3 are ready for school and ready for life. If they are not, they may never do well in school; they may never do well in their lives.

What more important investment, what more important feature of this legislation could we support than to make sure we invest in the health, skills, intellect, and character of our children? That is what this is about. It is related to how they feel about themselves, their confidence—both early childhood development before kindergarten and afterschool care. That is also related to the question of whether or not they care enough about themselves and feel good enough about themselves that they don't get addicted to tobacco and that they think about a positive life, about a healthy life, and about what they are going to do in their lives.

This is an extremely important amendment which goes to the heart of what this legislation is supposed to be all about—public health, focusing on the improvement and the betterment of our children's lives, and all of these children are God's children.

This amendment should pass. It is a bipartisan effort. I am very pleased to be on the floor supporting it.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support the Kerry/Bond Youth Smoking Reduction Amendment. This year has featured hearings, press conferences, and legislation from both sides of the aisle promoting children's programs. Over 50 bills have been introduced to improve childhood development and afterschool programs. Headlines have focused the nation's attention on the difficulties that many parents face in finding quality care for their children. The struggle for decent child care is a daily fact of life that all working families understand, regardless of their income. Yet millions of families today cannot afford the child care they need in order to raise, and protect their children.

Both Republicans and Democrats agree that the number one goal of this tobacco bill ought to be protecting our children and reducing teenage smoking. Rightly, so. Millions of young lives hang in the balance. Every piece of tobacco legislation that has been introduced is intended to help children. Republicans have called their bills "Placing Restraints on Tobacco's Endangerment of Children and Teens Act" and the "Kids Deserve Freedom from Tobacco Act." Democrats have introduced the "Healthy Kids Act." It's time to make this legislation reflect the rhetoric about children.

Senator GRAMS was right when he recently explained why he will not support the tobacco settlement—"It's not about protecting kids from tobacco, because if it were, the dollars the federal government collects would go to the kids."

I agree that these funds should be used for early childhood development, child care and afterschool programs—programs that directly help kids. These programs are effective ways to curb teen smoking and promote a healthy future for our children. It's time to stand up for the nation's children, and stand against the tobacco industry.

During this debate, there has been a great deal of discussion about restricting tobacco advertising and increasing the price of cigarettes. Both steps are intended to curb teenage smoking, and both will help to do just that. But there are other steps we can take as well to deal with realities that make children vulnerable to the lure of tobacco. By investing in essential early childhood development and care that can really help us save children from the dangers of smoking.

The purpose of this tobacco legislation is to help children and to stop teenage smoking. For more than a generation, the tobacco industry has been profiteering by abusing the nation's children, stunting their growth and stealing their futures. The full dimension of this cynical tobacco industry strategy is finally becoming clear. The avalanche of secret industry documents disclosed in recent months reveals a blatant nationwide scheme to target children and addict them to tobacco in order to maximize industry profits.

For a quarter century the R.J. Reynolds Company has referred to children as "tomorrow's cigarette business." Newly released documents show that Philip Morris provided money to movie makers to add smoking scenes to popular movies, such as the Muppets, in order to observe attitudes toward smoking by children as young as 5 years old. As a result of the tobacco industry's tactics, 93 percent of 6 year olds can identify Joe Camel as a symbol of smoking.

Investing in child development is sensible "public health" strategy. It is based on sound science and common sense. Doctors and public health officials who are on the front lines, working tirelessly to help children grow and develop into productive citizens, know all too well the dangers of tobacco. They have seen all too frequently its tight grip on our young people. They have called upon us to do all we can to reduce teen smoking, including an essential investment in early childhood development and afterschool programs. Forty-two doctors, public health officials, business leaders, and child development experts including Dr. T. Berry Brazelton, America's foremost pediatrician, have strongly supported this strategy, and have asked Congress to invest in child care and afterschool programs to prevent youth smoking addiction.

Recent research reminds us that brain development in the first three years of life is critical to laying the foundation for positive self esteem, effective decision-making and the ability to resist destructive habits such as smoking. If we want children to grow up healthy and tobacco free, we must ensure that they receive the stimulation and nurturing they need early. If we wait until adolescence to help them develop the will and the skill to say no to smoking—what we do will be too little and too late.

Afterschool and summer programs also make a large difference. Over 5 million children are left home alone afterschool each day. They are more vulnerable to negative peer pressure and pressure from the tobacco industry. These are precisely the teenagers targeted and manipulated by the industry's marketing schemes. Afterschool programs help keep young people off the streets and engaged in constructive activities that do not jeopardize their futures. Many of these afterschool programs specifically incorporate anti-smoking initiatives to teach participants about the dangers to tobacco and equip them with the skills to make important life and death decisions.

Teenagers left home alone are significantly more likely to smoke cigarettes, drink alcohol, and experiment with drugs. In stark contrast, children who participate in productive afterschool activities are far less likely, to smoke, drink alcohol, or use drugs. We also know that cigarettes are a "starter drug" and often lead to hard drug use and substance abuse.

High quality child care and afterschool programs can help children develop the skills they need to avoid unhealthy habits such as smoking. But, every day across America, millions of low-income working families face the daunting task of finding affordable child care on their limited budgets. The reality is that far too many children are at risk. Ten million low-income children today theoretically qualify for services under current federal child care programs. But because of the lack of funding, only 1 in 10 actually receive it. The cost of decent child care often ranges from $4,000 to $10,000 per year—yet a minimum wage job pays only $10,700 a year. Low-income parents need support to ensure that their children are safe and well cared for. Unfortunately, far too few of them receive the help they need and deserve. Sadly, they are the one group that has been deliberately targeted by the tobacco industry for addiction and early death. That is why I support the Kerry-Bond Amendment, which will ensure that at least half of the federal share of the State funds received under this legislation will be spent by states on afterschool care and early childhood development by increasing the Child Care Development Block Grant.

The American people understand the importance of funding these child development programs. They agree that tobacco settlement revenues should be invested in child care and child development programs. I have received numerous letters from groups, experts, and parents from across the country urging Congress to do so.

If we want children to say no to tobacco, then Congress needs to say yes to making children's programs part of our national strategy for keeping children healthy and tobacco free.

Mr. President, I join in commending my friend and colleagues, Senator KERRY and Senator BOND, for bringing up this amendment. I think it is very consistent with the central thrust of this legislation which is addressed to reducing the number of young people in this country—the children of this country—from becoming involved in smoking.

What we all find out in listening to those who have thought about this, studied it, and reviewed the various real-life experiences that we have seen in different communities, countries, and States is that there are some very, very powerful conclusions. There is no one single answer, but there are a series of answers.

I believe that this amendment addresses one of the very important conclusions that have been drawn on the basis of sound science and common sense. We have learned that if you see a significant increase in the cost of a pack of cigarettes, that it provides a significant disincentive to children to involve themselves in smoking. We find out that if you provide counteradvertising in making young people aware of the dangers, that it can have a powerful impact in offsetting the $5 billion a year that is out there to try to draw young children into smoking by presenting the case that, if they start to smoke, their life will be more exciting, more pleasurable, and more successful. You don't need to match the tobacco industry dollar for dollar, but you do need to have an effective counteradvertising campaign. That reduces youth smoking. We have seen it in Massachusetts. We have seen it in California. I have referred to those studies at other times in the course of this debate.

Cessation programs to help young people to stop smoking have had some important success.

Support for school-based programs, which I see in my own State of Massachusetts, where young people involve themselves in working with law enforcement to discourage retailers from violating the law, has had some success.

We have a number of young people now in my State of Massachusetts who are involved in programs to have the various malls around Massachusetts smoke free. They are doing it as volunteers. The young people are doing it. They are also educating the public and their colleagues about the dangers of smoking.

There are a number of things that can be done. But the importance of providing early child development to equip young children with the confidence-building tools so that they have the ability to resist various peer pressures and develop those skills of competence is absolutely imperative and essential if we are expecting the children in the future to resist dangerous types of behavior. That has been demonstrated time in and time out. The various Carnegie studies have amply demonstrated that.

This legislation is focused on early child development, building those confidence-building skills, helping and assisting in augmenting and supporting children at the earliest ages. We find as the study goes on and on that the earlier, really, the better.

Then by providing an atmosphere where these children are going to be able to be challenged intellectually and socially in child care settings provides the kind of supporting atmosphere and climate, again, for building their confidence-building skills.

Also, providing some afterschool programs, whether it is in the day when the children are attending school, or whether it is at a time when the children are not in school, such as during vacations and also the summertime, considered together, have a very powerful impact in strengthening the willingness of children to resist the negative behavior patterns that start out with smoking, then yield to smoking and drinking, and then, as the law enforcement experts provide, smoking and drinking lead their way to significant substance abuse. That empirical evidence has been included during the period of these last couple of weeks and has been amply justified over a period of time.

The benefit of this particular amendment, I think, primarily rests with helping the children at their most vulnerable time, as they are developing their own kinds of confidence-building skills—giving them the kind of help, support, and the power to resist abnormal, negative, and destructive behavior.

Second, it provides an important investment in terms of the children so they will have a more useful, constructive, happier, and productive life.

All we have to do is consider the Beethoven studies that have been done in Chicago and the Ypsilanti studies that have been done, which have demonstrated this kind of investment in terms of children's attitude and support pays off in just the way that has been represented by those who have advanced this amendment.

This is right on target in helping to reduce children's smoking. It is right on target in ensuring that children who are the most vulnerable will be able to develop the kind of skills to resist smoking.

It is right on target and consistent with the public health drive, which is the central purpose of this bill, and cannot be distorted and cannot be misrepresented by those who are opposed to any kind of legislation. As hard as they try, this legislation is moving forward.

But with this particular amendment, it will be a more effective bill in helping the children in this country. It is an amendment that should be accepted, supported, approved, and made a part of this bill.

Mr. President, I hope that the amendment will be accepted.

Mr. ROTH. Mr. President, the Kerry amendment once again raises the fundamental questions as to why the United States Senate is considering this tobacco settlement bill. Is its purpose to reduce the number of children who will become addicted to nicotine, or is it cover for another Washington power grab?

In recent days, the Senate has debated various amendments which affect the agreement Senator MCCAIN reached with the nation's governors to secure their support for this legislation. Members have voiced opposition to amendments on the grounds that it violates the agreement reached between the governors and the White House.

There can be no doubt that the Kerry Amendment fractures that agreement.

On a bipartisan basis, Governor Voinovich of Ohio and Governor Carper of Delaware have issued a letter opposing the Kerry amendment. Their May 19 letter states, "the National Governors' Association strongly opposes the Kerry amendment which dictates state funding choices."

Governor Carper and Governor Voinovich go on to state, "This fundamentally undercuts the agreement included in the manager's amendment and would make it impossible for Governors to continue to support this agreement.

"In addition, by locking states into a specific child care requirement, the Kerry amendment would prevent states from meeting other compelling needs as their particular circumstances dictate."

Mr. President, the Kerry amendment is the old broken record that Washington knows best. Only Washington can set the priorities.

Mr. President, by imposing this restriction on the states, the Kerry amendment has changed the rules of welfare reform. The effect of the Kerry amendment is to increase the state matching requirement for receiving funds out of the child care and development block grant. Why are we imposing such a policy on a tobacco bill?

If the Kerry amendment is adopted, the tobacco bill will contain two completely contradictory policies. The McCain May 18 modification already establishes new rules for claiming additional federal dollars for child care. Under section 452, "Grants to States," the bill now changes the federal match rate for new child care dollars to 80 percent. This is a higher match rate than any state receives for the Medicaid Program.

Why must the federal government bribe the states to claim federal dollars for child care by lowering the cost to the states? Simple. Because the states are not spending all of the child care dollars already available to them.

In fiscal year 1997, the states spent only 72 percent of what they could have spent out of the child care and development block grant. The tobacco bill includes this higher match rate at insistence of the White House. The Clinton administration fully understands it must change the rules in order to pump more dollars into child care.

Mr. President, this administration proposal is so troublesome to me because the White House is blowing hot and cold air at the same time on the issue of child care. The White House proposed cutting funds for child care under the title XX program. The President's budget requested a reduction in this important program for fiscal year 1999 and in the years beyond.

Under the Clinton administration's budget, the SSBG would receive $1 billion less than what is authorized under welfare reform in 2003.

Mr. President, you cannot profess to be for child care when you propose to reduce the social services block grant. The two ideas are mutually exclusive. Every state uses SSBG funds to provide day care for children.

Mr. President, the Kerry amendment does not define who is for child care or who is against child care. The Clinton administration has acted in a contradictory way and those who voted to cut the social services block grant have acted in a contradictory manner. If we are serious about child care, the first priority should be to restore the social services block grant.

If the Kerry amendment is adopted, the U.S. Senate will be saying that the state match for child care funds is both too high and too low.

Mr. President, this simply does not make sense.

The Kerry amendment is not needed. The states are free to spend their entire amount of unrestricted funds on child care if they so choose. Of the 50 percent of funds which are restricted, child care is one of the options the states can spend their tobacco funds on.

Mr. President, Delaware is considering using its tobacco funds for expanding health insurance to low-income families. The Kerry amendment would substitute the judgment of the U.S. Senate about what priorities should be funded for the judgment of the elected men and women of Delaware.

That is a mistake we should not make.

Mr. McCAIN. Mr. President, as we had agreed earlier, I will in a few seconds propose to table the Kerry amendment. Following that, under a previous agreement, Senator FAIRCLOTH and Senator SESSIONS will be recognized for their amendment, which I understand has to do with attorneys' fees, and I hope we can complete that in a reasonable length of time. This issue has been fairly well ventilated in the past and is well known now.

I think it is well known that the amount of money attorneys would receive under this settlement and are receiving or scheduled to receive under State settlements is inordinately high, to make one of the grossest understatements of this debate. I think it is important Senator FAIRCLOTH and Senator SESSIONS intend to debate this.

Mr. President, at this time I move to table the Kerry amendment.

Mr. NICKLES. Will the Senator yield for just a moment?

Mr. McCAIN. Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Arizona for not moving to table just yet because I would like to make a couple of comments concerning the amendment that is pending.

The amendment that is pending deals with section 452 of this bill. Section 452 deals with how the money is going to be spent, or at least how it applies to the States. It has a couple of different sections. It states: "Restricted Funds." That is, 50 percent that States could spend any way they wish. That is under title (b).

Under the funding for child care, under section 418 of the Social Security Act, it has some new language that was put in. I don't know what the purpose of it is, but it states that notwithstanding subsection (b)(2) of that section—we looked that up and basically it means we eliminate the means testing for this program. The program that we are dealing with in child care is supposed to be for low income, and now we find this tobacco bill coming in and saying, well, we are going to eliminate means testing. So millionaires' kids will qualify for this.

That is not the purpose of the child care block grant program. And then the child care block grant program was supposed to be on a State share identical to Medicaid. In some States, that is 50–50, 50 percent Federal, 50 percent State. We put in a little change in this bill that says it is 80–20, 80 percent Federal, 20 percent State.

Now, I am bothered by that. I am bothered by it for two or three different reasons. One, I have stated all along I have felt this entire bill was a tax-spend bill. We raise a lot of taxes. We are transferring about $102 billion from consumers over the first 5 years—I think over 25 years probably well in excess of $8- or $900 billion but just for the first 5 years alone, $102 billion. Half of that money we allocate and we say to the States, you are going to get your fair share, you are going to get part of it, and now we dictate how the States have to do it. But now we find out there is a little language change to say, well, we are going to allocate this new money; we are going to take child care development block grants, which right now total about $3 billion, and we are going to make it $5 billion. This is $2 billion on top of what we already have. That is a 66-percent increase per year.

Then we change the eligibility and say it is not means tested. Then we change the ratio where the States don't have to put up their matching share in Medicaid. We just say the Federal Government is going to pay 4 to 1—80 percent Federal Government, 20 percent by the State. So we have a massive expansion of an entitlement program, a massive expansion of who is eligible. We make higher income people eligible. It is just another way to see, can't we funnel more money? Can't we spend more money? This is living proof this amendment is not about curbing smoking. It has nothing to do with curbing smoking—nothing, not one thing. It is not going to reduce consumption by teenagers one iota, but it will spend $50 billion.

The amendment that we have before us says to the States, you will spend 50 percent, or basically $49.25 billion, over the next 25 years in child care, basically $2 billion a year—$2 billion a year for a program in which we are already spending $3 billion. So we spend $3 billion now. We increase that $2 billion per year, a 66-percent increase in spending on child care development block grants. Then we change the rules and say, well, we don't have means testing on the new money. And we won't use the old Federal match of Medicaid. We are going to come up with a new match that says, Federal Government, you have to pay four times as much as the States. I think that is a serious mistake.

Mr. President, I hope that our colleagues will say, wait a minute, this is not about reducing smoking. This amendment has nothing to do with reducing smoking. It does have to do with increasing social spending. It is something that some people maybe have wanted to do. It is something we have had an increase on in the last couple of years. But I would just urge my colleagues, this is not the right way to spend this money. This is people saying, wait a minute, there is money available. Let's take it and use it for what we deem is right. It has nothing whatsoever to do with curbing teenage consumption or addiction to tobacco or drugs, and so I would urge my colleagues to vote in favor of the McCain tabling motion.

Mr. McCAIN. Mr. President, I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kerry amendment, No. 2689. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 33, nays 66, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—33

Allard
Ashcroft
Brownback
Coats
Cochran
Craig
DeWine
Enzi
Frist
Gorton
Gramm
Grams
Gregg
Hagel
Helms
Hutchinson
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Nickles
Roberts
Roth
Santorum
Sessions
Smith (NH)
Stevens
Thomas
Thompson
Thurmond

NAYS—66

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Collins
Conrad
Coverdell
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Faircloth
Feingold
Feinstein
Ford
Glenn
Graham
Grassley
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Shelby
Smith (OR)
Snowe
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Specter

The motion to lay on the table the amendment (No. 2689) was rejected.

The PRESIDING OFFICER. The question is on the amendment.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2163 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, we are working on a unanimous consent agreement so we can make the Gramm amendment in order after a Democrat amendment. As we had previously agreed amongst all parties, I ask that Senator FAIRCLOTH be recognized to propose his amendment while we work out this unanimous consent—that he be allowed to start debate on his amendment.

Mr. KERRY. Mr. President, reserving the right to object, it is my understanding that no amendment will be sent to the desk at this point.

The PRESIDING OFFICER. No amendment can be sent to the desk because there is a pending amendment.

Mr. KERRY. Mr. President, I ask the cooperation of our colleague that once we have the unanimous consent request worked out, that the Senator would yield back to us for the purposes of propounding that request, and allow that interruption in the debate.

Mr. FAIRCLOTH. I plan to start the debate on my amendment, and shortly the amendment will be made germane.

Mr. KERRY. Do I understand from the Senator from North Carolina that he will allow us to interrupt him in order to propound the unanimous consent request?

Mr. FAIRCLOTH. Absolutely, yes.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise to offer an amendment to limit attorneys' fees in this tobacco settlement to $1000 per hour, and I am joined by the Senator from Alabama, Mr. SESSIONS, and the Senator from Kentucky, Mr. McCONNELL.

The tobacco legislation is about public health—not the enrichment of trial lawyers—and I believe that this is more than ample compensation for these lawyers.

I offered a fee limitation amendment last month at $250 per hour, and I considered that excessive, but I was reluctant to lose votes from those inclined to believe otherwise. I believe that passage of a fees limitation amendment is a legislative imperative, Mr. President, but I am a realist. It is the obligation of this Senator to set aside personal reservations and sentiments and to offer an amendment that will pass the Senate and restrain the trial lawyers from their plunder of the Treasury.

I thought that $250 per hour was an inordinate reward for these trial lawyers and favored a far lower limitation, but I can count votes, and I regret that passage requires a higher cap. The trial lawyers are the ultimate Washington special interest, Mr. President, and these courtroom predators marshaled all their forces against the Faircloth cap and indeed forced another vote on this issue.

The Federal government cannot put its imprimatur on legislation that diverts billions from the taxpayers to pay trial lawyers. Mr. President, this is the legislative process of the Senate, not "Wheel of Fortune" for trial lawyers.

If the Congress fails to enact fee limitations, Mr. President, trial lawyers will collect from $3 billion to $15 billion per year in fees. The state Medicaid suits will yield $1 billion to $3 billion per year, and, the lawyers will be further enriched through their contingency fees from individual smoker cases, from which they will reap between $2 billion and $12 billion per year.

In fact, if the Congress fails to enact fee limitations, trial lawyers stand to collect at least $100 billion over the next 25 years. This $100 billion sum exceeds the annual gross domestic product of 24 States and 98 foreign countries.

The failure to replace the arbitration provision in the McCain bill with a fees limitation provision, if the Senate were so blind, would constitute acquiescence to the most blatant and insidious special interest legislation since the Senate convened in 1789.

This is a $100 billion payoff for the ultimate special interest. This is the Washington special interest that leads the pack in its passion for personal interest over national interest.

The trial lawyers, Mr. President, will not bloat their stock portfolios at the expense of taxpayers across this nation. This tobacco legislation is, in essence, the fruit of an extortion pact. The Congress cannot reward this legal vigilantism. The Senate is not for sale.

The four state cases that settled portend a dreadful abuse of the taxpayers and underscore the imperative of federal fee limitations. Judge Harold Cohen of the Florida circuit court estimated that their fees of $2.8 billion were, in fact, equivalent to $185,186 per hour. The five trial lawyers about to share $2.3 billion in Texas will collect, in effect, close to $92,000 per hour.

Who are these modern Sir William Blackstones?

Who are these latter day Clarence Darrows and William Jennings Bryans?

I discovered that Hugh Rodham, the President's brother in law, is amongst their ranks. It is estimated that he will collect $50 million as a Castano group lawyer. Mr. President, permit me to read two newspaper reports of his contributions to these lawsuits.

> And just for good measure, the state of Florida has hired Hugh Rodham (Hillary Clinton's brother) to be a part of their litigation team, despite his complete lack of experience in these types of cases." Knoxville News-Sentinel, July 20, 1997.
>
> Hugh Rodham "spen[t] the last hours of the talks in a corner reading a paperback by Jack Higgins, 'Drink with the Devil.'" Washington Post, June 23, 1997.

Mr. President, I also wish to address some misinformation about the Faircloth cap, and I believe that I can rebut all the arguments made against the amendment last month.

Mr. President, it was said on this floor last month that my amendment was unprecedented, but this is not the case. The Federal government often sets professional fees.

Medicare and Medicaid, for example, limit physicians' fees for professional services. These doctors contribute far more to public health than the trial lawyers, but the Congress decided to limit their fees, so I find it remarkable that Senators will argue to exempt lawyers from policies intended to protect the taxpayers.

There are numerous federal laws that set attorneys' fees. The Equal Access to Justice Act sets fees at $125 per hour in civil rights cases. The Internal Revenue Code sets fees at $110 per hour in successful taxpayer cases. The Criminal Justice Act sets fees at $75 per hour. Certainly, Mr. President, these are not uncharted waters.

These statutes restrict fees awards against the United States to protect the taxpayers. The taxpayers, after all, pay the expenses of the United States. Dan Morales, the Attorney General of Texas, admitted that the taxpayers will pay part of the attorneys' $2.3 billion share of the Texas settlement. The principle is the same, Mr. President, and these fee limitations protect the taxpayers.

There are countless other federal provisions that limit attorneys' fees—from the Veterans' Benefits Act to the Trading with the Enemy Act—and preempt contingency fee contracts to impose restrictions on the lawyers' share of the recovery.

These statutes serve, in effect, to protect clients from their lawyers.

The taxpayers deserve the same protections, Mr. President, and these arguments about an unprecedented fees limitation are specious and unfounded. The McCain bill addresses attorneys' fees provisions through its flawed arbitration clause, so, clearly, reasonable limitations on fees are within the scope of this legislation.

Mr. President, several members pointed to the arbitration clause in the bill as an alternative to the fees cap, but the arbitration clause is really a "trial lawyers' bill of rights" rather than a protection for American taxpayers. Their argument that the arbitration clause will alleviate concerns about excessive attorneys' fees is, in fact, a concession that the fee contracts are excessive and merit review.

The Congress of the United States cannot shunt that obligation to a panel of unnamed arbitrators.

The arbitration clause in this bill is a one-way street that permits lawyers—but not their clients—to compel arbitration of attorneys' fees disputes. In effect, the lawyers can compel the States to participate in binding arbitration, and the outcome cannot be appealed.

If arbitration is indeed the exclusive remedy for fee disputes, it locks in these fees because the lawyers will not object to the billion dollar contingent fee arrangements, and the States are not empowered to challenge the fees under the arbitration clause in the bill. The lawyers can just file court papers to pursue enforcement of their contract.

If arbitration is an exclusive remedy, however, it is a clear violation of both the Seventh Amendment right to a jury trial and state sovereign immunity provisions. These are serious and indeed insurmountable constitutional hurdles.

If arbitration is not an exclusive remedy, the clause purports to let trial lawyers choose between arbitration and litigation, but it forces their clients—taxpayers and tobacco users—into expensive and protracted litigation battles.

The language in the bill authorizes the arbitration panel to award attorneys' fees and expenses for "legal services" that "in whole or in part resulted in or created a model for programs" in the bill. The bill thus appears to authorize fees for attorneys who played no role in the underlying litigation that gave rise to the bill.

This bill incorporates elements of many—if not most—of the tobacco control programs that the public health groups advocated in recent years. The panel thus stands to draw fee and expense applications from the armies of lawyers and legal assistants that provided public agencies and private organizations with advice about tobacco control measures over the years.

Mr. President, let us not underestimate the creative spirit of the plaintiffs' bar, because I assure you that this flood of fee petitions will indeed materialize under this provision.

Finally, the arbitration mechanism applies to fee and expense disputes related to litigation "affected by" this Act. In light of the broad scope of this bill, it is possible that this mechanism will be invoked not only in tobacco and health cases, but in other cases that involve tobacco manufacturers.

It is not impossible that pure commercial cases will come within the scope of the arbitration mechanism to the extent that these cases are "affected by" the tobacco legislation. Certainly, Mr. President, billboard owners with abrogated contracts and other parties "affected by" the settlement appear to fall within the broad scope of this provision.

I heard a lot of rhetoric last month about the constitutionality of this fee limitation. However, despite the specious arguments of the plaintiffs' bar, the Faircloth cap is constitutional. The Supreme Court precedents are clear that Congress can upset economic expectations as part of a comprehensive regulatory scheme. In fact, I heard members praise the bill last month because its regulations are so pervasive and its reach so broad, so the legislative history will support my arguments.

Mr. President, Federal courts have routinely upheld laws that abrogate past contracts, so long as those laws possess a rational basis. It is certainly rational to regulate fees as part of a broad regulatory package to ensure that an equitable amount of finite resources will be available to protect the national public health and welfare and to compensate those who suffer from tobacco-related diseases.

This bill will force tobacco companies to abrogate contracts with a range of parties—from retailers to advertisers—but, curiously, I do not see hand-wringing about the abrogation of those contracts.

It is a ludicrous constitutional proposition to suggest that private parties can enter into contracts in order to preempt congressional actions.

Further, Mr. President, this bill minimizes the risks in tobacco litigation. The McCain bill makes it far easier for the lawyers to win their cases against the tobacco companies. This new courtroom landscape compels the Congress to revisit these fee arrangements that date to a different and distant era of tobacco litigation.

The McCain bill establishes unprecedented evidentiary presumptions that reverse the traditional burdens of proof on two critical issues—nicotine addition and disease causation—and thus relieve trial lawyers of litigation expenses for these complex issues.

The McCain bill also establishes a tobacco document repository, which will curtail—if not eliminate—the need for the discovery process. The discovery process is long and intensive, so the McCain bill, in effect, relieves lawyers of the most expensive element of the litigation, which is often cited as the justification for their enormous fees.

Indeed, the Chairman of the Senate Judiciary Committee stated that, "[O]nce we establish this document repository, it should be easier to prove cases that can go to jury and, I think, increase the chances of jury awards * * *. It would be easier to recover * * *. [A]ttorneys today will have everything going for them because of the tobacco settlement."

It is manifest that this bill will ease their burden in the courtroom, Mr. President, so it defies common sense to assume that the Congress will permit fees predicated upon a dramatically different legal position.

These lawyers are officers of the court, Mr. President, so they are fiduciaries. These arguments about the sanctity of contract are thus specious because there are different rules applicable to attorneys' fees. Mr. President, to argue otherwise is, in effect, to advocate the repeal of the canons of ethics.

The common law tradition, which we uphold today, enshrines a quid pro quo that offers lawyers monopolistic access to the courts but that requires reasonable fees to preclude exploitation of clients.

The old rules of the Model Code stated that "clearly excessive" fees were unethical and unenforceable. The old rules imposed a standing obligation—from the execution of the fee agreement to the remittance of the fee—to conform the fee to fiduciary principles. The more recent Model Rules, in fact, strengthened this limitation and replaced the prohibition on "clearly excessive" fees with a ban on "unreasonable fees." Mr. President, if there is some semblance of ontological certitude to the definition of "reasonable," then the Senate will enact this amendment to amend these contingent fee contracts.

These lawyers stand to collect unimaginable rewards—billions of dollars—without commensurate risk. These fees and the underlying contingency fee contracts are thus unreasonable under any appropriate standard.

The most logical standard, of course, is to look to comparable work. The payments to the defense lawyers—those lawyers who analyzed and contested the same issues—are thus the most appropriate standard. It is clear that the proposed caps in this amendment far exceeds the fees for defense lawyers.

I summarize my position as comparable pay for comparable work.

The contingency fee structure of these contracts further deepens this ethical morass. The contingency fee arrangement earmarks a percentage of the judgment to the lawyer without limitation. These funds are, quite simply, diverted from the victim to the lawyer.

Consequently, ethicists point out that contingency fees compel a heightened scrutiny because these arrangements thus benefit the lawyer at the expense of his client. Indeed, reductions of the lawyers' fees accrue to the benefit of the client, and that balance compels the Congress to weigh in on behalf of the clients. Mr. President, those clients are injured smokers and the taxpayers of the United States, and they deserve our support.

Mr. President, this amendment is fair, and it is consistent with the rest of this bill. The trial bar argues that a fees cap violates free market principles. It was, however, their submission of the proposed tobacco settlement to Congress for review and approval that removed the agreement from the free market and brought it into the legislative process.

The Congress cannot condone billion-dollar payments to a small band of trial lawyers for minimal efforts. Some of these lawyers copied court papers from other state lawsuits and filed these documents in elaborate productions choreographed for the television news. This is the essence of "jackpot justice."

The trial bar cannot expect Congress to enact broad and detailed legislation to regulate tobacco and, yet, believe that their component of the bill is sacrosanct and above congressional review.

Mr. President, despite vehement protestations last month, it is incontrovertible that this bill uses taxpayer dollars to pay off trial lawyers. This use of taxpayer dollars is an unacceptable diversion of public funds. The Attorney General of Texas conceded to the New York Times on May 27, 1998 that federal funds will be used for part of the $2.3 billion payment for lawyers' fees.

Indeed, Mr. President, the bill permits the use of revenues from the National Tobacco Trust Fund to pay trial lawyers' fees. In fact, 40 percent of Trust Fund revenues are sent to the States for Medicare expenses, but half of this sum is untethered. There is a finite pot of resources from the tobacco companies, so the billions of dollars that will flow to trial lawyers under the McCain bill will be available for state public health initiatives if Congress passes the Faircloth Cap.

In response to some of the other concerns voiced on the floor last month, I made some changes, which I am confident will alleviate the concerns of some Senators.

This version of my amendment eliminates the reports to the Judiciary Committees, and it simply permits the judge assigned to the tobacco case to determine fees. Judges routinely review petitions for attorneys' fees and expenses, so this will not present any difficulties, and I am confident that it is the most prudent route for resolution of these fee disputes.

Mr. President, a spokesman for Public Citizen, the group founded by Ralph Nader, conceded that, "My gut feeling is that these fees are very, very difficult to justify."

The United States Senate represents the taxpayers, not the trial lawyers, and this amendment is a litmus test of our commitment to the taxpayers. The breadth of support for this amendment reaches across the spectrum because these jackpot fees offend our sense of justice.

The Congress cannot permit the ultimate Washington special interest—the trial lawyers—to dictate this legislation and to reap unimaginable rewards and riches. The Congress cannot endorse an extortion pact foisted upon the American public—and the Congress—by a pack of legal predators. The Congress cannot tax the poorest Americans—those least able to shoulder additional taxes—in order to shower golden dragoons upon trial lawyers.

I want to touch on one quick thing because I am ready to close.

If this bill passes, 70 percent of the largest tax in history is going to be paid by people making less than $35,000 a year. If anybody can tell me that it is unfair to restrict the attorneys to $1,000 an hour when the people who are paying this tax make less than $35,000 a year, 70 percent of it is going to be paid by people making less than $35,000 a year. No one can tell me that it is not right to restrict the attorney fees to $1,000 an hour.

The Congress cannot tax the poorest Americans, those least able to shoulder additional taxes, in order to shower this tremendous amount of money upon the trial lawyers of the Nation.

I thank the Chair.

Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Thank you, Mr. President. I appreciate very much the conviction and hard work done by the Senator from North Carolina on this important issue. It is not a political issue, although I think it could become one as time goes along. It is a question of right and wrong. It is a question of just how rich persons can get with the money that should be available to benefit children and the health care of Americans.

So I think we have an issue of great importance. I think the Senator from North Carolina is also correct when he says that we came here a few days ago and we talked about a $250 per hour containment of attorney fees and they said that was not enough. So we have attempted, again, to come up with a bill that will pass muster in this body, that will have support from both sides of the aisle, Democrats and Republicans, with the kind of fees that nobody can object to, that are rational and just and fair and quite generous, and will, in fact, make multimillionaires out of many, many lawyers.

I do not believe and I resist the suggestion that this capping of these fees in this litigation is somehow an attack on attorneys and an attack on the contingent fee contracting in general. It has nothing to do with that. It involves only tobacco litigation—tobacco litigation and legislation that was brought to the U.S. Senate. And we were asked to pass legislation on it. It spun out of litigation. It certainly has not been completed. None of the verdicts have been affirmed on appeal. Other cases have just gotten started. And we in the Federal Government are about to pass legislation that could, in fact, terminate all of that and bring it all to a conclusion. The trial lawyers who had contracts, some of whom have done little work, on a contingent basis, now want to be paid billions of dollars in fees. Perhaps 20 or more attorneys will receive $1 billion in fees.

I would just like to point out how much $1 billion is. This Nation spent $450 million last year on diabetes research. The Alabama general fund budget for the entire State, apart from education, is less than $1 billion.

So we are talking about huge sums of money by any standard, the kind of money that we have never seen before. These are the largest fees ever awarded in America, many of them for litigation only a few months old. It is "unconscionable," as a judge in Florida has said, and it cannot be allowed to continue.

I hope this very generous legislation that allows the lawyers to state their case for up to $1,000 an hour in fees will be the kind of amendment in which everybody in this body could join.

I want to note why someone could not feel comfortable with that.

Let me share with this body a report from "20/20" that was done recently involving the Florida litigation. This will explain how that litigation prevails, just how much was involved, and how much the attorney gets out of it. It began with Hugh Downs. This is what he said.

> What is your time worth? How does $7,000 an hour sound? That's what some lawyers want to be paid for their work on Florida's suit against the tobacco industry. Each and every one of them could become a millionaire many times over just from this one case. So did they really earn their fee?

John Stossel tells us about it.

> JOHN STOSSEL: "The children are supposed to benefit * * *"

You know that we have heard a lot of talk about children and helping children. Let me ask this question: Will allowing an attorney to become a billionaire help children? Could that money be used for other antismoking programs, or tax reductions for the American people? It certainly could.

> JOHN STOSSEL: "The children are supposed to benefit from new money from antismoking programs. And later the Governor invited in some children and dummied up a check to celebrate the first $750 million payment. But now it turns out that the Florida taxpayers may not get as much of that money as they thought because Florida's lawyers are in a legal battle over how much money they should get. Montgomery says they deserve $2.8 billion. That's right, billion. He doesn't exactly need money. This is his multimillion-dollar house in luxurious Palm Beach right next to the ocean. The house is so huge, it looks more like a palace. Even his Rolls Royce and his Bentley live in a garage that's bigger than many houses. Montgomery got this rich suing car makers and hospitals and insurance companies."

The interview with Bob Montgomery was right there at his house. He describes his lawn.

> So this is my putting green, and this is my sand trap. And what I do is I have these balls, and this is where I drive them:
>
> JOHN STOSSEL: "Out into the water."
>
> BOB MONTGOMERY: "Out into the water."
>
> JOHN STOSSEL: "The inside of the house is even more grand. Montgomery has a vast art collection."

Ladies and gentleman, we are talking about a lot of money. We are talking about hundreds of millions of dollars, not just $1 million. One million dollars is a lot of money. A million dollars. It is an American dream to be a millionaire. We are talking billions, a billionaire.

Mr. Stossel goes on. He talks about how they were selected. How do people get selected to file these lawsuits? Did they bid on it? Did they go out and say what lawyer will take this lawsuit and what kind of rate will you give us and let's evaluate the best bid?

> JOHN STOSSEL: Friendship starts to explain how some of these private lawyers were selected and ended up with a contract that says each is now entitled to hundreds of millions of dollars. It began four years ago when Levin came up with a scheme to use Florida's legislature to make it easier to win a suit against big tobacco.

They interviewed Mr. Levin, a fine lawyer. I had occasion to meet the man, a skilled attorney, and he was very, very frank about what happened.

> Mr. LEVIN: I took a little known statute called a Florida Medicaid recovery statute—

This is his exact quote—

> changed a few words here and a few words there, which allowed the State of Florida to sue the tobacco companies without ever mentioning the words "tobacco" or cigarettes. The statute passed in both the—the House and the Senate. No one voted against it.
>
> JOHN STOSSEL: Well, did people know what they were voting for?
>
> Mr. LEVIN: No. And if I had told them, they'd have stood up and made a—you know, they'd have been able to keep me from passing the bill.
>
> JOHN STOSSEL: This made the suit much more winnable?
>
> Mr. LEVIN: Oh, God, it meant it was almost a slam dunk . . .

Oh, this is tough litigation. The chief plaintiff lawyer who wrote the bill to make the suit possible in Florida said it wasn't tough litigation; it was a slam-dunk because he changed the law in a way that nobody knew what he was doing to create a lawsuit that had not been possible before.

Here, Mr. Stossel goes on.

> Am I missing something here? The controversy's become should the dream team—

That is talking about the lawyers—

> get billions from the 25-percent deal?

They had a contract, you see. We will sue these people for the State of Florida. We will take 25 percent of whatever we recover. And then they go in and change the law and it becomes a slam-dunk lawsuit and they want 25 percent of it. Then they come to Congress and say, well, we have some problems with just suing. We need the Congress to pass global legislation to control this whole area of the law but don't control our fees. You can control everything else. Tell the tobacco companies they are violating their contract, but you can't violate our contract, not ours, because ours is sacrosanct because we are lawyers. We are lawyers. That is our business and you can't violate our contract.

Stossel. This is his quote.

> Why do private lawyers get so much of the State's money in the first place? When this construction company got the contract to replace this Florida bridge, they had to compete against other construction companies. There was competitive bidding. To win the job, they had to show they were qualified and submit the lowest bid. All States have such rules to prevent politicians from funneling projects to friends. But that's not what happened with the lawyers. Here, Fred Levin called some friends. You picked the dream team.

Then they interviewed Professor Lester Brickman, a law professor at Cardozo School of Law, an outstanding professional who studied legal fees and how they are awarded for a number of years, and asked Mr. Brickman about it.

> Mr. BRICKMAN: It's an outrage. It's more than greed. It's a scam.

Those are strong words: "It's more than greed. It's a scam."

> JOHN STOSSEL: Law Professor Lester Brickman, who's an expert on legal fees, says it's not right for a Governor to hand over such a potentially lucrative case to a friend.
>
> Mr. BRICKMAN: There are politicians involved who are stroking the backs of lawyers because lawyers have stroked their backs before and may yet stroke their backs again. So I think the public perception here, which is probably pretty accurate, is that this smells.
>
> JOHN STOSSEL: However it smells, the deal is now mostly done. Its main accomplishment is a huge transfer of wealth from not tobacco companies—they'll just raise the price—but from today's smokers, who will give it to State treasuries with a huge cut going to lawyers like Bob Montgomery. It's like an old boys' scam. You and your buddy, the Governor who sleeps in your house, do your little deal together. You get rich.

John Stossel says:

> The taxpayers get burned. The smokers get burned.

Finally, Mr. Stossel points out—I am quoting him now—

> Finally, another clever twist you might have missed in the tobacco deal is that usually when Americans want to tax something—

This is very important, and I will share with you my personal experience less than 2 years ago when I was attorney general of Alabama—

> we vote on that. The legislature decides on behalf of the people, but not here. Here, a Governor—

Sometimes in other States the attorney general—

> and some lawyers decided, in secret, that smokers should pay the State and lawyers a lot of money.

And then Mr. Levin explains why it is such a cool political deal and why many of the people in this body like it, those fellows and ladies who favor tax increases and tax and spend and tax and spend. And people are getting mad about it. They are getting alert to it. They are objecting to it. They are seeing how taxes get slipped in through this backdoor and that backdoor. It is not popular, and many of them are losing their places in Congress and in the State legislatures because they are voting for too many taxes. That is not good.

So Mr. Levin tells why this is such a good deal.

> The tobacco companies don't care. They can either pass it on as a tax, or they can pass it on as an increase in price, and tobacco companies settle with the Government. Beautiful.
>
> JOHN STOSSEL: What's the difference? You're still paying 60 cents more for your cigarette?
>
> Mr. LEVIN: But it's the tobacco company they can get mad at. You don't hold that against the Governor.

You see, make the public get mad at the tobacco company for raising the price, and the politician says, We didn't raise taxes. It was the tobacco company that raised the price of the cigarette. You get the deal? Good politics. Mr. Levin just flat said it.

John Stossel concludes:

> So everybody wins. Well, not the smokers, but the politicians win, the tobacco companies win, the State and certainly the lawyers.

Hugh Downs concludes the report:

> That's really outrageous, isn't it? And Bob Montgomery may well get his way because last week an appellate court judge reopened the door for what could be a big payday for these guys.

And Barbara Walters concluded.

> As Mr. Montgomery said, "Oh, yeah." But you know Senator Crist is trying to have a bill that caps the amount they get paid at $250,000. But even that's not bad money.

Two-hundred-fifty thousand dollars is not bad money either. I say that to you.

I went through that report because, Mr. President, it shows how this thing has developed and that there is a sense and a tinge of corruption in the way this was done.

Another thing that was very unhealthy is how did the settlements occur and how were they justified? Well, the lawyers said for the taxpayers and public citizens not to worry about it, how we got this case settled and where it leads, because these fees are not paid by the State; they are paid by the tobacco companies. They agreed to pay our fee, see. I agreed with my tobacco company and they pay my fee. And it is not coming from the taxpayers.

Now, I have been a lawyer for a good while. I have litigated a lot, and most business people understand money and they know that the tobacco companies, when they settle a case, don't care whether the money they pay is called tobacco fees, lawyer fees or anything else. There is so much money, they are willing to pay. And so they are perfectly happy if they can pay off the lawyer and give him a lot of money for their fee to get them to agree to the whole settlement. It doesn't bother them in that circumstance.

So there is an unhealthy relationship there, and it is something good lawyers have to guard against at all times. You have to guard against that because it can even corrupt your judgment because your money may be paid from the person you are supposed to be suing and your fidelity, your loyalty, your integrity is due to the people you are representing.

That is an unhealthy relationship. I just say to you this money absolutely available to be paid to the Government to be used for tax reduction and the child smoking reduction effort and health care and health research, it will not be used for that; it will be sent to the attorneys.

Let's talk about something else. In Mississippi, the case there was an interesting case. In Mississippi, the case was brought before a single judge in Mississippi, and the case was filed in equity. It was not a jury trial, it was in equity. Many States still have a distinction between law courts, legal courts, and equity. Historically, in England, equity courts were run by the church and the law courts were run by the king. In matters of divorce and family, relief of that kind was done in equity. They came out with an equitable doctrine of unjust enrichment and pursued this case for a number of years, and under a theory that the tobacco companies were unjustly enriched, they made their recovery. So, hundreds of millions of dollars will be paid out of that Mississippi case, based on that.

In Texas, the fee came down to be $2.3 billion for the attorneys involved in that case. I believe the firm that was involved in that had four partners, five attorneys in that firm, who will split $2.3 billion—quite a lot of money.

Professor Brickman of the Cardozo Law School has testified, I believe—as Governor George Bush of Texas is furiously and aggressively doing everything he can to undermine and defeat these claims for this huge amount of money—Professor Brickman has testified that he figures the trial lawyers were asking for at least $92,000 per hour. I didn't make that up. This is a Cardozo Law School professor saying these lawyers were asking $92,000 per hour.

Stewart Taylor, writing for the Legal Times—he also is a senior writer for the National Journal—estimates that the total attorneys' fees will amount to $5 billion per year and quotes Professor Brickman as saying it will create 20 to 25 billionaire attorneys. I am talking about a billionaire. I had my staff pull up—I think it is Fortune magazine that lists the richest people in America. We counted 60 billionaires in America. We are talking about creating numerous new billionaires out of this one lawsuit—some of them have not filed a case this past year—will be making $1 billion. That is just not acceptable. That just cannot be.

So I appeal to all the Members of this body, whether you are Democrat or Republican, to look out for justice, to look out for fairness, to look out for decency. This is beyond making a good fee. I am quite willing to have these attorneys make a good fee. We will let them make $1,000 an hour and double their expenses that they have invested in it. I am willing to let them. But I am telling you, that is more than I really feel is necessary. But I want to gain support for this legislation. I think it is absolutely critical that we contain these fees.

Where is the money coming from? Is it from the waitress? the construction person? the businessman? the gas station owner? the secretary who smokes—that is who is paying it—to give it to a lawyer who already has a garage with his Bentley in it, bigger than somebody's house, and who practices golf by driving golf balls out into the Atlantic Ocean? That is what we are talking about—a wealth transfer from decent Americans who trust their Government. They trust us to treat them fairly, to pass legislation that gives them a fair chance. We are taxing them to pay for this kind of thing? Wrong. It is unjustifiable, unconscionable, as a judge in Florida has said.

How did it happen? How did this all happen? I want to tell you how it happened. I will tell you exactly how it happened because I was, in a way, there. I was attorney general of Alabama less than 2 years ago, and I was approached by a group of attorneys. They said, "Well, Jeff, we would like to talk to you about hiring us to sue these tobacco companies. We are working with a group of lawyers around the country, and we have this theory, and you can pay us 25 percent and we will just file this lawsuit for you. I know your attorney general's office doesn't have a lot of money, and we'll just fund that for you. You just give us 25 percent of whatever we recover."

And I said, "What's your legal theory? I don't think I can file a lawsuit, according to the ethical rules of law, if I don't believe it's a good lawsuit." So we spent a good bit of time talking about that first. When they got through, I said, "What you are telling me is, this is not an established principle of law but you want to expand the law and go further."

And they said, "Yes, that's correct. It hasn't been a proven theory. But we have this new theory. We think we maybe can prevail on this. It is very popular today. Nobody likes tobacco. We believe we might just win."

So I told them, "No, I don't think so. I think I'd rather have you go ahead with your suits, and I'm not going to spend 25 percent of the recovery. If you prevail in Mississippi or Florida or other States and you establish a cause of action, I may consider joining it. But I won't need you then, because I have lawyers on my own staff and they can handle the litigation, thank you."

They didn't want to do that. They persisted and told me certain names of attorneys that they wanted to participate. One of the best known attorneys in Alabama, Jere Beasly, was a name they suggested to me—that he would be part of it. And the person making the proposal to me, it wasn't Hugh Rodham, but he was the Lieutenant Governor of Alabama who was a part-time Lieutenant Governor and a lawyer. He was coming in as a private attorney, and he was going to make part of the fee out of the case.

I objected to all of this—by the way, the Lieutenant Governor has great power on legislation. We have had a lot of efforts to reform tort laws and lawsuits in Alabama, and they have died in the State Senate, where he presides over the State Senate in committees that he set up and established. He was popular with the trial lawyers, and he asked me to file the suit, and I said no, I didn't think that we ought to do that.

And he said to me, "Well, you can hire some of your law firms. You can hire some of your buddies, your Republican law firms—cut them in on the deal. Why don't you do that, Jeff? That will be fair, won't it?"

I am telling you, this is not good business that we are involved in here. There is an element of greed that goes beyond what is normal.

So, anyway, that is the way that went. They go around the States, then, approaching attorneys general with this kind of pitch. As it turns out, one attorney is apparently involved in litigation in 30 States and another attorney group is involved in litigation in 28 States. What does that mean? What they do is, they have this theory. They have come up with a theory of litigation that can make billions of dollars in recoveries. They go into a State and get a group of local people, and they also bring in the President's brother-in-law, Hugh Rodham, make him a $50-million man because he sits in the room and reads a novel while they are settling the case. Let him have a little bit, too. Make him happy. Maybe it will make the President happy. Maybe he will be supportive of us when we come in with the legislation. We cut in the Attorney General of Alabama; maybe he will continue to be friendly to us in the State legislature. What would his fee have been? I don't know.

They go around and they get investors. People, basically, as I would understand it, buy shares. They go out to a number of the big name plaintiff firms in this town, community or State, and they get them to agree to put up so much of the money. They put the money in. Each one of them has a share. These major law firms that are doing most of the work, they do all the brainwork, and the local guys file the pleadings and handle the PR and the political stuff and take care of the attorney general, and make him look good. That is how it happens.

And then, boom, after Mississippi—they had that unique single judge in Mississippi—you had the change of law in Florida, the tobacco companies lost those big settlements, and they just collapsed and they agreed to pay everybody. Listen to me. In some States, the attorneys had done little more than file the lawsuit and they are now claiming 25 percent, 15 percent, of billions of dollars in recovery.

Why? Because they had a contract. They signed a contract with the attorney general of Alabama, Georgia, whatever State. That is not good. That is not a good process. I will tell you with absolute certainty and conviction that money paid to those lawyers is money not available to children, to antismoking programs in America. It was simply allowed to go to the attorneys.

Why would not my brethren on the other side of the aisle, who profess to be so concerned about children, be involved in this? They have accused those who have opposed this tobacco legislation consistently of being tools of big tobacco—"Oh, they're just bought and paid for by big tobacco."

I will say this, I took not a dime from tobacco. I rejected tobacco money. I have not taken it and will not take it. I don't think at this stage of the game we ought to be taking money from tobacco. I realized we were going to have a contested issue concerning tobacco, and I wanted to keep my record clear, so I have not taken any. A lot of other Senators on both sides of the aisle don't take tobacco money.

Mr. GRAMM. Will the Senator yield on that point?

Mr. SESSIONS. Yes, I yield to the Senator from Texas.

Mr. GRAMM. I wonder if those on the other side of the issue are taking money from plaintiffs' attorneys?

Mr. SESSIONS. Well, you have asked an absolutely important question. Those who have been opposed to this legislation have had their integrity questioned and it was suggested that they are bought by tobacco. I have somewhere in this stack a little chart that indicates something about political donations.

From the years 1990 to 1994—I want the Senator from Texas to understand this—plaintiffs' lawyers in three States—my State and your State being two of the three—Alabama, California and Texas, spent $17.3 million on political contributions. During that time, the Democratic National Committee, in all 50 States, spent $12.4 million. During that time, the Republican National Committee, in all 50 States, spent $10 million. During that time, big oil in Alabama, California and Texas spent $1.7 million. I know oil is a big industry in Texas. They only spent $1.7 million in Alabama, California and Texas, whereas the trial lawyers spent $17.3 million. The automobile companies in Alabama, California and Texas spent $3,500.

That shows you what has happened here. I suggest that we need to rise above special interests. I believe every Member of this body has an obligation to his constituents—to that secretary, to that waitress, to that gas station operator, to that farm equipment dealer—if he takes their money and increases taxes, to not give it away to people who live in mansions who practice golf by driving their golf balls out into the ocean, and that is what we are talking about.

There are a number of other things that I can mention, but I see the Senator from Texas is here. I am pleased to yield the floor, Mr. President.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me first say that our dear colleague from Alabama, Senator SESSIONS, is a freshman Member of the U.S. Senate, and I am very proud of the leadership that he has provided on this issue and on other issues. I think he is a testament to the fact that we have good people in the U.S. Senate, and I am very proud of him.

Mr. President, when we tell people that we are debating a bill that is going to set in place a procedure whereby attorneys are going to receive $92,000 an hour, they find it hard to believe. But let me just read from an article by Robert J. Samuelson in the Washington Post:

> The hourly rates strains belief. Lester Brickman of the Cardozo School of Law, an expert in fees, estimates that the Texas lawyers spent, at most, 25,000 hours on their case which never went to trial. A $2.3 billion settlement values their time at $92,000 an hour.

This is absolutely predatory. It is totally unfair to be taxing my 85-year-old mother, because she started smoking 65 years ago, $1,015 a year, which is what she will pay under this bill because she is not going to quit smoking cigarettes. It is unfair to tax her to pay a plaintiff's attorney $92,000 an hour. It is predatory and it is outrageous, and something needs to be done about it.

The Senator from Alabama is not proposing that we be tightfisted with plaintiffs' attorneys. In fact, he is proposing that they be paid $1,000 an hour. How many people in America would figure that they were being cheated if they were getting $1,000 an hour in a fee for work that they had done? I don't think many people in America would think that we are cheating lawyers by requiring that they be compensated no more than $1,000 an hour for work that he had done on these cases.

But when asked about $1,000 an hour, a prominent attorney, who was quoted in the Washington Times, scoffed and said, "That would hardly pay for tips for my house staff."

"Hardly pay for tips for my house staff."

Our colleagues on the left are very fond of talking about how they are trying to protect average citizens. Our President is always talking about his position as champion of the average person. But yet what is happening here is our President is supporting provisions that allow attorneys to be paid $92,000 an hour. Many of the Members of the minority here, the great majority of them, are supporting provisions where attorneys will be paid $92,000 an hour. And our colleague from Alabama is saying, let's set a cap in this bill that says that attorneys on these cases will be paid no more than $1,000 an hour. I believe that it is totally outrageous that we cannot see this amendment adopted by 100 votes in the U.S. Senate.

I do not see how anybody can go back home and say we are going to tax Joe and Sarah Brown—a waitress and a truck driver. Seventy-five percent of the money we are going to collect in these taxes on cigarettes come from Americans and families that make less than $50,000 a year. We are going to reach in their pockets and take their money, and we are going to pay $92,000 an hour to plaintiffs' attorneys. It is predatory. It is outrageous. And something has to be done about it.

Is there no shame in this whole process? Is no one embarrassed by the fact that we are allowing this piracy to go on? I believe it is imperative that this amendment be adopted. I want to pledge that if this amendment is rejected, that we are going to come back and raise this figure and do it again and again and again and again until we cut these fees off at something less than $92,000 an hour.

If that is not enough, or if that is no more than enough to tip your house staff, then I want people to explain to people back in their States about how we are imposing a tax to raise $600 billion and turn around and let plaintiffs' attorneys make $92,000 an hour on the deal. I would be embarrassed to say that I was for allowing that to happen. I do not understand how anybody—anybody—could oppose this amendment and go back home and explain to people what they are doing.

Let me also say—this is something I do not do, but I want to respond to people who do it—one of the games that is played now in Washington is that when people cannot debate the issue, they try to attack your integrity.

We have all these little groups around town that try to find somebody who maybe runs a store that sells tobacco products—a 7-Eleven store for example—who contributed to Senator SESSIONS' campaign or contributed to Senator McCONNELL's campaign or my campaign or to the campaigns of other of our colleagues who are here on the floor, and they say, "That was a tobacco contribution." But it is very interesting to me that when we are debating $92,000 an hour for plaintiffs' attorney fees, where are these groups?

Why are they so silent? Who took away their tongues and their pens to not write about the millions, tens of millions, perhaps hundreds of millions of dollars that plaintiffs' attorneys contribute to the Democratic National Committee, and who contribute to candidates who oppose this amendment and who support this bill?

Now look, I don't get into the business of trying to question people's motives. But the point I want to make is this: If these groups are going to run around trying to tag Senators as being the spokesmen for some interest, I think that is perfectly legitimate. It is a tactic that I do not agree with, but it is perfectly legitimate. But why are they silent on this issue? Why are they silent on the source of the contributions going to some of those who support the bill?

What we have here is a bill that has but one constituency. And that constituency reminds me of a large group of vultures who want to bring down this industry and then feed on the carcass. And the biggest appetite, in this case, belongs to the plaintiffs' attorneys who are going to make $92,000 an hour on this bill.

So I hope my colleagues will not stand up and say, "We can't give a tax cut and eliminate the marriage penalty. We don't have enough money to do that." Well, we have enough money for attorneys to make $92,000 an hour. As long as we have enough money to do that, we have enough money for tax cuts.

We are going to see an amendment offered in a couple of days to try to do something about teenagers drinking. I hope it is going to be a bipartisan amendment. I want to predict right now that the proponents of this bill will stand up and say, "We don't have enough money to do anything about teenage alcohol use. We are spending our money on teenage smoking," which is, in terms of public concern, a much less concern than teenage drinking. But they are going to say, "We don't have the money for it."

Let me suggest that we begin with $92,000 an hour legal fees. There is a source for money. Let us take the money from that, and let us use that money on programs designed to reduce teenage drinking, drunk driving, things of that nature.

I know my colleague from Kentucky wants to speak. Let me sum up and stop.

I am proud of our colleague from Alabama. He speaks with passion and with clarity, and he is absolutely right. There are no other terms for these kind of settlements other than predator and clear abuse of the system. We have in this bill a provision that sets out a commission made up of lawyers to review lawyer fees. It is not an issue over whether we are going to have the Federal Government involved. There is a provision in the bill that guarantees that.

But rather than letting lawyers oversee fees for lawyers so they get the $92,000 an hour, let us have a provision that simply says you cannot get more than $1,000 an hour in these cases.

Let me offer right now, if any of my colleagues want to come to my State and go with me into a local restaurant in the morning or go to McDonalds—and let us try to gather up a crowd—I would like them to explain why those folks ought to be taxed on their cigarettes or their chewing tobacco so that we can pay attorneys $92,000 an hour. If they can do that in Lubbock, for example, if they can sell that in Lubbock, TX, then I would come back and review my position on this issue.

But let me predict there will not be anybody to take me up on this because anybody who would vote for this would be ashamed for people to know it. But we are going to vote on it. And we are going to vote on it over and over and over and over until we do something about this predator behavior and this clear abuse of ordinary working people in America.

I thank the Chair and I thank my colleague.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Before the Senator from Texas leaves the floor—if that is the direction in which he is headed—I want to thank him for his important contribution to this. This bill is, more than anything else, I say to my friend from Texas, about lawyers, about raising taxes on working-class Americans and about unjustly enriching a bunch of soon-to-be billionaire lawyers.

I think we ought to call them the "sultans of smoke," because they are going to be as rich as sultans if we do not pass the amendment offered by Senator FAIRCLOTH, and spoken so eloquently on behalf of by the Senator from Alabama, Senator SESSIONS, and Senator GRAMM.

Mr. President, we have had a lot of debate over the past few weeks about what provisions of this bill are most outrageous. And there is a lot about this bill that is outrageous. I ask my colleagues—which provision is the most outrageous? Some say it is the terribly regressive tax on low- to middle-income Americans that is the most outrageous. And that certainly is outrageous. Others say it is the unconstitutional backdoor tax known as the look-back penalties. Still others say it is the unconstitutional advertising restrictions.

Here we spend 3 weeks on the floor of the Senate raising taxes on working-class Americans and taking away the constitutional rights of legal companies.

I thought long and hard about which provisions of the bill truly deserve the trophy for the biggest outrage, in a bill replete with outrages. The hands down, slam-dunk, home run winner has to be the lawyers' fees—the lawyers' fees. The national tobacco settlement has now turned into the national trial lawyer enrichment deal. Other speakers have referred to Robert Samuelson's article in the Washington Post of June 3. Senator GRAMM referred to it extensively, and I think this article sums up much of what is wrong with the lawyer fees authorized by this bill.

More than anything else, what has become the hallmark of this bill—full of outrages—is the enrichment of the plaintiffs' lawyers of America. We are going to give a self-interested bunch of plaintiffs' lawyers $4 billion a year for the next 25 years—$4 billion a year for the next quarter century! This is an outrage. No bill ought to leave the Senate—not now, not tomorrow, not ever—that does not address this issue.

Senator GRAMM called it piracy. Maybe that is even too kind of a word.

Four billion dollars a year. The only person in the world I can think of that has that kind of annual take, Mr. President, may be the Sultan of Brunei, the wealthiest monarch in the world.

So what we are doing here is using the power of the State and the Federal Government to transfer private wealth and public dollars to create a bunch of little trial lawyer sultans, the "Sultans of Smoke." We are going to create the sultan of Mississippi, the sultan of Texas, the sultan of Florida, just to name a few.

Let's take a little trip around our currently upside-down world and preview our future "Sultans of Smoke." First, let's go to Minnesota where a few lawyers are reportedly seeking to rake in approximately $450 million. The lawyers in Minnesota actually took the case to trial, so it is reasonable to assume they employed more attorneys and put in more hours than lawyers in other States.

So let's assume that 50 lawyers worked a total of 100,000 hours. These 50 lawyers would each take home $9 million for his or her labors—$9 million. What is the hourly fee for the future sultans of Minnesota? That works out to about $4,500 an hour—not bad when you consider the minimum wage in America is $5.15. So the plaintiff's lawyers in Minnesota will make $4,500 an hour.

Now, let's stop off in Mississippi. The latest reports out of Mississippi are that the lawyers are seeking $250 million. The reports indicate that the $250 million will go to a handful of future "Sultans of Smoke." Assuming that 25 lawyers worked on these cases for 25,000 hours, the Congress would be authorizing each lawyer to receive $10 million apiece as a result of congressional action.

So let's break that down on an hourly basis. If each of these lawyers worked 1,000 hours exclusively on the tobacco litigation, that would enable the future "Sultans of Smoke" in Mississippi to earn $10,000 an hour. Now, that is a good day's wage, especially when you consider that the average lawyer in America only makes $48 an hour.

Now, let's stop off in Florida where a little band of trial lawyers are trying to take us for the ride of our lives. These soon-to-be "Sultans of Smoke" are looking to receive as much as $2.8 billion. One of the more eager Florida sultans has already sued for his $750 million share of the pot.

We don't even have to make assumptions in Florida because a judge has already done the math for us. The judge looked at the greedy grab by the lawyers and concluded that the demands for attorney fees, as the judge put it, "Simply shock[ed] the conscience of the court." The judge concluded that, even if the lawyers worked 24 hours a day, 7 days a week, including holidays, for over 3 years, they would earn over $7,000 an hour.

In fact, we know the actual hourly wage of the Florida lawyers is immensely higher because no one can seriously contend that any lawyer, much less every lawyer, worked 24 hours a day, 7 days a week, on tobacco litigation for 3½ years.

But it gets better, Mr. President. The final stop on our sultan preview tour is Texas. Senator GRAMM referred to Texas. A handful of lawyers in Texas are going after $2.2 billion. Let's see what kind of hourly fee the lawyers want in Texas. In the Texas case they did not go to trial, so it is reasonable to assume that Texas put in far less time than Minnesota.

Again, assuming that 25 lawyers worked a total of 25,000 hours, then each of these lawyers would earn $88 million—$88 million. What kind of hourly fee is that for the "Sultans of Smoke" in Texas? It is $88,000 an hour, Mr. President, $88,000 an hour. Not bad when you consider that even the average doctor in America only earns $96 an hour.

If the Texas grab is not outrageous enough, this excessive, grotesque sum for attorneys in Texas will have to be paid out of Medicare money. The New York Times recently reported that the Texas attorney general said publicly that part of the attorney fees will be paid by the Federal Government. And guess where it comes from? That is right, the Medicare money we are sending to the States in this bill.

So I ask you: Who do we pay—the sick and the elderly, or the greedy and the lawyerly?

Now the friends of the trial bar are arguing that the future "Sultans of Smoke" are expecting this money. We have heard that they are expecting this money and, therefore, it wouldn't be fair not to give it to them.

I don't mean to sound cold and hardhearted, but I have absolutely no sympathy for any lawyer who thinks he deserves $88,000 an hour. Moreover, there is no reasonable expectation that any Congress, in any State, or any nation, would allow this band of trial lawyers to pull off such a scam. I repeat, these lawyers have no reasonable expectation that public officials, elected to represent the best interest of the people, are going to stand by and codify a right to receive an excessive, gargantuan, and grotesque payment of attorney fees. Worst yet, these outrageous payments will continue for at least the next quarter century.

Every lawyer in this deal, and, in fact, every lawyer in this country, knows that the rules of professional conduct preclude them from charging fees that are unreasonable and clearly excessive. In fact, no attorney will dispute the fact that a judge could step in today and strike down any and all of these excessive fee grabs. It is absolutely ludicrous to argue that the very Federal Government that is approving, codifying, and regulating these deals is somehow unable to touch these outrageous fees.

In fact, let me tell you a little bit about the nature of contingency fees, as explained by George Will in a column earlier this year. George Will wrote:

> Among the things that make Congress, among others, irritable about the settlement are the stupendous jackpots, totaling perhaps $45 billion to $55 billion, that may come to lawyers hired by State governments on contingency-fee contracts.
>
> A Florida judge, who rejected the State's contingency fee agreement as "unconscionable and clearly excessive," calculated that the lawyers would be paid an hourly rate of $7,716—assuming each lawyer billed was working 24 hours a day, every day, during the 42-month case. Some lawyers around the country probably stand to be paid hundreds of thousands of dollars per hour of actual work.

Further quoting George Will in his column:

> Contingency-fee arrangements, under which a lawyer is paid nothing if his side loses and a fixed percentage of the settlement if his side wins, have traditionally been deemed unethical. This is because they give a lawyer a financial stake in the outcome of a lawsuit, which . . . "creates an inherent conflict of interest with the lawyer's role as an officer of the court." Contingency fees still are unlawful in Britain and most of the rest of the world.

Let me repeat that, Mr. President. "Contingency fees are still unlawful in Britain and most of the rest of the world."

> The United States long ago made a narrow "necessary evil" exception to the general

> proscription of contingency fees in order to help give poor people access to the courts. And the American Bar Association's Code of Professional Responsibility stated that "a lawyer generally should decline to accept employment on a contingent-fee basis by one who is able to pay a reasonable fixed fee." State government can pay such a fee.

In other words, State governments could pay a reasonable fixed fee.

Mr. KERRY. Will the Senator yield?

Mr. McCONNELL. I am sorry, I won't.

> The states' tobacco lawyers demand, with more brass than plausibility, that their fees be treated as an island immune from Congress' general jurisdiction over the settlement.

Now, the Faircloth amendment agrees with Mr. Will's analysis and simply says that no trial lawyer's sweetheart deal is an island. I firmly believe that we cannot settle these State deals and create a sweeping Federal regulatory scheme for tobacco without also regulating the fees.

Let me repeat something that others have forcefully said. No bill should leave the Senate of the United States that does not deal with the unjust enrichment of lawyers contained in this bill.

Let me read another piece that makes similar points. The article appeared in a home State newspaper, the Lexington Herald-Leader:

> Question: If on election day you were asked to chose between a political candidate who promised to work for a reasonable salary, and another candidate who wanted to be paid 25 percent of the government's proceeds, an amount which could reach billions of dollars, which candidate would you vote for?
>
> Many voters thought they were voting for the former, but are getting the latter. That's because several dozen states have chosen to farm out legal work to lawyers who will be paid not for the number of hours they work but a percentage of the proceeds from lawsuits.
>
> Advocates for trial lawyers give several reasons why lawyers should be paid large contingency fees instead of for work performed, like other state employees.
>
> First, they say contingency fees are the only way states can afford to hire top-notch lawyers. Nonsense. Tobacco litigation pits 40 states with extensive revenues (the Texas state government alone collected $40.4 billion in 1996, which is about $4 billion more than the domestic and international tobacco revenues of the largest tobacco company, Philip Morris, for the same year) against tobacco companies who pay their lawyers by salary or by the hour. If tobacco companies can do it, so can the states. Some have: Maine has capped the fees for its lawyers at $150 per hour, and Vermont's lawyers, in the case of a national deal, will be paid no more than $200,000.
>
> * * * * *
>
> Private lawyers will likely reap tens of billions from tobacco settlements. After they do, won't they try to keep this cash cow going? If lawyers can make billions saying that states are due dollars for the adverse health effects of tobacco, won't they want to say the same about junk food? Or liquor? Or fast cars?
>
> The answer is: Yes. And that's why private profit-making has no place in government decision-making. Government policies should be based on their merits, not on opportunities to give private lawyers billion-dollar profits.

Mr. President, I am proud to say that every state did not go out and cut a sweetheart deal with their trial lawyer contributors. Some states took the high road in this deal and refused to allow the conflict-of-interest contingency fee arrangement to taint the deal.

Let me read to you a piece from the Seattle Times that explains the rationale of these states that took the road less traveled:

> Using the state's own attorneys has permitted California Attorney General 'Dan Lungren to claim high ground and dismiss suggestions that the lawsuits were motivated by the plaintiff's bar.
>
> "The fact that we are not using outside counsel lends a lot more credibility to the legitimacy of these claims," said Tracy Buck Walsh, special assistant attorney general, who is managing California's case.
>
> Colorado Attorney General Gale Norton, who also had the political backing of the governor, had another motive: She said she is philosophically opposed to her state using contingency-fee attorneys because these outside counsel are motivated by more than the pursuit of justice.
>
> "We tend to be more objective than private counsel who are employed on a contingency basis and who maintain their own personal financial interest in the outcome of the litigation," said Norton, a Republican. "It gives them different motives."
>
> The state of West Virginia's one-page contingency-fee contract agreeing to pay one-third of the recovery, by far the largest contemplated by any state, was thrown out of court as unconstitutional.
>
> In arguing against the contract, tobacco-industry attorneys suggested that it was unethical because it compromised the independence and impartiality of the quasi-judicial role vested in state prosecutors.
>
> "The litigation team is wielding the coercive, regulatory and punitive powers of the state," tobacco attorney Robert King argued. Such a contract "permits the power of the state to be exercised by attorneys with a direct financial stake in the exercise of that power."

The bottom line here is that the National Lawyer Enrichment Deal smells like an under-the-table arrangement cut in smoke-filled rooms.

The States have made deals with their lawyer friends to engage in what has been aptly referred to as "prosecution for profit"—and we can not simply bury our heads in the sand and pretend that we have no duty to regulate these deals.

In the words of the Weekly Standard:

> Bribing judges was long ago made a crime. Bounty hunters were banished and state prosecutors put on salary for a reason—to remove any financial stake in their prosecution. Contingency-fee lawyers have a stake in litigation that reaches grotesque proportions. And now these lawyers are being deputized by attorneys general to prosecute under the cloak of state authority.
>
> When these lawyers are making large political contributions to the attorneys general who hire them to sue, in lawsuits that have contingency fees running literally hundreds of millions of dollars, prosecution for profit takes on a whole new dimension. Such conflicts of interest once were considered a threat to justice. Indeed they were. Indeed they are.

So, Mr. President, I urge my colleagues to support Senator FAIRCLOTH's reasonable and fairminded amendment. Frankly, I had hoped the previous amendment offered by Senator FAIRCLOTH at $250 an hour would be approved. But certainly, $1,000 an hour, when the average American entering the work force at minimum wage is making $5.15 an hour and when the average lawyer in America is making $48 an hour, is not unreasonable.

The amendment says it is perfectly OK to make a great living in America—as a trial lawyer or in any other legal occupation—but it is not OK to cut sweetheart deals, "prosecute for profit," and use the massive, coercive, and punitive power of the State to transfer private and public dollars to make a few friends into instant billionaires.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise to support the amendment offered by the Senator from North Carolina, Senator FAIRCLOTH, and the Senator from Alabama, Senator SESSIONS. I believe that the least we can do is assure that the tobacco legislation does not become a lottery for trial lawyers at the expense of the American taxpayer.

We have been debating this for several weeks. It has been mentioned that we have been debating it for several weeks. Usually, when we debate for 2 or 3 days on a bill, my constituents start calling and saying, "Why don't you get that wrapped up, over with?" I have to tell you that those calls are not coming in. There is a fascination with the debate here—a fascination, an interest, and a very deep concern, because this could be the precedent for a whole bunch of other kinds of products. There is an interest in the attorneys' fees because this could set a precedent for other product attorneys' fees.

Why are we doing this as part of Federal legislation? Well, if the States would have been able to resolve this all on their own, the Federal Government would not have been involved in it. But that is not the point where we are. We are at the point where the Federal Government is going ahead on its own with a tobacco bill, not a tobacco settlement. We are in the process of taxing folks in the United States who smoke. When we finish taxing those people in the United States, there are some outstanding attorneys' fees that we will be paying out of the Federal funds.

We have to be concerned about the money and how much money is going to the attorneys. This is not just a matter of letting the States do their own thing. This is a case where the States said: We need to have your involvement. And of course they do. It is interstate commerce. There are a whole bunch of constitutional issues that come into this that require Federal participation. We are now in this Federal participation. We say: Companies, you reached an agreement, but we don't agree with your agreement. And so we do our own thing and we start at $68.5 billion. We decided that wasn't enough money, and we raised it another couple hundred billion dollars, and maybe a couple hundred million dollars more than that. We are still coming up with ideas for spending money. That is easy. That is a normal thing. When the family has a little extra money, they are always able to figure out ways to spend it.

But we are talking about taking some of that money and giving it to people for a job that they did do. But we are saying, if we are responsible for that money, we want to show responsibility for that money, and we think the responsibility for the money says that an attorney shouldn't get more than $1,000 an hour.

Again, I can tell from the people who are getting hold of my office that they think $1,000 is a bit too high. In fact, they think it is a whole lot too high for tax money to be collected from tobacco and given out to other people as a precedent for the United States—$1,000 an hour. There are a lot of people in my State who do not make that much in a month. They see that as a lot of money. I see that as a lot of money—$1,000 an hour.

This is just a precedent. That is why we have to talk about it so carefully. We are talking about those terrible tobacco companies. They withheld information. They do have a drug that is addictive. But they are not the only people perhaps out there. I started keeping a list of the things that my constituents, the voters, the folks back home, think that we ought to put on the list next. I get a lot of calls for liquor and a lot of calls about caffeine. What don't we know about caffeine?

It is getting to the point on this list now where I thought maybe a project for the Senate might be to, each day, as a part of morning business, bring in a tray similar to a dessert cart that they serve to you at a restaurant that has different products on it, and we would try those products and determine how beneficial or how harmful they were to people and set a new tax on those. This might solve tax simplification for the whole Nation, because by the time we go through all the food products in the Nation and decide what a punitive tax we ought to put on them for information we don't know about them, that leaves a wide range and we will not need any other form of tax, except of course we will be figuring out new ways to spend the money as we go along.

The amendment before us would require the lawyers to provide a detailed accounting of their legal work to Congress in relation to the legal actions covered by the underlying bill, including any fee arrangements entered into. Then it would limit the payment of the attorneys' fees to $1,000 an hour.

I know people are wondering why that is a limitation. Of course, I am sure they are hearing that there are some out there that are maybe getting $88,000 an hour or $92,000 an hour. Then when they are checking, they are finding out that it is the wealthy and the connected lawyers who are being able to line their pockets from the settlements supposedly made on behalf of the American public. This bill would impose one of the most regressive taxes in America history on low-income Americans. Then we have to debate whether it is fair to limit somebody to $1,000 an hour.

Mr. President, to put these figures in a little bit of context, last year the average gross receipts for the 100 top grossing law firms in America averaged $18 million. That was for an entire firm—$18 million. If this tobacco bill is not amended, some of the law firms involved in the tobacco settlement will stand to gain nearly $925 million per firm. I would say that is a pretty good raise for relatively little work.

It is important that we reach a decision, that we put some limitations on it, and that we keep people from making an unusually large amount from the tax money of the lowest-paid Americans.

That is where we are. A thousand dollars is higher than I would like it to be, but we are trying to find a range where people will say that is enough. We will have enough other people who will say that is too much. But I will go with it. We will get a vote that will place some limitation on the way we are handling tax money for the American people.

I thank the President. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Wyoming is correct; we have a responsibility.

In meetings and almost marathon sessions around the clock with all Senators, 20 of us—1 finally disagreed and voted against us in the Commerce Committee—the distinguished Senator from Arizona, our chairman, made sure that everyone was factored in: That we certainly considered the health groups; Dr. Koop and Dr. Kessler were there. We considered the attorneys general. We seem to forget these agreements, and so forth, were made by the attorneys general in consultation with the White House, the health community, and the tobacco companies. We forget the fact, of course, that the tobacco companies—this thing has gotten all out of kilter—agreed to tax themselves. There was not a single Congressman and there was not a Senator at the table last June. They taxed themselves. Now we are running around, we are going to save victims, and everything else of that kind.

But let me get back to the Senator from Wyoming, because he is right, we have a responsibility. The 20 of us on the committee complied with that responsibility with respect to lawyers' fees that we would be engaged in, and the money would come to the Federal Government. Yes; as U.S. Senators, we are definitely responsible.

You will find that section, of course, on page 437 of the bill—"Attorneys' fees and expenses," and the criteria used, and everything else, on arbitration.

We have in a responsible fashion outlined the responsibility. There is none of this 25 percent—none of it. Absolutely, they are looking at settlements made by the several States—I think Florida, Texas, Mississippi, and now Minnesota I think is the last one. But we are not the Governor of Minnesota or Florida. We have not, as attorney general of Texas or Mississippi, anything to do with that. We could not legislate on it.

We believe, as the Senator does on that side of the aisle, in the 10th amendment, those things not outlined in the Constitution as responsibilities of the Federal Government are reserved to the States. While we have one wayward former attorney general who didn't want to do anything, we have some outstanding attorneys general who have done more—we are going to prove it—to save people from cancer than Dr. Koop and Kessler combined. I will get to that.

But I want the Senator from Wyoming to know that we have done just that. We have acted in a responsible fashion. It is arbitration.

Incidentally, since I mentioned Florida, they ought to be ashamed of themselves and take down that sign. Our distinguished President, take down that sign that is absolutely false. Rodham, I don't know him—Hugh Rodham, Hillary Clinton's brother. They put that up because they want to project partisan politics into this and Hugh Rodham as a part of the litigation team—absolutely ludicrous. But they put a sign up there and then "drink with the Devil." They have all kinds of expressions. They are running around on the floor of the U.S. Senate with all the pejorative terms of "corruption," "greedy," "predatory," "raising taxes," "slam dunk," "outrage," "sultans of smoke." Oh, boy, they are having a heyday.

Oh, boy, aren't they having a heyday. Aren't they having a heyday—a total smokescreen—with respect to what the actual fact is.

Incidentally, you are looking at a lawyer who practiced for 20 years, and never by the hour. And let me identify myself as a defendant's lawyer as well as a plaintiff's lawyer. I represented the South Carolina Electric and Gas on their bus system, passenger bus. If you want to defend cases, defend the suits brought by passengers on a city transit system. And I can tell you here and now that about the middle of November, maybe even a little bit earlier, the Christmas club starts. Nobody who gets on a bus wants to catch their arm in the door, slip down in the aisle, fall down the steps. The bus is jerking off everywhere. And they got all of these little suits.

The corporate lawyers, the regular defendant lawyers, are lazy. I said that to the chief counsel of the electric and gas company because I was suing them as a plaintiff and making money doing it. I said, "Well, tell them to come in and try the cases." But they settle them all out because they are busy and they don't want to bring the cases.

So I lined them all up and saved that particular corporation millions of dollars, and I am proud of that. I am proud to stand here when the Senator from Texas says they ought to be ashamed. We had this nonsense. We have already voted on it. Sixty percent of the Senators, according to the Senator from Texas, ought to be ashamed—making all this thing up here of what has been going on now for years.

It has to do, Mr. President, with lawyers. We see it at every particular turn and the political opportunism that has come about as a result of an outstanding job done by lawyers. What really happened—and the Senator from Alabama said he was one who was approached and did nothing and is proud of it. Well, if every other attorney general had done that and waited for others to prove the new theory, as he said—and it was a new theory; nobody had ever won a jury verdict—nothing would ever have happened and we would not be here.

If you look in the CONGRESSIONAL RECORD from January to June of last year, you will not see an expression of children smoking in the CONGRESSIONAL RECORD. Nobody was concerned about it. I have been here almost 32 years, and I have worked with the National Cancer Institute and the American Cancer Society, won national awards and everything else of that kind. Other than putting up the notification asking for more research and everything else, we were not stopping smoking. This whole thing is going on here brought about by trial lawyers. It is going to eliminate a lot of cases, a lot of cancer deaths, as a result of smoking.

But, yes, they had the ingenious approach of a class action, the trial lawyers did, over the past several years, culminating in the agreement last June. They said: We are going to continue to bring these class actions even though we have not won one, and we think we have some of the company's records here that the jury would take notice of and change their mind and give us a verdict. The attorneys general were approached by these particular trial lawyers, and they all joined in.

I will cite later on, one attorney general had to defend his life, had to hide the witnesses, had to really withstand a lawsuit of hourly pay, hourly wages—hourly, hourly, hourly. Oh, my heavens. Twenty years I practiced law, and if I didn't do something for the client, I did not get paid. And if I brought a case on a contingent basis and lost, I lost it; the client paid nothing. That is a wonderful thing in America for middle America and the poor Americans. If you can think up a better system, think it up, because it has worked over the years. And, yes, our business leadership doesn't like it. They call it frivolous suits. What trial lawyer has time for a frivolous suit? He doesn't get anything if it is frivolous; it is going to get thrown out.

So the proof of the pudding on frivolous suits is to try them and win, and the lawyers will quit bringing those kinds of cases if they are frivolous. We don't have time for frivolous suits, sham claims, and those kinds of things that they talk about. We bring good cases. We bring good cases, and we make a mark.

That is exactly what has happened here with respect to this case. They went to the attorneys general, and the attorneys general finally got together with the companies. And the companies are saying: Well, we are winning these cases but it is costing us $500- to $600 million in lawyer's fees.

Now we want to control lawyer's fees. They never have, over here, worried about really making money—this crowd over on the other side of the aisle. I have never seen a more sham performance than they are worried about anybody making money. Otherwise, I have been up here, and if there is an outrage, it is this billable hour crowd where "I don't know the law so I charge you as a client so much per hour to go up in the library on the weekend." It is my call, and if I can stay ignorant long enough and go up more weekends, I get more money.

That is the crowd that ought to be controlled. The Senators around here have been involved in various hearings now that owe all kinds of millions in billable hours to downtown lawyers to come and look at their records and everything else of that kind. That is the outrage that bothers this particular Senator, not the lawyers who really brought the case and did something.

And none of it is 25 percent. The truth be out and the fact is—and charge me for this; it is going in the CONGRESSIONAL RECORD—8 percent is what is going in with respect to these cases in Florida, Mississippi, Texas, and Minnesota. But they throw around 25 percent and everything else of that kind, and all of it is subject to arbitration and agreement.

In the Texas case, they already have been petitioned by the distinguished Governor of Texas, and they are in a hearing, and I do not know whether it will lead to arbitration; I haven't kept up with it. But the States know how to look out for themselves. To this States rights crowd on the other side of the aisle, now all of a sudden all the attorneys general are dumb, don't know what they are doing, and we have to protect the farmer, the filling station operator, and the repairman at the garage.

Isn't it interesting, Mr. President. There is no plaintiff up here complaining, no plaintiff ever complaining about lawyer's fees. Who is complaining? The crowd that is crying is the one that is causing the injury. They posture themselves that they are looking out for the filling station operator and the working lady and the laundry woman and everybody else like that—poor America.

The only way to get a lawyer is to go in and get good representation on a contingency basis. Isn't it interesting. You find me the plaintiff who has come up and said, "I get paid too much money." They are tickled to death to get anything, because if you left it to the corporate crowd, they wouldn't get anything. I know. I have been in the game. I have watched it over the years.

But be that as it may, they made that agreement and they said on a contingent basis, which now averages out to 8 percent—despite that sign of pejorative terms—just to excite people around here and throw poison about, drinking with the Devil and all. They have all the wonderful little expressions, but I wish they would come out in the Chamber and debate this thing, because I am ready to debate it and stand up when they end up with their peroration that we ought to be ashamed.

Well, I am proud. I am proud of this particular initiative made by the lawyers and the States attorneys general, because they made that agreement and they went in never having won before. They put in their own money. And go to the distinguished Attorney General Mike Moore of Mississippi. Mr. President, you were an attorney general. Can you imagine bringing a case in the State of Washington and having the Governor of Washington sue you because you brought the case—not just say, "General GORTON, I think you might be mistaken." Just sue you. Just sue you and make you hire a lawyer to defend yourself to do your job. That is Mike Moore, from Mississippi. He fought that. Had to get in his own pocket, and hire lawyers there the whole time.

Otherwise, they had to hide witnesses that they got from the company. For 2 years they chased them around. They tried everything in the world to intimidate their witnesses. They really went on a struggle to come this far. And some of the lawyers they are talking about—I am not that intimate to the case—have yet to get a red cent. They have millions of dollars invested in time and effort—discovery, interrogatories, appeals, appearances, travel, on and on and on, on behalf of the public of America, and they are the ones who are doing the job and not these Senators with this particular amendment.

Because if they were really interested in billable hours, I would refer to some of them here who are listed by none other than our friend, Steve Forbes. I worked closely with Steve Forbes. He was always asking me for more money. I was chairman of a subcommittee of State, Justice, Commerce, and he had Radio Free Europe, and Liberty. I really respect him. He is a wonderful fellow, a dedicated American. He did an outstanding job. But don't let him act like he never saw this town, because he has, and he has been asking the town and the Government for more money.

But he listed here, since they brought in Intel—I just got this at the first thing—Andrew S. Grove, and he gets $164 million compensation a year, coming down to $77,000 an hour. Where is the bill about the predatory greed, corruption, "Sultan of Smoke," outrage, predatory, right on down the line? They don't say that Grove is all of those nasty things. They say that is pretty good. Right on. And I agree with that. I admire him.

I have been to the Intel plant in Dublin, Ireland. I have to tell that. I have to enjoy something this afternoon. Just to show how we do work with industry, I walked into the Intel plant, a billion-dollar plant outside of Dublin, and when I walked in the distinguished head of the plant named Frank McCabe—I know everything I say is going to be checked. In a campaign, they have nothing but lawyers and billable hours to check everything you say, so write that down—Frank McCabe is his name. And he said, "Governor, glad to see you."

Well, I don't remember him. But I remember him now, because he was with General Electric in Irmo, a plant we brought to Irmo, SC; GE. He was there for 10 years, managing that beautiful operation, and $1 billion invested.

He said, "You know how I got it operating and up and in the black?"

I said, "No, how is that, Frank?"

He said, "I went back and sent teams to Columbia, SC, where you had Midlands Tech, and we copied your technical training for skills, and we have it over here in Ireland."

So, we do not speak casually or critically of Mr. Grove. I am proud of him. I wish I had the ability to make $77,000 an hour.

The next fellow here is Mr. Eisner. Oh, I know him, and he is a wonderful operator. I have been out, talked to a board of young folks. I don't know the official name of that board, but I can tell you they were the smartest young gentlemen I ever met, and ladies. They cross-examined me and they knew more about what was going on in Washington than any group with whom I have met. They were really updated and had very thoughtful questions, and I learned from them. So I don't speak critically.

But they got Michael D. Eisner here. Steve Forbes lists him down at $245 million, or $120,000 an hour. Where is the bill? Here is a fellow who has more than your $90-some thousand or $80-some thousand. The floor is cleared. They are not around. There is no amendment to grab Eisner at $120,000 an hour.

Then, there is Stephen Hilbert. He gets $350 million, or $170,000 an hour. Man, this thing is going up, up, and away. I better start subscribing to this magazine and see where I can get out of this political rut, trying to defend the working people of America, those who cannot afford billable-hour lawyers—who cannot afford a lawyer, period—but can come in and if they have a claim or have a chance or whatever.

One of the last cases I handled, I said, "I don't think too much of that case." Well, the lady said, "Mr. HOLLINGS, we have been to four other law firms and finally the sergeant out there at the police station, he said that you didn't mind trying the cases. And what I am telling you is right. I wasn't at fault."

Well, it looked to me the way she described the particular injury, and the case that had come about, they had to have a moving bridge. If someone is ever interested, I will go, because I took that case all the way up past the circuit court of appeals in Richmond, and we won it. I worked for a year and a half easily, almost 2 years, my partner and myself. We had a fortune tied up in that. I wish I had the time to go into it this afternoon, it was very interesting. The point is, we didn't know we were going to get anything for that 2-year period until the end when we finally prevailed.

I could go down the list. Wait a minute—Sanford Weill, Travelers Group, $434 million—$200,000 an hour. Where are they? Man, come on. Don't give me about this $80,000 an hour or $1,000 an hour. We have people in America making $200,000 an hour. Yes. Yes. They are ashamed all right. They wouldn't come out here. They won't come out because they know what we are telling is the truth about this situation.

What goes into an agreement is a lot of things listed here: the time and labor, that is the billable hour; then the novelty and difficulty of the question; the skill requisite; the preclusion of other employment—you can go down the list of these things, on and on, about the tests, the experience, reputation, ability, the attorneys involved, the undesirability.

Can you imagine bringing a case more undesirable than to have your own Governor sue you for bringing the case and everybody else chasing you around and calling you predatory, and "Sultans of Smoke," and everything else like that, when what you have done was agreed upon by the State?

And no, no, no, Senator from Wyoming, we don't have a responsibility other than to leave that one alone; and the one in Florida alone; and the contract in Texas alone—because those were contracts made and cases disposed of without the Congress of the United States under formal agreement.

We are all good enough Americans to realize we are not going to abrogate the agreement or contract or whatever it is.

Even if we wanted to write it into this particular bill, we couldn't do it. Those are agreements made when we were sleeping at the switch and not doing anything about children smoking. Now, we are all in heat—"children smoking," "we've got to look out for the children," "they're victims, victims." People are bringing in their relatives saying they are victims, smoking for years on end. For 30 years we have been telling them the best we could about the danger to your health on a package of cigarettes.

There it is. There it is, Mr. President. They want to come in now with this assault, about how they are saving people, totally misrepresenting the record. There isn't any question about it, starting with the Hugh Rodham sign and going down to billable allowance and our duty and 25 percent and the outrageous—outrageous—words again and again and again.

Now, what's afoot? Well, any and everything on this bill, unfortunately, because we have drugs, we have tax cuts for marriage penalties, we have all kinds of little provisions here and little provisions there. If you take the political polls, they say, as they said in Henry VI, "Kill all the lawyers." That is what Dick the Butcher said. But it was the greatest compliment we ever had, I say to the chairman of the Judiciary Committee, my most distinguished friend, because they wanted to start anarchy and tyranny in that vast land. They knew as long as there was a living lawyer to protect individual rights, anarchy could not prevail. So Dick the Butcher shouts, "First, we must kill all the lawyers." But, of course, this crowd over here could care less about Shakespeare, and they are the ones who should be ashamed of themselves, absolutely ashamed of themselves bringing on this onslaught, taking up this time on a matter we have already voted upon.

Why? Because we have the billable hour crowd downtown. A lot of good friends I have, and I have gotten most every award you can find from the Chamber of Commerce. I love them, but they even have TV ads about trial lawyers, trial lawyers. If they ever get in trouble, tell them to get one, because they don't want to get a corporate billable hour lawyer sitting on his duff up on the 32nd floor looking at his oriental rugs, at his mahogany desk, blinking his eyes, waiting to go to the club and charging you for it.

It reminds me of a Sam Ervin story, when he was a Senator here, about that poor doctor down there in North Carolina. He said the gentleman practiced medicine for 32 years and never had a vacation. He finally got his son out of med school and said, "Son, your mother and I are going to have to take off for a couple of weeks. You have to take over because we have never had a vacation."

He came back off vacation and was talking to his son.

"Dad, you know Mrs. Hurleeha?"

He said, "Yes, that's the lady with the bad back."

The son said, "She doesn't have a bad back."

"My God, son, did you settle that case? She paid your way through med school."

If you don't kill them, you can charge them, and if you don't bring the case to court and keep on studying it, you get into this billable hour thing. That is exactly what is going on.

They have it with respect to the product liability, with the Coast Guard bill, the transportation bill. Anytime that corporate America can hammer on lawyers who really are bringing about safety, bringing about good health, bringing about the end of smoking in America, you have done something.

Let's get to the point. The greatest call upon any profession, Mr. President, is to rid itself of the profession. Specifically, if the ministers can get rid of all sin, the doctors all disease, the greatest call upon the distinguished chairman of the Judiciary Committee and me is to get rid of all injury cases.

When I came up here 32 years ago, just about, one of the first things was Love Canal. We had all the toxic fumes and the people dying. What happened? We didn't sit around when it was brought to our attention, by whom? Trial lawyers. We put in the Environmental Protection Agency. And it bothers some people getting those EPA statements, environmental statements, but they have saved a lot of injury. It has saved a lot of lives. We have a much, much more healthy America.

Similarly speaking, we found little children burning up with flammable blankets in the cribs. The trial lawyers said, "Look, there is no sense trying these and winning and getting money; let's stop burning up the children. Let's get a Consumer Product Safety Commission."

I have been in test labs where they test not only the toys, not only the cribs, but all the particular devices that go into the kitchen as to safety, and we have corporate America on a safety course.

Ask Ford Motor Company. Just the week before last, they recalled 1,700,000 Ford pickup trucks. Why? Because of Mark Robinson out there with the Pinto case in San Diego. Mr. President, 20 years ago, he got a verdict of $3.5 million actual damages and $125 million punitive damages. He hasn't collected a dime on the punitive damages, but we in America have collected on it, because that is why they are calling in these things now. Time and again every week—Chrysler, just before that, called in hatchbacks. These automobile companies don't just get a CPA to factor in the cause of the injury—"We can afford that rather than pay the lawyers; we just settle the cases"—they are putting out safe products in America. And Europe is following our example.

So what happens then? Along comes the trial lawyers with the attorneys general. They have come in now and not taxed anybody. When I heard this figure last June, I was almost in shock. I have worked on the defense budget for 28, 29 years on the Defense Appropriations Subcommittee. The actual amount is $250 billion, but when they came up with $368 billion, I said my newspaper has gone loco. They don't know how to print things. They have a mistake here. They came up with $368 billion and said just increased a modest amount, and they are saying, "Oh, Congress is up there, tax and spend." And that is the companies' ads. They are the ones who agreed to it. It was their idea.

Come on, we have gotten totally off track here with this political charade that has been going on with attorneys' fees. "We'll come back again, and if we can't get $1,000, we'll come back for another amount; we'll come back next year, and we shall return," like MacArthur. Come on, they know better. We will not put in here to get the billable hours crowd downtown and limit them and or take these corporation fellows who "deserve" what they get. "They produce," and don't tell me the trial lawyers don't produce. We are here. No Congressman brought us here. No Senator brought us here. The trial lawyers brought us here on this particular initiative.

It is greed, trying to get even more, acting like we are the ones giving the fees. As the Senator from Wyoming says, the provisions are in here for responsibility of arbitration. You wouldn't have found 19 Senators who would have reported this bill out for a reckless 25 percent and billions and billions of dollars like they are talking about. It is less than what corporate America is doing, riding around smiling. I met with that crowd. I like the carpetbagger up in the Northeast and Boston and New York.

When you are a young Governor, they will let you in the door. And we have the blue chips, corporate America, down there. Now we travel over to Europe and Latin America, and we have—and we are proud of it—the hundreds of Hondas, the Hoffmann La Rouches, the BMWs.

But I can tell you here and now, let us not as a Congress bog down into this political thing on account of pollster politics and start limiting fees. Let us let them make their agreements. Let us, as a Federal program, have an arbitration like we have in everything else. They have subjected themselves, I know, in Mississippi and otherwise, to arbitration. The trial lawyers will agree with that. Let us get away from all of this onslaught of Hugh Rodham, Hillary's brother, everything else like that, that they might think is a good thing to put on national TV so they can get on C-SPAN and go again and again at the particular bill that we have before us.

Mr. President, as a question, we had hearings on this. And there is a legal question. I am sure the chairman of the Judiciary Committee will get into it.

Mr. HATCH. Will the Senator yield on that point?

Mr. HOLLINGS. Yes.

Mr. HATCH. You know, as chairman of the Judiciary Committee, and somebody who has been both a defense lawyer and a plaintiff's lawyer, I have some specific thoughts and first hand experience on this issue.

Mr. HOLLINGS. As has this attorney.

Mr. HATCH. As you have been an attorney who has tried cases on both sides of the issue, you understand very well that without the attorneys in the Castano group, we would not be where we are today with the original settlement.

Mr. HOLLINGS. Exactly.

Mr. HATCH. We would not have had a settlement that amounts to $368.5 billion; not anywhere near that amount without those attorneys.

Mr. HOLLINGS. No Congressman, no Senator—just those.

Mr. HATCH. Is it your understanding that not one of those plaintiffs has been paid a dime for this case so far?

Mr. HOLLINGS. That is right. None of the Castano lawyers, and they have been at it for years.

Mr. HATCH. Many of them have millions of dollars in unpaid fees in this matter. Is that correct?

Mr. HOLLINGS. Exactly.

Mr. HATCH. Isn't it also true a contract between a plaintiff and his attorney is a legally enforceable contract, which Congress should not impair?

Mr. HOLLINGS. Exactly. You cannot impair the obligation of a contract constitutionally. You and I both know that.

Mr. HATCH. If Congress, as it would be doing here, at least as I understand the intent of this amendment, were to interfere retroactively with private contracts, it would be unconstitutional for a variety of reasons; isn't that right?

Mr. HOLLINGS. It would not be worth the paper we would write it on. We would be wasting our time here.

Mr. HATCH. By capping a fee, such an interference is a taking under the Fifth Amendment of the Constitution. The Supreme Court cases clearly show that the Federal Government cannot confiscate money or interfere with a lawful contract. Is the Senator aware of that point?

Mr. HOLLINGS. The Senator is correct.

Mr. HATCH. In addition, the regulation of attorneys' fees properly, at least as I view it, belong in the domain of the States, and such usurpation of State prerogatives may very well violate the Tenth Amendment in the eyes of many constitutional authorities. Is that right?

Mr. HOLLINGS. Absolutely. If the Senator would yield for just a second.

Mr. HATCH. Sure.

Mr. HOLLINGS. Unconstitutional. It was cited by the constitutional professor of law at the Kansas City School of Law. And I quote: "It would violate the State sovereignty protected by the 10th amendment. Second, it would constitute an uncompensated taking of private property in contravention of the 5th amendment."

Mr. HATCH. Recent court opinions, if my colleague would permit me to ask another question, such as New York v. United States or Printz v. United States has made the Tenth Amendment a shield against Federal impositions on the sovereign authority of the States. Is that correct?

Mr. HOLLINGS. That is right.

Mr. HATCH. That was not always the case, but it has been so in those cases. Under any view of federalism, there is no justification for Congress, whatsoever, entering an area of pure State jurisdiction, altering the rights and the liabilities or remedies of private parties, and then dispensing with all due process protections guaranteed by the Constitution. Isn't that correct?

Mr. HOLLINGS. That is right.

Mr. HATCH. Well, let me ask the Senator just one or two more questions. I may have a lot more to say later in this debate.

The States have already shown a willingness to step in and prevent unreasonable and excessive fees in the tobacco settlements. Is that right?

Mr. HOLLINGS. The State of Florida has stepped in and has it as a hearing; so has the State of Texas.

Mr. HATCH. In the Florida settlement, the court threw out the contingency fee arrangement, which it found to be clearly excessive under the circumstances. This shows that the State courts are best equipped to address this issue by utilizing the arbitration provision of the Commerce Committee bill. Is that correct?

Mr. HOLLINGS. That is correct.

Mr. HATCH. As I understand it, the bill that the distinguished Senator has worked on, the one that is on the floor before us today—as much as I dislike the bill, as much as I think it will not solve the problem, as much as I think it will not bring the tobacco companies back to the table, as much as I think it could be written in a far better way, and as much as I think it has been substantially weakened by some of the amendments agreed to—the fact of the matter is that the bill does have a provision whereby attorneys' fees can be resolved. Is that not correct?

Mr. HOLLINGS. Certainly.

Mr. HATCH. The bill contains a provision whereby the attorneys' fees will have to be resolved in a legally reasonable manner. Isn't that correct?

Mr. HOLLINGS. Exactly.

Mr. HATCH. It is very unlikely that anybody is going to get away with some big windfall under the provisions that apply in this bill and, I might add, in the substitute that we have worked on as well. Am I right on that?

Mr. HOLLINGS. The distinguished Senator is right on target.

Mr. HATCH. Well, let me ask the distinguished Senator this: It seems to me we must also examine the precedent we are setting here in having the U.S. Congress single out any one profession by capping their earnings.

Mr. HOLLINGS. That is my plea, Senator. It might in the one instance be an instrument of good, but it is the customary weapon to run amok and start into an area where it is totally up to the individual parties, on the one hand, making the agreement, but more particularly invading the sovereignty of several States.

Mr. HATCH. Can I ask my dear friend and colleague, do we single out the insurance executives or computer executives?

Mr. HOLLINGS. No, sir.

Mr. HATCH. Does the U.S. Congress set their fees or their salaries or their compensation?

Mr. HOLLINGS. No. I apologize for raising these, but I just wanted to show the sincerity. You know, these are all friends of mine. I admire them all. And they produce that amount.

Mr. HATCH. Do we single out labor union leaders and say they can only earn so much money?

Mr. HOLLINGS. No. The Congress has a lot of good work to do, but not to get off in the field of this thing.

Mr. HATCH. I remember when Jackie Pressler was the chairman of the Teamsters. He came before our committee and somebody brought out that he made over half a million dollars a year and was kind of needling him that it was too much money for a labor union leader to make. He looked right up at him and said, "Well, I want you to know that almost every one of my corporate counterparts makes a lot more. And I'm worth every penny that I make for my union."

Mr. HOLLINGS. Certainly.

Mr. HATCH. I had to agree with him. I thought he was worth every penny he made, whether you agree or disagree.

What about entertainers? Do we set an amount of money they can make?

Mr. HOLLINGS. No, sir.

Mr. HATCH. Or sports figures?

Mr. HOLLINGS. Not at all.

Mr. HATCH. If Michael Jordan wants to make $60 or $80 million a year, or Tiger Woods, who is earning millions of dollars a year, should Congress be setting their salary?

Mr. HOLLINGS. I appreciate the questioning of the distinguished Senator, because it brings into sharp focus exactly what we are about here.

Mr. HATCH. Let me ask one other question. I admire some of the top corporate leaders in the world as well as the top sports figures in the world.

Mr. HOLLINGS. Exactly.

Mr. HATCH. I admire people who are innovative and creative. Take Bill Gates, for example. I admire him. I think what he has done at Microsoft is nothing short of phenomenal. But should we begrudge the fact that he has earned his spot in our society as one of the wealthiest men in the world, worth somewhere between $40 and $50 billion?

Mr. HOLLINGS. What impressed me, Senator, about Mr. Gates—I missed him the other morning because I had to be on the floor—but he has some 21,000, 22,000 individuals working for him—all millionaires.

Now, how do you like that? That is a wonderful business and industry. And it is his genius that has gotten it there. It was nothing we did in the Congress.

Mr. HATCH. Not to dwell on that industry—Steve Jobs; he deserves every penny he made. He helped make the computer industry what it is today. Isn't that correct?

Mr. HOLLINGS. That is right.

Mr. HATCH. The head of Compaq, or the head of Hewlett-Packard or Larry Ellison, the head of Oracle, or any of them for that matter are all very wealthy people who some people think lucked their way into this wealth. I happen to believe they worked hard and with innovation and creativity they were able to make this kind of compensation.

Are they really that much different from really top-notch plaintiffs' lawyers like the Castano group lawyers who really made a difference here and who are responsible for bringing the tobacco industry to the table and getting their agreement on the $386.5 billion settlement?

Mr. HOLLINGS. Exactly.

Mr. HATCH. Nobody has been able to accomplish what these attorneys have achieved. They brought the whole tobacco industry to their heels and tried to get the U.S. Congress—at least the Senate, so far—to try to do something about the deplorable behavior of tobacco companies. Isn't that correct?

Mr. HOLLINGS. That is correct, Senator.

Mr. HATCH. Don't you think they deserve better than average compensation for that significant accomplishment?

Mr. HOLLINGS. At least what is agreed to. They are complaining about an agreement that you didn't make and I didn't make and we have a responsibility to leave alone.

Mr. HATCH. Let me ask the Senator this question. If the Senate falls to pass this bill and we wind up doing nothing here or if we cut out the attorney fees, they could wind up not recouping the $40 to $100 million in legal time and other expenses that they have incurred in this matter; isn't that correct?

Mr. HOLLINGS. Exactly.

Mr. HATCH. Isn't that what contingency fees are all about?

Mr. HOLLINGS. Contingency fees are absolute risk. You are assuming the cost.

Mr. HATCH. When I tried cases for plaintiffs on contingency fees, I won most all of them. It was not a matter of not getting paid, because I was always able to win a bigger verdict than I could have gotten through settlement or they could have gotten through settlement.

The fact of the matter is, if I hadn't won the cases, I would have assumed those losses; isn't that right?

Mr. HOLLINGS. I have done it. I have lost that.

Mr. HATCH. My point is, that is why contingent fees are so important. A lot of the people who came to me could in no way have spent a day in court without a contingency fee lawyer who was willing to take the risk of bringing their case before a jury and trying to recover just compensation for them before that jury; isn't that true?

Mr. HOLLINGS. That is correct.

Mr. HATCH. I have been there, and I have to say, when we start setting salaries for attorneys, or any other group of people, that is going to be the end of the free market system, as far as I am concerned.

Mr. HOLLINGS. No question about it.

I see the distinguished managers of the bill. Let me yield the floor.

Mr. HATCH. Will the Senator yield so I can compliment the two managers. I want to compliment the managers for the provision contained in this bill that resolves these matters. You have taken a reasonable set of language and a provision that would resolve the question of reasonable legal fees. I think both manages on this bill deserve credit for having done that.

I will have more to say on this issue later. I am sorry I interrupted my colleague, but I wanted to ask him these questions, since he had spoken so eloquently.

Mr. MCCAIN. Mr. President, we had agreed earlier that, pending negotiations with Senator NICKLES, there would be a modification of the Kerry amendment, which was not tabled. Following that language being accepted, then the Kerry amendment would be taken on a voice vote.

The debate has been on the Sessions-Faircloth amendment, which has not been propounded. We would like to have Senator SESSIONS come over and propound his amendment at that time, and then Senator KERRY would move to table the Sessions amendment.

At this time, I yield the floor so that Senator KERRY can modify his amendment to which Senator NICKLES and others have agreed.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, it is my understanding then—and I ask unanimous consent that after my modification we would proceed immediately to the vote on my amendment—subsequent to that, there would be a 45-minute period of debate evenly divided on the Sessions amendment, at which time that would be followed by a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2689, AS MODIFIED

Mr. KERRY. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. BOND, Mr. CHAFEE, Mr. KENNEDY, Mr. DODD, Mr. WELLSTONE, Mr. JOHNSON, Mrs. BOXER, Mr. SPECTER, Ms. LANDRIEU, Mr. DURBIN, Mr. GRAHAM, Mr. BINGAMAN, and Mr. KOHL, proposes an amendment numbered 2689, as modified.

Mr. KERRY. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 2689), as modified, is as follows:

On page 201, line 20, strike from the comma through line 21, and insert ";" after "Act."

On page 203, line 7, strike from the comma and all that follows through line 14, and insert a period after (b)(2) on line 7.

At the appropriate place insert the following:

( ) ASSISTANCE FOR CHILDREN.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) of section 452 for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2689), as modified, was agreed to.

Mr. KERRY. I move to reconsider the vote.

Mr. NICKLES. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. I ask my friend from Oklahoma if he wanted to proceed. I think we are going to proceed according to the unanimous consent request, which is to go immediately to the Sessions amendment.

Is that the understanding of the Senator from Oklahoma?

Mr. NICKLES. Yes.

Mr. President, I just want to thank both my friend and colleague from Massachusetts, as well as from Arizona, for accepting this modification. The modification did a couple of things. One, as I stated prior to the vote, we didn't want to pass an expansion that would basically take the means testing off of the child care development block grant, nor did we want to change the allocation or the ratio of the State match. We have corrected that.

I thank my friends and my colleagues for doing that. I have no objection to the unanimous consent request.

Mr. KERRY. Mr. President, just so the legislative record is absolutely clear here, there was, in the underlying bill, a change in section 418 of the Social Security Act which actually transfers money to the child development block grant. What we arrived at was an agreement that there was no intention to change the means testing and/or distribution with respect to section 418.

However, it is the understanding of the Senator from Oklahoma and the Senator from Massachusetts that as to the money that goes directly to the child care development block grant through the tobacco trust fund, that money may be disbursed according to the terms of the Kerry-Bond amendment.

Mr. MCCAIN. Mr. President, I want to take a second to thank the Senator from Oklahoma. He and his very capable staff have been through this bill with a fine-toothed comb. By the way, I say this with full understanding that the Senator from Oklahoma does not agree with this legislation. But what he and his staff have done has been extremely constructive.

There have been several provisions, as would be the case with a very large bill, where mistakes were made either through unintentional or erroneous technical printing of the bill.

This is not the first time that the Senator from Oklahoma has found unintentional provisions of the bill violating existing law and the jurisdiction of other committees, and I appreciate very much his effort, because I think whether the bill passes or not, it has been significantly improved due to his efforts.

Mr. NICKLES. I thank my friend.

Mr. KERRY. Mr. President, part of our agreement, and I want to make sure that Senator MCCAIN agrees, and I ask further modification of the unanimous consent request, simply to say that, after disposition of the Faircloth-Sessions amendment on attorney's fees, it is then agreed that it would be the Democrats' opportunity to offer an amendment.

Mr. MCCAIN. Reserving the right to object, and I won't object, the Senator knows that we always have an objection from this side, but we have always acted back and forth. I can assure the Senator that, if necessary, I will seek first recognition so that the amendment from that side could be allowed.

Mr. KERRY. I thank the Senator. That is certainly the fair way we have been moving. I thank the manager for his continued effort to make sure we move that way.

Let me say for Members who are trying to understand exactly where we are going, the amendment we voted on earlier this afternoon, the Kerry-Bond amendment which carried by 66 to 30-something, was passed by the Senate by voice vote.

We will now proceed to have 45 minutes of debate remaining on the amendment on attorneys' fees, at which point there will be a motion to table and we will vote again this evening in about 45 minutes on that amendment, at which point we will then lay down an amendment. I am not sure what the intentions of the majority leader will then be with respect to scheduling a vote on that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2701

(Purpose: To limit attorneys' fees)

Mr. FAIRCLOTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH], for himself, Mr. SESSIONS, Mr. MCCONNELL, and Mr. GRAMM, proposes an amendment numbered 2701.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. 17. ATTORNEY'S FEES AND EXPENSES.

(a) FEE ARRANGEMENTS.—Subsection (c) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation);

(6) retainer agreements; or

(7) other arrangement providing for the payment of attorney's fees.

(b) APPLICATION.—This section shall apply to all fees paid or to be paid to attorneys under any arrangement described in subsection (a)—

(1) who acted on behalf of a State or politicial subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies tobacco-related expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection; or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection.

(c) ATTORNEY'S FEES.

(1) JURISDICTION.—The determination of attorney's fees for compensation subject to this section shall be within the jurisdiction-of—

(A) the court in which the action for which the claimant attorney is making a claim is pending; or

(B) an arbitration panel selected by the parties or otherwise selected by law.

(2) CRITERIA.—In the determination of attorneys' fees subject to this section, the court or arbitration panel shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment, a substantial settlement, or a successful negotiation towards a global settlement agreement for submission to the Congress;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous and reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(i) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation including—

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or substantial settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) Whether the original fee arrangement includes a fixed or a percentage fee;

(J) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on a chronological progression of relevant developments from the 1994 Williams document disclosures to the settlement negotiations and the subsequent Federal legislative process; and

(K) Whether this Act or related changes to State laws increase the likelihood of success in representations subject to this section.

(3) LIMITATION.—Notwithstanding any other provision of law, any attorneys' fees or expenses paid to attorneys for matters subject to this section shall not exceed a per hour rate of $1,000 in addition to 200 percent of actual out-of-pocket expenses for which detailed documentation has been provided and which have been approved by the court or arbitration panel in such action.

(4) RECORDS REQUIREMENT.—All records submitted to a court or arbitration panel pursuant to this section shall be available for public inspection and reproduction for a period of one year from the date of adjudication of the attorneys' fees.

(d) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such section to any person or circumstance shall not be affected thereby.

Mr. FAIRCLOTH. Mr. President, there has been an agreement reached that we will have a vote on this amendment after 45 minutes of debate, equally divided between the two sides.

The PRESIDING OFFICER. The Senator is correct.

Mr. FAIRCLOTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, before the Senator proceeds, can I ask how is the time being allotted to both parties during the quorum call?

The PRESIDING OFFICER. Time is charged to the Senator who suggests the absence of a quorum, unless it is asked for otherwise.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the time under the quorum calls be equally divided. I did not specify that.

Mr. KERRY. Reserving the right to object, and I will not object. I think it is important to keep moving and we will do that. Mr. President, I will not object.

The PRESIDING OFFICER. Without objection, the time during quorum calls will be charged equally to both sides.

Mr. FAIRCLOTH. Senator SESSIONS is coming to the floor and will be here momentarily to speak on the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask the Senator to yield me such time as I may require.

Mr. FAIRCLOTH. I am delighted to do so.

Mr. WARNER. Mr. President, I rise in strong support of this amendment. This effort on behalf of the U.S. Senate has a laudable and commendable goal to reduce smoking among teenagers. But I regret that I will not be able to support the bill for many reasons; foremost among them is the fact that we are trying to enable a certain class of lawyers who, in many instances, I am sure have rendered legal services of great value, but others of questionable value. We will set precedence for the collection of legal fees that have never, in my memory as a lawyer, been established in the history of this country. I joined the distinguished Senator in a similar amendment to curtail these fees.

I feel that the people of this country will sit back in absolute stunned shock should legislation pass that did not in some way try to properly and fairly compensate attorneys, but not do so at the levels that have been discussed in the course of this legislation.

I lend my strong support to this amendment.

Mr. President, the other features of this legislation which trouble me greatly is the concept of passing on to a class of persons who still use tobacco, which is perfectly legal to do so, an onerous tax, particularly on a class of persons that really in many respects are least able to pay the tax. What we are doing is like the old days in the West. We are going out and deputizing sheriffs to be tax collectors. We are actually creating their own deputy tax collectors now to go out and collect this tax. We are scrambling around here trying to figure out how to spend it.

I just cannot support legislation that increases, I think, in a most unfair manner a tax on this class of individuals.

This morning I watched, as I am sure many do, the various shows, television and news reporting shows about the reaction of the American public to this legislation. They had a group of young people on. They all admitted to the fact that they smoked. Some said they wished they didn't and would like to get off of it. I also find disturbing that we are putting a tax on a number of people—I don't know how you calculate the number—who are smoking and would like to get off, but they simply cannot for various personal reasons muster the strength to do so. But they are going to get punished.

But these young people are almost mocking the effort of the Congress thus far in dealing with this issue of smoking. Raising the cost of a pack of cigarettes is simply not going to, in my judgment, in any significant way curtail the smoker. It is just not going to do it.

I am proud, like most in this Chamber, to have raised children who are grown now. We know the nature of young people. If we raise the price per pack of these cigarettes, it will almost be a challenge for them to go out and in some way find the money to purchase cigarettes and use them almost as a status symbol. Indeed, I think we run the risk—and others have discussed this in great detail—of creating a black market situation and almost induce criminality among the younger generation.

For that and many reasons, eventually I will cast my vote against this legislation.

But on this issue this is, I think, the best attempt that I have seen thus far to try and recognize the injustice we are inflicting on people through taxation and that a class of beneficiaries of lawyers will be unjustly enriched.

Mr. President, I strongly support this amendment. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in support of the amendment by the Senator from Alabama and the Senator from North Carolina to try to put at least some limit or some reasonableness on legal fees in this bill.

I have heard some of my colleagues say, "Wait a minute. What about the Michael Jordans and the Bill Gates, and others?" They are not compensated out of the public trust fund that comes from a tax, that comes from a fee, whichever you want to call it. I call it a tax that is set up by Congress. Congress is in the process of raising taxes and fees in the first 5 years of $102 billion. That is a lot of money. And over the 25-year period, you usually hear the figure of $516 billion. But it is a lot more than that. $516 billion doesn't index for inflation, and so on. We have already had charts on the floor that show it to be up to $880-some billion. That doesn't even count the amendment of Senator DURBIN that was passed the other night that increased the look-back penalties from $4 billion a year to about $7.7 billion a year. So we may well have a tax package that over the next 25 years will transfer from consumers—not tobacco companies, from consumers—maybe $900 billion; maybe closer to $1 trillion.

These legal fees are coming out of this fund. This is a fund created by Congress. If this bill should become law—and I hope and pray that it doesn't, but if it does—these moneys are mandated by an act of Congress, and we have every right to say we want to make sure that the money goes to where we intend it to go.

I have heard everybody say we want it to go to reduce teenage consumption of tobacco. Now we say and also consumption and addiction to drugs. I think likewise we have every right—as a matter of fact, we have an obligation—to make sure that we don't spend excessively on legal fees. We want the money to go to its stated purpose—not to be going to enhance a few trial attorneys. In some cases these trial attorneys would become not just millionaires but billionaires.

Mr. President, there was an article in the Washington Times on June 7th. It talked about attorneys saying they deserve up to $92,000 an hour. This is written by Joyce Price in the Washington Times. It goes on. I will read a couple of paragraphs and insert it in the RECORD.

It says the Orioles owner in Baltimore, Peter Angelos, who earlier this decade earned about $250 million for representing ailing factory workers exposed to asbestos, stands to receive as much as $875 million if he settles the State suit against tobacco companies to recover the cost of treating a smoking-related illness. It goes on. It talks about the Florida case. It talks about the Texas case. It talks about the total settlement of $113 billion. But the trial attorneys would receive $2.8 billion, or as much as 24.7 percent of the total received in Florida. In Texas, the total amount of settlement was $15.3 billion in legal fees and $2.2 billion or $2.3 billion, or about 15 percent.

Mr. President, those are outlandish fees. Those are fees in the neighborhood of $100,000 per hour. If those States negotiated, maybe that is one thing. But for crying out loud. We shouldn't set up a fund that is going to compensate trial attorneys all across the country to receive those kind of fees, and act like we are doing it so we can reduce teenage consumption and addiction to tobacco. That is ridiculous.

Certainly it makes sense for us, if we are going to create this trust fund, if we are going to have amendments, as my friend and colleague from Massachusetts just had, an amendment which said let's spend maybe $2 billion more in child care development. I didn't support it. He won. He had the votes; congratulations to him. But we have the authority to say here is where the money is going to go. This is Congress. So he won on his amendment. I don't agree with it. I think it further confirms that this bill is a tax-and-spend bill.

But on the spending side we have a right to say we are going to limit on how much money we are going to spend in administrative costs and in legal fees. I think it is one of the most important amendments that we have.

I urge my colleagues to vote yes. I will tell my colleagues if they don't support this at $1,000 an hour we are going to come back with another one and maybe another one. Where is the limit going to be? Surely we are going to have a limit?

I ask unanimous consent that an article from the Washington Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 7, 1998]

LAWYERS, STATES TUSSLE OVER TOBACCO-SUIT FEES

(By Joyce Howard Price)

ATTORNEYS SAY THEY DESERVE UP TO $92,000 AN HOUR; OFFICIALS SAY THIS WOULD ROB THE PUBLIC

Orioles owner Peter Angelos, who earlier this decade earned about $250 million for representing ailing factory workers exposed to asbestos, stands to receive as much as $875 million if he settles the state's suit against tobacco companies to recover the costs of treating smoking-related illnesses.

And Mr. Angelos is far from being the only lawyer who could reap a staggering windfall from tobacco settlements.

Lawyers in six of the 12 private law firms that helped negotiate Florida's $11 billion tobacco settlement are refusing a deal that would let them share at least $280 million in legal fees for their efforts.

Instead, the firms—most of which used only one lawyer in the tobacco talks—want in excess of $2.5 billion, or as much as $280 million per practice, over 25 years, and they've gone to court to try to get it, says Jim Peters, special counsel in the Florida Attorney General's Office.

"The lawyers laugh at a payment of $280 million for all 12 law firms, which would be more than $23 million per attorney. One lawyer said that wouldn't be a decent tip for his house staff," Mr. Peters said in a telephone interview.

There's a similar financial flap among lawyers who represented the state of Texas and other plaintiffs in a class-action suit against tobacco companies that was settled for $15.3 billion. There, Gov. George W. Bush is fighting a contingency-fee agreement authorized by the state attorney general and upheld by a federal judge that will give the lawyers 15 percent of the recovery, or $2.3 billion over 15 years.

"This is simply a giveaway of the state's money," Lester Brickman, professor of legal ethics at the Benjamin N. Cardozo School of Law in New York, said of the fortune Mr. Angelos could receive.

But Mr. Angelos, in an interview, countered: "We competed with five other firms, and we were selected. We have a contingency-fee contract that will provide us with 12½ percent of recovery if we win the case [against tobacco companies]. If we lose, we would receive no fee."

As of April, the tobacco industry had already offered Maryland $4 billion to settle its tobacco lawsuit, which would give Mr. Angelos $500 million. But the Baltimore lawyer said Friday he expects the state will receive "a little better" than $7 billion, which would entitle him to $875 million.

Mr. Angelos pointed out that his firm will pay all litigation costs, which he says could run anywhere from $1 million to $50 million.

"We have discussed a [possible] reduction of the fee. We're reasonable," he said, but added he has nothing for which to apologize. "A San Francisco law firm that competed with us offered to underwrite $1 million but they wanted 40 percent of recovery," he said.

Legal compensation experts say Sen. John McCain's tobacco bill, the fate of which the Senate could decide this week and which has no limits on attorney fees, promises to make billionaires out of some plaintiffs' lawyers who are already millionaires.

"That is jackpot justice for the trial lawyers, who are already Washington's ultimate special-interest group," said Sen. Lauch Faircloth, North Carolina Republican, who, with Sen. Jeff Sessions, Alabama Republican, tried unsuccessfully to set a $250-an-hour cap on legal fees paid out under proposed federal tobacco legislation.

Undeterred, the senators plan to try again with a higher legal-fees cap, possibly as much as $1,000 per hour, aides said.

But Mr. Brickman of the Cardozo law school said contingency-fee lawyers "do not keep hourly time records." He explained: "They recognize an effective hourly rate would be thousands and thousands of dollars per hour, and such figures would be a public relations disaster," he said.

Mr. Brickman estimates that the Texas lawyers spent, at most, 25,000 hours on their case, which did not go to trial. "The Texas lawyers will be getting $2.3 billion, or $92,000 an hour. . . . I think the Florida lawyers will get $15,000 to $25,000 per hour," he said.

Stephen Later, legislative counsel for Mr. Faircloth, noted that Texas Attorney General Dan Morales already has said taxpayers in that state will be paying a share of the $2.3 billion in legal fees that a federal judge has approved in that state's $15.3 billion settlement.

"It's immoral to reach into the pockets of working-class taxpayers in order to send billions of dollars to trial lawyers so they can buy another Lear jet, another vacation home or another private island," said Mr. Faircloth, who is also mindful about how much tobacco companies in his state are required to pay in litigation fees.

"We all know attorneys are paid well in our society. But these are the mother of all attorneys' fees. We're talking about the greatest attorneys' fees in the history of the world," said John Cox, spokesman for Mr. Sessions.

The goal of the tobacco settlements "was to recoup Medicaid money the states spent to treat patients with smoking-related illnesses and to prevent youth smoking. It's not right for these lawyers to walk away with this kind of money," Mr. Cox said.

The McCain bill calls for legal fees to go to arbitration, which has no fee limits.

Asked to comment on the size of some of the legal fees being discussed, Scott Williams, a tobacco industry spokesman said, "The industry will pay reasonable attorneys' fees as determined by independent [arbitration] panels." He did not quantify that statement.

Mr. Later, spokesman for Mr. Faircloth, noted that staggering legal fees aren't the only way the McCain anti-smoking measure will ensure extreme wealth for many trial lawyers. The measure has been amended to remove a proposed $8-billion-a-year liability cap, he said, so "there will be a rush to courthouses all over the country" by trial lawyers representing plaintiffs in tobacco suits. An estimated 800 liability lawsuits against the tobacco industry are currently pending, an industry official said.

Mr. Peters of the Florida Attorney General's Office said the compensation law firms receive from that state's tobacco settlement will just be the first of many lucrative payments. "Some of these legal firms represented 25 or 30 states" that brought class-action lawsuits against tobacco firms, he said.

An editorial last week in the Wall Street Journal described Richard Scruggs, a Mississippi lawyer who helped broker tobacco settlements in three states and who is representing at least another seven states as a "tobacco billionaire-in-waiting." Mr. Scruggs happens to be the brother-in-law of Senate Majority Leader Trent Lott, Mississippi Republican, said Mr. Brickman.

Wayne Hogan, a Jacksonville, Fla., lawyer, said in a telephone interview it would "not be appropriate" to say whether he wants to receive $280 million for his work in the Florida settlement, since that's a matter to be settled by arbitration.

"But the work done was monumental and very risky, and it resulted in the disclosure of documents that were hidden behind the closed doors of attorney-client privilege," Mr. Hogan said in an interview.

"And the work achieved a result for Florida taxpayers that was tremendous for public health," he added.

Asked if he would be satisfied with $23 million in compensation, Mr. Hogan replied, "That would be less than what the contract [between the state and trial lawyers] called for."

That's where Florida state officials and the lawyers disagree. Mr. Peters and Gov. Chiles argue that under a contingency-fee contract

> authorized by state law, Mr. Hogan and other private lawyers are entitled to an amount "not to exceed" 25 percent of the Medicaid funds spent to treat smoking-related disorders or "an amount that's commercially reasonable."
>
> If the fees issue goes to arbitration, Mr. Peters said, it's virtually certain the "reasonable" fee the panel would award would exceed what the lawyers could get for Medicaid fund recovery.
>
> But Mr. Hogan and other lawyers contend that, under the contingency-fee contract that was negotiated, they are entitled to "25 percent of the [full] recovery" amount.
>
> "The lawyers filed charging liens against the state, saying they are entitled to 25 percent of everything," said Mr. Peters.
>
> "This has embargoed 25 percent of the state's first payment from tobacco companies. In other words, $187.5 million is tied down in court due to the lawyers' liens," he said.
>
> In addition, Mr. Peters said, "We had a court remove $203.3 million from our escrow account for money to pay the lawyers. This money had been earning 5½ percent interest. So we're losing $31,000 a day interest. Plus the court imposed a 1-percent handling fee. So we're out-of-pocket $35,000 a day."

Mr. KERRY. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I know the Senator from Alabama wants to go.

But let me just say to my friend from Oklahoma, I am not sure he is aware of it. All the States that have settled, the four States that have settled, not one dime comes out of the Federal Treasury; not one dime comes out of the money that is going to be raised through the tobacco industry in this bill. It is all paid by the industry. They settled. They agreed to pay the attorneys' fees. In fact, not one of the figures that the Senators have yet used in this debate is an accurate or real figure. Not one. Why? Because there is not a State where an attorney has yet been paid. Not one. And the reason they haven't been paid is that in every State it is going to arbitration. It is going to be settled by the courts. It is not going to be settled in the way they are saying. So they are talking about all of these fictitious numbers, the initial contracts. None of the new States that have come to the suits are, in fact, using the level of the early contracts with the lawyers when it was at 25 percent. Do you know what they are using? They are using about 2 or 3 percent now. This is a fictitious debate, one that we have been through before.

I will summarize some arguments about it a little bit later. I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I believe the Senator from Texas would like 3 minutes. I would be glad to yield to the Senator from Texas. I appreciate his leadership on this related issue. He has done a tremendous job in analyzing this legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I was yielded 3 minutes. Is that right?

The PRESIDING OFFICER. The Senator did not specify.

Mr. GRAMM. Let me take 3 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, our colleague from Massachusetts says not one cent of these settlements comes from the money in this bill. But this bill makes the payment of these settlements possible. The consumer is going to pay every penny of this in higher fees and taxes. So the net result is that while the Federal Government is not paying these bills, blue-collar workers who smoke are going to end up paying each and every one of these bills.

I want to remind my colleagues that on the front page of the Washington Times, in a story about these $92,000-an-hour fees paid to the attorneys, had the following quote:

> The lawyers laugh at a payment of $280 million for all 12 law firms, which would be more than $23 million per attorney. This is $23 million an attorney that they are talking about as a payment. "One lawyer said that wouldn't"—that is, $23 million—"be a decent tip for his house staff."

Twenty-three million dollars would not be a decent tip for his house staff. How many Americans think $23 million is a pittance? The fact that we have in this bill $92,000 an hour for plaintiffs' attorneys is piracy; it is outrageous; it is predatory on the working men and women of this country who have to work hard for a living. Many of them have become addicted to tobacco and nicotine, and they are going to have to pay higher prices and higher taxes to pay $92,000 an hour to attorneys who say a $23 million payment for an individual attorney "wouldn't be a decent tip for his house staff."

If people do not have their stomachs turned at this kind of behavior, at this predatory, outrageous behavior, then absolutely nothing will turn their stomachs. I believe we have an obligation to limit these fees to protect working Americans who will have to pay these prices.

It is important to note that we already have in the bill a procedure whereby the Federal Government is sanctioning these fees with a review by attorneys. What the Senator from Alabama is saying is, rather than having a group of lawyers review these fees for $92,000 an hour, rather than having the provision which was in the original bill, we ought to have a clear definition, and the Senator from Alabama has defined it very simply: Give them $1,000 an hour. How many waitresses or truck drivers who will be paying this tax will take $1,000 an hour? Every single one of them.

The PRESIDING OFFICER. The Senator has used his time.

Mr. KERRY. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 17 minutes 34 seconds remaining; the Senator from Alabama, 5 minutes 23 seconds.

Mr. MCCAIN. Mr. President, could I ask the indulgence of my colleagues: We have a colleague who has to leave in about 7 minutes, if we could possibly consider yielding back some of the time so that the Senator from Arkansas, who has an engagement, could vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I thank the Senator from Texas. And he referred to the proposal in the bill dealing with attorneys' fees. I say it is, at best, ambiguous, and it is a testament to the drafters, in my opinion. I am not sure what it means, but it says this: If the attorney involved is unable to agree with the plaintiff—that is, the attorney general—with respect to any dispute that may arise between them regarding the fee agreement, then they can go to arbitration.

Now, what does that mean? When you go to arbitration, you have a fee agreement. You are talking about the agreement. Now, some argue, well, this agreement allows the arbitrators to go around the fee agreement. To that I would say, if so, then the legislation already provides for the undermining, going around the agreement. You can't have it both ways.

But I submit to you that it is particularly interesting. The arbitration panel is composed of three persons, one chosen by the plaintiff, which is the attorney general; one chosen by the attorney, which is the plaintiff's lawyer; and those two choose the third one. Those are the people who entered into the agreement. What kind of agreement is going to come out of arbitration from that?

Let me just say that the $2.5 billion for four lawyers in Texas equals about $500 million each. That is more than we spend each year on diabetes in the United States. That is the kind of money we are talking about—$2.5 billion.

Let me make a couple of other points. The arbitration clause, as I pointed out, is ineffective and totally a sham, in my opinion, and will not protect the taxpayers. Of contract rights, they say you can't violate a contract. And this I say would be the principle we are dealing with: A person who signs a contract can keep the U.S. Congress or any other agency from passing a law that conflicts with that contract. It is just that simple.

That is the traditional law of America. We do it when we alter the minimum wage. Nobody has been crying that the tobacco companies' contract to run advertising is going to be terminated by these things. When Congress legislates comprehensively, it can legislate on matters involving contracts. It is done every day. And I remind the Members of this body that, under the Equal Access to Justice Act, the top fee is $125; under Criminal Defense Attorneys, they are paid $75 per hour. I think this fee is particularly generous, Mr. President. I will share this with the body. Everybody has been talking about how much this body is influenced by tobacco contributions. I want to say I didn't take any contributions from tobacco, and I do not take tobacco contributions. But this is instructive about the influence and the involvement of trial lawyers from 1990 to 1994. And I submit they have been more heavily involved in recent years. But we have these numbers.

Plaintiff lawyers in these States: Alabama, my home State, Senator GRAMM's State of Texas, and California, gave $17 million. During that time, the Democratic National Committee in all 50 States gave $12 million; the Republican National Committee in all 50 States gave $10 million; big oil in Alabama, California, and Texas gave $1.8 million.

I don't consider that determinative of this issue, but I would just say this. I think some people need to ask themselves some serious questions about public policy. If they care about children, if they care about fairness and justice, if they care whether or not they tax a waitress $1,000 a year for her cigarettes, should we be turning that money over to lawyers who are making $92,000 per hour? I submit it is unconscionable, it is something that should not happen. It is a matter of the greatest importance to this body, and I ask that this amendment be supported.

Mr. GRAMM. Will the Senator yield for a question?

Mr. SESSIONS. I yield to the Senator from Texas.

Mr. GRAMM. I am sure the Senator has seen thousands of articles where outside groups rate how much money people received from groups that had interests before the Congress. You have seen thousands of those articles. Have you ever seen any of those groups rate how much money plaintiffs' attorneys have contributed on a bill where the plaintiffs' attorneys are the single largest beneficiary of the bill?

Mr. SESSIONS. I have not. I think it is an absolutely appropriate question to ask. I think it is appropriate to ask how much tobacco gives. I think it is appropriate to ask how much trial lawyers give. And my best judgment is, the trial lawyers are giving more to this body than tobacco companies.

The PRESIDING OFFICER. The Chair will advise the time allotted to the Senator from Alabama has expired.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will be brief and this side will be brief. We will yield back some time. I know my colleagues have pressing flight schedules. I yield myself such time as I may use.

Let me say to my colleague from Texas, earlier this morning he was on the floor of the U.S. Senate suggesting how outrageous it was for the U.S. Senate to tell a State what it ought to do or how it ought to spend its money. He said at that time, "If I wanted to do that, I would run for the Texas legislature—I would run for the State legislature." I assume this amendment amounts to his announcement of candidacy for the State legislature, because here he is, telling them how they can spend money in State contracts in the State.

These are private contracts. Lo and behold, here is the Republican Party that suddenly has decided it can interfere with the private contracting of private sector enterprises. I am astonished by that. Not only that, almost every single fact on which—not fact, every single assertion that they have made today, trying to claim it as a fact, is incorrect. There is no $92,000 mentioned anywhere in this legislation, and no lawyer has been paid $92,000 an hour. In fact, every single one of those cases is subject to arbitration. Take the Florida case. The judge threw it out because it was excessive—threw it out. And they are going to resolve what is an appropriate fee.

What the Senator does not say is there are a whole set of criteria they have to use to decide that fee. They have to consider the time and the labor required by plaintiff. They have to show time sheets. They are going to have to come in and prove how much time they worked. They are going to have to show how difficult the question was and the novelty of the question. They have to show they have the requisite skill for those claims or to litigate them. They have to show the amount that was involved in their litigation and the results that they achieved. And they have to show the undesirability of the action.

That is not an easy standard. I suggest the notion that arbitration—which requires both sides to come up with two additional people that they both agree on—is not somehow subject to a test is ridiculous. That is a tough process.

All the other arguments we are listening to today are the exact same arguments the Senate voted on previously. There is not one different thing here except that, instead of having Congress be the accounting factor, now they want to make the court the accounting factor. It is ridiculous.

Mr. President, I yield 2 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, although I am speaking on the same side of this proposition as did the Senator from Massachusetts, I believe it is appropriate for us to deal with this issue. Parties whose fee agreements we are interfering with have come to the Congress of the United States to ratify settlements that have already been made. If we can vote here on how much money States will receive and how they have to spend that money, if we can change the law to shift the burdens in tobacco litigation, we can address the issue of attorney's fees.

I also agree with the amendment's sponsors that we can and should set the attorneys' maximum compensation. I do not agree, however, that the amount proposed in this amendment is reasonable. It is too much for lawyers who bring lawsuits in the future, when, under this bill, it will be much easier to prevail against tobacco manufacturers. At the same time, the amount is considerably too little for those highly skilled attorneys who took on the tobacco companies on novel theories years ago, when their chances of winning were extremely remote.

If we are going to set maximum attorneys' fees, we ought to set them on a reasonable basis, a basis that fully accounts for the relative amounts of risk, skill, and investment on the lawyers' part. Unfortunately, this amendment does not do this. It does not make distinctions that I believe are fair and proper. For this reason, the amendment is not a good one, and I believe that it should be tabled.

Mr. KERRY. Mr. President, I yield 1 minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I associate myself with the remarks of the Senator from Washington. The reality is, the Senator from Texas has said in this bill it provides for $92,000 an hour to counsel. That is not true. You cannot find that on any page of this legislation. It is just not accurate. It is a fiction. It is made up out of whole cloth.

The fact is, what is provided for is, where there is a disagreement between the parties, that an arbitration panel determine what are the appropriate fees based on a set of criteria that includes the level of effort that needed to be expended, the quality of the legal counsel's work, the amount of the investment that they have made. Frankly, $1,000 an hour is too much if somebody just went and copied the case from somewhere else and then filed it. But it is much too little in the case of those who invested millions of dollars in court preparation of their own resources without knowing whether they would be victorious or not. In that case, it is much too little.

So the problem we have with this amendment is it is one-size-fits-all. That is why we adopted an arbitration approach that would allow those who have a difference to have it worked out so there would be adequate compensation, but so there would not be the kind of ripoff that is, indeed, potential without what is provided for in the underlying McCain bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I yield the remainder of my time.

I move to table the Sessions-Faircloth amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2701. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mrs. BOXER (when her name was called). Present.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Arkansas (Mr. BUMPERS) are necessarily absent.

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—50

Akaka
Baucus
Bennett
Biden
Breaux
Bryan
Campbell
Cleland
Cochran
Conrad
D'Amato
Daschle
DeWine
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Smith (OR)
Thompson
Torricelli
Wellstone
Wyden

NAYS—45

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Byrd
Chafee
Coats
Collins
Coverdell
Craig
Dodd
Domenici
Dorgan
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lieberman
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Snowe
Stevens
Thomas
Thurmond
Warner

ANSWERED "PRESENT"—2

Boxer
Lott

NOT VOTING—3

Bingaman
Bumpers
Specter

The motion to lay on the table the amendment (No. 2701) was agreed to.

FORCE DOWN LANGUAGE IN DRUG-FREE NEIGHBORHOODS ACT

Mr. INHOFE. Mr. President, I would like to enter into a colloquy with my friend, Senator COVERDELL, to clarify a situation that was brought to my attention during consideration of the Senator's Drug-Free Neighborhoods amendment to S. 1415. As an original cosponsor of the amendment, I fully support the Senator's efforts to stop the spread of drugs into our communities; however, one provision has the unintended effect of raising serious safety concerns for general aviation pilots.

Specifically, the amendment permits officers to order an aircraft to land, but does not require any reasonable suspicion of criminal activity. It also could make pilots responsible for paying thousands of dollars to reclaim their aircraft, even if they are totally innocent of any wrongdoing.

As a pilot for over 40 years, I can assure you that the "order to land" could be a dangerous and traumatic experience for a pilot. In fact, the International Standards, Rules of the Air, published by the International Civil Aviation Organization says "interceptions of civil aircraft are, in all cases, potentially hazardous."

As I understand it, the intent of the amendment was to provide additional authority to U.S. law enforcement officers to curtail border drug smuggling, which I am sure all of us agree is a laudable goal. However, because of the potential danger and immense burden to general aviation pilots, I have worked with my friends at the Aircraft Owners and Pilots Association to develop some relatively minor changes that could be done to take care of general aviation's concerns.

Mr. COVERDELL. I thank my friend, Senator INHOFE, for bringing this issue to my attention. I understand the potential safety problems involved in the "order to land" provisions, and I agree that we cannot jeopardize the safety of aircraft flying near the border for innocent purposes. I understand that we can achieve the goal of fighting drug smuggling without jeopardizing safety or undermining the rights of pilots by requiring reasonable suspicion and adding innocent owner provisions.

In fact, it was my intention to make the changes you have suggested. However, because of a parliamentary oversight, the corrections were not made prior to the vote on the amendment.

I appreciate your leadership in resolving this issue. With your assistance, I will work with the conferees should S. 1415 reach conference to make the necessary changes to resolve these problems or to eliminate the provision entirely as I understand the status quo is acceptable.

Mr. INHOFE. Thank you. I appreciate the Senator's assistance. This is an issue that is very important to general aviation pilots, and I look forward to working with you to correct this problem.

EXPLANATION OF ABSENCE

Mr. BIDEN. Mr. President, last night I was not present to vote on the two motions to table because I was in Wilmington attending the high school graduation ceremony of my godson and nephew, Cuffe Owens.

When I left the Senate yesterday, it was not clear that any votes would take place later in the evening and I did not anticipate that I would miss any votes. Nonetheless, after consultation with my colleagues, I left with the belief that, if these votes were ordered, my absence would not affect the outcome, and it did not. Had I been present, I would have voted to table the Gramm amendment, and against tabling the Daschle amendment.

Mr. McCAIN. Mr. President, after consultation with the majority leader and the Democrat leader and the Senator from Massachusetts, it is now our intention to move to an amendment on the Democratic side and lay it down, tomorrow morning debate it, and then move to a Gramm amendment after that.

It is my understanding that it is the intention of the majority leader, and I am sure he will make it clear, to have votes on these some time around 6 o'clock on Monday evening, dispose of those amendments, and it would be our intention to go back to a Democrat amendment.

I yield the floor.

Mr. McCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2702 TO AMENDMENT NO. 2437

(Purpose: To disallow tax deductions for advertising, promotional, and marketing expenses relating to tobacco product use unless certain requirements are met)

Mr. REED. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] for himself, Mrs. BOXER, Mr. WYDEN, Mr. KENNEDY, Mr. DASCHLE, Mr. DURBIN, Mr. WELLSTONE, Mrs. FEINSTEIN, and Mr. CONRAD proposes an amendment numbered 2702 to amendment No. 2437.

Mr. REED. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . DISALLOWANCE OF TAX DEDUCTIONS FOR ADVERTISING, PROMOTIONAL, AND MARKETING EXPENSES RELATING TO TOBACCO PRODUCT USE UNLESS CERTAIN ADVERTISING REQUIREMENTS ARE MET.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING, PROMOTIONAL, AND MARKETING EXPENSES UNLESS CERTAIN ADVERTISING REQUIREMENTS ARE MET.

"(a) IN GENERAL.—No deduction shall be allowed under this chapter for any taxable year for expenses relating to advertising, promoting, or marketing cigars, cigarettes, smokeless tobacco, pipe tobacco, roll-your-own tobacco, or any similar tobacco product unless the taxpayer maintains compliance during such year with the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996.

"(b) GENERAL DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702.".

(b) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following:

"Sec. 280I. Disallowance of deduction for tobacco advertising, promotional, and marketing expenses unless certain advertising requirements are met."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. REED. Mr. President, this amendment would disallow the deduction for advertising expenses for tobacco companies who violate the Food and Drug Administration rules with respect to advertising. It is a sensible and constitutionally sound way to reinforce the important provisions that are necessary to prevent easy access to smoking by teenagers. The record has shown very clearly that the history of the tobacco industry is a history of advertising that invites, entices, some would even say seduces youngsters into smoking. If we are serious about preventing teenage smoking, underage smoking, we must have effective ways to curtail the advertising to marketing that is directly targeted to youngsters in our society. The record from numerous documents released in the ongoing litigation suggest strongly, overwhelmingly that the tobacco industries have for years deliberately targeted youngsters as young as 12, 13 and 14 years old to get them to start smoking.

If we are serious about our primary goal, which is to eliminate access to smoking by underage smoker, then we must pass this amendment.

In anticipation of further debate tomorrow on this particular measure, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the information of our colleagues, there will be no further votes tonight. The Senate will debate a Democratic amendment and the Gramm amendment to the tobacco bill during the remainder of today's session and Friday's session of the Senate. The Senate could also consider the higher education bill, or vocational education, or NASA authorization, or the reauthorization of the Drug Czar office. These are all bills that are relatively noncontroversial, or there may be an amendment or two that Senators want to offer. We are trying to take advantage of time that may be available tomorrow to consider one of these bills. We want all Senators to be aware that we are trying to clear one of these four to be considered tomorrow after the Democratic amendment and the Gramm amendment. However, there will be no votes during the session on Friday. There will just be debate on these two amendments and any bill that can be cleared out of this group of four.

Any votes ordered with respect to the amendments on the legislation just identified, the tobacco bill, will be postponed to occur on Monday at a time to be determined by the two leaders, but not before 5 o'clock. We would like, though, to have those two votes back-to-back on the two amendments, if they are necessary, to the tobacco bill, as close to 5 o'clock as possible. We may begin at 5, or shortly thereafter, and have the two back-to-back. Then any vote, if necessary on any bill that is cleared, would not occur until Tuesday morning at approximately 9:30 or 10 o'clock. We will make that specific time available later.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

223RD ANNIVERSARY OF THE U.S. ARMY

Mr. THURMOND. Mr. President, for almost two and one quarter centuries, the United States Army, more than any other American institution, has stood at the forefront of protecting the borders, people, and ideals of our nation. Today, I am pleased to have this opportunity to pay tribute to the Army on the 223rd anniversary of its founding.

Formed on June 14, 1775, the United States Army is older than the nation itself, and for more than two centuries, its soldiers have stood tall as they carried out their duties patriotically and selflessly. In the history of the Army, more than 42 million Americans have raised their right hands, both in times of crisis and peace, to take an oath to protect and defend the nation from all enemies foreign and domestic. In that time, soldiers have been called to arms numerous times in order to preserve this Republic. From the Battle of Cowpens during our War for Independence, to Bosnia, where our troops help to maintain a fragile peace, those who serve prove that there is no finer citizen, no better warrior, and no more compassionate peacemaker than a soldier in the United States Army.

The success and excellence of our soldiers and Army are due to many contributing factors, but certainly the most important is that we live in a nation founded on the ideals of a democratic government. We have created a society that truly affords more liberties, more freedoms, and more opportunities than any other nation in the world. While we may have some differences amongst ourselves, and some problems which must be resolved, no quarrel or dispute will ever undermine the unity of our 50 States. It is this constitutionally mandated, democratic form of government, where every citizen is free to speak his or her mind, where every American is protected by the laws of the land, and every person has the chance to succeed that makes the United States a promised land to people throughout the globe. All of us recognize this is a nation and system worthy of defending, and our soldiers are the men and women who have volunteered to carry out this critical mission.

While our soldiers have always been "America's Finest", those who serve in today's Army are truly a breed apart. These are men and women who are well educated, well trained, and well equipped. They are individuals who possess a desire to serve, a strong sense of patriotism, and a willingness to make sacrifices so that others may be safe. We have created a fighting force that uses its mind as much as its might. A force that is able to adapt to fluid contingencies just as effectively as it is able to stick to a battle plan. There is no military force in the world that can match the abilities, capabilities, and spirit of the American soldier or the United States Army, there never has been and there never will be.

The very history of this nation and its Army helps to forge the spirit of the modern soldier. The soldier of today can look back on more than 200 years of heritage and fighting spirit that helps to mold the mettle of those who stand firm for democracy and the safety of our nation. Rogers' Rangers, who fought in the New Hampshire mountains during the French & Indian Wars are the forefathers of today's Ranger Battalions. The same grit and determination that saw the first American soldiers through a brutal winter at Valley Forge was evident in Bastogne, Belgium in 1945 when the 101st Airborne Division, though surrounded and outnumbered by German Forces, refused to surrender and by stubbornly standing fast, they helped to win the Battle of the Bulge. The bravery demonstrated by Captain Roger Donlan, a Special Forces Officer who commanded Camp Nam Dong in the I Corps Tactical Zone in 1966, who was repeatedly and seriously wounded while battling off an enemy battalion of superior size was recognized by his winning the first Medal of Honor awarded during the Vietnam conflict. Twenty-seven years later, two Special Operations soldiers were decorated with the Medal of Honor for making the ultimate sacrifice in the streets of Mogadishu, Somalia fighting to protect a critically wounded American helicopter pilot. Their sacrifice allowed that pilot to live, and their actions proved that there is no greater bond than the one between soldiers.

Throughout the Army's history, success has been based on an ability to resist complacency, and while today's soldiers are justifiably proud of their past, they are looking and working toward the future. In battle labs across the nation, soldiers, strategists, scientists, and designers are working in concert to field an Army that will be able to dominate the battlefield of the next century. Revolutions in weapons, communications, tactics, and strategy are taking place and are being incorporated into Army Doctrine. By the Year 2000, the Fourth Infantry Division will become the first fully digitized division in the Army, and by 2004 the Army will have its first digitized corps. These digitized forces will ensure that commanders know where they are, where their troops are, and where the enemy is, and with this information, dominate the battlefield. Through research and development efforts like the ones that led to the digital division, we are assured that we will remain one step ahead of any nation that might threaten our security, and that we will truly have a force capable of meeting and defeating any threat to our nation, her people, and our interests.

As we mark this 223rd anniversary of the United States Army, it is an appropriate time to celebrate the successes of that service; the sacrifices made by millions of soldiers, including the ultimate sacrifice; and the invaluable contribution these men and women have made to keeping the United States and her citizens safe and free. Indeed, the history of our Army is a proud one, and as we approach the 21st Century, I know that its future will eclipse all its previous accomplishments.

DEATH OF MAJ. GEN. JIM PENNINGTON

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who was known to many of us in this Chamber, retired Major General Jim Pennington, who passed away on June 5, 1998.

Those of us who worked on national security and veterans related matters knew General Pennington very well. He served as both the President of the National Association for Uniformed Services and the Administrator for the Society of Military Widows. In those capacities, he was an able and effective advocate for a strong defense and for providing for an appropriate quality of life for those who serve and have served the Nation as members of the armed forces.

General Pennington had an impressive career as a soldier. He joined the Army on June 6, 1944, the day the Allies invaded Normandy and began their march toward Germany and victory, and he fought in the Battle of the Bulge. In his more than 37-year career, Jim Pennington rose from the rank of private to sergeant major, and then ultimately major general, the rank he held when he retired from military service in 1981.

As many tens of thousands of other World War II veterans did, Jim Pennington used the G.I. Bill to get a college education. This was an invaluable program that not only provided an important benefit to those who spent years of their lives in military service, but it created a generation of Americans who possessed the skills and knowledge required to make the United States the world's leader in matters of commerce, global security issues, and technology.

I had the pleasure of working closely with General Pennington on a number of issues throughout his tenure as the President of the National Association of Uniformed Services and the Administrator of the Society of Military Widows. I always welcomed his advice and insight, and without question, he served the members and organizations he represented well. Jim Pennington will be greatly missed and my sympathies go out to his family and friends.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 10, 1998, the federal debt stood at $5,495,636,727,532.95 (Five trillion, four hundred ninety-five billion, six hundred thirty-six million, seven hundred twenty-seven thousand, five hundred thirty-two dollars and ninety-five cents).

One year ago, June 10, 1997, the federal debt stood at $5,351,974,000,000 (Five trillion, three hundred fifty-one billion, nine hundred seventy-four million).

Five years ago, June 10, 1993, the federal debt stood at $4,298,707,000,000 (Four trillion, two hundred ninety-eight billion, seven hundred seven million).

Ten years ago, June 10, 1988, the federal debt stood at $2,530,516,000,000 (Two trillion, five hundred thirty billion, five hundred sixteen million).

Fifteen years ago, June 10, 1983, the federal debt stood at $1,309,637,000,000 (One trillion, three hundred nine billion, six hundred thirty-seven million) which reflects a debt increase of more than $4 trillion—$4,185,999,727,532.95 (Four trillion, one hundred eighty-five billion, nine hundred ninety-nine million, seven hundred twenty-seven thousand, five hundred thirty-two dollars and ninety-five cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE GOVERNMENTS OF THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) IN RESPONSE TO THE SITUATION IN KOSOVO—MESSAGE FROM THE PRESIDENT—PM 139

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In response to the ongoing use of excessive military force in Kosovo by the police and armed forces of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia, which has exacerbated ethnic conflict and human suffering and threatens to destabilize other countries in the region, the United States, acting in concert with the European Union, has decided to impose certain economic sanctions. Consistent with decisions taken at the meetings of the Contact Group of countries, consisting of the United States, the United Kingdom, Germany, France, Italy, and Russia, in Birmingham, England, on May 16, 1998, and in Rome on April 29, 1998, the United States will impose a freeze on the assets of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro, and a ban on new investment in the Republic of Serbia. It is our intent to exempt the Government of Montenegro from these sanctions wherever possible.

The Contact Group originally agreed in Rome on April 29 to impose these sanctions in response to the increasingly dangerous situation in Kosovo and Belgrade's failure to meet crucial requirements concerning the adoption of a framework for dialogue with the Kosovar Albanian leadership and a stabilization package, as set out in earlier Contact Group meetings in London on March 9, 1998, and in Bonn on March 25, 1998. The G8 Foreign Ministers reaffirmed the need to impose sanctions at their meeting in London on May 8–9, 1998. The Russian Federation did not associate itself with these sanction measures.

At the May 16 meeting in Birmingham, England, the Contact Group welcomed the establishment of a dialogue between Belgrade and the Kosovar Albanian leadership. With the start of this dialogue, those Contact Group countries that had previously agreed to implement economic measures against the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia agreed that the proposed measure to stop new investment in the Republic of Serbia would not be put into effect and that they would review at their next meeting the implementation of the freeze on funds. However, the use of indiscriminate force by the police and armed forces of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia has undermined the basis for dialogue.

The Contact Group has concluded that the current situation in Kosovo is untenable and the risk of an escalating conflict requires immediate action. It has also found that, if unresolved, the conflict threatens to spill over to other parts of the region. The United States attaches high priority to supporting the security interests of the neighboring states and to ensuring security of borders. It is also of particular importance that developments in Kosovo should not disrupt progress in implementing the Dayton peace agreement in Bosnia and Herzegovina. This threat to the peace of the region constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States.

On June 9, 1998, by the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code, I declared a national emergency to respond to the unacceptable actions and policies of the Belgrade authorities and issued an Executive order to implement the measures called for by the Contact Group. That order freezes the assets of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro that are under U.S. jurisdiction and, in concert with the other Contact Group countries, restricts access of those governments to the international financial system. That order also prohibits new investment by United States persons, or their facilitation of other persons' new investment, in the Republic of Serbia. It is our intent to exempt the Government of the Republic of Montenegro, by means of licenses, from the prohibitions contained in the order wherever possible. That government has been included in the order to ensure effective implementation of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro), of which the Republic of Montenegro is a constituent part.

The order carries out these measures by:

—blocking all property, and interests in property, of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro, including the prohibition of financial transactions with, including trade financing for, those governments; and

—prohibiting new investment by United States persons, or their facilitation of other persons' new investment, in the territory of the Republic of Serbia.

The order provides that the Secretary of the Treasury, in consultation with the Secretary of State, is authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. Thus, in the event of improvements in the actions and policies of Belgrade with respect to the situation in Kosovo, the Secretary of the Treasury, in consultation with the Secretary of State, would have the ability, through the issuance of general or specific licenses, to authorize any or all transactions otherwise prohibited by the order. Also, in implementing the sanctions, we intend to license transactions necessary to conduct the official business of the United States Government and the United Nations. We further intend to issue licenses to allow humanitarian, diplomatic, and journalistic activities to continue.

The declaration of a national emergency made under Executive Order 12808, and expanded in Executive Orders 12810 and 12831, remains in effect and is not affected by the June 9, 1998, order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 10, 1998.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 423. An act to extend the legislative authority of the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 6:21 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3150. An act to amend title 11 of the United States Code, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 102. Concurrent resolution recognizing Disabled American Veterans.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3978. An act to restore provisions agreed to by the conferees to H.R. 2400, entitled the "Transportation Equity Act for the 21st Century," but not included in the conference report to H.R. 2400, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on June 11, 1998, he had presented to the President of the United States, the following enrolled bills:

S. 423. An act to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

S. 1150. An act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5334. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5335. A communication from the Attorney General, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5336. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5337. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5338. A communication from the Chairman of the Consumer Products Safety Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5339. A communication from the Chief Executive Officer of the Corporation for National Service, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5340. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled “Reduction In Force Retreat Right” (RIN3206–AG77) received on June 9, 1998; to the Committee on Governmental Affairs.

EC–5341. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the removal of obsolete regulations on the transfer of marine equipment; to the Committee on Commerce, Science, and Transportation.

EC–5342. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety Zone; San Pedro Bay, CA” (RIN 2115–AA97) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5343. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Madison, SD” (Docket 98–AGL–17) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5344. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Rush City, MN” (Docket 98–AGL–18) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5345. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Fergus Falls, MN” (Docket 98–AGL–6) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5346. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Colorado Springs, CO” (Docket 98–ANM–06) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5347. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments” (Docket 29241) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5348. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments” (Docket 29242) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5349. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Rugby, ND” (Docket 98–AGL–13) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5350. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Traverse City, MI” (Docket 98–AGL–16) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5351. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Wooster, OH” (Docket 98–AGL–19) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5352. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Marion, OH” (Docket 98–AGL–20) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5353. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Minot, ND” (Docket 98–AGL–21) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5354. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Class D and Class E Airspace; St. Joseph, MO; Extension of Comment Period and Correction” (Docket 98–ACE–6) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5355. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Realignment of Jet Route J–66; TN” (Docket 97–ASO–28) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5356. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class D Airspace; Minot AFB, ND; and Class E Airspace; Minot, ND” (Docket 97–AGL–61) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5357. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Eurocopter France helicopter models (Docket 96–SW–22–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5358. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Stemme GmbH and Co. Sailplanes (Docket 97–CE–129–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5359. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Pilatus Aircraft Ltd. airplanes (Docket 97–CE–09–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5360. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain SOCATA Groupe Aerospatiale airplanes (Docket 97–CE–76–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5361. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Alexander Schleicher Segelfugzeugbau sailplanes (Docket 97–CE–102–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5362. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Glaser-Dirks Flugzeubau GmbH gliders (Docket 98–CE–09–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5363. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace airplanes (Docket 98–CE–15–AD) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5364. A communication from the Acting Director of the Office of Sustainable Fisheries, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding groundfish fisheries off Alaska (Docket 971208297–8054–02) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5365. A communication from the Acting Director of the Office of Sustainable Fisheries, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “South Atlantic Swordfish Fishery; Fishery Reopening” received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5366. A communication from the Acting Director of the Office of Sustainable Fisheries, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species Fisheries; Import Restrictions” (RIN0648–AJ93) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5367. A communication from the Acting Director of the Office of Sustainable Fisheries, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Swordfish Fishery; Annual Quotas" (RIN0648-AJ63) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5368. A communication from the Acting Director of the Office of Sustainable Fisheries, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category" received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5369. A communication from the Acting Director of the Office of Sustainable Fisheries, National Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (Docket 971208297-8054-02) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5370. A communication from the Acting Deputy Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Grant Funds-Materials Science and Engineering: Laboratory—Availability of Funds" (RIN0693-ZA15) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5371. A communication from the Assistant Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding nonindigenous species research and ballast water management (RIN0648-ZA40) received on June 3, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5372. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding Pacific halibut and red king crab bycatch rate standards (Docket 961107312-7021-02) received on June 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5373. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report on the Little River Band of Ottawa Indians award under Indian Claims Commission Docket 18-E, 58 and 364; to the Committee on Indian Affairs.

EC-5374. A communication from the Acting Assistant Attorney General (Legislative Affairs), Department of Justice, transmitting, pursuant to law, the annual report on the Police Corps for calendar year 1997; to the Committee on the Judiciary.

EC-5375. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule regarding the filing and processing of permanent resident status applications by refugees and asylees (RIN1115-AD73) received on June 9, 1998; to the Committee on the Judiciary.

EC-5376. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule regarding final funding priorities for Rehabilitation Research and Training Centers and Rehabilitation Engineering Research Centers received on June 9, 1998; to the Committee on Labor and Human Resources.

EC-5377. A communication from the Assistant Secretary for Civil Rights, Department of Education, transmitting, pursuant to law, the annual report on civil rights enforcement for fiscal year 1997; to the Committee on Labor and Human Resources.

EC-5378. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the estimated cost of the premarket notification program for food contact substances for fiscal year 1999; to the Committee on Labor and Human Resources.

EC-5379. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers" (Docket 87F-0162) received on June 4, 1998; to the Committee on Labor and Human Resources.

EC-5380. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding a secondary direct food additive derived from rapeseed oil (Docket 97F-0283) received on June 3, 1998; to the Committee on Labor and Human Resources.

EC-5381. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Incentive Programs-Fraud and Abuse" (RIN0938-AH86) received on June 9, 1998; to the Committee on Finance.

EC-5382. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report on foreign unfair trade practices for the period June 1996 through January 1998; to the Committee on Finance.

EC-5383. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notice of the continuation of the waiver applicable to the Republic of Belarus; to the Committee on Finance.

EC-5384. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding rates for interest on tax overpayments and interest on tax underpayments (Rev. Rul. 98-32) received on June 9, 1998; to the Committee on Finance.

EC-5385. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Permitted Elimination of Preretirement Optional Forms of Benefit" received on June 4, 1998; to the Committee on Finance.

EC-5386. A communication from the Chief of the Regulations Branch of the Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Recordkeeping Requirements" (RIN1515-AB77) received on June 9, 1998; to the Committee on Finance.

EC-5387. A communication from the President of the United States, transmitting, pursuant to law, the report of a Presidential Determination regarding sanctions against Pakistan for detonation of a nuclear explosive device; to the Committee on Foreign Relations.

EC-5388. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license for the export of major defense services to Turkey (DTC-54-98); to the Committee on Foreign Relations.

EC-5389. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the report of a Presidential Determination regarding the waiver and certification of statutory provisions regarding the Palestine Liberation Organization; to the Committee on Foreign Relations.

EC-5390. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, the report of a Presidential Determination regarding the use of funds from the Emergency Refugee and Migration Assistance Fund; to the Committee on Foreign Relations.

EC-5391. A communication from the Secretary of Defense, transmitting, notifications of military retirements; to the Committee on Armed Services.

EC-5392. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a certification relative to the Department of Defense reduction of acquisition positions; to the Committee on Armed Services.

EC-5393. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, a report regarding allocation of core logistics activities among Department of Defense facilities; to the Committee on Armed Services.

EC-5394. A communication from the Secretary of the Navy, transmitting, pursuant to law, notification of an exception to the use of competitive procurement procedures for the acquisition of (Stage II) retrofit kits; to the Committee on Armed Services.

EC-5395. A communication from the Chief of the Programs and Legislation Division, Department of the Air Force, transmitting, the report of a cost comparison to reduce the cost of operating base supply functions at Malmstrom Air Force Base, Montana; to the Committee on Armed Services.

EC-5396. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report of the Panama Canal Treaty for fiscal year 1997; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations: Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105-211).

By Mr. COCHRAN, from the Committee on Appropriations, without amendment:

S. 2159: An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105-212).

By Mr. BURNS, from the Committee on Appropriations, without amendment:

S. 2160: An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105-213).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH of Oregon:

S. 2156. A bill to amend the Arms Export Control Act to exempt any credit, credit guarantee or other financial assistance provided by the Department of Agriculture for the purchase or other provision of food or other agricultural commodities from sanctions provided for under the Act; to the Committee on Foreign Relations.

By Mr. CLELAND (for himself, Mr. KERRY, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 2157. A bill to amend the Small Business Act to increase the authorized funding level for women's business centers; to the Committee on Small Business.

By Mr. ROBERTS (for himself, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. BURNS, Mr. CRAIG, Mr. BAUCUS, Mr. LUGAR, Mr. KERREY, Mr. GORTON, and Mr. KEMPTHORNE):

S. 2158. A bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities; to the Committee on Foreign Relations.

By Mr. COCHRAN:

S. 2159. An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BURNS:

S. 2160. An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending Sepetember 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. THOMPSON (for himself and Mr. BREAUX):

S. 2161. A bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MACK (for himself and Mr. GRAMS):

S. 2162. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. THURMOND, Mr. SESSIONS, and Mr. KYL):

S. 2163. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 2164. A bill to amend title 49, United States Code, to promote rail competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2165. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. LEAHY, and Mr. JOHNSON):

S. 2166. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in such Acts through fiscal year 2002, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself and Mr. GRASSLEY):

S. 2167. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MURKOWSKI:

S.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting the terms of Senators and Representatives; to the Committee on the Judiciary.

By Mr. INOUYE:

S.J. Res. 53. A joint resolution to express the sense of the Congress that the President should award a Presidential Unit Citation to the final crew of the U.S.S. INDIANAPOLIS, which was sunk on July 30, 1945; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 247. A resolution to authorize testimony, document production, and representation of Member and employees of the Senate in United States v. Jack L. Williams, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND (for himself, Mr. KERRY, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 2157. A bill to amend the Small Business Act to increase the authorized funding level for women's business centers; to the Committee on Small Business.

SMALL BUSINESS ADMINISTRATION WOMEN'S BUSINESS CENTER AUTHORIZATION ACT

Mr. KERRY. Mr. President, I am delighted to join the Senator from Georgia, Senator CLELAND, in introducing legislation with him to expand the authorized level of the Small Business Administration's Women's Business Centers. I appreciate the leadership of the Senator from Georgia on this issue.

We must provide and over the last few years have provided strong support to help women business owners meet their greatest potential. I am happy to say this bill does just that. The additional funding that would be authorized in the bill will ensure that the SBA is going to achieve the goal of establishing the Women's Business Center in every single State by the year 1999. It will also be used to expand the existing very successful Women's Business Centers in the currently underserved areas of their States.

Just 10 years ago Congress established a demonstration program to help women-owned businesses gain access to capital and assistance, technical assistance, in business development. This program has proven to be a really remarkable success. It has served nearly 50,000 American women, business owners, through 54 sites in 28 States and the District of Columbia.

Women-owned businesses have made extraordinary gains over the past decade, and everyone in America is sharing the economic advantage that has resulted from their endeavors. Current calculations by the Small Business Administration indicate that women now own one-third of all U.S. firms—more than 8 million businesses. Women-owned businesses employ one out of every five U.S. workers, a total of 18.5 million employees, and more people than the Fortune 500 companies. Each year, women-owned businesses now contribute more than $2.38 trillion into the national economy.

In Massachusetts, where 147,000 women-owned businesses account for over one-third of all our companies, the Center for Women and Business Enterprise has worked to empower women in becoming economically self-sufficient through entrepreneurship. The center provides in-depth courses, workshops, one-on-one counseling, and access to financing for women.

Unfortunately, notwithstanding this extraordinary record of women-owned business, credit has always been something that has been more difficult for women because of credit standards, and frankly some stereotyping that historically has taken place.

Since its inception in 1995, my State's Women's Business Center has served more than 1,000 women business owners, 40 percent of whom are minorities. One hundred cities and towns in eastern Massachusetts are benefiting from the programs and the activities that are available at the center.

I will share a couple of real stories of how this has worked and what it has done. Renata Matsson came to the Center for Women and Enterprise in October 1995 after she had developed a medical device to assist people suffering from chronic eye problems. But Renata didn't know how to transform her invention to a product in a small business. After completing an 11-week class which taught her "the language of business," she developed a detailed business plan and applied for a grant from the Small Business Administration's Small Business Innovation Research Program through the National Institutes of Health. She was recently awarded a grant of $100,000. Today she is using that grant to commercialize her technology and start her own small, business.

Another example: 16 years ago, Nancy Engel was a young mother on welfare dreaming of giving her daughter the things that she never had—a home, financial security, and a college education. Nancy took $30 from her last welfare check and bought spices, which she then repackaged and sold at a flea market. She earned $200 from that investment of her $30 from her check. She then used those proceeds to develop a small business called the Sunny Window. In 1996, she enrolled in the Center for Women and Enterprise's business planning course. Since she completed the course, Sunny Window has grown and now generates $250,000 in annual revenues selling spices, dried flower arrangements and soaps throughout the world. It now employs seven women with what Nancy calls "part-time mothers' hours." Nancy was recently named the U.S. Small Business Administration's first Welfare-to-Work Entrepreneur of the Year for Massachusetts. Soon she will be volunteering for the Center for Women and Enterprise, assisting other women entrepreneurs who are trying to make the very difficult transition from public assistance to running their own small business.

These are just two of a myriad of stories, wonderful stories, of success as a result of our efforts at the Federal level to assist women-owned businesses. These success stories are, however, juxtaposed to the reality that far too many women still face unnecessary obstacles to developing their own businesses, ranging from the lack of access to capital to a lack of access to government contracts, to a lack of access to business education or even to training opportunities, not to mention some of the fundamental resistance that has, unfortunately, existed with respect to women's efforts to try to engage in entrepreneurial activities.

We need to expand on the policies and programs that allow women entrepreneurs to grow and to thrive. In turn, it is clear their successes will benefit our country and all of our communities. We know that women entrepreneurs are now breaking records. Women-owned business have a startup rate twice that of male-owned counterparts. Between 1987 and 1992, the number of women-owned businesses increased by 43 percent while business overall grew only 26 percent.

Particularly notable, women-owned companies with 100 or more workers increased employment by 158 percent, more than double the rate for all U.S. firms of similar size. These accomplishments illustrate the importance of women-owned businesses to our economy, and they underscore why we in Congress should support their growth and development.

Last year, I was proud to be an original cosponsor of the Women's Business Centers Act of 1997, which doubled the authorization of funding for women business center programs to $8 million for each of the next 3 years. I was extremely pleased that the major provision of that bill, as well as a mandate for the SBA to conduct studies on how women businesses fare in the contracting and finance areas, was included in the Small Business Reauthorization Act of 1997 and was enacted into law with President Clinton's signature.

The legislation that I join Senator CLELAND in introducing today takes the next step in developing the women's business center program by increasing the authorization to $9 million in fiscal year 1999, $10.5 million in the year 2000, and $12 million in 2001. I underscore that that is a remarkably small amount of money that we are seeking to do a large job, a job which obviously is returning extraordinary results to the Nation.

This increased funding will ensure that the SBA achieves the goal of establishing at least one women's business center in each State by the end of the year in 1999 and will strengthen and expand the existing centers. I also continue to support the development of the women's on-line center, which is a very useful tool for women businessowners—especially those located in rural areas—who want to avail themselves of the women's business center technical expertise.

The legislation that Senator CLELAND and I introduce today is the beginning of a new advancement for women-owned businesses, and I am very proud to be a part of it. I hope that all of our colleagues will join in this important effort. I would like to take the opportunity to thank Senator CLELAND and his staff, particularly John Johnson, for the work they have done in the preparation of this legislation.

Mr. CLELAND. Mr. President, I thank the Senator from Massachusetts, Senator KERRY, for his work on behalf of small businesses. We are both members of the Small Business Committee here in the Senate.

Mr. President, I speak this morning to introduce legislation with my colleague, the Senator from Massachusetts, Senator KERRY, and fellow cosponsors, including Senators DASCHLE, LAUTENBERG, MIKULSKI, ABRAHAM, D'AMATO, BREAUX, DODD, BINGAMAN, KOHL, LANDRIEU, TORRICELLI, LEAHY, GRASSLEY, SNOWE, HARKIN, BUMPERS, and FEINSTEIN. That is an impressive bipartisan list of Senators.

This legislation, simply stated, recognizes the outstanding contributions that women's business centers have made to women entrepreneurs across the Nation. In light of this outstanding achievement in the President's budget request, I am proud to offer this measure expressing the findings of Congress that funding for these centers, these women's business centers, should be increased. I note that the centers are the only organization, nationally, that focus exclusively on entrepreneurial training for women. Increased funding would allow for new centers and subcenters to be established and for continued funding for existing centers, including the on-line women's business center. Increased funding would achieve the goal of expanding centers to all 50 States. Our legislation would increase funding for women's business centers under the SBA in steps, from the current level of $8 million to $9 million for fiscal year 1999, $10.5 million for fiscal year 2000, and $12 million for fiscal year 2001.

Mr. President, I would like to take a moment to talk about four focal points of women's business centers. The first and most important focus is the customer. These centers have responded to women's needs by offering training, and during accessible hours at nights and on weekends. In addition to regular training courses, special instructions on starting at-home child care businesses have also been offered. As the SBA Administrator Aida Alvarez points out, the number of clients served in the second year of the program increased by 40 percent. Approximately 44 percent of clients served were actually socially disadvantaged. More than 33 percent of the clients were economically disadvantaged, nearly 40 percent were minorities, and 18 percent were actually on public assistance at the time.

Then there is the community focus. Women's business centers are a network of more than 60 community-based women's business centers operating in 36 States, the District of Columbia, and Puerto Rico. Each center offers long-term training, networking, and mentoring to potential and existing entrepreneurs, most of whom could not or would not start businesses without substantial help, and each center tailors its programs to the needs of the individual community it serves.

Next is the economic focus. In terms of job growth, significantly high numbers of full- and part-time jobs were created at average hourly wages at least double the minimum wage. In the area of loan growth, the number of small loans received by clients has more than doubled since the first year of the program. In terms of small business growth, 78 percent of all center clients were startup businessowners or aspiring entrepreneurs. The centers taught them business basics and provided practical support and realistic encouragement.

The last focus is that of technology. The on-line women's business center, at www.onlinewbc.org, is an interactive state-of-the-art web site that offers virtually everything an entrepreneur needs to start and build a successful business, including on-line training, mentoring, individual counseling, topic forums and news groups, market research, a comprehensive State-by-State resource and information guide, and information on all of the SBA's programs and services, plus links to countless other resources. This site was developed by the North Texas Women's Business Development Center in cooperation with more than 60 women's business centers and several corporate sponsors. This summer, information will be available in nine different languages.

Mr. President, I want to conclude my statement by thanking the Senator from Massachusetts, Senator KERRY. I think this legislation offers small businesses and entrepreneurs in America hope, particularly women businessowners and potential women businessowners. It is the hope of a better life for oneself, one's family and community, which actually drives entrepreneurs and also drives the economic engine in this country, which is so vital to our well-being as a Nation. Women's business centers are a distributor of that hope. We in Congress need to recognize that this program works. It makes a positive difference in the lives of so many women and the countless citizens they employ.

I hope all of my colleagues will join me in cosponsoring our bipartisan legislation. I look forward to its future and timely consideration in the Senate Committee on Small Business. I thank my colleagues for the opportunity to be here this morning to present this legislation, which I think will serve the needs of so many.

Mr. ABRAHAM. Mr. President, I rise today as an original cosponsor of legislation increasing the authorization for the Small Business Administration's Women's Business Center program from $9 million in 1999 to $12 million in 2001. These centers provide management, marketing, and financial advice to women-owned small businesses.

Mr. President, the Small Business Administration's Women's Business Center program finances a number of very important initiatives at the state and local levels; initiatives that have proven crucial to women struggling to enter the job world and to start their own businesses. These initiatives have changed the lives of a significant number of women in Michigan and throughout the United States.

For example, Mr. President, Ann Arbor's Women's Initiative for Self-Employment or WISE program was started in 1987 as a means by which to provide low-income women with the tools and resources they need to begin and expand businesses. The WISE program provides a comprehensive package of business training, personal development workshops, credit counseling, start-up and expansion financing, business counseling, and mentoring. In addition to helping create and expand businesses, WISE fights poverty, increases incomes, stabilizes families, develops skills and sparks community renewal.

In addition, Mr. President, Grand Rapids' Opportunities for Women or GROW provides career counseling and training for women in western Michigan. This nonprofit group serves about 250 women per year. GROW helps women get jobs by providing them with basic training and helping them get funds for more specialized training. In addition, they help women obtain appropriate clothing so that they can start work in a professional manner.

I salute the good people at WISE and GROW for their hard work helping the women of Michigan. They provide the kind of services we need to revitalize troubled areas and empower women to build productive lives for themselves and their families.

Because the Small Business Administration's Women's Business Centers program makes these kinds of efforts possible, I believe it deserves our full support, and merits the increase in funding called for in this legislation. I urge my colleagues to support this important bill.

• Mr. LEAHY. Mr. President, I am pleased today to join with my colleagues, Senators CLELAND and KERRY, in introducing legislation that will bring the resources of SBA's Women's Business Center program much closer to those seeking this help as they work to start their own businesses. This bill does more than recognize the contributions that women make as business owners. This bill tangibly supports and encourages more women to become entrepreneurs.

The Office of Women's Business Ownership recently released a report to Congress on the success of Women's Business Centers. This report officially confirms what we already informally know: Women are interested in owning their own businesses, and women appreciate the targeted help the Centers offer that relates directly to the unique opportunities and challenges that women face in creating a business. While existing Small Business Administration offices and Small Business Development Centers help women entrepreneurs, this report found that more than three-fourths of the women who have turned to a Women's Business Center appreciate its special focus. SBA offices and SBDCs do not have the resources available to offer the same kind of help.

Our legislation will supply resources needed to establish a Women's Business Center in each of the fifty states, including in my home state of Vermont. Passage of this bill would give women in Vermont and in other states direct access to information on financing, marketing and managing their own business ventures. Under the provisions of this bill, Vermonters would have access to the wide range of resources that already are available to citizens in 36 other states.

The bill will also extend additional resources for the online Women's Business Center. This resource, located at www.onlinewbc.org, provides assistance to women who are unable to travel long distances to Centers. With this online resource, women have access to much of the same information that is available at the Centers, and they can ask questions of specialists, all with the click of a mouse. Our bill would enable the Center to expand its online services to women in business.

Even without the resources of a Women's Business Center, Vermont is a leader in women-owned businesses. The number of women entrepreneurs in Vermont has almost doubled over the last ten years. Women now own more than thirty-eight percent of all businesses in Vermont, which is above the national average of thirty-six percent. Women also employ thirty percent of Vermont's workers, which also exceeds the national average.

Women have faced unique obstacles and challenges in starting and growing businesses. Some obstacles have been lowered in recent years, and we can all hope that this progress will continue. One step we can take to promote continued progress is by bringing the resources of Women's Business Centers to more women entrepreneurs. We must encourage more Vermont women to tap into this incredible growth. An SBA Women's Business Center in Vermont will do just that by providing women with the framework and support necessary to thrive and excel as business owners.•

By Mr. THOMPSON (for himself and Mr. BREAUX):

S. 2161. A bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY RIGHT-TO-KNOW ACT OF 1998

• Mr. THOMPSON. Mr. President, today I am introducing the "Regulatory Right-to-Know Act" of 1998. I believe that this legislation will serve as an important tool to promote the public's right to know about the benefits and burdens of regulation; to increase the accountability of government to the people it serves; and, ultimately, to improve the quality of our government.

This continues the effort begun by Senator STEVENS, then the Chairman of the Governmental Affairs Committee, when he passed the Stevens Regulatory Accounting Amendment in 1996. This legislation would not change any statutory or regulatory standard; it simply would provide information to help the public, Congress and the President to understand the scope and performance of our regulatory system. As

OMB stated in its first report under the Stevens Amendment, "Over time, regulation . . . has become increasingly prevalent in our society, and the importance of our regulatory activities cannot be overstated." It is my hope that more information on the benefits and costs of regulation will help us make smarter decisions to get more of the good things that sensible regulation can deliver, and reduce needless waste and redtape at the same time. That's plain common sense.

Regulations have played an important role in improving our quality of life—cleaner air, quality products, safer workplaces, and reliable economic markets—to name a few of the good things that sensible regulation can produce. Achieving these benefits does not come without cost. In its first regulatory accounting report, OMB estimated that the annual cost of regulation of the environment, health, safety and the economy is about $300 billion. Other studies, which include the full costs of paperwork and economic transfers, estimate that regulation costs about $700 billion annually. Those costs are passed on to American consumers and taxpayers through higher prices, diminished wages, increased taxes, or reduced government services. The tab for the average American household is thousands of dollars each year—$7,000 per year by some estimates. At the same time, the public wants and deserves better results from our regulatory system. As the costs of regulation rise with public expectations of better results, the need is greater than ever to get a handle on how regulatory programs are performing, so we can find ways for our government to perform better.

It's no surprise that the seriousness of this need is not widely appreciated, because the costs of regulation are not as obvious as many other costs of government, such as the taxes we pay each year; and the benefits of regulation often are diffuse. But there is substantial evidence that the current regulatory system often misses opportunities for greater benefits and lower costs. As noted by the President's chief spokesperson on regulatory policy, Sally Katzen:

> Regrettably, the regulatory system that has been built up over the past five decades . . . is subject to serious criticism . . . [on the grounds] that there are too many regulations, that many are excessively burdensome, [and] that many do not ultimately provide the intended benefits.
>
> Our regulatory goals are too important, and our resources are too precious, to miss out on opportunities to do better.

It's time to move toward a more open and accountable regulatory system. I am pleased to be introducing this bill with Senator BREAUX. It's important that members from both sides of the aisle work together to solve these problems. I appreciate that Chairman TOM BLILEY introduced a similar bill in the House last fall, and I look forward to working with him. Finally, I appreciate the effort that a few dedicated professionals put into OMB's first regulatory accounting report. While this report is certainly not perfect, it shows that regulatory accounting is doable and can help us better understand the benefits and burdens of regulation. Now let's do better. This bill will promote some important improvements, including:

Making regulatory accounting a permanent requirement.

Adding requirements for a more complete picture, including, to the extent feasible, the costs and benefits of particular programs, not just an aggregate picture, as well as an analysis of regulation's impacts on the State and local government, the private sector, and the federal government.

Ensuring higher quality of information. Requirements for OMB guidelines and peer review should improve future reports.

Ensuring better compliance with basic legislative requirements which the first report neglected. These deficiencies include failing to recommend improvements to current programs; failing to assess the indirect effects of regulation; failing to provide information on specific programs where feasible; and failing to provide a full accounting of all mandates. This bill will help address these problems.

As OMB said in their first regulatory accounting report, "regulations (like other instruments of government policy) have enormous potential for both good and harm." I believe that better information will help us to increase the benefits of regulation and decrease unnecessary waste and red tape. I think we need to work together to contribute to the success of government programs the public values, while enhancing the economic security and well-being of our families and communities.

Mr. President, I ask unanimous consent that the "Regulatory Right-to-Know Act" be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Right-to-Know Act of 1998".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) promote the public right-to-know about the costs and benefits of Federal regulatory programs and rules;

(2) improve the quality of Federal regulatory programs and rules;

(3) increase Government accountability; and

(4) encourage open communication among Federal agencies, the public, the President, and Congress regarding regulatory priorities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) BENEFIT.—The term "benefit" means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(3) COST.—The term "cost" means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs.

(5) MAJOR RULE.—The term "major rule" means a rule that—

(A) the agency proposing the rule or the Director reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs; or

(B) is otherwise designated a major rule by the Director on the ground that the rule is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments, or communities.

(6) PROGRAM ELEMENT.—The term "program element" means a rule or related set of rules.

(7) RULE.—The term "rule" has the same meaning given such term in section 551(4) of title 5, United States Code, except that such term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) rules issued with respect to a military or foreign affairs function of the United States; or

(C) rules related to agency organization, management, or personnel.

SEC. 4. ACCOUNTING STATEMENT.

(a) IN GENERAL.—

(1) ADMINISTRATION.—The President, acting through the Director, shall be responsible for implementing and administering the requirements of this Act.

(2) ACCOUNTING STATEMENT.—Not later than January 2000, and each January every 2 years thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the costs and corresponding benefits of Federal regulatory programs and program elements in accordance with this section.

(b) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement (other than the initial accounting statement) submitted under this Act shall cover, at a minimum, the costs and corresponding benefits for each of the 5 fiscal years preceding October 1 of the year in which the report is submitted. Each statement shall also contain, at a minimum, a projection of the costs and corresponding benefits for each of the next 10 fiscal years, based on rules in effect or projected to take effect. The statement may cover any fiscal year preceding such fiscal years for the purpose of revising previous estimates.

(c) Timing and Procedures.—

(1) Notice and comment.—The President shall provide notice and opportunity for comment, including consultation with the Comptroller General of the United States, for each accounting statement.

(2) Timing.—The President shall propose the first accounting statement under this section no later than 1 year after the date of enactment of this Act. Such statement shall cover, at a minimum, each of the preceding fiscal years beginning with fiscal year 1997.

(d) Contents of Accounting Statement.—

(1) Estimates of costs.—An accounting statement shall estimate the costs of all Federal regulatory programs and program elements, including paperwork costs, by setting forth, for each year covered by the statement—

(A) the annual expenditure of national economic resources for each regulatory program and program elements; and

(B) such other quantitative and qualitative measures of costs as the President considers appropriate.

(2) Estimates of benefits.—An accounting statement shall estimate the corresponding benefits of Federal regulatory programs and program elements by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall be based on sound and objective scientific practices and shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(3) Presentation of results.—

(A) Costs and benefits categories.—To the extent feasible, the costs and benefits under this subsection shall be listed under the following categories:

(i) In the aggregate.

(ii) By agency, agency program, and program element.

(iii) By major rule.

(B) Quantification.—To the extent feasible, the Director shall quantify the net benefits or net costs under subparagraph (A).

(C) Cost estimates.—In presenting estimates of costs in the accounting statement, the Director shall provide estimates for the following sectors:

(i) Private sector costs.

(ii) Federal sector administrative costs.

(iii) Federal sector compliance costs.

(iv) State and local government administrative costs.

(v) State and local government compliance costs.

SEC. 5. ASSOCIATED REPORT TO CONGRESS.

(a) In General.—

(1) Submission.—In each year following the year in which the President submits an accounting statement under section 4, the President, acting through the Director, shall, after notice and opportunity for comment, submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report").

(2) Content.—The associated report shall contain, in accordance with this section—

(A) analyses of impacts;

(B) identification and analysis of jurisdictional overlaps, duplications, and potential inconsistencies among Federal regulatory programs; and

(C) recommendations for reform.

(b) Analyses of Impacts.—The President shall include in the associated report the following:

(1) Analyses.—Analyses prepared by the president of the cumulative impact of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(A) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(B) Small business.

(C) Productivity.

(D) Wages.

(E) Economic growth.

(F) Technological innovation.

(G) Employment and income distribution.

(H) Consumer prices for goods and services.

(I) Such other factors considered appropriate by the President.

(2) Summary.—A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(c) Recommendations for Reform.—The President shall include in the associated report the following:

(1) Presidential recommendations.—A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(2) Recommendations from commenters.—A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

SEC. 6. GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Director shall, in consultation with the Council of Economic Advisers, issue guidelines to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this Act, including guidance on estimating the costs and corresponding benefits of regulatory programs and program elements; and

(2) to standardize the format of the accounting statements.

(b) Review.—The Director shall review submissions from agencies to assure consistency with the guidelines under this section.

SEC. 7. PEER REVIEW.

(a) In General.—

(1) Scope.—The Director shall provide for independent and external peer review of—

(A) the guidelines issued under section 6; and

(B) each accounting statement and associated report.

(2) Use of comments.—The Director shall use the peer review comments in preparing the final statement and report.

(b) Review.—Peer review under subsection (a) shall—

(1) involve participants who—

(A) have expertise in the economic and technical issues germane to regulatory accounting and economic and scientific analysis; and

(B) are independent of the Government;

(2) be completed in a timely manner, consistent with applicable deadlines;

(3) provide written comments to the Director containing a balanced presentation of all considerations; and

(4) not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(c) Response.—The Director shall provide a written response to all significant peer review comments. Such comments and responses shall be made available to the public.

SEC. 8. RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.

After each accounting statement and associated report is submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving agency compliance with this Act and the guidelines under section 6; and

(2) for improving accounting statements and associated reports prepared under this Act, including recommendations on level of detail, accuracy, and quality of analysis.●

By Mr. MACK (for himself and Mr. GRAMS):

S. 2162. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment; to the Committee on Finance.

PRINTED CIRCUIT INVESTMENT ACT OF 1998

● Mr. MACK. Mr. President, today Senator GRAMS and I introduce the Printed Circuit Investment Act of 1998. This bill would allow manufacturers of printed wiring boards and assemblies, known as the electronic interconnection industry, to depreciate their production equipment in 3 years rather than the 5 year period under current law.

As we approach the 21st Century, our Nation's Tax Code should not stand in the way of technological progress. Printed wiring boards and assemblies are literally central to our economy, as they are the nerve centers of nearly every electronic device from camcorders and televisions to medical devices, computers and defense systems. But the Tax Code places U.S. manufacturers at a disadvantage relative to their Asian competitors, because of different depreciation treatment. This disadvantage is particularly difficult for U.S. firms to bear, as the interconnection industry consists overwhelmingly of small firms that cannot easily absorb the costs inflicted by an irrationally-long depreciation schedule.

As technology continues to advance at light speed, the exhilaration of competition in a dynamic market is dampened by the effects of a Tax Code that has not kept pace with these changes. Obsolete interconnection manufacturing equipment is kept on the books long after this equipment has gone out the door. Companies with the competitive fire to enter such a rapidly-evolving industry must constantly invest in new state-of-the-art equipment, replacing obsolete equipment every 18 to 36 months just to remain competitive. U.S. investments in new printed wiring board and assembly manufacturing equipment have nearly tripled since 1991—growing from $847 million to an estimated $2.4 billion.

But this investment is taxed at an artificially-high rate, because deductions for the cost of the equipment are spread over a period that is several years longer than justified. The industry is at the mercy of tax laws passed in the 1980s, which were based on 1970s-era electronics technology. It is no wonder that the market share of U.S. interconnection companies has been cut in half over this period. Our Tax Code should not continue to undermine the competitiveness of American businesses. The opportunity is before us to correct the tax laws that dictate how rapidly board manufacturers and electronics assemblers can depreciate equipment needed to fabricate and assemble circuit boards.

The Printed Circuit Investment Act of 1998 will provide modest tax relief to the electronics interconnection industry and the 250,000 Americans, residing in every state of the Union, whose jobs rely on the success of this industry. This industry should get fair and accurate tax treatment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Printed Circuit Investment Act of 1998".

SEC. 2. 3-YEAR DEPRECIBLE LIFE FOR PRINTED WIRING BOARD AND PRINTED WIRING ASSEMBLY EQUIPMENT.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any printed wiring board or printed wiring assembly equipment."

(b) 3-YEAR CLASS LIFE.—Subparagraph (B) of section 168(g)(3) of such Code is amended by inserting after the item relating to subparagraph (A)(iii) the following new item:

"(A)(iv) .... 3".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to equipment placed in service after the date of the enactment of this Act.●

By Mr. HATCH (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. THURMOND, Mr. SESSIONS, and Mr. KYL):

S. 2163. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

JUDICIAL IMPROVEMENT ACT OF 1998

Mr. HATCH. Mr. President, I rise today to introduce, along with Senators THURMOND, ABRAHAM, and ASHCROFT, the Judicial Improvement Act of 1998: legislation that will restore public confidence in our democratic process by strengthening the constitutional division of powers between the Federal government and the States and between Congress and the Courts. On the whole, our federal judges are respectful of their constitutional roles, yet a degree of overreaching by some dictates that Congress move to more clearly delineate the proper role of Federal judges in our constitutional system. Increasingly, judges forget that the Constitution has committed to them the power to interpret law, but reserved to Congress the power to legislate.

This careful balancing of legislative and judicial functions is vital to our constitutional system. Regardless of how much we, as individuals, may approve of the results of a certain judge's decision, we must look beyond short-term political interests and remember the importance of preserving our Constitution.

Attempts by certain jurists to encroach upon legislative authority deeply concern me. I have taken the floor in this chamber on numerous occasions to recite some of the more troubling examples of judicial overreaching. I will not revisit them today. Suffice it to say that activism, and by that I mean a judge who ignores the written text of the law, whether from the right or the left, threatens our constitutional structure.

As an elected official, my votes for legislation are subject to voter approval. Federal judges, however, are unelected, hence they are, as a practical matter, unaccountable to the public. While tenure during good behavior, which amounts to life tenure, is important in that it frees judges to make unpopular, but constitutionally sound, decisions, it can become a threat to liberty when placed in the wrong hands. Alexander Hamilton, in the 78th Federalist, warned of the problem when judges "substitute their own pleasures to the constitutional intentions of the legislature." [Federalist No. 78, A. Hamilton]. Hamilton declared that "The courts must declare the sense of the law; and if they should be disposed to exercise Will instead of Judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body." [Ibid.]. And substituting the will of life-tenured federal judges for the democratically elected representatives is not what our Constitution's framers had in mind.

In an effort to avoid this long-contemplated problem, the proposed reform legislation we are introducing today will assist in ensuring that all three branches of the federal government work together in a fashion contemplated by, and consistent with, the Constitution. In addition, this legislation will ensure that federal judges are more respectful of the States.

This bill is not, as some would claim, an assault on the Federal Judiciary. Indeed, the overwhelming majority of our Federal judges would find repugnant the idea of imposing their personal views on the people in lieu of Federal or State law. However, there are currently some activist Federal judges improperly expanding their roles to quash the will of the people. These individuals view themselves as so-called platonic guardians, and believe they know what is in the people's best interest. Judges, however, are simply not entitled to deviate from their roles as interpreters of the law to create new law from the bench. If they believe otherwise, they are derelict in their duties and should resign to run for public office—at least then they would be accountable for their actions. It is time that we pass legislation that precludes any Federal judge from blurring the lines separating the legislative and judicial functions.

It is important to note that the effort to reign in judicial activism should not be limited simply to opposing potential activist nominees. While the careful scrutiny of judicial nominees is one important step in the process, a step reserved to the Senate alone, Congress itself has an obligation to the public to ensure that judges fulfill their constitutionally assigned roles and do not encroach upon those powers delegated to the legislature. Hence, the Congress performs an important role in bringing activist decisions to light and, where appropriate, publicly criticizing those decisions. Some view this as an assault upon judicial independence. That is untrue. It is merely a means of engaging in debate about a decision's merits or the process by which the decision was reached. Such criticism is a healthy part of our democratic system. While life tenure insulates judges from the political process, it should not, and must not, isolate them from the people.

In addition, the Constitution grants Congress the authority, with a few notable limitations, to set federal courts' jurisdiction. This is an important tool that, while seldom used, sets forth the circumstances in which the judicial power may be exercised. A good example of this is the 104th Congress' effort to reform the statutory writ of habeas corpus in an attempt to curb the seemingly endless series of petitions filed by convicted criminals bent on thwarting the demands of justice. Legislation of this nature, actually called for by the Chief Justice and praised in his recent annual report, is an important means of curbing activism.

To this end, I have chosen to introduce the Federal Judicial Improvement

Act. It is a small, albeit meaningful, step in the right direction. Notably, this legislation will change the way federal courts review constitutional challenges to State and federal laws. The existing process allows a single federal judge to hear and grant applications regarding the constitutionality of State and federal laws as well as state ballot initiatives. In other words, a single federal judge can impede the will of a majority of the voters merely by issuing an order halting the implementation of a state referendum.

This proposed reform will accomplish the twin goals of fighting judicial activism and preserving the democratic process. This bill modestly proposes to respond to the problem of judicial activism by:

1. Requiring a three judge district court panel to hear appeals and grant interlocutory or permanent injunctions based on the constitutionality of the state law or referendum.
2. Placing time limitations on remedial authority in any civil action in which prospective relief or a consent judgment binds State or local officials.
3. Prohibiting a Federal court from having the authority to order State or local governments to increase taxes as part of a judicial remedy.
4. Preventing a Federal court from prohibiting State or local officials from reprosecuting a defendant.
5. Preventing a Federal court from ordering the release of violent offenders under unwarranted circumstances.

This reform bill is a long overdue effort to minimize the potential for judicial activism in the federal court system. Americans are understandably frustrated when they exercise their right to vote and the will of their elected representatives is thwarted by judges who enjoy life tenure. It's no wonder that millions of Americans don't think their vote matters when they enact a referendum only to have it enjoined by a single district court judge. By improving the way federal courts analyze constitutional challenges to laws and initiatives, Congress will protect the rights of parties to challenge unconstitutional laws while at the same time reduce the ability of activist judges to abuse their power and stifle the will of the people.

I want to take a few moments to describe how this legislation will curb the ability of federal judges to engage in judicial activism. The first reform would require a three judge panel to hear and issue interlocutory and permanent injunctions regarding challenged laws at the district court level. The current system allows a single federal judge to restrain the enforcement, operation and execution of challenged federal or state laws, including initiatives. There have been many instances where an activist judge has used this power to overturn a ballot initiative only to have his or her order overturned by a higher court years later.

For example, this change would have prevented U.S. District Court Judge Thelton Henderson from issuing an injunction barring enforcement of Proposition 209, a ballot initiative which prohibited affirmative action in California. Judge Henderson's order was subsequently overturned by the Ninth Circuit Court of Appeals, which ruled that the law was constitutional and that Judge Henderson thwarted the will of the people. A three judge panel would have prevented Henderson from acting on his own, and perhaps would have ruled correctly in the first place.

Now, I have no problem with a court declaring a law unconstitutional when it violates the written text of the Constitution. It is, however, inappropriate when a judge, like Judge Henderson, attempts to act like a super-legislator and imposes his own policy preference on the citizens of a State. Such an action weakens respect for the federal judiciary, creates cynicism in the voting public, and costs the government millions of dollars in legal fees. By requiring a three judge panel, the proposed law would eliminate the ability of one activist judge to unilaterally bar enforcement of a law or ballot initiative through an interlocutory or permanent injunction.

In addition, new time limits on injunctive relief would be imposed. A temporary restraining order would remain in force no more than 10 days, and an interlocutory injunction no more than 60 days. After the expiration of an interlocutory injunction, federal courts would lack the authority to grant any additional interlocutory relief but would still have the power to issue a permanent injunction. These limitations are designed to prevent the federal judiciary from indefinitely barring implementation of challenged laws by issuing endless injunctions, and facilitate the appeals process by motivating courts to speedily handle constitutional challenges.

We need only to look at the legal wrangling over Proposition 187 to see the need for these time constraints. The California initiative was overwhelmingly approved in 1994 with almost 60 percent of the vote and was designed to end all social services and other benefits to illegal aliens. The referendum was supported by voters who felt that they as taxpayers didn't have the ability to provide those who break immigration laws with free health, education and welfare. Opponents who lost at the ballot box went to federal court the next day and obtained an injunction prohibiting enforcement of 187, and to this day it has never been the law of the state of California.

U.S. District Judge Mariana Pfaelzer issued a preliminary injunction soon after the 1994 election and ruled way back in 1995 that part of 187 was unconstitutional. The injunction stayed in effect and she finally ruled on the rest of the initiative in March of this year, when she found that an additional portion of the initiative was unconstitutional. The proposed time limitation on injunctions would have been an incentive for the judge to rule promptly on the issues at hand, and precluded her from indefinitely delaying enforcement of the proposition without ruling. What this reform essentially does is encourage the federal judiciary to rule on the merits of a case, and not use injunctions to keep a challenged law from going into effect or being heard by an appeals court through the use of delaying tactics.

The bill also proposes to require that a notice of appeal must be filed not more than fourteen days after the date of an order granting an interlocutory injunction and the appeals court would lack jurisdiction over an untimely appeal of such an order. The court of appeals would apply a de novo standard of review before reconsidering the merits of granting relief, but not less than 100 days after the issuance of the original order granting interlocutory relief. If the interlocutory order is upheld on appeal, the order would remain in force no longer than 60 days after the date of the appellate decision or until replaced by a permanent injunction.

The bill also proposes limitations on the remedial authority of federal courts. In any civil action where prospective relief or a consent judgment binds state and local officials, relief would be terminated upon the motion of any party or intervener:

(a) five years after the date the court granted or approved the prospective relief;

(b) two years after the date the court has entered an order denying termination of prospective relief; or

(c) in the case of an order issued on or before the date of enactment of this act, two years after the date of enactment.

Parties could agree to terminate or modify an injunction before relief is available if it otherwise would be legally permissible. Courts would promptly rule on motions to modify or terminate this relief and in the event that a motion is not ruled on within 60 days, the order or consent judgment binding State and local officials would automatically terminate.

However, prospective relief would not terminate if the federal court makes written findings based on the record that relief remains necessary to correct an ongoing violation of a federal right, extends no further than necessary to correct the violation and is the least intrusive means available to correct the violation of a federal right.

This measure would also prohibit a federal court from having the authority to order a unit of state or local government to increase taxes as part of a judicial remedy. When an unelected Federal judge has the power to order tax increases, this results in taxation without representation. Americans have fought against unfair taxation since the Revolutionary War, and this bill would prevent unfair judicial taxation and leave the power to tax to elected representatives of the people.

The bill would not limit the authority of a Federal court to order a remedy which may lead a unit of local or State government to decide to increase taxes. A Federal court would still have the power to issue a money judgment against a State because the court would not be attempting to restructure local government entities or mandating a particular method or structure of State or local financing. This bill also doesn't limit the remedial authority of State courts in any case, including cases raising issues of federal law. All the bill does is prevent Federal courts from having the power to order elected representatives to raise taxes. This is moderate reform which prevents judicial activism and unfair taxation while preserving the Federal courts power to order remedial measures.

Another important provision of the bill would prevent a federal court from prohibiting State or local officials from re-prosecuting a defendant. This legislation is designed to clarify that federal habeas courts lack the authority to bar retrial as a remedy.

This part of the legislation was cosponsored by Congressman PITTS and Senator SPECTER in response to a highly-publicized murder case in the Congressman's district. Sixteen year old Laurie Show was harassed, stalked and assaulted for six months by the defendant, who had a vendetta against Show for briefly dating the defendant's boyfriend. After luring Show's mother from their residence, the defendant and an accomplice forcefully entered the Show home, held the victim down, and slit her throat with a butcher knife, killing her. After the defendant was convicted in State court, she filed a habeas petition in which she alleged prosecutorial misconduct and averred her actual innocence. Federal district court judge Stewart Dalzell not only accepted this argument and released the defendant, but he also took the extraordinary step of barring state and local officials from reprosecuting the woman. Judge Dalzell stated that the defendant was the "first and foremost victim of this affair."

Congress has long supported the ability of a Federal court to fashion creative remedies to preserve constitutional protections, but the additional step of barring state or local officials from reprosecution is without precedent and an unacceptable intrusion on the rights of states. This bill, if enacted, will prevent this type of judicial activism from ever occurring again.

This bill also contains provisions for the termination of prospective relief when it is no longer warranted to cure a violation of a federal right. Once a violation that was the subject of a consent decree has been corrected, a consent decree must be terminated unless the court finds that an ongoing violation of a federal right exists, the specific relief is necessary to correct the violation of a Federal right, and no other relief will correct the violation of the Federal right. The party opposing the termination of relief has the burden of demonstrating why the relief should not be terminated, and the court is required to grant the motion to terminate if the opposing party fails to meet its burden. These provisions prevent consent decrees from remaining in effect once a proper remedy has been implemented, thereby preventing judges from imposing consent decrees that go beyond the requirements of law.

The proposed reform law also includes provisions designed to dissuade prisoners from filing frivolous and malicious motions by requiring that the complainant prisoner pay for the costs of the filings. These provisions will undoubtedly curb the number of frivolous motions filed by prisoners and thus, relieve the courts of the obligation to hear these vacuous motions designed to mock and frustrate the judicial system.

Finally, the bill proposes to prevent federal judges from entering or carrying out any prisoner release order that would result in the release from or nonadmission to a prison on the basis of prison conditions. This provision will effectively preclude activist judges from circumventing mandatory minimum sentencing laws by stripping the federal judges of jurisdiction to enter such orders. This will ensure that the tough sentencing laws approved by voters to keep murderers, rapists, and drug dealers behind bars for lengthy terms will not be ignored by activist judges who improperly use complaints of prison conditions filed by convicts as a vehicle to release violent offenders back on our streets.

For an example of this activism, I offer the rulings of a jurist whom I have mentioned before, Federal Judge Norma Shapiro, who sits on the Federal bench in Philadelphia. Judge Shapiro has a different view of what prison life should be: a view completely divergent from the view of the general public and, most importantly, the law.

Judge Shapiro used complaints filed by inmates to impose her activist views and wrestle control of the prison system by setting a cap on the number of prisoners that can be incarcerated in Pennsylvania. When faced with the opportunity to extend her judicial powers and seize control of the prison system, Judge Shapiro jumped at the chance and the results have been disastrous.

The cap imposed by Judge Shapiro forced the release of 500 prisoners a week. Because of this cap, in a time period of 18 months alone, 9,732 arrestees were released on Philadelphia. Of course, many were re-arrested on other charges, including 79 murders, 90 rapes, 701 burglaries, 959 robberies, 1,113 assaults, 2,215 drug offenses and 2,748 thefts. [Philadelphia Inquirer]. Releasing dangerous criminals on to the streets to reek havoc and violence is the ultimate slap in the faces of law enforcement and justice. How can we expect law enforcement to provide protection and safe streets if at every turn there is a Judge Shapiro waiting anxiously for the chance to release lawlessness on our communities? This reform bill will prevent Judge Shapiro and other like-minded judges from ever endangering families and children in our communities again by preventing these Judges from releasing prisoners based on prison conditions.

Prison life is not supposed to be pleasant or comfortable; rather, it is supposed to serve as a deterrent to future crime. I would be worried if no prisoners were filing complaints because they actually found prison life to be acceptable. But it seems that some activist judges are willing to believe any prisoner complaint equates or rises to the level of a constitutional violation. It seems that in some courtrooms, if a prisoner simply files a complaint alleging prison conditions aren't laudable or praiseworthy, chances are good that that prisoner, and many others, will be released from custody early, sometimes immediately, thanks to the misguided activism of the judge hearing the complaint. This is absolutely unacceptable and this proposed law will put a stop to the agendas of some activist judges who believe every argument that the ACLU and guilty, but bored, convicts offer up.

This overdue legislation is a measured effort to improve the way the federal judiciary works. It fights judicial activism and actually improves the way constitutional appeals are handled. This reform bill is a sensible, balanced attempt to promote judicial efficiency and to prevent egregious judicial activism. I encourage my colleagues to act swiftly on this needed reform.

Mr. President, I ask unanimous consent that a copy of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Judicial Improvement Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Procedures for certain injunctions.

Sec. 3. Limitations on remedial authority.
Sec. 4. Interlocutory appeals of court orders relating to class actions.
Sec. 5. Multiparty, multiforum jurisdiction of district courts.
Sec. 6. Appeals of Merit Systems Protection Board.
Sec. 7. Extension of Judiciary Information Technology Fund.
Sec. 8. Authorization for voluntary services.
Sec. 9. Offsetting receipts.
Sec. 10. Sunset of civil justice expense and delay reduction plans.
Sec. 11. Creation of certifying officers in the judicial branch.
Sec. 12. Limitation on collateral relief.
Sec. 13. Laurie Show victim protection.
Sec. 14. Rule of construction relating to retroactive application of statutes.
Sec. 15. Appropriate remedies for prison conditions.
Sec. 16. Limitation on fees.
Sec. 17. Notice of malicious filings.
Sec. 18. Limitation on prisoner release orders.
Sec. 19. Repeal of section 140.
Sec. 20. Severability.

SEC. 2. PROCEDURES FOR CERTAIN INJUNCTIONS.

(a) REQUIREMENT OF 3-JUDGE COURT.—

(1) IN GENERAL.—No interlocutory or permanent injunction restraining the enforcement, operation, or execution of a State law adopted by referendum or an Act of Congress shall be granted by a United States district court or judge thereof upon the ground that the State law conflicts with the United States Constitution, Federal law, or a treaty of the United States unless the application for the injunction is heard and determined by a court of 3 judges in accordance with section 2284 of title 28, United States Code.

(2) APPEALS.—Any appeal of a determination on such application shall be to the Circuit Court of Appeals.

(3) DESIGNATION OF JUDGES.—In any case to which this section applies, the additional judges who will serve on the 3-judge court shall be designated under section 2284(b)(1) of title 28, United States Code, as soon as practicable, and the court shall expedite the consideration of the application for an injunction.

(4) DENIAL OF REQUEST.—Nothing in this subsection shall prevent a district court judge from denying a request for interlocutory or permanent injunctive relief.

(b) TIME LIMITS ON INJUNCTIVE RELIEF.—

(1) TEMPORARY RESTRAINING ORDER.—Section 2284(b)(3) of title 28, United States Code, is amended in the second sentence by inserting before the period, the following: ", but in no event shall the order remain in force for longer than 10 days".

(2) INTERLOCUTORY INJUNCTION.—Any interlocutory injunction restraining the enforcement or operation of a State law adopted by referendum or an Act of Congress shall remain in force for not longer than 60 days. The Federal courts shall lack the authority to grant any additional interlocutory relief after the expiration of an interlocutory injunction. Nothing in this paragraph shall limit the court's authority to issue a permanent injunction after an interlocutory injunction has expired. If the order granting the interlocutory injunction is appealed, the time limits of paragraph (4) apply.

(3) FILING OF APPEAL.—A notice of appeal from an order granting an interlocutory injunction restraining the enforcement or operation, of a State law adopted by referendum or an Act of Congress shall be filed not later than 14 days after the date of the order. The Courts of Appeals lack jurisdiction over an untimely appeal of such an order.

(4) CONSIDERATION OF APPEAL.—If an appeal is filed from an order granting an interlocutory injunction restraining the enforcement or operation of a State law adopted by referendum or an Act of Congress, the Court of Appeals shall reconsider the merits of granting interlocutory relief applying a de novo standard of review. The Court of Appeals shall dispose of the appeal as expeditiously as possible, but in any event within 100 days after the issuance of the original order granting interlocutory relief. If the interlocutory order is upheld on appeal, the interlocutory order shall remain in force no longer than 60 days after the date of the appellate decision or until replaced by a permanent injunction.

(c) DEFINITIONS.—In this section—

(1) the term "State" means each of the several States and the District of Columbia;

(2) the term "State law" means the constitution of a State, or any statute, ordinance, rule, regulation, or other measure of a State that has the force of law, and any amendment thereto; and

(3) the term "referendum" means the submission to popular vote of a measure passed upon or proposed by a legislative body or by popular initiative.

(d) EFFECTIVE DATE.—This section applies to any injunction that is issued on or after the date of the enactment of this Act.

SEC. 3. LIMITATIONS ON REMEDIAL AUTHORITY.

(a) TERMINATION OF PROSPECTIVE RELIEF.—

(1) IN GENERAL.—In any civil action in which prospective relief is issued which binds State or local officials or in any civil action in which the parties entered a consent judgment binding State or local officials, such relief shall be terminable upon the motion of any party or intervener—

(A) 5 years after the date the court granted or approved the prospective relief;

(B) 2 years after the date the court has entered an order denying termination of prospective relief under this paragraph; or

(C) in the case of an order issued on or before the date of enactment of this Act, 2 years after the date of enactment.

(2) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief—

(A) remains necessary to correct current and ongoing violation of a Federal right;

(B) extends no further than necessary to correct the violation of a Federal right; and

(C) is the least intrusive means available to correct the violation of a Federal right.

(3) TERMINATION AND MODIFICATION AUTHORITY OTHERWISE UNAFFECTED.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before relief is available under paragraph (1), to the extent that modification or termination would otherwise be legally permissible, and nothing in this section shall prevent the parties from agreeing to terminate or modify an injunction before such relief is available under paragraph (1).

(4) CONFORMITY WITH OTHER LAWS.—Nothing in this section shall affect the rules governing prospective relief in any civil action with respect to prison conditions.

(5) PROCEDURE FOR MOTION TO TERMINATE.—

(A) IN GENERAL.—The court shall rule promptly on any motion to modify or terminate relief.

(B) AUTOMATIC TERMINATION.—In the event a court does not rule on a motion to terminate filed under paragraph (1) within 60 days, the order or consent judgment binding State or local officials will automatically terminate and be of no further legal force.

(b) SPECIAL MASTERS.—

(1) IN GENERAL.—

(A) APPOINTMENT.—In any civil action in a Federal court, the Federal court may appoint a special master who shall be disinterested and objective.

(B) REMEDIAL PHASE.—The court shall appoint a special master under this subsection only during the remedial phase of the action and only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

(2) APPOINTMENT.—

(A) SUBMISSION OF LIST.—If the court determines that appointment of a special master is necessary, the court shall request that the defendant (or group of defendants) and the plaintiff (or group of plaintiffs) each submit a list of not more than 5 persons to serve as a special master.

(B) REMOVAL.—Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

(C) SELECTION.—The court shall select the special master from the remaining names on the lists after the operation of subparagraph (B).

(3) COMPENSATION.—The compensation to be paid to a special master shall be based on an hourly rate not greater than the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel, and costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

(4) REGULAR REVIEW OF APPOINTMENT.—The court shall review the appointment of the special master every 6 months to determine whether the services of the special master continued to be justified under the standards of paragraph (1).

(5) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

(A) shall not make any finding or communication ex parte; and

(B) may be removed by the judge at any time, but shall be relieved of the appointment upon termination of relief.

(c) JUDICIAL TAXATION PROHIBITED.—

(1) IN GENERAL.—No Federal court shall have the authority to order a unit of Federal, State, or local government to increase taxes as part of a judicial remedy.

(2) REMEDIAL AUTHORITY OTHERWISE UNAFFECTED.—Nothing in paragraph (1) shall be construed to limit the authority of a Federal court to order a remedy that may lead a unit of local or State government to decide to increase taxes.

(d) STATE COURT REMEDIES UNAFFECTED.—Nothing in this section shall limit the remedial authority of State courts in any case, including cases raising issues of Federal law.

SEC. 4. INTERLOCUTORY APPEALS OF COURT ORDERS RELATING TO CLASS ACTIONS.

(a) INTERLOCUTORY APPEALS.—Section 1292(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) The court of appeals which would have jurisdiction over a final order in an action may, in its discretion, permit an appeal from an order of a district court granting or denying class action certification made to it within 10 days after the entry of the order. An appeal under this paragraph shall not stay proceedings in the district court unless the district judge or the court of appeals or a judge thereof shall so order.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any action commenced on or after the date of enactment of this Act.

SEC. 5. MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

“§ 1369. Multiparty, multiforum jurisdiction

“(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

“(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

“(2) any 2 defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

“(3) substantial parts of the accident took place in different States.

“(b) For purposes of this section—

“(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a);

“(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

“(3) the term ‘injury’ means—

“(A) physical harm to a natural person; and

“(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

“(4) the term ‘accident’ means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

“(5) the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

“(c) In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

“(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.”.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following:

“1369. Multiparty, multiforum jurisdiction.”.

(b) VENUE.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

“(g) A civil action in which jurisdiction of the district court is based upon section 1369 may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.”.

(c) MULTIDISTRICT LITIGATION.—Section 1407 of title 28, United States Code, is amended by adding at the end the following:

“(i)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1369, the transferee district court may retain actions so transferred for the determination of liability and punitive damages notwithstanding any other provision of this section. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

“(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

“(3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

“(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

“(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.”.

(d) REMOVAL OF ACTIONS.—Section 1441 of title 28, United States Code, is amended—

(1) in subsection (e) by striking “(e) The court to which such civil action is removed” and inserting “(f) The court to which a civil action is removed under this section”; and

(2) by inserting after subsection (d) the following:

“(e)(1)(A) Notwithstanding the provisions of subsection (b), a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

“(i) the action could have been brought in a United States district court under section 1369; or

“(ii) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

“(B) The removal of an action under this subsection shall be made in accordance with section 1446, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

“(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(i) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

“(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the final disposition of the appeal. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

“(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

“(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1368 of this title for purposes of this section and sections 1407, 1660, 1697, and 1785.

“(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.”.

(e) CHOICE OF LAW.—

(1) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

“§ 1660. Choice of law in multiparty, multiforum actions

“(a)(1) In an action which is or could have been brought, in whole or in part, under section 1369, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

“(A) the place of the injury;

“(B) the place of the conduct causing the injury;

“(C) the principal places of business or domiciles of the parties;

“(D) the danger of creating unnecessary incentives for forum shopping; and

“(E) whether the choice of law would be reasonably foreseeable to the parties.

“(2) The factors set forth in paragraph (1) (A) through (E) shall be evaluated according to their relative importance with respect to the particular action. If good cause is shown in exceptional cases, including constitutional reasons, the court may allow the law of more than 1 State to be applied with respect to a party, claim, or other element of an action.

"(b) The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1369 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

"(c) In an action remanded to another district court or a State court under section 1407(i)(1) or 1441(e)(2), the district court's choice of law under subsection (b) shall continue to apply.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following:

"1660. Choice of law in multiparty, multiforum actions.".

(f) SERVICE OF PROCESS.—

(1) OTHER THAN SUBPOENAS.—

(A) IN GENERAL.—Chapter 113 of title 28, United States Code, is amended by adding at the end the following:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1369, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(B) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following:

"1697. Service in multiparty, multiforum actions.".

(2) SERVICE OF SUBPOENAS.—

(A) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(B) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"1785. Subpoenas in multiparty, multiforum actions.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

SEC. 6. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.

(a) APPEALS.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by striking "30" and inserting "60"; and

(2) in the first sentence of subsection (d), by inserting after "filing" the following: ", within 60 days after the date the Director received notice of the final order or decision of the Board,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment of this Act and apply to any administrative or judicial proceeding pending on that date or commenced on or after that date.

SEC. 7. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

Section 612 of title 28, United States Code, is amended—

(1) by striking "equipment" each place it appears and inserting "resources";

(2) by striking subsection (f) and redesignating subsequent subsections accordingly;

(3) in subsection (g), as so redesignated, by striking paragraph (3); and

(4) in subsection (i), as so redesignated—

(A) by striking "Judiciary" each place it appears and inserting "judiciary";

(B) by striking "subparagraph (c)(1)(B)" and inserting "subsection (c)(1)(B)"; and

(C) by striking "under (c)(1)(B)" and inserting "under subsection (c)(1)(B)".

SEC. 8. AUTHORIZATION FOR VOLUNTARY SERVICES.

Section 677 of title 28, United States Code, is amended by adding at the end the following:

"(c)(1) Notwithstanding section 1342 of title 31, the Administrative Assistant, with the approval of the Chief Justice, may accept voluntary personal services for the purpose of providing tours of the Supreme Court building.

"(2) No person may volunteer personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5.

"(3) No person volunteering personal services under this subsection shall be considered an employee of the United States for any purpose other than for purposes of—

"(A) chapter 81 of title 5; or

"(B) chapter 171 of this title.

"(4) In the administration of this subsection, the Administrative Assistant shall ensure that the acceptance of personal services shall not result in the reduction of pay or displacement of any employee of the Supreme Court.".

SEC. 9. OFFSETTING RECEIPTS.

For fiscal year 1999 and thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States pursuant to sections 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees in effect on September 30, 1998, shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

SEC. 10. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105–53 (111 Stat. 1173), is amended by inserting "471," after "sections".

SEC. 11. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following:

"§ 613. Disbursing and certifying officers

"(a)(1) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary.

"(2) Disbursing officers shall—

"(A) disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);

"(B) examine payment requests as necessary to ascertain whether such requests are in proper form, certified, and approved; and

"(C) be held accountable for their actions as provided by law, except that such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

"(b)(1)(A) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds.

"(B) Certifying officers shall be responsible and accountable for—

"(i) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

"(ii) the legality of the proposed payment under the appropriation or fund involved; and

"(iii) the correctness of the computations of certified payment requests.

"(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

"(c) A certifying or disbursing officer—

"(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

"(2) is entitled to relief from liability arising under this section in accordance with title 31.

"(d) Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following:

"613. Disbursing and certifying officers.".

(c) DUTIES OF DIRECTOR.—Paragraph (8) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

"(8) Disburse appropriations and other funds for the maintenance and operation of the courts;".

SEC. 12. LIMITATION ON COLLATERAL RELIEF.

(a) IN GENERAL.—No writ of habeas corpus or other post-conviction remedy under section 2241, 2244, 2254, or 2255 of title 28, United

States Code, or any other provision of Federal law, shall lie to challenge the custody or sentence of a person on the ground that the custody or sentence of the person is the result in whole or in part of the voluntarily given confession of the person.

(b) Determinations Regarding Post-Conviction Remedies.—For purposes of subsection (a), in determining whether any post-conviction remedy lies under any provision of law described in subsection (a), as well as in determining whether any such remedy should be granted—

(1) the court shall apply the standards set forth in section 3501(b) of title 18, United States Code; and

(2) in applying the standards described in paragraph (1) in any case seeking a post-conviction remedy from a State court conviction, the court shall apply the standards set forth in section 2254(d) of title 28, United States Code.

(c) Definition of Confession.—In this section, the term "confession" has the same meaning as in section 3501(e) of title 18, United States Code.

(d) No Effect on Other Law.—Nothing in this section shall be construed to modify or otherwise affect any requirement under Federal law relating to the obtaining or granting of post-conviction relief.

SEC. 13. LAURIE SHOW VICTIM PROTECTION.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(j) No Federal court shall specifically bar the retrial in State court of a person filing the writ of habeas corpus.".

SEC. 14. RULE OF CONSTRUCTION RELATING TO RETROACTIVE APPLICATION OF STATUTES.

(a) In General.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. Rules for determining the retroactive effect of legislation

"(a) Any Act of Congress enacted after the effective date of this section shall be prospective in application only unless a provision included in the Act expressly specifies otherwise.

"(b) In applying this section, a court shall determine the relevant retroactivity event in an Act of Congress (if such event is not specified in such Act) for purposes of determining if the Act—

"(1) is prospective in application only; or

"(2) affects conduct that occurred before the effective date of the Act.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 1 of title 1, United States Code, is amended by adding after the item relating to section 7 the following:

"8. Rules for determining retroactive effect of legislation.".

SEC. 15. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) Transfer and Redesignation.—Section 3626 of title 18, United States Code, is—

(1) transferred to the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997 et seq.);

(2) redesignated as section 13 of that Act; and

(3) inserted after section 12 of that Act (42 U.S.C. 1997j).

(b) Amendments.—Section 13 of the Civil Rights of Institutionalized Persons Act, as redesignated by subsection (a) of this section, is amended—

(1) in subsection (b)(3), by adding at the end the following: "Noncompliance with an order for prospective relief by any party, including the party seeking termination of that order, shall not constitute grounds for refusal to terminate the prospective relief, if the party's noncompliance does not constitute a current and ongoing violation of a Federal right.";

(2) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively;

(3) by inserting after subsection (d) the following:

"(e) Procedure for Entering Prospective Relief.—

"(1) In general.—In any civil action with respect to prison conditions, a court entering an order for prospective relief shall enter written findings specifying—

"(A) the Federal right the court finds to have been violated;

"(B) the facts establishing that violation;

"(C) the particular plaintiff or plaintiffs who suffered actual injury caused by that violation;

"(D) the actions of each defendant that warrant and require the entry of prospective relief against that defendant;

"(E) the reasons for which, in the absence of prospective relief, each defendant as to whom the relief is being entered will not take adequate measures to correct the violation of the Federal right;

"(F) the reasons for which no more narrowly drawn or less intrusive prospective relief would correct the current and ongoing violation of the Federal right; and

"(G) the estimated impact of the prospective relief on public safety and the operation of any affected criminal justice system.

"(2) Conflict with state law.—If the prospective relief ordered in any civil action with respect to prison conditions requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State law, the court shall, in addition to the findings required under paragraph (1), enter findings regarding the reasons for which—

"(A) Federal law requires such relief to be ordered in violation of State or local law;

"(B) the specific relief is necessary to correct the violation of a Federal right; and

"(C) no other relief will correct the violation of the Federal right.";

(4) in subsection (f), as redesignated—

(A) in paragraph (3), in the first sentence, by inserting before the period at the end of the sentence the following: ", including that the case requires the determination of complex or novel questions of law, or that the court plans to order or has ordered a hearing under paragraph (5)(E) or discovery under paragraph (5)(F)"; and

(B) by adding at the end the following:

"(5) Termination of prospective relief.—

"(A) Contents of answer to motion to terminate.—

"(i) In general.—In the answer to the motion to terminate prospective relief, the plaintiff may oppose termination in accordance with this subparagraph, on the ground that the prospective relief remains necessary to correct a current and ongoing violation of a Federal right.

"(ii) Relief entered before enactment of prison litigation reform act.—If the prospective relief sought to be terminated was entered before the date of enactment of the Prison Litigation Reform Act, the answer opposing termination under clause (i) shall allege—

"(I) the specific Federal right alleged to be the object of a current violation;

"(II) specific facts that, if true, would establish that current violation;

"(III) the particular plaintiff or plaintiffs who are currently suffering actual injury caused by that violation;

"(IV) the actions of each named defendant that constitute that violation of the particular plaintiff's or plaintiffs' right;

"(V)(aa) the portion of the complaint or amended complaint filed prior to the original entry of the prospective relief sought to be retained that alleged the violation of that Federal right;

"(bb) the portion of the court order originally ordering the prospective relief that found the violation of that Federal right; or

"(cc) both the materials specified in items (aa) and (bb), if the violation of right was both alleged and established;

"(VI) the manner in which the current and ongoing violation can be remedied by maintaining the existing prospective relief; and

"(VII) the reasons for which, in the absence of prospective relief, each defendant as to whom the relief would be maintained would not take adequate measures to correct the violation of the Federal right.

"(iii) Relief entered after enactment of prison litigation reform act.—If the prospective relief was entered after the date of enactment of the Prison Litigation Reform Act, the answer opposing termination under clause (i) shall allege—

"(I) the specific Federal right alleged to be the object of a current violation;

"(II) specific facts that, if true, would establish that current violation;

"(III) the particular plaintiff or plaintiffs who are currently suffering actual injury caused by that violation;

"(IV) the current actions of each named defendant that constitute that violation of the particular plaintiff's or plaintiffs' right;

"(V) the findings required by subsection (e) made by the court at the time of the original entry of the prospective relief that established that the right had been violated and that the prospective relief was necessary to correct the violation;

"(VI) the manner in which the current and ongoing violation can be remedied by maintaining the existing prospective relief; and

"(VII) the reasons for which, in the absence of prospective relief, each defendant as to whom the relief would be maintained would not take adequate measures to correct the violation of the Federal right.

"(iv) The answer shall be accompanied by affidavits, references to the record, and any other materials on which the plaintiff relies to support the allegations required to be contained in the answer under clause (ii) or (iii).

"(B) Contents of response to answer.—

"(i) In general.—If the defendant disputes plaintiff's factual allegations, defendant shall file a response to the answer setting forth the factual allegations the defendant challenges.

"(ii) Additional requirements.—In any case where the defendant seeks termination of the relief on the ground that it is not narrowly tailored, overly intrusive, or poses too great a burden on public safety or the operation of a criminal justice system, or that it requires the defendant to violate State or local law without meeting the requirements of subsection (a)(1)(B)—

"(I) the defendant shall set forth the factual basis for these claims in its response; and

"(II) the defendant shall also set forth alternative relief that would correct the violation of the Federal right and that is more narrowly tailored, less intrusive, less burdensome to public safety or the operation of the affected criminal justice system, or does not require a violation of State or local law.

"(iii) SUPPORTING DOCUMENTATION.—The defendant's response shall be accompanied by affidavits, references to the record, and any other materials on which the defendant relies to support its challenge to the plaintiff's factual allegations or the factual basis for its claims regarding the propriety or scope of the relief.

"(C) BURDEN OF PERSUASION.—The plaintiff shall have the burden of persuasion with respect to each point required to be contained in the answer. The defendant shall have the burden of persuasion with respect to whether the relief extends further than necessary to correct the violation of the Federal right, is not narrowly drawn nor the least intrusive means to correct the violation of the Federal right, excessively burdens public safety or the operation of a prison system, or requires the defendant to violate State or local law without meeting the requirements of subsection (a)(1)(B).

"(D) SUMMARY DETERMINATION.—The court shall grant the motion to terminate if the plaintiff's answer fails to satisfy the requirements of subparagraph (A) or if the materials accompanying the plaintiff's answer together with the materials accompanying the defendant's response fail to carry the plaintiff's burden of persuasion or fail to create a genuine issue of material fact regarding whether the relief should be maintained.

"(E) EVIDENTIARY HEARING.—If the court determines that there is a genuine issue of material fact that precludes it from making a summary determination concerning the motion on the basis of the materials filed by the parties, the court may conduct a limited evidentiary hearing to resolve any disputed material facts identified by the court.

"(F) DISCOVERY.—If the court determines that the plaintiff's answer meets the requirements of paragraph (5)(A), that there are genuine issues of material fact that preclude it from making a summary determination concerning the motion based on the material filed by the parties, and that discovery would assist in resolving these issues, the court may permit limited, narrowly tailored, and expeditious discovery relating to the disputed material facts identified by the court.

"(G) FINDINGS.—

"(i) IN GENERAL.—If the court denies the motion to terminate prospective relief, the court shall enter written findings specifying—

"(I) the Federal right the court finds to be currently violated;

"(II) the facts establishing that the violation is continuing to occur;

"(III) the particular plaintiff or plaintiffs who are currently suffering actual injury caused by that violation;

"(IV) the actions of each defendant that warrant and require the continuation of the prospective relief against that defendant;

"(V) the reasons for which, in the absence of continued prospective relief, each defendant as to whom the relief is continued will not take adequate measures to correct the violation of the Federal right;

"(VI) the reasons for which no more narrowly drawn on less intrusive prospective relief would correct the current and ongoing violation of the Federal right;

"(VII) the impact of the prospective relief on public safety and the operation of any affected criminal justice system; and

"(VIII) if the prospective relief requires the defendant to violate State or local law, the reasons for which—

"(aa) Federal law requires the continuation of relief that violates State or local law;

"(bb) the specific relief is necessary to correct the violation of a Federal right; and

"(cc) no other relief will correct the violation of the Federal right.

"(ii) REQUIREMENTS FOR MOTIONS ORDERED BEFORE ENACTMENT OF PRISON LITIGATION REFORM ACT.—In the case of a motion to terminate prospective relief entered before the date of enactment of the Prison Litigation Reform Act, in addition to the requirements of clause (i), the court's written findings shall also specify—

"(I)(aa) the portion of the complaint or amended complaint that previously alleged that violation of Federal right;

"(bb) the findings the court made at the time it originally entered the prospective relief concerning that violation of Federal right; or

"(cc) both the findings specified in items (aa) and (bb), if the violation was originally both alleged and established; and

"(II) the prospective relief previously ordered to remedy that violation.

"(iii) REQUIREMENTS FOR MOTIONS ORDERED AFTER ENACTMENT OF PRISON LITIGATION REFORM ACT.—In the case of a motion to terminate prospective relief originally ordered after the date of enactment of the Prison Litigation Reform Act, in addition to the requirements of clause (i), the court shall also enter written findings specifying—

"(I) the findings required by subsection (e) made by the court at the time the relief was originally entered establishing that violation of Federal right; and

"(II) the prospective relief previously ordered to remedy that violation.";

(5) in subsection (g), as redesignated—

(A) by striking the subsection designation and heading and inserting the following:

"(g) SPECIAL MASTERS FOR CIVIL ACTIONS WITH RESPECT TO PRISON CONDITIONS.—";

(B) in paragraph (1)(B), by striking "under this subsection";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "institution"; and

(ii) by adding at the end the following:

"(D) APPLICABILITY.—

"(i) IN GENERAL.—This paragraph shall not apply to any special master appointed before the date of enactment of the Prison Litigation Reform Act, unless their original appointment expires on or after that date of enactment.

"(ii) SPECIAL MASTERS COVERED.—This paragraph applies to all special masters appointed or reappointed after the date of enactment of the Prison Litigation Reform Act, regardless of the cause of the expiration of any initial appointment.";

(D) in paragraph (3), by striking "under this subsection";

(E) in paragraph (4)—

(i) by striking "under this section";

(ii) by inserting "(A)" after "(4)";

(iii) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to pay the compensation, expenses, or costs of the special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced before, on, or after the date of enactment of the Prison Litigation Reform Act."; and

(iv) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment of a special master who was appointed before the date of enactment of the Prison Litigation Reform Act (110 Stat. 1321165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act and ending on the date of enactment of this subparagraph.";

(F) in paragraph (5), by striking from "In any civil action" and all that follows through "subsection, the" and inserting "The"; and

(G) in paragraph (6)—

(i) by striking "appointed under this subsection";

(ii) by striking subparagraph (A) and inserting the following:

"(A) may be authorized by a court to conduct hearings on the record, and shall make any findings based on the record as a whole;";

(iii) in subparagraph (B), by striking "communications;" and inserting "engage in any communications ex parte; and"; and

(iv) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C); and

(6) in subsection (h), as redesignated—

(A) in paragraph (1), by striking "settlements" and inserting "settlement agreements";

(B) in paragraph (3)—

(i) by inserting "Federal, State, local, or other" before "facility";

(ii) by striking "violations" and inserting "a violation";

(iii) by striking "terms and conditions" and inserting "terms or conditions"; and

(iv) by inserting "or other post-conviction conditional or supervised release," after "probation,";

(C) in paragraph (5), by striking "or local facility" and inserting "local, or other facility";

(D) in paragraph (8) by striking "inherent";

(E) in paragraph (9), by striking the period at the end and inserting a semicolon;

(F) by adding at the end the following:

"(10) the term 'violation of a Federal right'—

"(A) means a violation of a Federal constitutional or Federal statutory right;

"(B) does not include a violation of a court order that is not independently a violation of a Federal statutory or Federal constitutional right; and

"(C) shall not be interpreted to expand the authority of any individual or class to enforce the legal rights that individual or class may have pursuant to existing law with regard to institutionalized persons, or to expand the authority of the United States to enforce those rights on behalf of any individual or class."; and

(G) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and inserting paragraph (9), as redesignated, after paragraph (8), as redesignated.

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by striking the item relating to section 3626.

SEC. 16. LIMITATION ON FEES.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (d)—

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(A) the fee was directly and reasonably incurred in—

"(i) proving an actual violation of the plaintiff's Federal rights that resulted in an order for relief;

"(ii) successfully obtaining contempt sanctions for a violation of previously ordered prospective relief that meets the standards set forth in section 13, if the plaintiff made a good faith effort to resolve the matter without court action; or

"(iii) successfully obtaining court ordered enforcement of previously ordered prospective relief that meets the standards set forth in section 13, if the enforcement order was necessary to prevent an imminent risk of serious bodily injury to the plaintiff and the plaintiff made a good faith attempt to resolve the matter without court action; and

"(B) the amount of the fee is proportionately related to the court ordered relief for the violation.";

(B) in paragraph (2), by striking the last sentence and inserting "If a monetary judgment is the sole or principal relief awarded, the award of attorney's fees shall not exceed 100 percent of the judgment.";

(C) in paragraph (3)—

(i) by striking "greater than 150 percent" and inserting "greater than the lesser of—

"(A) 100 percent"; and

(ii) by striking "counsel." and inserting "counsel; or

"(B) a rate of $100 per hour."; and

(D) in paragraph (4), by striking "prisoner" and inserting "plaintiff";

(2) in subsection (e), by striking "Federal civil action" and inserting "civil action arising under Federal law" and by striking "prisoner confined in a jail, prison, or other correctional facility" and inserting "prisoner who is or has been confined in any prison";

(3) in subsection (f)—

(A) in paragraph (1), by striking "action brought with respect to prison conditions" and inserting "civil action with respect to prison conditions brought" and by striking "jail, prison, or other correctional facility" and inserting "prison"; and

(B) in paragraph (2), by striking "facility" and inserting "prison"; and

(4) by striking subsections (g) and (h) and inserting the following:

"(g) WAIVER OF RESPONSE.—Any defendant may waive the right to respond to any complaint in any civil action arising under Federal law brought by a prisoner. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint or waive any affirmative defense available to the defendant. No relief shall be granted to the plaintiff unless a response has been filed. The court may direct any defendant to file a response to the cognizable claims identified by the court. The court shall specify as to each named defendant the applicable cognizable claims.

"(h) DEFINITIONS.—In this section, the terms 'civil action with respect to prison conditions', 'prison', and 'prisoner' have the meanings given the terms in section 13(h).".

SEC. 17. NOTICE OF MALICIOUS FILINGS.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended—

(1) in section 1915A(c)—

(A) by striking "(c) DEFINITION.—As used in this section" and inserting the following:

"§ 1915C. Definition

"In sections 1915A and 1915B";

(B) by inserting "Federal, State, local, or other" before "facility";

(C) by striking "violations" and inserting "a violation";

(D) by striking "terms and conditions" and inserting "terms or conditions"; and

(E) by inserting "or other post-conviction conditional or supervised release," after "probation,"; and

(2) by inserting after section 1915A the following:

"§ 1915B. Notice to State authorities of finding of malicious filing by a prisoner

"(a) FINDING.—In any civil action brought in Federal court by a prisoner (other than a prisoner confined in a Federal correctional facility), the court may, on its own motion or the motion of any adverse party, make a finding whether—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed to harass the party against which it was filed; or

"(3) the claimant testified falsely or otherwise knowingly presented false allegations, pleadings, evidence, or information to the court.

"(b) TRANSMISSION OF FINDING.—The court shall transmit to the State Department of Corrections or other appropriate authority any affirmative finding under subsection (a). If the court makes such a finding, the Department of Corrections or other appropriate authority may, pursuant to State or local law—

"(1) revoke such amount of good time credit or the institutional equivalent accrued to the prisoner as is deemed appropriate; or

"(2) consider such finding in determining whether the prisoner should be released from prison under any other State or local program governing the release of prisoners, including parole, probation, other post-conviction or supervised release, or diversionary program.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915A the following:

"1915B. Notice to State authorities of finding
of malicious filing by prisoner.
"1915C. Definition.".

SEC. 18. LIMITATION ON PRISONER RELEASE ORDERS.

(a) IN GENERAL.—

(1) AMENDMENT TO TITLE 28.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:

"§ 1632. Limitation on prisoner release orders

"(a) IN GENERAL.—Notwithstanding section 13 of the Civil Rights of Institutionalized Persons Act or any other provision of law, in a civil action with respect to prison conditions, no court of the United States or other court defined under section 610 shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison, on the basis of prison conditions, of any person subject to incarceration, detention, or admission to a facility because of—

"(1) a conviction of a felony under the laws of the relevant jurisdiction; or

"(2) a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction.

"(b) DEFINITIONS.—In this section—

"(1) the terms 'civil action with respect to prison conditions', 'prisoner', 'prisoner release order', and 'prison' have the meanings given those terms in section 13(h) of the Civil Rights of Institutionalized Persons Act; and

"(2) the term 'prison conditions' means conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following:

"1632. Limitation on prisoner release orders.".

(b) AMENDMENT TO TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking the fifth sentence and inserting the following: "Credit that has not been earned may not later be granted, and credit that has been revoked pursuant to section 3624A may not later be reinstated."; and

(2) in paragraph (2), by inserting before the period at the end the following: ", and may be revoked by the Bureau of Prisons for noncompliance with institutional disciplinary regulations at any time before vesting".

SEC. 19. REPEAL OF SECTION 140.

Section 140 of the joint resolution entitled "A Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes", approved December 15, 1981 (Public Law 97-92; 95 Stat. 1200; 28 U.S.C. 461 note) is repealed.

SEC. 20. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. ASHCROFT. Mr. President, I rise today to join Senator HATCH in introducing the Judicial Improvement Act of 1998. Many of the provisions of this bill stem from a series of hearings I held in the Subcommittee on the Constitution, Federalism and Property Rights last summer addressing the problem of judicial activism. The hearings focused on the problem of judicial activism and its impact. The Subcommittee heard testimony from a variety of individuals, from constitutional scholars to victims of activist judicial orders. The final hearing of the series focused on potential solutions to the problem of activism.

That final hearing canvassed potential solutions ranging from proposed constitutional amendments, to increased public education efforts about the problem of judicial activism, to proposed statutory solutions. The hearings convinced me that, at a minimum, we needed to provide some procedural mechanisms to make it more difficult for any single judge to issue an activist order and to make it easier for litigants to force the reconsideration of activist orders.

Since the close of the hearings, I have been working with others on the Judiciary Committee to fashion legislation that would accomplish these goals. Last fall, I circulated draft language concerning the three legislative proposals that remain my top priorities in this area—requiring a three-judge panel before a federal court can strike down a state initiative or an act of Congress as unconstitutional, expanding provisions of the Prison Litigation Reform Act to cover other local and state institutions, and codifying a flat prohibition on federal court orders directly increasing taxes. With the help of Chairman HATCH, Senator ABRAHAM and others on the Committee, we have added many additional provisions and drafted a comprehensive bill aimed at improving the federal judiciary. Although I would not have included every provision in the bill had I introduced my own bill, the bill reflects the collective work of the Committee and would substantially improve the workings of the federal judiciary.

Let me take a few moments to discuss the provisions that are critical to addressing the problem of judicial activism. First and foremost, the bill addresses the problem of having a single federal judge strike down a state referendum as unconstitutional. Nothing highlights the undemocratic power of a federal judge more strikingly than when a single unelected federal judge invalidates a law passed by the general public through the initiative process. Even the Ninth Circuit, the epicenter of judicial activism in America, has acknowledged the strain that a single judge's nullification of an initiative places on our political system. As the court recently noted in an opinion reversing such a single-judge nullification: "A system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law tests the integrity of our constitutional democracy." *The Coalition for Economic Equality* v. *Wilson*, 122 F.3d 692, 699 (9th Cir.), (cert. denied, 118 S. Ct. 397 (1997).

The three-judge panel ameliorates this problem by requiring that a three-judge panel be convened, and a majority of the panel agree, before a state initiative can be enjoined. The provision then addresses the problem of the popular will being preliminarily enjoined for long periods of time before a final appealable decision is issued by providing for an expedited review of the injunction.

The three-judge panel provision recognizes that there may be situations in which state initiatives run afoul of the Constitution and courts may need to declare them unconstitutional. But the bill also recognized that when a federal court takes such an action, it can cause considerable frustration and friction. The bill attempts to minimize such friction by ensuring that a federal court complies with a number of safeguards before taking such a drastic action.

A second key provision in the bill extends some of the protections included in the Prison Litigation Reform Act to other state and local government institutions. During the hearings, I heard over and over about the frustration of state and local officials who are saddled with consent decrees entered into decades ago that allow unelected federal judges—rather than elected local officials—to run local institutions. The bill addresses this problem by requiring the periodic reconsideration of such consent decrees or structural injunctions to ensure that they remain necessary to remedy a constitutional violation. Once again, the bill recognizes that our federal Constitution and federal system of government may require federal courts to issue injunctions covering state and local institutions, but also acknowledges that such sweeping injunctions create friction with local officials. The best way to limit such friction is to provide a mechanism to ensure that the injunctions remain necessary to remedy a constitutional violation. This bill does that.

Another key provision of particular importance to my constituents back in Missouri is the flat prohibition on federal court orders directly raising or imposing taxes. The people of Kansas City have suffered through the activism of federal District Judge Russell Clark, including his order directly ordering local authorities to increase taxes. This provision directly attacks such judicial tyranny. Importantly, however, the bill leave the federal court's power to order remedies that may lead a local or state government to raise taxes. But the ultimate decision of whether to raise taxes, raise revenue through other means or cut spending remains that the local authorities.

A final point should be made about all three of these provisions: they apply only to federal courts. The procedures and remedial authority of state courts remain unaffected. During the Subcommittee hearings a number of people offered suggestions to make the federal courts more directly responsive to the people. In attempting to improve the federal courts, we cannot lose sight of the fact that under our federal system we have both federal courts and state courts of general jurisdiction which are fully capable of hearing federal claims. State courts, moreover, are much more responsible to the people—in the majority of States they are subject to direct elections or retention elections.

This bill recognizes the comparative advantages of these two court systems and tries to limit the availability of those remedies that are the most intrusive in the courts that are least responsible to the people. If people are really convinced that courts must levy taxes and run state and local institutions in perpetuity (and I, for one, am not convinced such measures are ever necessary), then at least the courts that do so should be relatively responsive state courts, rather than unelected, life-tenured federal judges.

Before I close, let me mention a few other provisions of the bill that are of particular importance to me. First, the bill contains a provision that makes it clear that the same standards for judging the admissibility of confessions that Congress created for federal criminal trials should also apply when federal courts engage in collateral review of state and federal convictions. This provision reinforces that the touchstone for admissibility should be the voluntariness of the confession and that a technical violation should not free a convicted prisoner on collateral review.

Second, the bill includes a provision similar to one in legislation introduced by Senator SPECTER, which I have cosponsored, which prevents a federal court from barring local authorities for ordering a retrial of a convicted authority. The traditional remedy in a habeas proceeding is release from custody. Taking the further step of barring retrial goes beyond the traditional office of the writ and is an affront to state courts and prosecutors.

Finally, the bill appropriately limits the practice of releasing prisoners early as a judicial remedy. Perhaps, the most poignant testimony in the Subcommittee hearings concerned family whose son, Danny Boyle, was killed by an arrested felon, who but for a prison release order would have been behind bars. Danny was a promising young police officer whose life and career were cut short—a victim of judicial activism. I am committed to working to ensure that another family does not have to come before a future Subcommittee hearing with similar testimony about a son or daughter.

I want to thank Chairman HATCH and Senator ABRAHAM for working with me to get these provisions included in the bill. I look forward to working with them to ensure that this bill moves forward and that we take these modest steps to improve the federal judiciary.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Judicial Improvement Act. This legislation contains various important reforms of the judicial branch that will help keep the powers of the courts in check with the other branches of government and with the will of the people.

This comprehensive bill contains provisions that are important to many senators, and I am especially pleased that two bills that I have introduced and advocated for years are included in this reform package. One would prohibit judges from imposing tax increases, and the other would clarify the retroactive application of legislation.

This Act states that a Federal judge does not have the authority to order the Federal government or units of state or local governments to raise taxes as a legal remedy. In 1990, in Missouri v. Jenkins, the Supreme Court permitted a district court judge to order local authorities to impose a huge tax increase to pay for his plan to desegregate a school district.

One may wonder why a desegregation plan would be so expensive as to warrant a massive tax increase. The reason is this plan was not simply an attempt to bring schools up to basic standards. Rather, it was an elaborate social experiment in the name of education. Money was no object. Among other mandates, the plan called for 15 computers in every classroom, a 2,000 square-foot planetarium, a 25-acre farm, a model United Nations, an art gallery, movie editing and screening rooms, and swimming pools.

Money was no object because there was no control over the judge. There was no accountability. The only supervision was a higher court, and a slim majority of the Supreme Court gave the judge a free reign.

The dissent in that case clearly explained what should have been obvious: it violates the Constitutional separation of powers for a judge to order that taxes be increased. In the Constitution, Article I contains the legislative powers. Article I, Section 8 begins by stating, "The Congress shall have the power to lay and collect taxes." Article III provides for judicial power, and makes no mention of the power to tax. Therefore, a Federal judge does not have the power to tax under the Constitution.

This is more than a matter of proper Constitutional interpretation. It is an essential check on power. The ability to tax is an awesome power. It is true that, as Justice John Marshall once wrote, "the power to tax involves the power to destroy." This authority must be carefully checked, and the best source of control is the people. Thus, in the Constitution, the ability to tax was given to the legislative branch, which is directly accountable to the people through the ballot box.

By design, the Judicial Branch is different. It is not responsible to the people. The Framers intentionally did not provide for judges to be elected by the people and even gave judges life tenure. They wanted judges to be insulated from the political climate and have the freedom to interpret the law appropriately, rather than make decisions based on the will of the majority at any given moment. It is entirely reasonable and appropriate that judicial power does not include the power to tax. As Justice Kennedy stated in his thoughtful dissent in Missouri v. Jenkins, the Supreme Court's "casual embrace of taxation imposed by the unelected life-tenured Federal Judiciary disregards fundamental precepts for the democratic control of public institutions."

The Framers of the Constitution fully intended to separate power in this manner and did not mean for judges to be involved in taxation. As Alexander Hamilton stated in the Federalist No. 78, "The judiciary . . . has no influence over either the sword or the purse." In my view, judicial taxation is simply taxation without representation, no different from the complaints of the American colonists about taxation without representation during the days of the Stamp Act in 1765.

Mr. President, if a judge can order a tax increase for a school, why not a similar social experiment for a prison? It is hard to imagine any limits on a Federal judge's power as expressed in Missouri v. Jenkins. I believe it is imperative that the Congress act to control the power of the judicial branch in this regard.

Another provision of the bill that I have long advocated would clarify the retroactivity of legislation. Often the Congress will pass legislation but not state whether that legislation should be applied retroactively to conduct that occurred before the law was passed. An excellent example is the Civil Rights Act of 1991. It took years of litigation with decisions in over one hundred Federal courts throughout the country before the Supreme Court finally decided the question.

The provision simply states that legislation is not retroactive unless the bill expressly says it is. This simple rule will eliminate a great deal of uncertainty. As a result, it will reduce litigation costs and help our judicial system better focus to reserve its limited resources.

This clarification should not be controversial. The Judicial Conference of the Federal courts indicated in a report in 1995 that it did not oppose this legislative fix, and the Clinton Justice Department stated in a letter to me in 1996 that it did not object to this clarification. I hope both of these provisions are passed this year.

The Judicial Improvement Act contains many other needed reforms that I will not attempt to detail, such as a requirement for a three-judge panel to enjoin the enforcement of certain laws. I hope my colleagues will join me in supporting the judicial reforms contained in this important legislation.

I yield the floor.

By Mrs. HUTCHISON:

S. 2164. A bill to amend title 49, United States Code, to promote rail competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE STB AMENDMENTS OF 1998

• Mrs. HUTCHISON. Mr. President, today I am introducing the Surface Transportation Board Amendments of 1998. This legislation proposes to expand the Surface Transportation Board's existing authority to address circumstances affecting rail service transportation in today's environment.

First, I think most colleagues would agree that the STB has performed well since its inception in 1996. The industries it regulates have experienced a number of significant changes in the past few years. The STB has acted consistently with the authority Congress gave it, and clearly within the deregulatory intent with which it was created.

This year's reauthorization gives us the first chance since we created the Board to review its practices and performance. My bill is based upon the principle that Congress sets government policy and the Executive Branch, through regulators such as the STB, executes that policy. During hearings in my Surface Transportation and Merchant Marine Subcommittee, I have consistently sought to identify the limits of STB authority to act in certain circumstances, and to identify those areas beyond which STB action would require a policy decision by Congress.

It is very important that we pass a re-authorization bill this year. Doing that will require that we establish the middle ground between those who want to roll back the clock and begin to re-regulate the industry and those who think the board needs no additional authority to adequately address the many issues before it.

I believe my bill does just that. However, I stand ready to work with my colleagues to further refine my proposals to move this bill through the legislative process. I welcome input from any interested members.

My own personal view is that re-regulation is not called for. The Staggers Rail Act of 1980 has had very positive results for both industry and shippers. But we must ensure the board has sufficient tools to ensure that deregulation has its intended effect of greater competition and better value to the consumer. The experiences of the past few years, and this year in particular, give us much to consider.

Mr. President, our country has endured a critical rail service crisis for many, many months. My home State of Texas has felt this crisis as much as any other State, and more than most. Texas has sustained billions of dollars of economic losses as the goods bound to and from the State's ports, factories and refineries sit gridlocked on the rails. These service problems primarily have occurred in the West, but there has been a ripple effect throughout the entire rail system. Service problems continue today, and I know the railroads have been working night and day to alleviate service troubles.

Mr. President, I will explain my bill at greater length in a moment, but I want to stress that I have worked to craft a bill that maintains the basic deregulatory rules that the rail industry and shippers have played by since the 1980s. However, it is the shippers today who face a most challenging rail shipping environment.

Therefore, I am proposing we take action to ensure that the Board's procedures are more readily accessible to small shippers. I also am proposing to expand the Board's authority with regard to maintaining and promoting rail competition in appropriate circumstances. And, I believe strongly that we can do this without jeopardizing the integrity of deregulation.

The Committee on Commerce, Science, and Transportation has been working for many months on issues surrounding the rail service transportation. In that effort, the reauthorization of the Surface Transportation Board is a priority of our Committee.

To date we have held four rail service hearings during this Congress—three field hearings along with a Subcommittee hearing on the Board's reauthorization. In addition, at Senator McCAIN's and my request, the STB held 2 days of hearings in April to address rail access and competition issues at which more than 60 witnesses testified.

In response to the information gathered during these many hearings both by our Committee and the Board, today I am proposing legislation to address a number of areas which I believe warrant serious attention and in some cases, reform. I expect some will have a strong reaction to my proposals, as some in the rail industry have tended to tar any legislative proposals affecting their industry as "re-regulation." At the same time, I suspect some shipper groups will report that these proposals do not go nearly as far as they believe we should go. If so, that sounds like we're at least within striking distance of the middle ground.

I want to briefly explain the major provisions of this legislation:

First, the bill establishes that promoting competition within the rail industry is one of the criteria the STB should use in performing its responsibilities.

Second, the bill would extend the time period covering the Board's emergency service orders. The current 270-day emergency order authority would be extended to cover a total period of 18 months. In the event an emergency remains in effect beyond this time frame, the Board would be permitted to request and receive two 6-month extensions of an emergency service order. The Congress could disapprove the Board's requests and also take affirmative action to grant any further extensions as may be necessary.

Third, the bill includes several features to simplify the regulatory process involving small rate cases. During every hearing before our Committee, shippers stressed their frustrations that for a small shipper, it is simply too time consuming and costly to ever bring a case to the Board. This bill seeks to acknowledge those concerns and proposes to foreclose discovery in small rate cases, absent a demonstration of compelling need. Further, it would direct the Board to establish an arbitration mechanism for small shipper cases. It would not require mandatory arbitration, but would allow for arbitration at one party's request.

Fourth, my bill seeks to address concerns raised about the Board's market dominance standard. Some have advocated Congress statutorily eliminate product and geographic competition from the Board's market dominance analysis as it is a very time consuming process. Yet others contend these considerations remain necessary. My bill recognizes the Board's April 17th decision announcing it would initiate a proceeding to consider whether to maintain, change, or eliminate product and geographic competition from consideration in rate cases. I believe the Board's action is the proper route to follow.

Fifth, my bill seeks to address another area of concern raised by shippers: revenue adequacy. At the Board's April hearings, rail and shipper representatives suggested referring this matter of considerable debate to one or more disinterested economists, which the Board initiated April 17th. My bill directs the Board to carry out its proposal in this area and direct rail and shipper representatives to select a panel of 3 disinterested economists to examine the Board's current standards for measuring revenue adequacy and to consider whether alternative measurements of a railroad's financial health are warranted.

Sixth, my bill seeks to address the issue of bottleneck rates. There is considerable debate as to the correct approach in this area, with some strongly opposed to any change and others equally adamant about total reform. My proposal seeks to take a balanced approach, ensuring some needed boundaries remain. It would require a carrier to provide a shipper with a rate for a "bottleneck" line segment when requested to accommodate a transportation contract. The railroad would be required to provide the shipper with a rate over the "bottleneck" line segment as long as the interchange would be operationally feasible and the through route would not significantly impair the railroad's ability to serve its other shippers.

Finally, my bill would remove the 3-year renewal requirement regarding antitrust immunity applicable to household goods carriers. While the continued propriety of collective actions by other types of motor carriers has been the subject of debate, no similar concerns have been voiced about the collective activities of household goods carriers. The repeal of the mandatory review requirement would relieve the carriers of an unnecessary regulatory burden, although it would have no effect on the STB's existing authority to modify or revoke collective actions when the STB determines such action is necessary to protect the public interest.

Mr. President, I ask unanimous consent a copy of my bill be printed in the RECORD. I encourage my colleagues to look at this legislation and begin working with me now so that we may reauthorize the Surface Transportation Board this year and provide important policy guidance in regard to rail service matters.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Board Amendments of 1998".

SEC. 2. PROMOTION OF COMPETITION WITHIN THE RAIL INDUSTRY.

Section 10101 of title 49, United States Code, is amended by—

(1) redesignating paragraphs (1) through (7) as paragraphs (2) through (8);

(2) inserting before paragraph (2), as redesignated, the following:

"(1) to encourage and promote effective competition within the rail industry;";

(3) redesignating paragraphs (9) through (16) as paragraphs (10) through (17); and

(4) inserting before paragraph (10), as redesignated, the following:

"(9) to discourage artificial barriers to interchange and car supply which can impede competition between shortline, regional, and Class I carriers and block effective rail service to shippers.

SEC. 3. EXTENSION OF TIME LIMIT ON EMERGENCY SERVICE ORDERS.

Section 11123 of title 49, United States Code, is amended by—

(1) striking "30" in subsection (a) and inserting "60";

(2) striking "30" in subsection (c)(1) and inserting "60";

(3) striking the second sentence of subsection (c)(1) and inserting the following: "An action taken by the Board under subsection (a) of this section may not remain in effect longer than 18 months (including the initial 60-day period), unless the Board requests an extension under paragraph (4)."; and

(4) adding at the end of subsection (c) the following:

"(4) The Board may request up to 2 extensions, of not more than 6 months each, of the 18-month period under subsection (a) by submitting to the Congress a request in writing for such an extension, together with an explanation of the reasons for the request. Such a requested extension goes into effect unless disapproved by the Congress by concurrent resolution. Any other extension requested by the Board will not go into effect unless the Congress approve it under the procedure established by section 4 of the Surface Transportation Amendments of 1998.".

SEC. 4. APPROVAL PROCEDURE.

(a) IN GENERAL.—Within 90 days (not counting any day on which either House is not in session) after a request for a third or subsequent extension is submitted to the House of Representatives and the Senate by the Surface Transportation Board under section 11123(c)(4) of title 49, United States Code, an approval resolution shall be introduced in the House by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The approval resolution shall be held at the desk at the request of the Presiding Officers of the respective Houses.

(b) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) CONSIDERATION OF APPROVAL RESOLUTION.—After an approval resolution is introduced, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the resolution. All points of order against the resolution and against consideration of the resolution are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the resolution in the Committee of the Whole, the first reading of the resolution shall be dispensed with. General debate shall proceed, shall be confined to the resolution, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the resolution. The resolution shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the resolution is in order. Consideration of the resolution shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of the consideration of the resolution, the Committee shall rise and report the resolution to the House. The previous question shall be considered as ordered on the resolution to final passage without intervening motion. A motion to reconsider the vote on passage of the resolution shall not be in order.

(2) APPEALS OF RULINGS.—Appeals from decision of the Chair regarding application of the rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(3) CONSIDERATION OF MORE THAN ONE APPROVAL RESOLUTION.—It shall not be in order to consider under this subsection more than one approval resolution under this section, except for consideration of a similar Senate resolution (unless the House has already rejected an approval resolution) or more than one motion to discharge described in paragraph (1) with respect to an approval resolution.

(c) CONSIDERATION IN THE SENATE.—

(1) REFERRAL AND REPORTING.—An approval resolution introduced in the Senate shall be shall be placed directly and immediately on the Calendar.

(2) IMPLEMENTING RESOLUTION FROM HOUSE.—When the Senate receives from the House of Representatives an approval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

(3) CONSIDERATION OF SINGLE APPROVAL RESOLUTION.—After the Senate has proceeded to the consideration of an approval resolution under this subsection, then no other approval resolution originating in that same House shall be subject to the procedures set forth in this subsection.

(4) MOTION NONDEBATABLE.—A motion to proceed to consideration of an approval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(5) LIMIT ON CONSIDERATION.—

(A) After no more than 2 hours of consideration of an approval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all motions, except a motion to reconsider or table.

(B) The time for debate on the approval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(6) NO MOTION TO RECOMMIT.—A motion to recommit an approval resolution shall not be in order.

(7) DISPOSITION OF SENATE RESOLUTION.—If the Senate has read for the third time an approval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of an approval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate approval resolution, agree to the Senate amendment, and vote on final disposition of the House approval resolution, all without any intervening action or debate.

(8) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on an approval resolution shall be limited to not more than 1 hour. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 15 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(d) DEFINITIONS.—For purposes of this section—

(1) APPROVAL RESOLUTION.—The term "approval resolution" means only a concurrent resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the approval of a request from the Surface Transportation Board under section 11123(a)(4) of title 49, United States Code.

(e) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in subsection (c); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 5. PROCEDURAL RELIEF FOR SMALL RATE CASES.

(a) DISCOVERY LIMITED.—Section 10701(d) of title 49, United States Code, is amended by—

(1) inserting "(A)" in paragraph (3) before "The Board"; and

(2) adding at the end thereof the following:

"(B) Unless the Board finds that there is a compelling need to permit discovery in a particular proceeding, discovery shall not be permitted in a proceeding handled under the guidelines established under subparagraph (A).".

(b) ADMINISTRATIVE RELIEF.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall—

(1) review the rules and procedures applicable to rate complaints and other complaints filed with the Board by small shippers;

(2) identify any such rules or procedures that are unduly burdensome to small shippers; and

(3) take such action, including rulemaking, as is appropriate to reduce or eliminate the aspects of the rules and procedures that the Board determines under paragraph (2) to be unduly burdensome to small shippers.

(c) LEGISLATIVE RELIEF.—The Board shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives if the Board determines that additional changes in the rules and procedures described in subsection (b) are appropriate and require commensurate changes in statutory law. In making that notification, the Board shall make recommendations concerning those changes.

SEC. 6. MARKET DOMINANCE STANDARD.

The Surface Transportation Board shall complete a rulemaking, as outlined in STB Ex Parte No. 575, to determine whether and to what extent it should consider product and geographic competition in making market dominance determinations.

SEC. 7. REVENUE ADEQUACY.

The Surface Transportation Board shall reexamine, as outlined in STB Ex Parte No. 575, its standards and procedures for determining adequate railroad revenue levels under section 10704(a)(2) of title 49, United States Code. In carrying out it reexamination, the Board is directed to seek recommendations of a panel of three disinterested economists on the proper standards to apply. The panel shall submit its report and recommendations simultaneously to the Surface Transportation Board and to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.

SEC. 8. BOTTLENECK RATES.

(a) THROUGH ROUTES.—Section 10703 of title 49, United States Code, is amended—

(1) inserting "(a) IN GENERAL.—" before "Rail carriers"; and

(2) adding at the end thereof the following:

"(b) CONNECTING CARRIERS.—When a shipper and rail carrier enter into a contract under section 10709 for transportation that would require a through route with a connecting carrier and there is no reasonable alternative route that could be constructed without participation of that connecting carrier, the connecting carrier shall, upon request, establish a through route and a rate that can be used in conjunction with transportation provided pursuant to the contract, unless the connecting carrier shows that—

"(1) the interchange requested is not operationally feasible; or

"(2) the through route would significantly impair the connecting carrier's ability to serve its other traffic.

The connecting carrier shall establish a rate and through route within 21 days unless the

Board has made a determination that the connecting carrier is likely to prevail in its claim under paragraph (1) or (2).".

(b) BOARD'S AUTHORITY TO PRESCRIBE DIVISION OF JOINT RATES.—Section 10705(b) of title 49, United States Code, is amended by striking "The Board shall" and inserting "Except as provided in section 10703(b), the Board shall".

(c) COMPLAINTS.—Section 11701 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Where transportation over a portion of a through route is governed by a contract under section 10709, a rate complaint must be limited to the rates that apply to the portion of the through route not governed by such a contract.".

SEC. 9. SIMPLIFIED DISPUTE RESOLUTION.

Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall promulgate regulations adopting a simplified dispute resolution mechanism with the following features:

(1) IN GENERAL.—The simplified dispute resolution mechanism will utilize expedited arbitration with a minimum of discovery and may be used to decide disputes between parties involving any matter subject to the jurisdiction of the Board, other than rate reasonableness cases that would be decided under constrained market pricing principles.

(2) APPLICABLE STANDARDS.—Arbitrators will apply existing legal standards.

(3) MANDATORY IF REQUESTED.—Use of the simplified dispute resolution mechanism is required whenever at least one party to the dispute requests.

(4) 90-DAY TURNAROUND.—Arbitrators will issue their decisions within 90 days after being appointed.

(5) PAYMENT OF COSTS.—Each party will pay its own costs, and the costs of the arbitrator and other administrative costs of arbitration will be shared equally between and among the parties.

(6) DECISIONS PRIVATE; NOT PRECEDENTIAL.—Except as otherwise provided by the Board, decisions will remain private and will not constitute binding precedent.

(7) DECISIONS BINDING AND ENFORCEABLE.—Except as otherwise provided in paragraph (8), decisions will be binding and enforceable by the Board.

(8) RIGHT TO APPEAL.—Any party will have an unqualified right to appeal any decision to the Board, in which case the Board will decide the matter de nova. In making its decision, the Board may consider the decision of the arbitrator and any evidence and other material developed during the arbitration.

(9) MUTUAL MODIFICATION.—Any procedure or regulation adopted by the Board with respect to the simplified dispute resolution may be modified or eliminated by mutual agreement of all parties to the dispute.

SEC. 10. PROMOTION OF COMPETITIVE RAIL SERVICE OPTIONS.

Section 11324 of title 49, United States Code, is amended—

(1) by striking "and" in paragraph (4) of subsection (b);

(2) by striking "system." in paragraph (5) of subsection (b) and inserting "system; and";

(3) by adding at the end of subsection (b) the following:

"(6) means and methods to encourage and expand competition between and among rail carriers in the affected region or the national rail system."; and

(4) by inserting after the second sentence in subsection (c) the following: "The Board may impose conditions to encourage and expand competition between and among rail carriers in the affected region or the national rail system, provided that such conditions do not cause substantial harm to the benefits of the transaction to the affected carriers or the public.".

SEC. 11. HOUSEHOLD GOODS COLLECTIVE ACTIVITIES.

Section 13703(d) of title 49, United States Code, is amended by inserting "(other than an agreement affecting only the transportation of household goods, as defined on December 31, 1995)" after "agreement" in the first sentence.●

By Mr. GRASSLEY:

S. 2165. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING DETERRENCE ACT OF 1998

● Mr. GRASSLEY. Mr. President, recently, we have seen the culmination of one of the most successful undercover operations in history by the United States Customs Service. This effort, known as "Operation Casablanca," has infiltrated and dismantled a group of international bankers, mostly in Mexico, who have been laundering drug money. The threat of drug trafficking is serious enough. But to have their financial advisors leading their effort to facilitate the smuggling of illicit narcotics is much worse. Complicit bankers devising schemes can make it much easier to move and hide the ill-gotten gains of drug cartels.

As this latest law enforcement operation illustrates, we must be sure that we are taking the necessary steps to protect the citizens of our nation. We must prevent drug traffickers and organized crime groups from obtaining the profits of their illegal activities. Much has been done and said about the movement of illegal drugs into the United States. But the opposite side of the business does not always get the publicity, and is just as important. We need to go after the profits from drug sales and other illegal enterprises.

Last week, Representative LEACH, Chairman of the Committee on Banking and Financial Services introduced legislation to amend title 31, United States Code. The bill H.R. 4005, "the Money Laundering Deterrence Act of 1998," would improve methods for preventing financial crimes. And as Operation Casablanca shows this legislation, is timely and needed. We need to tighten up our financial control capabilities to prevent criminal enterprises from abusing our financial and banking systems. The bill is supported by the American Banking Association (ABA), the Department of the Treasury, the Department of Justice and the Federal Reserve. Today, Chairman LEACH's bill has already been marked up in the House.

I call for my colleagues to help support this companion legislation. I hope this would be a continuation of efforts by Congress to go after the growing threat of money laundering not only to our nation, but worldwide.●

By Mr. HARKIN (for himself, Mr. LEAHY AND Mr. JOHNSON):

S. 2166. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in such Acts through fiscal year 2002, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1998

● Mr. HARKIN. Mr. President, I am introducing today, at the request of the Clinton Administration, the Child Nutrition and WIC Reauthorization Amendments of 1998. I am grateful to be joined in the introduction of this bill by Senator LEAHY, the Ranking Member of the Subcommittee on Research, Nutrition, and General Legislation, and by Senator JOHNSON. In my years serving on the Committee on Agriculture, Nutrition, and Forestry, and now as its Ranking Member, I have always placed a very high value on the child nutrition programs, including the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). These programs have been critical in helping to meet the nutritional needs of millions of our nation's children.

This bill is the first child nutrition reauthorization bill sent to Congress by an Administration in two decades. It is a very commendable effort, with many positive features, that we will be relying upon substantially as we fashion a child nutrition bill in the coming weeks in the Senate Committee on Agriculture, Nutrition, and Forestry and ultimately in conference. In addition to reauthorizing those programs that are expiring, the bill makes a number of improvements throughout the child nutrition programs. It is designed to be cost-neutral over the next five years, to simplify and streamline program operations, to reduce impediments to participation by eligible individuals, to reach certain children needing additional nutritional assistance, to strengthen program integrity and to enhance the nutrition provided by the programs.

Earlier this year, I joined Chairman LUGAR, Senator MCCONNELL and Senator LEAHY in introducing a measure, S. 1581, that would simply reauthorize the child nutrition programs for the next five years. That bill was recognized as a starting point for a careful review of the child nutrition programs leading to the development of a sound, well-crafted and bipartisan reauthorization bill. I believe there is broad support for improving and modifying these programs to meet changing needs and demands within the overall spending limitations that we are committed to working within.

One of the more important features of the bill is new authority for nutrition assistance in after-school programs through the Child and Adult Care Food Program for at risk youths between the ages of 12 and 18. We know too well that the hours just after school are full of opportunities for teenagers to get into trouble, whether it involves crime, drug use or teen pregnancy. The availability of nutrition assistance can help to support organized after-school activities that are healthy and constructive alternatives to what might otherwise occur in those risky after-school hours.

There are also provisions in the bill designed to improve the nutrition provided by the programs, including an emphasis on establishing adequate time for kids to eat school lunches in an atmosphere conducive to good nutrition and an authorization of Nutrition Education and Training grants based on $0.50 a child each year with a minimum of $75,000 per state.

There are also provisions in the bill to improve access to the Summer Food Service Program by increasing the number of sites and the number of children that can be served by non-profit sponsors. Statistics continue to show that far fewer low income children are served in the Summer Food Service Program than during the school year in the National School Lunch Program, especially in rural areas. The provisions in this bill are designed to help address this gap.

The bill also reauthorizes the WIC Program. Under Secretary Shirley Watkins was absolutely correct when she said at a recent Agriculture Committee Hearing that, "WIC works." No other Federal-state program has the proven cost-effectiveness of WIC, which has been shown in study after study. This bill is designed to build upon the success of the current WIC program with improvements in program management and integrity.

While I support a very high proportion of the provisions of this bill, I do not necessarily support every detail of it. I will also mention some of the areas in which I hope the final bill will take more substantial steps than are included in this bill. In my view, more should be done to increase participation in the School Breakfast Program, especially among low-income children, and in the Summer Food Service Program. I would also prefer further strengthening of after-school and child care nutrition assistance. And additional steps should be taken to improve integrity and accountability in the WIC program while continuing the progress toward full participation.

I look forward to working with my Congressional colleagues, the Administration and the entire child nutrition community, to design a final bill having broad bipartisan support.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Nutrition and WIC Reauthorization Amendments of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

Sec. 101. Technical amendments to commodity provisions.
Sec. 102. Availability of recovered funds for management activity.
Sec. 103. Elimination of administration of programs by regional offices.
Sec. 104. Requirement for health and safety inspections.
Sec. 105. Elimination of food and nutrition projects and establishment of an adequate meal service period.
Sec. 106. Buy American.
Sec. 107. Summer food service program for children.
Sec. 108. Commodity distribution program.
Sec. 109. Child and adult care food program.
Sec. 110. Transfer of homeless assistance programs to the child and adult care food program.
Sec. 111. Elimination of pilot projects.
Sec. 112. Training and technical assistance.
Sec. 113. Food service management institute.
Sec. 114. Compliance and accountability.
Sec. 115. Information clearinghouse.
Sec. 116. Refocusing of effort to help accommodate the special dietary needs of individuals with disabilities.

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

Sec. 201. Elimination of administration of programs by regional offices.
Sec. 202. State administrative expenses.
Sec. 203. Special supplemental nutrition program for women, infants, and children.
Sec. 204. Nutrition education and training.

TITLE III—COMMODITY DISTRIBUTION PROGRAMS

Sec. 301. Commodity distribution program reforms.
Sec. 302. Food distribution.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

SEC. 101. TECHNICAL AMENDMENTS TO COMMODITY PROVISIONS.

(a) IN GENERAL.—Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively.

(b) CONFORMING AMENDMENTS.—The National School Lunch Act is amended by striking "section 6(e)" each place it appears in sections 14(f), 16(a), and 17(h)(1)(B) (42 U.S.C. 1762a(f), 1765(a), 1766(h)(1)(B)) and inserting "section 6(c)".

SEC. 102. AVAILABILITY OF RECOVERED FUNDS FOR MANAGEMENT ACTIVITY.

Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended by adding at the end the following:

"(h) RETENTION AND USE OF RECOVERED PROGRAM FUNDS.—

"(1) RETENTION.—A State agency may retain up to 50 percent of any program funds recovered as a result of an audit or review conducted by the State agency of school food authorities, institutions, and service institutions participating in food assistance programs authorized under this Act or section 3 or 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1772, 1773).

"(2) USE.—Funds retained by a State agency under this subsection shall be used by the State agency for allowable program costs to improve the management and operation of programs described in paragraph (1) within the State, including the cost of providing funds to school food authorities, institutions, and service institutions participating in the programs.".

SEC. 103. ELIMINATION OF ADMINISTRATION OF PROGRAMS BY REGIONAL OFFICES.

(a) MATCHING REQUIREMENT.—Section 7(b) of the National School Lunch Act (42 U.S.C. 1756(b)) is amended by striking the second sentence.

(b) DISBURSEMENT TO SCHOOLS BY THE SECRETARY.—Section 10 of the National School Lunch Act (42 U.S.C. 1759) is amended to read as follows:

"SEC. 10. DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

"(a) AUTHORITY TO ADMINISTER PROGRAMS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), until September 30, 2000, the Secretary shall withhold funds payable to a State agency under this Act and disburse the funds directly to school food authorities, institutions, and service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed the funds continuously since October 1, 1980.

"(2) USE OF FUNDS.—Any funds withheld and disbursed by the Secretary under paragraph (1) shall be used for the same purposes and be subject to the same conditions as apply to disbursing funds made available to States under this Act.

"(3) STATE ADMINISTRATION.—If the Secretary is administering (in whole or in part) any program authorized under this Act in a State, the State may, on request to the Secretary, assume administrative responsibility for the program at any time before October 1, 2000.

"(b) PROVISION OF TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide a State agency that assumes administrative responsibility for a program from the Secretary on or before October 1, 2000, with training and technical assistance to allow for an efficient and effective transfer of the responsibility.".

(c) CONFORMING AMENDMENT.—Section 11(a)(1)(A) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)(A)) is amended by striking "Except as provided in section 10 of this Act, in" and inserting "In".

SEC. 104. REQUIREMENT FOR HEALTH AND SAFETY INSPECTIONS.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

"(h) Health and Safety Inspections.—A school participating in the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) in which meals are prepared on site shall, at least twice during each school year, obtain an inspection that indicates that food service operations of the school meet State and local health and safety standards.".

SEC. 105. ELIMINATION OF FOOD AND NUTRITION PROJECTS AND ESTABLISHMENT OF AN ADEQUATE MEAL SERVICE PERIOD.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (m) and inserting the following:

"(m) Length of Meal Service Period and Food Service Environment.—A school participating in the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall, to the maximum extent practicable, establish meal service periods that provide children with adequate time to fully consume their meals in an environment that is conducive to eating the meals.".

SEC. 106. BUY AMERICAN.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 105) is amended by adding at the end the following:

"(n) Buy American.—

"(1) In general.—The Secretary shall require that a school purchase, to the maximum extent practicable, food products that are produced in the United States.

"(2) Limitations.—Paragraph (1) shall apply only to—

"(A) a school located in the contiguous United States; and

"(B) a purchase of a food product for the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).".

SEC. 107. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) Adjustments to Reimbursement Rates.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (f) and inserting the following:

"(f) Adjustments to Reimbursement Rates.—In providing assistance for breakfasts, lunches, suppers, and supplements served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4, 11, 13 and 17 of this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to reflect the differences between the costs of providing meals in those States and the costs of providing meals in all other States.".

(b) Establishment of Site Limitation.—Section 13(a)(7)(B) of the National School Lunch Act (42 U.S.C. 1761(a)(7)(B)) is amended by striking clause (i) and inserting the following:

"(i) operate—

"(I) not more than 25 sites, with not more than 300 children being served at any 1 site; or

"(II) with a waiver granted by the State agency under standards developed by the Secretary, with not more than 500 children being served at any 1 site;".

(c) Elimination of Indication of Interest Requirement, Removal of Meal Contracting Restrictions, and Vendor Registration Requirements.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)(7)(B)—

(A) by striking clauses (ii) and (iii); and

(B) by redesignating clauses (iv) through (vii) as clauses (ii) through (v) respectively; and

(2) in subsection (l)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "(other than private nonprofit organizations eligible under subsection (a)(7))"; and

(II) by striking "only with food service management companies registered with the State in which they operate" and inserting "with food service management companies"; and

(ii) by striking the last sentence;

(B) in paragraph (2)—

(i) in the first sentence, by striking "shall" and inserting "may"; and

(ii) by striking the second and third sentences;

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) Reauthorization of Summer Food Service Program.—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking "1998" and inserting "2002".

SEC. 108. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "1998" and inserting "2002".

SEC. 109. CHILD AND ADULT CARE FOOD PROGRAM.

(a) Revision to Licensing and Alternate Approval for Schools and Outside School Hours Child Care Centers.—Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended in the fifth sentence by striking paragraph (1) and inserting the following:

"(1) each institution (other than a school or family or group day care home sponsoring organization) and family or group day care home shall—

"(A)(i) have Federal, State, or local licensing or approval; or

"(ii) be complying with appropriate renewal procedures as prescribed by the Secretary and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

"(B) in any case in which Federal, State, or local licensing or approval is not available—

"(i) receive funds under title XX of the Social Security Act (42 U.S.C. 1397 et seq.);

"(ii) meet any alternate approval standards established by a State or local government; or

"(iii) meet any alternate approval standards established by the Secretary, after consultation with the Secretary of Health and Human Services; or

"(C) in any case in which the institution provides care to school children outside school hours and Federal, State, or local licensing or approval is not required, meet State or local health and safety standards; and".

(b) Reinstatement of Categorical Eligibility for Even Start Program Participants.—Section 17(c)(6)(B) of the National School Lunch Act (42 U.S.C. 1766(c)(6)(B)) is amended by striking "1997" and inserting "2002".

(c) Tax Exempt Status and Removal of Notification Requirement for Incomplete Applications.—Section 17(d)(1) of the National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended—

(1) by inserting after the third sentence the following: "An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution."; and

(2) by striking the last sentence.

(d) Distribution of Program Information.—Section 17(k) of the National School Lunch Act (42 U.S.C. 1766(k)) is amended—

(1) by striking "A State" and inserting the following:

"(1) In general.—A State"; and

(2) by adding at the end the following:

"(2) Distribution of program information.—

"(A) Definition of needy area.—In this paragraph, the term 'needy area' means a geographic area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(B) Information.—At least once every 2 years, each State agency shall provide notification of the availability of the program, the requirements for program participation, and the application procedures to be followed under the program to each nonparticipating institution or family or group day care home that—

"(i) is located in a needy area within the State; and

"(ii)(I) has received Federal, State, or local licensing or approval; or

"(II) receives funds under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).".

(e) Elimination of Audit Funds, Establishment of Management Support Funding, Participation by At-Risk Child Care Programs, and WIC Outreach.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) by striking subsection (i);

(2) by redesignating subsections (j) through (p) as subsections (i) through (o), respectively; and

(3) by adding at the end the following:

"(p) Management Funding.—

"(1) Technical and training assistance.—In addition to the normal training and technical assistance provided to State agencies under this section, the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

"(2) Funding.—For fiscal year 1999 and each succeeding fiscal year, the Secretary shall reserve to carry out paragraph (1) ⅛ of 1 percent of the amount made available to carry out this section.

"(q) At-Risk Child Care.—

"(1) Definition of at-risk school child.—In this subsection, the term 'at-risk school child' means a child who—

"(A) is not less than 12 nor more than 18 years of age; and

"(B) lives in a geographical area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—Subject to the other provisions of this subsection, an institution that provides care to at-risk school children during after-school hours, weekends, or holidays during the regular school year may participate in the program authorized under this section.

"(3) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

"(4) SUPPLEMENT REIMBURSEMENT.—

"(A) LIMITATIONS.—An institution may claim reimbursement under this subsection only for—

"(i) a supplement served to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

"(ii) 1 supplement per child per day.

"(B) RATE.—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

"(C) NO CHARGE.—A supplement claimed for reimbursement under this subsection shall be served without charge.

"(r) INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—

"(1) IN GENERAL.—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(2) REQUIREMENTS FOR STATE AGENCIES.—A State agency shall ensure that each participating child care center (other than an institution providing care to school children outside school hours)—

"(A) receives materials that include—

"(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

"(ii) the maximum State income eligibility standards, according to family size, for the program; and

"(iii) information concerning how benefits under the program may be obtained;

"(B) is provided updates of the information described in subparagraph (A) at least annually; and

"(C) provides the information described in subparagraph (A) to parents of enrolled children at least annually.".

(f) PERMANENT AUTHORIZATION OF DEMONSTRATION PROJECT.—Section 17(o) of the National School Lunch Act (42 U.S.C. 1766(o)) (as redesignated by subsection (e)) is amended by striking paragraphs (4) and (5).

SEC. 110. TRANSFER OF HOMELESS ASSISTANCE PROGRAMS TO THE CHILD AND ADULT CARE FOOD PROGRAM.

(a) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(a)(3)(C) of the National School Lunch Act (42 U.S.C. 1761(a)(3)(C)) is amended—

(1) in clause (i), by inserting "or" after the semicolon;

(2) by striking clause (ii); and

(3) by redesignating clause (iii) as clause (ii).

(b) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17 of the National School Lunch Act (as amended by section 109(e)) is amended—

(1) in the third sentence of subsection (a)—

(A) by striking "and public" and inserting "public"; and

(B) by inserting before the period at the following: ", and emergency shelters described in subsection (s)"; and

(2) by adding at the end the following:

"(s) PARTICIPATION BY EMERGENCY SHELTERS.—

"(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term 'emergency shelter' means a public or private nonprofit emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)), or a site operated by the shelter, that provides food service to homeless children and their parents or guardians.

"(2) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section shall apply to an emergency shelter that is participating in the program authorized under this section.

"(3) INSTITUTION AND SITE LICENSING.—Subsection (a)(1) shall not apply to an emergency shelter.

"(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State and local health and safety standards.

"(5) MEAL REIMBURSEMENT.—

"(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection only for—

"(i) a meal served to children who are not more than 12 years of age residing at the emergency shelter; and

"(ii) not more than 3 meals, or 2 meals and 1 supplement, per child per day.

"(B) RATE.—A meal shall be reimbursed under this subsection at the rate established for a free meal under subsection (c).

"(C) NO CHARGE.—A meal claimed for reimbursement under this subsection shall be served without charge.".

(c) HOMELESS CHILDREN NUTRITION PROGRAM.—Section 17B of the National School Lunch Act (42 U.S.C. 1766b) is repealed.

SEC. 111. ELIMINATION OF PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsections (e) through (i).

SEC. 112. TRAINING AND TECHNICAL ASSISTANCE.

Section 21(e)(1) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(1)) is amended by striking "1998" and inserting "2002".

SEC. 113. FOOD SERVICE MANAGEMENT INSTITUTE.

Section 21(e)(2)(A) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(2)(A)) is amended by striking "and $2,000,000 for fiscal year 1996" and inserting "$2,000,000 for each of fiscal years 1996 through 1998, and $3,000,000 for fiscal year 1999".

SEC. 114. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking "1996" and inserting "2002".

SEC. 115. INFORMATION CLEARINGHOUSE.

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is amended—

(1) in the first sentence of subsection (a), by striking "shall" and inserting "may";

(2) in subsection (b), by striking "The" and inserting "Except as provided in subsection (d), the"; and

(3) by striking subsection (d) and inserting the following:

"(d) NONCOMPETITIVE CONTRACTS.—Notwithstanding any other provision of law, the Secretary may, on a noncompetitive basis, enter into a contract for the services of any organization with which the Secretary has previously entered into a contract under this section, if the organization has performed satisfactorily under the contract and meets the requirements of this section.

"(e) FUNDING.—The Secretary may provide to the organization selected under this section an amount not to exceed $150,000 for each of fiscal years 1999 through 2002.".

SEC. 116. REFOCUSING OF EFFORT TO HELP ACCOMMODATE THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

Section 27 of the National School Lunch Act (42 U.S.C. 1769h) is amended to read as follows:

"SEC. 27. ACCOMMODATION OF SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

"(a) DEFINITIONS.—In this section:

"(1) COVERED PROGRAM.—The term 'covered program' means—

"(A) the school lunch program authorized under this Act;

"(B) the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

"(C) any other program authorized under this Act or the Child Nutrition Act of 1966 (except section 17 of that Act) that the Secretary determines is appropriate.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a school food authority, institution, or service institution that participates in a covered program.

"(3) INDIVIDUALS WITH DISABILITIES.—The term 'individual with disabilities' has the meaning given the term in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) for purposes of title VII of that Act (29 U.S.C. 796 et seq.).

"(b) ACTIVITIES.—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program, including—

"(1) developing and disseminating to State agencies guidance and technical assistance materials;

"(2) conducting training of State agencies and eligible entities; and

"(3) issuing grants to State agencies and eligible entities.".

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

SEC. 201. ELIMINATION OF ADMINISTRATION OF PROGRAMS BY REGIONAL OFFICES.

Section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774) is amended to read as follows:

"SEC. 5. DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

"(a) AUTHORITY TO ADMINISTER PROGRAMS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), until September 30, 2000, the Secretary shall withhold funds payable to a State agency under this Act and disburse the funds directly to school food authorities, institutions, and service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed the funds continuously since October 1, 1980.

"(2) USE OF FUNDS.—Any funds withheld and disbursed by the Secretary under paragraph (1) shall be used for the same purposes and be subject to the same conditions as apply to disbursing funds made available to States under this Act.

"(3) STATE ADMINISTRATION.—If the Secretary is administering (in whole or in part) any program authorized under this Act in a State, the State may, on request to the Secretary, assume administrative responsibility for the program at any time before October 1, 2000.

"(b) PROVISION OF TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide a State agency that assumes administrative responsibility for a program from the Secretary on or before October 1, 2000, with training and technical assistance to allow for an efficient and effective transfer of administrative responsibility.".

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) HOMELESS SHELTERS.—Section 7(a)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)) is amended by striking subparagraph (B) and inserting the following:

"(B) REALLOCATION OF FUNDS.—

"(i) RETURN TO SECRETARY.—For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.

"(ii) REALLOCATION BY SECRETARY.—The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.".

(b) ELIMINATION OF TRANSFER LIMITATION.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended by striking paragraph (6) and inserting the following:

"(6) USE OF ADMINISTRATIVE FUNDS.—Funds available to a State under this subsection and under section 13(k)(1) of the National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under the National School Lunch Act (42 U.S.C. 1751 et seq.) or this Act (except for the programs authorized under sections 17 and 21 of this Act) without regard to the basis on which the funds were earned and allocated.".

(c) REAUTHORIZATION OF PROGRAM.—Section 7(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) is amended by striking "1998" and inserting "2002".

SEC. 203. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) ADDITIONAL PROGRAM APPLICATION REQUIREMENTS.—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended by adding at the end the following:

"(C) PHYSICAL PRESENCE.—An applicant shall be physically present at each certification visit to receive program benefits.

"(D) INCOME DOCUMENTATION.—An applicant shall provide documentation of household income, or of participation in a program described in clause (ii) or (iii) of paragraph (2)(A), at certification to be determined to meet income eligibility requirements for the program.

"(E) VERIFICATION.—The Secretary shall issue regulations under this subsection prescribing when and how verification of income shall be required.".

(b) DISTRIBUTION OF NUTRITION EDUCATION MATERIALS.—Section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)) is amended—

(1) by striking "(3) The" and inserting the following:

"(3) NUTRITION EDUCATION MATERIALS.—

"(A) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(B) SHARING OF MATERIALS WITH CSFP.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) at no cost to that program.".

(c) REAUTHORIZATION OF PROGRAM.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended in subsections (g)(1) and (h)(2)(A) by striking "1998" each place it appears and inserting "2002".

(d) INFANT FORMULA PROCUREMENT.—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

"(iii) COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award a contract to the bidder offering the lowest net price unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.".

(e) INFRASTRUCTURE AND BREASTFEEDING SUPPORT AND PROMOTION.—Section 17(h)(10)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)(A)) is amended by striking "1998" and inserting "2002".

(f) SPEND-FORWARD AUTHORITY.—Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii)—

(i) by inserting "nutrition services and administration" after "amount of"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) with the prior approval of the Secretary, not more than 4 percent of the amount of funds allocated to a State agency for nutrition services and administration for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year for the costs of developing electronic benefit transfer.";

(2) in subparagraph (B), by striking "subparagraph (A)(ii)" and inserting "clauses (ii) and (iii) of subparagraph (A)";

(3) by striking subparagraphs (D) through (G); and

(4) by redesignating subparagraph (H) as subparagraph (D).

(g) FARMERS MARKET NUTRITION PROGRAM.—

(1) MATCHING FUNDS REQUIREMENT.—Section 17(m)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(3)) is amended by striking "total" each place it appears and inserting "administrative".

(2) RANKING CRITERIA FOR STATE PLANS.—Section 17(m)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)) is amended—

(A) by striking subparagraph (F); and

(B) by redesignating subparagraph (G) as subparagraph (F).

(3) FUNDING.—Section 17(m)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)(A)) is amended by striking "1998" and inserting "2002".

(h) DISQUALIFICATION OF CERTAIN VENDORS.—

(1) IN GENERAL.—Section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) is amended by adding at the end the following:

"(o) DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

"(1) IN GENERAL.—Except as provided in paragraph (4), a State agency shall permanently disqualify from participation in the program authorized under this section a vendor convicted of—

"(A) trafficking in food instruments (including any voucher, draft, check, or access device (including an electronic benefit transfer card or personal identification number) issued in lieu of a food instrument under this section); or

"(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments.

"(2) NOTICE OF DISQUALIFICATION.—The State agency shall—

"(A) provide the vendor with notification of the disqualification; and

"(B) make the disqualification effective on the date of receipt of the notice of disqualification.

"(3) PROHIBITION OF RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification under this subsection.

"(4) HARDSHIP EXCEPTION IN LIEU OF DISQUALIFICATION.—

"(A) IN GENERAL.—A State agency may permit a vendor that, but for this paragraph, would be disqualified under paragraph (1), to continue to redeem food instruments or otherwise provide supplemental foods to participants if the State agency determines, in its sole discretion according to criteria established by the Secretary, that disqualification of the vendor would cause hardship to participants in the program authorized under this section.

"(B) CIVIL MONEY PENALTY.—If a State agency authorizes a vendor that, but for this paragraph, would be disqualified to redeem food instruments or provide supplemental foods under subparagraph (A), the State agency shall assess the vendor a civil money penalty in lieu of disqualification.

"(C) AMOUNT.—The State agency shall determine the amount of the civil penalty according to criteria established by the Secretary.".

(2) REGULATIONS.—The amendment made by paragraph (1) shall take effect on the date on which the Secretary of Agriculture issues a final regulation that includes the criteria for—

(A) making hardship determinations; and

(B) determining the amount of a civil money penalty in lieu of disqualification.

SEC. 204. NUTRITION EDUCATION AND TRAINING.

Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) by striking the subsection heading and all that follows through paragraph (3)(A) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—

"(A) FUNDING.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2002."; and

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

TITLE III—COMMODITY DISTRIBUTION PROGRAMS

SEC. 301. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) COMMODITY SPECIFICATIONS.—Section 3(a) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended by striking paragraph (2) and inserting the following:

"(2) APPLICABILITY.—Paragraph (1) shall apply to—

"(A) the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

"(B) the food distribution program on Indian reservations authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

"(C) the school lunch program authorized under the National School Lunch Act (42 U.S.C. 1751 et seq.).".

(b) CUSTOMER ACCEPTABILITY INFORMATION.—Section 3(f) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended by striking paragraph (2) and inserting the following:

"(2) CUSTOMER ACCEPTABILITY INFORMATION.—

"(A) IN GENERAL.—The Secretary shall ensure that information with respect to the types and forms of commodities that are most useful is collected from recipient agencies participating in programs described in subsection (a)(2).

"(B) FREQUENCY.—The information shall be collected at least once every 2 years.

"(C) ADDITIONAL SUBMISSIONS.—The Secretary—

"(i) may require submission of information described in subparagraph (A) from recipient agencies participating in other domestic food assistance programs administered by the Secretary; and

"(ii) shall provide the recipient agencies a means for voluntarily submitting customer acceptability information.".

SEC. 302. FOOD DISTRIBUTION.

(a) IN GENERAL.—Sections 8 through 12 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) are amended to read as follows:

"SEC. 8. AUTHORITY TO TRANSFER COMMODITIES BETWEEN PROGRAMS.

"(a) TRANSFER.—Subject to subsection (b), the Secretary may transfer any commodities purchased for a domestic food assistance program administered by the Secretary to any other domestic food assistance program administered by the Secretary if the transfer is necessary to ensure that the commodities will be used while the commodities are still suitable for human consumption.

"(b) REIMBURSEMENT.—The Secretary shall, to the maximum extent practicable, provide reimbursement for the value of the commodities transferred under subsection (a) from accounts available for the purchase of commodities under the program receiving the commodities.

"(c) CREDITING.—Any reimbursement made under subsection (b) shall—

"(1) be credited to the accounts that incurred the costs when the transferred commodities were originally purchased; and

"(2) be available for the purchase of commodities with the same limitations as are provided for appropriated funds for the reimbursed accounts for the fiscal year in which the transfer takes place.

"SEC. 9. AUTHORITY TO RESOLVE CLAIMS.

"(a) IN GENERAL.—The Secretary may determine the amount of, settle, and adjust all or part of a claim arising under a domestic food assistance program administered by the Secretary.

"(b) WAIVERS.—The Secretary may waive a claim described in subsection (a) if the Secretary determines that a waiver would serve the purposes of the program.

"(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section diminishes the authority of the Attorney General under section 516 of title 28, United States Code, or any other provision of law, to supervise and conduct litigation on behalf of the United States.

"SEC. 10. PAYMENT OF COSTS ASSOCIATED WITH MANAGEMENT OF COMMODITIES THAT POSE A HEALTH OR SAFETY HAZARD.

"(a) IN GENERAL.—The Secretary may use funds available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), that are not otherwise committed, for the purpose of reimbursing States for State and local costs associated with commodities distributed under any domestic food assistance program administered by the Secretary if the Secretary determines that the commodities pose a health or safety hazard.

"(b) ALLOWABLE COSTS.—The costs—

"(1) may include costs for storage, transportation, processing, and destruction of the hazardous commodities; and

"(2) shall be subject to the approval of the Secretary.

"(c) REPLACEMENT COMMODITIES.—

"(1) IN GENERAL.—The Secretary may use funds described in subsection (a) for the purpose of purchasing additional commodities if the purchase will expedite replacement of the hazardous commodities.

"(2) RECOVERY.—Use of funds under paragraph (1) shall not restrict the Secretary from recovering funds or services from a supplier or other entity regarding the hazardous commodities.

"(d) CREDITING OF RECOVERED FUNDS.—Funds recovered from a supplier or other entity regarding the hazardous commodities shall—

"(1) be credited to the account available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), to the extent the funds represent expenditures from that account under subsections (a) and (c); and

"(2) remain available to carry out the purposes of section 32 of that Act until expended.

"SEC. 11. AUTHORITY TO ACCEPT COMMODITIES DONATED BY FEDERAL SOURCES.

"(a) IN GENERAL.—The Secretary may accept donations of commodities from any Federal agency, including commodities of another Federal agency determined to be excess personal property pursuant to section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)).

"(b) USE.—The Secretary may donate the commodities received under subsection (a) to States for distribution through any domestic food assistance program administered by the Secretary.

"(c) PAYMENT.—Notwithstanding section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)), the Secretary shall not be required to make any payment in connection with the commodities received under subsection (a).".

(b) EFFECT ON PRIOR AMENDMENTS.—The amendment made by subsection (a) does not affect the amendments made by sections 8 through 12 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note), as in effect on September 30, 1998.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as provided in section 203(h)(2), this Act and the amendments made by this Act take effect on October 1, 1998.●

By Ms. COLLINS (for herself and Mr. GRASSLEY):

S. 2167. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes; to the Committee on Governmental Affairs.

INSPECTOR GENERAL ACT AMENDMENTS OF 1998

Ms. COLLINS. Mr. President, since coming to the Senate and assuming the Chairmanship of the Permanent Subcommittee on Investigations, one of my top priorities has been the seemingly never-ending fight to ferret out and eliminate waste, fraud and abuse in federal government programs. We've all heard the horror stories of $500 hammers and roads built to nowhere. The waste of scarce federal resources not only picks the pockets of the taxpayers but also places severe financial pressures on already overburdened programs, forcing cutbacks in the delivery of vital government services.

Over the past year, I have seen this waste first-hand as the Subcommittee put a spotlight on massive fraud in the Medicare program. To cite just one example, the Subcommittee's investigation revealed that the federal government had been sending Medicare checks to 14 health care companies whose address, if they had existed, was in the middle of the runway of the Miami International Airport. That fraud cost the taxpayers millions of dollars, diverting scarce resources from the elderly and legitimate health care providers.

This example and others like it were uncovered by my Subcommittee working hand-in-hand with the Inspector General's Office, whose mission is to identify the eliminate waste, fraud and abuse in federal programs. In many ways, the Inspectors General are the eyes and ears of the Permanent Subcommittee on Investigations, in particular, and the Congress, in general, as we strive to detect and prevent waste, fraud, abuse, and mismanagement in federal programs.

Mr. President, this year marks the 20th anniversary of the Inspector General Act, the law that the Congress passed to create these guardians of the public purse. As we recognize this anniversary, it is important for Congress to take a close look at the IG system.

During the past 20 years, the Inspector General community has grown from 12 in 1978 to 57 Inspectors General today. These offices receive more than $1 billion in annual funding and employ over 10,000 auditors, criminal investigators, and support personnel. The Office of Inspector General is charged with tremendous responsibilities and is given considerable authority to uncover waste and abuse within the government.

By and large, the IG community has done an outstanding job. They have made thousands of recommendations to Congress, ultimately saving taxpayers literally billions of dollars. Investigations by Inspectors General have also resulted in the recovery of billions of dollars from companies and individuals who defrauded the federal government. These investigations have been the basis for thousands of criminal prosecutions, debarments, exclusions and suspensions.

The Inspectors General have a demonstrated record of success over the past 20 years, but as with any government program, we must be vigilant to ensure that the program is well managed, accountable, and effective. With this goal in mind and drawing on my work with the Inspectors General over the past year and a half, I am introducing the "Inspector General Act Amendments of 1998," a bill to improve the accountability and efficiency of the Inspectors General program. I am pleased to have my colleague from Iowa, Senator GRASSLEY, as a cosponsor.

The bill is designed to increase the accountability and independence of Inspectors General. It establishes a renewable nine-year term of office for each of the 26 Inspectors General who are appointed by the President and confirmed by the Senate. This provision will also encourage Inspectors General to serve for longer periods of time so that their experience and judgment can be used to fight waste, fraud and abuse.

This bill also takes steps to streamline the IG Offices themselves—making them more efficient and flexible—by consolidating existing offices and by reducing the volume of the inspectors general reporting requirements.

The number of OIGs has increased more than four-fold in twenty years, and many of these are small offices with just a handful of employees. These small OIGs can be made far more efficient and effective by transferring their functions to larger, department-wide IG offices. For example, my bill consolidates the current stand-alone office of the Peace Corps, with just 15 employees, into the State Department—eliminating unnecessary overhead and bureaucracy but continuing thorough audit and oversight of the Peace Corps. Under this proposal, seven existing small IG offices are consolidated into the IG offices of major departments.

Currently, Offices of Inspectors General are required by law to provide semi-annual reports to Congress. My bill would increase the value of the report process by reducing the requirement to a single annual report and streamlining the information required for each report. For example, the new reporting requirement would require the IGs to identify areas within their jurisdiction which are at highest risk for waste, fraud and abuse. In that way, the Congress can attack those weak areas before they get worse and before the problems become more difficult to solve.

The Inspectors General have made valuable contributions to the efficient operation of the federal government, but their record is not without blemish. For example, this successful record was recently tarnished by the activities of the Treasury Department's Office of Inspector General. After an extensive investigation, my Subcommittee found that this office violated federal laws in the award of two sole-source contracts, which wasted thousands of dollars. It was disturbing to find that this one Inspector General's Office was itself guilty of wasting resources—the very office charged with preventing fraud and abuse. At the conclusion of that investigation, the Subcommittee asked the question: who is watching the watchdogs?

Let me stress that, in my view, problems like the ones in the Treasury Inspector General's office are not widespread in the Inspector General community. However, an Inspector General is not like any other government manager. Inspectors General are the very officials in government responsible for combating waste, fraud and abuse in Federal programs. And as such, Inspectors General should be held to a higher standard. To do their job effectively, Inspectors General must be above reproach, must set an example for other government managers to follow, and must not create situations where there is even the appearance of impropriety. Credibility and effectiveness are lost when the office charged with combating waste and abuse engages in the kind of activity that the Inspector General is responsible for deterring.

To increase accountability, my bill requires independent external reviews of the Inspector General offices every three years. It gives each office the flexibility to choose the most efficient method of review, but it does require that the watchdogs themselves submit to oversight by a qualified third party. This provision will help ensure public confidence in the management and efficiency of the IG offices.

Finally, Mr. President, one provision that is not included in this bill, but that deserves careful consideration, is the grant of statutory law enforcement authority for the Inspector General of the Department of Health and Human Services. The Medicare fraud investigation conducted by my Subcommittee revealed the dangers faced by HHS–IG Special Agents when they work with the FBI and others to investigate some cases of health care fraud. These agents work side by side with other federal law enforcement professionals, and the Congress should carefully examine the best way to provide them with tools necessary for them to do their jobs effectively.

Mr. President, the bill I introduce today represents the first step in the process to improve the effectiveness, efficiency and accountability of the Inspector General program. These offices provide valuable assistance to the Congress so that we can exercise our duty to oversee the operation of the federal government and to make sure that the taxpayer's money is well spent and not wasted. I urge my colleagues to join me in this effort to strengthen and improve the Inspectors General program into the next century.

By Mr. INOUYE:

S.J. Res. 53. A joint resolution to express the sense of the Congress that the President should award a Presidential Unit Citation to the final crew of the U.S.S. *Indianapolis*, which was sunk on July 30, 1945; to the Committee on Armed Services.

• Mr. INOUYE. Mr. President, today I am introducing a joint resolution which calls upon the President to award a Presidential Unit Citation to the final crew of the U.S.S. *Indianapolis* (CA–35) that recognizes the courage, fortitude and heroism displayed by the crew in the face of tremendous hardship and adversity after their ship was torpedoed and sunk on July 30, 1945.•

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. FEINGOLD, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 38, a bill to reduce the number of executive branch political appointees.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 644

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 644, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers.

S. 852

At the request of Mr. LOTT, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1252

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr.

INOUYE] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1464

At the request of Mr. HATCH, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1606

At the request of Mr. WELLSTONE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1606, a bill to fully implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and to provide a comprehensive program of support for victims of torture.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1924

At the request of Mr. MACK, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2030

At the request of Mr. BUMPERS, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2030, a bill to amend the Federal Rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes.

S. 2049

At the request of Mr. KERREY, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the names of the Senator from Nevada [Mr. REID] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2116

At the request of Mr. LUGAR, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 2116, a bill to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture.

S. 2118

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2118, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2144

At the request of Mr. COVERDELL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 2144, a bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees.

S. 2150

At the request of Mr. FRIST, the names of the Senator from Washington [Mrs. MURRAY], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 2150, a bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

S. 2151

At the request of Mr. NICKLES, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2151, a bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

SENATE CONCURRENT RESOLUTION 82

At the request of Mr. WELLSTONE, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of Senate Concurrent Resolution 82, a concurrent resolution expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights.

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

SENATE RESOLUTION 192

At the request of Mr. BIDEN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 192, a resolution expressing the sense of the Senate that institutions of higher education should carry out activities to change the culture of alcohol consumption on college campuses.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the names of the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Alabama [Mr. SESSIONS], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

SENATE RESOLUTION 247—AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND REPRESENTATION OF MEMBER AND EMPLOYEES OF THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 247

Whereas, in the case of *United States v. Jack Z. Williams, et al.*, Criminal Case No. 96–0314, pending in the United States District Court for the District of Columbia, a trial subpoena has been served upon Galen Fountain, an employee of the Senate on the staff of the Committee on Appropriations, and testimony may be requested from Senator Dale Bumpers.

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of

1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule XI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That Senator Dale Bumpers, Galen Fountain, and any other employee from whom testimony or document production may be required, are authorized to testify and to produce documents in the case of *United States v. Jack L. Williams, et al.*, except when Senator Bumpers' attendance at the Senate is necessary for the performance of his legislative duties, and except concerning matters for which a privilege should be asserted

SEC. 2. That the Senate Legal Counsel is authorized to represent Senator Bumpers, Galen Fountain, and any other employee of the Senate, in connection with testimony and document production in *United States v. Jack L. Williams, et al.*

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

KERRY (AND OTHERS) AMENDMENT NO. 2689

Mr. KERRY (for himself, Mr. BOND, Mr. CHAFEE, Mr. KENNEDY, Mr. DODD, Mr. WELLSTONE, Mr. JOHNSON, Mrs. BOXER, Mr. SPECTER, Ms. LANDRIEU, Mr. DURBIN, Mr. GRAHAM, Mr. BINGAMAN, and Mr. KOHL) proposed an amendment to the bill (S. 1415) to reform and restructure the process by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the end, add the following:

( ) Assistance for Children.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) of section 452 for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)

TORRICELLI (AND WELLSTONE) AMENDMENT NO. 2690

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 201, between lines 19 and 20, insert the following:

(3) Medicaid children's enrollment performance bonus.—

(A) Set aside of funds.—Notwithstanding the preceding paragraphs of this subsection, 15 percent of the amount received under this section in a fiscal year shall not be used by a State unless the State satisfies the requirements of subparagraphs (B) and (C).

(B) Demonstration of implementation of outreach strategies.—A State shall demonstrate to the satisfaction of the Secretary that the State has a commitment to reach and enroll children who are eligible for but not enrolled under the State plan through effective implementation of each of the following outreach activities:

(i) Streamlined eligibility procedures.—

(I) In general.—The State uses streamlined procedures described in subclause (II) for determining the eligibility for medical assistance of, and enrollment in the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) of—

(aa) children in families with incomes that do not exceed the effective income level (expressed as a percent of the poverty line) that has been specified under such State plan (including under a waiver authorized by the Secretary or under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))) for the child to be eligible for medical assistance under section 1902(l)(2) or 1905(n)(2) (as selected by a State) of such Act (42 U.S.C. 1396a(l)(2), 1396d(n)(2)) for the age of such child; and

(bb) children determined eligible for such assistance, and enrolled in the State plan under title XIX of the Social Security Act, in accordance with the requirements of paragraphs (1) and (2) of section 1931(b) of such Act (42 U.S.C. 1396u–1(b)).

(II) Procedures described.—The streamlined procedures described in this subclause include—

(aa) using shortened and simplified applications for the children described in subclause (I);

(bb) eliminating the assets test for determining the eligibility of such children; and

(cc) allowing applications for such children to be submitted by mail or telephone.

(ii) Continuous eligibility for children.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for 12-months of continuous eligibility for children in accordance with section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)).

(iii) Presumptive eligibility for children.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for making medical assistance available to children during a presumptive eligibility period in accordance with section 1920A of the Social Security Act (42 U.S.C. 1396r–1a).

(iv) Outstationing and alternative applications.—The State complies with the requirements of section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) (relating to outstationing of eligibility workers for the receipt and initial processing of applications for medical assistance and the use of alternative application forms).

(v) Simplified verification of eligibility requirements.—The State demonstrates to the satisfaction of the Secretary that the State uses only the minimum level of verification requirements as are necessary for the State to ensure accurate eligibility determinations under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(C) Report on number of enrollments resulting from outreach.—A State shall annually report to the Secretary on the number of full year equivalent children that are determined to be eligible for medical assistance under the State plan under title XIX of the Social Security Act and are enrolled under the plan as a result of—

(i) having been provided presumptive eligibility in accordance with section 1920A of such Act (42 U.S.C. 1396r–1a);

(ii) having submitted an application for such assistance through an outstationed eligibility worker; and

(iii) having submitted an application for such assistance by mail or telephone.

(D) Procedure for redistribution of unused set asides.—The Secretary shall determine an appropriate procedure for the redistribution of funds set aside under this paragraph for a State for a fiscal year that are not used by the State during that fiscal year because the State did not satisfy the requirements of subparagraphs (B) and (C) to States that have satisfied such requirements for such fiscal year and have fully expended the amount of State funds so set aside.

(E) Application of restriction on substitution of spending.—The provisions of subsection (c) of this section apply to this paragraph in the same manner and to the same extent as such provisions apply to the program described in paragraph (2)(G) of this subsection.

FORD (AND OTHERS) AMENDMENTS NOS. 2691–2692

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted two amendments intended to be proposed by them to the bill, S. 1415, supra; as follows:

Amendment No. 2691

Beginning after line 14 on page 444, strike through the end of the bill.

Amendment No. 2692

In lieu of the matter proposed to be stricken, insert the following:

SEC. 1418. EFFECTIVE DATE.

The amendments made by this subtitle take effect on the date of enactment of this Act.

FORD AMENDMENT NO. 2693

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1,

1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $1/10$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) Approval of permits.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) Disapproval of permits.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) Assignment of Tobacco Production Permits.—

"(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A); or

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) Courses Offered Through Telecommunications.—

"(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) Definition.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

Sec. 1051. Notwithstanding any other provision of law, Title XV shall have no force and effect.

Subtitle F—Effective Date

Sec. 1061. The provisions of this title shall be effective one day after the enactment of this Act.

FORD (AND OTHERS) AMENDMENT NO. 2694

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. Hollings, and Mr. Robb) submitted an amendment intended to be proposed by them to amendment No. 2501 proposed by Mr. Lugar to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) Tobacco product importer.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) Tobacco product manufacturer.—

(A) In general.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) Exclusion.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) Tobacco warehouse owner.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) Flue-cured tobacco.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota.—

(A) In general.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota.—

(A) In general.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) Reissuance of quota.—

(A) Reallocation to lessee or tenant.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation.—

(i) Timing.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) Preferences in Hiring.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) Maintenance of Effort.—

(1) In general.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) Reduction of grant amount.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) Federal funds.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) Individual marketing limitation.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) Individual tobacco production permit.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) National acreage allotment.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) National average yield goal.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) Permit yield.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) Initial Issuance of Permits.—

"(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) Issuance of permits to quota holders that were principal producers.—

"(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) Quota holders that were not principal producers.—

"(A) In general.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) Medical hardships and crop disasters.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) Administration.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) Issuance of permits to principal producers of flue-cured tobacco.—

"(A) In general.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Designation.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) Amount of Grants.—

"(1) Amounts.—

"(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) Period of Eligibility for Grants.—

"(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) Construction.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) Applications for Grants.—

"(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) In General.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) Tobacco Farm Families.—

"(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) Satisfactory Progress.—

"(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the

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FORD (AND OTHERS) AMENDMENT NO. 2695

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. Hollings, and Mr. Robb) submitted an amendment intended to be proposed by them to amendment No. 2498 proposed by Mr. Lugar to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) No net cost tobacco account.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements.—

(1) Criteria.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) Definition of contributed importantly.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) Regulations.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) Preliminary Findings and Basic Assistance.—

(1) Filing of petitions.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) Findings and assistance.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) Review of Petitions by Secretary; Certifications.—

(1) In general.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) Denial of certification.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) Comprehensive Assistance.—

(1) In general.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) Benefits and services.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Miscellaneous

SEC. 1051. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this title, from amounts made available to carry out this title, the Secretary of Agriculture shall use $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

SEC. 1052. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD AMENDMENTS NOS. 2696–2697

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted two amendments intended to be proposed by them to amendment No. 2493 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2696

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction

market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $1/10$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(l)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between. and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and

the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to $\frac{1}{10}$ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and

is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) Acceleration of payments.—

(A) In general.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) Triggering events.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) Amount.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) In General.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) Limitations.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) Determinations.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) Authority.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) Application.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) Amount of Grant.—

(1) In general.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) Tobacco income.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) Payments.—

(1) In general.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) Form of payments.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) Reallotments.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) Use and Distribution of Funds.—

(1) In general.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) Tobacco-growing counties.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) Distribution.—

(A) Economic development activities.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) Technical assistance activities.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) Tobacco warehouse owner initiatives.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) Tobacco-growing counties.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) Assignment of Tobacco Production Permits.—

"(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) Purchase Requirements.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) Amount of Penalty.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) Elimination of Tobacco Marketing Assessment.—

(1) In general.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) Conforming amendment.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) Adjustment for Land Rental Costs.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) Adjustment for Land Rental Costs.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) Fire-Cured and Dark Air-Cured Tobacco Programs.—

(1) Limitation on transfers.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) Loss of allotment or quota through underplanting.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) Loss of Allotment or Quota Through Underplanting.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment.—

(1) No net cost tobacco fund.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and”.

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after “Burley quota tobacco” the following: “and fire-cured and dark air-cured tobacco”; and

(B) in subparagraph (C), by striking “Flue-cured and Burley tobacco” and inserting “each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,”.

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term “contributed importantly” means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

“Subpart 9—Farmer Opportunity Grants

“SEC. 420D. STATEMENT OF PURPOSE.

“It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

“SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

“(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

“(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

“(3) DESIGNATION.—Grants made under this subpart shall be known as ‘farmer opportunity grants’.

“(b) AMOUNT OF GRANTS.—

“(1) AMOUNTS.—

“(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

“(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

“(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

“(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

“(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and "(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) Period of Eligibility for Grants.—

"(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) Construction.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) Applications for Grants.—

"(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) In General.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) Tobacco Farm Families.—

"(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) Satisfactory Progress.—

"(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) Courses Offered Through Telecommunications.—

"(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) Definition.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Miscellaneous

SEC. 1051. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) In General.—Notwithstanding any other provision of this title, from amounts made available to carry out this title, the Secretary of Agriculture shall use $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income, as determined by the Secretary.

(b) Gross Income and Payment Limitations.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

SEC. 1052. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

Amendment No. 2697

Strike title X and insert the following:

Strike "Strike title X." and insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) Tobacco product importer.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) Tobacco product manufacturer.—

(A) In general.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) Exclusion.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) Tobacco warehouse owner.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) Flue-cured tobacco.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco.—

(1) Allocation of funds.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota.—

(A) In general.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota.—

(A) In general.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) Timing.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) Reissuance of quota.—

(A) Reallocation to lessee or tenant.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation.—

(i) Timing.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) Limitation on marketing quota.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) Eligibility of lessee or tenant for payments.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) Reallocation to quota holders within same county or state.—

(i) In general.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) Cross-county leasing.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal ⅒ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to ⅒ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any

amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) Individual marketing limitation.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) Individual tobacco production permit.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) National acreage allotment.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) National average yield goal.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) Permit yield.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) Initial Issuance of Permits.—

"(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) Issuance of permits to quota holders that were principal producers.—

"(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) Quota holders that were not principal producers.—

"(A) In general.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) Medical hardships and crop disasters.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) Administration.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) Issuance of permits to principal producers of flue-cured tobacco.—

"(A) In general.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) Individual acreage limitations.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) Individual marketing limitations.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) Special rule for tenant of leased flue-cured tobacco.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or

other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;(I26 "(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

“(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

“(d) Applications for Grants.—

“(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

“(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

“(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

“(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

“(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

“SEC. 420F. STUDENT ELIGIBILITY.

“(a) In General.—In order to receive any grant under this subpart, a student shall—

“(1) be a member of a tobacco farm family in accordance with subsection (b);

“(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

“(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

“(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

“(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

“(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

“(B) the student's social security number; and

“(6) be a citizen of the United States.

“(b) Tobacco Farm Families.—

“(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

“(A) an individual who—

“(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

“(ii) is otherwise actively engaged in the production of tobacco;

“(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

“(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

“(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

“(c) Satisfactory Progress.—

“(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

“(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

“(A) the death of a relative of the student;

“(B) the personal injury or illness of the student; or

“(C) special circumstances as determined by the institution.

“(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

“(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

“(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

“(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

“(f) Courses Offered Through Telecommunications.—

“(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

“(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

“(3) Definition.—For the purposes of this subsection, the term ‘telecommunications’ means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

“(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

“(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Resolution of Conflict with Title XV

SEC. 1051. TITLE XV NULL AND VOID.

Notwithstanding any other provision of this Act, title XV shall have no force or effect.

MINIDOKA PROJECT ACT OF 1998

CRAIG AMENDMENT NO. 2698

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill (S. 538) to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes; as follows:

(1) Paragraph 1(b)(1) of the Committee amendment is amended by deleting "transmission lines," and by deleting "(including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley)".

(2) Paragraph 1(c)(1) of the Committee amendment is modified to read as follows:

"(1) Transfer.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States——

(1) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District; and

(2) that are for use on lands within the Burley Irrigation District; and

(3) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company* v. *Charles N. Foster, et al.*, and commonly referred to as the "Foster decree".

"(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

"(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or results in any adverse impact on any other project water user."

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

KERREY AMENDMENTS NOS. 2699–2700

(Ordered to lie on the table.)

Mr. KERREY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2699

At the end of subtitle D of title XV, add the following:

SEC. 1563. TOBACCO PRODUCERS MARKETING CORPORATION.

(a) Establishment.—There is established a corporation to be known as the "Tobacco Producers Marketing Corporation", which shall be a federally chartered instrumentality of the United States.

(b) Duties.—The Corporation negotiate with buyers of tobacco produced in the United States on behalf of producers of the tobacco that elect to be represented by the Corporation (referred to in this section as "participating producers").

(c) Board of Directors.—

(1) In general.—The powers of the Corporation shall be vested in a Board of Directors.

(2) Members.—The Board of Directors shall composed of members elected by participating producers.

(3) Membership qualifications.—A member of the Board shall not hold any Federal, State, or local elected office or be a Federal officer or employee.

(4) Chairpersons.—The chairperson of the Board shall be elected by members of the Board.

(5) Executive director.—

(A) Appointment.—The Board shall appoint an Executive Director.

(B) Duties.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Board.

(C) Compensation.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(6) Officers.—The Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this section.

(7) Meetings.—

(A) In general.—The Board shall meet at least 3 times each fiscal year at the call of a Chairperson or at the request of the Executive Director.

(B) Location.—The location of a meeting shall be subject to approval of the Executive Director.

(C) Quorum.—A quorum of the Board shall consist of a majority of the members.

(8) Term; vacancies.—

(A) Term.—The term of office of a member of the Board elected under paragraph (2) shall be 4 years.

(B) Vacancies.—A vacancy on the Board shall be filled in the same manner as the original appointment was made.

(9) Compensation.—

(A) In general.—A member of the Board shall receive, for each day (including travel time) that the member is engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Expenses.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(10) Conflict of interest; financial disclosure.—

(A) Conflict of interest.—Except as provided in subparagraph (C), a member of the Board shall not vote on any matter concerning any application, contract, or claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner of the member, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with which the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(B) Violations.—Violation of subparagraph (A) by a member of the Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(C) Exceptions.—

(i) In general.—Except as provided in clause (ii), the prohibitions contained in subparagraph (A) shall not apply if—

(I) a member of the Board advises the Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation; and

(II) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter.

(ii) Vote.—The member involved shall not vote on the determination under clause (i)(II).

(D) Financial disclosure.—A Board member shall be subject to the financial disclosure requirements of subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

(11) Bylaws.—The Board shall adopt, and may from time to time amend, any bylaw

that is necessary for the proper management and functioning of the Corporation.

(12) PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(d) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this section, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

(B) exclusive original jurisdiction shall reside in the district courts of the United States, and the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Board considers necessary or desirable;

(8) may indemnify officers of the Corporation, as the Board considers necessary and desirable, except that the officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this section, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this title and the powers, purposes, functions, duties, and authorized activities of the Corporation.

AMENDMENT NO. 2700

Strike title XV and insert the following:

TITLE XV—TOBACCO TRANSITION

SEC. 1501. DEFINITIONS.

In this title:

(1) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(2) LEASE.—The term "lease" means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(3) OWNER.—The term "owner" means a person that, on the date of enactment of this Act, owns quota provided by the Secretary.

(4) PRODUCER.—The term "producer" means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota or farmland;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(5) QUOTA.—The term "quota" means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) TOBACCO.—The term "tobacco" means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

Subtitle A—Payments for Lost Value of Tobacco Crops

SEC. 1511. PAYMENTS FOR LOST VALUE OF TOBACCO CROPS.

(a) IN GENERAL.—For each of fiscal years 1999 through 2005, the Secretary shall make payments for the lost value of tobacco crops to owners and producers from funds made available from the National Tobacco Trust Fund established by section 401.

(b) AMOUNT.—

(1) OWNERS.—The amount of the payment made to an owner for a fiscal year under this section shall equal 30 percent of the value of the tobacco produced under a tobacco farm marketing quota or farm acreage allotment established owned by the owner under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

(2) PRODUCERS.—The amount of the payment made to a producer for a fiscal year under this section shall equal 15 percent of the value of the tobacco produced by the producer under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

Subtitle B—Rural Economic Assistance Block Grants

SEC. 1521. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds made available from the National Tobacco Trust Fund established by section 401, the Secretary shall use $200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on, as determined by the Secretary—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2003.

Subtitle C—Tobacco Price Support and Production Adjustment Programs

SEC. 1531. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking ", except tobacco,"; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) Termination of Tobacco Price Support and No Net Cost Provisions.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) Definition of Basic Agricultural Commodity.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(d) Review of Burley Tobacco Imports.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) Powers of Commodity Credit Corporation.—Section 5 of the poration Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

(f) Transition Provisions.—

(1) Liability.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) Tobacco stocks and loans.—The Secretary shall issue regulations that require—

(A) the orderly disposition of tobacco stocks; and

(B) the repayment of all tobacco price support loans by not later than 1 year after the effective date of this section.

(g) Crops.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

SEC. 1532. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) Declaration of Policy.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(b) Definitions.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (7), by striking the following:

"tobacco (flue-cured), July 1—June 30;

"tobacco (other than flue-cured), October 1–September 30;";

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking "and tobacco";

(6) in paragraph (12), by striking "tobacco,";

(7) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) Parity Payments.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(d) Marketing Quotas.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) Administrative Provisions.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(f) Adjustment of Quotas.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(2) in the first sentence of subsection (b), by striking "peanuts or tobacco" and inserting "or peanuts".

(g) Reports and Records.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking "peanuts, or tobacco" each place it appears in subsections (a) and (b) and inserting "or peanuts"; and

(2) in subsection (a)—

(A) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(B) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(h) Regulations.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking "peanuts, or tobacco" and inserting "or peanuts".

(i) Eminent Domain.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking "cotton, tobacco, and peanuts" and inserting "cotton and peanuts"; and

(2) by striking subsections (d), (e), and (f).

(j) Burley Tobacco Farm Reconstitution.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(2) by striking subsections (b) and (c).

(k) Acreage-Poundage Quotas.—Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(l) Burley Tobacco Acreage Allotments.—The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) Transfer of Allotments.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) Advance Recourse Loans.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking "tobacco and".

(o) Tobacco Field Measurement.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(p) Liability.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) Crops.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle D—Miscellaneous

SEC. 1541. SAVINGS.

Any savings derived as a result of this title shall be used for tobacco use prevention and cessation initiatives.

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 2701

Mr. FAIRCLOTH (for himself, Mr. Sessions, Mr. McConnell, and Mr. Gramm) proposed an amendment to amendment No. 2437 proposed by Mr. Durbin to the bill, S. 1415, as follows:

At the appropriate place, insert the following:

SEC. . ATTORNEYS' FEES AND EXPENSES.

(a) Fee Arrangements.—Subsection (c) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation);

(6) retainer agreements; or

(7) other arrangement providing for the payment of attorneys' fees.

(b) Application.—This section shall apply to all fees paid or to be paid to attorneys under any arrangement described in subsection (a)—

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection; or

(11) who act at some future time on behalf of a defendant in any of the matters set forth

in paragraphs (1) through (9) of this subsection.

(c) Attorneys' Fees.

(1) Jurisdiction.—The determination of attorneys' fees for compensation subject to this section shall be within the jurisdiction of—

(A) the court in which the action for which the claimant attorney is making a claim is pending; or

(B) an arbitration panel selected by the parties or otherwise selected by law.

(2) Criteria.—In the determination of attorneys' fees subject to this section, the court or arbitration panel shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment, a substantial settlement, or a successful negotiation towards a global settlement agreement for submission to the Congress;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous and reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(*i*) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(*ii*) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation including—

(*i*) whether those expenses were reimbursable; and

(*ii*) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or substantial settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) Whether the original fee arrangement includes a fixed or a percentage fee;

(J) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on a chronological progression of relevant developments from the 1994 Williams document disclosures to the settlement negotiations and the subsequent Federal legislative process; and

(K) Whether this Act or related changes to State laws increase the likelihood of success in representations subject to this section.

(3) Limitation.—Notwithstanding any other provision of law, any attorney's fees or expenses paid to attorneys for matters subject to this section shall not exceed a per hour rate of $1,000 in addition to 200 percent of actual out-of-pocket expenses for which detailed documentation has been provided and which have been approved by the court or arbitration panel in such action.

(4) Records Requirement.—All records submitted to a court or arbitration panel pursuant to this section shall be available for public inspection and reproduction for a period of one year from the date of adjudication of the attorneys' fees.

(d) Severability.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such section to any person or circumstance shall not be affected thereby.

REED (AND OTHERS) AMENDMENT NO. 2702

Mr. REED (for himself, Mrs. Boxer, Mr. Wyden, Mr. Kennedy, Mr. Daschle, Mr. Durbin, Mr. Wellstone, Mrs. Feinstein, and Mr. Conrad) proposed an amendment to amendment No. 2437 proposed by Mr. Durbin to the bill, S. 1415, supra; as follows:

At the appropriate place, insert the following:

SEC. ____. DISALLOWANCE OF TAX DEDUCTIONS FOR ADVERTISING, PROMOTIONAL, AND MARKETING EXPENSES RELATING TO TOBACCO PRODUCT USE UNLESS CERTAIN ADVERTISING REQUIREMENTS ARE MET.

(a) In General.—Part IX of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING, PROMOTIONAL, AND MARKETING EXPENSES UNLESS CERTAIN ADVERTISING REQUIREMENTS ARE MET.

"(a) In General.—No deduction shall be allowed under this chapter for any taxable year for expenses relating to advertising, promoting, or marketing cigars, cigarettes, smokeless tobacco, pipe tobacco, roll-your-own tobacco, or any similar tobacco product unless the taxpayer maintains compliance during such year with the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996.

"(b) General Definitions.—For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702.".

(b) Conforming Amendment.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following:

"Sec. 280I. Disallowance of deduction for tobacco advertising, promotional, and marketing expenses unless certain advertising requirements are met."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

VISION 2020 NATIONAL PARKS RESTORATION ACT

MURKOWSKI (AND BUMPERS) AMENDMENT NO. 2703

Mr. THOMAS (for Mr. Murkowski, for himself and Mr. Bumpers) proposed an amendment to the bill (S. 1693) to renew, reform, reinvigorate, and protect the National Park System; as follows:

On page 129, line 22 strike "without appropriation" and insert the following: "subject to appropriation".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the full Energy and Natural Resources Committee to consider the issue of independence of Puerto Rico.

The hearing will take place on Tuesday, June 23, 1998, at 9:30 A.M. in room SH–216 of the Hart Senate Office Building.

For further information, please contact James Beirne, counsel at (202) 224–2564 or Betty Nevitt, Staff Assistant at (202) 224–0765.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 25, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 2146, a bill to provide for the exchange of certain lands within the State of Utah.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Amie Brown or Mike Menge (202) 224–6170.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the full Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 14, 1998, at 2:30 P.M. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 1515, "Dakota Water Resources Act of 1997"; S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, and for other purposes; and S.

2117, "Perkins County Rural Water System Act of 1997".

Those wishing to testify or who wish to submit written statements should write to the Subcommittee on Water and Power, U.S. Senate, Washington, D.C. 20510. For further information, please call James Beirne, Counsel at (202) 224-2564, or Betty Nevitt, Staff Assistant at (202) 224-0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 11, for purposes of conducting a full committee hearing which is scheduled to begin at 2:00 p.m. The purpose of this oversight hearing is to receive testimony on the Recreational Fee Demonstration Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BOND. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, June 11, 1998 beginning at 10:00 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 11, 1998 at 10:30 and 2:00 p.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources, Subcommittee on Employment and Training, be authorized to meet for a hearing on "Child Labor" during the session of the Senate on Thursday, June 11, 1998, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION, AND REGULATION

Mr. BOND. Mr. President, I ask unanimous consent that the subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 11, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10:00 a.m. The purposes of this oversight hearing is to receive testimony on the federal oil valuation regulations of the Minerals Management Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. BOND. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Thursday, June 11, 1998 at 2:00 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "Immigration and Naturalization Service reform: The Service side."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

E-RATE

• Ms. MOSELEY-BRAUN. Mr. President, two years ago the Congress joined together in a bipartisan manner to help schools and libraries across the nation give students and children access to modern technology. The Telecommunications Reform Act of 1996 created a new partnership between the federal government, state governments, school systems, and the private sector to help bring all our classrooms into the 21st century. The bill expanded the universal service program—which has historically given people living in rural areas the chance to purchase affordable phone service—and created a new "e-rate" for schools and libraries. Creating that partnership was the most important act the 104th Congress took for elementary and secondary schools, and we have yet to match that achievement in this Congress. It was one of the most important steps we have taken toward ensuring that all our children will have the opportunity to learn the kinds of skills they will need to compete in the 21st century economy.

Our children need that kind of bipartisan support. When I was growing up, it was possible to graduate from high school and get a job as a police officer, a firefighter, or a clerk, and earn enough to raise and support a family. Mechanics used to train for their work on the job. The nursing profession used to consist of women who apprenticed in hospitals.

Times have changed. Now, if you want to be an airline mechanic, you need four years of college. Nursing is a degree program, and there are sub-specialties of nurses who are highly and scientifically educated. An ad for a "maintenance technician" states the job requires an understanding of "basic principles of electricity, mechanical systems, and fluid power."

Many of our schools, however, are not giving our children the kind of education they will need to compete in this kind of economy. An estimated 60 percent of all new jobs created in the year 2000 will require skills held by only 22 percent of new workers. According to the Wall Street Journal, "Thousands of people are being turned down for factory work by companies that are actively recruiting," because they lack the requisite math, communications, and computer skills.

Given these facts, one would think that on the eve of the implementation of the e-rate we created two years ago, policy makers would be rallying around the new discounts for schools and libraries and celebrating the program's inauguration. Instead, duplicity and political opportunism have combined to cast doubt on the future of the e-rate.

The duplicity began when certain telephone companies decided to add a new line item to customers' phone bills—a "national access charge," or a "universal connectivity fee." When customers call their phone companies asking about this new charge, it is my understanding they are often told it was the FCC who mandated that this new charge appear on their phone bills, or that it was the Congress who levied this new tax on them.

Mr. President, that is disingenuous at best. The FCC did order long distance phone companies to pay into the universal service fund, in part to pay for the new discounts for schools and libraries. The FCC also, however, ordered a reduction in the access charges long distance companies must pay for using local phone networks—fees that can account for 40 or 50 percent of the cost of every long distance call. The reductions in access charges were greater than the new universal service charges. One would think, therefore, that long distance bills would drop as a result. Have they? Have the phone companies passed the savings from the access charge reductions on to their customers?

No. The companies have not passed on all the savings from the access charge reductions, and have instead raised customers' bills in order to generate revenue for the universal service fund. They then blame the FCC or Congress, and customers are understandably confused, concerned, and upset.

The chorus of customer complaints now appears to be rattling the bipartisan coalition that came together two years ago to create the e-rate. Republican leaders have derided the new charge on phone bills as an "illegal FCC tax," or a "Gore tax," trying to pin the phone bill increases on the Vice President.

I am disappointed. We have gone from partnership to partisanship. We have gone from cooperation to confrontation. We have gone from thinking about our children and our future to trying to score political points.

We can do better than that. Thirty thousand applications have poured in to the FCC this year from schools and libraries seeking to tap into the new e-rate. Those applications represent millions of American children counting on

our help to gain the skills they need to remain competitive in the next century. What are we going to tell them if the e-rate crumbles under the weight of partisan politics? How are we going to explain to them why they do not know how to use a computer?

I hope we will not have to do that. I hope we can all come together, with the same bipartisanship and cooperation we shared two years ago, to fix this program, resolve legitimate concerns, and ensure that the e-rate becomes available to schools and libraries across the country.

Members of both parties have criticized the FCC for the way it has implemented the program, and I do not doubt that mistakes have been made. I only hope we can put aside the partisan sniping and figure out a constructive solution to the problem we face. We ought to be proud of what we accomplished two years ago when we created the e-rate. Let us not now trade that accomplishment for short-term political gain.

Mr. President, I ask that an editorial from yesterday's Washington Post on this subject be printed in the RECORD.

The editorial follows:

[Washington Post, Wed., June 10, 1998]

SHOULD WE WIRE SCHOOLS?

Sometime this week the Federal Communications Commission will vote on whether to suspend a small program, passed as part of the 1996 Telecommunications Act, that collects money from long-distance phone companies and uses it to offer discounts on the cost of hooking up schools and libraries to the Internet. The program, known as the "e-rate," has been contentious from the start, but lately, as it prepares to begin actually considering applications for the $650 million collected so far, it has become the focus of intense pressure.

Four senators with a say over the FCC's own budget sent a letter demanding that it refund the program entirely. Some have hinted that the commission risks having its own budget zeroed out unless it kills the schools and libraries program. Others threaten investigation of what they call a "stealth tax" imposed with questionable legality by an unelected agency or, alternatively, a "Gore tax" designed to advance the vice president's presidential prospects.

Why the sudden fuss over a $2 billion program that passed all the usual legislative hurdles in orthodox fashion two years ago? The flurry began when several long-distance telephone providers said they would begin adding a "universal connectivity fee" to individual monthly telephone bills to cover the schools and libraries program and other subsidies, such as the generations-old (and widely supported) subsidy for keeping phone service affordable in hard-to-serve rural areas. The appearance of what looks like a new tax on phone bills—even if it only spells out subsidies previously included in the overall bill—unnerves many legislators who support the subsidies in theory. Not everyone realizes that the schools and libraries fund constitutes only a third of the new fee. (The FCC and the companies are still sparring over whether the extra charges were even justified; the commission says the fees were specifically calibrated to balance year-by-year savings to the companies from another aspect of the 1996 bill, a drop in the access fees long-distance carriers must pay to local ones.)

Much of the debate over the complex telecommunications bill concerned the balance to be struck between deregulating the communications industry—thus opening up the chance for phone companies to make lots more money—and imposing some obligations on them in return. One such obligation was to safeguard equal access, including to new technologies. After endless maneuvering and a veto threat by President Clinton if the bill emerged without them, provisions mandating "access to advanced telecommunications services for schools, health care and libraries," explicitly including "classrooms," were made part of the subsidies for "universal service." Telephone companies understandably balk at any creeping enlargement of the universal service concept, which requires them to offer phone service at average rates even in high-cost, hard-to-wire rural areas—and, inevitably to absorb the cost by charging slightly higher phone rates across the board.

One thrust of deregulation was to make those subsidies more explicit—an advantage for companies, which could compete more openly on basic rates, and also for consumers, who could see where their money was going. But spelling out a long-hidden subsidy also exposes it to political debate. Such debate need not doom the e-rate, which pulls considerable support in opinion polls, any more than it is likely to doom the popular rural subsidies. Nor should it. Squelching it would be the real "stealth" move.●

SISTER MONICA KOSTIELNEY CELEBRATES 25 YEARS WITH MICHIGAN CATHOLIC CONFERENCE

● Mr. ABRAHAM. Mr. President, I rise today to recognize and honor a very important woman in the Michigan religious community. Sister Monica Kostielney, R.S.M. is celebrating 25 years with the Michigan Catholic Conference this year. Presently, she serves as President and Chief Executive Officer of the Conference, however, her list of accomplishments extends far beyond her work in this capacity.

Prior to joining the Catholic Conference, Sister Monica taught elementary and secondary school for thirteen years. She began her career with the Catholic Conference of Michigan as a staff member in 1972. She served as Executive Vice-President for public affairs from 1983 until 1994, and has served as President and CEO since then. For 25 years, in addition to her service to the Michigan Catholic Conference, Sister Monica has advised many on important issues affecting all facets of society. She has given selflessly of her time to many other organizations and charities including, the Midwest Hispanic Catholic Commission, the Michigan Department of Education Legislative Advisory Council, the Governor's Blue Ribbon Welfare Reform Committee and the Board of Directors of St. Lawrence Hospital and Healthcare Services Divisional Board. From 1980 to 1984, Sister Monica cohosted "Reel to Reel," a weekly Sunday television show produced by the Diocese of Lansing. These are just a few examples of Sister Monica's unwavering devotion to her community and the entire State of Michigan.

I want to join with Sister Monica's friends and family in congratulating her on this very special occasion. She is a remarkable woman whom the state of Michigan is fortunate to benefit from. ●

TRIBUTE TO FRANKIE WELCH

● Mr. HOLLINGS. Mr. President, I wish to bring to the Senate's attention a milestone that has particular relevance to this body. Mrs. Frankie Welch, who is nationally recognized for her artistic and original scarf and tie designs, is celebrating 30 years of fashion design this month. Frankie was born in Georgia, but I am pleased to say she has strong ties to South Carolina, where she graduated with a degree from Furman University in Greenville. It was at Furman that she met her late husband, William Welch. One of their daughters chose to continue the family tradition and also received a Furman diploma.

Frankie Welch has designed many memorable scarves and ties. In the 1980s, she designed a patriotic scarf for the United States Senate. She has designed ties for Presidents Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, George Bush, and Bill Clinton. Mrs. Welch also designed a gown for First Lady Betty Ford, which Mrs. Ford donated to the Smithsonian Institution's First Ladies Collection in 1976. Frankie and Mrs. Ford remained good friends; last month, on the occasion of Betty Ford's 80th birthday, Frankie was one of the speakers at the Ford Museum in Grand Rapids.

Frankie Welch is no ordinary fashion designer. She often employs her talents to produce patriotic garments, and her designs demonstrate an exemplary love of our country. She has produced original and widely admired fabric designs for such revered institutions as the St. Paul's Cathedral in London, the Corcoran Gallery of Art, the White House, and the U.S. Capital. Frankie is also a philanthropist: she recently began the Frankie Welch Scholarship for outstanding students of fashion design.

Mr. President, I think it appropriate to honor a woman who has so often turned her talents to patriotic themes and who has attained national and international accolades. It is with great pride that I thank Frankie Welch for honoring our country and congratulate her on thirty years of success.●

THANKING GENERAL EUGENE E. HABIGER FOR CAREER SERVICE IN THE UNITED STATES AIR FORCE

• Mr. KEMPTHORNE. Mr. President, I rise to say thank you to a patriot and one of this nation's finest military leaders, General Eugene E. Habiger, who is retiring at the end of June, 1998. Since 1996, General Habiger has served as the Commander in Chief of United States Strategic Command, Offutt Air Force Base, Nebraska.

General Habiger's career in the military began in 1959 when he enlisted as an infantryman in the U.S. Army. After his tour in Fort Benning, Georgia, he attended the University of Georgia earning a Bachelor of Science degree in 1963. After college, Gene joined the Air Force and upon completion of Officer Training School in September 1963, he was selected as a distinguished graduate.

Soon after leaving Officer Training School, as a young Captain and B-52 Aircraft Commander, Gene flew 150 combat missions and participated in the B-52 Arc Light operations during the Vietnam War. In the early 1980s, he commanded the 325th Bombardment Squadron and later served as assistant deputy commander for operations, 92nd Bombardment Wing, Fairchild Air Force Base, Washington.

In the late 1980s, Gene commanded the 379th Bombardment Wing at Wurtsmith Air Force Base, Michigan, and the 2nd Bombardment Wing at Barksdale Air Force Base, Louisiana. In the 1990s, Gene's command experience served him well as vice commander, Headquarters Air Education and Training Command at Randolph Air Force Base, Texas; and as Deputy Chief of Staff for Personnel, Headquarters U.S. Air Force, Washington, D.C.

The apex of General Habiger's career came with his current assignment as Commander in Chief, United States Strategic Command, Offutt Air Force Base, Nebraska. The command has responsibility for all U.S. Air Force and U.S. Navy strategic nuclear forces. These powerful forces act as this Nation's strategic deterrent.

During his command at USSTRATCOM, General Habiger made major contributions to the national security of the United States by establishing the parameters for future strategic forces and possible arms control agreements. His leading role in managing a stable drawdown of nuclear forces helped foster mutual understanding and cooperation with Russia. In addition, his cooperative efforts with the Department of Energy shaped the process by which the United States will maintain the long term safety and reliability of its nuclear weapons stockpile. As the Department of Energy's customer, General Habiger insured the Stockpile Stewardship Program is programmed and funded to develop the new tools, technologies, and concepts to ensure our strategic forces remain safe, effective, ready, and responsive to changing needs.

In addition, Gene was a premier player in shaping our strategic force structure. His team completed a very detailed analysis of United States' Strategic Force Structure options reaching far beyond START II. This unprecedented target-by-target scrub of the Single Integrated Operational Plan (SIOP) helped shape the conceptual and practical character of post-Cold War US nuclear weapons policy that will be instrumental in decisions for years to come.

Convinced that the Nation's security is best served by a stable strategic relationship with Russia, General Habiger was a forceful spokesman for the START II Treaty and Defense Department Cooperative Threat Reduction activities. Twice, he accompanied the Secretary of Defense to Moscow to meet with the Russian Defense Minister and Commander-in-Chief of the Strategic Rocket Forces stressing the political, economic, and military importance of ratifying START II for both the United States and Russia. Gene's work on a post-START II nuclear arms control agenda was reflected in national policy, and helped form the basis for portions of the START III framework announced at the Presidential Summit in Helsinki, in March 1997.

Undoubtedly, General Habiger has been the unparalleled leader in expanding military-to-military contacts with Russian counterparts, particularly the Strategic Rocket Forces. These actions established a more stable relationship with Russian leadership. As evidence of the high regard and confidence in which General Habiger is viewed in Russia, he was the first non-Russian to enter a Russian nuclear weapons storage area. His ceaseless efforts in establishing good relations with Russia have significantly improved communication and understanding. For the first time in history, as Commander in Chief of the US nuclear arsenal, he can pick up the phone and talk directly to senior Russian military leadership.

General Habiger and his wife, Barbara, have two sons, Karl and Kurt. I am sure Gene and Barbara have ambitious plans for their life after military service and I hope they make the most of this time. From a private in the U.S. Army to a four star general in the U.S. Air Force, General Habiger has served our military and the Nation with great honor and distinction. I have the pleasure of calling Gene Habiger a friend and I want to thank him for his contribution to our nation's security.•

DOVER HIGH SCHOOL TEACHER AND NATIONAL FEDERATION OF PRESS WOMEN AWARD WINNER—PATTY RICHARDSON HINCHEY

• Mr. BIDEN. Mr. President, as we focus on improving our education system on the national, state and local levels, it is my pleasure to offer congratulations to an award-winning teacher from Dover, Delaware, who exemplifies excellence in education for her students, her community, my home state of Delaware, and indeed, this nation.

For the second consecutive year, Patty Richardson Hinchey received the second place award in the category of Achievement/Research—Faculty Adviser of Student Publications for Secondary Schools. This award is given by the prestigious National Federation of Press Women. The award recognizes the outstanding high school journalism advisers/teachers.

Patty also won first place in the State of Delaware competition for the past two years in the same category from the Delaware Press Women, which made her eligible for the national award.

What my colleagues might find most interesting and ironic—the name of the student newspaper at Dover High School for which Patty is the faculty adviser is "The Senator." The 24-page award-winning issue captivated the pulse of student activities, highlighted the history of soon-to-be graduates, spotlighted student leadership during their four years at Dover High School, congratulated Athletes of the Year, and featured articles about teachers who make a difference.

Patty's work on the student newspaper goes well beyond the final afternoon school bell. She and her students calculated spending more than 6,000 hours in the last four years putting editions of "The Senator" to bed. Even more remarkable, due to a school-related accident leaving Patty unable to walk, she worked from her home with the students to get the final issue to press on time.

I have spoken often about the need in this day and age to give young people an "excuse" to stay on the road to achievement, stay in school, stay away from alcohol, drugs and gangs, and stay off the streets. Student newspapers, like Dover High School's, and teachers like Patty Hinchey, are providing these students with that valuable "excuse." This is positive peer pressure, and our country needs more of it. The students know they have to keep their grades up, get their work done on strict deadlines, and keep out of trouble or else they will not experience the thrill and pride of seeing their byline on an article they researched and wrote.

So, I want to thank Patty for providing these award-winning students the opportunity to be their very best and strive for excellence in their work. The lessons and values they have learned working on the school newspaper will serve them well throughout their lives—the lessons of deadlines, responsibility, accountability, how to communicate verbally and in writing, and most importantly how to get along with and respect other people.

I could go on about how impressed I am with Patty, but listen to what her students say about her. The Editor-in Chief of "The Senator" said: "Mrs. Hinchey is an inspirational, talented, creative, hard-working, and most importantly, loving teacher. I am currently a senior and have been in her class since my freshman year. Over this time, I have been able to observe how many students she has become close to and how many people both trust and respect her."

Another student, Kate Basone, Advertising Editor, said: "Mrs. Hinchey inspired the students to produce work that reflected their best effort. She would not accept articles that she felt were not up to the standards of "The Senator" which she established. Therefore, because of her constant pushing and sometime pulling, many students found themselves producing some of their best work."

Patty is not only a talented teacher, she is a terrific mother to her daughter Andrea, who is a student at the University of Delaware, and a career military wife to the now retired Lieutenant Colonel John Hinchey.

It is with great pleasure that I congratulate Patty Richardson Hinchey for her outstanding accomplishments as an awarding-winning teacher and faculty adviser for the Dover High School newspaper "The Senator."•

COMMEMORATION OF HARLEY-DAVIDSON'S 95TH ANNIVERSARY

• Mr. ASHCROFT. Mr. President, I am proud to have this opportunity to recognize a company that truly reflects the spirit, goals and achievements of a true "American success story" as hailed by President Ronald Reagan in 1987. Today, Harley-Davidson Motor Company is an even more outstanding example of American ingenuity and performance. They have seen record earnings 31 of the last 32 quarters—a prime example of their strength as a business. They have seen 32 consecutive quarters of record sales—clearly demonstrating the loyalty of their consumer base.

Harley-Davidson produces its entire line of the very popular Sportster motorcycle in Kansas City, Missouri. They opened the doors of this facility months ahead of schedule, and are already employing hundreds of Missourians. This is evidence of the positive path of growth and expansion of Harley-Davidson. The U.S. market share for Harley continues to grow; today it is 56 percent. Harley also has a great future in the international marketplace and the company is seeing increasing demand for its products in Europe, Japan, Australia, and other countries.

Harley has long been a leader in design and safety standards. As early as 1921, Harley-Davidson bikes incorporated advancements that are still in use today. Twenty years later, during World War II, Harley devoted its entire output of motorcycles to the war effort earned the coveted Army-Navy "E" award for excellence in wartime production.

In many ways, Harley-Davidson has freed generations of American riders to enjoy this country by motorcycle. As Harley-Davidson approaches its hallmark 95th anniversary as a producer of quality American goods, I want to be among the first of the long list of well wishers to say, "Happy Anniversary, Harley! You're still 'king of the road!'"

NAMING OF YEOMAN FIRST CLASS STEPHEN R. DYKEMA AS THE 1997 ENLISTED PERSON OF THE YEAR FOR THE U.S. COAST GUARD

• Mr. HOLLINGS. Mr. President, I rise today to recognize a fellow South Carolinian for outstanding service and dedication to this Nation. I take great pleasure in congratulating Yeoman First Class Stephen R. Dykema for his selection as the 1997 Enlisted Person of the Year for the U.S. Coast Guard.

Each day more than 25,000 enlisted men and women put their lives and safety on the line to carry out the Coast Guard's diverse missions. The Coast Guard plays a critical role as an armed service in defending our Nation and maintaining national security. In addition, the Coast Guard annually conducts thousands of fisheries enforcement boardings; prevents tons of cocaine and marijuana from reaching the streets; gives safety instruction to more than one-half million recreational boaters; and saves about 5,000 lives. The American public has learned to depend on the Coast Guard's service, both close to home and in trouble spots around the world.

That service is built on a tradition of dedication by Coast Guard enlisted personnel. Yeoman First Class Stephen R. Dykema is an individual who epitomizes that tradition. Petty Officer Dykema was selected as the 1997 Enlisted Person of the Year because of his exemplary military bearing, leadership ability and work performance. He currently is assigned to the Training Center in Cape May, New Jersey. However, he has spent much of his time assigned to the cutter *Madrona*, a buoy tender stationed in my hometown of Charleston.

Throughout his nine-year Coast Guard career, Petty Officer Dykema has received numerous medals and commendations. But I'd like to highlight just one incident that really shows why he has earned the honor of being named as Enlisted Person of 1997. During one of the *Madrona*'s longer deployments that year, a box of mail was lost. Among the box's content were bills, family letters, care packages, and Father's Day cards—all those routine types of correspondence upon which a sailor's morale depends. Petty Officer Dykema swung into action, launching a personal search for the missing box of mail. His documentation of the box's history was so thorough that the day after it was released, the unit that had received the mail called to make arrangements for getting the box to Charleston.

Petty Officer Dykema also is one of those rare individuals who finds time to contribute to his shipmates and community. I'm told that he has used his personal time to help fellow crewmembers repay overpayments and helped people with their travel claims and housing problems. He also has been involved in helping those less fortunate with clothing and food and plays the keyboard and sings every Sunday at his church.

In short, Yeoman First Class Stephen Dykema has earned the recognition he has received as Enlisted Person of 1997. This young man is a credit to the Coast Guard, to South Carolina, and to this Nation.•

SUPPORT OF S.J. RES. 50

• Mr. FRIST. Mr. President, I rise today in support of S.J. Res. 50, which I joined the Senator from Missouri, Mr. BOND, in introducing. This resolution expresses the Senate's disapproval of the rule submitted by the Health Care Financing Administration (HCFA) on June 1, 1998, which requires the acquisition of surety bonds for home health agencies under the Medicare and Medicaid programs. HCFA's rule endangers the existence of small and non-hospital based home health agencies because of the excessive expenses and requirements that are created by this rule. I am concerned that patients will lose access to agencies where they can attain home health services and that many employees will lose jobs because of the financial stress that is created by this rule.

Even the two Congressional leaders, PETE STARK and KAREN THURMAN, who introduced the surety bond regulations, realize that the requirements have gone beyond the original intent of Congress. The initial requirement system was based on the successful Medicaid program in Florida, yet the new requirements proposed by HCFA do not only penalize potentially harmful providers but also many of the health care agencies that deliver essential high-quality care. HCFA's proposal differs from the successful Florida model in many ways. In Florida, bond requirements were required to be capped at $50,000, yet agencies under the HCFA proposal must purchase 15 percent of its Medicare reimbursement the previous year or $50,000 worth of bonds, whichever is greater.

A report done by the United States Small Business Administration in its April 15, 1998 letter asking HCFA to remove the 15 percent provision in the surety bond regulation recognizes that HCFA failed to comply with the Regulatory Flexibility Act, which requires agencies to account for the impact of a proposal on all small entities and to consider alternatives to reduce the burden on those agencies. This report states that HCFA did not conduct regulatory flexibility analysis of the proposal's impact on small entities. HCFA was not monitoring the impact of this regulation on all small home health providers but only those with "aberrant billing practices." Therefore, many of the high-quality small home health care agencies are being pushed out of the health care sector because of the outrageous bond requirements.

HCFA also requires all home health care agencies to buy surety bonds regardless of their credit history, whereas in Florida those agencies with at least one year in the Medicare program and no payment history problems were exempted. HCFA also requires these companies to secure bonds every year regardless of performance. These excessive requirements and costs will push many smaller, freestanding home health agencies out of business. If these companies are forced to shut down, the elderly and disabled will lose these essential services. For, this rule should prevent fraud, yet it should not penalize the law-abiding companies for the abuses of less than 1% of the agencies.

Since this rule submitted by HCFA seems to impose conditions that go beyond those bonding companies bear in the course of their normal business, many surety companies are not offering bonds to Medicare home health agencies. Even those offering bonds are creating a prohibitive cost or demanding collateral equal to the face value of the bond or personal guarantees that exceed the face value of the bond. Because of the effects of this rule, small and non-hospital based agencies now risk loss of their Medicare provider number, and their employees and Medicare patients can also be adversely effected.

The capitalization requirement in HCFA's proposal creates a barrier to market entry because entry is based on factors such as overhead costs, location, profit margins, and competition in the area.

With all of these expenses and requirements, one would assume that only health care agencies that have abused the system would be required to abide by this rule. Yet, this system penalizes small home health care agencies that have been serving the elderly and disabled with high-quality for years. This rule should prevent fraud, not limit the access to care for those serviced by the Medicare and Medicaid programs. Because this rule will hurt many small home health care agencies with these exorbitant expenses and requirements, and therefore cause many elderly and disabled people to lose access to health care, I strongly suggest that this rule submitted by HCFA be reworked with consideration given to these responsible, small health care providers that provide essential services for thousands of U.S. citizens.●

USS "BRUCE HEEZEN"

● Mr. CHAFEE. Mr. President, I would like to share with my colleagues the tremendous news of the success of a group of nine fifth grade students from Rhode Island. These students won the U.S. Navy's national competition to be the first group of civilians ever granted the privilege of naming a United States Navy ship. These diligent young people from Oak Lawn Elementary School in Cranston overcame extraordinary competition being selected as finalists from more than 2,000 entries from across the United States.

Last Friday, Secretary of the Navy John Dalton announced the Oak Lawn students' proposal to name the Navy's next oceanographic ship the U.S.S. *Bruce Heezen* was the winner of this competition. Heezen was a pioneer in mapping the ocean floor who died aboard a Navy submarine taking him to look for the first time at the ocean terrain.

I would like to extend my warmest congratulations to these bright students and their teacher for their great achievement. I share with their families and community in recognizing the fabulous work they did in terms of conducting extensive group research and a wide range of individual projects. I also commend them for enthusiastically sharing their discoveries and knowledge with other schools in the area to educate their fellow students.●

EXPANSION OF THE SEABORG CENTER AT NORTHERN MICHIGAN UNIVERSITY

● Mr. ABRAHAM. Mr. President, I rise today to recognize the expansion of the Glenn. T. Seaborg Center for Teaching, Learning Science and Mathematics at Northern Michigan University. On Thursday, June 11, 1998, a groundbreaking will take place for the new complex.

The Seaborg Center is named for Nobel Laureate Dr. Glenn T. Seaborg of the Upper Peninsula of Michigan. Dr. Seaborg is perhaps the most important scientist of his time. A native of Ishpeming, he was co-discoverer of Plutonium, ten elements and more than 100 isotopes. Dr. Seaborg's list of achievements extends far beyond these discoveries, therefore, it is quite appropriate for this educational facility to be named after him. The Center will provide educational institutions at all levels with materials, consultative services and training in math and science education. It serves the entire Upper Peninsula of Michigan, over 56 school districts from the Northern Michigan University campus and from three satellite centers.

I personally visited the original facility and recognized the importance of obtaining funding to upgrade the facility. It is for this reason that I submitted a request for funding. I am very pleased to see that this project is getting underway. It could not be happening at a more exciting time, in light of Northern Michigan University's upcoming centennial celebration. I extend my best wishes and congratulations to everyone involved with making the Seaborg Center project possible. I know it will be a great success.●

VISION 2020 NATIONAL PARKS RESTORATION ACT

Mr. THOMAS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 397, S. 1693.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1693) to renew, reform, reinvigorate, and protect the national parks.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 1693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vision 2020 National Parks System Restoration Act".

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "Secretary" means the Secretary of the Interior, and

(2) "park" or "national park" means a unit of the National Park System.

TITLE I—NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING AND MANAGEMENT

SEC. 101. PROTECTION, INTERPRETATION AND RESEARCH IN THE NATIONAL PARK SYSTEM.

Recognizing the ever increasing societal pressures being placed upon America's unique natural and cultural resources contained in the National Park System, the Secretary shall continually improve the ability of the National Park

Service to provide state-of-the art management, protection, and interpretation of and research on the resources of the National Park System.

SEC. 102. NATIONAL PARK SERVICE EMPLOYEE TRAINING.

The Secretary shall develop a comprehensive training program for employees in all professional careers in the work force of the National Park Service for the purpose of assuring that the work force has available the best, up-to-date knowledge, skills and abilities with which to manage, interpret and protect the resources of the National Park System.

SEC. 103. MANAGEMENT DEVELOPMENT AND TRAINING.

The Secretary shall develop a clear plan for management training and development, whereby career, professional National Park Service employees from any appropriate academic field may obtain sufficient training, experience, and advancement opportunity to enable those qualified to move into park management positions, including explicitly the position of park superintendent.

SEC. 104. PARK BUDGETS AND ACCOUNTABILITY.

(a) Strategic Plans.—Each unit of the National Park System shall prepare and make available to the public a 5-year strategic plan and an annual performance plan. Such plans shall reflect the National Park Service policies, goals and outcomes represented in the Servicewide Strategic Plan, prepared pursuant to the provisions of the Government Performance and Results Act (Public Law 103–62).

(b) Park Budget.—As a part of each park's annual performance plan prepared pursuant to subsection (a) of this section, following receipt of each park's appropriation from the Operations of the National Park System account (but no later than January 1 of each year), each park superintendent shall develop and make available to the public the budget for the current fiscal year for that park. The budget shall include, at a minimum, funding allocations for resource preservation (including resource management), visitor services (including maintenance, interpretation, law enforcement, and search and rescue) and administration. The budget shall also include allocations into each of the above categories of all funds retained from fees collected for that year, including but not limited to special use permits, concession franchise fees, and recreation use and entrance fees.

TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

SEC. 201. PURPOSES.

The purposes of this title are—

(1) to more effectively achieve the mission of the National Park Service;

(2) to enhance management and protection of national park resources by providing clear authority and direction for the conduct of scientific study in the National Park System and to use the information gathered for management purposes;

(3) to ensure appropriate documentation of resource conditions in the National Park System;

(4) to encourage others to use the National Park System for study to the benefit of park management as well as broader scientific value, where such study is consistent with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4); and

(5) to encourage the publication and dissemination of information derived from studies in the National Park System.

SEC. 202. RESEARCH MANDATE.

The Secretary is authorized and directed to assure that management of units of the National Park System is enhanced by the availability and utilization of a broad program of the highest quality science and information.

SEC. 203. COOPERATIVE AGREEMENTS.

(a) Cooperative Study Units.—The Secretary is authorized and directed to enter into cooperative agreements with colleges and universities, including but not limited to land grant schools, in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research and develop integrated information products on the resources of the National Park System, or the larger region of which parks are a part.

(b) Report.—Within one year of the date of enactment of this title, the Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives on progress in the establishment of a comprehensive network of such college and university based cooperative study units as will provide full geographic and topical coverage for research on the resources contained in units of the National Park System and their larger regions.

SEC. 204. INVENTORY AND MONITORING PROGRAM.

The Secretary shall undertake a program of inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of National Park System resources. The monitoring program shall be developed in cooperation with other Federal monitoring and information collection efforts to ensure a cost-effective approach.

SEC. 205. AVAILABILITY FOR SCIENTIFIC STUDY.

(a) In General.—The Secretary may solicit, receive, and consider requests from Federal or non-Federal public or private agencies, organizations, individuals, or other entities for the use of any unit of the National Park System for purposes of scientific study.

(b) Criteria.—A request for use of a unit of the National Park System under subsection (a) may only be approved if the Secretary determines that the proposed study—

(1) is consistent with applicable laws and National Park Service management policies; and

(2) will be conducted in a manner as to pose no significant threat to or broad impairment of park resources or public enjoyment derived from those resources.

(c) Fee Waiver.—The Secretary may waive any park admission or recreational use fee in order to facilitate the conduct of scientific study under this section.

SEC. 206. INTEGRATION OF STUDY RESULTS INTO MANAGEMENT DECISIONS.

The Secretary shall take such measures as are necessary to assure the full and proper utilization of the results of scientific study for park management decisions. In each case in which a park resource may be adversely affected by an action undertaken by the National Park Service, the administrative record shall reflect the manner in which unit resource studies have been considered.

SEC. 207. CONFIDENTIALITY OF INFORMATION.

Information concerning the nature and location of a park resource which is endangered, threatened, rare, or commercially valuable, or for an object of cultural patrimony within a unit of the National Park System, may be withheld from the public in response to a request under section 552 of title 5, United States Code, unless the Secretary determines that—

(1) disclosure of the information would further the purposes of the park unit in which the resource is located and would not create a substantial risk of harm, theft, or destruction of the resource, including individual specimens of any resource population; and

(2) disclosure is consistent with other applicable laws protecting the resource.

TITLE III—PROCEDURES FOR ESTABLISHMENT OF NEW UNITS OF THE NATIONAL PARK SYSTEM

SEC. 301. STUDIES OF AREAS FOR POTENTIAL INCLUSION IN THE NATIONAL PARK SYSTEM.

Section 8 of Public Law 91–383 (16 U.S.C. 1a–5) is amended—

(1) in subsection (a)—

(A) by inserting "General Authority.—" after "(a)";

(B) by striking the second through sixth sentences;

(C) by striking "For the purposes of carrying out" and inserting the following:

"(e) Authorization of Appropriations.—For the purposes of carrying out"; and

(2) by inserting after subsection (a) the following:

"(b) Studies of Areas for Potential Inclusion in the National Park System.—

"(1)(A) At the beginning of each calendar year, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a list of areas recommended for study for potential inclusion as new units in the National Park System.

"(B) If the Secretary determines during a specific calendar year that no areas are recommended for study for potential inclusion in the National Park System, the Secretary is not required to submit the list referenced in subparagraph (A).

"(2) In developing the list submitted under this subsection, the Secretary shall consider—

"(A) areas that have the greatest potential for meeting the established criteria of national significance, suitability, and feasibility;

"(B) themes, sites, and resources not adequately represented in the National Park System; and

"(C) public proposals and Congressional requests.

"(3) Nothing in this subsection shall limit the authority of the Secretary to conduct preliminary planning activities, including—

"(A) the conduct of a preliminary resource assessment;

"(B) collection of data on a potential study area;

"(C) provision of technical and planning assistance;

"(D) preparation or processing of a nomination for an administrative designation;

"(E) updating of a previous study; or

"(F) completion of a reconnaissance survey of an area.

"(4) National Wild and Scenic Rivers System; National Trails System.—Nothing in this section applies to, affects, or alters the study of—

"(A) any river segment for potential addition to the National Wild and Scenic Rivers System; or

"(B) any trail for potential addition to the National Trails System.

"(5) In conducting a study under this subsection, the Secretary shall—

"(A) provide adequate public notice and an opportunity for public involvement, including at least one public meeting in the vicinity of the area under study; and

"(B) make reasonable efforts to notify potentially affected landowners and State and local governments.

"(6) In conducting a study of an area under this subsection, the Secretary—

"(A) shall consider whether the area—

"(i) possesses nationally significant natural, historic or cultural resources, or outstanding recreational opportunities;

"(ii) represents one of the most important examples (singly or as part of a group) of a particular resource type in the United States; and "(iii) is a suitable and feasible addition to the National Park System;

"(B) shall consider—

"(i) the rarity and integrity of the resources of the area;

"(ii) the threats to resources;

"(iii) whether similar resources are already protected in the National Park System or in other public or private ownership;

"(iv) benefits to the public;

"(v) the interpretive and educational potential of the area;

"(vi) costs associated with acquisition, development, and operation of the area and the source or revenue to pay for the cost;

"(vii) the socioeconomic impacts of inclusion of the area in the National Park System;

"(viii) the level of local and general public support for the inclusion;

"(ix) whether the area is of appropriate configuration to ensure long-term resource protection and appropriate visitor use; and

"(x) the potential impact on the inclusion of the area on existing units of the National Park System;

"(C) shall consider whether direct management by the Secretary or alternative protection by other public agencies or the private sector is most appropriate for the area;

"(D) shall identify what alternative, if any, or what combination of alternatives would, as determined by the Secretary, be most effective and efficient in protecting significant resources and providing for public enjoyment; and

"(E) may include any other information that the Secretary considers pertinent.

"(7) The letter transmitting a completed study to Congress shall contain a recommendation regarding the preferred management option of the Secretary for the area.

"(8) The Secretary shall complete a study of an area for potential inclusion in the National Park System within three years after the date funds are made available for the study.

"(c) LIST OF PREVIOUSLY STUDIED AREAS WITH HISTORICAL OR NATURAL RESOURCES.—

"(1) At the beginning of each calendar year, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the United States House of Representatives—

"(A) a list of areas that have been previously studied under this section that contain primarily historical or cultural resources, but have not been added to the National Park System; and

"(B) a list of areas that have been previously studied under this section that contain primarily natural resources, but have not been added to the National Park System.

"(2) In developing a list under paragraph (1), the Secretary shall consider the factors described in subsection (b)(2).

"(3) The Secretary shall include on a list under paragraph (1) only areas for which supporting data are current and accurate.".

TITLE IV—NATIONAL PARK SERVICE CONCESSION MANAGEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "National Park Service Concession Management Improvement Act of 1998".

SEC. 402. CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY.

In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the units.

SEC. 403. AWARD OF CONCESSION CONTRACTS.

In furtherance of the findings and policy stated in section 402, and, except as provided by this title or otherwise authorized by law, the Secretary shall utilize concession contracts to authorize private entities to provide accommodations, facilities and services to visitors to areas of the National Park system. Such concession contracts shall be awarded as follows:

(a) COMPETITIVE SELECTION PROCESS.—Except as otherwise provided in this section, all proposed concession contracts shall be awarded by the Secretary to the person, corporation, or other entity submitting the best proposal as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually-owned, concession contracts.

(b) SOLICITATION OF PROPOSALS.—Except as otherwise provided in this section, prior to awarding a new concession contract (including renewals or extensions of existing concession contracts) the Secretary shall publicly solicit proposals for the concession contract and, in connection with such solicitation, the Secretary shall prepare a prospectus and shall publish notice of its availability at least once in local or national newspapers or trade publications, and/or the Commerce Business Daily, as appropriate, and shall make the prospectus available upon request to all interested parties.

(c) PROSPECTUS.—The prospectus shall include, but need not be limited to, the following information:

(1) the minimum requirements for such contract as set forth in subsection (d);

(2) the terms and conditions of any existing concession contract relating to the services and facilities to be provided, including all fees and other forms of compensation provided to the United States by the concessioner;

(3) other authorized facilities or services which may be provided in a proposal;

(4) facilities and services to be provided by the Secretary to the concessioner, if any, including, but not limited to, public access, utilities, and buildings;

(5) an estimate of the amount of compensation, if any, due an existing concessioner from a new concessioner under the terms of a prior concession contract;

(6) a statement as to the weight to be given to each selection factor identified in the prospectus and the relative importance of such factors in the selection process;

(7) such other information related to the proposed concession operation as is provided to the Secretary pursuant to a concession contract or is otherwise available to the Secretary, as the Secretary determines is necessary to allow for the submission of competitive proposals; and

(8) where applicable, a description of a preferential right to the award of the proposed concession contract held by an existing concessioner as set forth in subsection (g).

(d) MINIMUM REQUIREMENTS.—

(1) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include, but need not be limited to—

(A) the minimum acceptable franchise fee or other forms of consideration to the government;

(B) any facilities, services, or capital investment required to be provided by the concessioner; and

(C) measures necessary to ensure the protection and preservation of park resources.

(2) The Secretary shall reject any proposal, regardless of the franchise fee offered, if the Secretary determines that the person, corporation or entity is not qualified, is not likely to provide satisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(3) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(4) The Secretary may not execute a concession contract which materially amends or does not incorporate the proposed terms and conditions of the concession contract as set forth in the applicable prospectus. If proposed material amendments or changes are considered appropriate by the Secretary, the Secretary shall resolicit offers for the concession contract incorporating such material amendments or changes.

(e) SELECTION OF THE BEST PROPOSAL.—

(1) In selecting the best proposal, the Secretary shall consider the following principal factors:

(A) The responsiveness of the proposal to the objectives of protecting and preserving park resources and values and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(B) The experience and related background of the person, corporation, or entity submitting the proposal, including but not limited to, the past performance and expertise of such person, corporation or entity in providing the same or similar facilities or services.

(C) The financial capability of the person, corporation or entity submitting the proposal.

(D) The proposed franchise fee: Provided, That consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities to the public at reasonable rates.

(2) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(3) In developing regulations to implement this title, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of a concession contracts should be identified as a factor in the selection of a best proposal under this section.

(f) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit any proposed concession contract with anticipated annual gross receipts in excess of $5,000,000 or a duration of ten years or more to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The Secretary shall not award any such proposed contract until at least 60 days subsequent to the notification of both committees.

(g) PREFERENTIAL RIGHT OF RENEWAL.—

(1) Except as provided in paragraph (2), the Secretary shall not grant a concessioner a preferential right to renew a concession contract, or any other form of preference to a concession contract.

(2) The Secretary shall grant a preferential right of renewal to an existing concessioner with respect to proposed renewals of the categories of concession contracts described by subsection (h), subject to the requirements of that subsection.

(3) As used in this title, the term "preferential right of renewal" means that the Secretary, subject to a determination by the Secretary that the facilities or services authorized by a prior contract continue to be necessary and appropriate within the meaning of section 402 of this title, shall allow a concessioner qualifying for a preferential right of renewal the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best proposal for a proposed new concession contract which authorizes the continuation of the facilities and services provided by the concessioner under its prior contract.

(4) A concessioner which successfully exercises a preferential right of renewal in accordance with the requirements of this title shall be entitled to award of the proposed new concession contract to which such preference applies.

(h) OUTFITTER AND GUIDE SERVICES AND SMALL CONTRACTS.—The provisions of subsection (g) shall apply only to concession contracts authorizing outfitter and guide services and concession contracts with anticipated annual gross receipts under $500,000 as further described below and which otherwise qualify as follows:

(1) OUTFITTING AND GUIDE CONTRACTS.—For the purposes of this title, an "outfitting and guide concession contract" means a concession contract which solely authorizes the provision of specialized backcountry outdoor recreation guide services which require the employment of specially trained and experienced guides to accompany park visitors in the backcountry so as to provide a safe and enjoyable experience for visitors who otherwise may not have the skills and equipment to engage in such activity. Outfitting and guide concessioners, where otherwise qualified, include, but are not limited to, concessioners which provide guided river running, hunting, fishing, horseback, camping, and mountaineering experiences. An outfitting and guide concessioner is entitled to a preferential right of renewal under this title only if—

(A) the contract the outfitting and guide concessioner holds does not grant the concessioner any interest, including, but not limited to, any leasehold surrender interest or possessory interest, in capital improvements on lands owned by the United States within a unit of the National Park System: Provided, That this limitation shall not apply to capital improvements constructed by a concessioner pursuant to the terms of a concession contract prior to the effective date of this title; and

(B) the Secretary determines that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(C) the concessioner has submitted a responsive proposal for a proposed new contract which satisfies the minimum requirements established by the Secretary pursuant to subsection (d).

(2) CONTRACTS WITH ANTICIPATED ANNUAL GROSS RECEIPTS UNDER $500,000.—A concessioner which holds a concession contract where the Secretary has estimated that its renewal will result in gross annual receipts of less than $500,000 shall be entitled to a preferential right of renewal under this title if—

(A) the Secretary has determined that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(B) the concessioner has submitted a responsive proposal for a proposed new concession contract which satisfies the minimum requirements established by the Secretary pursuant to subsection (d).

(i) NEW OR ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a park.

(j) SECRETARIAL AUTHORITY.—Nothing in this title shall be construed as limiting the authority of the Secretary to determine whether to issue a concession contract or to establish its terms and conditions in furtherance of the policies expressed in this title.

(k) EXCEPTIONS.—Notwithstanding the provisions of this section, the Secretary may award, without public solicitation—

(1) a temporary concession contract or extend an existing concession contract for a term not to exceed three years in order to avoid interruption of services to the public at a park, except that prior to making such an award, the Secretary shall take all reasonable and appropriate steps to consider alternatives to avoid such interruption; and

(2) a concession contract in extraordinary circumstances where compelling and equitable considerations require the award of a concession contract to a particular party in the public interest. Such award of a concession contract shall not be made by the Secretary until at least thirty days after publication in the "Federal Register" of notice of the Secretary's intention to do so and the reasons for such action, and notice to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

SEC. 404. TERM OF CONCESSION CONTRACTS.

A concession contract entered into pursuant to this title shall be awarded for a term not to exceed ten years: Provided, That the Secretary may award a contract for a term of up to twenty years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

SEC. 405. PROTECTION OF CONCESSIONER INVESTMENT.

(a) LEASEHOLD SURRENDER INTEREST UNDER NEW CONCESSION CONTRACTS.—

(1) On or after the date of enactment of this title, a concessioner which constructs a capital improvement upon land owned by the United States within a unit of the National Park System pursuant to a concession contract, shall have a leasehold surrender interest in such capital improvement subject to the following terms and conditions:

(A) A concessioner shall have a property right in each capital improvement constructed by a concessioner under a concession contract, consisting solely of a right to compensation for the capital improvement to the extent of the value of the concessioner's leasehold surrender interest in the capital improvement.

(B) A leasehold surrender interest—

(i) may be pledged as security for financing of a capital improvement or the acquisition of a concession contract when approved by the Secretary pursuant to this title;

(ii) shall be transferred by the concessioner in connection with any transfer of the concession contract and may be relinquished or waived by the concessioner; and

(iii) shall not be extinguished by the expiration or other termination of a concession contract and may not be taken for public use except on payment of just compensation.

(C) The value of a leasehold surrender interest in a capital improvement shall be an amount equal to the initial value (construction cost of the capital improvement), increased (or decreased) in the same percentage increase (or decrease) as the percentage increase (or decrease) in the Consumer Price Index, from the date of making the investment in the capital improvement by the concessioner to the date of payment of the value of the leasehold surrender interest, less depreciation of the capital improvement as evidenced by the condition and prospective serviceability in comparison with a new unit of like kind.

(D) Where a concessioner, pursuant to the terms of a concession contract, makes a capital improvement to an existing capital improvement in which the concessioner has a leasehold surrender interest, the cost of such additional capital improvement shall be added to the then current value of the concessioner's leasehold surrender interest.

(E) For purposes of this section, the term—

(i) "Consumer Price Index" means the "Consumer Price Index—All Urban Consumers" published by the Bureau of Labor Statistics of the Department of Labor, unless such index is not published, in which case another regularly published cost-of-living index approximating the Consumer Price Index shall be utilized by the Secretary; and

(ii) "capital improvement" means a structure, fixture, or non-removable equipment provided by a concessioner pursuant to the terms of a concession contract and located on lands of the United States within a unit of the National Park System.

(b) SPECIAL RULE FOR EXISTING POSSESSORY INTEREST.—

(1) A concessioner which has obtained a possessory interest as defined in Public Law 89–249 under the terms of a concession contract entered into prior to the date of enactment of this title shall, upon the expiration or termination of such contract, be entitled to receive compensation for such possessory interest improvements in the amount and manner as described by such concession contract.

(2) In the event such prior concessioner is awarded a new concession contract after the effective date of this title replacing an existing concession contract, the existing concessioner shall, instead of directly receiving such possessory interest compensation, have a leasehold surrender interest in its existing possessory interest improvements under the terms of the new contract and shall carry over as the initial value of such leasehold surrender interest (instead of construction cost) an amount equal to the value of the existing possessory interest as of the termination date of the previous contract. In the event of a dispute between the concessioner and the Secretary as to the value of such possessory interest, the matter shall be resolved through binding arbitration.

(3) In the event that a new concessioner is awarded a concession contract and is required to pay a prior concessioner for possessory interest in prior improvements, the new concessioner shall have a leasehold surrender interest in such prior improvements and the initial value in such leasehold surrender interest (instead of construction cost), shall be an amount equal to the value of the existing possessory interest as of the termination date of the previous contract.

(c) TRANSITION TO SUCCESSOR CONCESSIONER.—Upon expiration or termination of a concession contract entered into after the effective date of this title, a concessioner shall be entitled under the terms of the concession contract to receive from the United States or a successor concessioner the value of any leasehold surrender interest in a capital improvement as of the date of such expiration or termination. A successor concessioner shall have a leasehold surrender interest in such capital improvement under the terms of a new contract and the initial value of the leasehold surrender interest in such capital improvement (instead of construction cost) shall be the amount of money the new concessioner is required to pay the prior concessioner for its leasehold surrender interest under the terms of the prior concession contract.

(d) Title to Improvements.—Title to any capital improvement constructed by a concessioner on lands owned by the United States in a unit of the National Park System shall be in the United States.

SEC. 406. REASONABLENESS OF RATES.

The reasonableness of a concessioner's rates and charges to the public, unless otherwise provided in the contract, shall be judged primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary. A concessioner's rates and charges to the public shall be subject to approval by the Secretary pursuant to the terms of the concesssion contract. The approval process utilized by the Secretary shall be as prompt and unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable.

SEC. 407. FRANCHISE FEES.

(a) In General.—A concession contract shall provide for payment to the government of a franchise fee or such other monetary consideration as determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Such probable value is a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas and of providing adequate and appropriate services for visitors at reasonable rates.

(b) Amount of Franchise Fee.—The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concession contract shall be specified in the concession contract and may only be modified to reflect substantial, unanticipated changes from the conditions anticipated as of the effective date of the contract. The Secretary shall include in concession contracts with a term of more than five years a provision which allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of such substantial, unanticipated changes. Such provision shall provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree upon an adjustment to the franchise fee in these circumstances.

(c) Special Account.—All franchise fees (and other monetary consideration) paid to the United States pursuant to a concession contract shall be covered into a special account established in the Treasury of the United States. The funds contained in such special account shall be available for expenditure by the Secretary, subject to appropriation, until expended for use in accordance with subsection (d).

(d) Use of Franchise Fees.—Funds contained in the special account shall be transferred to a subaccount and shall be allocated to each applicable unit of the National Park System, based on the proportion that the amount of concession contract fees collected from the unit during the fiscal year bears to the total amount of concession contract fees collected from all units of the National Park System during the fiscal year, to fund high-priority resource management and visitor services programs and operations.

SEC. 408. TRANSFER OF CONCESSION CONTRACTS.

(a) Approval of the Secretary.—No concession contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval of the Secretary.

(b) Conditions.—The Secretary shall not unreasonably withhold approval of such a conveyance or pledge, and shall approve such conveyance or pledge if the Secretary in his discretion determines that—

(1) the individual, corporation or entity seeking to acquire a concession contract is qualified to be able to satisfy the terms and conditions of the concession contract;

(2) such conveyance or pledge is consistent with the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to visitors at reasonable rates and charges; and

(3) the terms of such conveyance or pledge are not likely, directly or indirectly, to: reduce the concessioner's opportunity for a reasonable profit over the remaining term of the contract; adversely affect the quality of facilities and services provided by the concessioner; or result in a need for increased rates and charges to the public to maintain the quality of such facilities and services.

SEC. 409. NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT ADVISORY BOARD.

(a) Establishment.—There is hereby established a National Park Service Concessions Management Advisory Board (hereinafter in this title referred to as the "Advisory Board") whose purpose shall be to advise the Secretary and National Park Service on matters relating to management of concessions in areas of the National Park System. Among other matters, the Advisory Board shall advise on policies and procedures intended to assure that services and facilities provided by concessioners meet acceptable standards at reasonable rates with a minimum of impact on park resources and values, and provide the concessioners with a reasonable opportunity to make a profit. The Advisory Board shall also advise on ways to make National Park Service concession programs and procedures more cost effective, efficient, and less burdensome, including, but not limited to, providing recommendations regarding National Park Service contracting with the private sector to conduct appropriate elements of concessions management and providing recommendations to make more efficient and less burdensome the approval of concessioner rates and charges to the public. In addition, the Advisory Board shall make recommendations to the Secretary regarding the nature and scope of products which qualify as Indian, Alaska Native, and Native Hawaiian handicrafts within this meaning of this title. The Advisory Board, commencing with the first anniversary of its initial meeting, shall provide an annual report on its activities to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(b) Advisory Board Membership.—Members of the Advisory Board shall be appointed on a staggered basis by the Secretary for a term not to exceed four years and shall serve at the pleasure of the Secretary. The Advisory Board shall be comprised of not more than seven individuals appointed from among citizens of the United States not in the employment of the Federal government and not in the employment of or having an interest in a National Park Service concession. Of the seven members of the Advisory Board—

(1) one shall be privately employed in the hospitality industry,

(2) one shall be privately employed in the tourism industry,

(3) one shall be privately employed in the accounting industry,

(4) one shall be privately employed in the outfitting and guide industry,

(5) one shall be a State government employee with expertise in park concession management,

(6) one shall be active in promotion of traditional arts and crafts, and

(7) one shall be active in a non-profit conservation organization involved in the programs of the National Park Service.

(c) Termination.—The Advisory Board shall continue to exist until December 31, 2008. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(d) Service on Advisory Board.—Service of an individual as a member of the Advisory Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Advisory Board shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of Title 5 of the United States Code, or other comparable provisions of Federal law.

SEC. 410. CONTRACTING FOR SERVICES.

To the maximum extent practicable, the Secretary shall contract with private entities to conduct the following elements of the management of the National Park Service concession program suitable for non-federal fulfillment: health and safety inspections, quality control of concession operations and facilities, analysis of rates and charges to the public, and financial analysis: Provided, That nothing in this section shall diminish the governmental responsibilities and authority of the Secretary to administer concession contracts and activities pursuant to this title and the Act of August 25, 1916 (39 Stat. 535), as amended, (16 U.S.C. 1, 2–4). The Secretary shall also consider, taking into account the recommendations of the National Park Service Concessions Management Advisory Board, contracting out other elements of the concession management program, as appropriate.

SEC. 411. USE OF NON-MONETARY CONSIDERATION IN CONCESSION CONTRACTS.

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this title.

SEC. 412. RECORDKEEPING REQUIREMENTS.

(a) In General.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all terms and conditions thereof.

(b) Access to Records.—The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, papers, documents and records of the concessioner or subconcessioner related to the contract or contracts involved.

SEC. 413. REPEAL OF CONCESSION POLICY ACT OF 1965.

(a) Repeal.—The Act of October 9, 1965, Public Law 89–249 (79 Stat. 969, 16 U.S.C. 20–20g), is hereby repealed. The repeal of such Act shall not affect the validity of any concession contract or permit entered into under such Act, but the provisions of this title shall apply to any

such contract or permit except to the extent such provisions are inconsistent with the express terms and conditions of any such contract or permit. References in this title to concession contracts awarded under authority of Public Law 89–249 also apply to concession permits awarded under such authority.

(b) EXCEPTION FOR PENDING CONTRACT SOLICITATIONS.—Notwithstanding such repeal, the Secretary may award concession contracts under the terms of Public Law 89–249 for concession contract solicitations for which, as of August 1, 1998, a formal prospectus was issued by the Secretary pursuant to the requirements of 36 C.F.R. Part 51.

(c) CONFORMING AMENDMENT.—The fourth sentence of section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3) is amended by striking all through "no natural" and inserting in lieu thereof, "No natural," and, the last proviso of such sentence is stricken in its entirety.

(d) ANILCA.—Nothing in this title amends, supersedes, or otherwise affects any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

SEC. 414. PROMOTION OF THE SALE OF INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HANDICRAFTS.

(a) IN GENERAL.—Promoting the sale of United States authentic Indian, Alaskan Native and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System is encouraged, and the Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade where it currently does not exist.

(b) EXEMPTION FROM FRANCHISE FEE.—In furtherance of these purposes, the revenue derived from the sale of United States Indian, Alaska Native, and Native Hawaiian handicrafts shall be exempt from any franchise fee payments under this title.

SEC. 415. REGULATIONS.

As soon as practicable after the effective date of this title, the Secretary shall promulgate regulations appropriate for its implementation. Among other matters, such regulations shall include appropriate provisions to ensure that concession services and facilities to be provided in an area of the National Park System are not segmented or otherwise split into separate concession contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concession contract below $500,000. The Secretary shall also promulgate regulations which further define the term "United States Indian, Alaskan Native, and Native Hawaiian handicrafts" for the purposes of this title.

SEC. 416. COMMERCIAL USE AUTHORIZATIONS.

(a) IN GENERAL.—To the extent specified in this section, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to visitors to units of the National Park System through a commercial use authorization. Such authorizations shall not be considered as concession contracts pursuant to this title nor shall other sections of this title be applicable to such authorizations except where expressly so stated.

(b) CRITERIA FOR ISSUANCE OF AUTHORIZATIONS.—

(1) The authority of this section may be used only to authorize provision of services that the Secretary determines will have minimal impact on park resources and values and which are consistent with the purposes for which the park unit was established and with all applicable management plans and park policies and regulations.

(2) The Secretary shall—

(A) require payment of a reasonable fee for issuance of an authorization under this section, such fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs;

(B) require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(C) take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(D) have no authority under this section to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the park.

(c) LIMITATIONS.—Any authorization issued under this section shall be limited to:

(1) commercial operations with annual gross receipts of not more than $25,000 resulting from services originating and provided solely within a park pursuant to such authorization;

(2) the incidental use of park resources by commercial operations which provide services originating and terminating outside of the park's boundaries: provided that such authorization shall not provide for the construction of any structure, fixture, or improvement on federally-owned lands within the boundaries of the park.

(d) DURATION.—The term of any authorization issued under this section shall not exceed two years. No preferential right of renewal or similar provisions for renewal shall be granted by the Secretary.

(e) OTHER CONTRACTS.—A person, corporation, or other entity seeking or obtaining an authorization pursuant to this section shall not be precluded from also submitting proposals for concession contracts.

TITLE V—FEE AUTHORITIES

SEC. 501. EXTENSION OF THE RECREATIONAL FEE DEMONSTRATION PROGRAM.

(a) AUTHORITY.—The authority provided to the National Park Service under the Recreational Fee Demonstration Program authorized by section 315 of Public Law 104–134 (16 U.S.C. 460l–6a note)—

(1) is extended through September 30, 2005; and

(2) shall be available for all units of the National Park System, and for system-wide fee programs.

(b) REPORT.—(1) Not later than September 30, 2000, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report detailing the status of the recreational fee demonstration program conducted in units of the National Park System under section 315 of Public Law 104–134 (16 U.S.C. 460l–6a note).

(2) The report under paragraph (1) shall contain—

(A) an evaluation of the fee demonstration program conducted at each unit of the National Park System;

(B) with respect to each unit of the National Park System where a fee is charged under the authority of the Recreational Fee Demonstration Program (16 U.S.C. 460l–6a note), a description of the criteria that were used to determine whether a recreational fee should or should not be charged at such park; and

(C) a description of the manner in which the amount of the fee at each national park was established.

(c) NOTICE.—At least twelve months notice shall be given to the public prior to the increase or establishment of any fee in units of the National Park System.

SEC. 502. COMMERCIAL FILMING ACTIVITIES.

(a) COMMERCIAL FILMING.—The Secretary shall require a permit and shall establish a reasonable fee for commercial filming activities in units of the National Park System. Such fee shall provide a fair return to the United States and shall be based upon the following criteria, in addition to such other factors as the Secretary deems necessary: the number of days the filming takes place within a park unit, the size of the film crew, the amount and type of equipment present, and any potential impact on park resources. The Secretary is also directed to recover any costs incurred as a result of filming activities, including but not limited to administration and personnel costs. All costs recovered are in addition to the assessed fee.

(b) STILL PHOTOGRAPHY.—(1) Except as provided in paragraph (2), the Secretary shall not require a permit or assess a fee for commercial or non-commercial still photography of sites or resources in units of the National Park System in any part of a park where members of the public are generally allowed. In other locations, the Secretary may require a permit, fee, or both, if the Secretary determines that there is a likelihood of resource impact, disruption of the public's use and enjoyment of the park, or if the activity poses health or safety risks.

(2) The Secretary shall require the issuance of a permit and the payment of a reasonable fee for still photography that utilizes models or props which are not a part of a park's natural or cultural features or administrative facilities.

(c) PROCEEDS.—(1) Fees collected within units of the National Park System under this section shall be deposited in a special account in the Treasury of the United States and shall be available to the Secretary, without further appropriation for high-priority visitor service or resource management projects and programs for the unit of the National Park System in which the fee is collected.

(2) All costs recovered under this section shall be retained by the Secretary and shall remain available for expenditure in the park where collected, without further appropriation.

SEC. 503. DISTRIBUTION OF GOLDEN EAGLE PASSPORT SALES.

Not later than six months after the date of enactment of this title, the Secretary and the Secretary of Agriculture shall enter into an agreement providing for an apportionment among each agency of all proceeds derived from the sale of Golden Eagle Passports by private vendors. Such proceeds shall be apportioned to each agency on the basis of the ratio of each agency's total revenue from admission fees collected during the previous fiscal year to the sum of all revenue from admission fees collected during the previous fiscal year for all agencies participating in the Golden Eagle Passport Program.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

SEC. 601. PURPOSES.

The purposes of this title are—

(1) to develop a national park passport that includes a collectible stamp to be used for admission to units of the National Park System; and

(2) to generate revenue for support of the National Park System.

SEC. 602. NATIONAL PARK PASSPORT PROGRAM.

(a) PROGRAM.—The Secretary shall establish a national park passport program. A national park passport shall include a collectible stamp providing the holder admission to all units of the National Park System.

(b) EFFECTIVE PERIOD.—A national park passport stamp shall be effective for a period of 12 months from the date of purchase.

(c) TRANSFERABILITY.—A national park passport and stamp shall not be transferable.

SEC. 603. ADMINISTRATION.

(a) STAMP DESIGN COMPETITION.—(1) The Secretary shall hold an annual competition for the design of the collectible stamp to be affixed to the national park passport.

(2) Each competition shall be open to the public and shall be a means to educate the American people about the National Park System.

(b) SALE OF PASSPORTS AND STAMPS.—(1) National park passports and stamps shall be sold through the National Park Service and may be sold by private vendors on consignment in accordance with guidelines established by the Secretary.

(B) A private vendor may be allowed to collect a commission on each national park passport (including stamp) sold, as determined by the Secretary.

(C) The Secretary may limit the number of private vendors of national park passports (including stamps).

(c) USE OF PROCEEDS.—

(1) The Secretary may use not more than ten percent of the revenues derived from the sale of national park passports (including stamps) to administer and promote the national park passport program and the National Park System.

(2) Amounts collected from the sale of national park passports shall be deposited in a special account in the Treasury of the United States and shall remain available until expended, without further appropriation, for high priority visitor service or resource management projects throughout the National Park System.

(d) AGREEMENTS.—The Secretary may enter into cooperative agreements with the National Park Foundation and other interested parties to provide for the development and implementation of the national park passport program and the Secretary shall take such actions as are appropriate to actively market national park passports and stamps.

(e) FEE.—The fee for a national park passport and stamp shall be $50.

SEC. 604. INTERNATIONAL PARK PASSPORT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish an international park passport program in accordance with the other provisions of this title except as provided in this section.

(b) AVAILABILITY.—An international park passport and stamp shall be made available exclusively to foreign visitors to the United States.

(c) SALE.—International park passports and stamps shall be available for sale exclusively outside the United States through commercial tourism channels and consulates or other offices of the United States.

(d) FEE.—International park passports and stamps shall be sold for a fee that is $10.00 less than the fee for a national park passport and stamp, but not less than $40.00.

(e) FORM.—An international park passport and stamp shall be produced in a form that provides useful information to the international visitor and serves as a souvenir of the visit.

(f) EFFECTIVE PERIOD.—An international park passport and stamp shall be valid for a period of 45 days from the date of purchase.

(g) USE OF PROCEEDS.—Amounts collected from the sale of international park passports and stamps shall be deposited in the special account under section 603(c) and shall be available as provided in section 603(c).

(h) TERMINATION OF PROGRAM.—The Secretary shall terminate the international park passport program at the end of calendar year 2003 unless at least 200,000 international park passports and stamps are sold during that calendar year.

SEC. 605. EFFECT ON OTHER LAWS AND PROGRAMS.

(a) PARK PASSPORT NOT REQUIRED.—A national park passport or international park passport shall not be required for—

(1) a single visit to a national park that charges a single visit admission fee under section 4(a)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)(2)) or the Recreational Fee Demonstration Program (16 U.S.C. 460l–6a note); or

(2) an individual who has obtained a Golden Age or Golden Access Passport under paragraph (4) or (5) of section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)).

(b) GOLDEN EAGLE PASSPORTS.—A Golden Eagle Passport issued under section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)(1)(A)) or the Recreational Fee Demonstration Program (16 U.S.C. 460l–6a note) shall be honored for admission to each unit of the National Park System.

(c) ACCESS.—A national park passport and an international park passport shall provide access to each unit of the National Park System under the same conditions, rules, and regulations as apply to access with a Golden Eagle Passport as of the date of enactment of this title.

(d) LIMITATIONS.—A national park passport or international park passport may not be used to obtain access to other Federal recreation fee areas outside of the National Park System.

(e) EXEMPTIONS AND FEES.—A national park passport or international park passport does not exempt the holder from or provide the holder any discount on any recreation use fee imposed under section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)) or the Recreational Fee Demonstration Program (16 U.S.C. 460l–6a note).

TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

SEC. 701. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

The Act entitled "An Act to establish the National Park Foundation", approved December 18, 1967 (16 U.S.C. 19 et seq.) is amended by adding at the end thereof the following:

"SEC. 12. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

"(a) ESTABLISHMENT.—The Foundation shall design and implement a comprehensive program to assist and promote philanthropic programs of support at the individual national park unit level.

"(b) IMPLEMENTATION.—The program under subsection (a) shall be implemented to—

"(1) assist in the creation of local nonprofit support organizations; and

"(2) provide support, national consistency, and management-improving suggestions for local nonprofit support organizations.

"(c) PROGRAM.—The program under subsection (a) shall include the greatest number of national park units as is practicable.

"(d) REQUIREMENTS.—The program under subsection (a) shall include, at a minimum—

"(1) a standard adaptable organizational design format to establish and sustain responsible management of a local nonprofit support organization for support of a national park unit;

"(2) standard and legally tenable bylaws and recommended money-handling procedures that can easily be adapted as applied to individual national park units; and

"(3) a standard training curriculum to orient and expand the operating expertise of personnel employed by local nonprofit support organizations.

"(e) ANNUAL REPORT.—The Foundation shall report the progress of the program under subsection (a) in the annual report of the Foundation.

"(f) AFFILIATIONS.—

"(1) CHARTER OR CORPORATE BYLAWS.—Nothing in this section requires—

"(A) a nonprofit support organization or friends group in existence on the date of enactment of this title to modify current practices or to affiliate with the Foundation; or

"(B) a local nonprofit support organization, established as a result of this section, to be bound through its charter or corporate bylaws to be permanently affiliated with the Foundation.

"(2) ESTABLISHMENT.—An affiliation with the Foundation shall be established only at the discretion of the governing board of a nonprofit organization.".

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. UNITED STATES PARK POLICE.

(a) APPOINTMENT OF TASK FORCE.—Not later than 60 days after the date of enactment of this title, the Secretary shall appoint a multidisciplinary task force to fully evaluate the shortfalls, needs, and requirements of law enforcement programs in the National Park Service, including a separate analysis for the United States Park Police, which shall include a review of facility repair, rehabilitation, equipment, and communication needs.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of enactment of this title, the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Resources and Appropriations of the United States House of Representatives a report that includes—

(1) the findings and recommendations of the task force;

(2) complete justifications for any recommendations made; and

(3) a complete description of any adverse impacts that would occur if any need identified in the report is not met.

SEC. 802. LEASES AND COOPERATIVE MANAGEMENT AGREEMENTS.

(a) IN GENERAL.—Section 3 of Public Law 91–383 (16 U.S.C. 1a–2) is amended by adding at the end the following:

"(k) LEASES.—

"(1) IN GENERAL.—The Secretary may enter into a lease with any person or governmental entity for the use of buildings and associated property administered by the Secretary as part of the National Park System.

"(2) USE.—Buildings and associated property leased under paragraph (1)—

"(A) shall be used for an activity that is consistent with the purposes established by law for the unit in which the building is located;

"(B) shall not result in degradation of the purposes and values of the unit; and

"(C) shall be compatible with National Park Service programs.

"(3) RENTAL AMOUNTS.—

"(A) IN GENERAL.—With respect to a lease under paragraph (1)—

"(i) payment of fair market value rental shall be required; and

"(ii) section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; 40 U.S.C. 303b) shall not apply.

"(B) ADJUSTMENT.—The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

"(C) REGULATION.—The Secretary shall promulgate regulations implementing this subsection that includes provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

"(4) SPECIAL ACCOUNT.—

"(A) DEPOSITS.—Rental payments under a lease under paragraph (1) shall be deposited in

a special account in the Treasury of the United States.

"(B) AVAILABILITY.—Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at units of the National Park System, including—

"(i) facility refurbishment;

"(ii) repair and replacement;

"(iii) infrastructure projects associated with park resource protection; and

"(iv) direct maintenance of the leased buildings and associated properties.

"(C) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this Act.

"(l) COOPERATIVE MANAGEMENT AGREEMENTS.—

"(1) IN GENERAL.—Where a unit of the National Park System is located adjacent to or near a State or local park area, and cooperative management between the National Park Service and a State or local government agency of a portion of either park will allow for more effective and efficient management of the parks, the Secretary is authorized to enter into an agreement with a State or local government agency to provide for the cooperative management of the Federal and State or local park areas: Provided, That the Secretary may not transfer administration responsibilities for any unit of the National Park System.

"(2) PROVISION OF GOODS AND SERVICES.—Under a cooperative management agreement, the Secretary may acquire from and provide to a State or local government agency goods and services to be used by the Secretary and the State or local governmental agency in the cooperative management of land.

"(3) ASSIGNMENT.—An assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal, State, or local employee for work in any Federal, State, or local land or an extension of such an assignment may be for any period of time determined by the Secretary and the State or local agency to be mutually beneficial.".

(b) HISTORIC LEASE PROCESS SIMPLIFICATION.—The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.

AMENDMENT NO. 2703

(Purpose: A technical amendment to the Committee amendment to comply with requirements of the Budget Act)

Mr. THOMAS. Mr. President, I send an amendment to the desk on behalf of Senators MURKOWSKI and BUMPERS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS], for Mr. MURKOWSKI and Mr. BUMPERS, proposes an amendment numbered 2703.

Mr. THOMAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129 line 22 strike "without appropriation" and insert the following: "subject to appropriation."

Mr. BUMPERS. Mr. President, I rise today in strong support of S. 1693, the "Vision 2020 National Parks System Restoration Act." I want to commend Senator THOMAS, the bill's author, for his efforts in bringing this bill to the floor. As the Chairman of the Subcommittee on National Parks, Historic Preservation and Recreation, he has been willing to compromise and work with all involved parties, including Secretary Babbitt, Senator BENNETT, and me in an effort to enact a meaningful and comprehensive bill for our national parks. It has been a pleasure to work with him on this important legislation and I look forward to its passage before I leave the Senate this year. I would also like to particularly thank Senator BENNETT, who has once again been very helpful and constructive in developing a bill that can garner such broad bipartisan support, as I believe this bill has.

Although this is a comprehensive bill that makes a number of positive changes in the way national parks are managed, for me, the most significant provisions are found in title IV—the National Park Service Concessions Management Improvement Act.

Mr. President, for almost 19 years I have worked to reform the concessions policies of the National Park Service to increase competition, provide better services, and to ensure a better return for the American public. Over the past two decades, we have held dozens of hearings, and we've debated this issue in mark-ups and on the Senate floor.

As you know, during the 103rd Congress Senator BENNETT and I sponsored a bill which passed the Senate by a vote of 90–9, and passed in the House of Representatives with only minor changes by a vote of 368–30. Despite the overwhelming vote margins, we were unable to pass a final bill before the Congress adjourned. Given the magnitude of those votes, it is very frustrating to be here once again debating park concession reform.

While I support passage of this bill and believe it will enhance the Park Service's ability to better manage our National Park System, the bill before us today is a real compromise between Senator THOMAS and myself. The bill—particularly the concession title—does not contain all of the policy changes that I would like to see made. However, passage of this bill will finally allow the Park Service to have meaningful competition for park concession contracts.

Most importantly, the bill will repeal the 1965 Concession Policy Act—a 30-year old anachronism—including its most anti-competitive provision, the granting to incumbent concessioners of a preferential right to renew their contract by simply matching the terms and conditions of a superior offer.

Other important provisions in the concession reform title include: maintaining existing statutory protections for outfitter and guide contracts and small contracts with less than $500,000 in annual gross revenue; a prohibition against giving any concessioner a preferential right to provide new or additional services; and language linking the value of facilities built by a concessioner to actual construction costs, adjusted for inflation, rather than the "sound value" possessory interest allowed under current law.

While the concession title has been of particular interest to me, the bill before us today includes several other titles which I believe will greatly enhance the Park Service's management authorities. The bill includes directives for the Park Service to improve career development and training for its employees and to establish a strong scientific research program in national parks. It codifies criteria for the Park Service to use in evaluating areas proposed for addition to the National Park System. It gives the Park Service much needed authority to collect and retain fees for commercial filming activities in national park units, and it extends the Recreational Fee Demonstration Program for park fees for another six years. The bill also will allow the Park Service to develop and market annual park admission passports to increase public awareness about parks and to raise new revenues. There are a few other titles included in the bill, but those are the most significant provisions.

Mr. President, the concession reform provisions in this bill are a great step forward for the National Park Service and the taxpayers. I strongly support these and the other provisions in this legislation, and I hope my colleagues will join me in helping to pass this bill.

Mr. THOMAS. Mr. President, I ask unanimous consent that the amendment be considered read and agreed to, the committee substitute be agreed to, the bill be considered read the third time and passed, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2703) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 1693), as amended, was considered read the third time, and passed.

The title was amended so as to read: "A bill to provide for improved management and increased accountability for certain National Park Service programs, and for other purposes."

Mr. MURKOWSKI. Mr. President, today the Senate has just passed landmark legislation which will serve to restore, reinvigorate and rebuild our National Park System. S. 1693 addresses a wide variety of Park Service operations from failing infrastructure to improve management and accountability for park programs.

The Administration reports that it will take over $8 billion to bring our park facilities, historic structures, roads and trails up to an acceptable standard. Over the years while we have expanded the National Park System with new units and new responsibilities we have deferred maintenance and reduced funding in many important park programs. As a result we now have what can be best described as a National Park System that is worn-out and broken—a System in need of attention. Quite frankly, Congress does not have the available monies to address or devote to the problems currently encountered by park managers, however meritorious they may be.

During this Congress, Senator THOMAS, Chairman of the Subcommittee on National Parks, Historic Preservation and Recreation, has taken a pro-active approach to National Park Service reform. While conducting over fifteen oversight and legislative hearings on the problems confronting the National Park System. He found that despite reports of $300,000 outhouses, the National Park Service and Congress have failed to deal with the lack of personnel and fiscal resources desperately needed in our parks. Unfortunately, the needs are not limited to a certain number of parks or areas of the United States. The units of the National Park System require a major face-lift from coast to coast, in my State of Alaska, and parks on the islands of Hawaii and in American Samoa.

While the lack of fiscal resources can be addressed. Throwing money to any government agency without accountability is in no one's interest. In this regard the legislation requires the Secretary to develop a comphensive training program for employees in all professional careers, for the purpose of assuring that the work force has available the best, up-to-date knowledge, skills and abilities with which to manage, interpret and protect the resources of the National Park system.

The Secretary is also directed to implement a clear plan for management training and development to enable only those qualified to move into positions of park superintendents and regional managers.

The legislation also addresses park budgets and accountability. Today individual park budgets, if you can find one, are a haze of smoke and mirrors. When this legislation is enacted into law each unit of the System will prepare a budget and make it available to the public.

Mr. President, let me repeat, "make available to the public" a five year strategic plan and an annual performance plan pursuant to a published park budget on an individual park-by-park basis. There will be accountability for the expenditure of all appropriated funds as well as monies collected from enhanced fee collection programs. There will no longer be management in the darkness. Light will be shed where no light has shown before.

During the 105th Congress we found that decisions by park service management are often not based on sound science, in fact, in many parks throughout the country the Service knows very little about the natural resources they are supposed to protect. This legislation directs the Secretary to undertake a program in inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of resources under his jurisdiction. In addition, the Secretary is directed to establish a comprehensive network of college and university based cooperative study units in order to complete the baseline information inventory.

Mr. President, I mentioned earlier that one of the problems with the Park System is that over the last 20 years we have more than doubled the number of units in the System. There has never been a formal procedure to consider new areas which might be eligible for inclusion in the System, nor has any criteria been established by which a potential park area would be evaluated. I direct your attention to Title III of S. 1693 in which the legislation establishes procedures and criteria for Congress and the National Park Service to consider when studying potential new areas that may be added to the System.

Mr. President, Title IV of this legislation deals with concession reform. After eight years of debate this very contentious issue has been resolved. Both Senator BUMPERS and Senator THOMAS deserve a great deal of credit to have turned this issue into a bi-partisan one. Senator BENNETT as well as Secretary Babbitt also deserve recognition for their work and positive approach to working on the finer points of the concessions legislation.

I have long been an advocate of granting an interest in property to those in the private sector who invest in our park facilities such as hotels, lodges, and restaurants. The private sector requires this incentive or interest to borrow from a bank—collateral—to invest in needed capital improvements. The advantage is that we can improve visitor facilities with private sector dollars as opposed to taxpayer dollars. However meritorious, possessory interest has been a large sticking point in ever reaching resolution on concession reform.

As in any great bi-partisan compromise, no one got everything they wanted. The concession folks lost their right of preference in renewal but are allowed to maintain a form of possessory interest. We were able to place private sector expertise into the concession management program with an advisory committee made up of individuals in the hospitality industry and the Secretary is directed to contract-out certain concession management functions.

I firmly believe that this legislation will enhance concession program management, increase competition among prospective concession operators, improve the delivery of goods and services to park visitors, improve facilities and increase revenues from concession franchise fees.

Mr. President, the legislation extends the popular Recreational Fee Demonstration Program from the year ending in 1999 to 2005 and extends the fee collection authority to all 376 park areas. This should be a valuable shot in the arm for increasing park operating funds.

For the first time since 1948 commercial film producers will pay a fee for using these unique backdrops; our parks, for major motion pictures and advertisement in addition to allowing the parks to recover their direct costs such as security activities and permit processing. In return the parks will do a better job in processing permits. As time is money it is much easier on the film industry to hear the word "no" early on in the process rather than wait weeks to receive a decision.

Mr. President, the Park Service is directed by this legislation to establish a National Passport Program based on the familiar and popular Duck Stamp used by the Fish and Wildlife Service. The collectable stamp and related competition and posters etc. should produce additional revenues for major park projects. In addition to the National Passport Program which will provide the user entrance into any one of the fee areas an international passport will be sold overseas for use by foreign visitors.

On another note we ask the National Park Foundation to share their expertise with many of the park's friends groups to encourage expansion of the volunteer ranks as well as to develop entrepreneurial programs at the local level.

We have looked at the National Park System and found that many of our parks are adjacent to state and county parks. There is no reason why the NPS cannot share their personnel and resources with these local agencies and vice-versa. In other words you don't need two snowploughs when one could be shared. This legislation changes the law and provides the Park Service with the authorization to enter into agreements with other local agencies.

Our own United States Park Police are often the forgotten step-child of the National Park Service. Their particular needs and requirements are unknown even though we have asked for reports from the Administration on a number of occasions. Within a year we have that report so that Congress can act in an appropriate manner while addressing the critical needs of the Park Police.

Mr. President, I thank the Members of the Committee on Energy and Natural Resources who came together in a bi-partisan fashion and reported the bill to the full Senate 20 to 0. The Senate can be proud, for this legislation represents a new beginning for the National Park System which will carry it into the next century, alive, vibrant and serving the hundreds and millions of park visitors yet to come.

Perhaps, most important, our natural, cultural and historic resources for which these parks have been set aside will be better protected and managed for future generations.

I thank the Chair, and I thank my colleagues for their support on this important legislation.

Mr. THOMAS. Mr. President, I want to thank the Senate for approving S. 1693, the "Vision 2020 National Parks Restoration Act." This is the culmination of over two years of work and reflects a lifetime of concern I have had about protecting our nation's parks. America's park system needs attention and it needs our help soon. I believe this bill will provide it.

When we began this effort more then a year ago I came to the floor and challenged Senators to imagine for a moment an America without national parks. How would we feel without Yosemite, Independence Hall, or Grand Canyon protected for public enjoyment? How much of our national identity reflected in these icons—the Statue of Liberty, Yellowstone, or the National Capital Mall—would be lost? How much would be missing without the rugged, adventurous American spirit embodied in Glacier Park or Denali? That was the challenge. The U.S. Senate has risen to answer that challenge by passing this bill today.

I'm profoundly proud of what we have accomplished. This effort has been on behalf of the millions of park visitor that flock to the wide open spaces or the rich historic sites. It's for taxpayers who expect the very best return for their money. And it's for the future generations of people, for whom we've worked hard, to preserve the very best of our public land heritage.

I want to express my deep appreciate to the chairman of the Senate Energy Committee, Chairman MURKOWSKI, as well as Senator BUMPERS and Senator BENNETT, who have labored long in this area of parks support, and I thank them for all of their hard work in this legislation. The compromise we developed in order to pass this measure is in the finest tradition of the Senate. The negotiations were tough, and nobody got everything they wanted in the bill. However, we have put together a good piece of legislation that will make a positive and proactive change to help our national parks.

I also want to recognize the hard work of the staff, particularly Dan Naatz of my staff, and Jim O'Toole of the committee staff.

Over the last two years, we have spoken to dozens of groups interested in preserving our parks. We have traveled across the country and listened to the concerns of folks ranging from the motion picture industry to natural resource experts. We have heard the suggestions as well as the criticisms of our colleagues and worked to evaluate areas where we could make positive improvements for our parks. Throughout all of these meetings and hearings, one message came through loud and clear—the value of national parks is one of the cultural constants for Americans.

The Vision 2020 bill provides a systematic approach to addressing the needs of the National Park Service. The restoration bill takes a broad approach, with eight titles covering the compromise bill.

Mr. President, the Senate can be proud of passing this landmark piece of legislation. As Americans, one of the finest legacies that we can leave our children and grandchildren is the National Park System that is healthy, vibrant and alive. We have an obligation to strengthen our outstanding system of parks, the system that over 100 other nations have modeled after ours.

Finally, I want to recognize the important contribution of the Secretary of the Interior, Bruce Babbitt, in developing this compromise bill. As folks know, the Secretary and I don't agree on all issues. However, to his credit, the Secretary recognized the important work we are doing and dedicated time and manpower of his agency to help. I thank the Secretary for his help.

Today is a good day for our parks. It's a good day for the U.S. Senate. Our commitment is to leave our children and grandchildren these wild and historic places healthy and whole. Today we are one big step forward toward achieving that worthwhile aspiration. I once again want to thank the Senate for passing S. 1693 and urge the House of Representatives to take up this bill as soon as possible.

SENSE OF THE SENATE REGARDING THE UNITED STATES AND KOREA

Mr. THOMAS. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 245, and further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 245) expressing the sense of the Senate that the United States and the Republic of Korea should continue to advance already close bilateral security, economic and political ties for the mutual benefit of both countries.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. THOMAS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and a statement of explanation appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 245) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 245

Whereas, the United States maintains a close, critical and robust bilateral partnership with the Republic of Korea, and has a profound interest in furthering that relationship;

Whereas, the U.S. security relationship with the ROK, based on the 1953 Mutual Defense Treaty, bilateral consultations and combined is one of our most important, and it is in both countries' interest, as well as in the interest of the countries of the Asia Pacific region for that relationship to be maintained;

Whereas, the ROK is the United States' seventh largest trading partner, fifth largest export market and fourth largest market for U.S. agricultural products;

Whereas, the recent presidential election of Kim Dae Jung, formerly one of his country's most prominent dissidents, further demonstrates the strength and vibrancy of democracy in the ROK;

Whereas, the ROK has already made significant strides in reforming, restructuring and opening its economy in response to the Asian financial crisis;

Whereas, President Kim has committed his administration to making an array of further structural reforms that over the medium- to long-term, will produce a more open, competitive and dynamic Korea, benefiting the Korean people, U.S.-ROK relations and the global economy;

Resolved, That it is the sense of the Senate that:

(1) The United States and the Republic of Korea should continue to advance already close bilateral security, economic and political ties for the mutual benefit of both countries, and for the maintenance of peace, stability and prosperity in the Asia Pacific region; and

(2) Commends President Kim Dae Jung and the Republic of Korea for the measures already implemented and those measures it has committed to implement to resolve the country's economic and financial problems.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–50 AND TREATY DOCUMENT NO. 105–51

Mr. THOMAS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties·

transmitted to the Senate on June 11, 1998, by the President of the United States:

1. Extradition treaty with Austria (Treaty Document No. 105-50.

2. Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (Treaty Document No. 105-51).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Austria, signed at Washington on January 8, 1998.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

This Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries. It will thereby make a significant contribution to international law enforcement efforts. This Treaty will supersede and significantly improve upon the Treaty between the Government of the United States and the Government of Austria for the extradition of fugitives from justice, signed at Vienna on January 31, 1930, and the Supplementary Extradition Convention signed at Vienna on May 19, 1934.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 11, 1998.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, adopted and opened for signature at the conclusion of the Seventeenth Session of the Hague Conference on Private International Law on May 29, 1993. Thirty-two countries, including the United States, have signed the Convention, 17 countries have ratified it, and one country has acceded to it. The provisions of the Convention are fully explained in the report of the Department of State that accompanies this message.

The Convention sets out norms and procedures to safeguard children involved in intercountry adoptions and to protect the interests of their birth and adoptive parents. These safeguards are designed to discourage trafficking in children and to ensure that intercountry adoptions are made in the best interest of the children involved. Cooperation between Contracting States will be facilitated by the establishment in each Contracting State of a central authority with programmatic and case-specific functions. The Convention also provides for the recognition of adoptions that fall within its scope in all other Contracting States.

The Convention leaves the details of its implementation up to each Contracting State. Implementing legislation prepared by the Administration will soon be transmitted for introduction in the Senate and the House of Representatives. Once implementing legislation is enacted, some further time would be required to put the necessary regulations and institutional mechanisms in place. We would expect to deposit the U.S. instrument of ratification and bring the Convention into force for the United States as soon as we are able to carry out all of the obligations of the Convention.

It is estimated that U.S. citizens annually adopt as many children from abroad as all other countries combined (13,621 children in Fiscal Year 1997). The Convention is intended to ensure that intercountry adoptions take place in the best interests of the children and parents involved, and to establish a system of cooperation among Contracting States to prevent abduction of, and trafficking in children. We have worked closely with U.S. adoption interests and the legal community in negotiating the provisions of the Convention and in preparing the necessary implementing legislation.

I recommend that the Senate give its advice and consent to ratification of this Convention, subject to the declaration described in the accompanying report of the Department of State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 11, 1998.*

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND REPRESENTATION OF MEMBERS AND EMPLOYEES OF THE SENATE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate resolution 247 submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 247) to authorize testimony, document production, and representation of Members and employees of the Senate in U.S. Senate v. Jack L. Williams, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a criminal prosecution brought against Jack L. Williams and Archibald R. Schaffer, III, representatives of Tyson Foods, Inc., alleging illegal gratuities to officials of the Department of Agriculture, including former Secretary Espy, and related charges. The Independent Counsel, who is bringing this prosecution, seeks evidence from an employee of the Senate on the professional staff of the Appropriations Committee about communications with meat and poultry processing industry representatives and Executive Branch officials about a labeling rule promulgated by the Agriculture Department in 1993. The defense may also call Senator BUMPERS to testify.

This resolution would authorize testimony and document production by Senator BUMPERS and employees of the Senate, except where a privilege should be asserted, with representation by the Senate Legal Counsel.

Mr. THOMAS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and a statement of explanation appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 247) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 247

Whereas, in the case of United States v. Jack L. Williams, et al., Criminal Case No. 96-0314, pending in the United States District Court for the District of Columbia, a trial subpoena has been served upon Galen Fountain, an employee of the Senate on the staff of the Committee on Appropriations, and testimony may be requested from Senator Dale Bumpers;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Senator Dale Bumpers, Galen Fountain, and any other employee from whom testimony or document production may be required, are authorized to testify and to produce documents in the case of United States v. Jacke L. Williams, et al., except when Senator Bumpers' attendance at the Senate is necessary for the performance of his legislative duties, and except concerning matters for which a privilege should be asserted

Sec. 2. That the Senate Legal Counsel is authorized to represent Senator Bumpers, Galen Fountain, and any other employee of the Senate, in connection with testimony and document production in United States v. Jack L. Williams, et al.

NATIONAL TOBACCO AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2689, AS FURTHER MODIFIED

Mr. THOMAS. Mr. President, I ask unanimous consent that the Kerry amendment No. 2689 be further modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2689), as further modified, is as follows:

On page 200, line 20, strike from the comma through line 21, and insert ";" after "Act."

On page 202, line 7, strike from the comma and all that follows through line 14, and insert a period after (b)(2) on line 7.

At the appropriate place insert the following:

(h) Assistance for Children.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

ORDERS FOR FRIDAY, JUNE 12, 1998

Mr. THOMAS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, June 12. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following exception: Senator Baucus for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Further, I ask unanimous consent that following morning business, the Senate resume consideration of S. 1415, the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. THOMAS. For the information of all Senators, the Senate will reconvene tomorrow at 9:30 a.m. and begin a period of morning business until 10:30 a.m. Following morning business, we will resume consideration of the tobacco bill. It is hoped that Members will come to the floor to offer and debate remaining amendments throughout Friday's session.

The Senate may also consider the vocational education bill, the Higher Education Act, the NASA authorization bill, the drug czar office reauthorization bill, and any other legislation or executive items that may be cleared for action.

As a reminder to all Members, the majority leader has announced there will be no rollcall votes during Friday's session. Therefore, any votes ordered during Friday's session will be postponed, to occur on Monday at a time to be determined by the two leaders, but not before 5 o'clock.

ORDER FOR ADJOURNMENT

Mr. THOMAS. Mr. President, there being no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator Collins.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. The Senator is on her way. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. Collins pertaining to the introduction of S. 2167 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate is now adjourned.

Thereupon, the Senate, at 6:45 p.m., adjourned until Friday, June 12, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 11, 1998:

DEPARTMENT OF TRANSPORTATION

KELLEY S. COYNER, OF VIRGINIA, TO BE ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, VICE DHARMENDRA K. SHARMA, RESIGNED.

FEDERAL ENERGY REGULATORY COMMISSION

WILLIAM LLOYD MASSEY, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2003. (REAPPOINTMENT)

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

CARLOS PASCUAL, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE THOMAS A. DINE, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C. SECTION 601:

To be vice admiral

REAR ADM. DANIEL J. MURPHY, JR., 6221

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. JAMES O. ELLIS, JR., 4995

EXTENSIONS OF REMARKS

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

SPEECH OF

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military personnel strengths for fiscal year 1999, and for other purposes:

Mr. SPENCE. Mr. Chairman, during the colloquy between Mr. HANSEN and myself during today's consideration of the National Defense Authorization Act for Fiscal Year 1999 a statement was inadvertently made in error. In the colloquy, which concerned the development of fiber optic sensor technology in the Navy's anti-submarine warfare program, I stated that the committee fully funded the Navy's budget request for the development of fiber optic technology, including $11.3 million to complete the development of the All Optical Deployable System. The reference to the budget request "including $11.3 million to complete the development of the All Optical Deployable System" was incorrect. Accordingly, I would like to clarify that the committee has fully funded the Navy's budget request for anti-submarine warfare research and development and the increased emphasis in that program on the development of fiber optic sensor technology for submarine, surface ship, and surveillance system sonar and other applications.

* * *

HONORING ROBERTA AND ORVILLE TONSING

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Orville and Roberta Tonsing, owners of Holyoke Cleaners, for their business excellence and commitment to public service. Holyoke Cleaners has been operating successfully in Holyoke, Colorado for many years, and been a genuine asset to the community.

In addition to running their business, the Tonsings have donated many dollars and countless hours to their community. Roberta has served on the City Council since 1985, and also lent her time to several town boards including the Variance Board, Cemetery Board, Housing Authority Board, Tree Board and Library Board. Orville, too, has been active, serving on the Holyoke Volunteer Fire Department and the Rural Fire Board. In addition, Orville also heads up "BeCause," a group of residents helping other residents in times of need.

It is for these reasons I happily rise today to honor Orville and Roberta Tonsing, and hold them up in the House, and to all Americans, as a shining example of the best of America's businesses. They exemplify the industrious spirit, can-do attitude, and community involvement that made America great.

* * *

IN HONOR OF DR. XIE XIDE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Dr. Xie Xide for receiving a Doctor of Humane Letters from Cleveland State University.

Dr. Xide is a distinguished physicist, educator and internationalist. She has served as Professor and Director of Modern Physics at Fudan University, Adjunct Director of the Shanghai Institute of Technical Physics, and Vice President of the Chinese Physical Society. She is also a member of the Presidium of the Chinese Academy of Sciences and Chair of the Twenty-first International Conference of Semiconductor Physics. Dr. Xide has published seventy-six papers in prestigious international scientific journals. She was inducted as a Fellow of the American Physical Society and the Third World Academy of Sciences. Dr. Xide was also elected as an honorary member of the American Academy of Arts and Sciences and the American Physical Society. In addition, she has also served as both Vice President and President of Fudan University.

Dr. Xide's efforts to foster international dialogue have been recognized by twelve universities in Canada, England, Hong Kong, Japan and the United States which have awarded her honorary degrees. Currently, as Adviser to Cleveland State University and Director of its American Studies Center, Dr. Xide promotes the international exchange of scholars and students. She has developed Fundan's present faculty exchange program with Cleveland State University's Cleveland-Marshall College of Law. Dr. Xide has made many outstanding contributions to scientific research, education and international understanding.

My fellow colleagues, please join me in congratulating Dr. Xide on receiving the Doctor of Humane Letters from Cleveland State University.

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INTRODUCTION OF A HOUSE CONCURRENT RESOLUTION ON THE FOOD QUALITY PROTECTION ACT (FQPA)

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. LAHOOD. Mr. Speaker, today I am introducing a House Concurrent Resolution calling for heightened Congressional oversight over the implementation of the Food Quality Protection Act (FQPA). As you know, Mr. Speaker, FQPA was unanimously enacted in the 104th Congress with bipartisan support. By its enactment, congress intended to ensure the use of sound science in federal regulation of pesticides, replace the "Delaney Clause" with a unified standard, and institute workable protections of infants and children. FQPA's enactment was hailed, by Republicans and Democrats alike, as a remarkable bipartisan effort, after more than a decade of effort. The implementation of FQPAs goal ensures that the proper use of safe pesticides is a critical element in protecting public health and making for a safe, abundant, and affordable supply of food. Conclusively, FQPA provided the Environmental Protection Agency (EPA) with wide latitude to adapt its regulatory system to incorporate constantly improving scientific information as it becomes available.

Unfortunately, Mr. Speaker, EPA's interpretation of Congressional intent has many in production agriculture calling for increased oversight of EPA actions. Congress never intended nor expected FQPA to result in major disruptions to U.S. agriculture or other activities which require pest control tools. EPA's actions have also led many to conclude that EPA was proceeding with unilateral cancellations of some pesticides which could harm the production of certain crops on millions of acres of U.S. cropland.

As grower concerns heightened, the Administration responded with a Memorandum to both the EPA and the USDA. The "Memo" outlined four principals which would guide EPA and USDA as they work together on FQPA implementation. The four principals are: Sound Science in Protecting Public Health: Transparency: Reasonable Transition for Agriculture; and Consultation with the Public and Other Agencies.

While the effort is laudable and has produced new dialogue, Mr. Speaker, it is time, once again, for Congress to make its wishes known on this truly historic legislative achievement. Consequently, I am introducing a House Concurrent Resolution (H. Con. Res.) incorporating the goals of the "Memo", along with other guiding principals. The Resolution is meant to re-affirm Congress' commitment to a fair FQPA implementation. Mr. Speaker, I ask for the support of my colleagues and for its eventual adoption.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING JOHN CLATWORTHY AND CLATWORTHY MOTORS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, Fort Morgan, Colorado is a city rich with tradition and history. Set on the plains of Eastern Colorado, it is a symbol of the West. The spirit of this town is embodied in a business that can proudly claim to be the oldest existing business in Fort Morgan—this business is Clatworthy Motors. I rise today to honor Clatworthy Motors, and its owner John Clatworthy, for business excellence and a commitment to public service.

John Clatworthy, owner of Clatworthy Motors, is a man who carries on his family tradition of upholding commendable business practices as well as extensive community involvement. John recognizes the importance of youth as our future and donates his time to supporting 4–H and Future Farmers of America. His community involvement is not limited to any one area, and he is also an active member of the Cattleman's Association, the Chamber of Commerce, and the Colorado Automobile Dealers Association. Further, Clatworthy Motors has been recognized as Colorado's only automobile dealer nominated for Time Magazine's "Dealer of the Year".

John Clatworthy is a man who embodies the western tradition of giving back to the community. It is for these reasons I happily rise today to honor Mr. Clatworthy. I hold him up to the House, and to all Americans, as a shining example of the best of America's businesses. He exemplifies the industrious spirit, can-do attitude, and community involvement that made America great.

IN MEMORY OF JOSEPHINE VOINOVICH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of Josephine Voinovich, a very special woman who, in her own words, endeavored to live life as "an adventure, not an assignment." Josephine's adventure cast her in a number of different roles as a social worker, librarian, scout leader, and mother of six, but was always marked by her untiring service towards others.

A graduate of Collinwood High School and the College for Women of Western Reserve University, Josephine intended on a career in education. However, with teaching positions scarce during the Great Depression, she became a social worker. Josephine would later become a volunteer librarian at Saint Aloysius Elementary School. In 1993, the school honored Josephine's eighteen years of service in this capacity by naming the library after her.

As a wife and mother of six, Josephine's daily adventures didn't stop at home. Initially serving as a den leader for her son's and daughter's scout troops, Josephine would go on to work with the Girl Scouts for 36 years, a span in which she acted as an adult trainer, day-camp director, and president of the Lake Erie Girl Scout Council. Josephine's dedicated service as part of the council garnered her the coveted "Thanks Badge." In 1993, she was named the council's Woman of Distinction.

A 1992 inductee of the Ohio Senior Citizens Hall of Fame and recipient of the Margarite Ireland Award from the Cleveland Women's City Club, Josephine's proud legacy is one of compassion and caring. Always offering a helping hand to those in need and guidance to individuals looking for a role model, she never sought recognition or respite from her labors, saying simply, "I'm going because I'm needed."

My fellow colleagues, let us recognize the adventure of Josephine Voinovich. That the adventure is now over only reinforces how much we all needed her.

HONORING ORIN LaGREE AND THE BRUSH MARKET

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Orin LaGree, owner of the Brush Market, for business excellence and a commitment to public service. Most Brush residents would agree that Orin LaGree is a strong supporter of the community. But many of those people are not truly aware of the extent of his generosity because much of his giving is done anonymously. Sometimes his gift is the gift of survival. he gives to people down on their luck who need food to carry them through a tough time. Brush Market also donates food to S.H.A.R.E., a local shelter for victims of domestic violence.

Brush youth have also benefited significantly from Orin's generosity. He regularly supplies recipe ingredients to the school's cooking classes. In fact, last Thanksgiving, his staff cooked and delivered turkey dinners to needy families as part of a high school cooking class project. Through his generosity, the young residents of Brush learned that it is better to give than to receive.

Orin LaGree's business boosts the local economy, but its true measure is found in the great lengths of generosity and community support it provides. Brush Market is truly a prized asset of the Brush community. I hold Mr. LaGree up to the House, and to all Americans, as a shining example of the best of America's businesses. He exemplifies the industrious spirit, can-do attitude, and community involvement that made America great.

PAYING TRIBUTE TO FATHER JOHN P. KLEIN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a man who has dedicated more than 20 years to making our community a better place. On June 13, 1998, the family of Saint Agnes Parish will host a mass and dinner honoring Father John P. Klein, Pastor of Saint Agnes Parish as he follows the Lord's calling to serve at St. Gerard's Parish in Lansing.

Father John was ordained in 1978 and began his illustrious career as Associate Pastor at St. Robert's Parish in Flushing then at Good Shepard in Montrose. He was then called to serve as the Administrator of St. Michael's Parish in Flint in 1980. In 1984, he was named Pastor of St. Agnes Parish. Father John additionally heads the Flint Catholic Ministry which operates the Dukette Catholic School.

Since his assignment in 1984, Father John has been such an effective advocate for low income and minority individuals. He has promoted several programs designed to provide a safe environment for our young people. Father Klein has also graciously shared the facilities of St. Agnes with many of its neighbors regardless of religious affiliations. Parish-sponsored programs like The Food Pantry serve between 150–200 families per month. Cornerstone, a nonprofit organization, leases the former Middle School in order to provide programs for adults with severe disabilities. The Genesee Intermediate School district utilizes the former convent to serve students with special needs.

During the last 14 years, Father John has been influential in the renovation of the church, the convent, and the rectory. The landscaping and ground beautification programs that were overseen by Father John were recognized with several "Civic Pride" awards from the City of Flint and the Flint Board of Education. Father John is also responsible for implementing energy conservation programs which have saved thousands of dollars.

Mr. Speaker, I am very proud to acknowledge the fine work of Father John P. Klein. His dedication to providing food, clothing, shelter, education and transportation to anyone, at any time, without hesitation or discrimination serves as a fine example for us all. I respectfully request my colleagues in the 105th Congress to join me in wishing Father John well at his new post. While we may be losing a dear friend, we know that Father John has left a legacy that we can all be proud of.

IN COMMEMORATION OF THE 65TH ANNIVERSARY OF GLORIA DEI LUTHERAN CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KUCINICH. Mr. Speaker, I rise to commemorate the 65th anniversary of Gloria Dei Lutheran Church of Cleveland, Ohio.

Gloria Dei Lutheran Church was founded by a dedicated group of people on June 25, 1933. Pastors Herbert Blickensderfer, Otto Herring, James Eckert and Shari Ayers have blessed Gloria Dei Lutheran Church over the past 65 years with commitment and inspiration.

During the past 65 years, Gloria Dei Lutheran Church has served the community with open arms through organizations such as the Boys Scouts of America, The Martha Society, TOPS, AA, Habitat for Humanity, Vacation Bible School, Sunday School, Job Search and Career Transitions.

The following is the mission statement of Gloria Dei Lutheran Church:

> In the year of our Lord nineteen hundred and ninety-eight (1998), we the people of Gloria Dei Lutheran Church "Empowered by God's Spirit as forgiven sinners" we seek to be:
>
> A witness to the Gospel of Jesus Christ we celebrate in word and Sacrament,
>
> A haven for believers and non-believers,
>
> A servant to our community, and
>
> A catalyst of hope and faith for new possibilities.

Gloria Dei Lutheran Church has been an integral institution in the city of Cleveland from its very beginnings. Parishoners and Cleveland area residents can look forward to the many great contributions to the community that Gloria Dei Lutheran Church will make into the next millennium.

HONORING CHUCK AND RUTH LYNCH

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to commend two of my constituents for their business excellence and a commitment to public service. Lifetime residents of Logan County, Colorado, Chuck and Ruth Lynch believe in their hometown of Sterling. After serving 36½ years as Field Superintendent of the North Sterling Irrigation District, and as former President of the Four States Irrigation Council, Chuck "retired."

Today, and for the past 5½ years, the Lynch's have owned and operated the only dry cleaning establishment in Sterling, New Method Cleaners, and are very involved community members. Both Chuck and Ruth have been Co-commanders of the Berean Church's International Awana Youth Program for twelve years. Ruth is also a medical technician for two ophthalmologists in town. They are both proud members of the community who believe that small businesses strengthen small communities.

It is for these reasons I happily rise today to honor Chuck and Ruth Lynch. I hold them up to the House, and to all Americans, as a shining examples of the best of America's businesses. They exemplify the industrious spirit, can-do attitude, and community involvement that made America great.

HONORING ROBIN FULLER, DIANE HEGWOOD, MIRANDA HOYLE AND TRACY POTTER

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. LAHOOD. Mr. Speaker, today I would like to salute a group of outstanding young women from my district who have been honored with the Girl Scouts of the USA Gold Award by the Kickapoo Council of Girl Scouts in Peoria, Illinois. The following four girls received this award: Robin Fuller of Troop 438; Diane Hegwood of Troop 1000; and Miranda Hoyle and Tracy Potter, both individuals of the council.

The Gold Award is the highest achievement award in the Girl Scouts. It symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Award can be earned by girls age 14–17 or by girls in grades 9–12.

Girl Scouts of the U.S.A., an organization serving over 2.5 million girls, has awarded more than 20,000 Girl Scouts Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill the following requirements: (1) earn four interest project patches; (2) earn the Career Exploration Pin; (3) earn the Senior Girl Scout Leadership Award; and (4) design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

Robin Fuller began work on her Girl Scout Gold Award in 1996. She completed her project by training the local library staff on how to use the Internet. The remainder of her project was to train patrons of the library with the skills needed to use the Internet.

Diana Hegwood began to work on her Girl Scout Gold Award in 1995. She completed her project by creating a story time for young children at the public library. The goal of the project is to encourage literacy by reading to the children. In addition to reading, Diana also created fun and educational activities for children.

Miranda Hoyle and Tracy Potter began working on their Gold Scout Gold Award in 1996. Miranda and Tracy completed their project by creating a video about all aspects of Girl Scouting. This video will be used as a recruitment tool to present the world of Girl Scouting to girls who are currently not involved.

The earning of the Girl Scout Gold Award is a major accomplishment for all of these young women, and I believe they should all receive the public recognition due to them for their service to the community and to the country.

CASTRO INSULTS JEWS WITH HIS RHETORIC

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. MENENDEZ. Mr. Speaker, Fidel Castro is no friend of the Jewish community or the State of Israel.

Castro's labeling of the U.S. policy as a measure akin to the Nazi Holocaust is demonstrative of his senseless rhetoric and glosses over the fact that prior to 1959 there was a vibrant Jewish community in Cuba, which has been largely destroyed by the Castro regime. Castro is no friend of the Jewish community or the State of Israel. Few remember his deployment of a Cuban brigade on the Syrian front in 1973—that was long ago, but even today, Castro continues to court Israel's declared enemies, including Libyan leader Moammar Gadhafi, Iraqi leader Saddam Hussein and the Iranian regime in Tehran.

I would like to include in the CONGRESSIONAL RECORD a letter by Frank Calzon, the Executive Director of the Center for a Free Cuba published in the Wall Street Journal on May 15, 1998 on this subject.

> [From the Wall Street Journal, May 15, 1998]
>
> CASTRO INSULTS JEWS WITH HIS RHETORIC
>
> The World-Wide column April 28 reported that Castro said U.S. sanctions have been a "holocaust" for Cuba, "and urged war-crime trials of U.S. officials." Castro's reference to the Holocaust is an example of his overheated rhetoric and an insult to the Jewish people in Cuba and elsewhere.
>
> The vibrant Cuban Jewish community numbered about 12,000 on the eve of Castro's victory in 1959. There was no significant anti-Semitism in Cuba. Instead, there were Jewish schools, publications, radio programs and various clubs and associations. After Castro destroyed Cuba's civil society, Jewish institutions were confiscated. Not surprisingly, there are less than 1,000 Jews remaining on the island.
>
> Castro's attitude toward Israel has been dismal. For many years, he took the lead at the United Nations and elsewhere in support of violent anti-Israeli groups. He supported terrorists such as the notorious Carlos, who was involved in the planning of terrorist acts against prominent European Jews.
>
> Castro suffers from a simple case of psychological projection. He sees his own behavior in others. Almost 40 years after he established a Marxist regime in Cuba, the Cuban economy is as bankrupt as the communist economies were in Europe.

PAYING TRIBUTE TO DR. CHARLIE NELMS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to the Chancellor of the University of Michigan-Flint, Dr. Charlie Nelms. Dr. Nelms is leaving his post at the University of Michigan-Flint to take a similar position with

Indiana University. He is being honored by his colleagues at a reception on June 17 at the campus of the University of Michigan-Flint.

Charlie Nelms has had a long, illustrious career educating the future leaders of our country. He has devoted his life to providing all persons the opportunity of a better life through education. Dr. Nelms brought his vision to the University of Michigan-Flint in 1994 and the University has benefited greatly from the association. During his tenure as Chancellor, Dr. Nelms has expanded the scholarship program, and opened new instructional centers in Port Huron, Owosso, Lapeer, Fenton, and Pontiac. He has increased the master's degree program by adding degrees in education, nursing and health education. Over $60 million in gifts, grants, and land have been given to the University in the last four years.

His commitment to the community has been remarkable. Dr. Nelms has worked diligently to partner businesses and nonprofits with the educational resources of the University. This partnership has proved advantageous to all entities. Students have gained practical experience, and the community has acquired the technical expertise of the University.

In addition, Dr. Nelms has been personally involved in the Genesee Area Focus Council, the Hurley Hospital Cancer Center Advisory Board and the Mott Children's Health Center Board. He is a lifetime member of the NAACP. He has spent numerous hours speaking to youth groups about the importance of education.

Dr. Nelms' personal philosophy is that every person has a responsibility to contribute. He practices that philosophy daily. The Flint community is losing a compassionate, committed leader in Chancellor Nelms. Mr. Speaker, I ask the House of Representatives to join me in wishing Dr. Nelms and his wife, Jeanetta, all the best as they embark on this new phase of their lives with Indiana University.

HONORING DON COBLE AND BRIGHTON PHARMACY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, in Adams County, Colorado, there is a business that maintains small town values despite burgeoning growth that is always challenging its resources. I rise today to honor Don Coble, owner and pharmacist of the Brighton Pharmacy, for business excellence and commitment to public service.

Brighton Pharmacy is a shining example of outstanding customer service and true concern for the people they serve. Mr. Coble is an exemplary role model for the community not only in his role at Brighton Pharmacy, but as a major contributor and fund raiser for the Community Hospital Fund.

Don Coble is one of only four pharmacists in the entire State of Colorado certified as a Diabetic Educator. He uses his knowledge to provide the community with much needed education on this disease. In addition, the Brighton Pharmacy provides diabetic supplies and medicine to the community members who otherwise could not afford them.

It is for these reasons I happily rise today to honor Mr. Coble and his staff at Brighton Pharmacy. I hold them up to the House, and to all Americans, as a shining example of the best of America's businesses. They exemplify the industrious spirit, can-do attitude, and community involvement that made America great.

IN COMMEMORATION OF THE 40TH ANNIVERSARY OF THE SOCIETY OF DANUBE SWABIANS OF GREATER CLEVELAND

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KUCINICH. Mr. Speaker, I rise to commemorate the 40th anniversary of the Society of Danube Swabians of Greater Cleveland.

The Society of Danube Swabians of Greater Cleveland was originally founded as a member organization of the Banater Club in 1958. The organization has grown enormously over the years. The ladies' group was established on July 28, 1959, and on January 30, 1960 the German Weekend School opened its doors. In 1966, both the German Youth Choir and the "Fleitmatgruppe", a group for young married couples, were created. The organization has developed manifold connections with civic organizations in Germany and Austria. In 1986 they celebrated the dedication of their new building, the Danube Swabian.

In order to achieve the welfare and the long term goals of the Society of Danube Swabians of Greater Cleveland, a large number of dedicated men and women have worked with tireless energy since the founding of the organization. Because of their enormous contributions, the Society of Danube Swabians of Greater Cleveland has become one of the most active ethnic organizations of Greater Cleveland.

My fellow colleagues, please join me in congratulating the Society of Danube Swabians of Greater Cleveland on its 40th Anniversary.

RECONNECTING WITH OUR CHILDREN AND KEEPING THEM SAFE

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mrs. McCARTHY of New York. Mr. Speaker, I want to share with my colleagues the very thoughtful and powerful speech that Education Secretary Richard Riley delivered on June 9th to the Safe and Drug Free Schools Conference in Washington.

Secretary Riley spoke eloquently about what we can do in Congress and across the nation to protect young people from violence. After the recent incidents in Springfield, Jonesboro, West Paducah and Pearl, the Secretary's message is more important than ever. Next week, I will introduce the Children's Gun Violence Prevention Act. Many of the provisions of my bill will address the issues that Secretary Riley raised, including making sure that children cannot get access to guns and helping schools prevent violence. As Secretary Riley says, we need to send the message to our children that "violence is not the solution to any problems that you may have."

RECONNECTING WITH OUR CHILDREN AND KEEPING THEM SAFE

I want to thank all of you for coming to this important conference and for your personal commitment to the children of America. I know that each and every one of you is making a sacrifice to do the jobs you do. That, to my way of thinking, is the very essence of patriotism and what it means to be a good American.

Yesterday, I went to New York at the request of the President and joined Attorney General Reno, General McCaffrey and several other cabinet members as the President gave a very important anti-drug speech at the United Nations. The essence of his message was very simple—the United States will remain unrelenting in its efforts to stem the use and abuse of drugs. It is a message that needs to be heard again and again.

There is another message that our young people need to hear again and again and that is this—please, young Americans, please listen to me—violence is not the solution to any problem that you may have.

The recent wave of terrible killings in Springfield, Oregon; Edinboro, Pennsylvania; Jonesboro, Arkansas; West Paducah, Kentucky; Pearl, Mississippi, and other places have struck a nerve and sent a shudder of doubt throughout our great country.

Yet, I know that America's schools are among the safest places to be on a day-to-day basis because of your good work. Ninety percent of our schools are free of serious violent crime. We have millions of young people who are healthy and happy and want to learn.

I've met them and so have you. There are so many good kids all over America who really are the hope of the future. They are energetic, smart, creative, and they truly seek a moral dimension to their lives.

But as long as this society continues to glorify violence, continues to make it easy for young people to get guns—and as long as we continue to hide our heads in the sand or fail to reach out when a young person is truly troubled—we will have to confront tragedies like Springfield and Jonesboro.

So we need to stop and think hard about what we can do to help our children grow up safely and learn to reject violence.

I am troubled by the fact—and this is something that I have said again and again—that so many young people in America are growing up disconnected. They are growing up almost alone. And then we wonder why some adults fear our own children. Last year a Public Agenda report stated that over 60 percent of American adults view young people in the negative.

This is a rather extraordinary finding but there it is—another sign that there is a disconnection here that we need to address. So where do we start? At the turn of the century, the American philosopher, Henry Adams in writing his autobiography, defined what he called the "Law of acceleration." He wondered whether people would have the capacity to keep up with what he called the "velocity of change" in the 20th century.

Here at the end of the century, I have my own concern. I wonder if, in our haste to keep up with the velocity of change, we are forgetting those things that are most essential to our children: giving them that deep, abiding sense of trust, guidance and security that tells them that they are truly loved, cared about and respected.

In countless conversations, Americans are wondering what is going on with our children. My answer to them is that our children reflect who we are as a people. We seem to have a love affair with violence and it will take a sea change in our culture to move away from this thinking.

When 6,000 young people are killed every year with a gun, when 5,000 young people commit suicide every year, when over a million young people run away from home every year, when almost a half million young people drop out of school every year, and when hundreds of thousands of young people get into drugs and alcohol and tobacco and just mess up their lives, can we truly say we are a child-centered society, that we are giving all due attention and concern to their upbringing?

When we see children killing children, can we say that we have listened to them with all due care? Violence is a language, a sound that always captures our attention but always too late. This is why "connectedness" is so important.

RECONNECTING WITH OUR CHILDREN

Last year, the Journal of the American Medical Association published the results of a survey of 90,000 young people concerning high risk behavior that included face-to-face interviews with more than 12,000 teenagers in their homes. This survey was one of the most comprehensive that has ever been done and it went to great lengths to reach young people on sensitive subjects such as drug use, sexuality, violence and suicide, even allowing the young people to key their answers into a laptop computer to protect their confidentiality. The results were remarkable in their simplicity and depth.

The survey indicated that young people who felt connected to their parents and schools were less likely to engage in high risk behavior. As Doctor Robert Blum, the survey director, stated, "kids who feel connected to school are more likely to feel connected at home, and kids who perform better in school are the same ones who are told at home that school is important."

This is why every school in the nation has to actively engage and encourage parents and do everything possible to mitigate the time crunch of daily life so parents stay connected to their children. We need to urge parents to slow down their lives and as educators we must slow down our lives as well.

We must commit ourselves to one very basic idea: that every child in America in a school has a positive and caring relationship with at least one adult. This simply has to be the new standard we set for our nation's schools and communities. This is something that Paul Schwarz, our principal-in-residence, talked to you about yesterday.

Yes, there are innumerable obstacles to reaching this goal. And, yes, many seasoned educators will immediately say that there is no time, that teachers and administrators are already stretched too thin. But the goal of having every child in a school be connected to some caring adult is not unrealistic.

I have visited mega-schools that have become schools-within-schools. I have visited charter schools, career academies, and schools that have created family units within larger schools. I have visited schools that actively involve parents and senior citizens. And I have visited schools in drug-infested neighborhoods where the entire community makes sure that children come and go to school safely.

The secret of success at all of these schools is the willingness of teachers, parents and the entire community to go to great lengths to make sure that every child and every family feels connected and valued.

CONGRESS MUST ACT

This is why the many programs that President Clinton has sent to the Congress—from reducing class size to school construction to expanding after-school programs—need to be seen as a direct help to those of you on the front line. Congress needs to stop worrying about politics and start passing legislation that will make a difference in the lives of our children.

Our prisons are full of high school dropouts who cannot read and that is one reason why funding the America Reads Challenge is so important. Yet, Congress continues to dilly dally and dawdle. And just think about how many young people we might help and get on the right track if they were connected to a young college student mentor as part of our High Hopes program that would link middle schools to colleges. I urge the Congress to act on all of these important pieces of legislation.

I single out for special attention the President's proposal to fund 1,300 drug and violence prevention coordinators to serve 6,500 of our nation's middle schools. When Congress goes home in October, this piece of legislation—indeed all the pieces of legislation that I have just mentioned—needs to be on the President's desk for his signature.

And I will tell you why. I visit 60 to 70 schools a year. I see the best schools and the most run down schools and all kinds of schools in between. I see them all. I talk to teachers and principals, the counselors and the parents. I try to be a good listener. I know that when I come for a visit, the school staff wants to tell me two things: what they are accomplishing and what truly worries them.

As I make my visits, I detect a growing sense of urgency. The message I hear again and again is that schools are being asked to "detox" young people from the glorification of violence and an easy acceptance of drugs, and to sensitize children about the value of life itself. Schools are being asked to pick up the pieces.

Schools are being asked to teach young people basic coping and social skills from anger management to cooperation, and sometimes educators are finding themselves at their wits' end.

A few days ago, I read a small news item about how a teacher had been attacked by four girls at a school who demanded that the teacher turn on the tasteless "Jerry Springer Show" in lieu of a documentary. Have we come to that?

My friends, we need to recognize that ending the violence and drug abuse is not simply a family nor a school problem. As PTA president Lois Jean White said last week, "it is America's problem." And, I would add, it is every community's problem as well. This is why we cannot let this summer slip by without planning ahead for the next school year. Now is the time to build community support for our nation's schools.

This is why this speech will be the first in a series of events that I will participate in to suggest some practical and urgent steps we can take to help in your work. To that end, I am announcing a series of action steps that the Administration will begin to take this summer to encourage a public dialogue and to help you make our schools even safer places to learn.

LISTEN TO OUR CHILDREN

First, the Attorney General and I will meet this summer and during the next school year with young people to talk directly with them regarding violence and drugs. We can't begin to end the violence unless we reach out to our young people, truly listen to their voices, and tune in to what they are really trying to say. And we must make them part of the solution.

Again and again in the aftermath of the tragedies like Springfield and Jonesboro we are told that other children thought trouble was coming. So we need to stop and listen to our young people and build those levels of trust that allow them to talk to us when they are worried and fearful.

EFFECTIVE PROGRAMS

We can't begin to talk about improving the safety of our nation's schools unless we tighten up our own programs to make sure that they are research-based and have met the highest standards. This is why we are putting into place Principles of Effectiveness to re-direct our own Safe and Drug Free School Program.

We have to do a much better job of making sure that what we are doing is effective. There is a science of prevention and we need to use it. This is why Congress should act with dispatch and approve the President's request to target $125 million to communities with strong prevention initiatives.

We also need to recognize that teaching young people coping and social skills that allow them to turn away from violence and drugs can take many forms. Many of you are familiar with the wonderful work of Dr. James Comer at Yale University, whose program connects schools and communities. Dr. Gil Botvin of Cornell University Medical College has a Life Skills Program that has proved effective. I also know that many schools are using character education, peer mediation, conflict resolution, and the establishment of student run religious clubs as ways to help and encourage young people through turbulent times.

SHIFTING MORE RESOURCES TO PREVENTION

Third, we need to rethink and redirect how and where we spend our resources. When it comes to preventing violence, we need to shift some of our resources from the back end to the front end.

About a month ago, I met with school security chiefs from the 30 major cities. Some of these school chiefs looked liked former football linebackers. Yet their message was anything but punishing. To a person, they spoke about the need to stop school overcrowding, to shift more resources to elementary school, and to hire more counselors.

They urged me as I urge you today to develop prevention strategies at the elementary school level. As one security chief told me, "every third grade teacher can tell you which child is already in trouble and headed down the wrong road." This is clearly true if they are teaching only 15 to 18 children in a class and can give some individual attention to each child.

This is why I join Attorney General Reno in saying that it is a "serious mistake" for both the House and the Senate to be developing juvenile justice legislation that sets aside no real funding for delinquency prevention, for truancy prevention, for after-school programs and for mentoring programs. These are the very programs that you and I know can be so effective in stopping violence from occurring in the first place.

EARLY WARNING

Fourth, the Department of Education and the Department of Justice, working with the National Association of School Psychologists and other experts, will develop a framework to help teachers and principals understand early on when a child is truly troubled and the steps they can take to get help. The early warning guide, which will include important ways to prevent violence and deal with aggressive behavior, will be ready in the early fall.

Now, we need to be very cautious about the idea of sorting out our children and labeling them. In my opinion, too many young people are already being sorted out in our schools and too often this approach to education has been been harmful to minority youth.

At the same time, however, we need to recognize that research does exist that can help teachers, principals, and parents understand those early warning signs that define those few young people who are truly troubled. It takes great courage for a teacher or a parent or a preacher or a coach to confront a troubled child. But this is something that we must do in a responsible manner.

This is why my Department will work with the Surgeon General to explore ways to develop a stronger link between schools and community mental health facilities as well as to increase the number of school counselors and other staff who can reach out to children and families. Many states, including California, are moving in this direction.

The principal at Thurston High School, in Springfield, Oregon, acknowledged in the aftermath of that tragedy that he had only four counselors for 1,700 students. We simply aren't going to connect with our young people as individuals when the average counselor in an American school is responsible for over 500 children.

We want to make sure that important support staff in our nation's schools—the social workers, counselors and school psychologists—are not solely focused on testing and evaluation but also are directing their expertise to preventing violence. The 1997 revisions of IDEA will give school psychologists a greater opportunity to actively work with you, the safe and drug-free school coordinators.

We also need to look outside of the schoolhouse to find new resources and bring them into the school environment. Teachers cannot be policemen, social workers or psychiatrists. Teachers may be the first to know a child well enough to see that the child is troubled, but then they need to know that there is a support team available to them. I want to point out that 5 percent of the Elementary and Secondary Education Act is available for these types of collaborative and coordinate services.

CRISIS MANAGEMENT

We also have to realize that the type of tragic incidents such as those in Springfield and Jonesboro can happen any time and at any school. This is why the Department of Education and the Department of Justice will develop a model for "crisis management" that can be used by schools to develop their own plans. This may be particularly helpful for smaller school districts.

ALTERNATIVE SCHOOLS

As we reach out to our young people, we must send them a strong and consistent message that they must be held accountable for their actions. They need to understand that there are very real consequences to breaking the rules. This is why we must continue to be tough minded about expelling young people who bring guns and other weapons to school.

But we simply cannot expel young people into the streets. A child who brings a weapon to school needs to be properly evaluated and a plan of action has to be developed to turn this young person's life around. I remain very concerned by the finding that only 56 percent of the students expelled under the Gun Free Schools Act were placed in alternative settings. This is why the Department of Education will undertake a major new study of alternative schools and examine other ways that will enable us to make sure that these young people in trouble get their lives turned around.

GUNS AND CHILDREN

Finally, a last important point: Unsupervised gun use and children do not mix. I will say that again. Unsupervised gun use and children do not mix. If Charlton Heston and the NRA want to come into the "mainstream of American political debate" then they need to stop defining themselves as "victims of media manipulation" and help keep our children from becoming the victims of gun violence in our schools, in our homes and in our streets. I challenge the NRA to direct its attention to getting guns out of the hands of unsupervised children. The link between guns in a house and children being injured or killed in an accidental shooting or committing suicide is well established and alarming.

Last year, at the request of the President and the Attorney General, eight major gun manufacturers agreed to put trigger locks on all new guns now being manufactured. But there are still over 200 million guns in America that need to be locked up as well.

This is why I ask every adult to get serious about gun safety in America. If you have guns in your house, please take the responsibility for making sure that every gun has a child safety lock on it. It's not enough to say it was a mistake because a gun got left in an unlocked drawer or on the nightstand by the bed and a child got killed. Unsupervised gun use and children—do not mix.

The action steps that I have just outlined are comprehensive because this is the only way we are going to help our young people. America's young people are resilient. They will have a bright future if we help them turn away from the culture of violence and drugs that this society tolerates all to easily.

There is another way for America. That is to have a total commitment to reconnecting with America's young people and to help each school become a place of hope, learning and opportunity. When communities come together—parents, senior citizens, faith communities, business leaders and just plain folk—when we rally around our schools and when we reconnect with our children, good things happen.

I want to end now by telling you about my visit to Jonesboro, Arkansas. The President was in Africa, so he asked the Attorney General and me to represent him at the memorial service. We had the opportunity to visit with the families of the victims and to listen to a community come together in the aftermath of a terrible act of violence.

One of the most powerful speakers that night—a real heroine to the community—was Karen Curtner, the very fine principal of Westside Middle School. I shall never forget her words.

She said that our hearts have four physical parts and four emotional parts—sorrow, compassion, forgiveness and hope. She urged us—and these are her words—to start a chain of love that would change the world, one helping hand at a time, whether it's checking on a neighbor, reading an extra bedtime story to a child, or simply saying thank you more often. Her message is my message—a message of reconnection and hope.

Thank you.

PRAISING THE PASSAGE OF H.R. 1635, THE NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT OF 1998

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Ms. CARSON. Mr. Speaker, on Tuesday, June 9, 1998, my colleagues and I passed H.R. 1635, the National Underground Railroad Network to Freedom Act of 1998, by an overwhelming vote—415 yeas to 2 nays. This legislation will establish within the United States National Park Service the National Underground Railroad Network to Freedom program to facilitate partnerships among Federal, state and local governments and the private sector to identify and commemorate the Underground Railroad. Commemorating the Underground Railroad Network is well-deserved and will help every American understand what the Underground Railroad was and how it helped thousands of slaves to secure their freedom and their place in history. Through the program, structures, routes and sites which were significant to the Underground Railroad will be identified. The National Park Service will create a logo to identify these sites and distribute interpretive information for visitors to understand the use of the Railroad.

The Underground Railroad stretched for thousands of miles from Kentucky and Virginia across Ohio and Indiana. The Underground Railroad movement was responsible for helping approximately 70,000 slaves escape and journey safely to freedom. Attempts made through the Underground Railroad were made at tremendous risk for those fleeing slavery and anyone who helped along the way.

Mr. Speaker, I am proud that the people of Indiana were an important part of the national effort to help slaves attain their freedom. Indiana contained several routes and stopping points of the Underground Railroad. The Bethel African Methodist Episcopal Church, in Indianapolis, founded in 1836 by William Paul Quinn and Augustus Turner, became active in the antislavery movement, often harboring fugitive slaves en route to Canada. Their promotion of the abolitionist movement and their activities in the Underground Railroad were not well received by some members of the local community. Promoters of slavery are believed to be the culprit behind the fire that destroyed this church in 1862.

The town of Westfield, directly north of Indianapolis, was known as the "North-Central Station of the Underground Railroad." This town was the last hope for slave hunters to recapture a slave. Once a fugitive slave traveled this far north, he or she was considered safe.

The home of Levi and Catherine Coffin in Fountain City was referred to as "The Grand Central Station of the Underground Railroad." Three main lines of the Underground Railroad from Cincinnati, Ohio, and in Indiana, Madison and Jeffersonville, converged at Fountain City and the Coffin's home. They helped more than 2,000 runaway slaves escape to freedom, using their home as a principal depot. A Kentucky slave owner was the originator of the name "Underground Railroad" when he referred to the Coffin's home and said, "they must have an underground railroad running hereabouts, and Levi Coffin must be the President of it." Simeon and Rachel Halliday, characters in *Uncle Tom's Cabin* are based on the Coffins. Its heroine, Eliza Harris, also stayed with the Coffins as a fugitive for several days.

Eleutherian College classroom and chapel building, located on State Route 250—just east of Lancaster, Indiana, constructed between 1854 and 1856, was the first college in Indiana to admit students without regard to race or gender. Three of the college's trustees, Samuel Tibbetts, Lyman Hoyt, and James Nelson, were among the most active participants in the Underground Railroad in and around Lancaster. Lancaster was a known stop for fugitive slaves traveling from Madison, Indiana to Indianapolis. Eleutherian College embodied its founders antislavery sentiments, and the school's location, atop the highest hill in the area, was a physical and symbolic statement of the community's beliefs.

Near West Franklin in Posey County, runaway slaves were helped across the Ohio River. Lake, Porter, and LaPorte counties all had places where slaves could be hidden until they could be smuggled on boats and carried farther north on the Underground Railroad network.

Evansville was another place where the slaves crossed the Ohio River. The Indiana city was the home of many freed slaves, who provided places for the runaways to hide. Another crossing of the Ohio River was between Owensboro in Kentucky, and Rockport in Indiana. Rockport has a regular crossing at the mouth of the Indiana Creek.

I would like to praise the individuals on the following list of names of Underground Railroad Operators from Indiana, divided by county: Bartholomew—John Hall, Willis Newsom, Parker, Willis Parks, John Thomas, Wears; Bond—James Douglass, Anthony Hill, Robert McFarland, John A. McLain, James Rosbrough, James Wafer; Boone—Samuel Johns; Carroll—Robert Montgomery; Cass—J.E. Crain, Dr. Ruel Faber, Jim Hill, Barton R. Keep, William M. Kreider, W.T.S. Manly, Joseph Patterson, Jeptha Powell, Josiah O. Powell, Lemuel Powell, Lyourgus Powell, William Powell, Thomas T. Tomlinson, Turner, Capt. Vigus, Batley White; Dearborn—John Collier, Ralph Collier, John Hansell, Thomas Smith; Decatur—Cady, Capen, Luther Donnell, A.W. Knapp, Taylor; Delaware—Swain; Elkhart—Dr. Matchett; Gibson—Rev. McCormack; Grant—Charles Baldwin, Nathan Coggeshall, Aaron Hill, David Jay, John Ratliff, John Shugart; Hendricks—Harlan Harvey, Dr. T.B. Harvey, Dr. William F. Harvey, Elisha Hobbs; Henry—Isaac Adamson, John Bales, Jonathan Bond, Charles Burley, William Charuness, Jr., Roger Edgerton, Seth Hinshaw, Dr. Iddings, Jesse Jessup, Tidaman Jessup, Enoch Macy, Jonathan Macy, Lilburne Macy, Phebe Macy, William Macy, Alpheus Saint, W.D. Schooley, Mrs. Jane Small, Caleb Wickersham; Howard—Daniel Jones; Jackson—Richard Cox, Willis Parks; Jefferson—James Baxter, John Carr, Robert Eliott, Louis Hickland, Judge Stephens, Rev. Robert Stephenson, Isaac Waggner, Jacob Wagner; Jay—Baird, Brown family, Thomas Gray, Haines Family, Hopkins family, Jonah Ira, Enos Lewis, Mendenhall family, Joshus Puxon, Williams family, Wright family; Jennings—Bland, Aaron Deney, Thomas Deney, Jacob Hale, Felix Hicklen, James Hicklen, Dr. John Hicklen, Louis Hicklen, Thomas Hicklen, Marshall, Eli Stanley, James Stott, Samuel Stott; Kosciuko—Gordon, Thomas Harpers, Chauncsy Hurlburts; LaPorte—Dr. George M. Dakin, Harper, Rev., W.B. Williams; Montgomery—Samuel Clarke, Fisher Doherty, Elmers, Emmons, John Speed; Morgan—Williams; Nobel—Waterhouse, Stutely Whitford; Parke—Alfred Hadley, W.P. Stanley; Putnam—Parker S. Browder, "Singing" Joe Hillis; Randolph—Alexanders, Amos Bond, John H. Bond, John Clayton, Willis Crane, Bury Diggs, Jr., Daniel Jones, John A. Moorman, Soloman Rinard, Samuel Smith, Lemuel Wiggins, A. Worth, Soloman Wright, Zimri; Ripley—James Bland, Dr. A.P. Cady, Dautherd, Francis Holton, Henry Hughes, Walter Hulse, Henry King, Duncan McDowell, Washington L. McDowell, F.M. Merrell, Willett Neil, George Passmore, Joseph Passmore, Ervin Queer, Hiram Smith, John S. Van Cleave, Jared Van Cleave, Henry Waddle, James Waggoner; Rush—Tristan Cogeshall, John H. Frazee, Johathan I. Gray, Henry Henley, Milton Hill, Sidiman Jessup, Henry Macy, Robert Patterson, Zachareal Small, Abraham Small, Elisha B. White; Steuben—Lewis Barnard, Capt. Butler Barry, Henry Butler, M.B. Butler, S. Seymour, S.W. Clark, Allen Fox, Denison Fox, J.A. Fox, Judge Gale, Hendry, Samuel Jackson, Augustus Kimball, S. McGowan, Nelson Newton, Rev. E.R. Spear, Waterhouse; Tippecanoe—Lewis Falley, Moses Hockett, Benjamin Hollingsworth, John Hollingsworth, John Robinson; Union—William Beard, Dr. Casterline, J.P. Elliott, Edwin Gardner, Joel Hayworth, William Huddleson, John Maxwell, Gabriel Smith; Vermilion—William Beard; Wabash—Avery Brace, William Hayward, Maurice Placo; Washington—James L. Thompson; William Penn Trueblood; Wayne—William John Charnnese Charles, Daniel Clark, John Coe, Levi Coffin, Gogshalls, George DeBaptiste, Thomas Edgerton, Thomas Frazier, Reuben Goems, Jonath Haddleson, Harris, James Hayworth, Daniel Hill, William Hough, Daniel Huff, Zimri Huff, Dr. Johnson, Lewis, Malsbys, Mareys, Maxwell family, Samuel Moore, Samuel Nixon, Overman, Daniel Puckett, Able Roberts, Dr. Benjamin Stanton, Ira Stanley, Luke Thomas, Lewis Thornburg, Jonathan Unthank, Dr. Henry Way, John Whippo, David Wilcuts, John F. Williams, Martha Wooton; White—James Lawrie; Miscellaneous—Honorable Isaac Brandt, Maxwell, Dr. A.J. Smith, and Talberts.

The Underground Railroad Network to Freedom Program will provide an educational program dedicated to preserving, displaying and distributing the history of the Underground Railroad, and therefore allowing Americans of all walks of life to understand the important contribution to the history of the Underground Railroad. The Underground Railroad is a story of great courage and determination and the struggle for freedom in this country. It teaches us the important lessons about liberty, understanding, cooperation and reconciliation.

HONORING PETE MORRELL AND MORRELL AND ASSOCIATES

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I would like to call attention to a company that is proven gold mine of wealth for the city of Greeley, Colorado. This wealth is not only monetary, but is also includes a sense of pride and spirit inspired by Pete Morrell, founder of Morrell and Associates. I rise today to honor Mr. Morrell and his associates for business excellence and a commitment to public service.

Morrell and Associates offers the business community much needed guidance on effective management techniques. Founded by Pete after several years of public service with the City of Greeley, Morrell and Associates is giving back to the community at every turn. Pete Morrell is a leader in the Chamber of Commerce, and has served on the Board of the Greeley Philharmonic Orchestra. He is well known in the community as a leader and role model for others.

It is for these reasons I happily rise today to honor Mr. Morrell and his staff at Morrell and Associates. I hold them up to the House, and to all Americans, as a shining example of the best of America's businesses. They exemplify the industrious spirit, can-do attitude, and community involvement that made America great.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1999

SPEECH OF

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the concurrent resolution (H. Con. Res 284) revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003:

Mrs. CAPPS. Mr. Chairman, I rise in opposition to this budget resolution. I am deeply disappointed in this proposal especially in light of the bipartisan agreement that this Congress was able to reach last year. That agreement encouraged education, prolonged the life of Medicare, cut the death tax and capital gains rates—all while balancing the budget for the first time in 30 years.

The budget proposal before us today threatens Social Security and Medicare, and would require cuts to a wide variety of critical areas, including education, environmental protection, NASA and research and development funding.

The proposal would allow using the budget surplus to begin privatizing Social Security. This is the wrong approach. Instead, I favor reserving that surplus to ensure the long term viability of this most critical program for America's seniors. And, up until last night, this proposal has called for cutting yet another $10 billion from Medicare—on top of the $115 billion in Medicare cuts that Congress passed last year. I cannot support any budget that will continue to weaken the historic protection we afford our senior citizens.

While the proposal before us makes very few specific recommendations on how to reach the $100 billion in cuts called for, earlier versions of the budget have spelled out where the cuts would come from. This budget would mean severe cuts in environmental protection, housing and education. It would mean a five year "freeze"—which is really a cut—for Head Start, Veterans' medical care, Section 8 housing and the Women and Infant Children's nutrition program. And if that's not bad enough, this budget would freeze almost all Federal law enforcement funding, including the FBI, DEA and programs covered by the Violent Crime Reduction Trust Fund.

Mr. Chairman, I am a member of the Committee on Science. Also on the list of "suggested cuts" that originally accompanied the budget resolution, NASA's aeronautics and technology program would be cut nearly $600 million over the next five years and the agency would be targeted for another $500 million in unspecified cuts. And funding for the National Science Foundation would be frozen, instead of receiving the 10% increase called for in the President's budget.

Many of the supporters of this resolution claim that these draconian cuts are necessary to fix the marriage penalty. I am a cosponsor of legislation to ensure that married couples don't pay higher taxes than similarly situated singles, and am fighting to ensure that this Congress addresses this issue. But this budget proposal goes way beyond what is necessary to fix the marriage penalty and by miring the issue in controversy may make it less likely to achieve this necessary reform this year. That is a shame because our working families deserve relief from this onerous and unfair burden.

I urge my colleagues to vote down this resolution and support a fair, balanced budget resolution.

A TRIBUTE TO DOUGLAS C. HOLBROOK

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. CLAY. Mr. Speaker, I want to take this opportunity to pay tribute to one of our nation's outstanding postal employees, Mr. Douglas C. Holbrook, on the occasion of his retirement. As the former chairman of the House Post Office and Civil Service Committee, I came to know Douglas Holbrook and to witness his deep commitment and tireless service to all who work for the United States Postal Service.

In 1981, Douglas Holbrook was appointed to service as Secretary-Treasurer of the American Postal Workers Union which represents 330,000 postal workers in every city in the United States. He was elected to that office in 1983 and has been reelected in every subsequent national APWU election. Holbrook's fifth term of office will conclude this Fall.

Holbrook began his career with the U.S. Postal Service in 1956 as a part-time clerk. He later founded SOAR—Save Our Annuity Retirement—a coalition of 40,000 active and retired federal and postal employees in Michigan. He was also elected Chairman of the APWU Local Presidents' Conference in 1980–81, and went on to serve on numerous national union committees.

Before he arrived in Washington, Holbrook was President of the Detroit District Area Local of the American Postal Workers Union and its predecessor, the Detroit Local of the National Postal Union.

Douglas Holbrook has also served as a member of the Board of the Metropolitan Detroit AFL–CIO. He was elected to the Fitzgerald Board of Education in Warren, Michigan from 1971 to 1980, serving three years as President and two years as Vice President. In 1990 he was appointed by Governor Wilder of Virginia to serve the Department of Children, State of Virginia. He also served on the Board of Directors, Security Bank of Maryland. In March 1997 he was elected to serve as the Vice President for the Union Lable & Service Trades Department, AFL–CIO. This month Holbrook will begin his term of office on the Board of Directors for the American Association of Retired Persons (AARP).

In addition to his work in behalf of postal employees, Douglas Holbrook is a champion in the crusade to find a cure for diabetes. He has worked with the Juvenile Diabetes Foundation for many years and served as its Labor Chairman in 1995. Since 1996, under Holbrook's guidance, APWU has been actively involved with the American Diabetes Association (ADA). Holbrook is currently the Labor Chairperson for ADA's Walktoberfest. He also serves on the National Joint Task Force for Child Care and Dependent Care and APWU's Safety and Violence Committee.

Douglas Holbrook has demonstrated the deepest dedication to his work and to his community. He is a distinguished citizen who has earned the highest respect of his peers. It is my privilege to offer Douglas Holbrook my sincerest congratulations as he retires from the American Postal Workers Union. I wish him and his family many years of health, happiness and prosperity.

THE KING OF THE ROAD FOR ALMOST A CENTURY: THE HARLEY-DAVIDSON MOTOR COMPANY CELEBRATES 95 YEARS OF UNPARALLELED EXCELLENCE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. GOODLING. Mr. Speaker, Saturday, June 13 marks the 95th birthday of one of the most unique and remarkable manufacturing companies in the United States. Founded in 1903 in a small shed with borrowed tools and a grand vision, The Harley-Davidson Motor Company's enduring image has emerged as an America icon.

As the only major American-based motorcycle manufacturer, the Harley-Davidson Motor Company has endured significant triumphs and failures that epitomize the American experience. But through the ups and downs, Harley-Davidson has remained the hallmark of the world's motorcycle industry.

From its early days when Harley-Davidson produced only three motorcycles, to today's production of more than 105,000 motorcycles, their innovative manufacturing and management philosophies have always driven the company. In its first twenty-five years of existence, the fledgling venture constantly reinvented the motorcycle by creating innovative improvement after innovative improvement—the Teardrop fuel tank, the twin-cam, and the front brake, to name a few. Many of these improvements are now fundamental designs of all motorcycles being manufactured today.

By 1920, Harley-Davidson's leadership in the industry enabled it to become the largest motorcycle company in the world, with dealers in 67 countries. Clearly, Harley-Davidson was King of the Road. But their premiere stature did not last long. Sales plummeted after the October 1929 Stock Market crash, slowing their sales to only 3,700 motorcycles in 1933.

Harley-Davidson bounced back just in time for their 50th Anniversary, in large part because of their continuing ability to improve motorcycles, and also because their quality products did not go unnoticed by the United States Armed Forces. By the end of World War II, Harley-Davidson was back on track, having produced more than 90,000 motorcycles for military use.

From the Knucklehead engine, to the Panhead, to the Shovelhead engine, their innovative engine designs succeeded in capturing a large portion of the market share, leading to their buy out by the American Machine and Foundry (AMF) Company in 1969. By 1974, with production soaring to more than 75,000 motorcycles, Harley-Davidson expanded their manufacturing and assembly facilities into York, PA.

Unsatisfied with the direction of the company and its plummeting sales (dropping to 41,500 motorcycles in less than seven years under AMF), 13 senior Harley-Davidson executives purchased the company and reinvigorated the spirit originally instilled by the company's founding fathers. Unfortunately, the new stewards of the company encountered another roadblock.

With the advent of the early 1980's, foreign manufacturers assaulted Harley-Davidson's share of the market by dumping their products into the United States. As a result, the Harley-Davidson Motor Company suffered an economic downturn and almost went bankrupt.

Harley-Davidson's new owners fought back by developing new products and employing cutting-edge management techniques that refocused the company's efforts on product quality. As a result of these changes, and with the return of AMF's "bomb line" in the York plant—which temporarily helped the company with their cash flow problem—the Harley-Davidson Motor Company turned around and recaptured the top slot in the industry. Harley-Davidson has been running on all cylinders ever since—the company reached record production in 1995 with more than 105,000 motorcycles.

Today, Harley-Davidson continues to stay ahead of the competition by constantly looking into the future and using 21st Century management techniques. In early 1994, the company adopted the "Plan 2003," a visionary blueprint which was designed to carry Harley-Davidson into the new millennium as the leader of the industry.

One of the techniques included in this plan involves the "partnering" between management and employees when making decisions that affect the direction of the company. This joint leadership used by Harley-Davidson has enabled the company to continue to effectively compete in the global marketplace by cooperatively meeting the economic challenges before them.

The Harley-Davidson Motor Company should serve as a model for other companies, because Harley-Davidson recognizes that the best workplaces for employees; and the most productive workplaces for employers, are the ones where labor and management work together, hand in glove.

Today, the Harley-Davidson Motor Company boasts one of the most recognized and respected brand names in the world. While they have fought long and hard to overcome obstacles that have confronted them in the past, I trust they will continue to successfully address the hurdles they face in the future. By relying on their heritage and focusing on their future, the Harley-Davidson Motor Company will continue to define the American experience.

In recognition of the Harley-Davidson Motor Company's 95th Anniversary, I want to pay tribute not only for what Harley-Davidson has done for our nation's economy and culture, but also for the benefits it has bestowed upon our local community in York, PA. Please join me with the rest of the country in wishing a Happy Anniversary to the "King of the Road."

HONORING THE REVEREND CHARLES SCHAUM

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. HINCHEY. Mr. Speaker, I rise to congratulate the Reverend Charles Schaum upon his retirement and to praise his work of the last thirty-one years at the Union Presbyterian Church in Newburgh, New York. Reverend Schaum's contributions to the community will be celebrated this Sunday at a party in his honor and I want to join his family, friends, and neighbors and the entire community in thanking him for his many contributions—leading the way in creating a nursery school, a counseling service, a food bank for the poor, reading programs, and so much more. Reverend Schaum also served as the President of McQuade Children's Services which provides important educational and housing services to troubled children. He encouraged friends and parishioners to do God's work in the community by helping others, especially those in need, and becoming one of God's "coworkers." Mr. Speaker, today I want to join all of the Reverend Schaum's "coworkers" in thanking him for his years of service to the community and wishing him the very best this Sunday, and in the future.

TRIBUTE TO QUILLA TALMADGE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. PAYNE. Mr. Speaker, today I would like my colleagues here in the United States House of Representatives to join me in honoring a dedicated public servant and a very special person, Ms. Quilla Talmadge, who is retiring from the Essex County Department of Parks and Recreation after 28 years.

We in Essex County have been very fortunate to have a person of Ms. Talmadge's talent and outstanding abilities working in our behalf. In addition to her many achievements at the Department of Parks and Recreation, Ms. Talmadge also distinguished herself as a hardworking elected official. She has served on the County Committee, as a New Jersey Assemblywoman, and as an East Orange Councilwoman.

On Friday, June 12, friends, family and colleagues of Ms. Talmadge will gather to honor her for her many contributions to Essex County. Mr. Speaker, let us join in congratulating Ms. Talmadge and wishing her all the best as she leaves public service and pursues new challenges.

HONORING REV. GEORGE PAPAIONNOU ON HIS APPOINTMENT TO THE RANKS OF BISHOP

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mrs. MORELLA. Mr. Speaker, it is my great pleasure to congratulate my constituent, Father George Papaionnou, on his appointment to the ranks of Bishop, the highest office in the Greek Orthodox Church. Father George of St. George Greek Orthodox Church in Bethesda, Maryland honors not only the Greek-Americans and native Greeks in Montgomery County, Maryland, but all of our community members. The Eighth District of Maryland celebrates his twenty-seven years of leadership at St. George's Church, a parish known throughout the Archdiocese for its unique services to Greek adults and children with severe medical problems. Under Father George's supportive direction, St. George's has initiated community projects such as the construction of a school building, a gymnasium, and other buildings. Montgomery County is truly in his debt.

The legacy of caring which Bishop-Elect Papaionnou established propelled him into the Church's higher ranks as the first married Bishop of the Greek Orthdox Church in America. Married priests compose the overwhelming majority of parish priests, but are usually restricted from the ranks of Bishop. "While it [the appointment of married priests] has been accepted in theory for centuries, it was rarely put into practice," Father George said. However, the death of Father George's wife, Maria, in 1993 made the Bishop technically eligible to ascend the Church's hierarchy. Montgomery County is especially proud of Father George's promotion because it marks such a historic event.

Father George joined St. George's in Bethesda after serving the Church of the Presentation of the Virgin Mary in Istanbul; St. Demetrios in Hamilton, Ontario; and St. George in Manchester, New Hampshire. He will be consecrated into the Episcopate at St. George's in Bethesda on Saturday. The Bishop-Elect will initially serve as an auxiliary Bishop while he awaits formal assignment to a diocese or other responsibility. Father George will be known officially as Bishop George of Komanon, the place in Armenia where St. John Chrysostom, one of the most revered patriarchs of Constantinople, died. The Eighth District of Maryland joins the nation in celebrating George Papaionnou's achievements. I wish Father George all the best as he assumes these new challenges.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. ROGERS. Mr. Speaker, on Roll Call Vote 192, on May 22, 1998 I was unavoidably detained. Had I been present I would have voted aye.

TRIBUTE TO DANIEL BOONE FARNSWORTH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. CLYBURN. Mr. Speaker, as we enter the month of June in which we celebrate Father's Day, I rise today to pay tribute to Mr. Daniel Boone Farnsworth of Greenville, South Carolina, a pillar of the community who served his church and family tirelessly. Mr. Farnsworth died on August 24, 1994 but his three daughters continue to celebrate his life each Father's Day.

Mr. Farnsworth moved to Greenville in 1914 with his family. He gained his experience in the furniture building from his father, a furniture merchant. He worked in the furniture business for 77 years of his life, selling from a number of locations and operating a store in Gastonia, N.C. for 11 years. After his retirement, he continued to work with his sister at the Greenville Furniture Exchange helping customers and sharing stories of the past for over two decades. He felt, "the best thing about working . . . is working with people, I love people, I love people and always have."

Mr. Farnsworth was very devoted to his family. He had two sons from his first marriage in 1914 to Lizzie Farnsworth (deceased), and three daughters from his second marriage to Betty Farnsworth (deceased). At the time of his death, he was survived by a son, Jack F. Farnsworth, and his three daughters, Nellie Elizabeth Farnsworth, Emma Nance Farnsworth and Julianne Farnsworth (Mrs. Douglass A.) Snyder. He had four grandchildren, eight great-grandchildren, and two great-great-grandchildren. Also a devout church member, in October 1992, Mr. Farnsworth was recognized and honored by Central Baptist Church as the oldest deacon in the church and over sixty years of service.

Mr. Speaker, I ask you to join me today in honoring Daniel Boone Farnsworth for his outstanding work as a devoted father and community member. During his life, he was a role model of commitment to community service and parenting, and he will be greatly missed by his three daughters on Father's Day this year.

A TRIBUTE TO MIDWOOD HIGH SCHOOL AT BROOKLYN COLLEGE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. SCHUMER. Mr. Speaker, I would like to take a few minutes to recognize the parents, students, and faculty of Midwood High School for outstanding academic achievement. On May 22 of this year Midwood was awarded the Blue Ribbon by the United States Department of Education; one of only 166 secondary schools to receive the award nationwide. The students and faculty have distinguished themselves and the Borough of Brooklyn through hard work and dedication.

Midwood High School has maintained a consistently strong academic program for several years. The United States Department of Education named Midwood a School of Excellence for the 1986–87 school year. The College Board Advanced Placement Program rated Midwood one of the 50 best high schools in America and The National Council of Teachers presented a Midwood student with the writing achievement award for the tenth consecutive year.

The multi-ethnic, multi-racial student body at Midwood High School is committed to the school's exceptional academic standards. The number of students who pursue higher education bears testimony to the success of the school. As much as ninety-eight percent of Midwood's 1997 graduates went on to college. This year two Midwood seniors were selected as National Merit finalists. In 1997, Midwood students were awarded $28 million in scholarships.

I commend the faculties of Midwood High School and Brooklyn College for affording Midwood students opportunities to enrich their education. The faculties of these institutions provide students with programs, designed to broaden students' academic experience. Students are encouraged to use the Brooklyn College library and other college facilities. Students are also encouraged to participate in academic competitions by the Midwood faculty. At the annual Midwood Student Congress students are exposed to legislative processes by debating issues and casting votes.

I hope that my colleagues will join me in recognizing Midwood High School as one of the finest secondary schools in America. The success of Midwood is an inspiration to urban school systems throughout the nation. I congratulate Principal Lewis Frohlich and all the teachers and students of Midwood High School.

FLAG DAY 1998

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. PACKARD. Mr. Speaker, I rise today to extend birthday wishes to our nation's flag. June 14th marks flag day, and the 221st birthday of "Old Glory." My colleagues may find it interesting to note that Flag Day was first celebrated in 1877, on the centennial of the U.S. flag's existence. In 1949, President Harry Truman signed legislation making Flag Day a day of national observance.

In 1777, the Continental Congress adopted the Stars and Stripes pattern for the national flag. These stars and stripes represent more than just the original colonies and the number of states in this nation, they represent freedom and independence for Americans. In times of war, young soldiers die to ensure it will continue to stand for a symbol of freedom. They will rush to the front of the battle line to keep it waving strongly above the heads of their fellow soldiers.

Mr. Speaker, the next time we rise to pledge our allegiance to our flag, let us also be reminded of our responsibility as elected officials to defend the constitution, and to keep this nation one, where liberty and justice can be enjoyed by all.

TRIBUTE TO REVEREND CHARLES DOYLE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my great pleasure to congratulate a prominent humanitarian activist, the Reverend Charles Doyle, of Beverly Shores, Indiana, for his lifetime of service, compassion, and leadership in Northwest Indiana. After forty-five years of service with the Catholic Church, Father Doyle is retiring. On Sunday, June 28, 1998, a celebration will be held in Father Doyle's honor at St. Ann's Church, where he has served as pastor for the last thirty years.

Father Doyle has never believed that his work as a priest was limited to Sunday mornings. Even though he is extremely dedicated to the people of his parish, Father Doyle has never restricted his humanitarian activities to only his parishioners. Instead, he aids as many people as he can, no matter their situation. Indeed, Father Doyle's activism spans four decades and includes service as Chaplain at the Indiana State Prison, Chaplain of the Beatty Memorial Hospital in Westville, Indiana, priest for seven different parishes, Public Defender in LaPorte County, Indiana, and a member of the Indiana State Bar, with a specialization in criminal defense. In addition, Father Doyle has served as a board member of the National Institute Against Prejudice and Violence, the Calumet Chapter of the Indiana Civil Liberties Union, the Indiana Coalition Against the Death Penalty, and the Northwest Indiana Open Housing Center. He was also Counsel to the Michigan City Human Rights Commission, the Chairperson of the Indiana Chapter to the Citizens United for Rehabilitation of Errants, and a founding member of the Northwest Indiana Coalition to Abolish Control Unit Prisons. Father Doyle has been honored as an Honorary Chaplain for the Indiana House of Representatives. He has also received numerous awards including: the Whitlock Award, from the Indiana Civil Liberties Union; the Artisan Award, from the Academy of Fine Arts and Friends; and the Life Achievement Award, from the Indiana Public Defender Council.

Born in Nappanee, Indiana in 1927, Father Doyle is a lifelong Hoosier, As a young man, he chose to serve God and graduated from St. Meinrad College and Seminary, with a Bachelor of Arts in philosophy, followed by his ordination. In 1962, Father Doyle continued his education by earning a Master degree in counseling from Loyola University. After marching with Martin Luther King, Jr., from Selma to Montgomery, Alabama in 1965, Father Doyle decided to turn to law as another way to further his ministry and to aid people. Turning this dream into reality, he graduated from Valparaiso University's Law School in 1974 and soon passed the bar examination.

One of the true activists of the region, Father Doyle may be leaving the pulpit, but he will never abandon his work for social justice and prison reform. He plans to work for the goals of prison reform, abolition of the death penalty, and an end to the spirit of vengeance that pervades our society. Toward these ends, Father Doyle plans to write articles and lecture in high school and college classrooms to raise awareness and educate people about the true conditions in prison as well as on death row.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending the Reverend Charles Doyle for his lifetime of service and dedication to the people of Northwest Indiana and the citizens of the United States. Father Doyle's unceasing service has left an indelible mark on Indiana's First Congressional District and serves as a shining example for activists all over the world.

IN HONOR OF RICHARD ALBERT McCULLOCK

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Ms. SANCHEZ. Mr. Speaker, today I rise to pay tribute to an outstanding citizen of the

United States of America, Richard Albert McCullock.

Mr. McCullock was born in Bloomington, Illinois, on July 26, 1924. At the age of eighteen he joined the Army in the Infantry and later was transferred to the Engineers, 3rd division. It was the beginning of World War II and Richard was sent to the European theater where he fought during the D-Day Invasion of Normandy.

When he returned to the United States he met Marilyn Hedrick and was married on June 7, 1947. The McCullocks have recently celebrated their 51st wedding anniversary. They have five children and twelve grandchildren.

The McCullocks have lived in Garden Grove, California, in the 46th district, for forty-four years. During that time, Mr. McCullock has devoted his energies to some very important causes and issues. As a member of the Elks Lodge he began a clown program to entertain at charitable events. He also originated a program on Americanism.

Mr. McCullock's love for his country and for the American flag is one of his primary issues. He is responsible for having a row of flags on both sides of Main Street in downtown Garden Grove. The Garden Grove City Council just approved the flags in June, 1998. This is all due to Mr. McCullock's persistence and emphasis on the beauty and meaning of the flag.

He comes into my office quite often, always to order flags for Eagle Scouts or for special occasions. He updates my staff on the correct flag protocol and taught my staff a great deal about the history of the flags. In a sense, he is the keeper of the flags, and oversees that the flag is flown outside for all to admire. Mr. McCullock is well-known in my office and in Garden Grove. We are always very pleased to see him.

I ask you all to join me today to salute this fine American, who has served his country during its darkest hours, who has protected and upheld the flag and its symbolic value, who has given to his community many hours of commitment and devotion.

TRIBUTE TO CADA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. FAZIO of California. Mr. Speaker, I rise today to note a community achievement which gives me a great sense of personal satisfaction. Twenty years ago, while I was a member of the California State legislature, many of us in the Sacramento area were concerned about what was happening to the downtown area. As was the case with many cities, areas of hardship and urban decay existed, and the 42 square blocks that make up the Capitol Area were in serious decline.

I sponsored legislation to allow the State of California and the city of Sacramento to create a capitol area development authority [CADA], a new independent joint powers agency. CADA was to serve as the primary entity to implement the residential and commercial components of the state's Capitol Area Plan. This was a unique concept that has since served as a model of civic responsibility.

CADA has managed to dramatically improve the downtown area in its 20 years of existence. The agency has been successful at providing stability and promoting positive change within the area where it invests and partners with private sectors. Right now, CADA is expecting to close deals that will bring 128 new housing units into the district. There are currently two building sites for which CADA already has pre-development plans. While all this activity goes forward, CADA's basic task of managing the apartments, parking, and retail/commercial space it leases from the State continues. CADA maintains buildings, serves tenants, and makes 176 units of low-income housing available all without a subsidy by any governmental agency.

This concept of an independent, self-sustaining public agency no doubt contributes to CADA's success. CADA has been adept at performing at a pace to fit the market and the needs of its parent entities, which has assured its vivid survival for these past 20 years. The result has been the successful rekindling of a community that is safe and economically sound.

It is therefore with great pride and satisfaction that I extend hearty congratulations to the city of Sacramento, the State of California, and the board of directors and staff on the capitol area development authority for the superb job of revitalizing the Capitol Area, and for improving the quality of life for the many residents of Sacramento who live there.

IN CELEBRATION OF THE BICENTENNIAL OF THE EATON'S NECK LIGHTHOUSE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today in honor of the Eaton's Neck Lighthouse Bicentennial on June 13, 1998. This historical landmark sits atop a bluff overlooking Long Island Sound, providing guidance to the thousands of commercial and recreational boaters on the Sound.

It was our nation's second president, John Adams, who authorized the Eaton's Neck Light House in 1798. In the 200 years since, the lighthouse has served as both a literal and figurative beacon to those on the water, guiding sailors through the Sound and beckoning them to the shores of Long Island.

The United States Coast Guard has been the steward of the Lighthouse. From their base at Eaton's Neck, the Coast Guard responds to hundreds of emergency calls every year on the Long Island Sound. This site is a perfect strategic location for a quick response time to distress calls on the Sound. Small craft from Eaton's Neck were also used in the rescue missions after the tragic crash of TWA Flight 800 off the coast of Long Island in 1996.

This beautiful structure has played a key role in maintaining the safety of Long Island Sound. Mr. Speaker, I ask my colleagues in the House of Representatives to join with me today celebrating the bicentennial of the Eaton's Neck Lighthouse and in congratulating the Village of Asharoken, the Asharoken Board of Trustees, and the Mayor of Asharoken, William H. Kelly on this happy occasion.

WELDON RECOGNIZES CONSTITUENTS FOR COMMITMENT TO COMMUNITY SERVICE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to bring to my colleagues' attention the dedication of four of my constituents to their communities. This Wednesday, June 17, 1998, Mr. Wilbur C. Henderson, Mr. Lee Taliaferro, Jr., Mr. Lester J. Smith, Sr., and Ms. Carol Lecher will be honored by the Neighbor to Neighbor Community Development Corporation at their First Appreciation Dinner, which recognizes citizens committed to community service.

Wilbur Henderson, a leader in the business community for over fifty years, is Chairman of the Henderson Group, Inc., specializing in investment real estate. Currently he sits on the Board of Directors of the Greater Philadelphia First Corporation; the Board of Directors of the Renewal Counseling Service; the Board of Trustees of Drexel University as Trustee Emeritus; and the Board of Trustees of Florida Technical School. Aside from his obvious dedication to education, Wilbur serves Folcroft Union Church as a Senior Deacon and is a member of the St. Alban-Swain Masonic Lodge #529. Wilbur's generous contributions to his community have provided a handicapped equipped van and mechanical wheelchair lift for the members of the First African Baptist Church of Sharon Hill, Pennsylvania. I wish to commend Wilbur Henderson for his outstanding service to the local community.

Throughout his life Lee Taliaferro has dedicated himself to his fellow citizens. In his thirty years at the Budd Company, Lee was elected to many positions including trustee and member of the executive board, as well as a national delegate of the United Auto Workers Union Local #13. After retiring from the Budd Company, Lee continued his life of civil service. A member of the Darby Township Volunteer Fire Company #4 for over thirty-five years, Lee served as Fire Chief, President and Chairman of the Board of Directors, and Fire Marshall. Lee also held the positions of Judge of Elections and Township Commissioner. Lee has also served God as a loyal member and trustee of the First African Methodist Episcopal Church. I wish to congratulate Lee Taliaferro for receiving this award in honor of his timeless service to his community.

Lester Smith, owner of Smithy's Barber Shop in Darby Township, has served both his family and community faithfully. After serving in the Air Force for four years, Lester returned to his family and help his father raise his nine brothers and sisters. He joined his father in the family business after attending Tri-City Barber School. Today, Smithy's Barber Shop stands as a landmark in Darby Township, with players of the Philadelphia Eagles frequenting the shop. Lester has sponsored a softball team in his community and has served St. Barbara's as an usher and president of the Men's Club. For his dedication to his community and family, I recognize Mr. Lester Smith.

Carol Lecher has been an educator in the Southeast Delco School District for over thirty four years. But her educating has not stopped at the doors of Harris Elementary School. She has taught both Sunday School and Summer Vacation Bible School at the Media Presbyterian Church and has been instrumental in the development of the Neighbor to Neighbor Community Development Corporation After-School Tutorial Program. As an educator, Carol has touched the lives of many young people and continues to do so today. My deepest regards go out to Ms. Lecher for her selfless service.

In addition to these outstanding civil servants, I would like to thank Mr. Richard A. Dent and the entire Board of Directors and Advisory Board of Neighbor to Neighbor for sponsoring these awards in recognition of those individuals who seek to serve their communities. Mr. Speaker, I ask my colleagues to join me in recognizing all of these fine Americans.

COMMEMORATING 100 YEARS OF RELATIONS BETWEEN PEOPLE OF THE UNITED STATES AND PEOPLE OF THE PHILIPPINES

SPEECH OF

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BASS. Mr. Speaker, I rise to pay tribute to the Philippines Centennial Celebration. On June 12, 1998, the Philippines will celebrate the 100th Anniversary of their independence from Spanish rule.

Nearly a century ago, a revolution in the Philippines ended more than 300 years of Spanish domination in the area and established the first democratic republic in Asia. The makings of the revolution began in the late nineteenth century with the children of the elite business class. They had been educated in Europe and exposed to ideas of independence and revolution. Among these nationalists was Jose Rizal, whose novel "Noli Me Tangere" sparked the revolt against Spain. Followers of Jose Rizal formed a secret group of reformists and radicals called the Katipunan. Eventually, in August 1896, tensions in the Philippines had raged to the point that the Katipunan's leader, Andres Bonifacio, declared complete severance from the colonial government and the revolution began.

The Philippine-Spanish Revolution began at the same time that the Spanish-American War was being fought halfway around the world. The Americans came to the aid of the Philippines, and on June 12, 1898, Emilio Aguinaldo, a leader of the Katipunans, declared victory over the Spanish colonial government and established the Philippine Republic.

The survival of the Philippine Republic over the last 100 years has not been without difficulty. The Philippines has survived American colonialism, a four year occupation by Japan during World War II, the complete wartime destruction of Manilla, Ferdinand Marco's martial law regime, and a devastating volcano called Pinatubo.

However, even with all of these struggles the Philippines is on the road to prosperity. It has been over a decade since the Peoples' Revolution ousted the Marcos regime and instituted the democracy that now exists. The Philippine economy has been rejuvenated and stands poised to join in the globalization of the East-West world market.

It is fitting that in the year of their centennial, the dictators are gone, the volcanoes are quiet, and the Philippines appear to have reached what Emilio Aguinaldo proclaimed nearly 100 years ago: that an independent Philippines, "today begins to have a life of its own."

HONORING JUNETEENTH

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BENTSEN. Mr. Speaker, I rise to recognize the upcoming Juneteenth celebrations honoring freedom and African-American history. Texas has honored Juneteenth as a state holiday for nearly twenty years, observing the day with joyous public celebrations. But outside of the Lone Star State, many do not understand the significance and meaning of Juneteenth in the lives of African-Americans past, present and future.

Juneteenth is a celebration of freedom for African-Americans. It honors the day that black slaves in Texas finally learned of their emancipation. Juneteenth honors a day that was far too long in coming. Although President Lincoln's Emancipation Proclamation freeing slaves was signed on January 1, 1863, the proclamation did not bring immediate freedom for slaves. Only after the Civil War ended in 1865 was the Emancipation Proclamation enforced, using Union soldiers to finally free slaves in the South. On June 19, 1865, General Gordon Granger of the Union Army arrived in Galveston, Texas, to ensure the freedom of the slaves. Though news of the Emancipation Proclamation had been kept quiet throughout the war, the word had spread, and when General Granger arrived in Galveston a large number of slaves turned out to greet him and his troops.

Legends abound of the origins of Juneteenth. One holds that word of emancipation spread through the Union Army via black soldiers who spread the news as the Army moved south. Another states that a messenger carrying the news was murdered on his way to Texas, while another claims that a black ex-Union soldier rode a mule from Washington, DC with a message given to him by Abraham Lincoln. But the origins are not as important as the purpose of the celebration itself.

Today, Juneteenth is widely known as Black Independence Day, as significant to many African-Americans as July 4th. It is a chance for all Americans to celebrate freedom and learn more about African American history. June 19, 1865 is the day when African-Americans in Texas began to enjoy their rights and realize their opportunities as free Americans. While the struggle continues, Juneteenth allows us to recognize how far our nation has come and celebrate the history, achievements and contributions African-Americans have made to our nation.

TRIBUTE IN MEMORY OF JIM HUMMEL, FRIEND AND LEADER

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. RODRIGUEZ. Mr. Speaker, it is my sad duty to report to the House of Representatives that a great friend and leader—Jim Hummel—has died. This man, perhaps the epitome of humility and service, always gave more than he took. A lifelong political activist, Jim served more than 35 years as a San Antonio firefighter. He retired with great honor just last year from Station 17.

I knew Jim personally. He visited me here in Washington only a couple of months ago. Despite his disease, he continued to fight for the cause that meant most to him: the rights of his fellow firefighters. A lifelong member of San Antonio Fire Fighters Local 624, Jim served as their vice-president and led their legislative committee for years. His concern for other workers led him into the leadership ranks of the San Antonio AFL–CIO Central Labor Council, where he served as Second Vice-President.

Jim began his life in 1937 and received his education in San Antonio before joining the United States Navy in 1954. He served for two years before becoming a firefighter. He was active in community and church, devoting time to the fight against muscular dystrophy and the Make-a-Wish Foundation. Jim was an active member of St. Gerard's Catholic Church and St. Joseph's Catholic Church.

We will miss Jim's humor, his warm smile, and his constant and extraordinary devotion to civic service. Jim Hummel stands as an example of what one person can do to relieve suffering and better the lives of those around him.

TRIBUTE TO DR. IAN KIRKPATRICK

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. RIGGS. Mr. Speaker, I rise today to applaud the distinguished career of Dr. Ian Kirkpatrick. On June 30, 1998, Dr. Kirkpatrick will be retiring from the Windsor Unified School District after 29 years of service to public education. During this time of service Dr. Kirkpatrick has had a tremendous positive impact as a social studies teacher, cross country, basketball and track coach, principal, and superintendent.

In 1993, Dr. Kirkpatrick took the reins as the first Superintendent of the newly formed Windsor Unified School District. As Superintendent, Dr. Kirkpatrick has seen the district grow from a K–8 district of 2,000 students to a district that now teaches 3,225 students, grades K–11. Through this growth there became a need for more school facilities. Working with the community, Dr. Kirkpatrick raised the money to build Windsor Middle School, a new kindergarten classroom, a multi-use building, and begin construction on the new Windsor High School which will be opening this Fall. Almost all of these projects were constructed while the State of California was in a budget crisis and many districts throughout the state were cutting back on classroom resources and facilities.

Civic duty appears to be something that has come natural to Dr. Kirkpatrick. Before entering the field of public education, he attended the Naval Officer Candidate School and became a Navy officer. He served four years as a destroyer officer and completed two tours of duty in Vietnam. After being discharged from active duty, he remained in the Naval Reserve until 1989, when he retired with the rank of Commander.

Throughout his career, Dr. Kirkpatrick has been supported by his wife, Diane and their two children, Ian and Deanna. Diane, an administrator with the Tamalpais High School District will also be retiring at the end of the year. The two plan to travel and spend time pursuing their hobbies, snow skiing and wind surfing.

Mr. Speaker, the efforts of Dr. Ian Kirkpatrick, as an educator and community leader, should be held up as a model for others. For it is hard working and dedicated individuals like him who make up the backbone of this nation. His leadership will be missed by many, both inside and outside the school district.

HONORING ALVIN COWANS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. McCOLLUM. Mr. Speaker, I rise today to share a recent article from The Washingtonian that highlights the achievements of a constituent of mine, Alvin (A.C.) J. Cowans. I have had the pleasure of hosting Mr. Cowans in my office and it was a pleasant surprise to see such a glowing article in the magazine. I am submitting a copy of the article for my colleagues to review.

Not only was Mr. Cowans an All-SEC football player at my alma mater, the University of Florida, but he has played football in the NFL and is now the CEO of McCoy Federal Credit Union in Orlando, Florida, He serves the credit union industry as the Vice Chair of the National Association of Federal Credit Union's (NAFCU) Board of Directors. The members of the McCoy FCU and of NAFCU are fortunate to have Mr. Cowans working on their behalf.

Mr. Speaker, it is my hope that my colleagues will take the time to read The Washingtonian article. It is a fine tribute to one of my constituents.

[From the Washingtonian, June 1998]

Alvin Cowans can reel off his high-school football honors—Northern Virginia Player of the Year, All Regional, All State—as though he won them yesterday.

He went on to play for the University of Florida, where he was All Southeastern Conference, then for the Pittsburgh Steelers, and finally for the Redskins. But after high school, it was never the same—never again was all the cheering just for him.

"I really thought I was all that," Cowans says of his Groveton days. Which meant he had a hard time adjusting to life at the University of Florida, where "everybody else was also player of this and All American that."

If he'd gone to Alexandria's T.C. Williams High School, the athletic powerhouse in whose district he technically lived, life might have been different. Sure, he would have played on a team that won more championships, a team where he would have been one of a constellation of stars. But then maybe, compared to all the athletes at T.C. Williams, he wouldn't have looked quite as appealing to all the colleges that came knocking.

It doesn't matter now. But Cowans—who also played basketball and ran track—is fairly sure that if he'd gone to the then-majority-black T.C. Williams, he'd never be as at ease as he is today, one of about two dozen African-Americans among the CEO's of the nation's 11,000 federal credit unions.

"Groveton was very diverse, but it had just a handful of black students," says Cowans, who went to all-black schools through sixth grade. "Being the big-shot athlete sort of shielded me from the racism, because they saw me more as an athlete than as a black male."

His star status helped him "learn how to adjust and cope with that environment and not carry a chip on my shoulder or be uncomfortable."

Cowans has lived in Orlando since 1978, when a former UF football player recruited him for a management-training program. He heads McCoy Federal Credit Union, one of central Florida's largest.

His interest in finance goes back to high school, too.

"I always liked to have money, and I always worked to get it," says Cowans, who spent high-school summers hauling bricks and blocks and mud to build the Redskins' training camp at Dulles, where he got to practice some six years later.

"It felt great," he says of all the cheers from his family and friends when he played for the Redskins. It sounded a lot like Groveton."

SALUTING THE 1998 ELLIS ISLAND MEDAL OF HONOR AWARDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. RANGEL. Mr. Speaker, on Saturday May 9th four of our distinguished colleagues together with more than 130 other outstanding Americans were awarded the 1998 Ellis Island Medal of Honor at a gala ceremony on Ellis Island. The ceremony and the medals are sponsored by the National Ethnic Coalition of Organizations, Inc. (NECO), the nation's largest ethnic organization, representing more than 5 million families and hundreds of organizations.

The Ellis Island Medals of Honor have been awarded in each of the past twelve years to those Americans who have made outstanding contributions to our nation's identity, while preserving the distinct values and heritage of their ancestors. This year I am especially proud to note that Reps. GARY ACKERMAN (Eastern Europe), CAROLYN MALONEY (English, Irish/French), ROBERT MENENDEZ (Cuban), and PATSY MINK (Japanese) were among the awardees.

I am proud to be a Medal recipient, as is President Clinton and five other United States Presidents. The Ellis Island Medal of Honor is aptly named, for the island is a symbol of the diversity of our nation's people—a people whose genius, culture, artistry and thought have joined to form a single mosaic of many cultures and ancestral backgrounds. It is from this diversity that the United States is still a beacon of hope for so many and the greatest democracy the world has ever known.

Mr. Speaker, I would like to pay a special tribute to the one man who is responsible for the Ellis Island Medals of Honor and someone who has dedicated his life to developing and strengthening bonds between people of all ethnic, racial, and religious backgrounds, Willian Denis Fugazy. At this point in the RECORD, I wish to include the entire list of the Ellis Island Medal of Honor recipients and congratulate each of them.

ELLIS ISLAND MEDAL OF HONOR AWARDS—1998 MEDALISTS

Anthony S. Abbate, President & CEO, Interchange State Bank, Saddle Brook, NJ—Italian; Gary L. Ackerman, Congressman, United States House of Representatives, Bayside, NY—Eastern European; William H. Adkins, President & CEO, Palanker Chevrolet Inc. West Babylon, NY—African; Antigone Agris, Publisher, Hellenic Chronicle, Framingham, MA—Hellenic; Ace (Armando) Alaga, Publisher, Italian Tribune News, Newark, NJ—Italian; John B. Alfieri, Esq. Senior Partner, Alfieri, Frohman & Primoff, LLP, New York, NY—Italian; John A. Allison IV, Chairman & CEO, BB&T Corporation, Winston-Salem, NC—Scottish/Irish; John A. Amos, President & CEO, Halley's Comet Company, Califon, NJ—African; Ernie Anastos, News Anchor, UPN 9/WWOR–TV, Secaucus, NJ—Hellenic; Thomas V. Angott, Chairman, C.F. Burger Creamery, Detroit, MI—Italian; Michael S. Ansari, Chairman & CEO, MIC Industries, Inc., Reston, VA—Iranian; Norman R. Augustine, Chairman of the Board, retired, Lockheed Martin Corporation, Bethesda, MD—German; William J. Avery, Chairman & CEO, Crown, Cork & Seal Company, Inc., Philadelphia, PA—Irish/Welsch; Farhad Azima, Chairman, Aviation Leasing Group, Kansas City, MO—Persian; and Brian M. Barefoot, Executive Vice President, Paine Webber Inc. New York, NY—English/German.

Archbishop Khajag Barasmian, Primate, Diocese of the American Church of Am., New York, NY—Armenian; George D. Behrakis, Judge, President & CEO, Muro Pharmaceuticals, Inc., Tewksbury, MA—Hellenic; Joseph W. Bellacosa, Judge, New York State Court of Appeals, Albany, NY—Italian; Francis X. Bellotti, Attorney, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC, Boston, MA—Italian; Eric A. Behamou, President, CEO & Chairman, 3 Com Corporation, Santa Clara, CA—French; Michael Berry, Esq., Attorney, Berry, Francis, Seifman, Salamey & Harris, Dearborn, MI—Lebanese; Albert C.

Bersticker, Chairman & CEO, Ferro Corporation, Cleveland, OH—German; Elias Betzios, President, Continental Food Products, Inc., Flushing, NY—Hellenic; Frank J. Branchini, President, & CEO, Group Health Incorporated, New York, NY—Irish/Italian; John G. Breen, Chairman & CEO, The Sherwin-Williams Company, Cleveland, OH—Scottish/Irish; and Duncan A. Bruce, Author & Community Leader, New York, NY—Scottish.

Michael G. Cantonis, President, Acme Sponge & Chamois Co., Inc., Tarpon Springs, FL—Hellenic; Louis J. Cappelli, Chairman, Sterling National Bank, New York, NY—Italian; Richard Conway Casey, United States District Court Judge, United States District Court, White Plains, NY—Irish; Robert B. Catell, Chairman, President & CEO, KeySpan Energy Company, Brooklyn, NY—Italian; William Cavanaugh III, President & CEO, Carolina Power & Light Co., Raleigh, NC—Irish; Jerry D. Choate, Chairman & CEO, Allstate Insurance, Northbrook, IL—English; Christopher Christodoulou, President, Creative Color Lithographers, Inc./Graphic Arts Laboratory/ELAS Travel, Garwood, NJ—Cypriot; Kenneth A. Ciongoli, President, Neurological Association of UT/NIAF, Burlington, VT—Italian; E. Virgil Conway, Chairman, Metropolitan Transportation Authority, New York, NY—Irish; Takey Crist, President and Medical Director; Honorary Consul, Crist Clinic for Women; Republic of Cyprus, Jacksonville, NC—Cypriot; and Karen Davis, President, Commonwealth Fund, New York, NY—Swiss/German.

Diane H. Dayson, Superintendent, Department of Interior—National Park Service, New York, NY—African; Theodore Deikel, Chairman & CEO, Fingerhut Companies, Inc., Minnetonka, MN—Russian; George J. Delaney, President, Summit Resources, Inc., Briarcliff Manor, NY—Irish; Gustave Diamond, United States District Judge, United States District Court, Pittsburgh, PA—Hellenic; Jim Donald, Chairman, President & CEO, Pathmark Stores Inc., Carteret, NJ—Irish; Lewis Robert Elias, MD, Cardiologist, Senior Member, South Florida Cardiology Associates, Bal Harbour, FL—Lebanese; Victor Elmaleh, Chairman, World-Wide Holdings Corporation, New York, NY—Moroccan; Pamela Fiori, Editor in Chief, Town and Country Magazine, New York, NY—Italian; Brian T. Gilson, President, Minnesota Diversified Industries, St. Paul, MN—Norwegian/German/Italian; Richard H. Girgenti, Esq., Principal, KPMG Peat Marwick LLP, New York, NY—Italian; and Bernice Gottlieb, President, Hudson Shores Realtors, Irvington, NY—Austrian/Hungarian.

Charlie N. Hall, Sr., President, Local #108 R, W & D Store Union, Irvington, NJ—African; James F. Hardymon, Chairman & CEO, Textron, Inc., Providence, RI—English; Derek C. Hathaway, Chairman & CEO, Harsco, Camp Hill, PA—English; William Hetzler, President & Owner, Bill Hetzler Holding, Atlantic Beach Estates, NY—German; John A. Holy, President, Slovak American Publishing Co., Clifton, NJ—Slovak; Vahak S. Hovnanian, Chairman & President, V.S. Hovnanian Group & Hovbilth—Armenian; Darrell Edward Issa, President & CEO, Directed Electronics, Inc., Vista, CA—Lebanese; Robert M. Johnson, Chairman & CEO, Bowne & Co., Inc., New York, NY—Swedish/English; Mitchell J. Joseph, Chairman & CEO, The Joseph Company, Laguna Niguel, CA—Italian; Thomas Peter Kazas, President, Hometown Coffee Company, Pittsburgh, PA—Hellenic; John F. Keenan, U.S. District Judge, U.S. District Court, New York, NY—French Canadian/Irish; Andrew Sokchu Kim, President, LISA Page/Codwell Communications Inc., Roslyn, NY—Korean; A. Eugene Kohn, President, Kohn Pedersen Fox Associates, New York, NY—European; Alexander R. Koproski, CEO, Al Koproski Realty, Stamford, CT—Polish; Haralambos S. Kostakopoulos, Ph.D., President & CEO, First Savings Bank of Little Falls, Little Falls, NJ—Hellenic; and Thomas C. Kyrus, President, Kyrus Enterprises, Naples, FL—Cypriot.

Vincent V. LaBruna, DDS, President, Vincent V. LaBruna DDS, PC, New York, NY—Italian; Lee Liu, Chairman & CEO, IES Industries Inc., Cedar Rapids, IA—Chinese; Dr. Pamela Loren, Chairman & CEO, Loren Communications Intl., Ltd., New York, NY—Argentinean/English; William Losapio, President, Gregory's Restaurant, White Plains, NY—Italian; Alan Barry Lubin, Executive Vice President, NYS United Teachers, Albany, NY—Russian; Leon Machiz, Chairman & CEO, Avnet Inc., Great Neck, NY—English/Irish/French; Carolyn B. Maloney, Congresswoman, United States House of Representatives, New York, NY—English/Irish/French; Joseph L. Mancino, Chairman, President & CEO, The Roslyn Savings Bank, Roslyn, NY—Italian; Frank G. Mancuso, Chairman & CEO, Metro-Goldwyn-Mayer Inc., Santa Monica, CA—Italian; John Willard Marriott Jr., Chairman & CEO, Marriott Internatinal, Inc., Washington, DC—English; Anthony A. Massaro, Chairman & CEO, The Lincoln Electric Company, Cleveland, OH—Italian; Fernando Mateo, Founder & Chairman, Goods for Guns Foundation, New York, NY—Hispanic; and Joseph M. Mattone, Esq., Chairman & CEO, Mattone Group, Ltd., College Point, NY—Italian

William Surles McArthur, Jr., Colonel, NASA, Houston, TX—Scottish; Linda Eastman McCartney, (posthumously) Photographer, Animal Activist, Writer, Singer, Musician, AZ, CA, UK; Michael R. McCoy, Executive Vice President & COO, Geotek Communications Inc., Montvale, NJ—Irish; Bryan M. McGuire, General Manager, "21" Club, New York, NY—Irish; Josie Anderson McMillian, President, New York Metro Area Postal Union, New York, NY—African; James R. Mellor, Former Chairman & CEO, General Dynamics, Falls Church, VA—English; Robert Menendez, Congressman, House of Representatives, Washington, DC—Cuban; Arthur L. Mercante, Deputy Commissioner, Town of Hempstead, Garden City, NY—Italian; Lee Miglin, (posthumously) Former Chairman, Miglin-Beitler Company, Chicago, IL—Lithuanian; Alan B. Miller, President & Chairman, Universal Health Service, Inc., King of Prussia, PA—Russian; Patsy T. Mink, Congresswoman, United States House of Representatives, Washington, DC—Japanese; and Senator George Mitchell, Chairman, Peace Talks in Northern Ireland, Washington, DC—Lebanese/Irish.

Tita Scandalis Monti, President & Founder, Don Monti Memorial Research Foundation, Sands Point, NY—Hellenic; William D. Moses, President & CEO, Recovery Network, Santa Monica, CA—Syrian; Mary Murphy, Anchor and Correspondent, WPIX-TV New York, NY—Irish; Thomas J. Murphy, Chairman, NYS Dormitory Authority, Albany, NY—Irish; John Francis O'Brien, President & CEO, Allmerica Financial Corporation, Worcester, MA—Irish/Italian; Timothy Stuart O'Leary, USN, Director, United States Navy Office of Information, East, New York, NY—Irish/Croat; Harry J. Pappas, President & CEO, Pappas Telecasting Companies, Visalia, CA—Hellenic; Carl F. Pascarella, President & CEO, Visa, USA, San Francisco, CA—Italian; Nicholas Anthony Penachio, President, Nick Penachio Co., Inc., New York, NY—Italian; and James George Petheriotes, Co-Owner, Petheriotes Brothers Coffee Company, Houston, TX—Hellenic.

William G. Poist, President & CEO, Commonwealth Energy System, Cambridge, MA—German; Dith Pran, Photojournalist, The New York Times, Woodbridge, NJ—Cambodian; Leslie C. Quick, III, President, United States Clearing Corporation—Fleet Securities Inc., New York, NY—Irish; Bradford J. Race, Jr., Secretary to the Governor, State of New York, Albany, NY—Irish/English; John G. Rangos, Sr., USA Waste Services, Pittsburgh, PA—Hellenic; Michael T. Reddy, Chairman & CEO, EDS Global Securities Industry Group, New York, NY—Irish; Ronald K. Richey, Chairman, Torchmark Corporation, Birmingham, AL—Swedish/Scottish/Irish/German; P. Anthony Ridder, Chairman & CEO, Knight-Ridder, Miami, FL—German/French; John J. Rigas, Chairman, President & CEO, Adelphia Communications Corporation, Coudersport, PA—Hellenic; Eddie Robinson, Senior Advisor to the President for Institutional Advancement, Grambling State University, Grambling, LA—African; and Edward J. Robson, Chairman, Robson Communities, Sun Lakes, AZ—English.

Steven A. Rosenberg, MD, Ph.D., Chief of Surgery, National Cancer Institute, Bethesda, MD—Eastern European; Robert J. Rotatori, Esq., Attorney, Gold, Rotatori & Schwartz Co., Cleveland, OH—Italian; Dr. John W. Ryan, Chancellor, State University of New York, Albany, NY—Irish; Philip Adeeb Salem, MD, Director of Cancer Research, St. Luke's Episcopal Hospital, Houston, TX—Lebanese; Joseph D. Sargent, CLU, President & CEO, Guardian Life Insurance Company of America, New York, NY—Irish/English; George D. Schwab, Ph.D., President, National Committee on American Foreign Policy, New York, NY—Latvian; Steven Seagal, President, Seagal-Nasso Productions, Inc., Los Angeles, CA—French Canadian/Italian; Tosano J. Simonetti, Vice President of Security, MacAndrews & Forbes, New York, NY—Italian; Richard Sklar, United States Representative for United Nations Management, United States Mission to the United Nations, New York, NY—Russian/Hungarian; Orin R. Smith, Chairman & CEO, Engelhard Corporation, Iselin, NJ—English; and Philip J. Smith, President, The Shubert Organization, Inc., New York, NY—Irish.

William S. Stavropoulos, President & CEO, The DOW Chemical Company, Midland, MI—Hellenic; Michael R. Steed, Senior Vice President ULLICO, Inc., Washington, DC—Irish; Pergrouhi (Najarian) Svajian, Ph.D., Professor Emerita, Brooklyn College, Brooklyn, NY—Armenian; Laszlo N. Vauber, M.D., F.A.C.S., F.I.C.S., Clinical Professor of Surgery, Chairman Emeritus of Surgery, Jefferson Memorial Hospital, Alexandria, VA—Hungarian; Nicholas Tsoucalas, Senior Judge, United States Court of International Trade, New York, NY—Hellenic; 1998 United States Olympic Women's Hockey Team, USA; and Vincent Viola, Owner & CEO, Pioneer Group, New York, NY—Italian.

Randi Weingarten, President, United Federation of Teachers, New York, NY—Russian/German; Melvyn I. Weiss, Esq., Senior Partner, Milberg, Weiss, Bershad, Hynes & Lerach LLP, New York, NY—Russian/Hungarian; H. Daniel Wenstrup, President & CEO, CHEMCENTRAL Corporation, Bedford Park, IL—Danish; Siggi B. Wilzig, Chairman & CEO, The Trust Company of New Jersey,

Jersey City, NJ—German/Prussian; Margaret W. Wong, Managing Partner, Margaret W. Wong & Associates Co., Cleveland, OH—Chinese; John B. Yasinsky, Chairman & CEO, GenCorp, Fairlawn, OH—Lithuanian; Zachariah P. Zachariah, MD, Director of Cardiology, Holy Cross Hospital, Fort Lauderdale, FL—Asian Indian; and Robert Thomas Zito, Senior Vice President of Communications, New York Stock Exchange, New York, NY—Italian.

HONORING RINGO'S SHOP'N SAVE

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Scott Monarco, owner and operator of Ringo's Shop'n Save, for business excellence and commitment to public service. Mr. Monarco is a man of impeccable character who is constantly giving back to the community, and I want to acknowledge his great contribution to my colleagues in Congress.

Scott, with his family, attends school functions and charitable events for a number of organizations in the La Junta area. He is always willing to go the extra mile and selflessly contributes his time and knowledge to others. This generous attitude exudes throughout Scott Monarco's life from his family to his business.

It is for these reasons I happily rise today to honor Mr. Monarco. I hold him up to the House, and to all Americans, as a shining example of the best of America's businesses. He exemplifies the industrious spirit, can-do attitude, and community involvement that made America great.

IN RECOGNITION OF NANCY Q. KEEFE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mrs. LOWEY. Mr. Speaker, I would like to recognize an extraordinary journalist, Nancy Q. Keefe, who is retiring in July after 22 years with Gannett Suburban Newspapers. Ms. Keefe is being honored on June 18 by the American Jewish Committee Westchester Chapter with their Distinguished Community Relations Award for her work as a columnist and "community voice of conscience."

Nancy Q. Keefe was editorial page editor of the Gannett Suburban Newspapers from 1984–1989 and then became a columnist. She consistently wrote with unusual clarity and style about people, issues and events, often on topics that few others dared to tackle. During her stint as editorial page editor, she wrote editorials and columns favoring a program of transitional housing for homeless people. In appreciation, the WestHELP organization named its Mount Vernon housing complex, the first in Westchester County, for her.

As a Roman Catholic and member of an interfaith group, she traveled to Israel in the spring of 1993 on a trip arranged through Project Interchange of the American Jewish Committee. She wrote about the experience for the newspapers.

She graduated from the College of New Rochelle in 1956 and received her master's degree from the Graduate School of Journalism in 1958. In 1981, the College of New Rochelle awarded her the Angela Merici Medal, its highest alumnae honor for service to college, church and community.

In 1991, Nancy Q. Keefe was named to the Westchester County/Avon Women's Hall of Fame, cited for being "the conscience of our community."

She was born in Pittsfield, Mass., Nov. 20, 1934, the daughter of John Gorman Quirk and Ann O'Laughlin Quirk. She began her newspaper career at The Berkshire Eagle in Pittsfield and then worked at the old World-Telegram & Sun in New York City.

She and her husband, Kevin Keefe, live in Larchmont, N.Y. They have three children and three grandchildren.

For her unfailing courage, commitment to the truth and dedication to improving the lives of all in our community, Nancy Q. Keefe deserves our heartfelt thanks and congratulations. We wish her good health and happiness in her retirement from Gannett, but hope that she will continue the writing that has informed, inspired and even incited us to action for so many years.

CONGRATULATING MR. CRAIG MEYER WINNER OF THE 1998 VOICE OF DEMOCRACY SCHOLARSHIP

HON. ASA HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. HUTCHINSON. Mr. Speaker, I rise to congratulate Mr. Craig Meyer of Bella Vista, Arkansas for his winning entry in the Veterans of Foreign Wars 1998 Voice of Democracy Broadcast Scriptwriting Contest. A senior at Bentonville High School, Mr. Meyer is already an active participant in our nation's democratic process—participating in the Political Science Club, the Speech and Debate Team, National Honor Society, and serving as the Co-Editor of Literary Magazine.

The Voice of Democracy Scholarship Program, which began 50 years ago, provides financial awards to students whose writing expresses the spirit of democratic principles. Mr. Meyer's entry exemplifies the patriotism and self-sacrifice of those who gave their lives for freedom's sake.

I congratulate Mr. Meyer on his thoughtful and moving essay. Mr. Speaker, I just might borrow it sometime!

I would also like to thank VFW Post 9063 and its Ladies Auxiliary in Bella Vista, Arkansas for sponsoring Mr. Meyer. This nation owes a debt of gratitude it can never repay to our veterans—those who served our country in times of crisis and who continue to serve our communities through programs such as this.

"MY VOICE IN OUR DEMOCRACY"

1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION—ARKANSAS WINNER, CRAIG MEYER

It's the voice on the campaign trail, it's the voice on a soapbox in the employee washroom. It's the schoolteacher's voice educating the future. It's the reporter writing his morning column, it's the corporate Public Relations Ad executive writing his press release. It's the museum curator demonstrating Warhol, and the bag lady huddled over a heating grate. It's the smooth jazz sounding out, echoing out over the city skyline.

The voices of our democracy come together, they form a chorus, form a symphony. From the soft prayer of childhood, to the savage battlefield roar of D-Day, to a suburban "honey, I'm home!", to the shriek of a fire engine on the fourth of July, to "New and improved—available in stores everywhere!", to the hush after a ghetto gunshot. It's PT Barnum putting his head into a lion's mouth. It's Joe McCarthy hunting down the communists.

IT'S AMERICA, IT'S DEMOCRACY

The real beauty of it all is that I get to find my own voice. My role isn't mapped out for me, I'm not locked into a channel. Democracy allows a person to be a citizen and not be a slave. We can not only participate in our government, but we also have the freedom to do what we want to do, to be what we want to be. Our nation allows people to think for themselves—which carries with it responsibility, carries with it the ability to be right and to be wrong. It's all about people having the freedom to decide on their own voices, the freedom to pursue their own destiny—to succeed or to fail. Democracy doesn't reside in a dollar sign or in a bomb, it lives in us. It's not just an ideology or a political theory, it's a way of life.

How do I spell out both my future and the future of my country? How do I find my voice in our democracy? Through education. Through learning about other's voices—learning from those who have been there, learning from those who experienced history firsthand. Talking to teachers, professors, auto mechanics, veterans—it's learning as much as I can about as many things as I can. I need to learn about both the issues that face our nation, and the issues that face me as a person.

With all this in mind, my own responsibility is clear—It's up to me to find a voice. It's up to me to see all sides of an issue, to question myself constantly "am I really seeing the whole picture?" It's up to me to narrow and define my voice—to not only blend into the chorus of our democracy, but also be able to do an occasional solo. But lets face it, I need to be willing to vote, to serve jury duty, to read that newspaper, to pick up a gun or a musical instrument—I need to be willing to take a stand for my beliefs.

And this is our democracy—all the glory and the gaudy, the legends (both living and dead) and the truth. The artistic and the autistic, the commerce and the commercialism, the existentialism and the exit sign—this is our America, this our democracy. It runs red through our blood. It rings in our bones, rings in our ears, and it rings in our hearts. We are a part of it, and it's a part of us.

RECOGNIZING MS. ELEANOR KOPLOVITZ FOR 50 YEARS OF SERVICE TO DAVID L. SILVER YESHIVA ACADEMY AND THE HARRISBURG COMMUNITY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. GEKAS. Mr. Speaker, I rise today to applaud Ms. Eleanor Koplovitz, who is being honored this Sunday, June 14, 1998 upon her retirement from the David L. Silver Yeshiva Academy of Harrisburg, PA after fifty years of devoted service to that institution.

The Yeshiva Academy has been providing quality education to the children of Harrisburg and central Pennsylvania for over fifty years. Ms. Koplovitz received a Bachelor of Arts degree from Penn State University where she majored in education and speech therapy. During her distinguished career at the Yeshiva Academy, Ms. Koplovitz taught second and third grade classes (many alumni fondly remember her reading Pinocchio) and instructed the middle school grades in English, Latin, Spanish, history and geography.

In recent years, she served as the school's assistant principal. In addition, Ms. Koplovitz has made important contributions to the Harrisburg Jewish community as vice president of its community relations committee and of the Jewish Community Center, and as member of the board of Temple Beth El.

On behalf of the House of Representatives, I congratulate Eleanor Koplovitz for a lifetime dedicated to the education and nurturing of Pennsylvania children.

HONORING APPLEWAY MUSIC CENTER COMPANY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Appleway Music Center Company, owned and operated by Garland Appleway II, for business excellence and commitment to public service. On the night of July 28, 1997, flood waters ravaged many of the small businesses located along College Avenue in Fort Collins, Colorado. Appleway Music Center was especially hard hit by the disaster. The business received eight feet of water and mud in its basement and had an additional three feet of water on its main floor. The flooding caused over $120,000 in damage to the building and its contents. With over 70 percent of Mr. Appleway's business inventory lost, his building condemned, and himself near certain personal financial ruin, he never once considered going out of business.

Instead, he initiated a 30-day plan to get his business up and running. Only 28 days after the floods, Appleway Music Center Company was back in business and not one employee had lost a paycheck during the time following the disaster.

Today, Appleway stocks an outstanding selection of musical instruments and audio sound equipment. The business also serves as an information hub to the Fort Collins music scene and is a supporter of local artists and community functions.

It is for these reasons I happily rise today to honor Mr. Appleway. I hold him up to the House, and to all Americans, as a shining example of the best of America's businesses. He exemplifies the industrious spirit, can-do attitude, and community involvement that made America great.

THE LEADERSHIP TRAINING INSTITUTE

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. WATTS of Oklahoma. Mr. Speaker, I insert the following regarding the Leadership Training Institute.

> Mr. WATTS. Mr. President, it is commendable that the Leadership Training Institute (LTI) is committed to advancing patriotic values in America's youth and preparing them to lead authoritatively with a Biblical world view.
>
> America has been blessed with forefathers of outstanding virtues, which has strengthened our contested role in the world. Decay of our National Leadership, though, will necessarily knock us out of a leading position. America's leaders must do more than simply "get the job" because they are the moral pace setters for both our great nation and our allies.
>
> Programs that guide youth in setting the highest standards for their lives are essential to continuing morality in our culture.
>
> The Leadership Training Institute originated in Arkansas and draws support across many states, including my home state of Oklahoma. LTI is committed to training youth in principles that have produced some of America's greatest leaders. Loyalty, integrity, and honesty are the cornerstone values of the LTI curriculum.
>
> The activities and curricula of LTI are designed to familiarize today's youth with the moral underpinnings of America's founding fathers and equip them with the scientific reasoning that our society demands. The prominence of God's role in our Nation's foundation was recognized by General George Washington: "I am sure that [there] never was a people, who had more reason to recognize devine interposition in their affairs, than those of the United States; and I should be pained to believe that they have forgotten that agency, which was so often manifested during our Revolution."
>
> I am proud of the young Oklahomans participating in this program, and it is with pleasure that I recognize the Leadership Training Institute as it challenges America's youth to strive to be leaders with American virtues at all cost.
>
> I yield the floor.

INTRODUCTION OF TAX SIMPLIFICATION LEGISLATION

HON. RICHARD E. NEAL

OF MASSACHUSETTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, Congressman RANGEL and I are introducing legislation to help taxpayers. In the next few months, both the House and Senate will vote on legislation to sunset the tax code by 2002. Instead of engaging in rhetoric and unrealistic solutions, I think we should be working on legislation that simplifies our intricate tax code. We should not be wasting time on an unworkable proposal to repeal the current system.

Today, we are introducing legislation which would make the calculation of individual taxes that require complicated calculations simpler. This legislation would replace two worksheet schedules with a total of 19 lines and replace with them with one line.

This legislation simplifies the individual income tax by repealing the adjusted gross income (AGI) limitations on itemized deductions and the personal exemption. Under current law, personal exemptions are reduced by 2 percent for each $2,500 by which the AGI of the taxpayer exceeds $181,000 for joint filers and $121,200 for single filers. If an individual's adjusted gross income exceeds $121,200, certain otherwise allowable deductions are reduced by the lesser of 3 percent of the excess of adjusted gross income over the applicable amount, or 80 percent of the itemized deductions otherwise allowable for the tax year.

This legislation repeals the complicated provisions described above and replaces them with an additional income tax of 1.59 percent. The bill simplifies the calculation of current phaseouts and removes the marriage penalty of these provisions.

In order to remove the marriage penalty the new additional income will affect individuals with lower AGI in order to remove the marriage penalty imposed by the provisions. The additional income tax of 1.59 percent applies to individual taxpayers with adjusted gross income of $75,000 for individuals and $150,000 for joint filers. These thresholds are indexed for inflation. This additional tax does not apply to estates or trusts. This legislation is effective for taxable years beginning after December 31, 1998.

This legislation is revenue neutral. The purpose of this legislation is to make it easier for individuals to compute their taxes and to remove unfair marriage penalties included in phaseout provisions.

I urge my colleagues to join us in sponsoring legislation to simplify the tax code. Instead of talking about strapping the tax code, we should be taking concrete steps to simplify it. This legislation builds upon other legislation offered by Democratic Members of the Committee on Ways and Means. These bills address complexity of the code in areas such as the individual AMA and capital gains.

I look forward to working together to reduce the complexities of our current code. I urge you to consider cosponsoring this legislation.

THE FIRST ASSEMBLY OF THE WORLD COUNCIL OF WHALERS

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. POMBO. Mr. Speaker, from March Second to March Sixth 1998, the First General Assembly of the World Council of Whalers took place in Victoria, British Columbia, Canada. More than 125 representatives from twenty-three nations were in attendance including both government officials and non-government observers.

Over the course of the discussions, one of the main topics was the adverse impact of protectionist campaigns and associated governmental policies. These have affected traditional whaling, food security, nutrition, and religious and cultural identities of humankind from the Arctic Ocean regions to nations in the Pacific Ocean, and from Scandinavia to the Caribbean.

The sustainable use of renewable marine and wildlife resources under proper management is a commitment the international community should recognize and support. And yet, we have witnessed that in many cases emotion and subjective philosophies have become national policy regarding certain species. If the scientific evidence supports consumptive use of a renewable resource that provides food, economic, cultural and religious benefit to people, it should be permitted regardless of whether the subject species is an elephant, a plant, a tree or a whale. This is a commitment the community of nations must make if true conservation of flora and fauna is to be successful on this planet.

At the conclusion of the General Assembly, a Resolution was passed that I suggest my colleagues review. Although the basic concept of the Resolution calls for the recognition of sustainable use of non-endangered whales, it is important to note that its application could apply to any species. This is a fundamental principle that should be recognized by governments when formulating policy on the international regulation of whaling.

THE WORLD COUNCIL OF WHALERS

FIRST GENERAL ASSEMBLY

MARCH 2–6, 1998

Resolution

Whereas, whaling and the sustainable use of whales by peoples around the world contribute significantly to community identity and integrity by satisfying socio-economic, cultural, religious and dietary needs;

Whereas, high seas whale resources are important natural resources for the benefit of all mankind;

Whereas, the current majority of members of the International Whaling Commission have failed to meet their legal obligations under the 1946 International Convention for the Regulation of Whaling by: (a) maintaining the moratorium on commercial whaling and adopting a sanctuary in the Antarctic Ocean without regard to "scientific findings" as required by the Convention and by (b) ignoring the requirement that regulations on whaling "take account of the interests of the consumers of whale products and the whaling industry"; and that these actions have, caused severe socio-economic and cultural distress to whaling communities.

The World Council of Whalers:

1. Affirms its conviction that the sustainable use of whales is essential for the food security, culture and health of peoples, and that commercial activities related to the sustainable use of whales are appropriate and as such, is acknowledged by the Universal Declaration of Human Rights (Article 25) and the International Covenant of Economic, Social and Cultural Rights (Article 11); and recognized by the Kyoto Declaration of 1995 regarding food security.

2. Emphasizes that, in accordance with Article 1 of the International Covenant of Civil and Political Rights and Article 1 of the International Covenant of Economic, Social and Cultural Rights, no people may be deprived of its own means of subsistence;

3. Underscores the consensus of the international community, as reflected in Agenda 21 and the Convention on Biological Diversity, that indigenous peoples and local communities should continue to be sustainable users and stewards of the living resources upon which they have traditionally depended for their livelihood;

4. Concludes that Regional organizations involving resource users are the most appropriate bodies to responsibly manage renewable marine resources and that the use of international institutions or the use or threat of unilateral trade measures to prevent resource users from harvesting whales in a sustainable manner is a violation of universally recognized human rights and fundamental freedoms, as well as a violation of the legal obligations of states under the above noted instruments.

Now therefore be if resolved:

1. That the World Council of Whalers is united in the cause of sustainable use and human rights to natural resource use and committed to continue their cooperation in furthering the objectives of the organization;

2. That the World Council of Whalers supports the aspirations of those, particularly, the Nuu-Chah-Nulth First Nations, Iceland and the small-type whaling communities in Japan, wishing to exercise their right to sustainably use whales;

3. That the World Council of Whalers recognizes the sovereign prerogatives of nations to utilize resources on a sustainable basis; and

4. That the World Council of Whalers encourages its members to ensure that national representation to appropriate international fora includes members of their communities involved in the sustainable use of whales.

And urges:

1. That the World Council of Whalers submit a copy of this Resolution to their respective legislative assembly and appropriate administrator of their government;

2. That the World Council of Whalers transmit a copy of this Resolution to each Commissioner of the International Whaling Commission, to the secretariats of the International Whaling Commission, the North Atlantic Marine Mammal Commission, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity, the United Nations International Year of the Ocean, the United Nations Decade of Indigenous Peoples of the World, the United Nations Decade of Education in Human Rights and, other appropriate international organizations;

3. That the International Whaling Commission recognize and accept its legal obligations under the International Convention for the Regulation of Whaling;

4. That the Parties to CITES acknowledge their legal obligations under that Convention; and

5. That National Governments be responsive to the petitions from the rights of aboriginal and coastal peoples related to the sustainable use of renewable marine resources.

A TRIBUTE TO COLORADO SMALL BUSINESS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to recognize the thousands of dedicated small business owners across my home state of Colorado. This growing group of innovative and hard-working entrepreneurs is the heart and soul of our thriving economy. It is an honor to commend the men and women of Colorado who play such a critical role in our nation's economy.

At the heart of every small business owner is the entrepreneurial spirit of our forefathers who founded and shaped this great country. It is this unrivaled spirit that has blessed us with the largest and strongest economy in the world, and yet one that still continues to provide customers with friendly, traditional "service with a smile." And while major corporations continue to downsize across America, small businesses are growing and growing rapidly. Two-thirds of all new net jobs over the past 25 years have been created by small businesses, and the small business sector accounts for 99.7 percent of the nation's employers, employs 53 percent of the private work force, contributes 47 percent of all sales in the country, and is responsible for 50 percent of the private gross domestic product. This is especially impressive considering half of the small and independent business owners start their businesses with less than $20,000, and that one in four of Inc. Magazine's 500 fastest-growing companies started with less than $5,000.

Yet, an unnecessarily complex and unfair tax code, overly-burdensome and excessive government regulations, and decades of liberal tax and spend policies, are stifling the very economic force we ought to encourage. The unchecked, unimpeded growth of the federal government over the past 40 years has not only spawned the largest and costliest bureaucracy in history, but it has done so at the expense of American workers, taxpayers, consumers, and small business owners who are often forced to pick up the tab through expensive unfunded mandates on the private sector. These government costs are in addition to our nation's $1.7 trillion federal budget and result in fewer jobs, reduced employee benefits, higher consumer prices, and declining goods and services. Small business is the ideal example of what is right with America, and what is right with the free-market economy. The more regulated and burdened this market becomes, the more small business owners are unable to do what they do best—create new jobs for others.

I am dedicated to champion legislation designed to encourage small business growth and prosperity, and committed to being one of its chief advocates. To that end, I have supported the issues that are important to small business. Last year, for example, Congress passed the Taxpayer Relief Act, which included significant tax relief for small business. The Act encourages economic growth by providing tax relief to our small, family, home-based, and self-employed entrepreneurs who are growing our communities and creating new jobs.

Some of the small business tax victories I helped enact during this Congress include the restoration of the home office deduction, an increase in the health insurance deduction for the self-employed, real death tax relief, a reduction in the capital gains tax, a minimizing of the alternative minimum tax, a moratorium on the stealth tax, and an extension on the electronic filing tax payment system requirements for small business.

But Mr. Speaker, much more remains to be done. We must ensure that the hard-working entrepreneurs who consistently demonstrate drive, initiative, imagination, and commitment, continue to have the ability to further serve their communities and strengthen our economy. It is a great privilege to recognize the small business owners throughout my state for their contributions to building a better Colorado and a stronger America.

THE NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. WYNN. Mr. Speaker, I would like to commend a group of students in my district for their support of the National Underground Railroad Network to Freedom Act, which passed the House earlier this week. One hundred and eighteen students of the Law and Public Policy Program of Largo High School in Prince George's County, Maryland, fifty three students of the Law and Public Policy Program and African American History Classes at Potomac High School in Prince George's County, Maryland, and one hundred and twenty-six students of the Saturday Academy of the Rosa and Raymond Parks Institute for Self-Development signed onto petitions to show their support for S. 887, which is the Senate version of the National Underground Railroad Network to Freedom Act.

All three of these petitions advocate an affirmative vote for this legislation and express the following sentiment in support of this legislation:

This legislation would establish the National Underground Railroad Network to Freedom, a way to preserve and link Underground Railroad sites nationwide for the first time, under the auspices of the National Park Service. It will also allow the Park Service to enter into innovative public-private partnership's with local and privately held sites and interpretive centers. The purpose of the underground railroad is twofold: Our challenge is to first; educate all people concerning this important episode in American History; and second, to bring our country together by facing the lingering vestiges of our nation's dehumanizing past, so that we can find common ground and move forward as one people. More than ever these two endeavors are inseparable.

THE SOUTHSIDE SAVANNAH RAIDERS

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. KINGSTON. Mr. Speaker, I am submitting the following congratulatory resolutions for the Southside Savannah Raiders baseball team and I add my own congratulations.

A PROCLAMATION BY THE GOVERNOR OF THE STATE OF GEORGIA

THE SOUTHSIDE SAVANNAH RAIDERS

Whereas: The Southside Savannah Raiders stand above the rest as the 1996 State Baseball Georgia Recreation and Parks State Champions; and

Whereas: The Southside Savannah Raiders had an overwhelming record of 53–3 in 1996, clinching the League, City, District 2 and Georgia Games titles; and

Whereas: The Southside Savannah Raiders claimed their impressive title by defeating Sandy Plains of Atlanta on August 4, 1996, in Valdosta, Georgia; and

Whereas: During the victorious season, each player and coach of the Southside Savannah Raiders devoted boundless energy and unlimited time to ensuring the success of the team; now

Therefore: I, Zell Miller, Governor of the State of Georgia, do hereby commend the "SOUTHSIDE SAVANNAH RAIDERS" and express congratulations to this great ball club for a job well done.

In witness whereof, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed. This 31st day of March 1997.

A RESOLUTION

Congratulating the Southside Savannah Raiders; and for other purposes.

Whereas, the Southside Savannah Raiders, a 12 and under youth baseball team, won the 1996 State Baseball Georgia Recreation and Parks State Championship, A division; and

Whereas, the victorious Raiders are sponsored by the Jenkins Boys Club, but all of Savannah shared in their victory over Sandy Plains of Atlanta on August 4, 1996, in Valdosta; and

Whereas, the Southside Savannah Raiders had an overall record of 53 wins and 3 losses during the 1996 season while clinching the League, City, District 2, and Georgia Games titles; and

Whereas, if not the first Georgia Recreation and Parks Association title to be brought to Savannah, it is the first in a long time and a truly wonderful and special victory to be savored by all who supported the team and all who support youth sports in Georgia; and

Whereas, the members of the 1996 raiders are Joey Boaen, Christopher Burnsed, Brian Crider, Bryan Donahue, Matthew Dotson, Kevin Finnegan, Kevin Edge, Mark Hamilton, Garett Harvey, Bobby Keel, Adam Kitchen, and Daniel Willard. The coaches are Linn Burnsed, Danny Boaen, and Dana Edge.

Now therefore be it resolved by the House of Representatives, That the members of this body congratulate the Southside Savannah Raiders on their state championship and wish each member of the team all the success in the future.

Be it furthered resolved, That the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to each member and coach of the team.

A RESOLUTION

Commending the Southside Savannah Raiders Baseball Team; and for other purposes.

Whereas, the Southside Savannah Raiders finished their season triumphantly as the 1996 Division A Georgia Recreation and Parks State Champions, 12 and under youth division; and

Whereas, the Raiders compiled a record of 53 wins and 3 losses for the year, and took the League, City, District 2, and Georgia Games titles, as well as second place in the AAU State Tourney, on the way to their championship; and

Whereas, this championship was the result of extraordinary teamwork, hard work, determination, talent, and exuberance from the following members of the All Stars: Joey, Boaen, Christopher Burnsed, Brian Crider, Bryan Donahue, Matthew Dotson, Kevin Finnegan, Kevin Edge, Mark Hamilton Garett Harvey, Bobby Keel, Adam Kitchen, and Daniel Willard; and

Whereas, these champions were ably coached by Linn Burnsed, Danny Boaen and Dana Edge, who instilled a winning attitude and a sense of sportsmanship in these young athletes; and

Whereas, the team's accomplishments required the dedication and support of all the members as well as that of countless numbers of parents and friends; and

Whereas, it is only fitting and proper that this body acknowledge this most remarkable accomplishment.

Now, therefore, be it resolved by the Senate, That its members congratulate and commend the 1996 Southside Savannah Raiders Baseball Team, the Georgia Recreation and Parks A Division Champions.

Be it further resolved, That the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to each member and the coaches of the 1996 Southside Savannah Raiders.

POVERTY EQUALS DEATH: NOT THE HEALTH POLICY OF A MORAL NATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. STARK. Mr. Speaker, as we seek to improve our health care system, it is important to include the concerns of all of our citizens—especially those in less fortunate financial circumstances. A recent study in the *Journal of the American Medical Association* found that low-income citizens "have a death rate as much as three times higher than that of other groups."

The study found that, "Americans with income below $10,000 a year had a death rate of 3.22 times that of people making $30,000 or more." Even after taking into account the riskier health behavior that is often attributed to the poor, "the death rate among the poor was still 2.77 times higher." This clearly shows that many Americans are dying early simply because they are poor. A policy that results in the less fortunate dying for no other reason than their financial status cannot possibly be one that is working to the best interest of the American people.

One thing we can do to improve this unfortunate situations is to provide better access to health care for the underprivileged. Tom Burke, a specialist in risk sciences at the Johns Hopkins School of Public Health, said: "A big part of being poor is lack of access to medical care or perhaps not feeling culturally comfortable with the medical care providers, so things that are little health problems become bigger health problems, and you have people presenting themselves at a much more advanced state of disease."

We can prevent many early deaths simply by treating health problems in the early stages. To do this we need to ensure that our health care system is accessible to all Americans irrespective of financial status.

It is also important to remember that this situation carries far-reaching psychological implications. Children learn from their parents. And what will low-income children learn from their parents? They will learn, "that the world is frightening and hostile place." Attitudes like these contribute to stress, poor choices, and early death. We cannot allow our health system to be ignorant of the needs of the economically disadvantaged.

THE REGULATORY FAIR WARNING ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. GEKAS. Mr. Speaker, today I am introducing the Regulatory Fair Warning Act along with fourteen cosponsors. This legislation codifies principles of due process, fair warning, and common sense that were always intended to be required by the Administrative Procedure Act (APA). The bill would require that an agency give the regulated community adequate notice of its interpretation of an ambiguous rule. Agencies and courts would be barred from imposing penalties based on rules or policies that are not clearly known to the regulated community. They would consequently be encouraged to make known what is required or prohibited by their rules.

Specifically, the Regulatory Fair Warning Act would prohibit a civil or criminal sanction from being imposed by an agency or court if: a rule or regulation is not available to the public or known to the regulated community; a rule or regulation does not give fair warning of what is prohibited or required; or officials have been misleading about what a rule prohibits or requires.

I am pleased to introduce this simple, yet necessary measure. Without its fundamental protections, individuals and businesses must live in an atmosphere of uncertainty as to whether they are in compliance with an agency's most recent interpretation or reinterpretation of its regulations. If and when the day arrives that an agency chooses to enforce a new interpretation against a regulated party, that party has two alternatives: (1) roll the dice on expensive, protracted administrative processes and litigation, or (2) pay the penalty, regardless of culpability.

Nothing in this measure is intended to weaken the enforcement powers of federal agencies. In fact, by requiring rules to be clear, the Regulatory Fair Warning Act would promote compliance and make violators easier to catch, because the lines dividing right and wrong would be more clear. This moderate measure would provide a minimum of security and predictability to regulated individuals and businesses. It would surely improve the relationship between federal agencies and the American public.

I originally introduced a version of this legislation in the 104th Congress as H.R. 3307. That bill had strong, bipartisan support and it was favorably reported by the Judiciary Committee. Many of the same Members who cosponsored that bill are cosponsors of this one, and I thank them for their support and their work on ensuring fairness in the regulatory process.

There is wide consensus that the government and all its agencies should provide citizens with fair warning of what the law and regulations require. Likewise, citizens should be able to rely on information received from the government and its agencies. Though these principles are embodied in the Due Process Clause of the Fifth Amendment to the United States Constitution, legislation to codify and enforce them in the regulatory context would help ensure that members of the public—in addition to having due process rights—are actually treated fairly.

INDIA CONSIDERS SANCTIONS A BLESSING—INDIAN VILLAGERS REPORT SIDE-EFFECTS FROM NUCLEAR TESTS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. BURTON of Indiana. Mr. Speaker, I want to commend two recent news articles for all Members' immediate personal review, and I want to thank the President of the Council of Khalistan, Dr. Gurmit Singh Aulakh, for bringing them to my attention. The first article is from the May 30, 1998 edition of the India Tribune in which it actually says that U.S. economic sanctions on India could prove to be a blessing in disguise, and that India should "push ahead with determination" in developing its nuclear arsenal. The second article was a report by the Reuters news service on May 17, 1998, in which residents of a village near where the Indian government conducted its recent nuclear tests have been complaining about "nose bleeds, skin and eye irritation, vomiting and loose bowels."

These developments should be very disturbing to any Member who wants peace between India and Pakistan, and in the entire South Asian region. The fact that India is willing to subject its own citizens to nuclear fallout in the name of developing its nuclear arsenal speaks volumes about their real warring intentions. Indeed, the India Tribune encourages its country to not "panic in the face of international furor but stay firm and continue to build up its nuclear weapons capability."

Can there be any further doubt that India will have the capability of raining nuclear missiles down upon Pakistan soon? I think if my colleagues read these recent articles carefully, they will reach the same conclusion. India will soon have, if they do not have it already, that very capability even at the expense of harming its own citizens.

Mr. Speaker, we must be very diligent that this region does not become the epicenter of a World War III-type nuclear conflict. The stakes could not be higher.

I would like to enter the India Tribune and Reuters articles into the CONGRESSIONAL RECORD, and I strongly urge my colleagues to read them with the utmost gravity they deserve. Especially in light of the Rand Corporation's recent prediction that within a few years there will be a war between India and Pakistan. If so, that war could now include nuclear weapons.

[From the India Tribune, May 30, 1998]

BETWEEN THE LINES—INDIA SHOULD PUSH AHEAD WITH DETERMINATION

(By Brahma Chellaney)

The 24th Anniversary of the first nuclear test at Pokhran would have been another occasion to reflect on India's nuclear indecision. But exactly one week before the anniversary, the country shed its chronic ambivalence and consummated its long-held nuclear option. India unleashed its action with a vengeance, carrying out five nuclear tests in two days, unequivocally demonstrating its capability to manufacture the most modern nuclear weapons—thermonuclear, boosted fission and low-yield types. The nation has shown it has compact missile-deliverable nuclear warheads.

Jawaharlal Nehru laid the foundation of India's nuclear programme. The Nehru Government set up the Atomic Energy Commission in 1948 to produce "all the basic materials" because of nuclear power's "strategic nature". Nehru had said even before assuming office that as long as the world was constituted on nuclear might, "every country will have to develop and use the latest scientific devices for its protection". By the mid-1950s, India had built Asia's first atomic research reactor, Apsara, and set in motion a broad-based nuclear programme.

After the Cirus reactor started up in 1960, Nehru declared, "We are approaching a stage when it is possible for us . . . to make atomic weapons." That stage was reached unquestionably in 1964, when India completed a facility at Trombay to reprocess the Cirus spent fuel, making it the fifth country to be able to produce plutonium. When the Chinese conducted their first nuclear test in 1964—four months after Nehru's death—Homi Bhabba declared that India, if it decided, could build a nuclear bomb within 18 months.

China's first nuclear test, barely two years after its invading forces inflicted a crushing defeat on India, sharply heightened this country's insecurity. The following year, Pakistan, taking advantage of India's security travails, infiltrated its men into Jammu and Kashmir, triggering a full-scale war.

It was Lal Bahadur Shastri who initiated the Indian nuclear explosives programme in 1965. But a series of events put a brake on that programme. These included the passing away of Shastri, Bhabba's own death in a mysterious plane crash in Europe, and the political instability triggered by an initially weak government under Indira Gandhi.

When India eventually conducted a nuclear detonation in 1974, it astounded the world. U.S. intelligence was caught unawares, even though Indira Gandhi had told Parliament in 1972 that her Government was "studying situations under which peaceful nuclear explosions carried out underground can be of economic benefit to India without causing environmental hazards". Earlier in 1970, India had rejected a U.S. demarche against conducting any nuclear explosion.

By conducting the 1974 test, Indira Gandhi gave India a tangible nuclear option. The country broke no legal commitment and had the sovereign right to continue the testing programme. As Henry Kissinger told U.S. Congress after the Pokhran test, "We objected strongly, but since there was no violation of U.S. agreements involved, we had no specific leverage on which to bring our objections to bear". The test shook the 1968-designed NPT regime to its very foundation.

Had India continued to test, this regime probably would have disintegrated or been seriously damaged. Instead, the U.S.-led regime emerged stronger and with fangs because India, to the great surprise of the rest of the world and its own public, did not go beyond that one single test. It will remain a riddle of history why Indira Gandhi did not carry out another test.

One key constraint on India going overtly nuclear was its lack of missile capability. Indira Gandhi sought to remedy this by formally instituting a programme in 1983 to develop ballistic missiles. The essence of deterrence is the ability to retaliate with devastating might after surviving a first strike by an aggressor. Any nuclear deterrent force thus is centered on missiles, not bomber-aircraft, which in India's case cannot reach even the heartland of its leading security concern, China.

India's nuclear option really opened up in an operational sense only after the Agni was flight-tested in February 1994, completing its triumphant three-test developmental phase. The first Agni test in 1989 was carried out despite, in the words of Rajiv Gandhi, "ambassadors of certain foreign powers" threatening punitive sanctions. "I told them clearly that India would carry out the launch and we would not change our decision under pressure", the then Prime Minister said.

All three generations of Nehrus who served as Prime Ministers played an important role in building a concrete nuclear option. India's security planning, however, entered its darkest phase under P.V. Narasimha Rao, whose government slashed defence spending, squeezed strategic programmes, deviated from the traditional disarmament policy and delayed the flight-tests of even the short-range Prithvi missile. Rao showed that India did not need any enemy—it could be its own worst enemy.

Rao declined to take follow-up action on the Agni, putting the programme in deep hibernation. As Dr. A.P.J. Abdul Kalam said in 1994, the Agni needs no further experimental flight-tests but only "random batch tests" once its production begins. With the advance of simulation technology, longer-range missiles are entering production after one to four flight-tests. The Agni comprises two stages, each tested many times; Its solid-fuelled first stage is the SLV-3 space launcher, while its liquid-fuelled second stage is the Prithvi.

Agni-type missiles make strategic sense only if they carry a nuclear weapon. While India had demonstrated its delivery capability, it had not demonstrated its ability to build a nuclear warhead for the Agni. A reliable warhead could never have emerged without testing. In fact, without the testing option, India would have had no nuclear option worth the name.

As the only nuclear-threshold state not to receive tested warhead designs from external sources, India had to forcefully oppose the CTBT and safeguard its testing right.

Through its nuclear indecision, India had also been undermining its international role, severely cramping its diplomacy and literally inviting the imposition of additional technology controls on it. While the threat of sanctions was being cleverly employed to rein in India, the country had over the years fallen victim to increasing technology sanctions for merely retaining an open nuclear option. Every cost-benefit analysis was showing that India was bleeding its interests, incurring the liabilities of maintaining an open option but not making the security gains.

India's turning point came when an openly pro-nuclear government took office in March 1998. The new coalition elected to power pledged, in the words of A.B. Vajpayee, to "exercise all options, including the nuclear option". No prime minister has assumed office with such a categorical commitment.

The Vajpayee government was determined not to miss India's closing opportunity to break out of its self-created constraints. The Indian nuclear option had come under increasing siege in the 1990s with the five declared nuclear powers joining hands for the first time to enforce nonproliferation as a global norm. After legitimising their nuclear hegemony through the NPT's permanent extensions, these powers had begun targeting Indian through the CTBT and the proposed FMCT.

It was this pressure that prompted two previous Indian governments to order a nuclear test, although they retreated from their plan at the eleventh hour. The first test decision was taken by Narasimha Rao in late 1995, but the pusillanimous Rao scrapped the plan after the US government began breathing down his neck. US officials also leaked the test plan to an American newspaper. The newspaper report cited satellite reconnaissance as showing the Indians preparing to test, but since there was no drilling or other activity at Pokhran that a satellite could pick up, the tipoff to Washington most likely came from a high-level source in the Rao government.

The second test move was initiated by Vajpayee immediately after taking over as Prime Minister in May 1996. The plan, however, had to be aborted as his government ran out of time after the Lok Sabba secretariat advanced the vote of confidence by two days. The H.D. Deve Gowda and I.K. Gujral governments also seriously considered nuclear testing, but did not order any detonation in the absence of support from their Leftist constituents.

When Vajpayee became Prime Minister for the second time, he knew that continued inaction would bring India under stepped-up pressure from next year, with the 1999 CTBT entry-into-force conference to be followed by the NPT review conference in 2000. He also realised that any testing plan would get leaked to the Americans unless it was confined to a handful of decision-makers. That is the reason why even the Defence Minister George Fernandes was not in the loop from the beginning, but was brought into the picture later before the first series of three detonations. Had Fernandes known the plan from the outset, he would not have gone around saying that a nuclear decision would have to await a strategic posture review.

So when Vajpayee announced that India had conducted three nuclear tests within minutes of each other, he stunned the world and exposed one of America's biggest intelligence failures. The intelligence bungle was compounded by the subsequent Indian tests of two highly sophisticated devices with yields less than one kiloton. Those two blasts showed India can do advanced hydronuclear tests, which are limited to subcritical or slightly supercritical neutron multiplication and release negligible amounts of fission energy.

It was inevitable that India would come under tremendous pressure once it resumed nuclear testing after a gap of almost a quarter century. But the decisionmakers recognised that the costs of inaction outweighed the costs of action. India had been paying a heavy price for its 1974 test as that step was not linked to a nuclear-deterrent blueprint. The rising tide of technology sanctions since 1974 sought to damn India whether it restrained itself or exercised the nuclear option. The nation decided ultimately to adopt the latter course and get out of a self-injurious situation.

Having taken the toughest and boldest step necessary to embark on a nuclear-weapons programme, India has to determinedly push ahead without resting on its oars. Any vacillation will bring it under greater external pressure. The more determination it shows, the greater its leverage and ability to beat back sanctions. It cannot panic in the face of the international furore but stay firm and continue to build up its nuclear-weapons capability. When the world sees a resolute India pushing ahead, the present reaction will begin to taper off.

[From the India Tribune,—May 30, 1998]

SANCTIONS—A BLESSING

(By J.V. Lakshmana Rao)

Sanctions are not new to India. When former Prime Minister Indira Gandhi conducted the first nuclear test in 1974, the country came under the grip of a wrath from the US and other countries.

The supply to nuclear fuel from the US and other countries to India was stopped. At that time, many thought that India's nuclear power projects—of course they were not many—would be crippled by the non-availability of the much-needed fuel.

But India's nuclear scientists quickly responded and came to the rescue of the country. While they developed their own technique to reprocess spent fuel, they also started indigenous production of nuclear fuel. The Indian government strengthened the nuclear fuel complex in Hyderabad, the uranium mill at Jaduguda in Bihar, uranium mines in Jaduguda and Bhatim in Bihar, the rare earth facilities in Manavalakurchi in Tamil Nadu, Chavara in Kerala and Chbattarpur in Orissa. The working of heavy water plants in Baroda in Gujarat, Talcher in Orissa, Tuticorin in Tamil Nadu, and Thai in Maharashtra were strengthened to boost production. A few more research and development wings were added to the Bhabba Atomic Research Center in Trombay and other institutions in the country. Though the power generation in nuclear power plants suffered briefly, they quickly recovered.

India also had to face some sort of sanctions because of its missile-development programmes, like Agni and Prithvi. Every successful test at Chandipur-on-Sea sent shock waves in the US. The US refused to supply the super-computer to India. The US feared that India might use the super-computer for defence purposes. The latest indications are that Indian electronics engineers have developed a more sophisticated super-computer system than the one now available in the US.

Even the present nuclear technology, with which the five nuclear tests were conducted at Pokhran, is fully indigenous.

As the adage goes that "necessity is the mother of invention," only under pressure, does India develop its resources. Therefore, the present sanctions from the US and other nations should prove to be a "blessing in disguise" for India.

As it is, the US aid to India amounts only a few million dollars out of the grant of about $3 billion annually. The sanctions will surely slow down investments by the multinationals, some of which have taken up huge projects in India. Definitely these multinationals will persuade the US to relax some of the restrictive provisions, so that their interest do not suffer. To make things clear to the world, Prime Minister Atal Behari Vajpayee has announced that India would not slow down the economic reforms.

Though India's foreign reserves position is comfortable, sanctions, can deplete them. There are several ways India can overcome the problem. As as retaliatory measure, India should restrict imports from countries that have imposed sanctions. India should review its import policy and ensure that it imports only very essential items.

The Non-Resident Indians (NRIs), who have overwhelmingly supported Prime Minister Atal Behari Vajpayee's coalition government for the nuclear tests, must show their support in action by investing substantially in India. They should act immediately before their enthusiasm dies down.

There is a lot of misreporting in the US newspapers about India. The country is projected as a "sinner." A Chicago-based mainstream newspaper calls India a "defiant" country and publishes a picture, whose caption says that "Hindus" burn the flag of a neighboring country. India is a secular country, and it is not understandable how the newspaper could identify the crowd as only Hindus. It has become fashionable for some newspapers to describe the Vajpayee government as the "Hindu fundamentalist."

The usage of words like "defiant" and "Hindus" is highly objectionable and provocative. The local Indian Consulate turns a blind eye to it, but calls for a press conference of journalists of Indian ethnic newspapers to "brief" them on India's nuclear tests. Instead, the Indian Consulate will do well to address a press conference of mainstream newspapers, and let them know that India is ruled by a secular democratic government, and the Indian Constitution has not been amended to call its people only "Hindus."

Indian Consul General in Chicago J.C. Sharma did a commendable job as a participant of a panel discussion on Channel 11 last week.

[From the Reuters News Service, May 17, 1998]

INDIAN VILLAGERS CLAIM N-TEST SIDE EFFECTS

NEW DELHI, INDIA.—Several residents of a village near India's nuclear-testing site have complained of nose-bleeds, skin and eye irritation, vomiting and loose bowels since last week's underground blasts, a report said on Sunday.

The government has said that no radioactivity was released into the atmosphere over the Thar desert, in the western state of Rajasthan, as a result of its five tests.

But The Sunday Statesman said that more than a dozen people from the village of Khetolai experienced symptoms of contamination by radiation immediately after the last two of the five devices were exploded on Wednesday.

"The residents approached us, gave a list of affected persons," the paper quoted a district official as saying. "Most of them have complained of nose-bleeding, loss of appetite, irritation in skin and eyes."

"We will soon send a team of doctors to examine the affected villagers. Only then can we come to a conclusion. It could also be due to the rise in temperature," he said.

The paper said the people of Khetolai were convinced that the complaints were due to radiation exposure and quoted one man as saying he was suffering nose-bleeds for the first time in his life.

Another man was worried about his 12-year-old daughter. "She has been vomiting, bleeding through the nose and feeling restless for two days after the second explosion," the paper quoted the girl's father as saying. "First we ignored it but when the number of victims rose we brought it to the notice of district and army officers."

Khetolai is one of seven villages dotted around the Alpha Firing range of the area called Pokhran.

SENATE—*Friday, June 12, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, we thank You for outward symbols of inner meaning that remind us of Your blessings. The sight of our flag stirs our patriotism and dedication. It reminds us of Your providential care through the years, of our blessed history as a people, of our role in the unfinished and unfolding drama of the American dream, and of the privilege we share living in this land.

This weekend, as we celebrate Flag Day, we repledge allegiance to our flag and recommit ourselves to the awesome responsibilities that You have entrusted to us. May the flag that waves above this Capitol remind us that this is Your land.

Thank You, Lord, that our flag also gives us a bracing affirmation of the unique role of the Senate in our democracy. In each age, You have called truly great men and women to serve as leaders. May these contemporary patriots experience fresh strength and vision, as You renew the drumbeat of Your Spirit, calling them to march to the cadence of the rhythm of Your righteousness. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will be in a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the tobacco bill, with a Reed amendment pending regarding advertising. The Senate may also consider the vocational education bill, the Higher Education Act, the NASA authorization bill, the drug czar office reauthorization bill, and any other legislative or executive items that may be cleared for action.

As a reminder to all Members, the majority leader has announced that there will be no rollcall votes during today's session. Therefore, any votes ordered during Friday's session with respect to the tobacco bill will be postponed to occur on Monday, June 15, at a time to be determined by the two leaders but not before 5 p.m. Any votes ordered with respect to other legislative or executive items will be postponed to occur on Tuesday, June 16. All Members will be notified of Tuesday's voting schedule as it becomes available.

I thank my colleagues for their attention.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. ALLARD assumed the chair.)

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, is there a time limit for addressing the Senate?

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m, with Senators permitted to speak for up to 5 minutes each.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I want to take a moment or two to talk about an issue that is related to the health and well-being of our fellow citizens—the Patients' Bill of Rights legislation, which I think cries out for action in these next very few days.

Mr. President, the Patients' Bill of Rights is not on the majority leader's list of bills to be considered. The majority leader has made available to the Members which pieces of legislation he is going to call up to the floor of the Senate over the period of these next few weeks until the Fourth of July break, then the period of July and then coming into the time that we will be meeting in September. There is a whole series of bills on that list, but one that is missing and one that cries out for action as well is the Patients' Bill of Rights. We want to have the opportunity to debate and consider it, but we are unable to either get a markup of the legislation in our Human Resources Committee, the committee of appropriate jurisdiction, or on the floor of the U.S. Senate. And that is, I think, unacceptable. We are not able to have it considered—not this month, not next month, not for the remainder of this Congress. Evidently, he stands shoulder to shoulder with the guardians of the status quo who want to continue the health insurance abuses. Protecting patients may not be on the majority leader's priority list, but it is on the priority list of American families. And it is on the priority list of more than 100 organizations of doctors, nurses and patients who wrote Leader LOTT and Speaker GINGRICH yesterday asking that this legislation be considered.

I believe this is on the priority list of a majority of Members of the Senate and House—a bipartisan majority that want to protect families, not the profits of the insurance companies. Our leader on this side of the aisle, TOM DASCHLE, has said that we will offer the Patients' Bill of Rights on the first available appropriate vehicle. The American people deserve action.

The American people deserve to have their health care decisions decided by the doctors and the medical profession rather than the accountants for the insurance industry. We have had over the period of these past weeks series after series of incidents of how our fellow citizens' lives have been lost or permanently damaged because of our failure to address this particular issue. The President last year called forth a commission, which was bipartisan, which made unanimous recommendations—Republican and Democrat alike.

The Patients' Bill of Rights legislation, which has been introduced by Senator DASCHLE and which I have been honored to cosponsor with a number of our colleagues, basically reflects the judgment put forward by that bipartisan group of outstanding, thoughtful men and women who are a part of our health care system. We here in this body should address this issue, and we will. We are giving as much notice as possible to the leaders that this is an issue that is not going to go away. We are going to address it. We would vastly prefer addressing it in a way that will accommodate the kind of debate and discussion this issue deserves, but if we are not given that kind of assurance, if we are not given time to address this issue, then we will use whatever parliamentary means we must because the American people expect it.

This is a measure of enormous importance in protecting the health and the well-being of families in this country. Families that are facing medical crises, as I mentioned, should have these decisions decided by the health professions. They ought to be able to get the specialists they need. If it is, in a woman's case, a gynecologist or obstetrician, they ought to be able to call on and get the kind of specialty care they need. Women in our society ought to be able to participate in clinical trials, not be denied some of the best that is available out there that offers, in many instances, the opportunity for real hope of a possible cure or a significant improvement in their well-being. They should not be denied that. They are denied that in too many instances today.

Newborn children ought to be guaranteed they are going to be able to get the pediatric specialists who can help guide a newborn child or a baby to be able to deal with some of those extraordinary challenges that are evidenced in the first days and weeks of life. We ought to prohibit the kind of gag orders that are out there today in so many instances where doctors who are trying to practice their medicine are denied the opportunity to provide the whole range of choices and options to their patients and they are prohibited because of the HMO's decision.

We want to eliminate the kinds of incidents that have been reported on the floor of the Senate where ambulances will drive by the emergency room of a particular hospital and take someone who is in need of emergency treatment to a distant hospital because the HMO is not going to reimburse that individual for the treatment and emergency services at that particular hospital. That makes no common sense, and it does not make any sense even on the bottom line for these companies.

These kinds of things are happening every single day, and every single day we delay the debate, discussion, and conclusion of this legislation, the health of Americans across this country is being compromised. That is wrong.

We have had bipartisan support for this legislation. The two doctors in the House of Representatives, Republicans, have both supported a Patients' Bill of Rights. They are urging that we take action. I commend them for their courage and for their leadership. It is imperative that we move ahead and take action in the very near future. Every day that goes on and we fail to do so, thousands of families are being put at risk. I hope that on the first vehicle after we conclude this legislation we will have an opportunity to address it.

TOBACCO LEGISLATION

Mr. KENNEDY. Mr. President, I see our colleague and friend from Arizona in the Chamber at this time. I just want to join with the others in commending him for his leadership on this issue, on tobacco legislation. I think he has really been a very important and powerful voice in moving this process forward, and we certainly hope under his leadership we will move towards a successful conclusion in this next week.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I thank the Senator from Massachusetts for his kind remarks. As always, I am very appreciative. Sometimes, as he knows, it helps me a little more if he criticizes me from time to time, which he also does from time to time. I thank Senator KENNEDY for his involvement in this issue. He has been in the Chamber talking about it quite a bit. Obviously, Senator KENNEDY has not agreed with me on certain aspects of the bill, but we are in agreement—in fact, I think it is important that those who watch this debate understand that we are all interested, on both sides of the aisle, in trying to resolve this issue because we are concerned about our children and the fact that, as we know, teenage smoking in this country is on the rise.

PROGRESS ON THE TOBACCO BILL

Mr. McCAIN. Mr. President, I note the presence of Senator REED, and I will be brief because I know he wants to discuss his amendment further.

Later on, Senator GRAMM will come to propose his amendment. I understand that Senator GRAMM has to go to the dentist so he perhaps may not be in his usual sunny, rosy mood as he usually is when he comes to the floor, especially debating this issue, but I am told that he will come later this morning to propose his amendment which we do plan to vote on Monday, sometime after 5 o'clock, I believe is the unanimous consent agreement.

Again, because of headlines that I have seen this morning and comments in the various newspapers about the attitude that some have taken towards the legislation, I would like to review where we have come and where we are.

Yesterday, we made further progress. We are at the point wherein I believe we can and should finish our business expeditiously. I say that for two reasons. One is the progress that we have made, but also we are all aware now, as we have been on this bill for 3 weeks—and we are going to be on it next week. I will have to ask somebody to look up when was the last time we have spent 4 weeks on a single piece of legislation, but it is not very often, obviously.

Mr. President, I think the point here is that we have been 3 weeks debating this bill. We have debated many aspects of it, some aspects of it, in the case of attorneys' fees, more than once, and that may be revisited again. But let us look at what we have done. We have provided critical funding for ground-breaking health research to find new treatment and cures for killer diseases including cancer and heart and lung diseases. These initiatives obviously are supported on both sides of the aisle. It includes assistance to our Nation's veterans who suffer from smoking-related illness.

Mr. President, I thought one of the least laudatory things that took place in the ISTEA process was that we basically, at least at one point, declared that veterans who smoked while they were in the service were guilty of gross misconduct. I still find that unbelievable, since we all know that veterans and members of the Armed Forces were encouraged to smoke. Tobacco was provided along with meals—smoke breaks. We all know that smoking was encouraged. In this bill, now we are going to earmark $3 billion to try to treat veterans who have incurred tobacco-related illnesses. I think that is very important, that they receive that assistance. I think it has to be one of our highest priorities.

We have included a major antidrug effort to attack the serious threat posed by illegal drugs, both through prevention education as well as interdiction. By the way, that is a Republican amendment, a conservative amendment, and one that was approved by both sides of the aisle because of the importance that the American people feel is associated with illegal drugs.

It now contains one of the largest tax decreases in many years, a nearly $200 billion tax cut that would eliminate the marriage penalty for low- and moderate-income Americans and achieve 100 percent deductibility of health insurance for self-employed individuals. I think most of us on both sides of the aisle believe the marriage penalty is unfair and that low-income Americans should be the first ones to receive relief. We think it is unfair for companies and corporations to have tax deductibility for their health care insurance yet individuals do not.

I think it is important that we understand, also, when we are talking about taxes on the American people, that today $50 billion of America's tax dollars go to treat tobacco-related illnesses, almost $455 per taxpaying household in every year. It provides the opportunity to settle 36 pending State cases collectively, efficiently, and in a timely fashion.

I also want to mention again, some are of the impression that if this bill leaves the floor of the Senate, it disappears—as some, I am told, especially in the other body, would like to see happen. But there would still be 37 States that go to court. There will still be enormous legal fees. There will still be incredibly high settlements. In Minnesota, it was a $6.5 billion settlement, which was $2.5 billion above what was agreed to in the June 20 agreement. Just a few days ago, an individual won a court case that included punitive damages. There are literally thousands and thousands of cases lined up to go to court. Mr. President, those who believe that somehow this issue will not go on—the question is: Where does it go on? Does it go on in every courtroom in America?

Does it go on in States, 37 of them now—and I cannot imagine the remaining 10 of the 40 that did not enter into agreement between the attorneys general and the industry will not join sooner or later. Would that not continue, in fact would that not accelerate? The attorneys general tell me they are just waiting to see what we do.

There is a settlement in Mississippi. There is a settlement in Florida. There is a settlement in Minnesota. They entail billions and billions of dollars. What about the tax? According to reliable publications, the price of a pack of cigarettes just went up 5 cents because of the Minnesota settlement. Does anyone believe that when they make these massive payments the cost is not passed on to the consumer?

So I want to remind everybody, we are coming up on a crucial week. It is hard for me to imagine that we would continue on this legislation for very much longer. We can either move forward to a conclusion, because we have addressed most of the issues—the farm issue is still out there and we need to get a reasonable resolution of it—but for the life of me, I do not know of another major issue associated with this legislation. There may be substitutes that refine it, or even change it substantially, but the general outlines of the legislation we all know. So we are either going to move forward and cloture will be invoked, which puts us on autopilot to completion, or we will not.

I am not an expert on tobacco. I am not an expert on public health, nor have I ever claimed to be. I claim some expertise on national defense and security issues. I claim some expertise on telecommunications, aviation—other issues. I don't claim expertise on this. But I was asked by the leadership to move a bill through the Commerce Committee. We did, with a 19 to 1 vote. Then the majority leader scheduled the bill to come to the floor. I did not. I didn't make the scheduling decisions. Obviously, since the legislation went through the committee which I chair, I am the manager of this bill. I do not seek any sympathy for the fact that I have been criticized by both sides of the political spectrum rather severely, including a $100 million, so I am told, tobacco advertising campaign. But I do believe that all of us have the right to expect now to move to a conclusion to this issue. That conclusion is either a final passage or, somehow, the bill leaves the floor—although I am not sure my friends on the other side of the aisle would do so with alacrity.

But if the decision is made, or if we are unable to move forward, please, let no one be under the illusion that the issue is going away if it leaves the floor of the U.S. Senate. There will be a myriad of lawsuits. There will be incredible activity in the courts of America. And to those who are concerned about lawyers getting rich, I guarantee, they will get a lot richer under those circumstances than under ours. But that doesn't bother me. The thing that bothers me is, if we do not move forward, as I mentioned the other day, there are winners and losers; and the winners will, obviously, be the tobacco companies. They will have gotten a significant return from their $100 million ad campaign. The losers may be me, maybe even the Senator from Massachusetts, but the real losers will be the children of America.

Today, 3,000 kids start smoking. One thousand of them will die early. Tomorrow, the same, and the next day, the same, and it is on the rise. We will address, as a nation, the issue of tobacco and the issue of kids smoking. There is no doubt of that in my mind, because of the obligation we have. It is a question of how, and when. By moving this legislation forward, we can do it sooner rather than later. I am more than willing to stay on this floor all summer, if necessary. But I do not think we can afford to do that, because of the compelling legislation that we have to achieve legislative results on by the beginning of October when, there is no doubt in my mind, given the fact that it is an even-numbered year, we will go out of session.

So I urge all of my colleagues to recognize that we are now reaching a point, next week, where we either have to move forward or not. I will abide by the will of the majority and what the leadership on both sides of this body decide. I will regret it, obviously, if we do not move forward. But I also will far, far more regret the effect that it will have on the children of America.

I note the presence of my friend from Massachusetts as well as the Senator from Rhode Island, and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Reed amendment No. 2702 (to amendment No. 2437), to disallow tax deductions for advertising, promotional, and marketing expenses relating to tobacco product use unless certain requirements are met.

The Senate resumed consideration of the bill.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I know the plan this morning is for us to have the Senator from Rhode Island proceed on the amendment that he laid down last night. And subsequent to that, the Senator from Texas, Senator GRAMM, will debate his amendment for a period of time.

Let me just say, for a couple of minutes before we proceed—I want to pick up on what the Senator from Arizona said—this will close the third week of effort on this bill. Obviously, next week will be critical. We have dealt with three or four of the most contentious issues. We visited the issue of attorneys' fees twice now, notwithstanding the fact that no attorney has been paid the fees that have been thrown around on the floor of the U.S. Senate. In every State, those fees are being renegotiated, they are being subject to arbitration, subject to court decision, but we revisited that twice.

We had a spirited and important debate on the subject of liability. In fact, the bill, as brought to the floor, was changed by those who wanted to have a stronger section, and that is the will of the Senate working its way. The lookback provisions were strengthened by the will of the Senate. So the bill has, in some respects, been strengthened from the bill that was brought to the floor.

In addition to that, we have had a very long and contentious debate on the subject of how the money would be spent. The Senate, again, spoke by deciding that a significant component of that fund will go back to the American people in the form of tax relief for the marriage penalty.

In addition to that, the Senate spoke on the issue of drugs, and a very significant measure was incorporated where, again, a certain proportion of the revenues that will come from the increase of the price of cigarettes is going to go to help fight the war on drugs. I might add, the war on drugs is, in fact, the same as the war on tobacco, because tobacco is an addictive substance that kills people. In this legislation, we are seeking to have the Food and Drug Administration have the capacity to regulate it, and that is in the bill.

That is an important measure for America, that for the first time the FDA will be given the capacity to undertake important regulatory efforts with respect to the use of tobacco. All of that is now contained in this legislation.

We hear talk that there are a couple of substitutes floating around out there. I ask that those who have a substitute to come forward with them perhaps on Monday or Tuesday, and we will be able to move forward with respect to the substitutes if, in fact, they really do exist.

In addition to that, we have a major contentious issue left at some point in time to deal with, which is how to help the farmers. I am certainly particularly sensitive with respect to the Senator from Kentucky and the Senator from South Carolina and the Senators from Virginia and others who are concerned about what happens to those who are impacted by a decision that the U.S. Government may take.

Traditionally, we have tried to help people who are impacted economically negatively as a consequence of decisions that we make that suddenly come in and change their lives. I have always thought that is appropriate. I fought to do that, whether it was people in the Midwest or the South or the West. An example is the fishermen of New England who were adversely impacted by Government decisions that were made on whether or not they could fish the Georges Bank. When we took the Georges Bank away from them for a period of time, we tried to provide economic assistance. We provided, for the first time, a buyout program for some of the fishing vessels in order to help them deal with that issue.

I might add, we are not the first country to do that. Great Britain, Norway and Iceland where they tried to regulate fishing, they also provided significant buyout efforts to do that.

So it is appropriate for us to try to, in the context of the legislation, deal with the problems of the tobacco farmers.

My hope is, Mr. President, that in the next few days, we can do that. The real test before the Senate is very, very simple. There are some people who seem prepared and satisfied with the notion that we can have the status quo be the victor here; that we can leave the tobacco companies without any Federal settlement, without any global settlement, and that the Senate can somehow walk away from the children of America and have done well by the country.

The only people who will benefit by that will be the tobacco companies. Those are the only people who will benefit, and I am not so sure, given the jury verdict in Florida 2 days ago, and given the size of the settlements that have taken place in Minnesota and elsewhere, that they will actually wind up doing that well because, in the end, the lawsuits will proliferate. We may well wind up as we were with the asbestos companies where all of a sudden there is nothing left, and we don't have a tobacco cessation program, we don't have counteradvertising, we don't have any of the restraints that the FDA can impose, but at the same time nor do we have order within the process by which these companies are going to be sued. I think, in the end, nobody benefits from that—nobody benefits.

What is very, very clear is that during that period of time, a lot more young children in America will be subjected to the same barrage of opportunities to pick up a cigarette and get hooked and ultimately die prematurely of it as they are today.

During the time this debate has taken place, more than 60,000 children have started smoking, and we all know that 20,000 or so of them are going to die prematurely as a result of the habit they now have. We know to a certainty that 86 percent of all the people who smoke in America began as teenagers, and we know to a certainty if you raise the price and simultaneously have concerted efforts to reach those children, you will reduce the number of people who smoke.

If you reduce the number of people who smoke, you will give America a tax cut, because every American today is paying a very significant amount of their income to cover the health care costs of a nation that pays for people who are for a long time hooked up to tubes or require oxygen or suffer long-term stays in hospitals as a result of the diseases they get, whether it is cancer of the pancreas, cancer of the throat, cancer of the larynx, kidney problems, heart problems, emphysema—all of these are costly to America. That is the tax on America. And if we want a tax cut, the way to get that tax cut is to pass tobacco legislation.

The only benefit of not passing it would be to keep the tobacco companies liberated to pursue the policies of predatory practice which they have pursued that we now know to a certainty over the last years.

I hope we are going to vote on this next week. I hope we can have cloture on this next week. I hope the majority leader will join us next week by offering a cloture motion and bringing the Senate together to complete its important task of reducing teenage smoking in this country.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I listened to the statements of the distinguished Senator from Rhode Island and the Senator from Massachusetts. I am struck, because I think an awful lot of people become confused about what this bill is. In part, that confusion comes as a result of a substantial amount of expenditures by the tobacco companies saying to citizens of this country that this bill is a tax increase.

I heard the last few words the Senator from Massachusetts was saying. I believe he was saying this bill is not a tax increase; is that what the Senator from Massachusetts was saying? As I understand it, the underlying bill, prior to it being amended by the Senator from Texas, who has been arguing essentially that it is a tax increase, because he is using the same language the tobacco companies are using on television—that it is a tax increase; thus, we should have a tax cut in here as well.

As I understand the underlying bill, it is not a tax increase at all. It is a $15 billion payment into a tobacco trust fund by the tobacco companies that they agreed to last June 20, 1997, and it phases up to a $23 billion fee that the tobacco companies would be paying into a tobacco trust fund as a result of another settlement which occurred in Minnesota where they basically agreed to 50 percent more.

So this bill is not a tax increase. It is a fee being paid by the tobacco companies as a consequence of them now saying that they are stipulating in court documents—and the distinguished Senator from Massachusetts knows more about prosecutorial law than I do—because, as I understand it, they have stipulated now in court documents that nicotine is addictive, that they have been targeting our youth, that they have been failing to disclose all the dangers and risks that are associated with tobacco.

So if you want to talk about tax cuts, I would love to come to the floor and argue about cutting the payroll tax. There are lots of inequities in our tax system I would love to debate. The distinguished Senator from Texas has converted, very intelligently, this debate from one of trying to help Americans who are addicted to stop smoking—they are not just smoking; we now know they are addicted. There is a big difference between just doing something sort of casually and doing what tobacco smokers do.

Forty-five million Americans—likely a very high percentage of those individuals—are addicted. That means they cannot quit, they have a physical addiction, and when they stop smoking, they have withdrawal symptoms, and they have a very difficult time.

There are 330,000 Nebraskans who smoke. They spend $250 million a year on cigarettes every single year. And I see what the distinguished Senator from Massachusetts and the Senator from Arizona are trying to do is write a law so that we have resources at the State level to help those who are addicted to stop smoking.

Just take Nebraska, I would say. We have $250 million a year being spent by 300,000 or so people who smoke. If we are able to get smoking cessation programs and educational efforts, that would mean, let us say, $50 million less a year being spent on tobacco as a result of helping people break away from this terrible addiction to nicotine. They break away from that addiction, and $50 million less, that is $250 million in their pockets.

The Senator from Texas is talking about a tax increase. We are trying to help decrease expenditures on tobacco. And the more we decrease expenditures on tobacco, the more we get a win-win: Money in the pockets of our citizens, the people who are addicted, who did not realize that tobacco was addicting; and improve health consequences.

I note with great interest that the Chamber of Commerce—U.S. Chamber of Commerce—and the National Restaurant Association are opposed to this legislation. They are opposed because they are misinformed, in my judgment. I can make the case at home—and intend to make the case at home—to my State chamber of commerce and my State restaurant association that it is in their interest to reduce the number of citizens in our State who are smoking.

Their health insurance costs are going to be lower; their absentee rates are going to be lower; their productivity rates are going to be higher. I said yesterday that one of my most conservative business friends will not even hire people who smoke as a consequence of understanding the costs that are associated with it.

I see that my friend from Texas has come to the floor. We perhaps can engage in a little colloquy about this, because as I understand this legislation that the Senator from Arizona and the Senator from Massachusetts have brought to the floor, there is a $15 billion fee in it phased up to $23 billion that the tobacco industry has agreed to pay. They agreed to pay $15 billion. And they have agreed in Minnesota to pay 50 percent more. As I see it, the more we are successful in helping people stop their smoking, break away from this terrible addiction, that is going to make them more prosperous, more healthy, as a consequence.

I have talked, and there are a number of questions in there. I would appreciate very much if the Senator from Massachusetts could help me understand if that isn't what is in this legislation, if that isn't the intent of what is in the law as seen by the Senator from Massachusetts and the Senator from Arizona.

Mr. KERRY. If I can respond, I do not think the Senator needs a lot of help. I think the Senator has adequately—more than adequately—described the virtues of what is being attempted here.

I just say to the Senator, in my State of Massachusetts we have discovered, through research, that our addicted citizens are spending $1.3 billion a year to try to get unaddicted—$1.3 billion that is diverted from money they could be putting into schools, putting into their kids' education, that they are paying for nicotine patches, they are paying for the gum, for the hypnosis, for counseling. It is an extraordinary amount of money.

This is happening because almost 90 percent of those citizens got hooked when the tobacco companies targeted them specifically as teenagers. We have now seen—and it is in the record—the degree to which that targeting was a very purposeful replenishment effort for business. They said to themselves, "We've got to replenish the people who are dying off, and we've got to get these people hooked when they are young."

So, R.J. Reynolds, Philip Morris, Brown & Williamson—their own documents testify to the degree to which they were targeting teenagers in order to get them hooked forever.

I do not want to abuse the courtesy of the Senator from Rhode Island, who is expected to proceed forward here. I think he has some time problems, so I do want to allow him to go on with his amendment. And then I know the Senator from Texas is going to go.

But the Senator from Nebraska is absolutely correct. The tax cut in this bill comes from the reduction of the cost of health care to all Americans, the reduction in the cost of lost productivity. All the things the Senator from Nebraska has said are correct.

I yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, thank you.

AMENDMENT NO. 2702

Mr. REED. Mr. President, today I rise to continue my discussion of the amendment I offered last evening, an amendment which would deny the tax deduction for advertising expenses for those tobacco companies which disregard and violate the FDA rule with respect to advertising to children.

This is an amendment that is being cosponsored by my colleagues: Senator BOXER, Senator WYDEN, Senator KENNEDY, Senator DASCHLE, Senator DURBIN, Senator WELLSTONE, Senator FEINSTEIN, Senator BINGAMAN, and Senator CONRAD.

In addition, it has received the widespread support of the public health community. In a recent editorial in the Journal of the American Medical Association, Dr. C. Everett Koop, David Kessler, and George Lundberg wrote about the history of the tobacco industry in the United States. In their words:

> For years, the tobacco industry has marketed products that it knew caused serious disease and death. Yet, it intentionally hid this truth from the public, carried out a deceitful campaign designed to undermine the public's appreciation of these risks, and marketed its addictive products to children.

Numerous, numerous studies have implicated the tobacco industry's advertising and promotional activities as the cause of a continued increase in youth smoking in the United States. Research on smoking demonstrates that increases in youth smoking directly coincide with effective tobacco promotional campaigns.

My amendment addresses this critical issue in this ongoing debate about how we can control teenage smoking in America. It targets the industry's ceaseless efforts to market to children. It is time for Congress to put a stop to the tobacco industry's practice of luring children into untimely disease and untimely death.

This amendment is based on a bill that I introduced earlier this year, along with Senators BOXER, CHAFEE, and CONRAD. I would also like to recognize the leadership of many of my colleagues in prior congresses. Senator HARKIN, along with former Senator Bill Bradley, has made continuous efforts to try to eliminate in total the tax deduction for tobacco advertising.

While I concur with Senator HARKIN that this deduction is of questionable value, I would like to emphasize today that my amendment does not attempt to eliminate the entire deduction for tobacco manufacturers. Indeed, under my amendment, they maintain the deduction as long as they do not advertise to children. Eliminating the promotion of tobacco products to children is a necessary part of any comprehensive effort to prevent tobacco use by minors. My amendment offers a constitutionally sound way to enforce strong tobacco advertising restrictions.

Under my amendment, if tobacco manufacturers do not comply with the advertising restrictions promulgated by the Food and Drug Administration, the manufacturers' ability to deduct the cost of advertising and promotional expenses will be disallowed in that particular year. The restrictions promulgated by the FDA are appropriately tailored to prevent advertising and marketing of tobacco products to minors.

Key components of the FDA regulation include the banning of outdoor advertising within 1,000 feet of a school; black and white text-only advertisements in youth publications—and those are publications which have a readership of more than 15 percent of young people under 18—banning the sale or giveaway of branded items—caps and trinkets, and all sorts of T-shirts—and the prohibition of sponsorship of sporting or entertainment events by brand name.

The FDA has already promulgated these regulations. They are being contested as we speak in the fourth circuit.

Today, my amendment offers an additional enforcement mechanism, an enforcement mechanism that I think will put real teeth into the restrictions. We will put on notice to the companies that they themselves have to carefully watch what they spend on advertising for young people. If they fail to adhere to the FDA rules, they will pay, and they will pay immediately because they will lose their advertising deduction.

Support for this amendment is broad based in the public health community. It is supported by Dr. C. Everett Koop, former Surgeon General of the United States. It is supported by the American Lung Association, by the Center for Tobacco-Free Kids, and by the ENACT Coalition. This is a coalition comprised of leading public health groups, including the American Cancer Society, the American Heart Association, and many others.

The importance of this issue is enormous. The facts speak for themselves. Today, some 50 million Americans are addicted to tobacco. One of every three of these long-term users of tobacco will die prematurely from diseases related to their tobacco use. Tobacco is also clearly a problem that begins with children. Almost 90 percent of those people who smoke today started before they were 18 years old. The average youth smoker in the United States starts at 13 and is a regular smoker by the age of 14½.

This is the greatest pediatric health care problem in the United States today. We have not only the opportunity but the obligation to stop it. A key component in that campaign to give children a chance to avoid smoking is effectively controlling advertising aimed at children. Each year, 1 million children become regular smokers and one-third of these children will die prematurely of long cancer, emphysema, and similar tobacco-caused diseases. Unless current trends are reversed, 5 million children today under the age of 18 will die prematurely from tobacco-related diseases.

More and more, we are learning that children are being enticed into smoking because of industry advertising and promotional efforts. A recent study by John Pierce and others found evidence that the tobacco industry's advertising and promotional activities actively influenced children who have never smoked to start smoking. Among the findings, tobacco industry promotional activities in the mid-1990s will influence almost 20 percent of those who turn 17 and try smoking. At least 34 percent of youthful experimentation with cigarettes is attributed to advertising and promotional activities.

This is an industry which has a sordid record when it comes to dealing with the children of America. We have to learn from their past record to adopt appropriate means of controlling their future conduct. They have made money ruthlessly by marketing to children. They have shown no concern for the children of America. They have only shown concern for the bottom line. And they will continue to target children unless it affects their bottom line.

The culture of big tobacco is one that has yielded incredible revenue by capitalizing on the vulnerabilities of our children. The story of tobacco and their promotional activities is a story of our century and beyond. In the 1920s, the cigarette industry, knowledgeable, of course, that their products were not safe, had the temerity to enlist physicians—or people dressed up like physicians—to be models in their advertising, to suggest that smoking was not only harmless, it was in some way beneficial. Lucky Strikes advertised "20,679 Physicians Say Luckies are Less Irritating" and "For Digestion's sake, smoke Camels," another advertising jingle of the 1920s and 1930s. In 1950, the Federal Trade Commission found that Camel advertising was deceitful, that they were suggesting that their products weren't harmful, and they, in fact, took action against them for false and deceptive advertising.

So for more than 50 years—indeed, for as long as you can recall the history of the tobacco industry—there has been a constant attempt to deceive the American public about what they are selling. That record is one that has to be countered by our legislation in this Congress.

Today, we have Winston ads that are trying to suggest that tobacco products are like health foods, proclaiming "no additives." We have a new Camel campaign, "Live Out Loud," which is a not-so-subtle stand in for the "cool" Joe Camel target of so much criticism.

We know from the documents released by the industry itself they consciously, deliberately, and consistently targeted children. In 1973, a memorandum written by a Claude Teague of RJR said, "if our Company is to survive and prosper, over the long-term we must get our share of the youth market." Another memorandum from a vice president of marketing at RJR, in 1974, C.A. Tucker, concluded, "this young adult market, the 14–24 age group * * * represent(s) tomorrow's cigarette business." What responsible group of people would describe 14- and 15-year-olds as "young adults"? This is what has been going on for years now with respect to the tobacco industry and their conscious, deliberate attempts to entice children to smoke.

In 1982, the then-chairman and chief executive officer of R.J. Reynolds Tobacco Co., Edward Horrigan, testified before the Commerce Committee and tried to dismiss suggestions that they were going after children by simply saying, "No"—in his words—"[p]eer pressure and not our advertising provides the impetus for smoking among young people."

Yet, just a few years later, in 1986, a R.J. Reynolds' Joe Camel advertising memo said this:

> Camel advertising will be directed toward using peer acceptance/influence to provide the motivation [to] target smokers to select Camel. Specifically, advertising will be developed with the objective of convincing target smokers that by selecting Camel as their usual brand they will project an image that will enhance their acceptance among their peers.

What could be more cynical, what could be more hypocritical, than an industry objective trying to dismiss their advertising, saying it has no effect at this time—it is peer pressure—and internally, in their boardrooms, consciously plotting to use that peer pressure tied into their advertising to force children to smoke.

That is the record of this industry. That is why we are here today to enact comprehensive tobacco control legislation. I argue that without appropriate restrictions on advertising, it will not be successful.

The documents that we have seen from all of these different litigations around the country reveal, time and time again reveal they have consciously targeted the young adult smoking market. A 1987 document discussed the "Project LF (Camel Wides), and it states: "Project LF is a wider circumference non-menthol cigarette targeted at younger adult male smokers (primarily 13–24 year old male Marlboro smokers.)" Executives were sitting around in the boardrooms, concocting schemes, so that 13-year-olds will begin to smoke. That is what the record of the industry is.

I am deeply skeptical that this tobacco industry is willing, even today in the glare of publicity with adverse court rulings, to change their behavior unless we act appropriately and with great vigor to ensure that they do what is right and not try to addict children in this country.

Every year the industry spends billions and billions of dollars to find new ways to hook kids into smoking. Examples of what they do are endless. We know from the research and we know from our own experience that pivotal in the decision of a young person to smoke is the advertising they are seeing constantly. Eighty-six percent of underage smokers prefer one of the three most heavily advertised brands—Marlboro, Newport and Camel. That is not a coincidence. That is the effect of a repeated, unending assault on their minds and bodies by tobacco advertising, aimed at getting them to smoke.

One of the advertising campaigns most criticized is the Joe Camel campaign by R.J. Reynolds. When they introduced this campaign, their market share among underage smokers leaped from 3 percent to 13 percent in 3 years—a huge increase. Once you have someone hooked on a brand at 13 or 14 years old, they will probably be your smokers for life, representing to them billions of dollars in profit. They did it deliberately. They did it consciously. They were prepared to accept the criticism because they knew they were hooking these kids, they were hooking them for life, and it was going right into their bottom line. And although the Congress banned television advertising in 1970, tobacco companies routinely circumvent this restriction through the sponsorship of events that give their products television exposure. You can see that their advertising expenditures have been exploding over the last several years. As this chart indicates, from 1975 until today, their advertising expenses have increased tenfold. In 1975, the industry was spending about $491 million a year on advertising.

In 1995 alone, tobacco manufacturers spent $4.9 billion on advertising and promotional expenses, and we are subsidizing these expenses through the tax deduction. In 1995, American taxpayers subsidized $1.6 billion of these expenses that are used in a concerted, conscious effort to hook our kids. We are helping to write the check for that.

(Mr. SMITH of New Hampshire assumed the Chair.)

Mr. REED. In effect, we are subsidizing their advertising costs. In 1995, the amount of our subsidy, the $1.6 billion, paid for all of their efforts to send coupons, to have multipack promotions, to have retail value-added items such as key chains, hats, T-shirts—all the things the kids really like to wear. I don't see many adults running around with them, but I see lots of kids with Joe Camel T-shirts, and key chains, and all the cool things they get. In effect, we paid for that through this subsidy.

You can see the record on this chart of their expenditures and our support of those expenditures through this deduction. As I said, they are spending a huge amount of money trying to get kids to smoke. In ironic contrast, we spend a pittance trying to help people who are afflicted with the diseases caused by smoking. In 1995, that $4.9 billion was double the amount of money we spent for the National Cancer Institute. It was four times the amount of money we spent for the National Heart, Lung and Blood Institute. It represents 40 times what was spent at the National Institutes of Health on lung cancer research.

Those are the proportions. That is the huge amount of advertising expenditures that are being bombarded on the American public, but particularly on the children of this country. We know the cost to our society is significant: $100 billion a year in health costs and lost productivity is estimated. In 1993, health care expenditures directly caused by smoking totaled about $50 billion; 43 percent of those costs were paid for by Medicare and Medicaid.

We are paying both ways. We are helping them sell their products, and then we are taking care of the people who are ill because of their products. We have to do much more. We have to go ahead and ensure that the advertising ban that has been enacted by the Food and Drug Administration is supported with real force and real effect. That is the purpose of my amendment.

Of course, any time you talk about a situation where you are attempting to affect the commercial speech of anyone in this country, you have to reckon with the first amendment to the Constitution, and I do recognize that.

Let me again remind you that the story of the tobacco industry in America is a story inextricably linked to advertising. For decades, the tobacco industry ingeniously promoted its products and has done so with total disregard for the health of its customers. The industry relied upon image rather than information to sell its product. The tobacco industry has taken an addiction that prematurely kills and dressed it up as a glamorous symbol of success in all manner of endeavor. All of this is unsettling, but with the revelation that the industry has deliberately and ruthlessly targeted children, it becomes unconscionable, and we should not and need not accept it.

Now, as I said, we do and must and should recognize that any time you attempt to suggest restraints on commercial speech, you have to reckon with the first amendment. But the amendment I am proposing today combines the narrowly drafted and focused restraints of the FDA rule to prevent marketing to children with the recognized and broad-based authority of Congress over the Tax Code to create a provision that conforms to the first amendment.

First, let's be clear that the Constitution affords a much lesser degree of protection to commercial speech than to other constitutionally guaranteed expression. In 1975, the leading Supreme Court case on the subject of commercial speech essentially said that the Constitution imposed no restraint on Government with regard to "purely commercial speech." Today, commercial speech may be banned in advertising an illegal product or service, and, unlike fully protected speech, pure speech, it may be banned if it is unfair or deceptive. Even when it advertises a legal product and is not unfair or deceptive, the Government may regulate commercial speech more than fully protected speech.

The record of the tobacco industry clearly demonstrates that this industry, over decades, has deliberately carried out a scheme to violate the laws of every State in the Union. All 50 States bar the sale of tobacco products to minors. But as I have shown in these documents, those laws were carelessly and callously disregarded by the industry in their attempt to, as they say, "get the young adult market"—13-, 14-, 15-, 16-, and 17-year-olds.

Since this advertising campaign consciously sought to illegally market their products to children, there should be no protection. The first amendment does not give them the right to engage in illegal marketing schemes. Thus, the most basic reason that this amendment will pass constitutional muster is the fact that it is designed to prevent tobacco companies from promoting illegal transactions.

Even if one were to invoke the constitutional test applied to the legal sale of commercial products, this would still pass muster. In the Central Hudson case, the Supreme Court established the standards for evaluating a purported restraint on commercial speech. As a preliminary point, the Court drew a distinction between legal activities and unlawful activities or misleading speech.

As I have already indicated, if the commercial speech in question involves unlawful activities or it is misleading, then the Government may restrict it. Or, as the Supreme Court indicated in Central Hudson, there can be no constitutional objection to the suppression of commercial messages that do not accurately inform the public about lawful activity.

Now, assuming for the sake of argument, despite the rapidly accumulating evidence to the contrary, that tobacco advertising would be treated as routine commercial speech and the Court would ignore the inherent illegality of their plans to market to children, the proposed restriction still meets the standards of Central Hudson. First, there is a substantial governmental interest in restricting advertising aimed at minors. Second, the proposed restraints directly advance this governmental interest. Finally, the proposed legislation is no more extensive than necessary to serve this substantial governmental interest.

Now, what could be of greater interest to the American people than the prevention of 3,000 children a day from becoming addicted to cigarettes? I daresay that every Member of this Senate would concur that this is not only a valid governmental interest, it is a compelling one—1 million children a year become addicted to cigarettes, and one-third of these children will die prematurely as a result. The FDA has concluded in extensive rule-making that limits on advertising will avert the addiction of anywhere between 25 percent and 50 percent of these children at risk. Literally, we have it within our power to save 250,000 children a year from the ravages of smoking. Prevention of childhood smoking is clearly and unequivocally a substantial governmental interest.

The second prong of the Central Hudson test requires a showing that the proposed restraints directly advance this substantial public interest. Perhaps the most compelling evidence to establish this point is the behavior of the tobacco industry itself. They certainly feel that advertising and marketing is an important part of their strategy to addict children. The industry, overall, spends $5 billion a year on advertising; that is $13 million a day.

We know from the internal documents I have shared with you that much of this effort is directed at ensnaring children. I can remind you of the numerous documents I have cited. They indicate a deliberate and calculated attempt to addict children. Unless we restrain advertising directed at children, we will never effectively prevent the use of tobacco products by children.

All of this evidence is substantiated by the research underlying the FDA rule. In its rule-making, FDA relied on two major studies summarizing the effects of advertising on youthful tobacco use—the study of the Institute of Medicine in 1994 and the Surgeon General's Report in 1994 concluded that advertising was an important factor in young people's tobacco use. Moreover, these reports indicated that advertising restrictions must be part of any meaningful approach to reduce underage smoking. In promulgating its rule, the FDA declared:

> Collectively, the studies show that children and adolescents are widely exposed to, aware of, respond favorably to, and are influenced by cigarette advertising. One study found that 30 percent of 3-year-olds and 91 percent of 6-year-olds identified Joe Camel as a symbol of smoking. Other studies have shown that young people's exposure to cigarette advertising is positively related to smoking behavior and their intention to smoke.

All of this shows that the FDA rules and my amendment are directly related to achieving the substantial government interest.

And the final issue that has to be addressed with respect to the Central Hudson test is to ensure that the proposed restrictions are no more extensive than necessary to accomplish the governmental objective. In the realm of commercial speech, the court requires there be a "reasonable" correlation between the proposed restraint and the policy outcome sought.

Now, it is important to note that the proposed restrictions under the FDA rule do not absolutely prohibit the advertising of tobacco products. They have been carefully tailored to allow continued promotion of cigarettes to adults. Their objective is to prevent marketing to children. The FDA regulations retain the informational value that such advertising has for adults, but affects in a positive way access to these images by children.

It is also important to note that we have, over several decades, tried other means short of advertising restrictions to stem the epidemic of underage smoking. Warning labels have not worked. They are ignored by children in the clutter of the "live out loud," rock-and-roll imagery, or the Joe Camel character, all of those things.

In fact, ironically, the only one the warning labels seem to have helped at least for a while is the industry itself, because they use them in their defense to say that smokers assumed the risk when they picked up a pack of cigarettes because of that label. We tried to ban advertising on television. That has not worked either.

As Chairman Robert Pitofsky of the Federal Trade Commission pointed out in his testimony before the Senate Commerce Committee:

> After cigarette manufacturers were prohibited from advertising on television and radio in 1969 (a prohibition that was intended, in part, to protect children), they put tens of millions of dollars in print advertising to sell their products. In more recent years, the cigarette manufacturers have shifted an increasing amount of money away from traditional advertising and into sponsorships and so-called "trinkets and trash"—T-shirts, caps, and other logo-adorned merchandise—that some believe are very attractive to young people.

We simply cannot rely on the good faith of this industry to do what is right. Today, as we debate this legislation, they continue to target children. Just a few weeks ago I received a letter from a constituent in Rhode Island. He wrote me and said:

> As you consider legislation regarding tobacco company advertising aimed at children, I thought you might like to see a mailing piece that my oldest son, Mark, a junior in high school, recently received. Brown & Williamson Tobacco Company evidently got his name because he attended a concert last summer in which the group featured in the advertisement performed. I suspect that the great majority of the audience was under 18 years of age.

And this is the flier that a high school junior, a 16-year-old child received in Providence, RI.

Here it is: This is the first piece, and this is a very sophisticated piece of direct mail. This was individually addressed to the child, not to occupant, not to parent. This was individually addressed to him. It is his own mail. And we all know, when you are a youngster and you get your own mail, that is a big deal to think that you are so special that a big company like Brown & Williamson would write to you directly.

Here is what it said: "We Know You Like It Loud," the rock concert motive which they might well have sponsored. Again, as Pitofsky pointed out, they have shifted a huge amount of money away from the traditional advertising to go into rock concerts and trinkets and direct mail, and everything else.

And this is the bulk of the advertising: "You like it loud, and very, very smooth. Kool Milds, Kool Filters. Kick back today and enjoy bold taste, refreshing menthol."

And a coupon: "Relax with Kool and slip into something smooth."

"Slip into something smooth," a lifetime addiction to tobacco. That is what they want. It is happening today, directly targeted at children. That is what we are about in the Chamber. It is not about taxes. It is not about lawyer's fees. It is about an industry that continues to go after our kids without any letup, ruthlessly, relentlessly, and they are doing it today, and they will continue to do it today unless we make them understand. And the only way we do it is through the bottom line, that they can't keep doing this again and again.

We have been debating on this floor the last few weeks whether we are going to increase the price of cigarettes $1.10 or $1.50. What do they do in their promotions? They are cutting a buck. Here is one dollar off the two-pack package. Any style of Kool you want, young man. You are 16. You should be smoking. We will give you a break.

That is what this is about. We want to raise the price per pack because we don't want kids to go out there and smoke cigarettes. They want to cut cigarette prices to addict children. It is happening today, shamelessly happening today. We can stop it. We must stop it. We have to go ahead and ensure that this type of activity doesn't take place.

Now, this whole promotion—and I am not the expert on this. This is the whole rock-and-roll series of concerts that are directed at kids. Sure, there might be some college kids there, but this is what is hot in high school. They want to be grown up. They want to go to the rock concert. They are sponsoring the concerts. They are tracking the kids down afterwards. They are sending them promotional materials. They are giving them coupons. Absolutely shameless. We shouldn't accept it. We can't accept it.

Now, the proposed FDA regulations have been carefully tailored to prevent this type of activity, to allow them to market to adults, to make conscience choices, that we can't stop, that we don't want to stop. But we have to, I think, ensure that they are not allowed to continue this type of behavior. My amendment will do that.

Now, moving away from the issue of the constitutionality, and very quickly, with respect to the tax law consequences, the Supreme Court has held that Congress is not required to subsidize first amendment rights through a tax deduction, but a first amendment question would arise if Congress were to invidiously discriminate in its subsidies in order to suppress "dangerous ideas."

Now, the appropriateness of this denial of a deduction which touches upon first amendment issues rests fundamentally on the underlying propriety of the proposed restraint. And as I indicated, the proposed FDA regulations do not "invidiously discriminate." They have been narrowly drafted to conform to the "commercial speech" doctrine of Central Hudson. They will, in fact, stand the test of a court.

And in addition, denying of a deduction as I propose would not ban any speech. The standing bill itself, my amendment, would not require the companies to say anything or refrain from saying anything. But if they violate these rules, they will have to do it on "their own nickel." It won't be subsidized to the tune of $1.6 billion a year by the taxpayers of the United States.

Let me mention something else which I think is appropriate in this context. It is that we have to be realistic and understand that this industry has avoided any type of real regulation for as long as we all can remember. There are laws on the books of the FTC for misleading in advertising. And what happens, the FTC brings a case, it takes 2 years to go through the administrative appeals, they might get an adverse decision. They will appeal it to the courts, and by that time the advertising campaign is gone anyway. They are not going to run a campaign for 100 years. It is the game they are playing. This approach, my approach will make them each year look at what they have done because they have to file their taxes. It will put their auditors and their accountants and their tax attorneys on notice that they can't claim these deductions if they are violating these rules. No messy FDA bureaucracy. No FDA agents running around scouring the countryside measuring the distance between schools and billboards. They are going to have to do it. They should do it. This enforcement mechanism, I think, is another positive aspect of this legislation.

Now, in another context this Senate has voted to deny tax benefits for those groups that engage in speech activities. The most prominent one is the fact that we have denied tax-exempt status to nonprofit groups if they engage in lobbying activities. Lobbying activities—political speech has the strictest scrutiny of the Supreme Court. It is pure speech, not commercial speech, yet we in our wisdom have said: Listen, if you are going to use your tax advantage to go ahead and engage in lobbying, you lose that tax advantage. If we do that to not-for-profit groups, where we do that to groups that are trying to affect positively the health of youth in this country, why should we be reluctant to go ahead and deny this group tax deductions if they are engaged in this type of shameless behavior? I think we should move aggressively to do that.

Let me emphasize my proposal is very narrowly tasked. It is targeted very closely along the lines of the FDA regulations to prevent access of children to this type of tobacco advertising.

Let me make another point about the context of the legislation and how it fits within the particular McCain bill. I commend the Senator from Arizona for his effort toward the goal of this legislation. Indeed, his perseverance, his strength, his endurance has carried us this far along, along with many other colleagues. But this legislation is designed to prevent children from smoking. It is not about taxes. It is not about big government. It is about making the companies stop soliciting kids to smoke.

There are two ways in which the bill does it. First, it reaffirms the full authority of the FDA to promulgate these rules. In effect, it supports the FDA's advertising bans that are being tested now by the industry. A second part is a protocol, a contractual relationship between the industry and the government, which actually imposes further restrictions on what they can do. My amendment affects only the first part of the McCain legislation. It would deny tax deductibility if the industry violated the FDA rule. Again, it is narrowly tailored, it is consistent with the Constitution, and it is something that will effectively stop the industry from doing what they are doing.

We have witnessed, for years and years and years, the industry's unrelenting attempts to addict children to nicotine. They are doing it today. They are doing it through rock concerts, through promotional giveaways, through T-shirts, through every other method of advertising. We know that. We can stop this assault on America's children. We can stop it by supporting the FDA rules and we can stop it, I think, much more decisively and definitively by adopting the amendment I propose, by telling the tobacco companies very straightforwardly: If you choose to advertise to children, you will lose your tax deduction. You will feel it in the bottom line. You will have to pay, as these kids and our society pay for their addiction.

I urge my colleagues to support this amendment.

Mr. KENNEDY. Mr. President, I commend Senator REED for his leadership on the amendment that is before the Senate at the present time. He has proposed a creative and effective enforcement mechanism to deter tobacco industry marketing targeted to children. I strongly support his amendment to eliminate the tax deduction for tobacco industry advertisements that violate FDA advertising restrictions.

Clearly, the tobacco industry should not be marketing its addictive products to children. For years, Big Tobacco has appealed to children through its advertising and promotional campaigns. Tobacco advertising was banned from television in the 1970s, but cigarette manufacturers have found new ways to hook kids on their products through colorful magazine advertisements, free t-shirts and caps with brand logos, product placements on prime-time television shows and in the movies, and sponsorship of sports events and cultural events.

In fact, studies show that more cigarette ads are placed in stores near schools than in other stores. Ads are put next to the candy counters more often than elsewhere in stores. Displays are set at eye-level for children. In stores near schools and in neighborhoods with large numbers of children under 17, there are more tobacco ads outside the store and in the store windows than in cases where schools are nearby.

Recently in Massachusetts, 3,000 teenagers surveyed stores in their communities to identify cigarette advertising aimed at children. Stores within a thousand feet of schools in low-income and minority neighborhoods had more cigarette advertising than stores in affluent communities.

According to a recent study in the Journal of the American Medical Association, children watching the Marlboro Meadowland Auto Race on television were exposed to Marlboro ads over 4,700 times in 90 minutes—4,700 times in 90 minutes. Cigarette ads are theoretically prohibited on television—but the tobacco companies have obviously found a way to get around that prohibition.

These advertising placements do not happen by accident. Tobacco companies have consistently targeted children as young as 12—because they know that once children are hooked on cigarettes, they are customers for life.

In fact, a 1996 study in the Journal on Marketing found that teenagers are three times as responsible as adults to cigarette advertising.

Before the Joe Camel advertising campaign began, less than 0.5 percent of young smokers chose Camel. After a few years of intensive Joe Camel advertising, Camel's share of the youth market rose to 33 percent—33 percent.

Some 90 percent of current adult smokers began to smoke before the age of 18. If young men and women reach that age without beginning to smoke, it is very likely that they will never take up the habit in later years. And so the industry has cynically conducted its advertising in a way calculated to hook as many children as possible.

For at least a generation, Big Tobacco has targeted children with billions of dollars in advertising and promotional giveaways that promise popularity, maturity and success for those who begin this deadly habit.

The Centers for Disease Control and Prevention found that the average 14-year-old is exposed to $20 billion in tobacco advertising—$20 billion—beginning at age 6. It is no coincidence that the three most heavily advertised brands are preferred by 80 percent of children—Marlboro, Camel, and Newport.

A study published in the February 8, 1998 Journal of the American Medical Association also reported a strong correlation between cigarette advertising and youth smoking.

It analyzed tobacco advertising in 34 popular U.S. magazines and found that as youth readership increased, the likelihood of youth-targeted cigarette advertising increased as well.

Two recently disclosed industry documents reveal that Big Tobacco had a deliberate strategy to market its products to children. In a 1981 Philip Morris memo entitled "Young Smokers—Prevalence, Implications, and Related Demographic Trends," the author wrote that "it is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens. Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than other companies from the decline in the number of teenager smokers."

A 1976 R.J. Reynolds Tobacco Company memorandum stated that "young people will continue to become smokers at or above the present rates during the projection period. The brands which these beginning smokers accept and use will become the dominant brands in future years. Evidence is now available to indicate that the 14- to 18-year-old group is an increasing segment of the smoking population. R.J. Reynolds Tobacco must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long-term."

The conclusion is obvious. Big Tobacco's goal is to hook children into a lifetime of nicotine addiction and smoking-related illnesses. They've used Joe Camel, the Marlboro Man, and the prominent placement of tobacco advertising. Obviously, Big Tobacco knows how to stop targeting children. That's why the Reed amendment is so important. If tobacco companies continue to target children with their billboard advertisements near schools, giveways of branded items, sponsorships of sporting events, and magazine promotions, they'll lose their tax deduction.

The health of the nation's children deserves to be protected. The Reed amendment is an important enforcement mechanism to ensure that Big Tobacco plays by the rules.

If we continue to permit tobacco companies to deduct the cost of advertising targeted to children as an ordinary and necessary business expense, we will literally be providing a tax subsidy for this unlawful and immoral conduct. Unless we adopt the Reed amendment, the taxpayers will be paying approximately 35 cents of every dollar spent by the industry on a billboard, on a magazine ad, on a promotional item designed to entrap our children into a lifetime of addiction and premature death. The Senate should declare in one resounding voice that we do not consider addicting children to be "an ordinary and necessary business expense."

This amendment speaks to the tobacco industry in the only language it understands—money. It will dramatically increase the cost, and therefore help to deter, marketing campaigns which seek to convert impressionable kids into lifelong smokers. For every advertisement which does not appear because of this amendment, there may well be a child who does not light up his or her first cigarette.

The Reed amendment deserves the support of every Senator. I urge my colleagues to support it.

Mr. CONRAD. Mr. President, I rise today to express my support for the amendment of the Senator from Rhode Island, Mr. REED. The amendment of the Senator from Rhode Island is an important amendment. Senator REED has been a very important member of the task force that I chaired on the Democratic side on the tobacco issue. He has been a superb contributor to the work of the task force. In fact, he traveled to North Dakota to participate in a hearing on the tobacco issue with me. I went to Rhode Island, and we held a very informative hearing at Brown University in his State.

No one has played a more constructive role than the Senator from Rhode Island, Mr. REED. He is absolutely dedicated to the cause of trying to craft responsible national tobacco policy. As part of that effort, Senator REED has brought to us an amendment. I believe it is an important amendment. It says very simply that the tobacco companies will be denied tax deductibility for advertising if, and only if, a tobacco manufacturer violates the Food and Drug Administration's advertising restrictions.

I am a cosponsor of this amendment. I believe it is an amendment that ought to pass 100 to nothing. There is absolutely no reason why every Member of this Chamber should not support the Reed amendment. We all know that the tobacco industry has a history of marketing to children. After we received through the various trials the documents that were previously secret and beyond our observation, we now know beyond question that this industry has targeted children, sometimes as young as 12 years old. We have seen document after document from the industry itself that demonstrate the truth of those statements.

The advertising restrictions included in the FDA rule are not extraordinary. These restrictions are constitutional. They are carefully targeted to prevent the tobacco industry from advertising to kids. In every State of the Union it is illegal to sell tobacco products to children under the age of 18—in every State in this Nation. It is illegal to market to kids under the age of 18.

In every State of the Nation, the tobacco industry should be stopped from advertising to children under the age of 18. These advertising restrictions are sensible and reasonable, and again, fully constitutional. In fact, the tobacco industry found them reasonable enough to agree to them in the proposed settlement which they reached with the State attorneys general. The tobacco industry actually agreed to some restrictions that went beyond those provided for in the FDA rules. The FDA determined that in order to reduce youth smoking, the following restrictions to advertising should be enforced:

No. 1, no outdoor advertising within 1,000 feet of a public school or playground. We know that outdoor advertising has an impact. Billboards placed close to places where kids spend a great deal of time can be very influential. The tobacco industry is aware of the power of the billboard. According to the industry's own marketing materials:

> Outdoors is right up there, day and night, lurking, waiting for another ambush.

Those are the tobacco industry's own words. The FDA rules also limit advertising in publications with a significant youth readership to a black-on-white, text-only format. They also limit advertising in an audio format to words with no music or sound effects. They also limit advertising in a video format to static, black-on-white text. They also prohibit the marketing, licensing, distribution or sale of all non-tobacco promotional items such as T-shirts and caps. These restrictions do pass constitutional muster. They were designed to pass constitutional muster. These restrictions are aimed at ads that target kids. They do not attempt to ban legitimate commercial speech. Mr. President, that is why they pass constitutional muster.

Senator REED's amendment is intended to penalize the tobacco manufacturer if it fails to limit its advertising and marketing to those who are legally able to buy the product. We know from the thousands and thousands of internal industry documents that the tobacco companies purposely and aggressively sought a youth market share. There can be no question about it. How many times have we heard on the floor the words "youth replacement smoker"? Because the industry has to find someplace to get those to fill the shoes of the 425,000 smokers who die every year from tobacco-related illness. Where do they recruit them? They recruit them from our youth. Maybe we could put up those charts that speak to these questions. These are not my words. These are not the words of the public health advocates of this bill. These are the words of the industry itself. They have said to us they don't market to children.

But in a 1978 memo from a Lorillard executive, they said, "The base of our business are high school students."

"The base of our business are high school students." What could be more clear?

Again, they have said they don't market to children, but if we look at their own documents, in this case a 1976 R.J. Reynolds research department forecast:

> Evidence is now available to indicate that the 14 to 18 year old age group is an increasing segment of the smoking population. RJR must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

These are not my words. These are the industry's own documents, Again, the claim that they don't market to children and another document from the industry, a 1975 memo from a Philip Morris researcher:

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . [it goes on to say] my own data . . . shows even higher Marlboro market penetration among 15 to 17 year olds.

Can there be any question that they targeted kids? Can there be any serious question when their own documents reveal that is precisely what they have done?

Finally from a Brown & Williamson document.

> The studies reported on youngsters' motivation for starting, their brand preferences, et cetera, as well as the starting behavior of children as young as 5 years old . . . the studies examined . . . young smokers' attitudes towards addiction, and contained multiple references to how very young smokers at first believe they cannot become addicted, only to later discover, to their regret, that they are.

These are the industry's documents and they reveal that they have targeted kids. This industry has spent more than $5 billion a year on advertising and marketing each year. The industry says this effort is aimed at getting adult smokers to switch. But their own documents reveal that these ads are also aimed at building youth market share. They repeatedly talk about the need to build the youth market, and they know that smokers are very loyal to the first brand they smoke. Few adults switch brands as a result of tobacco advertising. The reality is that the toys and the slogans and the marketing and the ads are targeted at kids. The campaign by the tobacco industry against our youth must stop. This amendment, the amendment of the Senator from Rhode Island, Senator REED, I think, would help. It would be another tool in the tool box to help us achieve the goals of protecting public health and reducing youth smoking.

Mr. President, I call on our colleagues to support the Reed amendment when we have a chance to vote on it next week.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise once again to address the issue of the constitutionality of the Commerce bill, as modified by the floor substitute.

A buzz seems to be in the air that perhaps the pending substitute bill might actually pass.

What seems to be forgotten—or ignored—however, is there are serious questions surrounding the bill's constitutionality. In a rush to do good, in the haste to pass legislation that limits youth cigarette smoking, some have either ignored the constitutional problems or deluded themselves that no such problems exist.

In 1845, Justice Joseph Story complained "how easily men satisfy themselves that the Constitution is exactly what they wish it to be." Well, the courts will not ignore the Constitution. They will scrutinize the legislation according to applicable case law and constitutional doctrine and, most assuredly, will strike down as unconstitutional pertinent provisions of the bill.

So what will we have accomplished? Major portions of this bill will fail. Teen smoking may not decrease. Or, even worse, from a public health standpoint, the bill will be tied up for a decade or more in litigation; no national tobacco program could be implemented until the litigation is resolved; and more and more teens will start and continue smoking. Many of our youth, naturally, will die prematurely—at least 10 million kids—while this is litigated, assuming it passes in its current form, as unconstitutional as it is. There will be at least 10 years of litigation, and another 10 million kids will become hooked on smoking, a high percentage of whom will probably die prematurely as a result of that.

We must, as a body, address the constitutional concerns raised by the tobacco legislation, and we should not evade this issue.

Mr. President, I want to make clear that I am a strong advocate of legislation that will reduce youth consumption of tobacco products. I also want to make it abundantly clear that I am a vociferous critic of the tobacco industry. But should our disdain for tobacco and our desire to help young people prevent us from crafting an efficacious bill that meets constitutional requisites?

We must heed Justice Oliver Wendell Holmes, Jr., who in 1904 observed that it must always be "remembered that legislatures are the ultimate guardians of the liberties and welfare of the people in quite as great degree as the court." So we must act as guardians of the Constitution. Our oaths of office require it. The American people demand no less of us.

The Commerce bill raises a number of serious constitutional issues which involve the following: No. 1, the first amendment; 2, the prohibition of bills of attainder contained in article I; 3, the takings clause; and 4, the due process clause. Allow me to address each of these issues in the order I listed them.

Let me first turn to the first amendment issue.

The Commerce bill unconstitutionally restricts tobacco product advertising, one, by apparently enacting the August 1996 FDA rule, and, two, by imposing additional restrictions that go beyond these regulations through a so-called "voluntary protocol" modeled after my original tobacco plan.

Section 103 of the floor vehicle deems the FDA rule to be "lawful and to have been lawfully promulgated under the authority of this chapter." The meaning of this is unclear, but the language will probably be interpreted as codifying the rule.

As to the protocol section of the Commerce bill, one must remember that it is intended to be voluntary. It is null and void without the participation of the tobacco companies and the other parties to the June 20, 1997, settlement.

Both of these restrictions violate the first amendment and the Supreme Court's cases defining commercial speech. Moreover, the "counter-advertising" provisions—the "coerced speech doctrine"—of the bill are subject to.

first amendment challenges unless consented to by the tobacco companies, who have said they will not consent to this Commerce Committee bill.

Let me discuss these concerns in more detail.

On August 28, 1996, the U.S. Food and Drug Administration published a rule which restricted tobacco advertising. These limitations include: No outdoor advertising for cigarettes and smokeless tobacco, including billboards, posters, or placards, within 1,000 feet of the perimeter of any public playground, elementary school, or secondary school; other advertising must be in black text on a white background only, in FDA-approved publications; labeling and advertising in audio format must be in words only, with no music or sound effects, and in video format in static black and white text only, on a white background; the sale of any item—other than cigarettes or smokeless tobacco—or service, which bears the brand name, logo, et cetera, identical or similar to any brand of cigarettes or smokeless tobacco is prohibited; offering any gift or item—other than cigarettes or smokeless tobacco—to any person purchasing cigarettes or smokeless tobacco is prohibited; and sponsoring any athletic, musical, or other social or cultural event is prohibited.

In April 1997, the U.S. District Court in Greensboro, NC, while upholding the FDA's general jurisdiction over tobacco, held that the FDA did not have statutory authority to regulate advertising. The first amendment issues, therefore, were not addressed by the court. An appeal is pending in the Fourth Circuit Court of Appeals. Oral arguments were heard earlier this week.

These advertising restrictions propose to be codified in a freestanding FDA regulation of the tobacco section of the Commerce bill. The Commerce bill also broadens these restrictions, and, much like the original Hatch bill, it places these broader restrictions in a voluntary yet binding contract termed the "protocol."

Pursuant to the protocol, the tobacco companies waive their first amendment rights in exchange for the settlement of existing suits and the scaled-back civil liability limitations—in the original floor vehicle, the "soft" cap on annual payments—that is, $6.5 billion per year. These modest civil liability limitations may be nullified if the Gregg amendment is adopted.

As the bill currently stands, the proposed incentives for the tobacco industry to agree voluntarily are largely illusory, hence the explanation for the recent withdrawal by the industry from the June 20 settlement. So there is no longer any voluntary consent protocol. Private parties may waive their constitutional rights. I cite with particularity the Snepp v. United States 1980 case. We can only assume that without this waiver, parties will tie up the legislation in the courts for years. I don't think there is any question about it.

The Supreme Court has consistently held that constitutional rights may be waived provided that such waiver is knowing, voluntary and intelligent. [See Fuentes v. Shevin, 407 U.S. 67, 95 (1972); D. H. Overmyer Co., Inc. Of Ohio v. Frick Co., 405 U.S. 174, 187 (1972).] Of course, the tobacco companies have now withdrawn from the settlement, so no waiver can occur unless they rejoin the negotiations.

So, the tobacco industry will not enter into the protocols and we must analyze the bill's constitutionality on this fact. With this bill, we are not discussing restrictions which will be agreed to. Hence, the constitutionality is the problem.

Because the advertising restrictions affect only commercial speech, they are entitled to less First Amendment protection than, let's say, political speech. [E.G., Central Hudson Gas & Elec. Corp. v. Public Service Comm'n, 447 U.S. 557 (1980).] Yet, according to the 1980 Supreme Court decision in Central Hudson v. Public Service Commission, the government still bears the burden of justifying a restriction on commercial speech. I also cite, Rubin v. Coors Brewing Co. [, 115 S. Ct. 1585, 1592 (1995).] According to Central Hudson, the Supreme Court has enunciated a four-part test governing the validity of commercial speech restrictions: 1. Whether the commercial speech at issue is protected by the First Amendment, whether it concerns a lawful activity and is not misleading; and 2. Whether the asserted governmental interest in restricting it is substantial; If both inquiries yield positive answers, then; 3. Does the restriction directly advance the governmental interest asserted; and 4. Is the restriction not more extensive than is necessary to serve that interest?

In the 1996 case of 44 Liquormart, Inc. v. Rhode Island, [116 S. Ct. 1495 (1996)], the Supreme Court heightened the protection that the Central Hudson test guarantees to commercial speech. It makes clear that an effectively total prohibition on "the dissemination of truthful, non-misleading commercial messages for reasons unrelated to the preservation of a fair bargaining process" will be subject to a stricter review by the courts than a regulation designed "to protect consumers from misleading, deceptive, or aggressive sales practices."

The proposed restrictions would fall with in the scope of the first prong of the test because, presumably, the advertising is lawful and not misleading. They would also meet the second prong because protecting the public health, safety, and welfare (particularly when the public group being protected is comprised of children) is a substantial interest.

So, a court in analyzing the constitutionality of the advertising restrictions will be left to question seriously whether the third and fourth prong of the Central Hudson test has been met. In other words, the questions facing the Congress and a future court are whether the government could carry its burden of proving the advertising restrictions will directly advance the reduction of youth smoking and that the restrictions are not more extensive than necessary to accomplish this objective.

Because "broad prophylactic rules in the area of free speech are suspect," courts rigorously apply the third and fourth factors of the Central Hudson test. The Supreme Court noted in Edenfield v. Farre [507 U.S. 761, 777 (1993).] that as to the third and fourth factors "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms."

Although Congress may reasonably believe that the severe curtailment of tobacco product advertising will impact youth smoking, that fact alone will not satisfy the government's burden of providing a direct advancement of its interest. As the Second Circuit held recently, to satisfy this burden, the government must "marshall . . . empirical evidence" supporting its "assumptions," and must show that its putative interest is advanced "to a material degree" by the restriction on speech. [Bad Frog Brewery, Inc. v. New York State Liquor Authority, 134 F.3d 87, 98, 100 (2d Cir. 1998).]

This burden is a heavy burden.

It is unlikely that there is uncontroverted "empirical evidence" proving, for example, that prohibiting sponsorship of athletic, social, or cultural events under the brand name of a tobacco product, or that prohibiting advertising without notice to the FDA in any medium not pre-approved by the FDA would have a material impact on youth smoking. The Senate has held more than 30 hearings on the tobacco settlement, but have we been provided any such "empirical evidence?" And the answer is "no."

But, even if the government could carry its burden of proving direct advancement of its interest, it cannot survive the fourth prong of the Central Hudson test and prove that the FDA regulations are not more extensive than necessary.

The Supreme Court has found that a restriction on commercial speech is not sufficiently narrow, and is, thus, unconstitutional, when there are available to the government "alternatives that would prove less intrustive to the First Amendment's protections for commercial speech." [Rubin v. Coors Brewing Co., 514 U.S. 476, 491 (1995).]

There are obvious regulatory and legislative alternatives here.

First, the entire premise of the Commerce bill is that other regulations that do not impact First Amendment freedoms will advance the government's interest in reducing youth smoking. These include (1) enforcement of the current access restrictions, public education and counter-advertising projects (2) price increases, and (3) cessation programs.

For example consider the 44 Liquormart case I mentioned earlier, [116 S. Ct. at 1510], which held that liquor price advertising restrictions failed Central Hudson's fourth factor, since the government could have accomplished its objective through increased taxation, limits on purchases, and educational campaigns.

Moreover, any assertion by the government that non-speech alternatives would be ineffective in reducing youth smoking would not be viewed favorably by the courts.

In publishing final regulations promulgated under the ADAMHA Reorganization Act of 1992, that's alcohol, drug abuse, mental health administration, an act which conditioned federal grants on state enforcement of tobacco access restrictions, Department of Health and Human Services—the federal agency with expertise on the matter—proclaimed that "aggressive and consistent enforcement of states are likely to reduce substantially illegal tobacco sales." [61 Fed. Reg. 1492 (Jan. 19, 1996).]

Likewise, the Surgeon General stated that the ADAMHA Amendments would "provide significant new leverage for increased enforcement of laws to reduce sales of tobacco products to youth." I might add, this was included in "A Report of the Surgeon General: Preventing Tobacco Use Among Young People," 254 (1994).

In addition, other measures directed at youth contained in the Hatch bill, but not the Commerce bill—such as imposing criminal penalties on purchases or possession of cgiarettes by underage persons, or making entitlement to a driver's license dependent on a record without such offenses—would clearly advance the government's interest more directly than would advertising restrictions.

Finally, the Commerce bill's Protocol restrictions, if they are somehow imposed without consent, would work an even more clear violation of the First Amendment.

The Protocol restrictions are no less broad than the voluntary restrictions in the Proposed June 20 settlement. And nearly every First Amendment scholar who has testified before Congress has concluded that such restrictions would violate the First Amendment if enacted unilaterally. I refer my colleagues to the testimony of Laurence H. Tribe, who testified before the Senate Judiciary Committee last July that any legislation containing the Proposed Resolution's advertising restrictions would be "extremely problematic under the First Amendment."

I also refer my fellow Senators to the testimony of Floyd Abrams, one of the leading legal experts in the first amendment privileges and rights, before the Senate Judiciary Committee on February 10, 1998, where he asserted that any act containing the proposed resolution's advertising restrictions would be "destined to be held unconstitutional" under Reno v. American Civil Liberties Union, [117 S. Ct. 2329,2346 (1997)].

Now, let me next discuss the counteradvertising provisions.

Another first amendment problem plaguing this bill is that, if enacted, the bill would also violate the U.S. Constitution insofar as the "counteradvertising" provisions would require the tobacco industry to fund directly political and commercial speech with which it disagrees. This violates the so-called "coerced speech" doctrine.

Section 221 of the Commerce bill would directly require the tobacco industry to fund a tobacco-free education program, which would award grants to public and nonprofit, private entities to carry out public informational and educational activities designed to reduce the use of tobacco products.

Section 1172 would direct the Secretary of Health and Human Services to disburse funds appropriated for the tobacco industry to be used "to discourage the use of tobacco products by individuals and to encourage those who use such products to quit."

Now, I do not question these objectives or the motives of those who drafted these restrictions. They certainly had the best interests of the public at heart in doing so.

Nevertheless, the Commerce Committee bill would—in these two separate instances—compel the tobacco industry to directly fund political and commercial speech to which they may be opposed, in derogation of the first amendment rights to be free from compelled speech and compelled association. Compare this to a situation where speech is subsidized by Government, but the revenues come from the General Treasury. In this situation, there would be no constitutional violation. But the bill is constitutionally infirm and violates the Constitution.

As the United States Supreme Court has held, the first amendment prohibits Government from "requiring a speaker to associate with speech with which it may disagree." That is Pacific Gas & Electric Co. v. Public Utilities Commission of California [475 U.S. 15 (1986)]. Government-compelled funding of objectionable speech infringes upon both the right of free speech and the right of free association. [Id. at 20–21]

At issue in the Pacific Gas case was a State order that required the Pacific Gas and Electric Company to disseminate the views of one of its regulatory opponents. In finding that such an order violated the first amendment, the Supreme Court held that "for corporations, as for individuals, the choice to speak includes within it the choice of what not to say. . . . Were the Government freely able to compel corporate speakers to propound messages with which they disagree, this protection of the first amendment would be empty."

I refer my colleagues to Abood v. Detroit Board of Education [431 U.S. 209, 234–35 & n.31], a 1977 case, where the Court held that Government-compelled union dues may not be used for ideological purposes.

Various Federal courts of appeals, including the Third, Seventh and Ninth Circuit Courts of Appeal, have also held that the freedom of speech includes the right not to be compelled to render financial support for other speech, especially when the views expressed are contrary to one's own. These cases include Cal-Almond, Inc. v. U.S. Department of Agriculture [14 F. 3d 429, 434–35 (9th Cir. 1993)], U.S. v. Frame [885 F. 2d 1119, 1132–33 (3rd Cir. 1989)], and Central Illinois Light Company v. Citizens Utility Board [827 F. 2d 1169 (7th Cir. 1987)].

This right to be free from compelled funding of objectionable speech is hardly a new development in the law.

As early as 200 years ago, Thomas Jefferson declared that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical." [See Abood, 431 U.S. at 235 n.31.]

Moreover, as recently as last year, the Supreme Court reiterated that the protections of the first amendment are called into play whenever Government seeks to "require speakers to repeat an objectionable message out of their own mouths, or require them to use their own property to convey an antagonistic ideological message. . .." That is Glickman v. Wileman Brothers & Elliot, Inc. [117 S. Ct. 2130, 2139 (1977)], a 1997 case decided last year.

Thus, the Commerce bill—by essentially forcing tobacco manufacturers to finance an advertising campaign—could be found to infringe on their rights to be free from compelled speech and compelled association. Unless heightened legal strictures are first met, the Commerce bill may not constitutionally require the industry to fund antitobacco speech.

Keep in mind, this is a legal industry. As bad as it is, as much harm as it does, it is still legal. We are unwilling to ban this industry and to force these companies to leave our country because we have approximately 50 million smokers in this country who are hooked on cigarettes. And it has always been approved as a legal business through all of these years. So these constitutional points are important points, in spite of the fact that we may despise what these companies do.

In order for the "counter-advertising" provisions of the Commerce bill to pass constitutional muster, there must be a "narrowly tailored means of serving a compelling State interest." [See Pacific Gas, 475 U.S. at 19]

Although the Federal Government may have a "compelling State interest" in reducing the health hazards associated with smoking, the Commerce bill addresses that concern with a broadside approach that is far from narrowly tailored, and which unnecessarily tramples on important first amendment rights. The lack of "narrow tailoring" is most evident from the fact that Congress has available to it a whole host of alternative methods to encourage and finance antitobacco speech that would not impinge on any constitutional concerns.

For example, Congress could provide tax incentives to members of the mass media in exchange for their cooperation in supporting counter-advertising. Or Congress could condition the receipt of certain Federal funds—that is educational and research grants—on the requirement that recipients promote measures to reduce tobacco use. Or Congress could even directly subsidize antitobacco advertising through the Department of Health and Human Services, provided that all such funding was drawn from taxpayers "generally"—and not exacted from the tobacco industry in particular. I refer my colleagues to the Supreme Court's opinion in U.S. v. Frame [885 F. 2d 119, 1132-33 (3d Cir.)], a 1989 case, which emphasized the distinction between "money from the general tax fund" and money from "a fund earmarked for the dissemination of a particular message associated with a particular group." Should this bill become law, a Federal court would have to conclude that instead of choosing any one of these constitutionally permissible methods of funding counter-advertising, the Congress will have adopted a scheme that unnecessarily infringes upon the first amendment rights of the tobacco industry.

Let me discuss bill of attainder, takings, and due process issues raised by the Commerce bill.

The Commerce bill would impose large annual payments on these tobacco product manufacturers that enter into a voluntary protocol.

Keep in mind, they have said they are not going to enter into a voluntary protocol if the McCain bill is the bill that passes. But let's assume otherwise.

The first six annual payments are to be made regardless of sales or profits. The bill would also provide for a $10 billion up-front payment.

Any attempt to impose the Commerce bill's payment scheme on an involuntary basis would be subjected to legal challenge under at least three independent constitutional provisions—the Bill of Attainder Clause, the Takings Clause, and the Due Process Clause of the Constitution.

The implementation of the "look-back" penalties—if the industry is without fault—raises the same constitutional concerns.

The Comprehensive Tobacco Resolution agreed to between the tobacco companies and the State attorneys general contains a "look-back" provision, whereby, if prescribed goals for reducing teen smoking rates in future years are not achieved, the tobacco companies would be subject to specified monetary liabilities.

The Commerce bill imposes greater "look-back" liabilities upon the tobacco companies—amounting to more than $5 billion per year—without the consent of the industry. Thus, the bill would impose multibillion dollar liabilities upon tobacco companies—over and apart from the ongoing payments the companies would be called upon to make as part of the resolution.

Even if the companies fully complied with all measures imposed by the resolution to prevent teen smoking, they would be subject to the penalties without any showing of illegal or wrongful conduct whatever.

Let me discuss why certain provisions in this bill violate the prohibition of bills of attainder contained in Article I, Section 9, Clause 3 of our Constitution. This provision simply reads, "No Bill of Attainder or ex post facto Law shall be passed."

What is a bill of attainder? The Bill of Attainder Clause prohibits the imposition of a punishment by Congress without a judicial trial. That was decided as early as 1866 in the Cummings v. Missouri case [71 U.S. 277 (1986)]. The clause reflects the framers' belief that "the legislative branch is not so well suited as politically independent judges and juries to the task of ruling upon blameworthiness." That is U.S. v. Brown [381 U.S. 437, 445 (1965)], a 1965 case. Legislation violates the Bill of Attainder Clause if it singles out a specific group for unique treatment imposing punitive liability upon that group without a trial.

I refer my colleagues to Selective Service System v. Minnesota Public Interest Research Group, [468 U.S. 841, 846 (1984)], and also generally to Nixon v. Administrator of General Service [433 U.S. 425, 469-475 (1977).]

In sum, a general definition of what constitutes a bill of attainder demonstrates that a bill of attainder prohibited by the Constitution is composed of two elements: first, an element of punishment inflicted by some authority other than a judicial authority; and second, an element of specificity, that is, a singling out of an individual or identifiable group for the infliction of the punishment. In other words, a bill of attainder is primarily a legislative act designed to punish an individual or discrete class of individuals without a hearing or a demonstration of fault.

It is clear that a court would interpret the floor vehicle's penalties as punitive and would thus violate the Bill of Attainder prohibition.

The so-called "look-back penalties" in the floor vehicle—in other words, in the Commerce bill before this body—which are imposed on the tobacco companies if teen smoking does not meet certain goals for reduction, are subject to constitutional challenge unless they are voluntarily agreed to by the tobacco companies.

I might add, which, of course, is not the case. The companies have said they will not voluntarily agree to what they consider to be the exhorbitantly punitive bill that is before the Senate at the present time.

I am talking about even the substitute as brought forward by the distinguished Senator from Arizona.

I might add that the bill now terms the penalties "surcharges." But this simply is an attempt to elevate form over substance. No matter how they are termed, these payments are the functional equivalent of fines. Thus, the Supreme Court in United States v. Lovett, [328 U.S. 303 (1946)], held that legislative acts—no matter what there form or what they are called—that apply either to an individual or a discreet class in such a way as to impose punishment without a trial—are bills of attainder prohibited by the Constitution.

Given what we know—or do not know—about how teens react to advertising, it is possible that even if the tobacco industry does all it can to prevent teen smoking, and teen smoking still will not meet the target, then they are being punished unnecessarily. Moreover, besides the look-back penalties, the floor vehicle contains an additional provision that companies lose their liability cap protection if underage smoking exceeds the targets by a set amount. This is also done without a showing of fault.

The Bill of Attainder Clause has been invoked by lower courts to invalidate similar punitive economic legislation aimed at particular industries, companies, or individuals. Thus, for example, in SBC Communications, Inc. v. FCC, the District Court struck down provisions of the recently enacted Telecommunications Act, which subjected regional telephone companies to burdensome requirements for entry into the long distance business. [981 F. Supp. 996, 1004 (N.D. Tex 1997).] Because the "Baby Bells" were singled out for unique and economically punishing regulatory treatment—based on an unproved legislative presumption that they were engaged in ongoing anticompetitive practices—the Court held that the provisions violated the Bill of Attainder Clause.

As another example, in News America Publishing, Inc. v. FCC, the D.C. Circuit invalidated on First Amendment grounds a law that singled out Rupert Murdock for unfavorable treatment. [844 F.2d 800, 813 (D.C. Cir. 1988).]

Explaining that the "safeguards of a pluralistic system are often absent when the legislative zeros in on a small class of citizens," the D.C. Circuit found that the challenged provision "strikes at Murdoch with the precision of a laser beam," and held the provision unconstitutional. "Congress' exclusive focus on a single party clearly implicates values similar to those behind the constitutional proscription of Bill of Attainder."

The Supreme Court in Nixon v. Administrator of General Services, [433 U.S. 425, 468–484 (1977)] has indicated that the existence of punishment is dependent upon the circumstances of individual cases.

A three-part test 'to determine whether a legislative act is a bill of attainder was developed. One test is that of historical experience under the law of England and our own country the United States. This test involves an analysis of punishment in terms of what traditionally has been regarded as punishment for purposes of bills of attainder—which were used to seize or escheat property—and bills of pains and penalties—which were used to deprive individuals of their civil rights.

A second test is a functional one which takes into account the extent to which any enactment challenged as a bill of attainder furthers any non-punitive purposes underlying it.

A third test for determining the existence of the punishment element is a motivational one, involving an assessment of the purposes or motives of the legislative authority.

There can be little doubt that applying the Supreme Court's three-part test would result in the conclusion that the look-back penalties constitute a bill of attainder. Imposing the floor vehicle's payment scheme upon the tobacco industry without its consent would, in effect, be a fine for the tobacco industry's past conduct and would therefore constitute a bill of attainder, even if a due process hearing were held to determine factually whether goals were met or not.

First, the scheme would single out a discrete group for unique treatment, since the payments would be forced only upon the country's five major tobacco manufacturers. And, second, payments would be imposed by the terms of a congressional decree, not through a trial.

That these measures are "punitive" would be readily apparent to any court (1) from the huge payments which historically and functionally amount to a deprivation and confiscation of property; and (2) from the legislative record, which is replete with expressions of congressional condemnation of the tobacco industry and, therefore demonstrate a clear motive to punish. Thus, the bill punishes and is directed at a discrete group, that is, the tobacco companies.

Let me make clear that there is no greater critic of the tobacco industry than ORRIN HATCH.

I have fought them vigorously for most of my career.

I believe that the tobacco companies have done great harm particularly to the children of this nation.

They have hidden documents demonstrating the addictive nature of nicotine.

They have concealed evidence that cigarette smoking is a significant contributor to such diseases as cancer and emphysema.

Nevertheless, we must put our faith in the judicial process. If wrongs have been committed by the tobacco industry, the courts will reveal and punish them. That specter is what has brought the tobacco companies to the bargaining table. That threat is what caused the tobacco companies to settle with the 40 state attorney generals. That risk is what led the tobacco companies to settle the individual state suits in Mississippi, Florida, Texas, and Minnesota.

Our task is to pass moderate legislation that implements the settlement and adheres to the Constitution. Passing legislation that amounts to a bill of attainder is a very dangerous precedent.

THE TAKINGS CLAUSE

Mr. President, let me now turn to the property rights issues that the bill raises.

The Takings Clause in the Fifth Amendment provides, "nor shall private property be taken for public use without just compensation." The Takings Clause "conditions the otherwise unrestrained power of the sovereign to expropriate, without compensation, whatever it needs." United States v. General Motors Corp., [323 U.S. 373, 377 (1945).]

As the Supreme Court in Dolan v. City of Tigard, [512 U.S. 374, 384 (1994).] held: "One of the principal purposes of the Takings Clause is 'to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'"

Where there is, in fact, a permanent physical occupation—no matter how small—the Supreme Court has held that there is a per se taking, immune from application of the balancing test, which I will discuss shortly. [See Loretto v. Teleprompter Manhattan, CATV Corp., 458 U.S. 419 (1982). I refer my colleagues to the Lucas v. South Carolina Coastal Council, [505 U.S. 1003 (1992)] case and its discussion on the distinction between per se or categorical takings and regulatory takings.

As the Supreme Court noted in the 1984 case of Ruckelshaus v. Monsanto Co., while "[c]ondemnation of land by the power of eminent domain is the commonest example of [a] taking," it is well-established that the "taking of personal property" is likewise protected by the Takings Clause. [Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1003–04 (1984).]

And the Supreme Court has held explicitly that the Takings Clause protects not only against government expropriations of intangible personal property but also against government expropriations of money. [Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 162–63 (1980).] In Webb's Fabulous Pharmacies v. Beckwith, a state court, which had maintained funds owed the plaintiff in a court bank account, tried to withhold over $9,000 of interest as a fee for "receiving money into the registry of court." The Supreme Court held that because "the exaction [amounted to a] forced contribution to general governmental revenues, and [was] not reasonably related to the costs of using the courts," it constituted a taking.

It seems to me that the Commerce bill's expropriation falls under the bright line per se takings rule. Clearly, monies and assets are being expropriated, and this is not an example of a regulatory taking, where a court must balance certain factors to determine whether a diminution of value constitutes a taking. [See generally Ruckelshaus v. Monsanto, 467 U.S. 986 (1984).]

Moreover, even if the regulatory takings balancing test were applied, the Commerce bill's confiscations probably would be considered unconstitutional. In determining whether expropriation of money from the tobacco product manufacturers constitutes a taking, a reviewing court would focus upon the following factors: the character of the government action; the economic impact of the regulation on the claimant; and the extent to which the regulation has interfered with reasonable investment backed expectations.

Application of this three factor Penn Central test shows that forcing the Commerce bill's payment scheme upon the tobacco industry would constitute a taking.

First, the character of the governmental action is—quite clearly—a seizure of money. It does not even purport to function as a "fee" or a "tax," since the initial $10 billion payment and the first 6 annual payments are owned regardless of whether there is any income and regardless of whether there are any sales.

Moreover, there is no effort to make the amount of the payments relate in any way to the costs of smoking programs that the bill authorizes. And, no industry—not even the tobacco industry—could be said to "expect" that its.

capital could be simply expropriated in lump sum amounts for the public's benefit. Indeed, the Supreme Court found a taking in Webb's Fabulous Pharmacy when the Government merely interfered with the right to receive interest on capital.

In this nation's history, there is no statutory precedent whatsoever for forced lump sum payments in anything even approximating the amounts contemplated here in this proposed legislation.

In addition, the floor vehicle's document provision is constitutionality suspect. I must point out that the June 20 settlement agreement presupposed voluntary participation by the tobacco companies in releasing proprietary documents.

While litigation documents already made public can be released to the FDA, as required in the bill, it is problematic that the industry could be required to release additional documents, especially work product, confidential, or privileged documents without the Court saying so. Such documents are property as defined by the Fifth Amendment.

Thus the district court in Nika Corp. v. City of Kansas City, [582 F. Supp. 343 (W.D. Mo. 1983),] held that a corporation's documents constitute property under the Fifth Amendment. I now refer my colleagues to other cases—United States v. Dauphin Deposit Trust Co., 385 F.2d 129 (3rd Cir. 1967), where the court found that a trust company has property interest in documents and business records. I also refer my colleagues to Webb's Fabulous Pharmacies, Inc. [at 162–63.]

Pursuant to the same theory, the forced funding by the industry of the depository—the leasing of the building, the salaries of the personnel, etc., indeed as for any confiscation of cash or any valuable assets—would constitute a taking under the Fifth Amendment requiring compensation. [See Webb's Fabulous Pharmacies, Inc. at 162–63.]

Furthermore, the multi-billion-dollar appropriation by the government of the tobacco companies' funds through "look-back" provisions constitutes the very type of government expropriation that the Supreme Court has held in the past to be an unconstitutional taking. Thus, where the Government does not merely impair an owner's use of private property, but actually seizes ownership of private property (such as money) for its own use without compensation, there is an unconstitutional taking. [See, e.g., Webb's Fabulous Pharmacies, 449 U.S. at 163; Loretto, 458 U.S. 419 (1982).]

DUE PROCESS

In addition to First Amendment, Bill of Attainder, and Takings concerns, forced industry payments would also violate due process. The substantive due process guarantee of the Fifth Amendment bars "arbitrary . . . government actions 'regardless of the fairness of the procedures used to implement them.'" [Zinermon v. Burch, 494 U.S. 113, 124 (1990).]

The Commerce bill's payment scheme—if imposed involuntarily—would arbitrarily compel settlement of various pending and potential litigations for the arbitrary amount. Indeed, the arbitrariness of the payments is clear on its face: the Bill expressly provides that the payments would be, in part, to settle the state attorneys general actions.

But, at the same time, the Bill gives each state the right to opt out and pursue its claims, yet fails to give the tobacco product manufacturers any offset if the states choose to exercise this right.

The possibility remains that, through no fault of the tobacco industry—and indeed despite the industry's full cooperation in efforts to end tobacco use by minors—teen smoking reduction goals established as part of a resolution may not be reached within the planned timetable.

In that event, if look-back obligations were imposed by legislative edict without the companies' consent, the companies would incur massive and unpredictable monetary liabilities, not because they failed to implement the terms of the resolution in good faith or otherwise acted improperly, but merely because the nation was unsuccessful in fully achieving its goals for reasons unrelated to any conduct of the tobacco companies. Such a legislative imposition of "look-back" liability—absent any finding of actual responsibility on the part of the tobacco companies—would flout fundamental tenets of due process.

Due Process contains two components: procedural due process and substantive due process. A statutorily imposed, non-consensual look-back scheme violates each of these components.

PROCEDURAL DUE PROCESS

As the Supreme Court restated in 1992, the right to procedural due process guarantees a "fair procedure in connection with any deprivation of life, liberty or property." [Collins v. City of Shaker Heights, 503 U.S. 115, 125 (1992).] Among other things, procedural due process requires that individuals must receive notice and an opportunity to be heard before government deprives them of property, [United States v. James Daniel Good Real Property, 510 U.S. 43, 48 (1993),] and a fair trial in a fair tribunal. [In re Murchison, 349 U.S. 133, 136 (1955).]

Here, no such fair procedures exist.

The proposed legislatively-mandated "look-back" schemes essentially provide that if teen smoking fails to decline by certain percentages, there will be no notice, no opportunity to be heard as to whether that event were caused by any tobacco company conduct, and no trial.

Instead, the tobacco companies are automatically proclaimed liable to pay billions of dollars if the Secretary determines that the goals are not met. This violates procedural due process.

The Commerce bill does provide for court review upon imposition of a penalty. But this review is simply to determine the factual determination of the Secretary of HHS on whether the targets of reduction in youth smoking have been met. If not met, the penalties, according to the bill's language, must be imposed.

SUBSTANTIVE DUE PROCESS

Even apart from its manifest failures as a matter of procedural due process, a legislatively imposed "look-back" scheme would violate substantive due process as well. The substantive due process guarantee of the Fifth Amendment bars "arbitrary . . . government action 'regardless of the fairness of the procedures used to implement them.'" [Zinermon v. Burch, 494 U.S. 113, 124 (1990).]

Here, the arbitrariness of the look-back scheme is clear; the look-back scheme would automatically assign massive liability to tobacco companies even if the companies fully complied with all steps to reduce teenage smoking.

Indeed, if one steps back from the current issues surrounding tobacco and looks to analogies for other industries, the arbitrariness, and, therefore, the unconstitutionality, of the proposed look-back scheme is even more obvious. Thus, the proposed legislative mandate would be the equivalent—for constitutional purposes—of imposing multi-billion-dollar liabilities on the automobile industry if—despite car companies' full compliance with government safety and design mandates—death rates from automobile accidents did not decline by certain desired percentages;

It would be the equivalent of imposing liabilities on the beef industry if—despite its funding of increased public health advertising programs—Americans failed to limit their meat intake and the instance of heart disease in America did not decline by certain percentages;

It would be the equivalent of imposing liabilities on the alcohol industry if—despite its best effort to educate the public and promote enforcement of state minimum age purchase laws—underage drinking and drunk driving fatalities will not decline by certain percentages.

It would be the equivalent of imposing liabilities on the airline industry if its on time performance failed to satisfy government targets, without regard to whether such deficiencies resulted from failures in the government-run air traffic control system or bad weather, rather than industry conduct.

In each of these cases, such liability would be imposed regardless of the reasonableness of the "targets."

There can be no question but that the look-back provisions here would be just as arbitrary and irrational as the above hypotheticals.

Thus, the various proposed look-back schemes irrebuttably presume that, if teen smoking does not drop by a certain percentage, it definitively is a result of conduct by the tobacco companies. This would be irrespective of any showing a tobacco company could make that it fully complied with all steps to reduce teen smoking and that the failure of the nation to meet its teen smoking goals was based solely on external factors.

Such irrebuttable presumptions have been repeatedly struck down by the Supreme Court. [Vlandis v. Kline, 412 U.S. 441, 446 (1973),] The Court struck down as an irrebuttable presumption a stricture that anyone who had an out-of-state address at the time they applied for admission to a university remained a non-state-resident throughout their tenure at the university. [See also Tot v. United States, 319 U.S. 463, 467–68 (1943).]

Moreover, in only recently striking down a punitive damage judgment, the Supreme Court has held that the Due Process Clause precludes the imposition of liability that does not bear a justifiable relationship with actual conduct. [BMW v. Gore, 116 S. Ct. 1589, 1599 (1996).

Here, the proposed "look-back" scheme would impose multi-billion-dollar liability without any showing of any improper conduct whatsoever. The Due Process Clause simply does not permit such a "deprivation [of property], through the application, not of law and legal processes, but of arbitrary coercion." [Id. at 1605 (Breyer, J., concurring).] [I refer my colleagues to Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 689 n.27 (1974), where the Supreme Court noted that liability must be imposed "with a due regard to the rights of property and the moral innocence of the party incurring the" liability.]

Mr. President, we can be sure—as sure as anything—that the tobacco industry will challenge the constitutionality of this bill on these, and perhaps even other issues.

I am confident that every argument that I have made is legitimate. The tobacco companies need only prevail on one of these theories and this opportunity we have had will have been squandered.

Mr. President, in 1878, William E. Gladstone, the famous future Prime Minister of Great Britain, remarked that the "American Constitution is . . . the most wonderful work ever struck off at a given time by the brain and purpose of man."

Indeed, the Constitution by limiting the scope of government has fostered individual autonomy, which in turn has unleashed the creative energies of the American people.

The Constitution, for over two centuries now, has been the source of our prosperity, as well as our liberty. Let us abide by its strictures. Let us pass legislation that both helps our kids and is also constitutional.

EXPLANATION OF VOTE

Mrs. BOXER. Mr. President, I wish to inform the Senate of the reason I voted "present" on the Faircloth-Sessions amendment relating to a cap on attorneys' fees in tobacco cases.

I abstained on this vote because my husband's law firm is co-counsel in several lawsuits against tobacco companies filed in California state court by health and welfare trust funds.

This Ethics Committee has advised me that voting on an amendment such as this "would not pose an actual conflict of interest" under the Senate Code of Conduct.

However, I decided that voting on this amendment could create the appearance of a conflict of interest and therefore I abstained by voting "present."

The PRESIDING OFFICER (Mr. GORTON). The Senator from Mississippi.

TRIBUTE TO THE LATE CONGRESSMAN THOMAS G. ABERNETHY

Mr. COCHRAN. Mr. President, it is with a feeling of profound sadness that I advise the Senate that former Mississippi Congressman Thomas G. Abernethy died last night in Jackson, MS. He was 95 years of age.

He served with great distinction in the U.S. House of Representatives for 30 years, and he was deeply respected as an influential and prominent political leader.

Tom Abernethy was born in Eupora, MS, on May 16, 1903. He attended the University of Alabama and the University of Mississippi and graduated from the Law Department of Cumberland University in Lebanon, TN, in 1924.

He was elected mayor of Eupora in 1927, and in 1929 he moved to Okolona, MS. He continued to practice law there and was elected district attorney in 1936. He was elected to Congress in 1942.

Tom Abernethy became a close friend and an adviser to me. I sought his advice on matters involving agriculture, the Natchez Trace Parkway, and many other issues of importance to me and to our State. I always found his advice and counsel to be very valuable and helpful.

I extend to his children, grandchildren, and great grandchildren my sincerest condolences.

The PRESIDING OFFICER. The Senator from Hawaii.

COMMEMORATING 100 YEARS OF RELATIONS BETWEEN THE PEOPLE OF THE UNITED STATES AND THE PEOPLE OF THE PHILIPPINES

Mr. AKAKA. Mr. President, I ask unanimous consent the Foreign Relations Committee be discharged from further consideration of S. Res. 235 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 235) commemorating 100 years of relations between the people of the United States and the people of the Philippines.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. AKAKA. Mr. President, today marks the centennial of the Philippines' independence from Spain and also the 100th anniversary of Philippine-American relations. I urge my colleagues to reflect upon our friendly relationship with the Filipino people and their Republic.

The Sun and Stars, the flag of the Republic of the Philippines, has once again been unfurled on the same balcony where General Emilio Aguinaldo declared the country's independence, overthrowing 300 years of Spanish colonization on June 12, 1898.

With that act by General Aguinaldo, Filipinos earned the distinct honor of being the first indigenous people in Asia to wrest their freedom and independence by force of arms from their European colonial masters.

The Philippine Centennial is a toast to the Filipino spirit, to the rebirth of a courageous nation, to Asia's first republic and constitutional democracy, and to a glorious and progressive future for the Filipino Nation.

There is no better time than now to recognize the enduring friendship between our two countries. It is a friendship which flourished despite tragic beginnings in a conflict first with the Spanish in 1898, and subsequently with Filipino independence fighters. But we moved beyond that struggle and worked diligently to grant full Philippine independence in 1946.

During World War II, Filipino troops fought bravely side-by-side with American forces and Filipino guerrilla fighters were indispensable in the liberation of the Philippines from Japanese occupation.

The Philippines continued, even after independence, to be America's most important ally in Asia, again contributing troops to the Korean conflict and to the Vietnam war.

We owe a debt of gratitude, if not more, to our Filipino friends. We rejoiced when the peaceful "people power" revolution restored democracy to the Philippines twelve years ago. Presidents Corazon Aquino and Fidel Ramos established a democratic government and instituted market-based reforms which placed the Philippines—politically and economically—on a strong foundation for the 21st century..

I am confident that newly elected President, Joseph Estrada, will continue to nurture these reforms. The Multilateral Aid Initiative for the Philippines that Congress launched following the "people power" revolution was an effort not only to demonstrate support for Filipino democracy but also to show our lasting commitment to an enduring relationship with the Philippines. This continues to be the basis for our policy, and it is instructive that during the current Asian financial crisis the Philippines has escaped the worst effects of the crisis.

The United States continues to be the largest trading partner and foreign investor in the Philippines. One-third of Philippines' exports come to America. Two-way trade between our two countries exceeds $12 billion.

Today, all Americans should honor our good friendship with the Philippines on this important commemoration of their independence, support their continued political and economic progress, and work to maintain the special and close relationship between our sister democracies. The Philippines has clearly become a positive role model for its Asian neighbors.

Mr. President, because of the deep and enduring ties that have traditionally bound the people of the Philippines and the United States together, I strongly urge our colleagues to adopt S. Res. 235, a resolution commemorating 100 years of friendly relations between the people of the United States and the Philippines.

Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to, en bloc, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 235

Whereas 1998 marks 100 years of special ties between the people of the United States and the people of the Philippines and is also the centennial celebration of Philippine independence from Spain which initiated relations with the United States;

Whereas the people of the Philippines have on many occasions demonstrated their strong commitment to democratic principles and practices, the free exchange of views on matters of public concern, and the development of a strong civil society;

Whereas the Philippines has embraced economic reform and free market principles and, despite current challenging circumstances, its economy has registered significant economic growth in recent years benefiting the lives of the people of the Philippines;

Whereas the large Philippine-American community has immeasurably enriched the fabric of American society and culture;

Whereas Filipino soldiers fought shoulder to shoulder with American troops on the battlefields of World War II, Korea, and Vietnam;

Whereas the Philippines is an increasingly important trading partner of the United States as well as the recipient of significant direct American investment;

Whereas the United States relies on the Philippines as a partner and treaty ally in fostering regional stability, enhancing prosperity, and promoting peace and democracy; and

Whereas the 100th anniversary of relations between the people of the United States and the people of the Philippines offers an opportunity for the United States and the Philippines to renew their commitment to international cooperation on issues of mutual interest and concern: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Philippines on the commemoration of its independence from Spain;

(2) looks forward to a broadening and deepening of friendship and cooperation with the Philippines in the years ahead for the mutual benefit of the people of the United States and the people of the Philippines;

(3) supports the efforts of the Philippines to further strengthen democracy, human rights, the rule of law, and the expansion of free market economics both at home and abroad; and

(4) recognizes the close relationship between the nations and the people of the United States and the people of the Philippines and pledges its support to work closely with the Philippines in addressing new challenges as we begin our second century of friendship and cooperation.

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SINA NAZEMI, SENATE PAGE

Mr. GORTON. This is the last day that the Spring page class will be with us. And I am going to take a moment to recognize and thank this fine group of young people for their invaluable assistance in the Senate. Their hard work keeps the Senate running smoothly on a day-to-day basis. All of our pages are accomplished students and involved in their schools and communities. However, I would like to specifically commend the page from my home State of Washington, Sina Nazemi, for his outstanding efforts. Even among this class of exceptional young people Sina has set himself apart.

Over the last 6 months I have had the opportunity to get to know Sina and while I recognized that he was a fine student and a personable young man, I have also learned that Sina is rather secretive. After six months of working in the Senate, today I learned that his peers chose Sina to serve as President of the page class. Today, the faculty and principal at the page school also recognized Sina with the Leadership Award and the Good Citizen Award. What initially prompted my recognition of Sina was his winning essay in the 1998 Law Day Essay Competition sponsored by the District of Columbia Courts and The Bar Association of the District of Columbia, which I only learned of last week.

Sina's essay is a well written piece on the importance of the first amendment that draws heavily on his first hand experience as an immigrant from Iran. He writes that the first amendment creates "a battlefield of ideas which allows the best ideas to emerge". I hope he was at least in part inspired by the "battlefield of ideas" that is evident each day on the Senate floor.

In addition to serving as class president, Sina kept pace with the rigorous academics at the Page School and the work schedule of the Senate. We keep these kids working so hard that Sina didn't even have the whole week of Easter recess off. I held an education forum in the state that week, and Sina served admirably as the moderator and spokesperson for the student group. All of this is done with diligence and enthusiasm. Sina has a great deal to be proud of yet, the modesty he shows reflect maturity beyond his years. These attributes will undoubtedly serve him well in his future. Sina, you have my best wishes and thanks for your service to the Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAREWELL TO THE SENATE PAGES

Mr. DASCHLE. Mr. President, I want to say farewell to a wonderful group of young men and women who have served as Senate pages over the last five months, and thank them for the contributions they make to the day-to-day operations of the Senate.

This particular group of pages has served with distinction and has done a marvelous job of balancing their responsibilities to their studies and to this body.

Page life is not easy. I suspect few people understand the rigorous nature of the page's work. On a typical day, pages rise early and are in school by 6:15 a.m. After several hours in school each morning, pages then report to the Capitol to prepare the Senate Chamber for the day's session.

Throughout the day, pages are called upon to perform a wide array of tasks—from obtaining copies of documents and reports for Senators to use during debate, to running errands between the Capitol and the Senate office buildings, to lending a hand at our weekly conference luncheons.

Once we finish our business here for the day—no matter what time—the pages return to the dorm to prepare for the next day's classes and Senate session and, we hope, get some much-needed sleep.

Even with all of this, they continually discharge their tasks efficiently and cheerfully.

This page class had the good fortune to be present on the Senate floor for several landmark votes, including NATO expansion and IRS reform.

I hope before they leave they will see us pass a comprehensive national bill to reduce teen smoking.

It seems to me that would be a fitting way to thank these particular young people for their service to their country.

I hope every person in this page class gained some insight into the need for individuals to become involved in community and civic activities.

The future of our nation strongly depends on the generations who will follow us in this august body.

I look forward to the possibility that one or more of this fine group of young people will return as a Member of the U.S. Senate.

Mr. President, I would like to read into the RECORD the names and hometowns of each of the Senate pages to whom we are saying goodbye today.

They are: Philip Amylon, North Scituate, RI; Sarah Argue, Little Rock, AR; Marisa Boling, LaCrosse, WI; Sara Cannon, Seaford, DE; Colin Davis, Sioux Falls, SD; Laney Fitzgerald, Montgomery, AL; Sarah Flynn, Nashua, NH; Sarah Fowler, Kansas City, MO; Julia Le, Wilbraham, MA; Bari Lurie, Milwaukee, WI; Monique Luse, Farmington Hills, MI; Shana Marshall, Scottsburg, IN; Josh Melgaard, Pierre, SD; Sina Nazemi, Woodinville, WA; Georgia Sheridan, Santa Fe, NM; Michael Stahler, Lyndonville, VT; Angela Swanson, Springville, UT; Dan Teague, Concord, NH; Amanda Anderson, SC; Ashley Anderson, SC; Hunter Holmes, SC; Erin Lindsay, SC; Jennifer Lowry, UT; Stacie Seigler, SC; Tamarah Siegel, RI; and Bradley Wolters, WI.

I am sure all of my colleagues—I know all of my colleagues join me in thanking these fine young men and women and wish them well as they proceed to a new phase of their life. We thank them for their services. We thank them for being who they are. We thank them for being so good at what they were to us over the last several months.

Mr. President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HAGEL. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASIAN ECONOMIC CRISIS

Mr. HAGEL. Mr. President, I want to take this body on a quick trip to the other part of the world to talk very briefly about what is happening in Southeast Asia, Japan, China, Russia, and how it is impacting and affecting all of us in this country, how it will affect the geopolitical economic dynamics the rest of this year and on into the next year and, actually, on into the next century.

We start at Southeast Asia where the Asian crisis has become a significant crisis, stretching past that region of the world, now up into Japan, where we find in Japan that its economic planning agency confirmed that Japan is now in a serious recession. Last quarter, Japan found that its economy fell by an annualized rate of 5.3 percent. The yen is at an 8-year low against the dollar. The yen has dropped 50 percent in 3 years. The Japanese find themselves essentially without a credible banking system.

The President of South Korea was here this week addressing a joint meeting of Congress. Some of us had an opportunity to meet with him privately to talk about South Korea, what it is going to take to build South Korea back—infrastructure reconstruction, currency reconstruction, investment reconstruction.

Let's go further around that loop of the world to Russia. I spent some time yesterday with the Russian Ambassador to the United States. The two of us spoke for more than an hour alone. Russia has immense economic problems, and when Russia has immense economic problems and Japan has immense economic problems, as does South Korea, Southeast Asia, that spills over on to all of us.

China announced yesterday that it may have to devalue its currency. I was in China in December and met with the Premier. At that time, he assured me—and Senator CHAFEE from Rhode Island was with me—that under no circumstances would China devalue its currency, and that has been China's position all along. But the dynamics of the economic impact and the consequences of the Southeast Asian crisis have become so severe that it is now taking a rather significant toll on all those nations, including China, Japan, and Russia.

Our markets yesterday in the United States went down 160 points. The Dow Jones dropped yesterday, and as of this hour, our market in New York is down well over 100 points.

What does this tell us? If we listen to farmers and ranchers, as I do in Nebraska, and exporters and people who understand the realities and the importance of exports and the fact that economies are linked and stability is linked to economies and to economic growth, security is part of that and confidence underpins all of that.

When nations and investors lose confidence in markets, they are sending a very direct signal to all of us. They are saying clearly, plainly, "Something's wrong." We must understand that even though this is a half a world away, it is impacting us today all over this country, and it will continue to very severely impact our growth, our economy, our opportunities, and our markets. And as this economic instability and unrest continues to unfold and deepen and widen, it will require a longer time and more resources and more investment and more attention and more leadership to put it back together.

I am very concerned, Mr. President, that this Congress is not paying enough attention to what is going on around the world. I am concerned that we are not linking it, we are not interconnecting the dots. I find it remarkable that on this floor, the floor of the U.S. Senate, the last few weeks we have been consumed with billions of dollars of new taxes, building a larger Government, when essentially half of the world is burning.

I hope that our colleagues in the House take a rather serious look at what is going on around the world. I strongly recommend to our friends and colleagues in the House that they start with looking at the IMF. The IMF is not, cannot be, will not be, should not be, never was intended to be, the rescuer of all economies and all problems. But if we in this Congress continue to turn our backs on what is going on around the world, we will pay a high price.

We are paying a high price now. When you ask any farmer or rancher or exporter—not just in the Midwest, not just in my State of Nebraska, but all over the country—whether this is affecting them, we will pay a high price when it comes to military issues, strategic issues, as Secretary of Defense Bill Cohen warned earlier this year, as Secretary of State Madeleine Albright, has warned earlier this year. Chairman Greenspan talked about it this week. Secretary of Treasury Rubin talked about it this week. We are playing a very dangerous game here. And the longer we lock up, the longer we lock up important decisions on IMF, and other issues that we should be tending to and focusing on, the more dangerous this world becomes.

I hope my friends in the House are going to unlock this debate on IMF and allow this IMF debate to come to the floor of the House for an honest, open debate, and a vote. There has been a lot of misinformation spread around about IMF—what it does, what it does not do.

I recall specifically, Mr. President, in our meeting with President Kim, the President of South Korea, he brought up IMF and he said this: "I don't like a lot of what IMF is forcing us to do, but without IMF we wouldn't do it. And if we didn't do it, we would have a complete breakdown of all financial discipline, and there would be some question as to whether we could dig ourselves out of where we are."

I say these things knowing full well that these are complex, complicated issues. And there is not one answer to these. But surely, cumulatively, all of the pieces must come together, like the United States stepping up to its world responsibilities. And the IMF is one of those. And at the same time, Mr. President, this body, committees in this body will be debating—have been debating—more sanctions on nations. We are imposing more sanctions on countries today than we ever have in the history of America.

We cannot do much about the sanctions that the President was forced to impose on India and Pakistan. That is law. Do we really believe, for example, that that helps the situation by pushing India and Pakistan further away, and in Pakistan's case, in particular, grinding them down further and further into economic despair? Does that really improve the possibility that we are going to be able to resolve some of these issues—deadly, deadly issues—to continually isolate some of these countries, but, more importantly, isolating ourselves by sanctions? I do not think so. There is talk about more sanctions for China.

I hope we get very serious about this, Mr. President, and understand the consequences of what is happening around the world.

Confidence, courage, leadership, doing the right thing, making the tough choices—that is what makes the difference; always has made the difference. Imperfect possibilities? Imperfect choices? Absolutely. But we must make some choices. We must lead, just like Bosnia, just like Kosovo—bad choices all. But the longer we let, for example, Kosovo go without making any decisions, without making any choices, we run a terrible risk of great conflagration in that area.

I am grateful for an opportunity to share some of my thoughts on these issues because they are real, they are not theoretical. They impact our Nation, the world, our opportunities, and the future. We make decisions today, not to deal with problems today, we make decisions today to deal with problems tomorrow. The future is connected to our leadership, and we must act.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 11, 1998, the federal debt stood at $5,496,698,230,711.55 (Five trillion, four hundred ninety-six billion, six hundred ninety-eight million, two hundred thirty thousand, seven hundred eleven dollars and fifty-five cents).

One year ago, June 11, 1997, the federal debt stood at $5,355,419,000,000 (Five trillion, three hundred fifty-five billion, four hundred nineteen million).

Five years ago, June 11, 1993, the federal debt stood at $4,300,437,000,000 (Four trillion, three hundred billion, four hundred thirty-seven million).

Twenty-five years ago, June 11, 1973, the federal debt stood at $454,094,000,000 (Four hundred fifty-four billion, ninety-four million) which reflects a debt increase of more than $5 trillion—$5,042,604,230,711.55 (Five trillion, forty-two billion, six hundred four million, two hundred thirty thousand, seven hundred eleven dollars and fifty-five cents) during the past 25 years.

COMMEMORATING THE HARLEY-DAVIDSON MOTOR COMPANY'S 95TH ANNIVERSARY

Mr. CAMPBELL. Mr. President, I am pleased to pay tribute to the Harley-Davidson Motor Company on this great American company's 95th anniversary.

As a long time Harley-Davidson rider, I have enjoyed many years of satisfaction with the company and its legendary machines. After a long day on Capitol Hill, there is nothing I enjoy more than firing up my Softail Custom. I even had one of my two official Congressional portraits taken with my Softail in front of our nation's Capitol. When I am back home in Colorado, I tool around on my black Road King, often with my wife Linda, who also has her own Heritage Softail Classic.

I can tell you that there is no better way to enjoy Colorado's great scenic beauty than from the saddle of a Harley-Davidson. The freedom of the open road and the often imitated, but never duplicated, throaty roar of an American-made machine is something that I have thoroughly enjoyed for countless thousands of miles.

Harley-Davidson not only makes great motorcycles; it also exemplifies the kind of company that I am proud to support. From its humble beginnings in a small 10 foot by 15 foot shed in a Milwaukee backyard in 1903, this company had its share of good times and bad. The Great Depression was a major blow to the American motorcycle industry, and when the dust finally cleared Harley-Davidson was one of only two U.S. motorcycle manufacturers left standing.

And it is a good thing that Harley-Davidson survived because when World War Two erupted, our country needed to call on Harley-Davidson to build bikes for U.S. and Allied troops during WW–II. Many of the orders and other messages needed to achieve victory would not have been delivered to the front lines if it had not been for brave G.I. messengers riding Harley-Davidson motorcycles.

Following the Allied victory in World War Two, the Harley-Davidson Company refocused on developing new styles of motorcycles for the American people to enjoy. The company's second generation of management brought fresh ideas that helped usher-in the celebrated "motorcycle culture" of the 1950's and 60's.

When Harley-Davidson hit a rough patch of road in the 1980's it was a daring combination of re-found independence, innovation and serious re-engineering that brought this legendary company back from the brink. Harley-Davidson successfully carried out a classic textbook comeback that exemplifies many of our nation's best traits: independence, daring, grit, tenacity, smarts, and a penchant for continuous innovation and progress while remaining firmly rooted in our heritage.

On that note, I conclude my tribute to the people of Harley-Davidson with my congratulations on 95 great years while looking forward to many more.

NATIONAL WOMEN IN BUSINESS ADVOCATE AWARD FOR 1998

Mr. HATCH. Mr. President, it is my privilege to call to my colleagues' attention the recent announcement by the U.S. Small Business Administration that Ms. Bernadette Martinelli of Park City, Utah, has been named the National Women in Business Advocate for 1998. I am sure all senators will agree that she is well-deserving of this prestigious award.

In November 1992, Ms. Martinelli founded the Park City Women's Business Network. As the owner of "Blinds of Bern," she observed that a lack of educational and networking opportunities stifled the entrepreneurial potential for many women in the Park City area.

Bernadette Martinelli decided to make a difference. In founding the Park City Womens' Business Network, she has brought women small business owners together to meet one another, to share ideas, and to learn techniques for improving productivity. The results have been nothing short of remarkable. These efforts have helped launch the creation and fuel the expansion of many women-owned businesses in Utah.

Ms. Martinelli's organization also fulfills an important role in the community. Members volunteer their time speaking to high school students about entrepreneurial careers and providing indispensable mentoring programs for interested students. The Park City Womens' Business Network has also established an all-important "Future Entrepreneur" scholarship, awarded annually to a female high school graduate to help her to reach her goal of business ownership.

Ms. Martinelli has accomplished all of this through great personal sacrifice and perserverance. In the past few years, she found the strength to build her business, establish the networking organization, and to care for her children and her husband who is battling cancer.

Mr. President, I am proud of Bernadette Martinelli's achievements and grateful for her many contributions to the growth of small businesses in the state of Utah and to the opening of doors and possibilities for the next generation.

I join with the U.S. Small Business Administration and small business leaders around the nation in congratulating Ms. Martinelli. I ask all Senators to join me in saluting her for this well-earned national honor.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5397. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Iran-Related Multilateral Sanction Regime Efforts"; to the Committee on Banking, Housing, and Urban Affairs.

EC–5398. A communication from the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report on the preservation of minority savings institutions for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–5399. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "The Freedom of Information Act and Privacy Act" received on June 4, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5400. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report on Sub-Saharan Africa and the Export-Import Bank for the period November 1997 through May 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5401. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the Government's helium program for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–5402. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding a directive on Packaging and Transportation Safety (DOE O 460.1) received on May 28, 1998; to the Committee on Energy and Natural Resources.

EC–5403. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding an implementation guide for use with an administrative directive issued by the Department of Energy received on June 3, 1998; to the Committee on Energy and Natural Resources.

EC–5404. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding an administrative directive on the Information Security Program received on June 3, 1998; to the Committee on Energy and Natural Resources.

EC–5405. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Conduct of Employees" (RIN1990-AA19) received on June 3, 1998; to the Committee on Energy and Natural Resources.

EC–5406. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kansas Abandoned Mine Land Reclamation Plan" received on June 4, 1998; to the Committee on Energy and Natural Resources.

EC–5407. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of two rules regarding the Texas and New Mexico Regulatory Programs received on June 4, 1998; to the Committee on Energy and Natural Resources.

EC–5408. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation relative to the Weir Farm National Historic Site in Connecticut; to the Committee on Energy and Natural Resources.

EC–5409. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5410. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5411. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5412. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation entitled "The Federal Firefighters Overtime Pay Reform Act"; to the Committee on Governmental Affairs.

EC–5413. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 1A For Fiscal Years 1994 Through 1997"; to the Committee on Governmental Affairs.

EC–5414. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–354 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5415. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–355 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5416. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–356 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5417. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to the fungicide dimethomorph (FRL5795–4) received on June 9, 1998; to the Committee on Environment and Public Works.

EC–5418. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to the fungicide propamocarb hydrochloride (FRL5795–3) received on June 9, 1998; to the Committee on Environment and Public Works.

EC–5419. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to the pesticide quizalofop-p ethyl ester (FRL5793–5) received on June 9, 1998; to the Committee on Environment and Public Works.

EC–5420. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to the insecticide tebufenozide (FRL5794–8) received on June 9, 1998; to the Committee on Environment and Public Works.

EC–5421. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to the Anchorage, Alaska, carbon monoxide nonattainment area (FRL6108–6) received on June 5, 1998; to the Committee on Environment and Public Works.

EC–5422. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to point of use drinking water devices (FRL6189–7) received on June 5, 1998; to the Committee on Environment and Public Works.

EC–5423. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to the biochemical phospholipid pesticide Lyso-PE (FRL5795–1) received on June 5, 1998; to the Committee on Environment and Public Works.

EC–5424. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL6013–5) received on June 5, 1998; to the Committee on Environment and Public Works.

EC–5425. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding a Colorado petition on gasoline vapor standards (FRL6106–6) received on June 5, 1998; to the Committee on Environment and Public Works.

EC–5426. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the pesticide glyphosate (FRL5788–4) received on June 5, 1998; to the Committee on Environment and Public Works.

EC–5427. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to threatened population segments of bull trout in the Klamath and Columbia Rivers (RIN1018–AB94) received on June 4, 1998; to the Committee on Environment and Public Works.

EC–5428. A communication from the Secretary of Treasury, Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission, transmitting a draft of proposed legislation relative to over-the-counter derivatives; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5429. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Agreements for the Development of Foreign Markets for Agricultural Commodities" (RIN0551–AA24) received on June 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5430. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fees for Official Inspection and Official Weighing Services" (RIN0580–AA59) received on June 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5431. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding volume regulation percentages for the California raisin crop (Docket 98–989–1 FIR) received on June 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5432. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding the salable quantity and allotment percentage of spearmint oil (Docket 98–985–2 FIR) received on June 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5433. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Witchweed; Regulated Areas" (Docket 98–040–1) received on June 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5434. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt Status of the Mexicali Valley of Mexico" (Docket 97–060–2) received on June 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5435. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Compensation for the 1996–1997 Crop Season" (Docket 96–016–29) received on June 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5436. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "EIA; Handling Reactors at Livestock Markets" (Docket 97–099–2) received on June 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5437. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Addition to Quarantined Areas" (Docket 97–056–13) received on June 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5438. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding crop provisions for the insurance of stonefruit received on June 3, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5439. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding crop provisions for the insurance of peanuts (RIN0563–AA85) received on June 4, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5440. A communication from the Acting Administrator of the Agricultural Marketing Service, transmitting, pursuant to law, the report of a rule entitled "Onions Grown in South Texas; Removal of Sunday Packing and Loading Prohibitions" (Docket FV98–959–2 FIR) received on June 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5441. A communication from the ADM-Performance Evaluation and Records Management, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Coon Valley and Westby, Wisconsin and Lanesboro, Minnesota (Docket 97–169) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5442. A communication from the ADM-Performance Evaluation and Records Management, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Pima, Arizona (Docket 97–228) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5443. A communication from the ADM-Performance Evaluation and Records Management, transmitting, pursuant to law, the report of a rule regarding the Equipment Authorization Process for Radio Frequency Equipment (Docket 97–94) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5444. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Shark Fisheries; Quota Adjustment" received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5445. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Community Development Quota Program" (RIN0648–AH65) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5446. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding shrimp fishery of the Gulf of Mexico (RIN0648–AL14) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5447. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding data collection on shrimp fishery of the Gulf of Mexico (Docket 980513127–8127–01) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5448. A communication from the Director of Congressional Relations, Consumer Products Safety Commission, transmitting, pursuant to law, the Commission's Annual Report for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC–5449. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Formal Interpretation of Regulations" (Notice 98–6) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5450. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the Hazardous Materials Ticketing Program (Notice 98–5) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5451. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Voluntarily-Installed Shoulder Belts" (RIN2127–AF91) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5452. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Diodes Used on School Bus Stop Signal Arms" (Docket 98–3870) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5453. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Macy's Fourth of July Fireworks, East River, New York" (Docket 01–98–014) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5454. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the Harvard-Yale Regatta (Docket 01–98–017) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5455. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding marine events in Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia (Docket 05–98–037) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5456. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Construcciones Aeronauticas Airplanes (Docket 97–NM–43–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5457. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Saab Airplanes (Docket 97–NM–134–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5458. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace Airplanes (Docket 98–NM–43–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5459. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Dornier airplanes (Docket 98–NM–46–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5460. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace airplanes (Docket 98–NM–52–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5461. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain de Havilland airplanes (Docket 98–NM–60–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5462. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Airbus airplanes (Docket 98–NM–22–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5463. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain de Havilland airplanes (Docket 98–NM—58–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5464. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Short Brothers airplanes (Docket 98–NM–32–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5465. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Stevensville, MT" (Docket 97–ANM–17) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5466. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Cedar City, UT" (Docket 97–ANM–21) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5467. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Cortez, CO" (Docket 98–ANM–02) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5468. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the classification of airspace at Yuma, AZ (Docket 97–AWP–14) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5469. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace airplanes (Docket 97–CE–100–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5470. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Allison Engine Company turbofan engines (Docket 97–ANE–60–AD) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5471. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Porterville, CA" (Docket 98–AWP–2) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5472. A communication from the ADM-Performance Evaluation and Records Management, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in McMillan and Sault Ste. Marie, Michigan (Docket 97–222) received on June 4, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1104. A bill to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System (Rept. No. 105–214).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance (Rept. No. 105–215).

By Mr. BOND, from the Committee on Appropriations, without amendment:

S. 2168. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–216).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 887. A bill to establish in the National Park Service the National Underground Railroad Network to Freedom program, and for other purposes (Rept. No. 105–217).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 2168. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 2169. A bill to encourage States to require a holding period for any student expelled for bringing a gun to school; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 2169. A bill to encourage States to require a holding period for any student expelled for bringing a gun to school; to the Committee on the Judiciary.

GUN LEGISLATION

Mr. WYDEN. Mr. President, these tragic incidents involving students bringing guns to school have taught us that we must proceed on two tracks. Government's first responsibility is to protect our citizens, particularly our young people, from violence. The only way to do that when a student brings a gun to school is to get them out of the classroom, off the streets, and in front of someone who is in the best position to determine what steps to take. The legislation I am introducing today with Senator GORDON SMITH will help that happen.

Mr. President, all over my state people are calling out for help. The Springfield Chief of Police and the Governor both recognize that the way we currently deal with kids and guns is not working. These kids are slipping through the cracks—only to resurface in deadly and dangerous ways. Mr. President, our current policies are not working. They are not serving anyone. Simply put, when it comes to kids bringing guns to school, we can and must do a better job. We must stop the violence before it spreads across one more school yard. The memorial fence at Thurston High School is the last memorial fence I ever want to see—in Springfield, Oregon, in Pearl Mississippi, in Jonesboro, Arkansas—or anywhere else in the country. Let it end here.

Today, Senator Smith and I are introducing legislation that encourages states to pass laws to require a student who brings a gun to school to be held for up to 72 hours and undergo a psychological evaluation. If a State adopts such a law, the state would be eligible for an increase of 25% in the Juvenile Justice funds that would enable it to provide the type of psychological evaluation and other treatment that such a student needs.

Bringing a gun to school is a warning sign that must be taken seriously. And while so-called "zero tolerance policies" that mandate a student be expelled for bringing a gun to school may adequately punish the behavior, they are clearly not enough. We must offer services to this student—see what is going on in that student's head and help them through the rough spots. We must find a balance between preventing these crimes from occurring and punishing them once they do.

Voters in Oregon are tough on juvenile crime, especially serious crimes. We have the minimum sentences. We have the prisons. We do not allow juveniles probation or parole. We do not release juveniles early for good behavior. What Oregon needs is a system that works from the beginning—when the warning signs appear, not just at the end, when harm has been done. Oregon needs resources to identify these kids and help them before there's an arrest to be made. Across the country the message is spoken loud and clear: punishment, while important, is only part of the solution. It does not save lives. Prevention does.

Mr. President, my bill will help communities better identify and service students at-risk of endangering themselves or others with a firearm. My bill gives everyone involved—teachers, public school administrators, law enforcement, police officers and juvenile justice professions—the tools they need to get a troubled student the help he or she needs. Under the State laws my bill would promote, when a student brings a gun to school, the public school must report this behavior to law enforcement and the juvenile authorities immediately. Police must then come to the school and determine if there is probable cause to take action. If there is cause to take action, the police must bring the student into the station for two purposes: first, the student must have a mental health professional give him or her a psychological evaluation, and second, the student must immediately be scheduled for a judicial hearing. The State has up to 72 hours to complete these intervention measures. States pass a law following these parameters will receive a significant bonus: they will receive 25 percent more money to spend on juvenile prevention and intervention services.

Mr. President, no one wishes to see the tragedy at Thurston High School repeated. It is my hope that this legislation will give States the incentive they need to enact tough preventative detention laws to assure that this doesn't happen again. I ask unanimous consent that my statement and a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLDING PERIOD FOR STUDENTS BRINGING A GUN TO SCHOOL.

(a) In General.—Notwithstanding section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) or any other provision of law, for fiscal year 2000 and each fiscal year thereafter, the amount that would otherwise be allocated to a State under that section for a fiscal year shall be increased by 25 percent, if the State has in effect a State law described in subsection (b) by not later than the first day of that fiscal year. Any additional amount made available to a State under this subsection may be used by the State for prevention and intervention programs related to school violence.

(b) State Law Described.—A State law is described in this subsection if it requires that—

(1) any administrator or employee of a public or private school who has reasonable cause to believe that a student is or has been in possession of a firearm while in or on the premises of a school building in violation of Federal or State law, shall immediately report the student's conduct to an appropriate law enforcement agency and to an appropriate juvenile department or agency of the State;

(2) upon receipt of a report under paragraph (1), the appropriate law enforcement agency shall immediately cause an investigation to be made to determine whether there is probable cause to believe that the student, while in or on the premises of a public building, possessed a firearm in violation of Federal or State law;

(3) if a determination of probable cause is made under paragraph (2)—

(A) the student shall immediately be detained by the appropriate law enforcement agency for not more than 72 hours in an appropriate juvenile justice setting for purposes of psychological evaluation and for a judicial determination (pursuant to a hearing) regarding whether the student is a danger to himself or herself or to others; and

(B) a parent, guardian, or other adult with responsibility for the student shall be notified of that detention and the purposes of that detention; and

(4) if the court makes a determination under paragraph (3)(A) that the student is a danger to himself or herself or others, the student shall be placed in an appropriate juvenile justice setting to receive professional psychological counseling.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

ADDITIONAL COSPONSORS

S. 375

At the request of Mr. McCain, the name of the Senator from Iowa (Mr. Grassley) was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 852

At the request of Mr. Lott, the name of the Senator from Idaho (Mr. Craig) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 981

At the request of Mr. Levin, the name of the Senator from Kentucky (Mr. McConnell) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1423

At the request of Mr. Hagel, the name of the Senator from Kansas (Mr. Brownback) was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1569

At the request of Mr. Coverdell, the name of the Senator from New Jersey (Mr. Torricelli) was added as a cosponsor of S. 1569, a bill to amend the Internal Revenue Code of 1986 to raise the 15 percent income tax bracket into middle class income levels, and for other purposes.

S. 1571

At the request of Mr. McCain, the name of the Senator from Iowa (Mr. Grassley) was withdrawn as a cosponsor of S. 1571, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 1758

At the request of Mr. Lugar, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of

S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2099

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 2099, a bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes.

S. 2107

At the request of Mr. ABRAHAM, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2107, a bill to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications, and for other purposes.

S. 2154

At the request of Mrs. BOXER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2154, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

AMENDMENTS SUBMITTED

CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT OF 1998

JEFFORDS AMENDMENT NO. 2704

Mr. HAGEL (for Mr. JEFFORDS) proposed an amendment to the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Findings and purpose.
Sec. 3. Voluntary selection and participation.
Sec. 4. Construction.

TITLE I—VOCATIONAL EDUCATION

Subtitle A—Federal Provisions

Sec. 101. Reservations and State allotment.
Sec. 102. Performance measures and expected levels of performance.
Sec. 103. Assistance for the outlying areas.
Sec. 104. Indian and Hawaiian Native programs.
Sec. 105. Tribally controlled postsecondary vocational institutions.
Sec. 106. Incentive grants.

Subtitle B—State Provisions

Sec. 111. State administration.
Sec. 112. State use of funds.
Sec. 113. State leadership activities.
Sec. 114. State plan.

Subtitle C—Local Provisions

Sec. 121. Distribution for secondary school vocational education.
Sec. 122. Distribution for postsecondary vocational education.
Sec. 123. Local activities.
Sec. 124. Local application.
Sec. 125. Consortia.

TITLE II—TECH-PREP EDUCATION

Sec. 201. Short title.
Sec. 202. Purposes.
Sec. 203. Definitions.
Sec. 204. Program authorized.
Sec. 205. Tech-prep education programs.
Sec. 206. Applications.
Sec. 207. Authorization of appropriations.
Sec. 208. Demonstration program.
Sec. 301. Administrative provisions.
Sec. 302. Evaluation, improvement, and accountability.
Sec. 303. National activities.
Sec. 304. National assessment of vocational education programs.
Sec. 305. National research center.
Sec. 306. Data systems.
Sec. 307. Promoting scholar-athlete competitions.
Sec. 308. Definition.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

TITLE V—REPEAL

Sec. 501. Repeal.

TITLE I—VOCATIONAL EDUCATION

Subtitle A—Federal Provisions

SEC. 101. RESERVATIONS AND STATE ALLOTMENT.

(a) RESERVATIONS AND STATE ALLOTMENT.—

(1) RESERVATIONS.—From the sum appropriated under section 401 for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 103;

(B) 1.80 percent to carry out sections 104 and 105, of which—

(i) 1.25 percent of the sum shall be available to carry out section 104(b);

(ii) 0.25 percent of the sum shall be available to carry out section 104(c); and

(iii) 0.30 percent of the sum shall be available to carry out section 105; and

(C) 1.3 percent to carry out sections 106, 303, 304, 305, and 306, of which not less than 0.65 percent of the sum shall be available to carry out section 106 for each of the fiscal years 2001 through 2005.

(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 401 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) MINIMUM ALLOTMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 401 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) REQUIREMENT.—Due to the application of subparagraph (A), for any fiscal year, no State shall receive more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(C) SPECIAL RULE.—

(i) IN GENERAL.—Subject to paragraph (4), no State, by reason of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act); and

(II) the amount calculated under clause (ii).

(ii) AMOUNT.—The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(4) HOLD HARMLESS.—

(A) IN GENERAL.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of this Act) for fiscal year 1997.

(B) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) REALLOTMENT.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) ALLOTMENT RATIO.—

(1) IN GENERAL.—The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) PROMULGATION.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) DEFINITION OF PER CAPITA INCOME.—For the purpose of this section, the term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) POPULATION DETERMINATION.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) DEFINITION OF STATE.—For the purpose of this section, the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, and the United States Virgin Islands.

SEC. 102. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) PUBLICATION OF PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(A) Student attainment of academic skills.

(B) Student attainment of job readiness skills.

(C) Student attainment of vocational skill proficiencies for students in vocational education programs, that are necessary for the receipt of a secondary diploma or its recognized equivalent, or a secondary school skill certificate.

(D) Receipt of a postsecondary degree or certificate.

(E) Retention in, and completion of, secondary school education (as determined under State law), placement in, retention in, and completion of postsecondary education, employment, or military service.

(F) Participation in and completion of vocational education programs that lead to non-traditional employment.

(2) SPECIAL RULE.—The Secretary shall establish 1 set of performance measures for students served under this Act, including populations described in section 114(c)(16).

(b) EXPECTED LEVELS OF PERFORMANCE.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection(a).

SEC. 103. ASSISTANCE FOR THE OUTLYING AREAS.

(a) IN GENERAL.—From the funds reserved under section 101(a)(1)(A), the Secretary—

(1) shall award a grant in the amount of $500,000 to Guam for vocational education and training for the purpose of providing direct educational services related to vocational education, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) improving vocational education programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education; and

(2) shall award a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands for vocational education for the purpose described in paragraph (1).

(b) SPECIAL RULE.—

(1) IN GENERAL.—From funds reserved under section 101(a)(1)(A) and not awarded under subsection (a), the Secretary shall make available the amount awarded to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section was in effect on the day before the date of enactment of this Act) to award grants under the succeeding sentence. From the amount made available under the preceding sentence, The Secretary shall award grants, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau for the purpose described in subsection (a)(1).

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this Act for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Library regarding activities assisted under this subsection.

SEC. 104. INDIAN AND HAWAIIAN NATIVE PROGRAMS.

(a) DEFINITIONS; AUTHORITY OF SECRETARY.—

(1) DEFINITIONS.—For the purpose of this section—

(A) the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(B) the term "Bureau funded school" has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026);

(C) the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii; and

(D) the terms "Indian" and "Indian tribe" have the meanings given the terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) AUTHORITY.—From the funds reserved pursuant to section 101(a)(1)(B), the Secretary shall award grants and enter into contracts for Indian and Hawaiian native programs in accordance with this section, except that such programs shall not include secondary school programs in Bureau funded schools.

(b) INDIAN PROGRAMS.

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed—

(i) Upon the request of any Indian tribe, or a tribal organization serving an Indian tribe, which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under the Act of April 16, 1934; or

(ii) upon an application received from a Bureau funded school offering post-secondary or adult education programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any Indian tribe or tribal organization, or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by, and consistent with the purpose of, this Act.

(B) REQUIREMENTS.—The grants or contracts described in subparagraph (A), shall be subject to the following:

(i) TRIBES AND TRIBAL ORGANIZATIONS.—Such grants or contracts with any tribes or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

(ii) BUREAU FUNDED SCHOOLS.—Such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Act of April 16, 1934.

(C) REGULATIONS.—If the Secretary promulgates any regulations applicable to subparagraph (B), the Secretary shall—

(i) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(ii) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the "Negotiated Rulemaking Act of 1990".

(D) APPLICATION.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(E) PERFORMANCE MEASURES AND EVALUATIONS.—Any Indian tribe, tribal organization, or Bureau funded school that receives assistance under this section shall—

(i) establish performance measures and expected levels of performance to be achieved by students served under this section; and

(ii) evaluate the quality and effectiveness of activities and services provided under this subsection.

(F) MINIMUM.—In the case of a Bureau funded school, the minimum amount of a grant awarded or contract entered into under this section shall be $35,000.

(G) RESTRICTIONS.—The Secretary may not place upon grants awarded or contracts entered into under this paragraph any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 101(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational education programs, and shall give special consideration to—

(i) grants or contracts which involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges that—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of vocational education programs.

(H) STIPENDS.—

(i) IN GENERAL.—Funds received pursuant to grants or contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) AMOUNT.—Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) SPECIAL RULE.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

(c) HAWAIIAN NATIVE PROGRAM.—From the funds reserved pursuant to section 101(a)(1)(B)(ii), the Secretary shall award grants or enter into contracts, with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii, for the planning, conduct, or administration of programs, or portions thereof, that are described in this Act and consistent with the purpose of this Act, for the benefit of Hawaiian natives.

SEC. 105. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) IN GENERAL.—It is the purpose of this section to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the funds reserved pursuant to section 101(a)(1)(B)(iii), the Secretary shall make grants to tribally controlled postsecondary vocational institutions to provide basic support for the vocational education and training of Indian students.

(2) AMOUNT OF GRANTS.—

(A) IN GENERAL.—If the sum appropriated for any fiscal year for grants under this section is not sufficient to pay in full the total amount that approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant that received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(B) PER CAPITA DETERMINATION.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(c) ELIGIBLE GRANT RECIPIENTS.—To be eligible for assistance under this section a tribally controlled postsecondary vocational institution shall—

(1) be governed by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy, or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(d) GRANT REQUIREMENTS.—

(1) APPLICATIONS.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this section shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this section that will allow the Secretary to audit and monitor programs.

(2) NUMBER.—The Secretary shall award not less than 2 grants under this section for each fiscal year.

(3) CONSULTATION.—In awarding grants under this section, the Secretary shall, to the extent practicable, consult with the boards of trustees of, and the tribal governments chartering, the institutions desiring the grants.

(4) LIMITATION.—Amounts made available through grants under this section shall not be used in connection with religious worship or sectarian instruction.

(e) USES OF GRANTS.—

(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(2) ACCOUNTING.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) EFFECT ON OTHER PROGRAMS.—

(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial

assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other applicable program for the benefit of institutions of higher education or vocational education.

(2) Prohibition on alteration of grant amount.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this section shall be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the "Synder Act") (42 Stat. 208, chapter 115; 25 U.S.C. 13).

(3) Prohibition on contract denial.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under such Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) Needs Estimate and Report on Facilities and Facilities Improvement.—

(1) Needs estimate.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the goals and requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(2) Study of training and housing needs.—

(A) In general.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) Report.—The Secretary shall report to Congress not later than July 1, 1999, on the results of the study required by subparagraph (A).

(C) Contents.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) Priority.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) Long-term study of facilities.—

(A) In general.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) Contents.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(C) Submission.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

(b) Definitions.—For the purposes of this section:

(1) Indian; indian tribe.—The terms "Indian" and "Indian tribe" have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) Tribally controlled postsecondary vocational institution.—The term "tribally controlled postsecondary vocational institution" means an institution of higher education that—

(A) is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes; and

(B) offers technical degrees or certificate granting programs.

(3) Indian student count.—The term "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational institution, determined as follows:

(A) Registrations.—The registrations of Indian students as in effect on October 1 of each year.

(B) Summer term.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(C) Admission criteria.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school diploma or its recognized equivalent shall be counted toward the computation of the Indian student count.

(D) Determination of hours.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational institution shall be included in determining the sum of all credit or clock hours.

(E) Continuing education.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

SEC. 106. INCENTIVE GRANTS.

(a) In General.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) Use of Funds.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

Subtitle B—State Provisions

SEC. 111. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State administration of activities under this title, including—

(1) the development, submission, and implementation of the State plan;

(2) the efficient and effective performance of the eligible agency's duties under this title; and

(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of activities assisted under this title, such as employers, parents, students, teachers, labor organizations, State and local elected officials, and local program administrators.

SEC. 112. STATE USE OF FUNDS.

(a) Reservations.—From funds allotted to each State under section 101(a) for each fiscal year, the eligible agency shall reserve—

(1) not more than 14 percent of the funds to carry out section 113;

(2) not more than 10 percent of the funds, or $300,000, whichever is greater, of which—

(A) $600,000 shall be available to provide technical assistance and advice to local educational agencies, postsecondary educational institutions, and other interested parties in the State for gender equity activities; and

(B) the remainder may be used to—

(i) develop the State plan;

(ii) review local applications;

(iii) monitor and evaluate program effectiveness;

(iv) provide technical assistance; and

((v) assure compliance with all applicable Federal laws, including required services and activities for individuals who are members of populations described in section 114(c)(16); and

(3) 1 percent of the funds, or the amount the State expended under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) for vocational education programs for criminal offenders for the fiscal year 1997, whichever is greater, to carry out programs for criminal offenders.

(b) Remainder.—From funds allotted to each State under section 101(a) for each fiscal year and not reserved under subsection (a), the eligible agency shall determine the portion of the funds that will be available to carry out sections 121 and 122.

(c) Matching Requirement.—Each eligible agency receiving funds under this title shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(2).

SEC. 113. STATE LEADERSHIP ACTIVITIES.

(A) Mandatory.—Each eligible agency shall use the funds reserved under section 112(a)(1) to conduct programs, services, and activities that further the development, implementation, and improvement of vocational education within the State and that are integrated, to the maximum extent possible, with challenging State academic standards, including—

(1) providing comprehensive professional development (including initial teacher preparation) for vocational, academic, guidance, and administrative personnel, that—

(A) will help the teachers and personnel to assist students in meeting the expected levels of performance established under section 102;

(B) reflects the eligible agency's assessment of the eligible agency's needs for professional development; and

(C) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.);

(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards, and vocational and technological skills;

(3) monitoring and evaluating the quality of, and improvement in, activities conducted with assistance under this title;

(4) providing gender equity programs in secondary and postsecondary vocational education;

(5) supporting tech-prep education activities;

(6) improving and expanding the use of technology in instruction;

(7) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technological skills; and

(8) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

(b) PERMISSIVE.—Each eligible agency may use the funds reserved under section 112(a)(1) for—

(1) improving guidance and counseling programs that assist students in making informed education and vocational decisions;

(2) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of populations described in section 114(c)(16);

(3) providing vocational education programs for adults and school dropouts to complete their secondary school education; and

(4) providing assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education.

SEC. 114. STATE PLAN.

(a) STATE PLAN.—

(1) IN GENERAL.—Eeach eligible entity desiring assistance under this title for any fiscal year shall prepare and submit to the Secretary a State plan for a 3-year period, together with such annual revisions as the eligible agency determines to be necessary

(2) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included with the State plan.

(b) PLAN DEVELOPMENT.—The eligible agency shall develop the State plan with representatives of secondary and postsecondary vocational education, parents, representatives of populations described in section 114(c)(16), and businesses, in the State and shall also consult the Governor of the State.

(c) PLAN CONTENTS.—The State plan shall include information that—

(1) describes the vocational education activities to be assisted that are designed to meet and reach the State performance measures;

(2) describes the integration of academic and technological education with vocational education;

(3) describes how the eligible agency will disaggregate data relating to students participating in vocational education in order to adequately measure the progress of the students;

(4) describes how the eligible agency will adequately address the needs of students in alternative education programs;

(5) describes how the eligible agency will provide local educational agencies, area vocational education schools, and eligible institutions in the State with technical assistance;

(6) describes how the eligible agency will encourage the participation of the parents of secondary school students who are involved in vocational education activities;

(7) identifies how the eligible agency will obtain the active participation of business, labor organizations, and parents in the development and improvement of vocational education activities carried out by the eligible agency;

(8) describes how vocational education relates to State and regional employment opportunities;

(9) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

(10) describes how funds will be used to promote gender equity in secondary and postsecondary vocational education;

(11) describes how funds will be used to improve and expand the use of technology in instruction;

(12) describes how funds will be used to serve individuals in State correctional institutions;

(13) describes how funds will be used effectively to link secondary and postsecondary education;

(14) describes how funds will be allocated and used at the secondary and postsecondary level, any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia;

(15) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(16) describes the eligible agency's program strategies for populations that include, at a minimum—

(A) low-income individuals, including foster children;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with other barriers to educational achievement, including individuals with limited English proficiency;

(17) describes how individuals who are members of the special populations described in subsection (c)(16)—

(A) will be provided with equal access to activities assisted under this Act; and

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(d) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 102 are sufficiently rigorous to meet the purpose of this Act.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding approval of State plans.

(4) TIMEFRAME.—A State plan shall be deemed approved if the Secretary has not responded to the eligible agency regarding the plan within 90 days of the date the Secretary receives the plan.

(e) ASSURANCES.—A State plan shall contain assurances that the State will comply with the requirements of this Act and the provisions of the State plan, and provide for such fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this Act.

(f) ELIGIBLE AGENCY REPORT.—

(1) IN GENERAL.—The eligible agency shall annually report to the Secretary regarding—

(A) the quality and effectiveness of the programs, services, and activities, assisted under this title, based on the performance measures and expected levels of performance described in section 102; and

(B) the progress each population of individuals described in section 114(c)(16) is making toward achieving the expected levels of performance.

(2) CONTENTS.—The eligible agency report also—

(A) shall include such information, in such form, as the Secretary may reasonably require, in order to ensure the collection of uniform data; and

(B) shall be made available to the public.

Subtitle C—Local Provisions

SEC. 121. DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) ALLOCATION.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available for secondary school vocational education activities under section 112(b) for any fiscal year to local educational agencies within the State as follows:

(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such year.

(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals With Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such year.

(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such year.

(b) MINIMUM ALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no local educational agency shall receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is not less than $25,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocated requirement of this paragraph.

(2) WAIVER.—The eligible agency may waive the application of paragraph (1) for a local educational agency that is located in a rural, sparsely populated area.

(3) REALLOCATION.—Any amounts that are not allocated by reason of paragraph (1) or (2) shall be reallocated to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(c) LIMITED JURISDICTION AGENCIES.—

(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this title shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available for any fiscal year by such entity for secondary school vocational education activities under section 112(b) to the appropriate area vocational education school or educational service agency in any case in which—

(A) the area vocational education school or educational service agency, and the local educational agency concerned—

(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or educational service agency serves an approximately equal or greater proportion of students who are individuals with disabilities or are low-income than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the educational service agency; or

(ii) the area vocational education school, educational service agency, or local educational agency demonstrates that the vocational education school or educational service agency is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area vocational education school or educational service agency.

(2) ALLOCATION BASIS.—If an area vocational education school or educational service agency meets the requirements of paragraph (1), then—

(A) the amount that will otherwise be distributed to the local educational agency under this section shall be allocated to the area vocational education school, the educational service agency, and the local educational agency, based on each school's or agency's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or educational service agency.

(3) STATE DETERMINATION.—

(A) IN GENERAL.—For the purposes of this subsection, the eligible agency may determine the number of students who are low-income on the basis of—

(i) eligibility for—

(I) free or reduced-price meals under the National School Lunch Act (7 U.S.C. 1751 et seq.);

(II) assistance under a State program funded under part A of title IV of the Social Security Act;

(III) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(IV) services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); or

(ii) another index of economic status, including an estimate of such index, if the eligible agency demonstrates to the satisfaction of the Secretary that such index is a more representative means of determining such number.

(B) DATA.—If an eligible agency elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the eligible agency shall ensure that the data used is not duplicative.

(4) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

(5) SPECIAL RULE.—Notwithstanding the provisions of paragraph (1), (2), (3), and (4), any local educational agency receiving an allocation that is not sufficient to conduct a secondary school vocational education program of sufficient size, scope, and quality to be effective may—

(A) form a consortium or enter into a cooperative agreement with an area vocational education school or educational service agency offering secondary school vocational education programs of sufficient size, scope, and quality to be effective and that are accessible to students who are individuals with disabilities or are low-income, and are served by such local educational agency; and

(B) transfer such allocation to the area vocational education school or educational service agency.

(e) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

SEC. 122. DISTRIBUTION FOR POSTSECONDARY VOCATIONAL EDUCATION

(a) DISTRIBUTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available for postsecondary vocational education under section 112(b) for any fiscal year to eligible institutions within the State in accordance with paragraph (2).

(2) ALLOCATION.—Each eligible institution in the State having an application approved under section 124 for a fiscal year shall be allocated an amount that bears the same relationship to the amount of funds made available for postsecondary vocational education under section 112(b) for the fiscal year as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled for the preceding fiscal year by such eligible institution in vocational education programs that do not exceed 2 years in duration bears to the number of such recipients enrolled in such programs within the State for such fiscal year.

(3) SPECIAL RULE FOR CONSORTIA.—In order for a consortium to receive assistance under this section, such consortium shall operate joint projects that—

(A) provide services to all postsecondary institutions participating in the consortium; and

(B) are of sufficient size, scope, and quality to be effective.

(4) MINIMUM ALLOCATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no eligible institution shall receive an allocation under paragraph (2) unless the amount allocated to the eligible institution under paragraph (2) is not less than $65,000.

(B) WAIVER.—The eligible agency may waive the application of subparagraph (A) in any case in which the eligible institution is located in a rural, sparsely populated area.

(C) REALLOCATION.—Any amounts that are not allocated by reason of subparagraph (A) or (B) shall be reallocated to eligible institutions that meet the requirements of subparagraph (A) or (b) in accordance with the provisions of this section.

(5) DEFINITION OF PELL GRANT RECIPIENT.—The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part 1 of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).

(b) ALTERNATIVE ALLOCATION.—An eligible agency may allocate funds made available for postsecondary education under section 112(b) for a fiscal year using an alternative formula if the eligible agency demonstrates to the Secretary's satisfaction that—

(1) the alternative formula better meets the purpose of this Act; and

(2)(A) the formula described in subsection (a) does not result in an allocation of funds to the eligible institutions that serve the highest numbers or percentages of low-income students; and

(B) the alternative formula will result in such a distribution.

SEC. 123. LOCAL ACTIVITIES.

(a) MANDATORY.—Funds made available to a local educational agency or an eligible institution under this title shall be used—

(1) to initiate, improve, expand, and modernize quality vocational education programs;

(2) to improve or expand the use of technology in vocational instruction, including professional development in the use of technology, which instruction may include distance learning;

(3) to provide services and activities that are of sufficient size, scope, and quality to be effective;

(4) to integrate academic education with vocational education for students participating in vocational education;

(5) to link secondary education (as determined under State law) and postsecondary

education, including implementing tech-prep programs;

(6) to provide professional development activities to teachers, counselors, and administrators, including—

(A) inservice and preservice training in state-of-the-art vocational education programs;

(B) internship programs that provide business experience to teachers; and

(C) programs designed to train teachers specifically in the use and application of technology;

(7) to develop and implement programs that provide access to, and the supportive services needed to participate in, quality vocational education programs for students, including students who are members of the populations described in section 114(c)(16);

(8) to develop and implement performance management systems and evaluations; and

(9) to promote gender equity in secondary and postsecondary vocational education.

(b) PERMISSIVE.—Funds made available to a local educational agency or an eligible institution under this title may be used—

(1) to carry out student internships;

(2) to provide guidance and counseling for students participating in vocational education programs;

(3) to provide vocational education programs for adults and school dropouts to complete their secondary school education;

(4) to acquire and adapt equipment, including instructional aids;

(5) to support vocational student organizations;

(6) to provide assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education; and

(7) to support other vocational education activities that are consistent with the purpose of this Act.

SEC. 124. LOCAL APPLICATION.

(a) IN GENERAL.—Each local educational agency or eligible institution desiring assistance under this title shall submit an application to the eligible agency at such time, in such manner, and accompanied by such information as the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) many require.

(b) CONTENTS.—Each application shall, at a minimum—

(1) described how the vocational education activities will be carried out pertaining to meeting the expected levels of performance;

(2) described the process that will be used to independently evaluate and continuously improve the performance of the local educational agency or eligible institution, as appropriate;

(3) described how the local educational agency or eligible institution, as appropriate, will plan and consult with students, parents, representatives of populations described in section 114(c)(16), businesses, labor organizations, and other interested individuals, in carrying out activities under this title;

(4) described how the local educational agency or eligible institution, as appropriate, will review vocational education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to the programs, for populations described in section 114(c)(16); and

(5) described how individuals who are members of the special populations described in section 114(c)(16) will not be discriminated against on the basis of their status as members of the special populations.

SEC. 125. CONSORTIA.

A local educational agency and an eligible institution may form a consortium to carry out the provisions of this subtitle if the sum of the amount the consortium receives for a fiscal year under sections 121 and 122 equals or exceeds $65,000.

TITLE II—TECH-PREP EDUCATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Tech-Prep Education Act".

SEC. 202. PURPOSES.

The purposes of this title are—

(1) to provide implementation grants to consortia of local educational agencies, postsecondary educational institutions, and employers or labor organizations, for the development and operation of programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate;

(2) to provide, in a systematic manner, strong, comprehensive links among secondary schools, post-secondary educational institutions, and local or regional employers, or labor organizations; and

(3) to support the use of contextual, authentic, and applied teaching and curriculum based on each State's academic, occupational, and employability standards.

SEC. 203. DEFINITIONS.

(a) In this title.

(1) ARTICULATION AGREEMENT.—The term "articulation agreement" means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) COMMUNITY COLLEGE.—The term "community college"—

(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141) for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

(3) TECH-PREP PROGRAM.—The term "tech-prep program" means a program of study that—

(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

(B) integrates academic and vocational instruction, and utilizes work-based and worksite learning where appropriate and available;

(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

(E) leads to an associate or a baccalaureate degree or a certificate in a specific career field; and

(F) leads to placement in appropriate employment or further education.

SEC. 204. PROGRAM AUTHORIZED.

(a) DISCRETIONARY AMOUNTS.—

(1) IN GENERAL.—For any fiscal year for which the amount appropriated under section 207 to carry out this title is equal to or less than $50,000,000, the Secretary shall award grants for tech-prep education programs to consortia between or among—

(A) a local educational agency, an intermediate educational agency or area vocational education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that offers—

(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), including an institution receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational institution; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employer or labor organizations.

(b) STATE GRANTS.—

(1) IN GENERAL.—For any fiscal year for which the amount made available under section 207 to carry out this title exceeds $50,000,000, the Secretary shall allot such amount among the States in the same manner as funds are allotted to States under paragraphs (2), (3), and (4) of section 101(a).

(2) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under this paragraph to the eligible agency that serves the State and has an application approved under paragraph (4).

(3) AWARD BASIS.—From amounts made available to each eligible agency under this subsection, the eligible agency shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs to consortia described in subsection (a).

(4) STATE APPLICATION.—Each eligible agency desiring assistance under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 205. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each consortium shall use amounts provided through the grant to develop and operate a tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics,

science, reading, writing, communications, and technologies designed to lead to an associate's degree or a certificate in a specific career field;

(3) include the development of tech-prep education program curricula for both secondary and postsecondary levels that—

(A) meets academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields;

(C) uses, where appropriate and available, work-based or worksite learning in conjunction with business and industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs.

(4) include a professional development program for academic, vocational, and technical teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium;

(C) is designed to ensure that teachers stay current with the needs, expectations, and methods of business and industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) make tech-prep education opportunities known to students interested in such activities;

(B) ensure that such students successfully complete such programs;

(C) ensure that such students are placed in appropriate employment; and

(D) stay current with the needs, expectations, and methods of business and industry;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of populations described in section 114(c)(16), including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services that assist all participants in such programs.

(c) Additional Authorized Activities.—Each such tech-prep program may—

(1) provide for the acquisition of tech-prep education program equipment;

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs;

(3) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(4) establish articulation agreements with institutions of higher education, labor organizations, or businesses located outside of the State served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

SEC. 206. APPLICATIONS.

(a) In General.—Each consortium that desires to receive a grant under this title shall submit an application to the Secretary or the eligible agency, as appropriate, at such time and in such manner as the Secretary or the eligible agency, as appropriate, shall prescribe.

(b) Three-Year Plan.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this title.

(c) Approval.—The Secretary or the eligible agency, as appropriate, shall approve applications based on the potential of the activities described in the application to create an effective tech-prep education program described in section 205.

(d) Special Consideration.—The Secretary of the eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to 4-year institutions of higher education;

(2) are developed in consultation with 4-year institutions of higher education;

(3) address effectively the needs of populations described in section 114(c)(16);

(4) provide education and training in areas or skills where there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) Equitable Distribution of Assistance.—In awarding grants under this title, the Secretary shall ensure an equitable distribution of assistance among States, and the Secretary or the eligible agency, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) Notice.—

(1) In general.—In the case of grants to be awarded by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) Notification.—The Secretary shall notify the State educational agency and the State agency for higher education of a State each time a consortium located in the State is selected to receive a grant under this title.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

SEC. 208. DEMONSTRATION PROGRAM.

(a) Demonstration Program Authorized.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 204(a) to enable the consortia to carry out tech-prep education programs.

(b) Program Contents.—Each tech-prep program referred to in subsection (a)—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) Application.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) Applicability.—The provisions of sections 204, 205, 206, and 207 shall not apply to this section, except that—

(1) the provisions of section 204(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 205(b), except that such paragraph (3)(B) shall be applied by striking ", and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields"; and

(3) in awarding grants under this section the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 206(d), except that such paragraph (1) shall be applied by striking "or the transfer of students to 4-year institutions of higher education".

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 5 succeeding fiscal years.

TITLE III—GENERAL PROVISIONS

SEC. 301. ADMINISTRATIVE PROVISIONS.

(a) Supplement Not Supplant.—Funds made available under this Act for vocational education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational education and tech-prep activities.

(b) Maintenance of Effort.—

(1) Determination.—No payments shall be made under this Act for any fiscal year to an eligible agency for vocational education or tech-prep activities unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of the State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Waiver.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(c) Representation.—The eligible agency shall provide representation to the statewide partnership.

SEC. 302. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) Local Evaluation.—Each eligible agency shall evaluate annually the vocational education and tech-prep activities of each local educational agency or eligible institution receiving assistance under this Act, using the performance measures established under section 102.

(b) Improvement Activities.—If, after reviewing the evaluation, an eligible agency determines that a local educational agency or eligible institution is not making substantial progress in achieving the purpose of this Act, the local educational agency or eligible institution, in consultation with teachers, parents, and other school staff, shall—

(1) conduct an assessment of the educational and other problems that the local educational agency or eligible institution shall address to overcome local performance problems;

(2) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

(3) conduct regular evaluations of the progress being made toward program improvement goals.

(c) Technical Assistance.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 114, or is not making substantial progress in meeting the purpose of this Act, based on the performance measures and expected levels of performance under section 102 included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(d) Withholding of Federal Funds.—If, after a reasonable time, but not earlier than 1 year after implementing activities described in subsection (c), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant funds under this title. the Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services, and activities within the State to meet the purpose of this Act.

SEC. 303. NATIONAL ACTIVITIES.

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities that carry out the purpose of this Act.

SEC. 304. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

(a) In General.—The Secretary shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

(b) Independent Advisory Panel.—The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of labor organizations, business, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed and the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(c) Contents.—The assessment required under subsection (a) shall include descriptions and evaluations of—

(1) the effect of the vocational education programs assisted under this Act on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal, and local vocational education systems to address the purposes of this Act;

(2) expenditures at the Federal, State, tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State distribution formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the number of vocational education students and tech-prep students who meet State academic standards;

(B) the extent and success of integration of academic and vocational education for students participating in vocational education programs; and

(C) the degree to which vocational education is relevant to subsequent employment or participation in postsecondary education;

(6) employer involvement in, and satisfaction with, vocational education programs;

(7) the use and impact of educational technology and distance learning with respect to vocational education and tech-prep programs; and

(8) the effect of performance measures, and other measures of accountability, on the delivery of vocational education services.

(d) Consultation.—

(1) In general.—The Secretary shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate in the design and implementation of the assessment required under subsection (a).

(2) Reports.—The Secretary shall submit to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary—

(A) an interim report regarding the assessment on or before July 1, 2001; and

(B) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(3) Prohibition.—Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under subsection (b) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

SEC. 305. NATIONAL RESEARCH CENTER.

(a) General Authority.—

(1) In general.—The Secretary, through grants, contracts, or cooperative agreements, may establish 1 or more national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2) Consultation.—The Secretary shall consult with the States prior to establishing 1 or more such centers.

(3) Eligible entities.—Entities eligible to receive funds under this section are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

(b) Activities.—

(1) In general.—The national center or centers shall carry out such activities as the Secretary determines to be appropriate to assist State and local recipients of funds under this Act to achieve the purpose of this Act, which may include the research and evaluation activities in such areas as—

(A) the integration of vocational and academic instruction, secondary and postsecondary instruction;

(B) effective inservice and preservice teacher education that assists vocational education systems;

(C) education technology and distance learning approaches and strategies that are effective with respect to vocational education;

(D) performance measures and expected levels of performance that serve to improve vocational education programs and student achievement;

(E) effects of economic changes on the kinds of knowledge and skills required for employment or participation in postsecondary education;

(F) longitudinal studies of student achievement; and

(G) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include—

(i) serving as a repository for information on vocational and technological skills, State academic standards, and related materials; and

(ii) developing and maintaining national networks of educators who facilitate the development of vocational education systems.

(2) Report.—The center or centers conducting the activities described in paragraph (1) annually shall prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary shall submit that report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(c) Review.—The Secretary shall—

(1) consult at least annually with the national center or centers and with experts in education to ensure that the activities of the national center or centers meet the needs of vocational education programs; and

(2) undertake an independent review of each award recipient under this section prior to extending an award to such recipient beyond a 5-year period.

SEC. 306. DATA SYSTEMS.

(a) In General.—The Secretary shall maintain a data system to collect information about, and report on, the condition of vocational education and on the effectiveness of State and local programs, services, and activities carried out under this Act in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational education. The Secretary annually shall report to Congress on the Secretary's analysis of performance data collected each year pursuant to this Act, including an analysis of performance data regarding the populations described in section 114(c)(16).

(21) DATA SYSTEM.—In maintaining the data system, the Secretary shall ensure that the data system is compatible with other Federal information systems.

(c) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational education for a nationally representative sample of students. Such assessment may include international comparisons.

SEC. 307. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking "to be held in 1995"; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "in the summer of 1995;" and inserting "; and";

(B) in paragraph (5), by striking "in 1996 and thereafter, as well as replicate such program internationally; and" and inserting "and internationally."; and

(C) by striking paragraph (6).

SEC. 308. DEFINITION.

In this Act, the term "gender equity", used with respect to a program, service, or activity, means a program, service, or activity that is designed to ensure that men and women (including single parents and displaced homemakers) have access to opportunities to participate in vocational education that prepares the men and women to enter high-skill, high-wage careers.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out title I, and sections 303, 304, 305, and 306, such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

TITLE V—REPEAL

SEC. 501. REPEAL.

(a) REPEAL.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is repealed.

(b) REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Vocational Education Act of 1963" and inserting "Vocational Education Act of 1963" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(2) NATIONAL DEFENSE AUTHORIZATION ACT.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act," and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998";

(B) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998";

(C) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(D) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(4) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "(20 U.S.C. 2397h(3)" and inserting ", as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(5) IMPROVING AMERICA'S SCHOOLS ACT OF 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking "the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "July 1, 1999".

(6) INTERNAL REVENUE CODE OF 1986.—SECTION 135(C)(3)(B) OF THE INTERNAL REVENUE CODE OF 1986 (26 U.S.C. 135(C)(3)(B)) IS AMENDED—

(A) by striking "subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act" and inserting "subparagraph (C) or (D) of section 2(3) of the Workforce Investment Partnership Act of 1998"; and

(B) by striking "any State (as defined in section 521(27) of such Act)" and inserting "any State or outlying area (as the terms 'State' and 'outlying area' are defined in section 2 of such Act)".

(7) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) (as amended by subsection (c)(5)) is further amended by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(8) VOCATIONAL EDUCATION AMENDMENTS OF 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking "section 3 of the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(9) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(n)(i)), by striking "or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)"; and

(B) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(i) by striking "employment and training programs" and inserting "workforce investment activities"; and

(ii) by striking "the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

ADDITIONAL STATEMENTS

RECOGNITION OF THE HANNIBAL COURIER-POST'S 160TH ANNIVERSARY

• Mr. BOND. Mr. President, I rise today to recognize the Hannibal Courier-Post on it's 160th Anniversary. Several years ago, a Courier-Post reporter, Gene Hoenes, was quoted as saying, "People listen to facts announced on the radio and see news on television, but they don't really believe it until they read it in the newspaper."

From the beginning, this newspaper has provided important information for the people of Hannibal in my home State of Missouri. In the early days, just about anyone who had a cause started a paper, although few survived. Eventually, several of the small and struggling papers merged into what is now the Hannibal Courier-Post, the oldest existing newspaper in Missouri.

It is truly impressive that Hannibal Courier-Post is having it's 160th Anniversary. I commend all of the people who have helped to make the Courier-Post succeed throughout it's many years of existence.

TRIBUTE TO KATHY WEMHOFF

• Mr. CRAIG. Mr. President, I rise to recognize one of my Idaho constituents, Kathy Wemhoff. With Flag Day quickly approaching on June 14th, I wanted to congratulate Kathy on being the Idaho state winner of The Citizens Flag Alliance Essay Contest. Kathy won a scholarship and went on to compete in the national competition.

Her essay, titled, "The American Flag Protection Amendment: A Right of the People * * * The Right Thing to Do" focuses on the importance of the American flag to all citizens and discusses reasons why we should have a flag protection amendment. I think she has done an excellent job of making the case for protecting the flag, and I recommend her essay to every member of the Senate.

I feel strongly about the protection of this flag. It is a beacon to us—a reminder of those who died for us and the values that unite us. As we near U.S. Flag Day, I'd like to remind the Senate of the already-proposed amendment to protect our flag and ask all my colleagues to support this important matter. Kathy's feelings are shared by most Americans. Let's not ignore them. Let's support them and build our nation's pride! Let me now read Kathy's essay:

THE AMERICAN FLAG PROTECTION AMENDMENT: A RIGHT OF THE PEOPLE * * * THE RIGHT THING TO DO

I pledge allegiance, to the flag, of the United States of American. . ." Every day, millions of voices speak these words first published in "Youth's Companion" on September 8, 1892: voices belonging to the men of the armed forces, school children, and the citizens of the United States of America. The pledge, written for the National Public Schools Celebration of Columbus Day, became enormously popular in a very short time. On Columbus Day of that year, only one month after its publication, more than twelve million school children took the pledge (Quaife 154). The birth of the pledge and its enormous success demonstrate the importance that the American populace place on the flag.

The pledge must hold some special meaning for such a great number of people to believe and repeat these words daily. No words could be clearer than those of the Pledge of Allegiance. Every man, woman, and child who repeats the words not only understands them, but also lives by them. The people are voicing their loyalty to and belief in the nation and its flag as they put their hands to their hearts. Even centuries after the nation's establishment, the flag remains a symbol of the United States and the freedom of the people who reside within.

Symbols have substantial importance in this world, but what exactly is a symbol? A symbol may be an object or idea which suggests some other more distinguished idea by reason of relationship, association, or convention. A Christmas tree or stockings, for example, are symbols heavily depended upon by most people. Few can imagine Christmas without a tree or stockings. The symbol relates the person to that event or object which would otherwise seem unimportant. Without the flag to represent the dedication, honor, and freedom of the United States, we the people will lose our faith in the country. The flag reminds the citizens of their freedom and the soldiers who fought and died for that freedom. The flag, so admirable fluttering in the air, must be preserved from the elements and protected from desecration. The thought of the flag torn and dirtied by carelessness or hatred turns the stomachs of the people who look to the flag with admiration. Not only can this behavior be labeled unjust to the flag, but also to the country and all its people. The need for a law to protect the flag from inequitable harm has arisen, for the flag is relied upon as the national symbol of freedom.

Old Glory, millions of times unraveled and sewn again since Independence Day, July 4, 1776, remains for the most part preserved and protected throughout the country (Quaife 109). People young and old care for the flag as if it were a delicate vase shielded from all harm for many centuries, carrying it in from the rain, never letting it touch the ground, and even guarding it with rifles. When the flag rises, American citizens young and old stand and salute it to show their respect for what it represents: honor, nobility, and the individual soldiers who fought for our freedoms: of life, liberty, and the pursuit of happiness (Berkin 425). These freedoms are extremely important, yet often taken advantage of.

There remains an exception to the behavior that most possess around the flag; people may desecrate it without punishment. No law exists at this time to protect the flag from ill treatment. Those who desire to fight in the flag's honor can do so by joining forces with all our nations' people and fighting for the creation of a law to protect and preserve it. The Constitution and laws of the country are made by the people, and for the people; therefore, the people have the right to fight for the protection of the American flag. Not a law of one town or of one state, but a law of the nation should be created: an amendment to the United States Constitution guarding against desecration of our nation's symbol of freedom.

The American Flag remains protected from "disloyal utterances" by the Sedition Act, passed in 1918, but holds no personal amendment or act to prevent it from being physically damaged (Berkin 425). An amendment with strength will uphold the credibility of the flag, saving it the humility of desecration or desertion. A simple and unadorned, yet specifically detailed amendment will hold anyone disrespectful to the flag's rights in contempt of the nation. Any purposeful act of aggression against the flag, such as dragging it in the dirt or burning it, would result in heavy punishment. The guidelines of what exactly would be punishable would be stated in the Flag Amendment; the Supreme Court would have the authority to enforce punishment when these laws were violated.

A decision of the court may be based upon much of the same facts as was the case "United States vs. O'Brien, 1968" when four young men burned their draft cards in protest of the Vietnam War. The O'Brien case dealt with the issue of symbolic speech, whether or not certain actions should be allowed to fall under the First Amendment's guarantee of free speech (McClenaghan 118). Burning a flag or desecrating one in any other manner would follow the court ruling of the O'Brien case; a limitless variety of conduct cannot be labeled "speech"; therefore, unacceptable behavior toward the flag can be punishable by law. The flag, protected by the First Amendment under symbolic speech, would then also have an amendment that described the limits of what behavior would be acceptable in its handling and what punishment could be given in the event of its desecration.

The flag, for so many reasons, deserves and needs protection from desecration and misuse. Since the majority of the nation's people view the flag as a symbol of their freedom, it deserves an amendment to recognize and protect it. The need for this amendment exists because of the few people of the nation who cannot respect the flag or look to it as a symbol of their freedom. All citizens should support the cause of creating an amendment to protect the flag from dishonor. It is of great importance to have a symbol of the nation's freedom and unity so that the people do not forget or take advantage of the rights they possess by living in America.

MEASURE PLACED ON THE CALENDAR—H.R. 3978

Mr. HAGEL. Mr. President, I understand that there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 3978) to restore provisions agreed to by the conferees to H.R. 2400, entitled the "Transportation Equity Act for the 21st Century," but not included in the conference report to H.R. 2400, and for other purposes.

Mr. HAGEL. Mr. President, I object to further proceedings at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

AMENDING THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

Mr. HAGEL. Mr. President, I ask unanimous consent the Labor Committee be discharged from further consideration of H.R. 1853 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2704

Mr. HAGEL. On behalf of Senator JEFFORDS, I send a substitute amendment to the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL], for Mr. JEFFORDS, proposes an amendment numbered 2704.

Mr. HAGEL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HAGEL. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2704) was agreed to.

Mr. HAGEL. Mr. President, I ask unanimous consent the bill be considered read the third time and passed, as amended, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1853), as amended, was passed.

Mr. HAGEL. Mr. President, I further ask unanimous consent the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. KYL) appointed Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 579, Wilma A. Lewis, to be United States Attorney for the District of Columbia.

I further ask unanimous consent the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

Wilma A. Lewis, of the District of Columbia, to be United States Attorney for the District of Columbia for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR MONDAY, JUNE 15, 1998

Mr. HAGEL. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until 1 p.m. on Monday, June 15. I further ask on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 2 p.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. I further ask unanimous consent that following morning business, the Senate resume consideration of S. 1415, the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HAGEL. Mr. President, for the information of all Senators, the Senate will reconvene on Monday, June 15, at 1 p.m., and begin a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of the tobacco bill.

As a reminder to all Members, any votes ordered on Monday with respect to the tobacco bill will be postponed, to occur Monday evening at 5 p.m. It is expected that no more than two votes will be ordered to occur on Monday. The Senate may also attempt to reach agreement to consider the Higher Education Act, the NASA authorization bill, drug czar office reauthorization bill, and any other legislative or executive items that may be cleared for action.

Any votes ordered with respect to any items other than the tobacco bill will be postponed, to occur on Tuesday morning at a time to be determined by the two leaders.

ADJOURNMENT UNTIL 1 P.M., MONDAY, JUNE 15, 1998

Mr. HAGEL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:56 p.m., adjourned until Monday, June 15, 1998, at 1 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 12, 1998:

DEPARTMENT OF JUSTICE

WILMA A. LEWIS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

HOUSE OF REPRESENTATIVES—*Monday, June 15, 1998*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. BARRETT of Nebraska).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 15, 1998.

I hereby designate the Honorable BILL BARRETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With the psalmist of old we pray together:

"I cry with my voice to the Lord, with my voice I make supplication to the Lord, I pour out my complaint before him, I tell my trouble before him. When my spirit is faint, thou knowest my way.

"Hear my prayer, O Lord; give ear to my supplications. In thy faithfulness answer me, in my righteousness."

Hear our prayers this day, O loving God, and may Your eternal blessings be in our hearts forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. ROHRABACHER) come forward and lead the House in the Pledge of Allegiance.

Mr. ROHRABACHER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a bill of the following title, in which concurrence of the House is requested:

S. 1693. An act to provide for improved management and increased accountability for certain National Park Service programs, and for other purposes.

CONFERENCE REPORT ON H.R. 2646, EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

Mr. ARMEY submitted the following conference report and statement on the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes:

CONFERENCE REPORT (H. REPT. 577)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646), to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Savings and School Excellence Act of 1998".

TITLE I—TAX INCENTIVES FOR EDUCATION

SEC. 100. AMENDMENT TO 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Tax Incentives For Education

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) (defining qualified higher education expenses) is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)).

Such expenses shall be reduced as provided in section 25A(g)(2).

"(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.".

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

"(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school, or

"(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A)(i) in connection with education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.".

(3) SPECIAL RULES FOR APPLYING EXCLUSION TO ELEMENTARY AND SECONDARY EXPENSES.—Section 530(d)(2) (relating to distributions for qualified higher education expenses), as amended by subsection (e), is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULES FOR ELEMENTARY AND SECONDARY EXPENSES.—

"(i) IN GENERAL.—The aggregate amount of qualified elementary and secondary education expenses taken into account for purposes of this paragraph with respect to any education individual retirement account for all taxable years shall not exceed the sum of the aggregate contributions to such account for taxable years beginning after December 31, 1998, and before January 1, 2003, and earnings on such contributions.

"(ii) SPECIAL OPERATING RULES.—For purposes of clause (i)—

"(I) the trustee of an education individual retirement account shall keep separate accounts with respect to contributions and earnings described in clause (i), and

"(II) if there are distributions in excess of qualified elementary and secondary education expenses for any taxable year, such excess distributions shall be allocated first to contributions and earnings not described in clause (i).".

(4) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 are each amended by striking "higher" each place it appears in the text and heading thereof.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(b) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(2) CONTRIBUTION LIMIT.—Section 530(b) (relating to definitions and special rules), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTION LIMIT.—The term 'contribution limit' means $500 ($2,000 in the case of any taxable year beginning after December 31, 1998, and ending before January 1, 2003).".

(3) CONFORMING AMENDMENT.—Section 4973(e)(1)(A) is amended by striking "$500" and inserting "the contribution limit (as defined in section 530(b)(5)) for such taxable year".

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

"The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).".

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking "The maximum amount which a contributor" and inserting "In the case of a contributor who is an individual, the maximum amount the contributor".

(e) TECHNICAL CORRECTIONS.—

(1) Section 530(b)(1) is amended by inserting "an individual who is" before "the designated beneficiary" in the material preceding subparagraph (A).

(2)(A) Section 530(b)(1)(E) is amended to read as follows:

"(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.".

(B) Section 530(d)(7) is amended by inserting at the end the following new sentence: "In applying the preceding sentence, members of the family of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).".

(C) Section 530(d) is amended by adding at the end the following new paragraph:

"(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.".

(3)(A) Section 530(d)(1) is amended by striking "section 72(b)" and inserting "section 72".

(B) Section 72(e) is amended by inserting after paragraph (8) the following new paragraph:

"(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.".

(4) Section 135(d)(2) is amended to read as follows:

"(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

"(A) the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses, and

"(B) the amount of such expenses which are taken into account in determining the exclusion under section 530(d)(2).".

(5) Section 530(d)(2) is amended by adding at the end the following new subparagraph:

"(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.".

(6) Section 530(d)(4)(B) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end the following new clause:

"(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.".

(7) So much of section 530(d)(4)(C) as precedes clause (ii) thereof is amended to read as follows:

"(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

"(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and".

(8) Section 135(c)(2)(C) is amended—

(A) by inserting "AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS" in the heading after "PROGRAM", and

(B) by striking "section 529(c)(3)(A)" and inserting "section 72".

(9) Section 4973(e)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of education individual retirement accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the sum of—

"(A) the amount by which the amount contributed for the taxable year to such accounts exceeds $500 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year),

"(B) if any amount is contributed during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for such taxable year, and

"(C) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(i) the distributions out of the accounts for the taxable year which are included in gross income, and

"(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year over the amount contributed to the accounts for the taxable year.".

(10)(A) Paragraph (5) of section 530(d) is amended by striking the first sentence and inserting the following new sentence: "Paragraph (1) shall not apply to any amount paid or distributed from an education individual retirement account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another education individual retirement account for the benefit of the same beneficiary or a member of the family (within the meaning of section 529(e)(2) of such beneficiary who has not attained age 30 as of such date."

(B) Paragraph (6) of section 530(d) is amended by inserting before the period "and has not attained age 30 as of the date of such change".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (e) shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

SEC. 102. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(c)(3)(B) (relating to distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

"(i) IN GENERAL.—No amount shall be includible in gross income under subparagraph (A) if the qualified higher education expenses of the designated beneficiary during the taxable year are not less than the aggregate distributions during the taxable year.

"(ii) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under subparagraph (A) shall be reduced by the amount which bears the same ratio to the amount so includible (without regard to this subparagraph) as such expenses bear to such aggregate distributions.

"(iii) ELECTION TO WAIVE EXCLUSION.—A taxpayer may elect to waive the application of this subparagraph for any taxable year.

"(iv) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

"(v) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified higher education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.".

(b) DEFINITION OF QUALIFIED HIGHER EDUCATION EXPENSES.—Section 529e)(3)(A) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary at an eligible educational institution.".

(c) COORDINATION WITH EDUCATION CREDITS.—Section 25A(e)(2) (relating to coordination with exclusions) is amended—

(1) by inserting "a qualified State tuition program or" before "an education individual retirement account", and

(2) by striking "section 530(d)(2)" and inserting "section 529(c)(3)(B) or 530(d)(2)".

(d) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

(1) IN GENERAL.—Section 529(b)(1) (defining qualified State tuition program) is amended by inserting "or, in the case of taxable years beginning after December 31, 2005, by 1 or more eligible educational institutions" after "maintained

by a State or agency or instrumentality thereof''.

(2) PRIVATE QUALIFIED TUITION PROGRAMS LIMITED TO BENEFIT PLANS.—Section 529(b)(1) is amended by adding at the end the following flush sentence:

''Clause (ii) of subparagraph (A) shall only apply to a program established and maintained by a State or agency or instrumentality thereof.''.

(3) LIMITATION ON CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAMS.—Section 529(b) is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAMS.—In the case of a program not established and maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to an amount equal to the lesser of—

''(A) $5,000, or

''(B) the excess of—

''(i) $50,000, over

''(ii) the aggregate amount contributed to such program on behalf of such beneficiary for all prior taxable years.''.

(4) TAX ON EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—Section 4973(a) (relating to tax imposed) is amended by striking ''or'' at the end of paragraph (3), by inserting ''or'' at the end of paragraph (4), and by inserting after paragraph (4) the following new paragraph:

''(5) a private qualified tuition program (as defined in subsection (g)),''.

(B) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

''(g) EXCESS CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—In the case of private qualified tuition programs, the term 'excess contributions' means, with respect to any 1 beneficiary—

''(A) the amount by which the amounts contributed for the taxable year to such programs exceed the lesser of—

''(i) $5,000, or

''(ii) the excess of—

''(I) $50,000, over

''(II) the aggregate amount contributed to all private qualified tuition programs on behalf of such beneficiary for all prior taxable years, and

''(B) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

''(i) the distributions out of such programs for the taxable year which are included in gross income, and

''(ii) the excess (if any) of the maximum amount which may be contributed to such programs for the taxable year over the amount contributed to such programs for the taxable year.

''(2) SPECIAL RULE IF CONTRIBUTIONS MADE TO A STATE TUITION PROGRAM OR AN EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—Notwithstanding paragraph (1), with respect to any 1 beneficiary, the amount contributed to a private qualified tuition program for any taxable year shall be treated as excess contributions if any amount is contributed during such year for the benefit of such beneficiary to—

''(A) a qualified tuition program (as defined in section 529) that is established and maintained by a State or any agency or instrumentality thereof, or

''(B) an education individual retirement account (as defined in section 530).

''(3) SPECIAL RULES.—The contributions described in subsection (e)(2) shall not be taken into account.

''(4) PRIVATE QUALIFIED TUITION PROGRAM.—The term 'private qualified tuition program' means a qualified tuition program (as defined in section 529) not established and maintained by a State or any agency or instrumentality thereof.''.

(5) TECHNICAL AMENDMENTS.—

(A) The text of each of the sections 72(e)(9), 529, 530(b)(2)(B), and 4973(e)(1)(B) is amended by striking ''qualified State tuition program'' each place it appears and inserting ''qualified tuition program''.

(B)(i) The section heading of section 529 is amended to read as follows:

''SEC. 529. QUALIFIED TUITION PROGRAMS.''.

(ii) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ''State''.

(e) TECHNICAL CORRECTIONS.—

(1) Section 135(c)(3) is amended to read as follows:

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).''.

(2) Section 529(c)(3)(A) is amended by striking ''section 72(b)'' and inserting ''section 72''.

(3) Section 529(e)(2) is amended to read as follows:

''(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any designated beneficiary—

''(A) the spouse of such beneficiary,

''(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a), and

''(C) the spouse of any individual described in subparagraph (B).''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—The amendments made by subsection (d) shall apply to taxable years beginning after December 31, 2005.

(3) TECHNICAL CORRECTIONS.—The amendments made by subsection (e) shall take effect as if included in the amendments made by section 211 of the Taxpayer Relief Act of 1997.

SEC. 103. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

Section 127(d) (relating to termination of exclusion for educational assistance programs) is amended by striking ''May 31, 2000'' and inserting ''December 31, 2002''.

SEC. 104. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking ''$5,000,000'' the second place it appears and inserting ''$10,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1998.

SEC. 105. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL HEALTH CORPS SCHOLARSHIP PROGRAM AND THE F. EDWARD HEBERT ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 117(c) (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended—

(1) by striking ''Subsections (a)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a)''; and

(2) by adding at the end the following new paragraph:

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any amount received by an individual under—

''(A) the National Health Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act, or

''(B) the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

Subtitle B—Revenue

SEC. 111. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

(a) IN GENERAL.—Section 404(a) (relating to general rule) is amended by adding at the end the following new paragraph:

''(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—For purposes of determining under this section—

''(A) whether compensation of an employee is deferred compensation, and

''(B) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 2001.

(2) PHASE-IN OF INCREASE.—In the case of the first taxable year of the taxpayer ending after December 31, 2001, only 60 percent of the amount of the increase in tax resulting from the amendment made by subsection (a) shall be taken into account for purposes of sections 6654 and 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax).

(3) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after December 31, 2001—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

Subtitle C—Identification of Limited Tax Benefits Subject To Line Item Veto

SEC. 121. IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO.

Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall only apply to section 104(a) (relating to additional increase in arbitrage rebate exception for governmental bonds used to finance education facilities).

TITLE II—MEASURES TO ENCOURAGE RESULTS IN TEACHING

SEC. 201. STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY.

(a) SHORT TITLE.—This section may be cited as the ''Measures to Encourage Results in Teaching Act of 1998''.

(b) FINDINGS.—Congress makes the following findings:

(1) All students deserve to be taught by well-educated, competent, and qualified teachers.

(2) More than ever before, education has and will continue to become the ticket not only to economic success but to basic survival. Students will not succeed in meeting the demands of a knowledge-based, 21st century society and economy if the students do not encounter more challenging work in school. For future generations

to have the opportunities to achieve success the future generations will need to have an education and a teacher workforce second to none.

(3) No other intervention can make the difference that a knowledgeable, skillful teacher can make in the learning process. At the same time, nothing can fully compensate for weak teaching that, despite good intentions, can result from a teacher's lack of opportunity to acquire the knowledge and skill needed to help students master the curriculum.

(4) The Federal Government established the Dwight D. Eisenhower Professional Development Program in 1985 to ensure that teachers and other educational staff have access to sustained and high-quality professional development. This ongoing development must include the ability to demonstrate and judge the performance of teachers and other instructional staff.

(5) States should evaluate their teachers on the basis of demonstrated ability, including tests of subject matter knowledge, teaching knowledge, and teaching skill. States should develop a test for their teachers and other instructional staff with respect to the subjects taught by the teachers and staff, and should administer the test every 3 to 5 years.

(6) Evaluating and rewarding teachers with a compensation system that supports teachers who become increasingly expert in a subject area, are proficient in meeting the needs of students and schools, and demonstrate high levels of performance measured against professional teaching standards, will encourage teachers to continue to learn needed skills and broaden teachers' expertise, thereby enhancing education for all students.

(c) PURPOSES.—The purposes of this section are as follows:

(1) To provide incentives for States to establish and administer periodic teacher testing and merit pay programs for elementary school and secondary school teachers.

(2) To encourage States to establish merit pay programs that have a significant impact on teacher salary scales.

(3) To encourage programs that recognize and reward the best teachers, and encourage those teachers that need to do better.

(d) STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY.—

(1) AMENDMENTS.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(A) by redesignating part D as part F;

(B) by redesignating sections 2401 and 2402 as sections 2601 and 2602, respectively; and

(C) by inserting after part C the following:

"PART D—STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY

"SEC. 2401. STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY.

"(a) STATE AWARDS.—Notwithstanding any other provision of this title, from funds described in subsection (b) that are made available for a fiscal year, the Secretary shall make an award to each State that—

"(1) administers a test to each elementary school and secondary school teacher in the State, with respect to the subjects taught by the teacher, every 3 to 5 years; and

"(2) has an elementary school and secondary school teacher compensation system that is based on merit.

"(b) AVAILABLE FUNDING.—The amount of funds referred to in subsection (a) that are available to carry out this section for a fiscal year is 50 percent of the amount of funds appropriated to carry out this title that are in excess of the amount so appropriated for fiscal year 1999, except that no funds shall be available to carry out this section for any fiscal year for which—

"(1) the amount appropriated to carry out this title exceeds $600,000,000; or

"(2) each of the several States is eligible to receive an award under this section.

"(c) AWARD AMOUNT.—A State shall receive an award under this section in an amount that bears the same relation to the total amount available for awards under this section for a fiscal year as the number of States that are eligible to receive such an award for the fiscal year bears to the total number of all States so eligible for the fiscal year.

"(d) USE OF FUNDS.—Funds provided under this section may be used by States to carry out the activities described in section 2207.

"(e) DEFINITION OF STATE.—For the purpose of this section, the term 'State' means each of the 50 States and the District of Columbia.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 2, 1999.

(e) TEACHER TESTING AND MERIT PAY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use Federal education funds—

(A) to carry out a test of each elementary school or secondary school teacher in the State with respect to the subjects taught by the teacher; or

(B) to establish a merit pay program for the teachers.

(2) DEFINITIONS.—In this subsection, the terms "elementary school" and "secondary school" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

TITLE III—EQUAL EDUCATIONAL OPPORTUNITY

SEC. 301. EQUAL EDUCATIONAL OPPORTUNITY.

Subsection (b) of section 6301 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351) is amended—

(1) in paragraph (7), by striking "and" after the semicolon;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(9) education reform projects that provide same gender schools and classrooms, as long as comparable educational opportunities are offered for students of both sexes.".

TITLE IV—SENSE OF CONGRESS

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) The people of the United States know that effective teaching takes place when the people of the United States begin (A) helping children master basic academics, (B) engaging and involving parents, (C) creating safe and orderly classrooms, and (D) getting dollars to the classroom.

(2) Our Nation's children deserve an educational system which will provide opportunities to excel.

(3) States and localities must spend a significant amount of Federal education tax dollars applying for and administering Federal education dollars.

(4) Several States have reported that although the States receive less than 10 percent of their education funding from the Federal Government, more than 50 percent of their paperwork is associated with those Federal dollars.

(5) While it is unknown exactly what percentage of Federal education dollars reaches the classroom, a recent audit of New York City public schools found that only 43 percent of their local education budget reaches the classroom; further, it is thought that only 85 percent of funds administered by the Department of Education for elementary and secondary education reach the school district level; and even if 65 percent of Federal education funds reach the classroom, it still means that billions of dollars are not directly spent on children in the classroom.

(6) American students are not performing up to their full academic potential, despite the more than 760 Federal education programs, which span 39 Federal agencies at the price of nearly $100,000,000,000 annually.

(7) According to the Digest of Education Statistics, in 1993 only $141,598,786,000 out of $265,285,370,000 spent on elementary and secondary education was spent on instruction.

(8) According to the National Center for Education Statistics, in 1994 only 52 percent of staff employed in public elementary and secondary school systems were teachers.

(9) Too much of our Federal education funding is spent on bureaucracy, and too little is spent on our Nation's youth.

(10) Getting 95 percent of Department of Education elementary and secondary education funds to the classroom could provide approximately $2,094 in additional funding per classroom across the United States.

(11) More education funding should be put in the hands of someone in a child's classroom who knows the child's name.

(12) President Clinton has stated: "We cannot ask the American people to spend more on education until we do a better job with the money we've got now.".

(13) President Clinton and Vice President Gore agree that the reinventing of public education will not begin in Washington but in communities across the United States and that the people of the United States must ask fundamental questions about how our Nation's public school systems' dollars are spent.

(14) President Clinton and Vice President Gore agree that in an age of tight budgets, our Nation should be spending public funds on teachers and children, not on unnecessary overhead and bloated bureaucracy.

SEC. 402. SENSE OF CONGRESS.

It is the sense of Congress that the Department of Education, States, and local educational agencies should work together to ensure that not less than 95 percent of all funds appropriated for the purpose of carrying out elementary and secondary education programs administered by the Department of Education is spent for our Nation's children in their classrooms.

TITLE V—READING EXCELLENCE

SEC. 501. SHORT TITLE.

This title may be cited as the "Reading Excellence Act".

Subtitle A—Reading Grants

SEC. 511. AMENDMENT TO ESEA FOR READING GRANTS.

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended further by inserting after part D (as inserted by section 201(d)(1)(C) of this Act) the following:

"PART F—READING GRANTS

"SEC. 2501. PURPOSE.

"The purposes of this part are as follows:

"(1) To teach every child to read in their early childhood years—

"(A) as soon as they are ready to read; or

"(B) as soon as possible once they enter school, but not later than 3d grade.

"(2) To improve the reading skills of students, and the in-service instructional practices for teachers who teach reading, through the use of findings from reliable, replicable research on reading, including phonics.

"(3) To expand the number of high-quality family literacy programs.

"(4) To reduce the number of children who are inappropriately referred to special education due to reading difficulties.

"SEC. 2502. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term 'eligible professional development provider' means a provider of professional development in reading instruction to teachers that is based on reliable, replicable research on reading.

"(2) ELIGIBLE RESEARCH INSTITUTION.—The term 'eligible research institution' means an institution of higher education at which reliable, replicable research on reading has been conducted.

"(3) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family (such as eliminating or reducing welfare dependency) and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Equipping parents to partner with their children in learning.

"(C) Parent literacy training, including training that contributes to economic self-sufficiency.

"(D) Appropriate instruction for children of parents receiving parent literacy services.

"(4) READING.—The term 'reading' means the process of comprehending the meaning of written text by depending on—

"(A) the ability to use phonics skills, that is, knowledge of letters and sounds, to decode printed words quickly and effortlessly, both silently and aloud;

"(B) the ability to use previously learned strategies for reading comprehension; and

"(C) the ability to think critically about the meaning, message, and aesthetic value of the text.

"(5) READING READINESS.—The term 'reading readiness' means activities that—

"(A) provide experience and opportunity for language development;

"(B) create appreciation of the written word;

"(C) develop an awareness of printed language, the alphabet, and phonemic awareness; and

"(D) develop an understanding that spoken and written language is made up of phonemes, syllables, and words.

"(6) RELIABLE, REPLICABLE RESEARCH.—The term 'reliable, replicable research' means objective, valid, scientific studies that—

"(A) include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;

"(B) rely on measurements that meet established standards of reliability and validity;

"(C) test competing theories, where multiple theories exist;

"(D) are subjected to peer review before their results are published; and

"(E) discover effective strategies for improving reading skills.

"SEC. 2503. GRANTS TO READING AND LITERACY PARTNERSHIPS.

"(a) PROGRAM AUTHORIZED.—The Secretary may make grants on a competitive basis to reading and literacy partnerships for the purpose of permitting such partnerships to make subgrants under sections 2504 and 2505.

"(b) READING AND LITERACY PARTNERSHIPS.—

"(1) COMPOSITION.—

"(A) REQUIRED PARTICIPANTS.—In order to receive a grant under this section, a State shall establish a reading and literacy partnership consisting of at least the following participants:

"(i) The Governor of the State.

"(ii) The chief State school officer.

"(iii) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

"(iv) A representative, selected jointly by the Governor and the chief State school officer, of at least 1 local educational agency that has at least 1 school that is identified for school improvement under section 1116(c) in the geographic area served by the agency.

"(v) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using volunteers.

"(B) OPTIONAL PARTICIPANTS.—A reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, which may include—

"(i) State directors of appropriate Federal or State programs with a strong reading component;

"(ii) a parent of a public or private school student or a parent who educates their child or children in their home;

"(iii) a teacher who teaches reading; or

"(iv) a representative of (I) an institution of higher education operating a program of teacher preparation in the State; (II) a local educational agency; (III) an eligible research institution; (IV) a private nonprofit or for-profit eligible professional development provider providing instruction based on reliable, replicable research on reading; (V) a family literacy service provider; (VI) an adult education provider; (VII) a volunteer organization that is involved in reading programs; or (VIII) a school or a public library that offers reading or literacy programs for children or families.

"(2) AGREEMENT.—The contractual agreement that establishes a reading and literacy partnership—

"(A) shall specify—

"(i) the nature and extent of the association among the participants referred to in paragraph (1); and

"(ii) the roles and duties of each such participant; and

"(B) shall remain in effect during the entire grant period proposed in the partnership's grant application under subsection (e).

"(3) FUNCTIONS.—Each reading and literacy partnership for a State shall prepare and submit an application under subsection (e) and, if the partnership receives a grant under this section—

"(A) shall solicit applications for, and award, subgrants under sections 2504 and 2505;

"(B) shall oversee the performance of the subgrants and submit performance reports in accordance with subsection (h);

"(C) if sufficient grant funds are available under this part—

"(i) work to enhance the capacity of agencies in the State to disseminate reliable, replicable research on reading to schools, classrooms, and providers of early education and child care;

"(ii) facilitate the provision of technical assistance to subgrantees under sections 2504 and 2505 by providing the subgrantees information about technical assistance providers; and

"(iii) build on, and promote coordination among, literacy programs in the State, in order to increase their effectiveness and to avoid duplication of their efforts; and

"(D) shall ensure that each local educational agency to which the partnership makes a subgrant under section 2504 makes available, upon request and in an understandable and uniform format, to any parent of a student attending any school selected under section 2504(a)(2) in the geographic area served by the agency, information regarding the qualifications of the student's classroom teacher to provide instruction in reading.

"(4) FISCAL AGENT.—The State educational agency shall act as the fiscal agent for the reading and literacy partnership for the purposes of receipt of funds from the Secretary, disbursement of funds to subgrantees under sections 2504 and 2505, and accounting for such funds.

"(c) PREEXISTING PARTNERSHIP.—If, before the date of the enactment of the Reading Excellence Act, a State established a consortium, partnership, or any other similar body, that includes the Governor and the chief State school officer and has, as a central part of its mission, the promotion of literacy for children in their early childhood years through the 3d grade, but that does not satisfy the requirements of subsection (b)(1), the State may elect to treat that consortium, partnership, or body as the reading and literacy partnership for the State notwithstanding such subsection, and the consortium, partnership, or body shall be considered a reading and literacy partnership for purposes of the other provisions of this part.

"(d) MULTI-STATE PARTNERSHIP ARRANGEMENTS.—A reading and literacy partnership that satisfies the requirements of subsection (b) may join with other such partnerships in other States to develop a single application that satisfies the requirements of subsection (e) and identifies which State educational agency, from among the States joining, shall act as the fiscal agent for the multi-State arrangement. For purposes of the other provisions of this part, any such multi-State arrangement shall be considered to be a reading and literacy partnership.

"(e) APPLICATIONS.—A reading and literacy partnership that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may require. The application—

"(1) shall describe how the partnership will ensure that 95 percent of the grant funds are used to make subgrants under sections 2504 and 2505;

"(2) shall be integrated, to the maximum extent possible, with State plans and programs under this Act, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and, to the extent appropriate, the Adult Education Act (20 U.S.C. 1201 et seq.);

"(3) shall describe how the partnership will ensure that professional development funds available at the State and local levels are used effectively to improve instructional practices for reading and are based on reliable, replicable research on reading;

"(4) shall describe—

"(A) the contractual agreement that establishes the partnership, including at least the elements of the agreement referred to in subsection (b)(2);

"(B) how the partnership will assess, on a regular basis, the extent to which the activities undertaken by the partnership and the partnership's subgrantees under this part have been effective in achieving the purposes of this part;

"(C) what evaluation instruments the partnership will use to determine the success of local educational agencies to whom subgrants under sections 2504 and 2505 are made in achieving the purposes of this part;

"(D) how subgrants made by the partnership under such sections will meet the requirements of this part, including how the partnership will ensure that subgrantees will use practices based on reliable, replicable research on reading; and

"(E) how the partnership will, to the extent practicable, make grants to subgrantees in both rural and urban areas;

"(5) shall include an assurance that each local educational agency to whom the partnership makes a subgrant under section 2504—

"(A) will carry out family literacy programs based on the Even Start family literacy model authorized under part B of title I to enable parents to be their child's first and most important *teacher, will make payments for the receipt of technical assistance for the development of such programs;*

"(B) will carry out programs to assist those kindergarten students who are not ready for the transition to 1st grade, particularly students experiencing difficulty with reading skills;

"(C) will use supervised individuals (including tutors), who have been appropriately trained using reliable, replicable research on reading, to provide additional support, before school, after school, on weekends, during non-instructional periods of the school day, or during the summer, for students in grades 1 through 3 who are experiencing difficulty reading; and

"(D) will carry out professional development for the classroom teacher and other appropriate teaching staff on the teaching of reading based on reliable, replicable research on reading; and

"(6) shall describe how the partnership—

"(A) will ensure that a portion of the grant funds that the partnership receives in each fiscal year will be used to make subgrants under section 2505; and

"(B) will make local educational agencies described in section 2505(a)(1) aware of the availability of such subgrants.

"(f) PEER REVIEW PANEL.—

"(1) COMPOSITION OF PEER REVIEW PANEL.—

"(A) IN GENERAL.—The National Institute for Literacy, in consultation with the National Research Council of the National Academy of Sciences, the National Institute of Child Health and Human Development, and the Secretary, shall convene a panel to evaluate applications under this section. At a minimum the panel shall include representatives of the National Institute for Literacy, the National Research Council of the National Academy of Sciences, the National Institute of Child Health and Human Development, and the Secretary.

"(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, based on reliable, replicable research on reading.

"(C) LIMITATION.—Not more than ⅓ of the panel may be composed of individuals who are employees of the Federal Government.

"(2) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary shall use funds reserved under section 2510(b)(2) to pay the expenses and fees of panel members who are not employees of the Federal Government.

"(3) DUTIES OF PANEL.—

"(A) MODEL APPLICATION FORMS.—The peer review panel shall develop a model application form for reading and literacy partnerships desiring to apply for a grant under this section. The peer review panel shall submit the model application form to the Secretary for final approval.

"(B) SELECTION OF APPLICATIONS.—

"(i) RECOMMENDATIONS OF PANEL.—

"(I) IN GENERAL.—The Secretary shall receive grant applications from reading and literacy partnerships under this section and shall provide the applications to the peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

"(II) PRIORITY.—In recommending applications to the Secretary, the panel shall give priority to applications from States that have modified, are modifying, or provide an assurance that not later than 1 year after receiving a grant under this section the State will modify, State teacher certification in the area of reading to reflect reliable, replicable research, except that nothing in this part shall be construed to establish a national system of teacher certification.

"(III) RANKING OF APPLICATIONS.—With respect to each application recommended for funding, the panel shall assign the application a rank, relative to other recommended applications, based on the priority described in subclause (II), the extent to which the application furthers the purposes of this part, and the overall quality of the application.

"(IV) RECOMMENDATION OF AMOUNT.—With respect to each application recommended for funding, the panel shall make a recommendation to the Secretary with respect to the amount of the grant that should be made.

"(ii) SECRETARIAL SELECTION.—

"(I) IN GENERAL.—Subject to clause (iii), the Secretary shall determine, based on the peer review panel's recommendations, which applications from reading and literacy partnerships shall receive funding and the amounts of such grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this section and the types of activities proposed to be carried out by the partnership.

"(II) EFFECT OF RANKING BY PANEL.—In making grants under this section, the Secretary shall select applications according to the ranking of the applications by the peer review panel, except in cases where the Secretary determines, for good cause, that a variation from that order is appropriate.

"(iii) MINIMUM GRANT AMOUNTS.—Each reading and literacy partnership selected to receive a grant under this section shall receive an amount for each fiscal year that is not less than $100,000.

"(g) LIMITATION ON ADMINISTRATIVE EXPENSES.—A reading and literacy partnership that receives a grant under this section may use not more than 3 percent of the grant funds for administrative costs.

"(h) REPORTING.—

"(1) IN GENERAL.—A reading and literacy partnership that receives a grant under this section shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. Such reports shall include—

"(A) the results of use of the evaluation instruments referred to in subsection (e)(4)(C);

"(B) the process used to select subgrantees;

"(C) a description of the subgrantees receiving funds under this part; and

"(D) with respect to subgrants under section 2504, the model or models of reading instruction, based on reliable, replicable research on reading, selected by subgrantees.

"(2) PROVISION TO PEER REVIEW PANEL.—The Secretary shall provide the reports submitted under paragraph (1) to the peer review panel convened under subsection (f). The panel shall use such reports in recommending applications for funding under this section.

"SEC. 2504. LOCAL READING IMPROVEMENT SUBGRANTS.

"(a) IN GENERAL.—

"(1) SUBGRANTS.—A reading and literacy partnership that receives a grant under section 2503 shall make subgrants, on a competitive basis, to local educational agencies that have at least 1 school that is identified for school improvement under section 1116(c) in the geographic area served by the agency.

"(2) ROLE OF LOCAL EDUCATIONAL AGENCIES.—A local educational agency that receives a subgrant under this section shall use the subgrant in a manner consistent with this section to advance reform of reading instruction in any school selected by the agency that—

"(A) is identified for school improvement under section 1116(c) at the time the agency receives the subgrant; and

"(B) has a contractual association with 1 or more community-based organizations that have established a record of effectiveness with respect to reading readiness, reading instruction for children in kindergarten through 3d grade, and early childhood literacy.

"(b) GRANT PERIOD.—A subgrant under this section shall be for a period of 3 years and may not be revoked or terminated on the ground that a school ceases, during the grant period, to be identified for school improvement under section 1116(c).

"(c) APPLICATIONS.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the reading and literacy partnership at such time, in such manner, and including such information as the partnership may require. The application—

"(1) shall describe how the local educational agency will work with schools selected by the agency under subsection (a)(2) to select 1 or more models of reading instruction, developed using reliable, replicable research on reading, as a model for implementing and improving reading instruction by all teachers and for all children in each of the schools selected by the agency under such subsection and, where appropriate, their parents;

"(2) shall select 1 or more models described in paragraph (1), for the purpose described in such paragraph, and shall describe each such selected model;

"(3) shall demonstrate that a person responsible for the development of each such model, or a person with experience or expertise about such model and its implementation, has agreed to work with the applicant in connection with such implementation and improvement efforts;

"(4) shall describe—

"(A) how the applicant will ensure that funds available under this part, and funds available for reading for grades kindergarten through grade 6 from other appropriate sources, are effectively coordinated and, where appropriate, integrated, with funds under this Act in order to improve existing activities in the areas of reading instruction, professional development, program improvement, parental involvement, technical assistance, and other activities that can help meet the purposes of this part; and

"(B) the amount of funds available for reading for grades kindergarten through grade 6 from appropriate sources other than this part, including title I (except that such description shall not be required to include funds made available under part B of title I unless the applicant has established a contractual association in accordance with subsection (d)(2) with an eligible entity under such part B), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other law providing Federal financial assistance for professional development for teachers of such grades who teach reading, which will be used to help achieve the purposes of this part;

"(5) shall describe the amount and nature of funds from any other public or private sources, including funds received under this Act and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that will be combined with funds received under the subgrant;

"(6) shall include an assurance that the applicant—

"(A) will carry out family literacy programs based on the Even Start family literacy model authorized under part B of title I to enable parents to be their child's first and most important teacher, will make payments for the receipt of technical assistance for the development of such programs;

"(B) will carry out programs to assist those kindergarten students who are not ready for the transition to 1st grade, particularly students experiencing difficulty with reading skills;

"(C) will use supervised individuals (including tutors), who have been appropriately trained using reliable, replicable research on reading, to

provide additional support, before school, after school, on weekends, during non-instructional periods of the school day, or during the summer, for students in grades 1 through 3 who are experiencing difficulty reading; and

"(D) will carry out professional development for the classroom teacher and other teaching staff on the teaching of reading based on reliable, replicable research on reading;

"(7) shall describe how the local educational agency provides instruction in reading to children who have not been determined to be a child with a disability (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), pursuant to section 614(b)(5) of such Act (20 U.S.C. 1414(a)(5)), because of a lack of instruction in reading; and

"(8) shall indicate the amount of the subgrant funds (if any) that the applicant will use to carry out the duties described in section 2505(b)(2).

"(d) Priority.—In approving applications under this section, a reading and literacy partnership shall give priority to an application submitted by an applicant who demonstrates that the applicant has established—

"(1) a contractual association with 1 or more Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.) under which—

"(A) the Head Start program agrees to select the same model or models of reading instruction, as a model for implementing and improving the reading readiness of children participating in the program, as was selected by the applicant; and

"(B) the applicant agrees—

"(i) to share with the Head Start program an appropriate amount of the applicant's information resources with respect to the model, such as curricula materials; and

"(ii) to train personnel from the Head Start program;

"(2) a contractual association with 1 or more State- or federally-funded preschool programs, or family literacy programs, under which—

"(A) the program agrees to select the same model or models of reading instruction, as a model for implementing and improving reading instruction in the program's activities, as was selected by the applicant; and

"(B) the applicant agrees to train personnel from the program who work with children and parents in schools selected under subsection (a)(2); or

"(3) a contractual association with 1 or more public libraries providing reading or literacy services to preschool children, or preschool children and their families, under which—

"(A) the library agrees to select the same model or models of reading instruction, as a model for implementing and improving reading instruction in the library's reading or literacy programs, as was selected by the applicant; and

"(B) the applicant agrees to train personnel, including volunteers, from such programs who work with preschool children, or preschool children and their families, in schools selected under subsection (a)(2).

"(e) Use of Funds.—

"(1) In general.—Subject to paragraph (2), an applicant who receives a subgrant under this section may use the subgrant funds to carry out activities that are authorized by this part and described in the subgrant application, including the following:

"(A) Making reasonable payments for technical and other assistance to a person responsible for the development of a model of reading instruction, or a person with experience or expertise about such model and its implementation, who has agreed to work with the recipient in connection with the implementation of the model.

"(B) Carrying out a contractual agreement described in subsection (d).

"(C) Professional development (including training of volunteers), purchase of curricular and other supporting materials, and technical assistance.

"(D) Providing, on a voluntary basis, training to parents of children enrolled in a school selected under subsection (a)(2) on how to help their children with school work, particularly in the development of reading skills. Such training may be provided directly by the subgrant recipient, or through a grant or contract with another person. Such training shall be consistent with reading reforms taking place in the school setting.

"(E) Carrying out family literacy programs based on the Even Start family literacy model authorized under part B of title I to enable parents to be their child's first and most important teacher, and making payments for the receipt of technical assistance for the development of such programs.

"(F) Providing instruction for parents of children enrolled in a school selected under subsection (a)(2), and others who volunteer to be reading tutors for such children, in the instructional practices based on reliable, replicable research on reading used by the applicant.

"(G) Programs to assist those kindergarten students enrolled in a school selected under subsection (a)(2) who are not ready for the transition to 1st grade, particularly students experiencing difficulty with reading skills.

"(H) Providing, for students who are enrolled in grades 1 through 3 in a school selected under subsection (a)(2) and are experiencing difficulty reading, additional support before school, after school, on weekends, during non-instructional periods of the school day, or during the summer, using supervised individuals (including tutors) who have been appropriately trained using reliable, replicable research on reading.

"(I) Carrying out the duties described in section 2505(b)(2) for children enrolled in a school selected under subsection (a)(2).

"(J) Providing reading assistance to children who have not been determined to be a child with a disability (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), pursuant to section 614(b)(5) of such Act (20 U.S.C. 1414(b)(5)), because of a lack of instruction in reading.

"(2) Limitation on administrative expenses.—A recipient of a subgrant under this section may use not more than 3 percent of the subgrant funds for administrative costs.

"(f) Training Nonrecipients.—A recipient of a subgrant under this section may train, on a fee-for-service basis, personnel who are from schools, or local educational agencies, that are not receiving such a subgrant in the instructional practices based on reliable, replicable research on reading used by the recipient. Such a non-recipient school may use funds received under title I, and other appropriate Federal funds used for reading instruction, to pay for such training, to the extent consistent with the law under which such funds were received.

"SEC. 2505. TUTORIAL ASSISTANCE SUBGRANTS.

"(a) In General.—

"(1) Subgrants.—A reading and literacy partnership that receives a grant under section 2503 shall make subgrants on a competitive basis to—

"(A) local educational agencies that have at least 1 school in the geographic area served by the agency that—

"(i) is located in an area designated as an empowerment zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; or

"(ii) is located in an area designated as an enterprise community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; or

"(B) in the case of local educational agencies that do not have any such empowerment zone or enterprise community in the State in which the agency is located, local educational agencies that have at least 1 school that is identified for school improvement under section 1116(c) in the geographic area served by the agency.

"(2) Applications.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the reading and literacy partnership at such time, in such manner, and including such information as the partnership may require. The application shall include an assurance that the agency will use the subgrant funds to carry out the duties described in subsection (b) for children enrolled in 1 or more schools selected by the agency and described in paragraph (1).

"(b) Use of Funds.—

"(1) In general.—A local educational agency that receives a subgrant under this section shall carry out, using the funds provided under the subgrant, each of the duties described in paragraph (2).

"(2) Duties.—The duties described in this paragraph are the provision of tutorial assistance in reading to children who have difficulty reading, using instructional practices based on the principles of reliable, replicable research, through the following:

"(A) The promulgation of a set of objective criteria, pertaining to the ability of a tutorial assistance provider successfully to provide tutorial assistance in reading, that will be used to determine in a uniform manner, at the beginning of each school year, the eligibility of tutorial assistance providers, subject to the succeeding subparagraphs of this paragraph, to be included on the list described in subparagraph (B) (and thereby be eligible to enter into a contract pursuant to subparagraph (F)).

"(B) The promulgation, maintenance, and approval of a list of tutorial assistance providers eligible to enter into a contract pursuant to subparagraph (F) who—

"(i) have established a record of effectiveness with respect to reading readiness, reading instruction for children in kindergarten through 3d grade, and early childhood literacy;

"(ii) are located in a geographic area convenient to the school or schools attended by the children who will be receiving tutorial assistance from the providers; and

"(iii) are capable of providing tutoring in reading to children who have difficulty reading, using instructional practices based on the principles of reliable, replicable research and consistent with the instructional methods used by the school the child attends.

"(C) The development of procedures (i) for the receipt of applications for tutorial assistance, from parents who are seeking such assistance for their child or children, that select a tutorial assistance provider from the list described in subparagraph (B) with whom the child or children will enroll, for tutoring in reading; and (ii) for considering children for tutorial assistance who are identified under subparagraph (D) and for whom no application has been submitted, provided that such procedures are in accordance with this paragraph and give such parents the right to select a tutorial assistance provider from the list referred to in subparagraph (B), and shall permit a local educational agency to recommend a tutorial assistance provider from the list under subparagraph (B) in a case where a parent asks for assistance in the making of such selection.

"(D) The development of a selection process for providing tutorial assistance in accordance with this paragraph that limits the provision of assistance to children identified, by the school the child attends, as having difficulty reading, including difficulty mastering essential phonic,

decoding, or vocabulary skills. In the case of a child included in the selection process for whom no application has been submitted by a parent of the child, the child's eligibility for receipt of tutorial assistance shall be determined under the same procedures, timeframe, and criteria for consideration as is used to determine the eligibility of a child whose parent has submitted such an application. Such local educational agency shall apply the provisions of subparagraphs (F) and (G) to a tutorial assistance provider selected for a child whose parent has not submitted an application pursuant to subparagraph (C)(i) in the same manner as the provisions are applied to a provider selected in an application submitted pursuant to subparagraph (C)(i).

"(E) The development of procedures for selecting children to receive tutorial assistance, to be used in cases where insufficient funds are available to provide assistance with respect to all children identified by a school under subparagraph (D) that—

"(i) gives priority to children who are determined, through State or local reading assessments, to be most in need of tutorial assistance; and

"(ii) gives priority, in cases where children are determined, through State or local reading assessments, to be equally in need of tutorial assistance, based on a random selection principle.

"(F) The development of a methodology by which payments are made directly to tutorial assistance providers who are identified and selected pursuant to subparagraphs (C), (D), and (E). Such methodology shall include the making of a contract, consistent with State and local law, between the tutorial assistance provider and the local educational agency carrying out this paragraph. Such contract—

"(i) shall contain specific goals and timetables with respect to the performance of the tutorial assistance provider;

"(ii) shall require the tutorial assistance provider to report to the parent and the local educational agency on the provider's performance in meeting such goals and timetables; and

"(iii) shall contain provisions with respect to the making of payments to the tutorial assistance provider by the local educational agency.

"(G) The development of procedures under which the local educational agency carrying out this paragraph—

"(i) will ensure oversight of the quality and effectiveness of the tutorial assistance provided by each tutorial assistance provider that is selected for funding;

"(ii) will remove from the list under subparagraph (B) ineffective and unsuccessful providers (as determined by the local educational agency based upon the performance of the provider with respect to the goals and timetables contained in the contract between the agency and the provider under subparagraph (F));

"(iii) will provide to each parent of a child identified under subparagraph (D) who requests such information for the purpose of selecting a tutorial assistance provider for the child, in a comprehensible format, information with respect to the quality and effectiveness of the tutorial assistance referred to in clause (i); and

"(iv) will ensure that each school identifying a child under subparagraph (D) will provide upon request, to a parent of the child, assistance in selecting, from among the tutorial assistance providers who are included on the list described in subparagraph (B), the provider who is best able to meet the needs of the child.

"(c) Definition.—For the purpose of this section the term 'parent' includes a legal guardian.

"SEC. 2506. PROGRAM EVALUATION.

"(a) In General.—From funds reserved under section 2510(b)(1), the Secretary shall conduct a national assessment of the programs under this part. In developing the criteria for the assessment, the Secretary shall receive recommendations from the peer review panel convened under section 2503(f).

"(b) Submission to Peer Review Panel.—The Secretary shall submit the findings from the assessment under subsection (a) to the peer review panel convened under section 2503(f).

"SEC. 2507. INFORMATION DISSEMINATION.

"(a) In General.—From funds reserved under section 2510(b)(2), the National Institute for Literacy shall disseminate information on reliable, replicable research on reading and information on subgrantee projects under section 2504 or 2505 that have proven effective. At a minimum, the institute shall disseminate such information to all recipients of Federal financial assistance under titles I and VII, the Head Start Act (42 U.S.C. 9801 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Adult Education Act (20 U.S.C. 1201 et seq.).

"(b) Coordination.—In carrying out this section, the National Institute for Literacy—

"(1) shall use, to the extent practicable, information networks developed and maintained through other public and private persons, including the Secretary, the National Center for Family Literacy, and the Readline Program;

"(2) shall work in conjunction with any panel convened by the National Institute of Child Health and Human Development and the Secretary, and any panel convened by the Office of Educational Research and Improvement to assess the current status of research-based knowledge on reading development, including the effectiveness of various approaches to teaching children to read, with respect to determining the criteria by which the National Institute for Literacy judges reliable, replicable research and the design of strategies to disseminate such information; and

"(3) shall assist any reading and literacy partnership selected to receive a grant under section 2503, and that requests such assistance—

"(A) in determining whether applications for subgrants submitted to the partnership meet the requirements of this part relating to reliable, replicable research on reading; and

"(B) in the development of subgrant application forms.

"SEC. 2508. STATE EVALUATIONS.

"(a) In General.—Each reading and literacy partnership that receives a grant under this part shall reserve not more than 2 percent of such grant funds for the purpose of evaluating the success of the partnership's subgrantees in meeting the purposes of this part. At a minimum, the evaluation shall measure the extent to which students who are the intended beneficiaries of the subgrants made by the partnership have improved their reading.

"(b) Contract.—A reading and literacy partnership shall carry out the evaluation under this section by entering into a contract with an eligible research institution under which the institution will perform the evaluation.

"(c) Submission.—A reading and literacy partnership shall submit the findings from the evaluation under this section to the Secretary and the peer review panel convened under section 2503(f). The Secretary and the peer review panel shall submit a summary of the findings from the evaluations under this subsection to the appropriate committees of the Congress, including the Education and the Workforce Committee of the House of Representatives.

"SEC. 2509. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"Each reading and literacy partnership that receives funds under this part shall provide for, or ensure that subgrantees provide for, the participation of children in private schools in the activities and services assisted under this part in the same manner as the children participate in activities and services pursuant to sections 2503, 2504, 2505, and 2506.

"SEC. 2510. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS FROM APPROPRIATIONS; APPLICABILITY; SUNSET.

"(a) Authorization.—There are authorized to be appropriated to carry out this part $210,000,000 for fiscal years 1999, 2000, and 2001.

"(b) Reservations.—From the amount appropriated under subsection (a) for each fiscal year, the Secretary—

"(1) shall reserve 1.5 percent to carry out section 2506(a);

"(2) shall reserve $5,075,000 to carry out sections 2503(f)(2) and 2507, of which $5,000,000 shall be reserved for section 2507; and

"(3) shall reserve $10,000,000 to carry out section 1202(c).

"(c) Applicability.—Part E shall not apply to this part.

"(d) Sunset.—Notwithstanding section 422(a) of the General Education Provisions Act (20 U.S.C. 1226a(a)), this part is repealed, effective September 30, 2001, and is not subject to extension under such section.".

Subtitle B—Amendments to Even Start Family Literacy Programs

SEC. 521. RESERVATION FOR GRANTS.

Section 1202(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)) is amended to read as follows:

"(c) Reservation for Grants.—

"(1) Grants authorized.—From funds reserved under section 2510(b)(3), the Secretary shall award grants, on a competitive basis, to States to enable such States to plan and implement, statewide family literacy initiatives to coordinate and integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include coordination and integration of funds available under the Adult Education Act (20 U.S.C. 1201 et seq.), Head Start (42 U.S.C. 9801 et seq.), this part, part A of this title, and part A of title IV of the Social Security Act.

"(2) Consortia.—

"(A) Establishment.—To receive a grant under this subsection, a State shall establish a consortium of State-level programs under the following laws:

"(i) This title.

"(ii) The Head Start Act.

"(iii) The Adult Education Act.

"(iv) All other State-funded preschool programs and programs providing literacy services to adults.

"(B) Plan.—To receive a grant under this subsection, the consortium established by a State shall create a plan to use a portion of the State's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in such State.

"(C) Coordination with title II.—The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State established under section 2503, if the State receives a grant under such section.

"(3) Reading instruction.—Statewide family literacy initiatives implemented under this subsection shall base reading instruction on reliable, replicable research on reading (as such terms are defined in section 2502).

"(4) Technical assistance.—The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to States receiving a grant under this subsection.

"(5) Matching requirement.—The Secretary shall not make a grant to a State under this *subsection unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.''.*

SEC. 522. DEFINITIONS.

Section 1202(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(e)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) the term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family (such as eliminating or reducing welfare dependency) and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Equipping parents to partner with their children in learning.

"(C) Parent literacy training, including training that contributes to economic self-sufficiency.

"(D) Appropriate instruction for children of parents receiving parent literacy services.''.

SEC. 523. EVALUATION.

Section 1209 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6369) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) to provide States and eligible entities receiving a subgrant under this part, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure local evaluations undertaken under section 1205(10) provide accurate information on the effectiveness of programs assisted under this part.''.

SEC. 524. INDICATORS OF PROGRAM QUALITY.

(a) IN GENERAL.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating section 1210 as section 1212; and

(2) by inserting after section 1209 the following:

"SEC. 1210. INDICATORS OF PROGRAM QUALITY.

"Each State receiving funds under this part shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this part. Such indicators shall be used to monitor, evaluate, and improve such programs within the State. Such indicators shall include the following:

"(1) With respect to eligible participants in a program who are adults—

"(A) achievement in the areas of reading, writing, English language acquisition, problem solving, and numeracy;

"(B) receipt of a secondary school diploma or its recognized equivalent;

"(C) entry into a postsecondary school, a job retraining program, or employment or career advancement, including the military; and

"(D) such other indicators as the State may develop.

"(2) With respect to eligible participants in a program who are children—

"(A) improvement in ability to read on grade level or reading readiness;

"(B) school attendance;

"(C) grade retention and promotion; and

"(D) such other indicators as the State may develop.''.

(b) STATE LEVEL ACTIVITIES.—Section 1203(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6363(a)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) carrying out section 1210.''.

(c) AWARD OF SUBGRANTS.—Paragraphs (3) and (4) of section 1208(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368) are amended to read as follows:

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall evaluate the program based on the indicators of program quality developed by the State under section 1210. Such evaluation shall take place after the conclusion of the startup period, if any.

"(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 1210, after—

"(A) providing technical assistance to the eligible entity; and

"(B) affording the eligible entity notice and an opportunity for a hearing.''.

SEC. 525. RESEARCH.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended further by inserting after section 1210 (as inserted by section 524(a)(2) of this Act) the following:

"SEC. 1211. RESEARCH.

"(a) IN GENERAL.—The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services. The purpose of the research shall be—

"(1) to improve the quality of existing programs assisted under this part or other family literacy programs carried out under this Act or the Adult Education Act (20 U.S.C. 1201 et seq.); and

"(2) to develop models for new programs to be carried out under this Act or the Adult Education Act.

"(b) DISSEMINATION.—The National Institute for Literacy shall disseminate, pursuant to section 2507, the results of the research described in subsection (a) to States and recipients of subgrants under this part.''.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. MULTILINGUALISM STUDY.

(a) FINDINGS.—Congress finds that—

(1) even though all residents of the United States should be proficient in English, without regard to their country of birth, it is also of vital importance to the competitiveness of the United States that those residents be encouraged to learn other languages; and

(2) education is the primary responsibility of State and local governments and communities, and these entities are responsible for developing policies in this subject area.

(b) RESIDENT OF THE UNITED STATES DEFINED.—In this section, the term "resident of the United States" means an individual who resides in the United States, other than an alien who is not lawfully present in the United States.

(c) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States (referred to in this section as the "Comptroller General") shall conduct a study of multilingualism in the United States in accordance with this section.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The study conducted under this section shall ascertain—

(i) the percentage of residents in the United States who are proficient in English and at least 1 other language;

(ii) the predominant language other than English in which residents referred to in clause (i) are proficient;

(iii) the percentage of the residents described in clause (i) who were born in a foreign country;

(iv) the percentage of the residents described in clause (i) who were born in the United States;

(v) the percentage of the residents described in clause (iv) who are second-generation residents of the United States; and

(vi) the percentage of the residents described in clause (iv) who are third-generation residents of the United States.

(B) AGE-SPECIFIC CATEGORIES.—The study under this section shall, with respect to the residents described in subparagraph (A)(i), determine the number of those residents in each of the following categories:

(i) Residents who have not attained the age of 12.

(ii) Residents who have attained the age of 12, but have not attained the age of 18.

(iii) Residents who have attained the age of 18, but have not attained the age of 50.

(iv) Residents who have attained the age of 50.

(C) FEDERAL PROGRAMS.—In conducting the study under this section, the Comptroller General shall establish a list of each Federal program that encourages multilingualism with respect to any category of residents described in subparagraph (B).

(D) COMPARISONS.—In conducting the study under this section, the Comptroller General shall compare the multilingual population described in subparagraph (A) with the multilingual populations of foreign countries—

(i) in the Western hemisphere; and

(ii) in Asia.

(d) REPORT.—Upon completion of the study under this section, the Comptroller General shall prepare, and submit to Congress, a report that contains the results of the study conducted under this section, and such findings and recommendations as the Comptroller General determines to be appropriate.

SEC. 602. SAFER SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the "Safer Schools Act of 1998".

(b) AMENDMENT.—Section 14601 of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921) is amended by adding at the end the following new subsection:

"(g) For the purposes of this section, a weapon that has been determined to have been brought to a school by a student shall be admissible as evidence in any internal school disciplinary proceeding (related to an expulsion under this section).''.

SEC. 603. STUDENT IMPROVEMENT INCENTIVE AWARDS.

Section 6201 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7331) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(C), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) student improvement incentive awards described in subsection (c).''; and

(2) by adding at the end the following:

"(c) STUDENT IMPROVEMENT INCENTIVE AWARDS.—

"(1) AWARDS.—A State educational agency may use funds made available for State use under this title to make awards to public schools in the State that are determined to be outstanding schools pursuant to a statewide assessment described in paragraph (2).

"(2) STATEWIDE ASSESSMENT.—The statewide assessment referred to in paragraph (1)—

"(A) shall—

"(i) determine the educational progress of students attending public schools within the State; and

"(ii) allow for an objective analysis of the assessment on a school-by-school basis; and

"(B) may involve exit exams.".

And the Senate agree to the same.

WILLIAM ARCHER,
BILL GOODLING,
DICK ARMEY,
Managers on the Part of the House.

WILLIAM V. ROTH,
CONNIE MACK,
DAN COATS,
SLADE GORTON,
PAUL COVERDELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

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I. REVENUE PROVISIONS

A. Modifications to Education Individual Retirement Accounts (IRAs) (sec. 2 of the House bill and sec. 101 of the Senate amendment)

Present Law

In general.—Section 530 provides tax-exempt status to "education IRAs," meaning certain trusts (or custodial accounts) which are created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of a named beneficiary.[1] Contributions to education IRAs may be made only in cash. Annual contributions to education IRAs may not exceed $500 per designated beneficiary (except in cases involving certain tax-free rollovers, as described below), and may not be made after the designated beneficiary reaches age 18.[2] Moreover, section 4973 imposes a penalty excise tax if a contribution is made by any person to an education IRA established on behalf of a beneficiary during any taxable year in which any contributions are made by anyone to a qualified State tuition program (defined under sec. 529) on behalf of the same beneficiary. These provisions were enacted as part of the Taxpayer Relief Act of 1997 ("1997 Act").

Phase-out of contribution limit.—The $500 annual contribution limit for education IRAs is phased out ratably for contributors with modified AGI between $95,000 and $110,000 ($150,000 and $160,000 for joint returns). Individuals with modified AGI above the phase-out range are not allowed to make contributions to an education IRA established on behalf of any other individual.

Treatment of distributions.—Amounts distributed from education IRAs are excludable from gross income to the extent that the amounts distributed do not exceed qualified higher education expenses of the designated beneficiary incurred during the year the distribution is made (provided that a HOPE credit or Lifetime Learning credit is not claimed under sec. 25A with respect to the beneficiary for the same taxable year).[3] If a HOPE credit or Lifetime Learning credit is claimed with respect to a student for a taxable year, then a distribution from an education IRA may (at the option of the taxpayer) be made during that taxable year on behalf of that student, but an exclusion is *not* available under the Act for the earnings portion of such distribution.[4]

Distributions from an education IRA generally are deemed to consist of distributions of principal (which, under all circumstances, are excludable from gross income) and earnings (which may be excludable from gross income) by applying the ratio that the aggregate amount of contributions to the account for the beneficiary bears to the total balance of the account. If the qualified higher education expenses of the student for the year are at least equal to the total amount of the distribution (i.e., principal and earnings combined) from an education IRA, then the earnings in their entirety will be excludable from gross income. If, on the other hand, the qualified higher education expenses of the student for the year are *less than* the total amount of the distribution (i.e., principal and earnings combined) from an education IRA, then the qualified higher education expenses will be deemed to be paid from a pro-rata share of both the principal and earnings components of the distribution. Thus, in such a case, only a portion of the earnings will be excludable under section 530 (i.e., a portion of the earnings based on the ratio that the qualified higher education expenses bear to the total amount of the distribution) and the remaining portion of the earnings will be includible in the distributee's gross income.[5] To the extent that a distribution exceeds qualified higher education expenses of the designated beneficiary, an additional 10-percent tax is imposed on the earnings portion of such excess distribution under section 530(d)(4), unless such distribution is made on account of the death or disability of, or scholarship received by, the designated beneficiary.

Section 530(d) allows tax-free (and penalty-free) transfers or rollovers of account balances from one education IRA benefitting one beneficiary to another education IRA benefitting another beneficiary (as well as redesignations of the named beneficiary), provided that the new beneficiary is a member of the family of the old beneficiary.[6]

The legislative history to the 1997 Act indicates that any balance remaining in an education IRA will be deemed to be distributed within 30 days after the date that the named beneficiary reaches age 30 (or, if earlier, within 30 days of the date that the beneficiary dies).

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[1] Education IRAs generally are not subject to Federal income tax, but are subject to the unrelated business income tax ("UBIT") imposed by section 511.

[2] An excise tax penalty may be imposed under present-law section 4973 to the extent that excess contributions above the $500 annual limit are made to an education IRA.

[3] The exclusion will not be a preference item for alternative minimum tax (AMT) purposes.

[4] If a HOPE credit or Lifetime Learning credit was claimed with respect to a student for an earlier taxable year, the exclusion provided for by section 530 may be claimed with respect to the same student for a *subsequent* taxable year with respect to a distribution from an education IRA made in that subsequent taxable in order to cover qualified higher education expenses incurred during that year. Conversely, if an exclusion is claimed for a distribution from an education IRA with respect to a particular student, then a HOPE credit or Lifetime Learning credit will be available in a subsequent taxable year with respect to that same student (provided that no exclusion is claimed in such other taxable years for distributions from an education IRA on behalf of that student and provided that the requirements of the HOPE credit or Lifetime Learning credit are satisfied in the subsequent taxable year).

[5] For example, if an education IRA has a total balance of $10,000, of which $4,000 represents principal (i.e., contributions) and $6,000 represents earnings, and if a distribution of $2,000 is made from such an account, then $800 of that distribution will be treated as a return of principal (which under no event is includible in the gross income of the distributee) and $1,200 of the distribution will be treated as accumulated earnings. In such a case, if qualified higher education expenses of the beneficiary during the year of the distribution are at least equal to the $2,000 total amount of the distribution (i.e., principal plus earnings), then the entire earnings portion of the distribution will be excludable under section 530, provided that a Hope credit or Lifetime Learning credit is not claimed for that same taxable year on behalf of the beneficiary. If, however, the qualified higher education expenses of the beneficiary for the taxable year are less than the total amount of the distribution, then only a portion of the earnings will be excludable from gross income under section 530. Thus, in the example discussed above, if the beneficiary incurs only $1,500 of qualified higher education expenses in the year that a $2,000 distribution is made, then only $900 of the earnings will be excludable from gross income under section 530 (i.e., an exclusion will be provided for the pro-rata portion of the earnings, based on the ratio that the $1,500 of qualified higher education expenses bears to the $2,000 distribution) and the remaining $300 of the earnings portion of the distribution will be includible in the distributee's gross income.

[6] For this purpose, a "member of the family" means persons described in paragraphs (1) through (8) of section 152(a)—e.g., sons, daughters, brothers, sisters, nephews and nieces, certain in-laws, etc.—and any spouse of such persons.

Qualified higher education expenses.—The term "qualified higher education expenses" includes tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the designated beneficiary at an eligible education institution, regardless of whether the beneficiary is enrolled at an eligible educational institution on a full-time, half-time, or less than half-time basis. Moreover, the term "qualified higher education expenses include room and board expenses (meaning the minimum room and board allowance applicable to the student as determined by the institution in calculating costs of attendance for Federal financial aid programs under sec. 472 of the Higher Education Act of 1965) for any period during which the beneficiary is at least a half-time student. Qualified higher education expenses include expenses with respect to undergraduate or graduate-level courses. In addition, section 530(b)(2)(B) specifically provides that qualified higher education expenses include amounts paid or incurred to purchase tuition credits (or to make contributions to an account) under a qualified State tuition program, as defined in section 529, for the benefit of the beneficiary of the education IRA.

Qualified higher education expenses generally include only out-of-pocket expenses. Such qualified higher education expenses do not include expenses covered by educational assistance for the benefit of the beneficiary that is excludable from gross income. Thus, total qualified higher education expenses are reduced by scholarship or fellowship grants excludable from gross income under present-law section 117, as well as any other tax-free educational benefits, such as employer-provided educational assistance that is excludable from the employee's gross income under section 127. In addition, qualified higher education expenses do not include expenses paid with amounts that are excludable under section 135. No reduction of qualified higher education expenses is required, however, for a gift, bequest, devise, or inheritance within the meaning of section 102(a).

Eligible educational institution.—Eligible educational institutions are defined by reference to section 481 of the Higher Education Act of 1965. Such institutions generally are accredited post-secondary educational institutions offering credit toward a bachelor's degree, an associate's degree, a graduate-level or professional degree, or another recognized post-secondary credential. Certain proprietary institutions and post-secondary vocational institutions also are eligible institutions. The institution must be eligible to participate in Department of Education student aid programs.

House Bill

Annual contribution limit.—For the period 1998 through 2002, the House bill increases to $2,500 the annual contribution limit that currently applies to education IRAs under section 530(b)(1)(A)(iii). Thus, under the House bill, aggregate contributions that may be made by all contributors to one (or more) education IRAs established on behalf of any particular beneficiary are limited to $2,500 for each year during the period 1998 through 2002. For 2003 and later years, the annual contribution limit for education IRAs is $500.

Qualified expenses.—With respect to contributions made during the period 1998 through 2002 (and earnings attributable to such contributions), the House bill expands the definition of qualified education expenses that may be paid with tax-free distributions from an education IRA. Specifically, the definition of qualified education expenses is expanded to include "qualified elementary and secondary education expenses" meaning (1) tuition, fees, tutoring, special needs services, books, supplies, computer equipment (including related software and services) and other equipment, transportation and supplementary expenses *required for* the enrollment or attendance of the designated beneficiary at a public, private, or religious school (through grade 12). "Qualified elementary and secondary education expenses" also include certain homeschooling education expenses if the requirements of any applicable State or local law are met with respect to such homeschooling. For contributions made in 2003 or later years (and for earnings attributable to such contributions), the definition of qualified education expenses is limited to post-secondary education expenses.

Special needs beneficiaries.—The House bill also provides that, although contributions to an education IRA generally may not be made after the designated beneficiary reaches age 18, contributions may continue to be made to an education IRA in the case of a special needs beneficiary (as defined by Treasury Department regulations). In addition, under the bill, in the case of a special needs beneficiary, a deemed distribution of any balance in an education IRA will *not* be required when the beneficiary reaches age 30.

Contributions by persons other than individuals.—The House bill clarifies that corporations and other entities (e.g., tax-exempt entities) are permitted to make contributions to education IRAs, regardless of the income of the corporation or entity during the year of the contribution. As under present law, the eligibility of high-income *individuals* to make contributions to education IRAs is phased out ratably for individuals with modified AGI between $95,000 and $110,000 ($150,000 and $160,000 for joint returns).

Effective date.—The provisions are effective for taxable years beginning after December 31, 1997.

Senate Amendment

Annual contribution limit.—The Senate amendment is the same as the House bill, except that the Senate amendment increases to $2,000 the annual contribution limit, and only for the period 1999 through 2002.

Qualified expenses.—With respect to contributions made during the period 1999 through 2002 (and earnings attributable to such contributions), the Senate amendment expands the definition of qualified education expenses that may be paid with tax-free distributions from an education IRA. Specifically, the definition of qualified education expenses is expanded to include "qualified elementary and secondary education expenses" meaning (1) tuition, fees, academic tutoring[7], special needs services, books, supplies, and equipment (including computers and related software and services) incurred *in connection with* the enrollment or attendance of the designated beneficiary as an elementary or secondary student at a public, private, or religious school providing elementary or secondary education (kindergarten through grade 12), *and* (2) room and board, uniforms, transportation, and supplementary items and services (including extended-day programs) *required or provided by* such a school in connection with such enrollment or attendance of the designated beneficiary. "Qualified elementary and secondary education expenses" also include certain homeschooling education expenses if the requirements of any applicable State or local law are met with respect to such homeschooling. For contributions made in 2003 or later years (and for earnings attributable to such contributions), the definition of qualified education expenses is limited to post-secondary education expenses.[8]

Under the Senate amendment, no deduction or credit (such as the dependent care credit under section 21) will be allowed under the Internal Revenue Code for any qualified education expenses taken into account in determining the amount of the exclusion under section 530 for a distribution from an education IRA.

With respect to post-secondary education, qualified education expenses include (1) tuition, fees, academic tutoring, special needs services, books, supplies, and equipment (including computers and related software and services) incurred in connection with the enrollment or attendance of the designated beneficiary at an eligible post-secondary educational institution, and (2) room and board expenses (meaning the minimum room and board allowance applicable to the student as determined by the institution calculating costs of attendance for Federal financial aid programs) for any period during which the student is at least a half-time student.

Special needs beneficiaries.—The Senate amendment is the same as the House bill.[9]

Contributions by persons other than individuals.—The Senate amendment is the same as the House bill.

Technical corrections.—The Senate amendment provides for several technical corrections to section 530 (as enacted as part of the Taxpayer Relief Act of 1997), including: (1) adding a provision that any balance remaining in an education IRA will be deemed to be distributed within 30 days after the date that the named beneficiary reaches age 30; (2) clarifying that, under rules contained in present-law section 72, distributions from education IRAs are treated as representing a pro-rata share of the principal and accumulated earnings in the account; and (3) clarifying that, under section 530(d)(4), the 10-percent additional tax will not be imposed in cases where a distribution (although used to pay for qualified higher education expenses) is includible in gross income solely because the taxpayer elects the HOPE or Lifetime Learning credit on behalf of the student for the same taxable year.

Effective date.—The provisions modifying education IRAs under section 530 generally are effective for taxable years beginning after December 31, 1998. However, the provision that increases the annual contribution limit for education IRAs (i.e., to $2,000 per year) applies during the period January 1, 1999, through December 31, 2002, and the provision that expands the definition of qualified education expenses to include qualified elementary and secondary education expenses applies to contributions (and earnings thereon) made during the period January 1, 1999, through December 31, 2002. The technical correction provisions are effective as if included in the 1997 Act—i.e., for taxable years beginning after December 31, 1997.

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[7] For this purpose, the Senate amendment provides that it is intended that "academic tutoring" means additional, personalized instruction provided in coordination with the student's academic courses.

[8] To the extent a taxpayer incurs "qualified elementary and secondary expenses" during any year that a distribution is made from an education IRA, the distribution will be deemed to first consist of a distribution of any contributions (and earnings thereon) that were made to the education IRA during the period 1999-2002 (reduced by the amount of such contributions and earnings that were deemed to be distributed in prior taxable years). The Senate amendment requires that trustees of education IRAs keep separate accounts with respect to contributions made during the period 1999-2002 (and earnings thereon).

[9] The legislative history to the Senate amendment clarifies the Committee's intention that the determination of whether a beneficiary has "special needs" will be required to be made for each year that contributions are made to an education IRA after the beneficiary reaches age 18. However, if an individual meets the definition of a "special needs" beneficiary when such individual reaches age 30, then such individual thereafter will be presumed to be a "special needs" beneficiary.

Conference Agreement

The conference agreement follows the Senate amendment and includes certain additional technical corrections.

The conference agreement clarifies that, in the event of the death of the designated beneficiary, the balance remaining in an education IRA may be distributed (without imposition of the additional 10-percent tax) to any other (i.e., contingent) beneficiary or to the estate of the deceased designated beneficiary. If any member of the family of the deceased beneficiary becomes the new designated beneficiary of an education IRA, then no tax will be imposed on such redesignation and the account will continue to be treated as an education IRA.

The conference agreement further provides that the additional 10-percent tax will not apply to the distribution of any contribution to an education IRA made during a taxable year if such distribution is made on or before the date that a return is required to be filed (including extensions of time) by the *beneficiary* for the taxable year during which the contribution was made (or, if the beneficiary is not required to file such a return, April 15th of the year following the taxable year during which the contribution was made). In addition, the conference agreement amends section 4973(e) to provide that the excise tax penalty applies under that section for each year that an excess contribution remains in an education IRA (and not merely the year that the excess contribution is made).

The conference agreement clarifies that, in order for taxpayers to establish an education IRA, the designated beneficiary must be a life-in-being. Further, the conference agreement clarifies that for purposes of the special rules regarding tax-free rollovers and changes of designated beneficiaries, the new beneficiary must be under the age of 30.

The conference agreement also provides that, if any qualified higher education expenses are taken into account in determining the amount of the exclusion under section 530 for a distribution from an education IRA, then no deduction (under section 162 or any other section), or exclusion (under section 135) or credit will be allowed under the Internal Revenue Code with respect to such qualified higher education expenses.

In addition, because the 1997 Act allows taxpayers to redeem U.S. Savings Bonds and be eligible for the exclusion under present-law section 135 (as if the proceeds were used to pay qualified higher education expenses) provided the proceeds from the redemption are contributed to an education IRA (or to a qualified State tuition program defined under section 529) on behalf of the taxpayer, the taxpayer's spouse, or a dependent, the conference agreement conforms the definition of "eligible educational institution" under section 135 to the broader definition of that term under present-law section 530 (and section 529). Thus, for purposes of section 135, as under present-law sections 529 and 530, the term "eligible educational institution" is defined as an institution which (1) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) and (2) is eligible to participate in Department of Education student aid programs.

B. Exclusion From Gross Income of Education Distributions From Qualified Tuition Programs (sec. 104 of the Senate amendment)

Present Law

Section 529 provides tax-exempt status to "qualified State tuition programs," meaning certain programs established and maintained by a State (or agency or instrumentality thereof) under which persons may (1) purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to a waiver or payment of qualified higher education expenses of the beneficiary, or (2) make contributions to an account that is established for the purpose of meeting qualified higher education expenses of the designated beneficiary of the account. The term "qualified higher education expenses" has the same meaning as does the term for purposes of education IRAs (as described above) and, thus, includes expenses for tuition, fees, books, supplies, and equipment required for the enrollment or attendance at an eligible educational institution,[10] as well as room and board expenses (meaning the minimum room and board allowance applicable to the student as determined by the institution in calculating costs of attendance for Federal financial aid programs under sec. 472 of the Higher Education Act of 1965) for any period during which the student is at least a half-time student.

Section 529 also provides that no amount shall be included in the gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any distribution from, or earnings under, such program, except that (1) amounts distributed or educational benefits provided to a beneficiary (e.g., when the beneficiary attends college) will be included in the beneficiary's gross income (unless excludable under another Code section) to the extent such amounts or the value of the educational benefits exceed contributions made on behalf of the beneficiary, and (2) amounts distributed to a contributor or another distributee (e.g., when a parent receives a refund) will be included in the contributor's/distributee's gross income to the extent such amounts exceed contributions made on behalf of the beneficiary.

A qualified State tuition program is required to provide that purchases or contributions only be made in cash.[11] Contributors and beneficiaries are not allowed to directly or indirectly direct the investment of contributions to the program (or earnings thereon). The program is required to maintain a separate accounting for each designated beneficiary. A specified individual must be designated as the beneficiary at the commencement of participation in a qualified State tuition program (i.e., when contributions are first made to purchase an interest in such a program), unless interests in such a program are purchased by a State or local government or a tax-exempt charity described in section 501(c)(3) as part of a scholarship program operated by such government or charity under which beneficiaries to be named in the future will receive such interests as scholarships. A transfer of credits (or other amounts) from one account benefitting one designated beneficiary to another account benefitting a different beneficiary will be considered a distribution (as will a change in the designated beneficiary of an interest in a qualified State tuition program), unless the beneficiaries are members of the same family.[12] Earnings on an account may be refunded to a contributor or beneficiary, but the State or instrumentality must impose a more than de minimis monetary penalty unless the refund is (1) used for qualified higher education expenses of the beneficiary, (2) made on account of the death or disability of the beneficiary, or (3) made on account of a scholarship received by the designated beneficiary to the extent the amount refunded does not exceed the amount of the scholarship used for higher education expenses.

No amount is includible in the gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any contribution to or earnings on such a program until a distribution is made from the program, at which time the earnings portion of the distribution (whether made in cash or in-kind) will be includible in the gross income of the distributee. However, to the extent that a distribution from a qualified State tuition program is used to pay for qualified tuition and related expenses (as defined in sec. 25A(f)(1)), the distributee (or another taxpayer claiming the distributee as a dependent) will be able to claim the HOPE credit or Lifetime Learning credit under section 25A with respect to such tuition and related expenses (assuming that the other requirements for claiming the HOPE credit or Lifetime Learning credit are satisfied and the modified AGI phaseout for those credits does not apply).

House Bill

No provision.

Senate Amendment

Under the Senate amendment, an exclusion from gross income is provided for distributions from qualified State tuition programs (as defined in sec. 529) to the extent that the distribution is used to pay for (1) tuition, fees, academic tutoring, special needs services, books, supplies, and equipment (including computers and related software and services) incurred *in connection with* the enrollment or attendance of a designated beneficiary at an eligible post-secondary educational institution (i.e., colleges, universities, and certain vocational schools), *and* (2) room and board expenses (meaning the minimum room and board allowance applicable to the student as determined by the institution calculating costs of attendance for Federal financial aid programs) for any period during which the student is at least a half-time student. As under present law, there is no specific dollar limitation imposed under the Internal Revenue Code on contributions made to qualified State tuition programs, although section 529(b)(7) will continue to require that the programs themselves provide adequate safeguards to prevent contributions on behalf of a beneficiary in excess of those necessary to provide for qualified higher education expenses of the beneficiary.

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[10] "Eligible educational institutions" are defined the same for purposes of education IRAs (described in I.A., above) and qualified State tuition programs.

[11] Sections 529(c)(2), (c)(4), and (c)(5), and section 530(d)(3) provide special estate and gift tax rules for contributions made to, and distributions made from, qualified State tuition programs and education IRAs.

[12] For this purpose, the term "member of the family" means persons described in paragraphs (1) through (8) of section 152(a)—e.g., sons, daughters, brothers, sisters, nephews and nieces, certain in-laws, etc.—and any spouse of such persons.

As with the present-law exclusion from gross income for distributions from education IRAs, the tax-free treatment for a distribution from a qualified State tuition program will be allowed only if, for the taxable year during which the distribution is made, a HOPE or Lifetime Learning credit (under sec. 25A) is not claimed on behalf of the student. As under present law, if a student is claimed as a dependent by his or her parent, then the parent (if eligible) must decide whether to elect to claim a HOPE or Lifetime Learning credit with respect to that student for that taxable year; and, if the parent elects to claim a HOPE or Lifetime Learning credit, then the earnings portion of a distribution made to a student from a qualified State tuition program will be includible in the gross income of the student.

Under the Senate amendment, no deduction (under section 162 or any other section) or credit is allowed under the Internal Revenue Code for any qualified higher education expenses taken into account in determining the amount of the exclusion under section 529 for a distribution made to, or on behalf of, a student by a qualified State tuition program.

Technical correction.—The Senate amendment clarifies that, under rules contained in present-law section 72, distributions from qualified State tuition programs are treated as representing a pro-rata share of the principal (i.e., contributions) and accumulated earnings in the account.

Effective date.—The provision that allows an exclusion from gross income for certain distributions from qualified State tuition programs under section 529 (and the modification to the definition of qualified higher education expenses under that section) is effective for distributions made in taxable years beginning after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, except that it expands the definition of "qualified tuition program" to include not only qualified State tuition programs as defined under present-law section 529, but also certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions) that satisfy the requirements under section 529 (other than the present-law State sponsorship rule). In the case of a qualified tuition program maintained by one or more private educational institutions, persons may purchase tuition credits or certificates on behalf of a designated beneficiary as set forth in section 529(b)(1)(A)(i), but may not make contributions to an account as described in section 529(b)(1)(A)(ii) (so-called "savings account plans"). In addition, contributions to any such program on behalf of a named beneficiary may not exceed $5,000 per year, with an aggregate limit of $50,000 for contributions to all such programs on behalf of that beneficiary for all years.[13] Contributions may not be made to a qualified tuition program maintained by one or more private educational institutions in any year in which contributions are made on behalf of the same beneficiary to an education IRA or a State-sponsored qualified tuition program.

In addition, the conference agreement includes a technical correction to section 529(e)(2), clarifying that—for purposes of tax-free rollovers and changes of designated beneficiaries—a "member of the family" includes the spouse of the original beneficiary.

Effective date.—The provision providing for the establishment of qualified tuition programs maintained by one or more private educational institutions is effective for taxable years beginning after December 31, 2005. The technical corrections provision is effective for distributions made after December 31, 1997.

C. Extension of Exclusion for Employer-Provided Education Assistance (sec. 105 of the Senate amendment)

Present Law

Under present-law section 127, an employee's gross income and wages do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements. This exclusion is limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion does not apply with respect to graduate-level courses. The exclusion is scheduled to expire with respect to courses beginning after May 31, 2000.

In the absence of the exclusion provided by section 127, educational assistance is excludable from income only if the education is related to the employee's current job, meaning that the education (1) maintains or improves a skill required in a trade or business currently engaged in by the taxpayer, or (2) meets the express requirements of the taxpayer's employer, or requirements of applicable law or regulations, imposed as a condition of continued employment (but not if the education relates to certain minimum educational requirements or enables a taxpayer to begin working in a new trade or business).

House Bill

No provision.

Senate Amendment

The Senate amendment reinstates the exclusion for graduate-level courses, effective with respect to courses beginning after December 31, 1997. In addition, the Senate amendment provides that the exclusion (as applied to both graduate and undergraduate courses) expires with respect to courses beginning after December 31, 2002.

Effective date.—The extension of the exclusion for employer-provided educational assistance to graduate-level courses is effective for expenses with respect to courses beginning after December 31, 1997. The exclusion (with respect to both graduate and undergraduate courses) expires with respect to courses beginning after December 31, 2002.

Conference Agreement

The conference agreement follows the Senate amendment, except that it does not reinstate the exclusion for graduate-level courses.

D. Arbitrage Rebate Exception for Governmental Bonds of Certain Small Governments (sec. 106 of the Senate amendment)

Present Law

Arbitrage profits earned on tax-exempt bonds generally must be rebated to the Federal Government. An exception is provided for profits earned on governmental bonds issued by certain governmental units that issue no more than $5 million of such bonds in the year when the bonds benefitting from the exception are issued. The $5 million limit is increased to $10 million if bonds equal to at least the excess over $5 million are used to finance public schools.

House Bill

No provision.

Senate Amendment

The Senate amendment allows an additional $5 million of public school bonds to be issued without loss of eligibility for the small-issuer arbitrage rebate exception (for total issuance of up to $15 million per year if bonds equal to at least the excess over $5 million are used to finance public schools).

Effective date.—The provision is effective for bonds issued after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment.

E. Exclusion of Certain Amounts Received Under the National Health Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (sec. 107 of the Senate amendment)

Present Law

Section 117 excludes from gross income amounts received as a qualified scholarship by an individual who is a candidate for a degree and used for tuition and fees required for the enrollment or attendance (or for fees, books, supplies, and equipment required for courses of instruction) at a primary, secondary, or post-secondary educational institution. The tax-free treatment provided by section 117 does not extend to scholarship amounts covering regular living expenses, such as room and board. In addition to the exclusion for qualified scholarship, section 117 provides an exclusion from gross income for qualified tuition reductions for certain education provided to employees (and their spouses and dependents) of certain educational organizations.

Section 117(c) specifically provides that the exclusion for qualified scholarships and qualified tuition reductions does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition for receiving the scholarship or tuition reduction.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, amounts received by an individual under the National Health Corps Scholarship Program—administered under section 338A(g)(1)(A) of the Public Health Service Act—are eligible for tax-free treatment as a qualified scholarship under section 117, without regard to the fact that the recipient of the scholarship is obligated to later provide medical services in a geographic area (or to an underserved population group or designated facility) identified by the Public Health Service as having a shortage of health care professionals. As with other qualified scholarships under section 117, the tax-free treatment does not apply to amounts received by students to cover regular living expenses, such as room and board.

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[13] To the extent contributions exceed the $50,000 aggregate limit, an excise tax penalty may be imposed under present-law section 4973, unless the excess contributions (and any earnings thereon) are returned to the contributor before the due date for the return for the taxable year during which the excess contribution is made.

State-sponsored qualified tuition programs will continue to be governed by the rule contained in present-law section 529(b)(7) that such programs provide adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary. State-sponsored qualified tuition programs will not be subject to a specific dollar cap under section 529 on annual (or aggregate) contributions that can be made under the program on behalf of a named beneficiary.

Effective date.—The provision applies to amounts received in taxable years beginning after December 31, 1993.

Conference Agreement

The conference agreement follows the Senate amendment. In addition, the conference agreement provides that amounts received by an individual under the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program under subchapter I of chapter 105 of title 10 U.S.C. also are eligible for tax-free treatment as a qualified scholarship under section 117, without regard to the recipient's future service obligation.

F. Tax-Exempt Bonds for Privately Owned Public Schools (sec. 108 of the Senate amendment)

Present Law

Interest on State and local government bonds generally is tax-exempt if the bond proceeds are used to carry out governmental functions of the issuer and the debt is repaid with governmental funds. Interest on bonds used to finance private business activities is taxable unless the Internal Revenue Code includes an exception for the activity involved. The Code does not include an exception for bonds to finance public schools owned by for-profit private businesses.

House Bill

No provision.

Senate Amendment

The Senate amendment allows States to issue up to $10 per resident ($5 million, if greater) per year in tax-exempt bonds for public schools that are owned by for-profit, private businesses, but that are operated by States or local governments as part of the public school system. Except for an amount not exceeding $5 million per year, each State could use these bonds only for public elementary and secondary schools located in "high-growth" school districts. High-growth school districts are defined as districts having an enrollment of at least 5,000 students in the second preceding academic year and having experienced student enrollment increases of 20 percent or more during the 5-year period ending with that second year.

Effective date.—The provision is effective for bonds issued after December 31, 1998.

Conference Agreement

The conference agreement does not include the Senate amendment.

G. Employer Deductions for Vacation and Severance Pay (sec. 3(a) of the House bill and sec. 201 of the Senate amendment)

Present Law

For deduction purposes, any method or arrangement that has the effect of a plan deferring the receipt of compensation or other benefits for employees is treated as a deferred compensation plan (sec. 404(b)). In general, contributions under a deferred compensation plan (other than certain pension, profit-sharing and similar plans) are deductible in the taxable year in which an amount attributable to the contribution is includible in income of the employee. However, vacation pay which is treated as deferred compensation is deductible for the taxable year of the employer in which the vacation pay is paid to the employee (sec. 404(a)(5)).

Temporary Treasury regulations provide that a plan, method, or arrangement defers the receipt of compensation or benefits to the extent it is one under which an employee receives compensation or benefits more than a brief period of time after the end of the employer's taxable year in which the services creating the right to such compensation or benefits are performed. A plan, method or arrangement is presumed to defer the receipt of compensation for more than a brief period of time after the end of an employer's taxable year to the extent that compensation is received after the 15th day of the 3rd calendar month after the end of the employer's taxable year in which the related services are rendered (the "2½ month" period). A plan, method or arrangement is not considered to defer the receipt of compensation or benefits for more than a brief period of time after the end of the employer's taxable year to the extent that compensation or benefits are received by the employee on or before the end of the applicable 2½ month period. (Temp. Treas. Reg. sec. 1.404(b)–1T A–2).

The Tax Court recently addressed the issue of when vacation pay and severance pay are considered deferred compensation in *Schmidt Baking Co., Inc.*, 107 T.C. 271 (1996). In *Schmidt Baking*, the taxpayer was an accrual basis taxpayer with a fiscal year that ended December 28, 1991. The taxpayer funded its accrued vacation and severance pay liabilities for 1991 by purchasing an irrevocable letter of credit on March 13, 1992. The parties stipulated that the letter of credit represented a transfer of substantially vested interest in property to employees for purposes of section 83, and that the fair market value of such interest was includible in the employees" gross incomes for 1992 as a result of the transfer.[14] The Tax Court held that the purchase of the letter of credit, and the resulting income inclusion, constituted payment of the vacation and severance pay within the 2½ month period. Thus, the vacation and severance pay were treated as received by the employees within the 2½ month period and were not treated as deferred compensation. The vacation pay and severance pay were deductible by the taxpayer for its 1991 fiscal year pursuant to its normal accrual method of accounting.

House Bill

The House bill specifically overrules the result in *Schmidt Baking* and provides that the Internal Revenue Code will be applied without regard to the result reached in that case. Thus, under the House bill, the fact that an item of compensation is includible in income is not taken into account in determining whether or not payment has been made. Thus, an item of compensation must have been actually paid or received by employees within the 2½ month period in order for the compensation not to be treated as deferred compensation.

While *Schmidt Baking* involved only vacation pay and severance pay, the provision is not limited to such items of compensation. In addition, arrangements similar to the letter of credit approach used in *Schmidt Baking* do not constitute actual receipt by the employee.

Effective date.—The provision is effective for taxable years ending after October 8, 1997. Any change in method of accounting required by the provision is treated as initiated by the taxpayer with the consent of the Secretary. Any adjustment required by section 481 as a result of the change is taken into account in the year of the change.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Senate amendment does not apply to severance pay. In addition, the Senate amendment makes certain technical modifications. Instead of providing that the Code is to be applied without regard to the result in *Schmidt Baking*, the Senate amendment explicitly provides that for purposes of determining whether an item of compensation (other than severance pay) is deferred compensation, the compensation is not considered to be paid or received until actually received by the employee. As under the House bill, similar arrangements to the letter of credit approach used in Schmidt Baking do not constitute actual receipt by the employee.

Effective date.—The provision is effective for taxable years ending after the date of enactment. With respect to the change in method of accounting, the Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill, with certain technical modifications as incorporated in the Senate amendment.

As under the House bill and Senate amendment, the fact that an item of compensation is includible in employees incomes or wages within the applicable 2½ month period is not relevant to determining whether an item of compensation is deferred compensation.

As under the House bill and Senate amendment, many arrangements in addition to the letter of credit approach used in *Schmidt Baking* do not constitute actual receipt by employees. For example, actual receipt does not include the furnishing of a note or letter or other evidence of indebtedness of the taxpayer, whether or not the evidence is guaranteed by any other instrument or by any third party. As a further example, actual receipt does not include a promise of the taxpayer to provide service or property in the future (whether or not the promise is evidenced by a contract or other written agreement). In addition, actual receipt does not include an amount transferred as a loan, refundable deposit, or contingent payment. Further, amounts set aside in a trust for employees are not considered to be actually received by the employee.

Effective date.—The provision is effective for taxable years ending after December 31, 2001. Under the conference agreement, for the first taxable year for which the provision is effective, a taxpayer is permitted to calculate estimated tax liability by taking into account only 60 percent of the estimated tax payments otherwise required to made on account of the provision.

H. Modification to Foreign Tax Credit Carryback and Carryover Periods (sec. 202 of the Senate amendment)

Present Law

U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that can be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. Separate foreign tax credit limitations are applied to specific categories of income.

The amount of creditable taxes paid or accrued (or deemed paid) in any taxable year which exceeds the foreign tax credit limitation is permitted to be carried back two years and forward five years. The amount carried over may be used as a credit in a carryover year to the extent the taxpayer otherwise has excess foreign tax credit limitation for such year. The separate foreign tax credit limitations apply for purposes of the carryover rules.

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[14] While the rules of section 83 may govern the income inclusion, section 404 governs the deduction if the amount involved is deferred compensation.

House Bill

No provision.

Senate Amendment

The Senate amendment reduces the carryback period for excess foreign tax credits from two years to one year. The amendment also extends the excess foreign tax credit carryforward period from five years to seven years.

Effective date.—The provision applies to foreign tax credits arising in taxable years beginning after December 31, 2000.

Conference Agreement

The conference agreement does not include the Senate amendment.

I. Limited Tax Benefits in the Revenue Title Subject to the Line Item Veto Act

Present Law

The Line Item Veto Act amended the Congressional Budget and Impoundment Act of 1974 to grant the President the limited authority to cancel specific dollar amounts of discretionary budget authority, certain new direct spending, and limited tax benefits. The Line Item Veto Act provides that the Joint Committee on Taxation is required to examine any revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 prior to its filing by a conference committee in order to determine whether or not the bill or joint resolution contains any "limited tax benefits," and to provide a statement to the conference committee that either (1) identifies each limited tax benefit contained in the bill or resolution, or (2) states that the bill or resolution contains no limited tax benefits. The conferees determine whether or not to include the Joint Committee on Taxation statement in the conference report. If the conference report includes the information from the Joint Committee on Taxation identifying provisions that are limited tax benefits, then the President may cancel one or more of those, but only those, provisions that have been identified. If such a conference report contains a statement from the Joint Committee on Taxation that none of the provisions in the conference report are limited tax benefits, then the President has no authority to cancel any of the specific tax provisions, because there are no tax provisions that are eligible for cancellation under the Line Item Veto Act. If the conference report contains no statement with respect to limited tax benefits, then the President may cancel any revenue provision in the conference report that he determines to be a limited tax benefit.

Conference Statement

The Joint Committee on Taxation has determined that the revenue title to H.R. 2646 contains the following provision that constitutes a limited tax benefit within the meaning of the Line Item Veto Act:

Section 104 (relating to additional increase in arbitrage rebate exception for governmental bonds used to finance education facilities).

II. NON-TAX PROVISIONS

A. Prohibition on Federal Testing

House Bill

No provision.

Senate Amendment

Section 102 of Title I of the Senate amendment prohibits Federally-sponsored testing unless specifically and explicitly provided for in authorizing legislation enacted into law.

Conference Agreement

Senate recedes.

B. Student Improvement Incentive Awards

House Bill

No provision.

Senate Amendment

Section 103 of Title I of the Senate amendment authorizes student improvement incentive awards which could be used by a State educational agency to make awards to public schools in the State that are determined to be outstanding schools pursuant to a statewide assessment.

Conference Agreement

House recedes.

C. State Incentives for Teacher Testing and Merit Pay

House Bill

No provision.

Senate Amendment

Section 301 of Title III of the Senate amendment authorizes incentives for states to implement teacher testing and merit pay programs. The Department of Education would provide awards to states that test their K–12 teachers every 3–5 years in the subjects they teach and that have a merit pay program.

Conference Agreement

House recedes.

D. Equal Educational Opportunity

House Bill

No provision.

Senate Amendment

Section 401 of Title IV of the Senate amendment authorizes the use of Federal education dollars to fund education reform projects that provide same gender schools and classrooms, as long as comparable educational opportunities are offered for students of both sexes.

Conference Agreement

House recedes.

E. Education Block Grant

House Bill

No provision.

Senate Amendment

Sections 501–507 of Title V of the Senate amendment provide States a choice of receiving over $10 billion in Federal education funds as a block grant at the state level, local level, or to continue receiving funding as under current categorical programs.

Conference Agreement

Senate recedes. The Conferees have reluctantly agreed to remove the education block grant amendment of Senator Slade Gorton (R–WA) from the conference report in order to expeditiously move the underlying education savings account measure to the President. The Conferees believe the Gorton amendment would have returned authority for decisions about our children's education to where it belongs—to our parents, teachers, principals, superintendents and elected school board members, not bureaucrats in Washington, DC. The Conferees wish to commend the diligent efforts of Senator Gorton in this matter.

F. Sense of the Senate on Dollars to the Classroom

House Bill

No provision.

Senate Amendment

Sections 601–602 of Title VI of the Senate amendment is a Sense of the Senate resolution that 95 percent of every Federal education dollar should end up in the classroom.

Conference Agreement

House recedes.

G. Reading Excellence

House Bill

No provision.

Senate Amendment

Sections 701, 711, and 721–725 of Title VII of the Senate amendment authorize a literacy program which focuses upon training teachers to teach reading using scientifically proven methods, like phonics.

Conference Agreement

House recedes.

H. Dropout Prevention Program

House Bill

No provision.

Senate Amendment

Sections 801, 811–812, and 821 of Title VIII of the Senate amendment authorize a National Dropout Prevention program.

Conference Agreement

Senate recedes.

I. Multilingualism Study

House Bill

No provision.

Senate Amendment

Section 901 of Title IX of the Senate amendment authorizes a study on multilingualism.

Conference Agreement

House recedes with an amendment to add a finding to indicate that education is the primary responsibility of State and local governments and as such they are responsible for developing policies on multilingualism.

J. Safe Schools

House Bill

No provision.

Senate Amendment

Section 902 of Title IX of the Senate amendment provides that weapons brought to school are admissible as evidence in any internal school disciplinary proceeding.

Conference Agreement

House recedes.

WILLIAM ARCHER,
BILL GOODLING,
DICK ARMEY,
Managers on the Part of the House.

WILLIAM V. ROTH,
CONNIE MACK,
DAN COATS,
SLADE GORTON,
PAUL COVERDELL,
Managers on the Part of the Senate.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

U.S. POLICY TOWARDS CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, this weekend the communist government of China instructed its official news agency to issue the following statement in regard to its option to use force to conquer the Republic of China on Taiwan:

"Every sovereign state has the right to take all means it deems essential, including military means, to safeguard its territorial integrity."

Mr. Speaker, this is a rejection by Communist China of the commitments that its government has made to the United States in the past concerning the use of force in the Taiwan Straits. Supposedly we have an understanding with the communists that they will not use force if we recognize China under what is called the one China policy. This statement by the Communist Chinese, coming right before the President's visit, is a warning bell.

Some people in the United States are closing their eyes to the brutal suppression of human rights and the increase in military spending by the Communist Chinese government and thinking that will have no effect and that, instead, deals will be made with the communists and the past deals we made with them will suffice to maintain peace in that region.

Well, with their increased military power, the Communist Chinese are not only being belligerent to their neighbors, but seem now to be challenging the fundamental agreements that have served as the basis for peace between our countries. This is something the President must bring up, and this is one reason why this body last week passed a resolution insisting that this administration reaffirm that the United States is committed to oppose any violence in the Taiwan Straits and any use of force by the Communist Chinese to solve their differences with the Taiwanese.

This contempt for peaceful resolution of the tension in the Taiwan Straits coincides with the White House abandoning its plan to encourage the Communist Chinese to agree to an agreement to control the export of weapons of mass destruction, this during the upcoming Tiananmen Square summit. The President has abandoned the idea altogether of trying to get them to sign an agreement. The Communist Chinese leaders rejected the idea for a second time last week, this in the face of reports that the Communist Chinese continue to send technology to different countries that expands those countries' ability to produce nuclear and other weapons of mass destruction.

The President is insisting on going to Communist China anyway. The symbolism of this visit could not be worse. At a time when they seem to be reneging, with these statements we just heard, when they are sending weapons of mass destruction and the technology of weapons of mass destruction elsewhere, with the continuing massive violations of human rights on mainland China and Tibet and the belligerence the Chinese are showing, this could not be a worse time for the President to just go as "Johnny Sunshine" representing whatever to the people of China. In fact, the oppressors in Beijing will laugh at the President, because they realize his presence there and in Tiananmen Square makes a mockery of this country's commitment to human rights and makes a mockery of our commitment to nonproliferation of weapons of mass destruction.

What it does in terms of to the oppressor, it encourages them to believe we are not serious about these things, to the oppressed it is even worse. A mother of a 17-year-old boy who was killed in the Tiananmen Square massacre recently courageously made a public statement in Beijing urging President Clinton not to go to Tiananmen Square:

"I can't understand why he chooses this inappropriate time," ten years, almost ten years to the day, after the massacre, "this inappropriate time and place," this woman says, "to conduct the visit. To Chinese people the month of June means bloodshed and killing, so why choose June," this lady, this mother of the slain human rights activist, states.

Again I quote: "The red carpet he will walk on is soaked with the blood of our relatives. Of course, the state leaders of other countries get the same reception there, but the United States is different as it is a superpower of the free world and it is supposed to uphold justice."

I call on the President, as many in this body do, to reconsider this trip and to stand for freedom in Tibet and human rights on the mainland of China. Those stands will bring a better chance for peace in the world.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. ROHRABACHER) to revise and extend his remarks and include extraneous material:)

Mr. ROHRABACHER, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROHRABACHER) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS.
Mr. MENENDEZ.
Mr. KIND.
Mr. HINCHEY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1693. An act to provide for improved management and increased accountability for certain National Park Service programs, and for other purposes; to the Committee on Resources.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 16, 1998, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9610. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 1997–98 Crop Natural (Sun-Dried) Seedless and Zante Currant Raisins [FV98–989–1 FIR] received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9611. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1997–98 Marketing Year [Docket No. FV98–985–2 FIR] received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9612. A letter from the Acting Administrator, Department of Agriculture, transmitting the Department's final rule—Onions Grown in South Texas; Removal of Sunday Packing and Loading Prohibitions [Docket No. FV98–959–2 FIR] received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9613. A letter from the Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting the Department's final rule—Agreements for the Development of Foreign Markets for Agricultural Commodities [7 CFR Part 1485] received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9614. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Dimethomorph; Extension of Tolerances for Emergency Exemptions [OPP–300671; FRL–5795–4] (RIN: 2070–AB78) received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9615. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Propamocarb Hydrochloride; Extension of Tolerances for

Emergency Exemptions [OPP–300670; FRL–5795–3] (RIN: 2070–AB78) received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9616. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Quizalofop-p ethyl ester; Pesticide Tolerance [OPP–300663; FRL–5793–5] (RIN: 2070–AB78) received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9617. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Extension of Tolerances for Emergency Exemptions [OPP–300668; FRL 5794–8] (RIN: 2070–AB78) received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9618. A letter from the Chairman, Farm Credit System Insurance Corporation, transmitting the Corporation's annual report for calendar year 1997, pursuant to 12 U.S.C. 2277a—13; to the Committee on Agriculture.

9619. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Use of Auctions, Spot Bids, or Retail Sales of Surplus Contractor Inventory by the Contractor [DFARS Case 98–D004] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9620. A letter from the Director, Administration and Management, Department of Defense, transmitting the Department's final rule—Conduct on the Pentagon Reservation [32 CFR Part 234] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9621. A letter from the Secretary of Defense, transmitting a report detailing the reduction in acquisition positions by the Department of Defense; to the Committee on National Security.

9622. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the report on Sub-Saharan Africa and the Export-Import Bank of the United States, pursuant to Public Law 105–121; to the Committee on Banking and Financial Services.

9623. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits [29 CFR Part 4044] received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9624. A letter from the Secretary of Health and Human Services, transmitting the Fiscal Year 1997 Biennial Report to Congress on the Status of Children in Head Start Programs, pursuant to Head Start Act; to the Committee on Education and the Workforce.

9625. A letter from the Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Gasoline Volatility Requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area [SIPTRAX NO. PA110–4068a; FRL–6162–4] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9626. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District [CA181–0069; FRL–6110–2] received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9627. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Department's final rule—Hazardous Waste Combusters; Revised Standards; Final Rule—Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent to Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions [EPA F–98–RCSF-FFFFF; FRL–6110–3] (RIN: 2050–AE01) received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9628. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Amended Economic Impact Analysis of Final Rule Requiring Use of Labeling on Natural Rubber Containing Devices [Docket No. 96N–0119] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9629. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Classification/Reclassification of Immunohistochemistry Reagents and Kits [Docket No. 94P–0341] (RIN: 0910–ZA10) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9630. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—License Term for Medical Use Licenses (RIN: 3150–AF77) received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9631. A letter from the Secretary of Health and Human Services, transmitting the first annual report on the estimated cost of the premarket notification program (PMN) for food contact substances, pursuant to Public Law 105–115; to the Committee on Commerce.

9632. A letter from the Director, Congressional Relations, U.S. Consumer Product Safety Commission, transmitting the Commission's Annual Report for Fiscal Year 1997, pursuant to 15 U.S.C. 2076(j); to the Committee on Commerce.

9633. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 98–43), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9634. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Agency's Inspector General for the period October 1, 1997, through March 31, 1998, and the semiannual report on audit management and resolution, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9635. A letter from the Chief Financial Officer, Export-Import Bank of the United States, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

9636. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997, through March 31, 1998, and the semiannual management report on the status of audit followup for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9637. A letter from the Secretary of the Interior, transmitting the operating, statistical, and financial information about the Government's helium program for Fiscal Year 1997, pursuant to Public Law 104–273, section 7 (110 Stat. 3319); to the Committee on Resources.

9638. A letter from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the second Annual Report on the Police Corps, pursuant to Public Law 103–322; to the Committee on the Judiciary.

9639. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Adjustment of Status of Refugees and Asylees: Processing Under Direct Mail Program [INS No. 1829–96] (RIN: 1115–AD73) received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9640. A letter from the Executive Director, United States Olympic Committee, transmitting the 1997 Annual Report of the United States Olympic Committee (USOC), pursuant to Public Law 95–606; to the Committee on the Judiciary.

9641. A letter from the Chief Counsel, Department of the Treasury, transmitting the Department's final rule—Government Securities: Call for Large Position Reports—received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER. Committee of Conference. Conference report on H.R. 2646. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses (Rept. 105–577). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. YOUNG of Alaska introduced A resolution (H. Res. 470) to express the sense of the House of Representatives regarding actions to stop the poaching of valuable marine resources and use of illegal high seas driftnets in the Bering Sea; which was referred to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 165: Mr. PASTOR.

H.R. 1126: Mr. FRELINGHUYSEN, Mr. MCGOVERN, and Mr. SCHUMER.

H.R. 1766: Mr. DAN SCHAEFER of Colorado.

H.R. 2009: Mr. MATSUI, Mr. ROHRABACHER, Mr. BORSKI, and Mrs. KELLY.

H.R. 2020: Ms. WOOLSEY, Mr. DEFAZIO, Mr. CLYBURN, and Ms. STABENOW.

H.R. 2077: Mr. PALLONE, Mr. STARK, and Mr. WEXLER.

H.R. 3668: Mr. PICKERING.

SENATE—*Monday, June 15, 1998*

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of hope, make us hopeful thinkers. Hope through us for Your best for the future of America. Often we are infected by negative thinking when we calculate the possible without Your power. Continued conflict over legislation can result in weariness.

We know that authentic hope is based on Your faithfulness and the memory of how You have intervened to help us in the past. Help us to take a backward look to Your past blessings, an upward look to Your grace, and a forward look to the future, expecting the ways You will help us solve problems and grasp potentials. You are a God of progress. You abhor plateaus; You make us bold to claim Your vision. Help the Senators to exemplify the uplifting strength of hope this week. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of the tobacco bill. As a reminder to all Senators, any votes ordered today with respect to the bill will occur at 5 p.m. this evening. I believe there is one amendment that there may be a vote on. We should expect a vote at 5 o'clock, and it will probably be very close to 5 in order to accommodate Senators who will have to leave shortly thereafter. It is expected that no more than two votes will be ordered today.

Pending is the amendment of Senator REED of Rhode Island regarding the deductibility of tobacco advertising. We hope to lock in that vote for 5. But we will notify Members if it is going to be any different from that. It is hoped that the next Republican amendment can also be offered today. The vote on that may follow the vote on the Reed amendment. But, again, that has not been locked in yet.

We may also attempt to reach an agreement with regard to the Higher Education Act. We made some progress on that last week. There are some concerns still pending. But we will have the committee chairman and the Members working on the Higher Education Act. We need to get that completed. We have extended the time for the loans and grants under that act for 90 days. We don't have the July 1 deadline that would cause the students not to get their loans and grants, but the program expires July 1. We need to try to get that legislation moved as soon as possible.

We also have the NASA authorization bill and the drug czar office reauthorization bill, as well as other legislation or Executive Calendar items that may be cleared for action.

Any votes with regard to other items on the tobacco bill will occur then on Tuesday morning at a time to be determined by the two leaders—probably around 9:30 or 10. But we will need to see if we have something ready by then.

The official photo for the 105th Congress will take place tomorrow, Tuesday, June 16, at 2:15 p.m. All Senators are asked to be in the Chamber and seated at their desk at that time. Again, at 2:15 tomorrow, Tuesday, we will take the official photograph. This is the best time, looking at everybody's schedules and illnesses that we have been having to work around. But we want to get this done. We plan on doing it tomorrow.

One final point: We expect that the education conference report will be available one day this week—maybe Wednesday. That is the Coverdell A+ issue with some other parts that were added to it in the Senate. I believe this is a conference report that will have broad bipartisan support. We will take that up when the conference report is available.

Observing no Senator wishing to speak, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak for 5 minutes therein.

THE TOBACCO BILL

Mr. BOND. Mr. President, we are getting into the tobacco wars again today. I know we have made some progress. I have seen in the last week several amendments adopted which I think are very important. As a long-time advocate of assuring full deductibility for health insurance for the self-employed, I was delighted that, and the marriage penalty provision, survived a vote in the Chamber, and also what we called the Bond-Kerry amendment directing that some of the money paid out to the States be used at the very essential early stages of a child's development through early childhood development, parent education to make their children better students, better people, to accept responsibility for them, and providing child care to assure that children in elementary school are not left alone without supervision before and after school.

These are steps in the right direction. I understand that one of my colleagues, for whom I have great respect, later on today will come to the floor and seek to strike all mandates on States in this bill.

Generally, I have taken the position as a former Governor that we should not be mandating what States do with all of the money that is collected by the Federal Government from our State constituents. In this case, however, I think the situation is a little different because we have been asked by the States to come in and legislate. These actions started off as lawsuits, and it came to the point where they believed that a Federal law was necessary to implement the objectives that the States have and that we share, which is to assure discouraging of teenage smoking. I think that once we go down that path of imposing a major legislative solution—and we are going to be the ones who have to take the responsibility for imposing the fees, for setting up the smoking cessation programs and other things—that there is every reason for us to pose responsible legislative provisions which will have to be agreed to by a majority of both Houses.

I would mention the fact that there has been some controversy. I regret we were not able to place a limit on the amount of fees the lawyers for the States would receive. It seems to me we missed an essential ingredient here. We are talking about imposing a settlement or directing a distribution of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

sums that is not really a settlement of a lawsuit. We are developing a major proposal which is going to raise large amounts of money, provide some tax relief, send some money back to the States. I think we have every reason to say how much money that lobbyists, who are essentially the attorneys who brought the suits—the lobbyists pushing this legislation—should be able to achieve. Some of the figures that have been expressed on the floor about $80,000 to $90,000 an hour are unconscionable. And the people of my State—and I believe the people of the United States—are very much concerned about what is going to be done with all this money. I share that concern.

I think before this measure passes, or is finally adopted, there ought to be some limitation. Sure, let the people who worked on it get a reasonable return. But there is no reason to give a small group of people, selected by attorneys general, a windfall of literally potentially billions of dollars from our legislative action. The people who are going to have to be paying the higher fees for cigarettes, I think, have a right to ask us not to permit States to go through with the contracts which give essentially judicial contingent-fee-type rewards to people who are, in essence, coming to us, lobbying for us to pass legislation.

I think we ought to be able to establish some conditions on some of the money that goes back to the States. I have said that smoking cessation is important. The educational element is important in ensuring young people at least know the message that smoking can be harmful and that they should not start. I think we need to inform them.

I think, second, It is right and proper that, as we did last week, we support the concept in the Bond-Kerrey proposal, that funds going back to the States should be utilized for expanding child care, for assuring adequate early childhood development to ensure that every family takes responsibility for its child's behavior. We ought to be talking about parental responsibility, about family responsibility, about adult care-giver responsibility.

I will tell you one other thing. There is something that is lacking in this bill, and I intend to offer—I hope it will be tomorrow—an amendment which will deal with one of the areas that this bill, in my view, wrongfully ignores. We are trying to get teenagers to stop smoking. Where is the responsibility on the teenagers themselves? I know teenagers. I happen to have one in my family. Mine is a fine young man. We have these wonderful, bright-eyed, aggressive, intelligent young people here who are working as pages. Yet we are saying we are going to protect them from everybody else—from the sellers, from the tobacco companies—but we are not saying they have to take any responsibility. Young people are old enough to begin taking responsibility. If they drive a car illegally and they get caught, they get sanctioned. If they drive and they are drinking, or if they are using drugs, in my State they can lose their licenses. Young people ought to know they have some limits and some responsibilities. So I am going to offer an amendment to say to the States: If you want to receive money under these block grants, you ought to set up a system for sanctioning teenagers who purchase cigarettes illegally.

We are raising the price, we are providing education, but, as one teenager I talked to said: "Hey, if all they are doing is saying it's bad and the store that sells it to me is going to be in trouble or the people who make it are going to be in trouble but I can walk scot-free—that's worth a try." There are some teenagers who, unfortunatley, in their rebellious teen-age ways—and most of us can still recall when we were teenagers and remember those days—will say, "That's worth a try." If we want to discourage teenage smoking, then there need to be some sanctions on the teenagers.

I would lay out a string of sanctions and say, for the first offense, either a $50 fine or a day's worth of community service. A $50 fine might be really heavy on one teenager, but for another teenager it might not make any difference. But if that young man has to spend a day picking up trash along the highway as part of a community service sanction imposed on him for purchasing cigarettes illegally, I don't think he is going to want to be out there in broad daylight in the hot, broiling sun, with all his buddies going by honking and waving at him picking up trash on the highway.

I would even go so far as to say parents out to get sanctioned, too. We want to hold parents responsible. We want parents to recognize it is not just Government's responsibility, it is their responsibility as parents. Sure, we have all kinds of sanctions on the sellers, mom-and-pop stores that sell a whole range of things, including a legal product, tobacco, saying: You are really going to get it if youi sell to a teenager.

But is it fair to have that penalty only on one side? The amendment I am going to offer, and I hope both sides of the aisle will support, will say: States, you have to come up with a graduated system of sanctions so teenagers will know it is not a risk-free endeavor to try to lure a convenience store operator or a grocery store operator to sell you cigarettes that you should not be buying. Some States are moving ahead and they have sanctions, so they would be in compliance. But I think this bill would be sadly lacking if we set out a system of penalties and tried some educational efforts to convince teenagers they should not do what is illegal, and left them without sanctions.

So I hope we can adopt, tomorrow, a measure which does impose sanctions on teenagers or encourages States to say they must set up a reasonable graduated system of sanctions for anybody who purchases—acquires cigarettes illegally. Thus, I would say, when we come to the point about debating whether this bill should have no sanctions or no limitations or restrictions on the States, I think we have gone past that. Once the States came here and asked us to get involved and to set up a scheme to discourage teenage smoking, to raise the price of cigarettes to provide smoking education, provide research, provide health care benefits, we ought to continue down that road and provide the one element which is lacking in the current scheme, and that is strong incentives for States to punish and to impose a reasonable, graduated system of penalties on those who purchase illegally.

So I ask my colleagues not to support a removal of all requirements on the States. I ask them—I hope it will be tomorrow when we come forward with our amendment—to support the amendment. My amendment will simply provide incentives for States to impose sanctions on youth who buy or possess tobacco products illegally. We are taking all kinds of steps in the bill to keep cigarettes out of the hands of teens. We are creating new boards and agencies, we are seeking that the tobacco industry limit advertising, we are planning ad campaigns to discourage teens from smoking, we are holding convenience stores accountable for selling cigarettes to teens illegally. About the only people we are not holding responsible are the teens themselves. I ask support for my amendment that will do that.

Teen smoking is on the rise at a time when older adults are reducing tobacco consumption. there is more information out there than ever before about the risks of smoking, but teens continue to smoke. Some of that may be rebelliousness. How should we handle that rebellion? Quite simply, by holding teens accountable for their actions. Teens need to know that their actions have consequences. If they purchase tobacco illegally, they should have a penalty to pay—perform community service or kick in with some money to the General Treasury of the entity involved.

Mr. President, I ask support for my amendment. If others want to cosponsor the amendment, I welcome having them contact us. We are already working with several Members who are interested. I hope we can get this amendment accepted on both sides. I think it is a responsible and appropriate response to the problem that this measure seeks to address.

Mr. President, I yield the floor and, seeing no other Senator present wishing to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

INDIA'S NUCLEAR PROGRAM

Mr. KYL. Mr. President, given the fact that the managers of the tobacco legislation are not here even though the Senate was to begin reconsideration of that proposal at 2 o'clock, I would like to continue to speak in morning business for about 5 minutes to put an article in the RECORD and ask unanimous consent at this time to include that article at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. KYL. Mr. President, this is an article from the Washington Post by Victor Gilinsky and Paul Leventhal. Victor Gilinsky is an energy consultant, and Paul Leventhal is president of the Nuclear Control Institute. At the time of the 1974 nuclear test by India, they were, respectively, a member of the Nuclear Regulatory Commission and the U.S. Senate staff.

They write about the history of the nuclear program conducted by India, illustrating the complicity that the United States has had in the Indian program and, more importantly, the misplaced reliance that the United States has put in arms control agreements, which in the end never quite seem to bear the fruit that we had hoped for.

In this case, it was part of the Atoms for Peace Program that the United States participated in as a result of a previous treaty, and it was part of the Atoms for Peace Program whereby the United States and Canada and other nuclear powers would provide some material for India for peaceful purposes. They had a reactor built by Canada. It was made essentially operable, according to this article, by the United States providing 21 tons of heavy water. This, of course, was all under a promise that the Indians made to the United States that the reactor would be used only for peaceful purposes. But apparently India used plutonium from this reactor in its 1974 nuclear explosion. What the authors said—I will quote: ". . .neither capital"—meaning the capital of Canada or the United States—"has uttered a peep about this matter is symptomatic of Western complicity in the South Asian nuclear crisis and of the present paralysis in dealing with it."

What they are pointing out is that when we negotiate a peace treaty with countries which says, "You won't develop nuclear weapons—if you will promise not to do that, then we will provide you peaceful nuclear technology," it is almost impossible for that peaceful technology to end up in a nuclear weapons program if that is the country's ultimate desire. And, in the case of India, for whatever reasons it decided it was in its national interest to produce a nuclear weapon, apparently it used the product of this Atoms for Peace peaceful nuclear program as part of its weapon program in violation of the treaty.

But for the United States, or Canada, or the other nuclear powers of the world to complain about this would require us to have to admit to something that we are not about to admit; namely, that these treaties don't work; that there is no way to enforce them; and that, in point of fact, a program that we had every hope would be a success—the Atoms for Peace Program—has in fact helped to contribute to the development of a nuclear weapon by the country of India.

The article goes on to make some other points that I think are important; that is, that the country of India has broken several promises here in the development of its nuclear weaponry; that it had always complained about the charter of the new International Atomic Energy Agency in the 1950s.

The article points out:

> It was duplicity in carrying out the Atoms for Peace agreements in the 1960's. It undermined the Nuclear Non-Proliferation Treaty with its "peaceful" bomb of 1974.

That is referring to the fact that the Indians got around the violation by claiming that the bomb they exploded was for peaceful purposes. And apparently the United States looked the other way.

But the article goes on to note, "Despite this history, each new generation of American policymakers thinks that by being a little more accommodating"—for countries like India—we will then gain their restraint and their acceptance of the nuclear controls that we would like to place upon them. Of course, India is not alone in this. I am not being any more critical of India than I would be of other countries that would be engaged in the same kind of conduct.

But what this article concludes is ". . .American self-deception that stems from a mix of idealism and commercial greed." is the reason these countries have been able to get away with this for so long—again, ". . .American self-deception that stems from a mix of idealism and commercial greed."

Mr. President, that is exactly what we have seen with the desire to sell virtually anything to nobody, the argument always being, if we will not sell it to them, then someone else will, which is always an excuse for transferring technology. That we have come to learn with some sadness recently. That should not have been transferred to China, for example.

We also find this concept of idealism—that if they will just sign one more treaty, if we will just get one more commitment from a country that it won't engage in conduct that we believe inimical to world peace, that just maybe, therefore, we will have the peace that we so earnestly desire.

The fact of the matter is that when it comes to a nation's self-defense, it is going to do what it deems in its best interest irrespective of a piece of paper, of a treaty, of a commitment, or of a promise to the rest of the world, and it is not going to be swayed by world opinion or even by the punishment that nations or organizations may mete out.

Thus, India and Pakistan were all too willing to suffer the opprobrium of the world community. They were very—I shouldn't say "happy"—but they were willing to suffer the constraints of the economic sanctions that are automatically imposed upon them as a result of their nuclear programs and their testing, because, first of all, it is domestic politics for them, but, even more importantly, they deem it to be in their national self-interest for the preservation of their countries.

You cannot expect a treaty that has been signed to prevent a country from doing what it believes is in its national self-interest. To think that the United States could, therefore, dissuade a country like North Korea or Iran or Iraq or one of the other so-called rogue nations of the world to forego the development or testing of nuclear weapons if only we could get everybody in the world to sign the Comprehensive Test Ban Treaty is, I think, a ludicrous, self-deceptive, naive thought.

That is why I thought the article these two gentlemen wrote and was published in the Washington Post today is so interesting, because it gives a little bit of perspective. It reminds us of how, with the best intentions, we signed treaties in the past. Part of the terms of those treaties was that we would supply atoms for peace, but when a country deemed it to be in their self-interest to use that largesse to develop their nuclear program, they did it. And after having developed their nuclear program, and this having been a violation of the Nuclear Non-Proliferation Treaty, we should not find it as a surprise that they are then going to test those nuclear weapons which would, if these countries were to sign the CTBT, be a violation of that treaty as well.

Mr. President, I conclude with this point. There has been some talk lately that the explosions of the Pakistani and Indian nuclear devices suggest it is now time for the Senate to take up the CTBT, the Comprehensive Test Ban Treaty.

Exactly the opposite is true, as the distinguished majority leader of the Senate pointed out in a television interview a week ago last Sunday. He said it is 180 degrees wrong. He said the fact is that these two tests demonstrate that a test ban treaty will not have any effect on a country that deems it in its national self-interest to test these weapons; that a piece of paper is not going to stop them.

It is interesting that in the last 2½ years, during the time that the United States has had a moratorium on testing, and that we have supposedly led world opinion in encouraging other nations not to test, five nations have tested nuclear devices—probably five. We know about France and China and now India and Pakistan, and perhaps Russia. But, you see, as to verifying whether Russia actually tested at its test site in the Novaya Zemlya, we don't know for sure whether that happened, or at least we can't discuss it publicly because the means that we have for detecting those explosions is not adequate for the verification that would be called for under the CTBT.

But we know that at least four, if not five, nations have tested, and this is all during the time that the United States has been leading the way by not testing, by having a unilateral moratorium here. The only other, of course, Great Britain, has acknowledged having nuclear weapons that it hasn't tested.

So world opinion, leading by example, sanctions, none of these is sufficient to prevent a country from doing what it believes is in its national self-interest. As this article points out, you just cannot rely upon a treaty or a piece of paper to prevent a country from doing what it believes it has to do to protect its national security. To do so is to fall back on that great American practice of hoping against hope and of putting our reliance in idealism and in treaties when, in fact, the answer is to always be prepared with an adequate military defense. In this case, of course, the defense is the establishment of a missile defense, which we have got to get on with building.

That is a subject for another day, but the bottom line is we can always do what we can do to defend ourselves, such as building a missile defense as opposed to putting our reliance on something over which we have no control, and that is another country's behavior, even in the face of moral condemnation by world opinion and the significant economic sanctions that might be imposed by other countries as well as the United States.

As I said, I will put this article in the RECORD. I urge my colleagues who are interested in the subject to further explore it as we debate the question of whether or not the Senate should take up the CTBT. As I said, I agree with the distinguished majority leader that these tests demonstrate that putting any reliance on that agreement would be folly and therefore far from suggesting this is the time to take it up, I suggest it is time to forget about it.

EXHIBIT 1

[From the Washington Post, June 15, 1998]

INDIA CHEATED

(By Victor Gilinsky and Paul Leventhal)

You wouldn't know it from news reports, but most of the military plutonium stocks India dipped into for its recent nuclear tests came from a research project provided years ago by the United States and Canada. India had promised both countries it would not use this plutonium for bombs.

If Washington and Ottawa were now to keep India to its promise, and verify this, India would lose more than half the weapons-grade plutonium for its nuclear bombs and missiles. The United States and Canada should make this an essential condition for the lifting of economic sanctions.

The plutonium in question is the approximately 600 pounds—enough for about 50 bombs—produced in India's CIRUS research reactor since it began operating in 1960. This was an "Atoms for Peace" reactor built by Canada and made operable by an essential 21 tons of heavy water supplied by the United States. In return for this assistance, India promised both suppliers in writing that the reactor would be reserved for "peaceful purposes."

India used plutonium from this reactor for its 1974 nuclear explosion. When the facts emerged, Prime Minister Indira Gandhi insisted there had been no violation of the peaceful-use commitments because India had set off a "peaceful nuclear explosion." The Indian scientist then in charge, Raja Ramanna, now has admitted it was a bomb all along. And India now has declared itself a nuclear-weapons state on the basis of its current tests. With the decades-old "peaceful" pretense stripped away, the United States and Canada should make unambiguously clear that India may not use CIRUS plutonium for warheads or related research.

The fact that neither capital has uttered a peep about this matter is symptomatic of Western complicity in the South Asian nuclear crisis and of the present paralysis in dealing with it. There is also the matter of a 1963 agreement covering two U.S.-supplied nuclear power reactors at Tarapur and their fuel. The radioactive used fuel from these reactors is in storage and contains most of India's "reactor-grade" plutonium. India has said it will reprocess the used fuel to extract the plutonium for use as civilian power-reactor fuel. But reactor-grade plutonium also is explosive and once separated, it could be used by India's scientists for rapid deployment in warheads. There is enough Tarapur plutonium for hundreds of them.

Under the 1963 agreement, India must get U.S. approval to reprocess. India disputes this and insists it is free to reprocess the used fuel at any time. The State Department, historically reluctant to tangle with India, rationalized Tarapur as an unnecessary irritant in U.S.-India relations and put this disagreement in the sleeping-dogs category.

In the history of U.S.-India nuclear relations, nothing stands out so much as India's constancy in pursuing nuclear bomb-making and America's nearsightedness about Indian intentions. India fought to weaken the charter of the new International Atomic Energy Agency in the 1950s. It was duplicitous in carrying out Atoms for Peace agreements in the 1960s. It undermined the Nuclear Non-Proliferation Treaty with its "peaceful" bomb of 1974.

Despite this history, each new generation of American policymakers thinks that by being a little more accommodating it will gain Indian restraint and acceptance of nuclear controls. The Indians (they are not alone in this) have for a long time played on that characteristically American self-deception that stems from a mix of idealism and commercial greed. It is not surprising that the Indians expect the game to continue.

The angry congressional reaction to discovering America's role in the 1974 test was the 1978 Nuclear Non-Proliferation Act. This barred nuclear reactor and fuel exports to countries such as India that refuse to accept full international inspections. But the State Department helped India get around the law by arranging for France and later China to continue the Tarapur fuel supply. Is it any wonder the Indians do not take us seriously?

Like India's 1974 test, the 1998 tests present a defining event in U.S. nonproliferation policy. We have failed to react sharply enough to head off Pakistani tests. But we still can be taken seriously in this region and by other aspiring nuclear states such as Iran. At a minimum we should insist that Indian plutonium covered by "peaceful purposes" agreements be unavailable for warheads, and that Tarapur fuel is not reprocessed to extract plutonium. This is by no means the whole answer, but there is no point in trying to "engage" India is new nuclear limitations if we do not enforce existing agreements.

Mr. KYL. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may speak as in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASIAN FINANCIAL CRISIS

Mr. MURKOWSKI. Mr. President, last Thursday, before Secretary of Treasury Robert Rubin began testifying before the Senate Finance Committee, it is interesting to reflect on the status of the Japanese yen. At that time, it was trading at 141 to the dollar. During the hearing, I had an opportunity to ask Secretary Rubin whether or not the United States would intervene to stabilize the yen, and Secretary Rubin correctly observed that with the hundreds of billions, if not trillions of dollars and yen trading around the world on a daily basis, central bank intervention can only stabilize a currency for a very short period of time. It is further interesting to note, upon the completion of the Secretary's comments the yen fell to 144 to the dollar. So clearly there is a question of confidence.

On Friday, the Government of Japan announced that the Japanese economy had met the standard definition of a recession; that is, two-quarters of negative growth. Unemployment in Japan is at its post-1950s record of 4.1 percent, which in Japan is extraordinarily high, with youth unemployment exceeding 9 percent.

As of this morning, the yen has fallen through the 146 level. The Japanese stock market was within 2 percent of a 52-week low. Moreover, the stock markets—Hong Kong, India, Malaysia, South Korea and Thailand—have all hit 52-week lows. Mr. President, it is clear that Asia has yet to turn itself around from the crisis that started well over a year ago, and the biggest reason Asia is tumbling is because the Japanese Government has failed to face up to the realities of its crumbling economy, especially the dismal state of its banking sector. So long as Japan fails to take decisive action in the banking sector, the yen is very likely to plunge further as lack of confidence prevails, carrying with it the threat to all Asian economies of deflation and further-currency devaluations. I think you would agree that all Americans should be very concerned about this crisis in Asia, and particularly in Japan.

Japan is the second largest economy in the world and imports more than $66 billion in goods from the United States. Moreover, Japan is a major importer from the rest of Asia, and if its economy continues in recession, the rest of Asia will remain mired in economic decline which could lead to political instability, not unlike what we recently witnessed in Indonesia.

The reality of the yen decreasing in value is very simple, Mr. President. Eighteen months ago, the yen was about 80. A year ago, it was a little over 100. At that time, it took 80 yen to buy a U.S. lamp. Today, it takes 146 yen. As a consequence, we are not selling any lamps or much of anything else in Japan.

Alan Greenspan recently noted:

> Without first fixing its banking sector, Japan has little hope of fueling economic recovery.

An editorial in today's New York Times, commenting on Japan's recession, states:

> The first priority for Japanese officials must be to save the country's sick banking system.

Ever since the so-called bubble economy burst in Japan 7 years ago, the banking system has been carrying bad loans on its books from the days of heady land and financial speculation.

As a former banker with 25 years of experience in commercial banking, I can tell you what happens when these loans become nonperforming. When the payments cannot be made, of course, the interest can't be paid as well. More often than not, the bank simply adds the past-due interest to the principal and brings the loan current, and the loan appears current on the books when, in reality, it is a nonperforming loan and, in many cases, a loss.

Since 1991, the Japanese Government has promised time and time again to reform financial sectors within the country, but it has yet to fulfill its promise. Instead, I believe that the Government has always believed it could say one thing and do another or, in this case, simply rely on exports to stimulate the economy. The reality is that it will not and has not worked in the past.

In January, Japan's Ministry of Finance announced that the number of problem loans was $577 billion, of which at least $85 billion had already gone bad or were insolvent. The remaining, nearly $500 billion, had the potential to go bad as well. Some analysts believe the value of the problem loans today in Japan is closer to $700 billion.

Following this report, the Japanese Government announced a large bank bailout, but since then almost nothing has been done to implement it. The sick banks stay open and the economy continues to hemorrhage.

In Japan today, short-term interest rates are at their lowest level ever since economic statistics have been recorded. Short-term loans carry interest rates—interest rates, Mr. President—below 1 percent. Imagine that the yield on a long-term, 10-year Japanese Government bond is an incredible 1.3 percent. With interest this low, it is hard to imagine why Japan is sinking into a recession.

Yet, in a recent poll, 95 percent of Japanese companies interviewed complained about the difficulty of receiving loans from Japanese banks. The explanation is simple: The banks are fearful of making new loans. There is a credit crunch in Japan because of the overhang of all the bad debt that is being carried on the banks' books already. So long as this overhang continues, Japan will continue to fall further into recession.

Mr. President, the Japanese can learn a valuable lesson from our bad experience with the failed savings and loans in the United States. When the S&L crisis first began to be felt in 1985, it was debated at great length here on this floor. Congress and the President refused to face the crisis and did not provide the sufficient funds to close the failed S&Ls. This only prolonged the crisis and ballooned the cost of the bailout to the taxpayer.

When we first recognized the difficulty with the failing savings and loans, the estimated loss at that time was $25 billion to $30 billion. But we in the United States did not take our medicine in a timely manner and the S&L bailout ultimately cost the taxpayers of this country more than $200 billion.

We finally did face the S&L problem. The longer we put it off, the more it cost. We created the Resolution Trust Corporation. We closed down the failed banks and consolidated others. After several years, we finally put the S&L crisis behind us, because we recognized that keeping sick financial institutions open only exacerbates the problem and costs more to the taxpayer.

By contrast, the Japanese banks and their regulators have for years tried to hide their financial problems. In order to help cover up the insolvency problems of Japanese banks, just before the end of the fiscal year, in March, the Ministry of Finance changed the accounting rules affecting the so-called BIS ratio, a ratio used by international markets as a bellwether of financial health of the banks. This ratio says that shareholder equity—or assets minus liabilities—should at least equal 8 percent of the weighted assets, or typically the outstanding loans.

The changes allowed the banks to use the purchase price of their stock portfolios as the asset value when the stocks' prices have fallen. Since many of these stocks were bought in the heyday of the Japanese bubble economy, this enabled the Japanese banks to look healthy when, in fact, they were sick. Indeed, they are very sick, Mr. President.

Moreover, the Government attempted to manipulate the end-of-March stock prices by buying up shares on the open market. Neither of these actions suggest that the Japanese Government is serious about making banking changes in conformity with good accounting practices.

Until Japan faces up to its banking crisis, things are going to get worse, not only in Japan but throughout Asia, because of the importance of the Japanese economy to the rest of Asia.

Another looming threat to Asia lies in China which also faces a seriously dangerous banking situation. I was over in Beijing and Shanghai towards the end of the year. It is amazing to see the number of huge high-rises with very little occupancy as they attempt to negotiate the rent to a level to get people in them, regardless of if it makes financial sense.

By some estimates, China has as much as $250 billion in doubtful loans. The Government-controlled Chinese banking system has been directing funds to favored companies regardless of the economics. In China's case, 70 percent of the state-owned banking loans go to inefficient and near-bankrupt state-owned enterprises. The Government is attempting to encourage foreign ownership coming into China, but there is a great reluctance on the part of U.S. firms to come in and share the debt associated with those opportunities.

In any event, Mr. President, as a result, an estimated three out of four state commercial banks are now believed to be insolvent in China. China has announced their intention to reform their banking system, but with the Asian economy weakening and Japan in recession, China may wait too long to make the tough changes, and then those changes become that much tougher.

In the end, we could find the two largest economies in Asia in recession, and I think this is very likely. My experience in finance tells me that when you have bad financial news, if you can take the hit up front and get on with it, as opposed to bearing it and putting it off, you will be much better off. That is not what is happening in Asia in either the case of China or Japan. There is a great reluctance to face up to the realities and take the medicine to change the banking system and get them back on a functional basis. This would shore up the economy in Asia.

Finally, Mr. President, our own U.S. economy is, more than ever, linked to the world economy. So I can only hope that the Japanese Government and the Chinese Government will accept the problems in their system and make the necessary changes before the cost becomes too great, before the cost affects the U.S. economy and the U.S. taxpayer.

Mr. President, neither Japan nor China is going to survive this crisis merely by devaluing their currency and trying to export their way out of their economic problems. When we see both countries taking serious steps to address their failed financial institutions, as they are currently structured, and bringing greater transparency to their banking systems, then at last we will know that Asia is beginning to turn the corner.

Mr. President, I suggest they start now without further delay.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

> A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

> Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.
>
> Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.
>
> Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.
>
> Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.
>
> Reed amendment No. 2702 (to amendment No. 2437), to disallow tax deductions for advertising, promotional, and marketing expenses relating to tobacco product use unless certain requirements are met.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent, on behalf of the leader, that at 5 p.m. today the Senate proceed to a vote on or in relation to the Reed amendment No. 2702 regarding tobacco advertising. I further ask unanimous consent that Senator McCain have 5 minutes and Senator Reed have 5 minutes for closing remarks just prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, a couple of weeks ago a couple of Members of Congress came to the floor of the Congress to announce Bob Hope's death. Bob Hope was having breakfast in California at the time. This weekend, we had some legislators talking about the tobacco bill and predicting that the tobacco bill was dead. Well, the tobacco bill, or the tobacco legislation, that is being debated by the U.S. Senate is not exactly having breakfast—clearly, this has been a struggle to get a piece of legislation through the Senate dealing with the tobacco issue—but, the tobacco bill is not dead by any means. I hope that those who tell the American people that the Senate cannot pass a tobacco bill will understand that the Senate fully intends to pass legislation dealing with tobacco.

I want to describe just for a moment why I think those who predict its death are wrong, and why those who call this a bad bill are wrong, and why those who believe that Congress will eventually not act on tobacco are wrong.

Let me go back to the start of this issue. Why are we debating a tobacco bill? Why tobacco legislation? Simply put, it is because we now know things we did not know 25, 50, and 100 years ago about tobacco. We know that tobacco can kill you. The use of tobacco, we know, causes from 300,000 to 400,000 Americans a year to die from smoking and smoking-related causes.

Tobacco is a legal product and will remain a legal product. But we also know that it is illegal for kids to smoke, and we know that tobacco companies have targeted our children to addict them to nicotine.

The majority leader this weekend said, "Well, the tobacco bill is so bad that it should not be passed in its current form," and so on and so forth, and "If we can't get to a conclusion on it this week, we've got to move on." That is another way of saying, "We're going to leave this carcass in the middle of the road and just drive forward."

Fortunately, we learn a lot as we go along here in this country and in life. One of the things we ought to learn is, this piece of legislation dealing with tobacco, and especially dealing with the tobacco industry targeting America's children—we must resolve this issue; we must pass this legislation.

Let me describe for my colleagues some of the evidence that has been unearthed from depositions and from court suits, and so on, in recent months.

A 1972 document by a tobacco company, Brown & Williamson. It says:

> It's a well-known fact that teenagers like sweet products. Honey might be considered.

Talking about sweetening cigarettes because teenagers like sweeter products—does that sound like a company that is interested in addicting kids to their product?

How about Kool—the cigarette Kool?

> KOOL has shown little or no growth in share of users in the 26 [and up] age group.

This was written by a Brown & Williamson person. It is a memo from 1973. It says:

> . . . at the present rate, a smoker in the 16-25 year age group will soon be three times as important to KOOL as a prospect in any other . . . age category.

Talking about their 16-year-old customers for Kool cigarettes.

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . .

This is according to a report by a Philip Morris researcher.

You say that they are not targeting kids?

1974, R.J. Reynolds. A marketing plan submitted to the board of directors of the company says:

> As this 14–24 age group matures, they will account for a key share of the total cigarette volume—[in the] next 25 years.

Or if you are still unconvinced—that there is no need here; that the industry has not targeted our children—how about a Lorillard executive, a cigarette company executive, in 1978:

> The base of our business is the high-school student.

A cigarette company executive saying, "The base of our business is the high-school student."

Philip Morris, 1979, says:

> Marlboro dominates in the 17 and younger category, capturing over 50 percent of this market.

It is like they should have a fiesta here. They capture over 50 percent of the 17-year-old and under market. And you say the industry isn't targeting kids?

Well, cigarette smoking is addictive. It is legal but addictive.

Here is something that was picked up this morning. It is actually a piece from Marlboro. It talks about river rafting, cookouts, fly-fishing, bonfires, mountain biking, and bands. And it is advertising, of course, cigarettes. It has the warning, as we require by law, "Surgeon General's warning: Smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy."

The question for the Congress is: Do we want an industry to try to addict our children to this product? And the answer is no. And if not, if we do not want the industry to continue to do that—and they have in the past; the evidence is quite clear—if we do not want them to continue to do that, if it is our position that it is wrong for the industry to target children—and that is our position—then the question is, What are we going to do about that? Is the Congress going to pass a piece of legislation that prohibits this industry from targeting our children? And that is the legislation that is on the floor of the Senate.

Some do not like it; and some, for their own reasons, want to kill it. But they will be on the wrong side of history if they succeed in killing this legislation.

Oh, we have done a lot of things over the years that were controversial at the time we did them. Even things like giving women the right to vote in this country was controversial, wasn't it? For more than half of this country's history, women were not allowed to vote. Or skip forward to the Civil Rights Act of the early 1960s. Who in this Chamber now would decide that the things that we provided for in the Civil Rights Act in the early 1960s they would now support? A good number of them opposed it back then.

Things like requiring labels on food—that was controversial. Requiring companies that produce our food in the grocery store to actually put something on the label that states the fat content, the sodium content, or the carbohydrates—that was big government intruding on those who manufacture the food. How could we require that someone put on the can of peas what is in that can of peas? We did it.

Now you can go down the grocery store aisle and see traffic jams of people, taking that can or package, and trying to figure out what is in it, how much fat it contains, how much sodium is in a product. It was controversial at the time.

A lot of things that were controversial at the time turned out to have been the right thing. The tobacco bill will turn out to be the right piece of legislation for this country.

How many in this Chamber who spend a lot of time on airplanes remember, going back 10 or 20 years, getting in the middle seat of a 727 and as the airplane takes off, the person in the seats on the right-hand side and the left-hand side light up their cigarettes. Because then there were no restrictions on smoking anywhere on airplanes? Eventually they put the smokers in the back of the plane. That meant everybody breathed the same smoke, although they were separated by distance. Then, finally, you shall not smoke on airplanes in this country. It was controversial at the time. I voted for that. It was the right thing to do.

This piece of legislation on the floor of the Senate talks of a range of issues, most especially the issue of teen smoking. In an industry that knows the only customers it has access to are kids—because almost no one reaches adult age in this country and tries to figure out what they have missed in life and comes up with the idea of smoking; nobody 30 or 40 years old says what will really enrich my life is if I started smoking—kids are the only source of new customers for tobacco companies. The tobacco companies say it themselves in the research material we have provided.

This legislation provides a range of programs, including providing smoking cessation programs, trying to help people who are now addicted to quit; prohibits advertising that targets our children; provides for counteradvertising, that actually tells our kids that smoking is not cool and that smoking can cause lung cancer, heart disease, emphysema and so on.

The resources in this bill help us invest in the National Institutes of Health to continue to develop the breathtaking achievements in medical research that we see day after day and month after month in the National Institutes of Health. It seems to me this is a remarkable bargain for the American people.

This legislation, I think viewed 10 years from now, will be seen as something that was right for the time. Ten years from now, those who vote against this legislation will say, "How on Earth did I ever come to that conclusion?" Of course it made sense for us as a country to decide cigarette companies cannot target our children. Of course it made sense for us to have counteradvertising and smoking cessation programs and more investment in the National Institutes of Health to deal with the range of medical problems caused by smoking. Of course that made sense.

So let me conclude by saying that those who this weekend were on the talk shows and were speaking to the press about what will happen to this tobacco bill, they have prematurely announced its death. This tobacco bill is not dead. There are some who wish it were dead. There are some who this week will work against it and will try with every bit of energy they have to kill it, but they will not succeed because this is the right thing to do. We have made the case effectively that at this time in this country we ought not allow the tobacco industry to target our kids to the addiction of cigarettes. This piece of legislation moves us in that direction in a very, very significant way.

The majority leader and others who speak about this legislation need now, I think, to provide some leadership to help us pass this legislation. A bipartisan group of Senators, including Senator McCAIN, who has spent a great deal of time on this legislation and someone for whom I have great admiration and I commend him for his work, Senator CONRAD on our side and others, a great many people have spent a lot of time crafting this in a bipartisan way. Now we need this week to finish a job and pass it through the Senate and get it to a conference with the House so that the American people can look at the job the Congress has done. And then make the judgment that they have done a good job on behalf of our children, they have stood up for our children and have told an industry that addicted our children, you can't do that anymore; we are not going to let you do that anymore. That is the right position for our country.

I know that the Senator from Rhode Island is about to talk about an amendment, I think, that he has pending in the Senate. Let me, as I conclude, also commend him for the work he has done. The Senator from Rhode Island, the Senator from Illinois, Senator DURBIN, and a number of others have worked a great deal on this legislation, including the Senator from Massachusetts, and I mentioned the Senator from Arizona, Senator McCAIN.

This is a tough piece of legislation. The toughest thing in the world is to propose. The easiest thing in the world is to oppose. It doesn't take any skill to oppose. I think it was Mark Twain who once was asked if he would be involved in a debate and he immediately accepted, "provided I can take the opposing side." They said, "You don't even know the subject of the debate," and he says, "I don't have to, as long as I am on the opposing side."

It takes no time to prepare. We are proposing a piece of legislation in the Senate dealing with smoking, tobacco and children that is right for the time. Those who stand in its way will be on the wrong side of history. Those who predict its death are dead wrong, because we fully aim, this week or next week, to pass this legislation through the U.S. Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Rhode Island.

Mr. REED. As an initial point, I ask unanimous consent to add Senator TIM JOHNSON as a cosponsor of the Reed amendment, amendment numbered 2702.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, first let me commend my colleague, the Senator from North Dakota, for his fine words and also for his commendation. He has been, also, a leader in this effort to try to pass a balanced, yet very effective, tobacco legislation.

AMENDMENT NO. 2702

Mr. REED. Mr. President, before this body today is my amendment which would deny the deductibility of advertising expenses to the tobacco industry if they did not follow the FDA rules with respect to advertising.

The FDA, after very careful rulemaking, promulgated a series of rules which would proscribe advertising directed at children. Among these rules are limiting tobacco billboards to a distance further than 1,000 feet from a school. It will require the publication of advertisements in youth-oriented magazines to be in black and white text only. It would dispense with some of the other staples of advertising that the industry is using.

As the Senator from North Dakota has pointed out and as I pointed out in my remarks last Friday, there is clear, convincing, overwhelming evidence that for decades the tobacco industry has deliberately, relentlessly, and ruthlessly targeted children in their advertising. It is not an accident. It is not a coincidence. It is not the collateral effect of trying to reach the 21- to 25-year-old market. It is very purposeful, very deliberate, and, regrettably, very effective.

In the course of the debate over the last several weeks we have taken diversions through many different areas. We are talking about tax policy. We are talking about child care policy. We are talking about how we spend these resources, whether this is an inappropriate tax. I think it is helpful to refocus why we are here. We are here because the tobacco industry, as I mentioned before, has, over decades, targeted young people for their advertising. They are attempting, and succeeding too well, to literally entice young people as young as 12 and 13 years old into smoking cigarettes and using other tobacco products.

I think that is wrong. I think the vast majority of the Americans think that is wrong. I think the vast majority of my colleagues in the Senate feel it is wrong. We can do something about it. As we have discussed all of these different issues of tax policy, fiscal policy, regulatory policy, it sometimes helps to remind all of us what the industry is doing.

I had a very graphic reminder sent to me by one of my constituents from Rhode Island. I mentioned this last week. This is a very slick, sophisticated, mailing piece, sent to his son, a 16-year-old junior in high school. I have blown it up here so the audience can see in larger detail what I am talking about. Again, this was sent to a 16-year-old. It was sent addressed to him, personally. It wasn't "occupant," or "resident." It was addressed to him.

As a first point, I can recall as a youngster when I ever got mail it was a big occasion. To think that someone would actually want to send me a letter, particularly a big company like the Brown & Williamson Tobacco company was a big occasion.

The first part of it grabs your attention: "We know you like it loud." How do they know they like it loud? Because he essentially was contacted and solicited because this young man went to a rock concert which Brown & Williamson sponsored the preceding summer. This is not coincidence, either. Their decision to sponsor a rock concert that attracts, as the father said in the letter, a majority of the audience being 18 or younger, much younger in some cases, was very deliberate. It wasn't spur of the moment. They sat around a conference room on Wall Street and Madison Avenue saying, "How do we get our target population? How do we reach them and make contact with them? And, oh, by the way, how do we draw them into this addiction of smoking?"

So he received this mailing at home. You open it up. It is three dimensional. I know in the course of some of my campaigns I have used them in mailings to my constituents. This is a very expensive, very professional, and very sophisticated mailing. It is a very targeted mailing.

Then you read the narrative. "You like it loud"; and "very, very smooth." "Kick back today and enjoy a bold treat. Refreshing menthol, and a coupon to save you some change. Relax with Kool, and slip into something smooth."

You are overwhelmed by this message. The message is not about the statistics, or the smoking, or the dangers of smoking, the information he or she would want as a rationale consumer if he or she were making a decision to smoke. You are being overwhelmed by I would argue misinformation. Oh, yes, there is the required Surgeon General warning here. "Warning: Smoking greatly increases serious risk to your health."

If you are 16 years old, do you really believe that, when everything else is talking about your favorite rock group, talking about how "we support" that rock group in the concert, how you are part of this "loud" generation, how you like it "smooth" personally directed to you? I don't think so. And the most ironic part of all of this is this message says "quitting smoking" will help your health. This message down here says, "We will give you a buck, kid, if you buy two packs of our cigarettes." What a deal.

This is what we are talking about in this tobacco bill. We are talking about an industry that has deliberately, repeatedly attempted to market the kid shamelessly; without shame.

This took place 6 months ago at the same time they were talking about their arrangement with the attorneys general; at the same time they knew we were going to be debating tobacco legislation on the floor of the U.S. Senate. And yet they continued to try to sell their ware to kids.

You know, people get addicted to cigarettes. I think the industry is addicted to children. They just can't leave them alone. They just have to keep selling to them, even when common sense would say let off while the smoke clears. No pun intended. They can't stop because their customer base is hooking these kids. You hook a 16-year-old child, and that is 10, 20, 30 years of customer for your brand. Of course, we know that one out of three of these children will die prematurely. We know that 5 million people under 18 years of age today will die prematurely because they are addicted to cigarettes and other tobacco. But they don't want you to know that. They want you to think this is cool, this is smooth, and there is the whole adult world opening up for you. "You can be as successful and as attractive and as desirable as any rock star. You just have to smoke our cigarettes." That is wrong.

This is just one example of what goes on. It is ubiquitous throughout. This is a promotion by Winston. Winston's, by the way, are the new health food of America. You see their ads. Smoking it is like eating health food; no additives; no anything; it is macrobiological; whatever. Again, they are taking an approach now with their campaign, which is making their product look like it is healthy for you; it is what you would buy if you were a research scientist trying to develop the best diet in the world. But they have sponsorship for NASCAR racing, which is a venerable tradition in this country. For the Winston Cup, they are sponsoring it. Not all; you could not argue that all of the people who attend these races are young people. But we also must recognize that this is a very attractive event for young people. There must be something here.

I read a few weeks ago in the New York Times that Mattel, Inc., is thinking of creating a NASCAR Barbie doll, the most popular toy in the world, because they figured it out, too. There are lots of young girls who are attracted to this whole scene of NASCAR racing and a NASCAR Barbie is going to be a very popular toy. The same type of calculations that are going on at Mattel are going on in some cases up in the cigarette headquarters of the world. But one should say, of course, that the Barbie doll is a much more benign figure in American life than cigarettes. But this is ubiquitous. Our children are being subjected to this constantly.

My amendment simply says, listen, the FDA, after rulemaking at length, has come up with very reasonable restraints on tobacco advertising. If you follow those restraints, you will receive your full deduction. But if you violate them, you will lose your deduction. I believe most of my constituents would say the same thing, that we should not be subsidizing the tobacco industry as they attempt to lure our children into smoking. The industry spends about $5.9 billion a year on advertising. We kick back, if you will, about $1.6 billion through the deduction. That is money that, I think, is poorly spent. But as long as the industry is willing to refrain from targeting children I don't think we can object because it is available to other industries. But if they persist in targeting children and not following FDA regulations, then I believe we should act very strongly, very vigorously, and deny them this deduction.

By the way, too, independently, my amendment would not restrict speech whatsoever. Of course we have tobacco concerned any time the Government attempts to invoke any type of restriction on speech. But taken by itself, my amendment would simply say you can say anything you want. You can even promote your product using this. But don't charge the Government for your deduction. You can do it on your own money.

My amendment has been criticized on a couple of points, which I would like to respond to. First, there are many of my colleagues who say we shouldn't really do anything unless it is voluntary, because, if we do, the tobacco industry will sue us and we will be tied up in court for 10 years.

The reality is the tobacco industry is already suing the FDA, and not just the tobacco industry, but the advertising interests are all there, and it is absolutely their right. They feel strongly that not only commercial interests are at stake but also constitutional interests. But to deflect or defer from doing something today vigorously about tobacco access to children simply because we might be sued is absolutely, I think, an implausible and inappropriate comment. We will be sued perhaps, but we have to act to ensure that we do what is right for the children of America.

The other approach is suggesting that the Supreme Court decisions place a much higher standard when you come to restricting commercial speech. Specifically, the case of 44 Liquormart, Inc. versus Rhode Island. I feel somewhat familiar with the case. It originated in my home State. Actually it originated and the legislation was passed in 1956 in Rhode Island. Although I served in the assembly in Rhode Island, I was not there in 1956. I was in grammar school in 1956. But this legislation that Rhode Island passed prevented the publication of price information with respect to liquor advertising.

Stepping back a bit, I think the judges probably got the same sense that I did when I read the statute in this case and realized what might be afoot; that it is equally likely that this legislation was passed 40 years ago not so much to increase temperance in Rhode Island but simply to prevent discount liquor stores from encroaching on established liquor stores. So right away, there is a suspicion about the underlying statute in 44 Liquormart.

But, first, let me say something about that case. The Supreme Court reaffirmed the doctrine associated with Central Hudson, which is the leading case on commercial speech, and they said essentially one may restrict commercial speech, first, if it is unlawful; or, it misrepresents significantly the product. Even if it doesn't do so, one may restrict it if there is a substantial governmental interest at stake. The legislation directly affects that interest. And the means are no more restrictive than necessary to accomplish the governmental interests. So the Central Hudson test is in place and remains.

In 44 Liquormart, the Court found essentially that the State of Rhode Island made no showing that their proposed legislation materially and directly advanced the goal of decreasing the consumption of alcohol. In fact, there was no evidence submitted in the record to show that this would have any effect at all on alcohol consumption in the State of Rhode Island. Alternatively, the Court discussed the fact that there were other means possibly available that had not even been used. On those factual bases, together with the Central Hudson doctrine, they declared that the statute was impermissible encroachment on commercial speech.

The case is much different here. The FDA has established a record that advertising decisively affects children's choices to begin to smoke cigarettes, and by maintaining appropriate restrictions on advertising, we can, in fact, directly affect the behavior of children with respect to cigarettes. This is not based upon whimsy. The FDA relied on at least two major studies: a study at the Institute of Medicine in 1994, and the Surgeon General's report in 1994. Both concluded that advertising was an important factor in young people's tobacco use. Moreover, these reports indicated that advertising restrictions must be a part of any meaningful approach to reduce underage smoking.

So this is not a situation of trying something that has not been tested or has not been tried by other means. Their conclusion authoritatively is that these types of restrictions must be in place.

I should also remind you that we have tried other ways to moderate the consumption of tobacco products in this country. In the early 1970s, we banned television advertising of tobacco products.

But as Robert Pitofsky, the Chairman of the Federal Trade Commission, pointed out, what happened is the industry simply shifted to other forms of advertising. When I was a kid back in the 1950s and the 1960s, you would see TV advertising, but you would be very, very shocked if you could have a record of direct mail pieces sent to 16-year-olds, as happens today. And the sponsorship of NASCAR racing—all of these things are a direct result. In fact, cigarette advertising has exploded. From 1975 to 1995, 20 years, it has increased manyfold—going into not only these types of promotions, but also all the gadgets and all the other rigmarole that the industry is promoting.

This is a Camel cash collectible. Now you can get Joe Camel T-shirts, and Joe Camel lighters, and Joe Camel dart boards, and Joe Camel posters, and Joe Camel everything—wristwatches, you name it. That, too, is part of the ubiquitous promotion of tobacco. And although it says very precisely, "Offer restricted to smokers 18 years of age or older," I dare say I see more kids with Joe Camel T-shirts and bicycle caps and things like that than I do 40-year-olds, 30-year-olds, or even 20-year-olds.

So what the intent is, we will let the consumer decide.

Furthermore, when the FDA promulgated its regulations, they went on very clearly to state what was happening here.

> Collectively, the studies show that children and adolescents are widely exposed to, aware of, respond favorably to, and are influenced by cigarette advertising. One study found that 30 percent of 3-year-olds and 91 percent of 6-year-olds identified Joe Camel as a symbol of smoking.

Thirty percent of 3-year-old toddlers knew that Joe Camel, that cuddly cartoon character, was associated with smoking. Ninety-one percent of 6-year-olds, in the first grade of school, might not know their ABCs, but they know that Joe Camel and smoking go together.

That is not good. That is what we are talking about here, and that is why, unless we effectively and dramatically affect the advertising of tobacco products to children, we will never turn the table on this epidemic of smoking among young people.

Mr. President, I have other comments I wish to make, but I notice that my colleague, the Senator from South Dakota, is here, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. I thank the Chair.

I thank the Senator from Rhode Island, my friend and colleague, Mr. REED. I commend him for this particular amendment. I am proud to be a cosponsor of this amendment.

If you were to talk to a typical South Dakotan and say, "You know, the Federal budget is tight this year; we may not have the resources we need to do all we would like to do in terms of cancer or heart research at the National Institutes of Health; we may not be able to do all we would like to do for education, for health care; we may not be able to do all that we want for child care; and, oh, by the way, we do have some $1.6 billion of your tax money we are going to turn back to the tobacco industry as a subsidy for their marketing messages to our children," I guarantee you, the typical South Dakotan would be appalled. He would be amazed that any institution could possibly have come up with a priority as wrong-headed as that.

And so, Mr. President, I rise today to express my support for the Reed amendment which would deny tobacco companies any tax deduction for their advertising and promotional expenses when those ads are aimed at America's most impressionable group, its children. This amendment has the overwhelming support of the public health community, and it would greatly strengthen the underlying McCain bill. I congratulate my colleague from Rhode Island on this amendment.

It is almost incomprehensible to me that taxpayers actually subsidize the tobacco industry's promotional efforts even as we go about forming a consensus on the dangers of smoking and the problems created by the industry's efforts to target children.

Numerous studies have implicated the tobacco industry's advertising and promotional activities as the cause of continued increases in youth smoking rates in recent years. Research on smoking demonstrates that increases in youth smoking directly coincide with effective tobacco promotional campaigns.

We simply have to address the industry's ceaseless efforts to market to children. It is time for this Congress to put a stop to the industry's practice of luring children into what is an untimely progression of disease and death.

Under this amendment, if the tobacco manufacturers do not comply with the advertising restrictions as promulgated by the FDA, the manufacturer's ability to deduct the cost of tobacco advertising and promotional expenses will then be disallowed for that particular year. This approach has overwhelming support of the public health community, supported by Dr. C. Everett Koop, the American Lung Association, the Center for Tobacco-Free Kids, and ENACT Coalition, a coalition comprised of leading public health groups including the American Cancer Society, American Heart Association, and many others.

Mr. President, the importance of this issue is simply enormous. The facts speak for themselves. Today, some 50 million Americans are addicted to tobacco. One of every three long-term users of tobacco will die from a disease related to their tobacco use. About three-quarters, 70 percent, of smokers want to quit, but fewer than one-quarter are successful in doing so. Tobacco addiction is clearly a problem that begins with children. Almost 90 percent of adult smokers started using tobacco at or before the age of 18. The average youth smoker begins at age 13 and becomes a daily smoker by 14½.

Each year, 1 million children in our Nation become regular smokers. One-third of them will die prematurely of lung cancer, emphysema, and similar tobacco-caused diseases. Unless current trends are reversed, 5 million kids currently under 18 will die prematurely from tobacco-related disease.

So, Mr. President, this is a public health crisis. A recent survey by the University of Michigan found that daily smoking among 12th graders increased from 17.2 percent in 1992 to 22.2 percent in 1996 and continued to climb in 1997 to 24.4 percent. This represents a cumulative 43-percent increase in daily smoking among our Nation's high school seniors just over these past 5 years.

One of the advertising campaigns most markedly aimed at young people is the now notorious Joe Camel campaign that my colleague has alluded to. After R.J. Reynolds introduced this campaign, Camel's market share among underage smokers jumped from 3 percent to over 13 percent in just 3 years. Although Congress had banned cigarette advertising on TV in 1970, tobacco companies routinely circumvented this restriction through sponsorship of sporting events that gave their products exposure through television.

The Federal Government subsidizes advertising through a tax deduction, generally a 35-percent deduction, for advertising expenses. In 1995, this subsidy cost the American taxpayers approximately $1.6 billion. In terms of lost revenue to the Federal Treasury, this is a very significant sum of money. In effect, the Federal Government is subsidizing industry's advertising costs. For example, in 1995 the cost of the cigarette advertising deduction covered the total amount spent by the industry on coupons, multipack promotions, and retail value-added items such as key chains and other point-of-sale advertising, the kind of items that are most attractive to children.

In 1995, the tobacco industry spent $4.9 billion on advertising, double the total Federal Government appropriation for the National Cancer Institute in fiscal year 1995, $2.1 billion, and almost four times the National Heart, Lung and Blood Institute appropriation, which totaled $1.3 billion that year. In 1995, the tobacco industry spent this $4.9 billion on advertising, 40 times the amount spent by the NIH on lung cancer research during that year.

It is certain that Congress has authority over the Tax Code. We understand the first amendment, free speech rights of any individual, and even in the case of commercial speech. We are very much aware of that. But there is no constitutional right to have the expense of a corporation's speech subsidized by the taxpayers. So, while I concur that within some limits, which the Senator from Rhode Island has outlined relative to commercial speech, there is a first amendment right that is at the heart of all of our concern about advertising, that certainly there is no constitutional right to taxpayer subsidy. When a message is designed to addict vulnerable youth to a deadly product, it is absolutely imperative for Congress to act with great urgency.

So, again, I commend the Senator from Rhode Island for this amendment, for his excellent outline of the legal history of how we have arrived at where we are today. But it would seem in the course of all the contentious amendments that we have dealt with on this floor over the last several weeks, and will still in the week to come, that this ought to be an amendment around which there would be great bipartisan, commonsense support. I challenge any Member of this body to go home to his or her State and explain to constituents that at the same time we are trying to come up with ways to reduce youth addiction to tobacco products, that we continue to spend in the range of $1.5 billion of the taxpayers' dollars—dollars that could be better used for medical research, for education, that could go back into the pockets of the taxpayers in the form of tax cuts, for that matter. Almost any other use would be more productive than to use it in such a negative way as a subsidy for marketing techniques directed at our youth.

Again, I commend the Senator from Rhode Island. I commend this amendment to my colleagues and yield my time back to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, first I thank the Senator from South Dakota for his fine words and support of this amendment and also for his effort in this legislative process. He has been there every step of the way, working very closely to ensure that we develop legislation that will work for the children of this country, their parents, and for all Americans. I thank him for that and for his kind words today.

Again, continuing to respond to some of the issues that were raised today with respect to my amendment, there are suggestions that under the latest case, 44 Liquormart, there has to be a material showing that the regulation proposed, the proposed restriction on speech, will significantly and materially advance the underlying Government objective. Once again, in that particular case they do not find such significance. In this situation, the significance is obvious and compelling. The FDA, after its extensive rulemaking, concluded that limits on advertising will avert the addiction of anywhere between 25 percent and 50 percent of the children at risk. So, literally, we have within our power the ability to save 250,000 a year from the ravages of smoking. That is not hypothetical. That is not conjecture. That is based upon sound analysis by the FDA. And that is material and significant.

Consequently, all the criticism directed to the amendment with respect to the first amendment, and particularly with respect to 44 Liquormart, failed, I believe, and we are left with legislation that is focused, that deals with a very substantial national interest—the reduction of teen smoking—that directly affects that interest, that will produce significant material beneficial results, and also one that is used now after several other attempts have failed—noticeably warning labels, noticeably banning certain types of advertising, television advertising.

So I believe we are on sound constitutional grounds and very, very sound policy grounds, because intuitively I think we all grasp that this barrage of advertising images has an overwhelming and upsetting effect on children. If 90 percent of 6-year-olds recognize Joe Camel and smoking, then that is pretty compelling evidence that we have to do something to restrain the way cigarettes are advertised and marketed in this country. That is what this amendment proposes to do.

Let me also suggest that within the FDA regulations there are provisions which are not particularly novel. All of these discussions about restricting speech, I think, fail to recognize the fact that many States already put significant restrictions on cigarette advertising. For example, in California the State prohibits advertising of tobacco products within 1,000 feet of any public or private school playground. The statute also allows local ordinances to be more restrictive.

A second statute makes it clear that one cannot sell, lease, rent, provide any video game which will primarily be used by minors if the game contains any paid commercial advertisement for tobacco products.

In Indiana, the State prevents non-point-of-sale advertisements for tobacco within 200 feet of a school. In Kentucky, the State has banned tobacco billboard advertising within 500 feet of a school. In Texas, the State prevents tobacco advertising within 1,000 feet of a school or church. In Utah, the State law bans all tobacco advertising on "any billboard, street car, sign, bus placard or any other object or place of display." In fact, the Utah statute originates from 1929.

All of these States have, by their State laws, imposed restrictions on tobacco advertising. The justification, of course, is that they are protecting children. They have been on the books, in some cases, as in the case of Utah, for 60-plus years. So we are not breaking new ground. What we are doing, finally, is assembling a coherent set of rational regulations based on extensive findings by the FDA which will, we hope, for the first time ensure that children are not the objects of tobacco advertising.

The other aspect or complaint that has been made about the amendment is that it might not work out well, it is using the Tax Code to enforce a public policy.

Lately, this body has been preoccupied with using the Tax Code to enforce public policy positions of the various parties, so that is not a novel idea. But one aspect of this legislation which I think is very commendable is that essentially what will happen is that the industry itself will have to police itself. Today, the FTC, the Federal Trade Commission, could come in and take any one of these ads and say, "This is false and misleading. You have no evidence to say it's smooth. This is just totally misleading." They can do that.

It will take 2 years of administrative procedures to work through the administrative law judge level. And at the end of those 2 years, if the company is distressed with the outcome, they will simply sue and go to the court of appeals, claiming that the ALJ's decision was arbitrary, capricious, et cetera, and that appeal will be stretched out.

In the world of advertising, the product life of an advertising campaign is measured probably in a month, maybe a year; there are perennials that last a long time. But that particular advertising will be old hat in a matter of months, so there is every incentive, when there is a question about whether they are pushing across the line or not, to go ahead and advertise, because, remember, if you hook that 16-year-old, you have a faithful customer for 30 years maybe.

In this situation, they are going to have to look very carefully, because the consequence of violating this amendment is that they lose their tax deduction, it goes right to the bottom line, and it is something that if they choose to litigate for years or months and, at the end, they are found liable, not only do they pay the taxes owed, but also interest and penalties. They are very much concerned, as they should be.

This is an effective enforcement device. I believe we need effective enforcement devices. We have tried other approaches—the advertising ban on television, the warning labels, even FTC jurisdiction to ferret out individual ads—but still we are seeing our young people deluged by these advertisements and, again, remarkably, 90 percent of 6-year-olds being able to recognize Joe Camel as a symbol for cigarette smoking in the United States. So I believe we need this amendment very, very much.

Let me suggest also there has been another general argument against the amendment, and that argument has essentially been: Well, the sky's falling, the slippery slope; if you do this, you will enforce every Federal regulatory policy with the Tax Code, and that will be a terrible thing. Again, I think that is more alarmism than rational.

The reason I am here today is that central to the business of tobacco is the business of promoting it through advertising. People smoke cigarettes like this not because they have, I think, some need to do it, but they have been subjected to this type of advertising over many, many years. Advertising and cigarette promotions have been hand in hand for as long as anyone can remember.

If you go back far enough, the industry was much more aggressive in some respects, and blatant. They put in magazines pictures of doctors smoking away, suggesting that cigarette smoking was really good for them; they put in photographs, pictures, drawings of very attractive, sophisticated young women, suggesting that smoking was good to control weight—none of which, of course, was buttressed by the fact that smoking is an addiction that ultimately prematurely kills people.

There is such a logical connection, an inextricable connection, between advertising, the way they do it, and the promotion of a tobacco product that it is logical to take this step. It is not logical to suggest that FDA regulations will be enforced by denying deductibility or any other type of regulatory policy. So the whole issue of, this is just the first step on a very slippery slope is, I think, refutable on its face.

We have before us the opportunity to pass significant legislation which will materially, effectively improve the public health of this country. We have to recognize—I think so many of us do—that cigarettes probably are the No. 1 pediatric disease in the country. It affects kids adversely. It takes it a while to catch up with them, but it affects kids adversely. Ninety percent of smokers begin before they are 18 years old. This is a pediatric health crisis, and we are responding.

The fear I have is, if we don't respond in this manner, that we really won't be able to effectively accomplish what we want to do. Even if we pass this legislation—and Senator MCCAIN has done a remarkable thing moving this legislation through; his perseverance and strength, along with Senator KERRY and along with so many of my colleagues, has been remarkable—even if we pass legislation that has increases on the price of cigarettes, that has effective funding for a public health program, if we do that and yet we still have no real check on advertisements like this aimed at young people, I believe we will end up not doing what we are setting out to do: to restrict smoking among underage Americans.

I think we should do it, I think we must do it, and I urge careful consideration and support for this amendment.

Mr. President, I yield the floor.

Mr. ABRAHAM. Mr. President, I rise to raise concerns about the Reed amendment to the pending tobacco legislation. The amendment offered by the Senator from Rhode Island may sound appealing on first impression, but could have some harmful consequences. While I believe that the amendment is offered in all sincerity, in my view it would be wrong for us to take this approach to tobacco use. In particular, this amendment would establish a dangerous precedent by using federal tax policy as the primary enforcement penalty for federal agency rules issued by an agency other than the IRS.

Let me give a few examples to highlight the concerns I have:

First, imagine that General Motors has announced its fall line of new Chevrolets, but that the Department of Transportation determines that the cars fail to meet the minimum fuel consumption standards. Now imagine that the Department of Transportation could instruct the Internal Revenue Service to disallow as a business deduction the cost of all General Motors advertising for 1998. That could be devastating, and it would place tremendous and potentially destructive power in the hands of the federal government.

Another example: Say the Department of Agriculture conducts a routine inspection of one of the nation's largest food processing facilities in the Midwest. Upon finding unsanitary conditions, the Secretary of Agriculture might announce under a similar regulation that the food processing company that operates the plant and every company that markets its products will be punished by losing the entire deduction for 1998 of all of their food product marketing and advertising costs. Again, the result could be disastrous.

The pending amendment would make such scenarios all the more likely.

Under the Reed amendment, if the FDA found that one advertisement of a tobacco product failed to comply with marketing and advertising rules issued by the FDA nearly two years ago and still under litigation, the offending company would lose the entire business expense deduction for all of its advertising. This is unsound public policy, unsound tax policy, and an unwise expansion of federal regulatory authority.

Federal agency rules are generally enforced with other fines or penalties that are tailored to the violation. The Reed amendment would allow the same result—a higher tax payment, which could in some cases be quite substantial—regardless of whether a violation was inadvertent or inconsequential.

In addition, the financial impact could itself be tremendous and could get into the hundreds of millions of dollars. The Congress should not be giving the FDA such expansive and punitive authority. The possibility of such a penalty could chill advertising and deter legitimate, protected speech. In my view, this raises constitutional concerns and liberty interests that should at a minimum be seriously considered in the appropriate committees, including the Finance and Judiciary Committees, before we consider placing such an unprecedented and potentially damaging provision in the pending legislation.

We should be especially careful about creating a precedent that will not only distort the Tax Code but will lead to more expansive and intrusive authority on the part of regulatory agencies. Mr. President, I ask unanimous consent to have printed in the RECORD a letter by Grover Norquist, President of Americans for Tax Reform, expressing strong concerns about the tax implications of the Reed amendment and about the significant increase in governmental authority contemplated by that amendment as well.

While I believe Senator REED to be well-intentioned, I urge my colleagues to oppose the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICANS FOR TAX REFORM,
Washington, DC, June 12, 1998.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: I am writing to express my strong opposition to an amendment that Senator JACK REED (D–RI) is offering to the anti-tobacco legislation (S. 1415). This fatally flawed amendment would for the first time in our nation's history link the denial of a necessary and ordinary business expense deduction to complying with rules issued by a federal regulatory agency. It is my understanding the Reed amendment will be debated today and possibly voted on next Monday evening.

The Reed amendment, which would eliminate the ability of tobacco companies to deduct all advertising, marketing, and promotion costs if only one advertisement violates regulations promulgated by the Food and Drug Administration, is a reckless attempt to use the Tax Code for a purpose for which it was never intended. I can find no sound public policy reason to start using the Tax Code to help enforce FDA regulation, which by the way have been declared illegal by a Federal District Court.

This amendment, if adopted, could establish an unacceptable precedent of granting power to such agencies as the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the Equal Employment Opportunity Commission (EEOC), the Federal Trade Commission (FTC), or any other government agency that issues regulations to increase taxes on businesses by millions of dollars for technical violations of rules that are highly complex and confusing.

For example, would it be proper to allow OSHA to deny the ability of a large consumer product manufacturer from deducting its advertising costs simply because a building among its many facilities around the country violates one OSHA standard? Or another example, should EPA be permitted to use the Tax Code against a small business, which greatly depends on advertising to stay in business, because the small businessperson inadvertently violates an EPA regulation because of a technical misunderstanding?

This is exactly what the Reed amendment, if approved, puts in motion as every anti-business group in the country will attempt to enlist the Tax Code to fulfill their agenda.

In short, the utilization of the federal government's taxing authority for regulatory enforcement may represent one of the largest expansions of the federal government's power since enactment of the Great Society programs of the 1960's. Therefore, I strongly urge you to vote against this ill-conceived proposal.

Sincerely,

GROVER G. NORQUIST,
President.

Mr. MCCAIN. Mr. President, I wish I could support the Reed amendment. If this amendment simply disallowed the tax deductibility of any advertising deemed in violation of FDA rules, I believe we might be in the ballpark.

However, this amendment goes well beyond. It says that if a company advertises in any way, even unintentionally, that violates FDA rules, then that company may not deduct any advertising expenses incurred that year which are otherwise legal and deductible under current law.

Mr. President, concerns have been expressed about the advertising deduction as generally applied. In fact, both the CATO and the Progressive Policy Institutes have identified this deduction as one that should be reformed. Perhaps that is something we should do in a manner that treats all taxpayers the same. But, this amendment is not a general reform, it is specific and I believe goes too far.

I appreciate the motives of the Senator from Rhode Island but I will not vote for this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

The Chair advises the Senator, under the previous order, the Senate is to proceed to the amendment by the Senator from Rhode Island, No. 2702, with 10 minutes allowed for debate, 5 minutes each, and then a vote no later than 5 o'clock on or in relation to the amendment, unless consent is granted otherwise.

Mr. REED. Mr. President, I propose a unanimous consent that we begin the debate on my amendment at 5 o'clock, to conclude at 10 minutes past, and to begin the vote at 5:10.

Mr. GORTON. Unfortunately, I must object on behalf of the majority leader. He wishes the vote take place then. Then I will yield the floor.

The PRESIDING OFFICER. The objection is heard.

Mr. REED. Mr. President, at 5 p.m. the Senate will vote on my amendment, which would deny advertising deductions to the tobacco industry if they do not follow the FDA rules and regulations with respect to advertising to children.

We are here debating a large, comprehensive tobacco bill because our major goal, our overriding interest, is to prevent children from being enticed into smoking. We know from the industry's own records that they have relentlessly, over decades, deliberately mounted promotional advertising campaigns aimed at children as young as 12 or 13 years old. We know from the effects of this record that in a survey of 3-year-old children, 60 percent or so recognize Joe Camel as a symbol of smoking; 6-year-old children, first grade, 91 percent recognize Joe Camel as a symbol of smoking.

Advertising and the promotion of cigarettes are inextricably linked. My amendment goes to the heart of that. The FDA has proposed narrowly based and narrowly focused regulations. The amendment would say if the tobacco industry does not want to abide by these regulations, they lose their tax deductions for advertising. Taken by itself, my amendment does not even preclude them from saying anything or doing anything. What it simply says is they will do it on their own nickel.

Now, we have a great support from the public health community. The following organizations and individuals are supporting it: C. Everett Koop, the former Surgeon General, the American Lung Association, the Center for Tobacco-Free Kids, ENACT Coalition, and many others. Cosponsors of this legislation include my colleagues Senator BOXER, Senator WYDEN, Senator KENNEDY, Senator DASCHLE, Senator DURBIN, Senator WELLSTONE, Senator FEINSTEIN, Senator BINGAMAN, Senator CONRAD, and Senator JOHNSON.

This amendment is a logical way to strengthen and make effective the major goal of this legislation. It also is constitutionally permissible under the Central Hudson test, the Supreme Court case that outlined permissible limits on commercial speech. It meets that test. First of all, we are advancing a substantial national interest. According to the FDA documents and their research and the rulemaking, if we have effective controls on advertising to children, we can save approximately 250,000 children a year from becoming addicted to nicotine.

It is also directly related to the substantial national interest. In fact, the industry itself is the best evidence of this. They spend $6 billion a year on advertising. We are subsidizing them to the tune of $1.6 billion, but they know and they have demonstrated that advertising is the way they entice young people to smoke. If we stop this linkage, we will do more than anything else to ensure that we protect the children of America.

The final aspect of the Central Hudson test is that this legislation is narrowly constructed and focused. As I mentioned before, it does not absolutely forbid any ban on speech. What it does do, however, it essentially restricts their ability to put posters near schools and to do many other things.

This legislation is both constitutionally sound and is a public policy which will support what we are here to do—to prevent children from smoking.

The PRESIDING OFFICER. All time has expired.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. How much time is available to the opponents?

The PRESIDING OFFICER. There is approximately 2 minutes 45 seconds allotted to the majority.

Mr. GORTON. Mr. President, in the absence of any other person here, I yield myself that time to say that during 2 years when I was not in the Senate, between 1987 and 1989, I had the privilege of being a partner in a Seattle firm, Davis, Wright and Tremaine, the senior partner of which, Cameron DeVore, is one of the most distinguished first amendment lawyers in the United States. He informed me in no uncertain terms, and I agree with him, that this proposal is clearly and blatantly unconstitutional. You cannot condition a right, a privilege, available to everyone else in the United States, on its abandonment of its first amendment rights—a highly simple proposition.

We can and we should limit advertising of cigarettes. We can only do that constitutionally, Mr. President, if we come up with a bill like the proposal made by the State attorneys general that has the agreement of those who are asked to give up their first amendment rights to advertising. Therefore, this amendment should be defeated.

On another matter, Mr. President, on Thursday, for the second time, I voted against limitations on attorney's fees in these cases, because in both cases I thought they were unfair. I will soon introduce an amendment that allows higher attorney's fees for those who began these cases early, when they were greatly at risk and ask for lower attorney's fees for those attorneys who got in late, when winning cases of the nature that have been discussed here is like shooting fish in a barrel.

I think we should be fair. I think we also have the right to propose and propound such limitations to those who have come before the Congress asking us to intervene in what previously was litigation outside of the scope of the Congress at all.

I am sorry I have no more time at this point to discuss that proposal, but it is both nuanced in favor of those attorneys who really did the yeomen's work in this connection and much less favorable to those who got in essentially after the fact and who will be engaged in such litigation in the future.

Mr. President, I move to table the Reed amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington to lay on the table the amendment of the Senator from Rhode Island.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I am now informed that the leaders of both sides are willing to postpone this vote for approximately 10 minutes. I ask unanimous consent that the vote on the motion to table take place at 5:10.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, again, the vote before us is a vote on my amendment which would restrict the deduction of advertising expenses for tobacco companies which do not choose to follow FDA rules and regulations. There are many reasons why this is appropriate. The most compelling reason is simply the record of tobacco itself. It is a record that has shown over many, many decades a consistent attempt to market to children.

There have been some objectives with respect to the first amendment. Let me suggest, first, that commercial speech under the doctrine of the Supreme

Court is not afforded the same level of protection as pure political speech. This is clearly a case of commercial speech.

Second, the test of the leading case, Central Hudson, clearly states that if there is a substantial governmental interest, if the proposed legislation addresses directly that interest, and if it is done by means that are narrowly focused and no more than is necessary, that it would pass the test. I submit that this legislation does that. There can be no more compelling national interest than curbing teenage smoking.

Under the record of the FDA, they have demonstrated that if we take effective advertising restrictions and put them in place, we could on an annual basis save 250,000 children from addiction to nicotine. That is a direct, material, significant correlation between the substantial national interest and this legislation.

Finally, this legislation is narrowly focused.

I also submit that this legislation does not spring up de nova. We have had a long record of trying to constrain access to tobacco products to children. In the 1970s and 1960s, we put warning labels on cigarettes. That has proven ineffective. In the early 1970s, we banned TV advertising on tobacco products. That has proved ineffective. We have reached an intellectual consensus that in order to get the job done—that is what we are here to do—in order to effectively prevent the children from the addiction of nicotine, we have to have reasonable constraints on advertising. This legislation does it.

I should also point out that many States in the United States already impose certain restrictions on advertising to children. For example, the State of Utah precludes the placement of billboards or other types of visible advertising for cigarettes within that State.

To point out that in many other jurisdictions—Texas, for example—there are limits on how close one can place a billboard within a school. All of these have been in effect for many, many years. They have been tested. They are constitutionally permissible. We can do it. And, indeed, we must do it.

We have literally within our power the opportunity to save 250,000 children a year from the ravages of smoking. That is the conclusion of the FDA after their extensive, detailed rulemaking process. We can and we must insist on this type of regulatory authority. I think it will provide a device that will lead the companies to do what they have yet been unable to do; that is, stop marketing cigarette products to children.

We see it in every manner in every form. I have been for the last several days pointing out an advertisement, a mail solicitation that a 16-year-old junior high school student received in Providence, RI. It was slick. It was sophisticated. It was based upon a rock concert that he attended several months before, a concert attended by many people under 18 years of age. It was not coincidental. It was a deliberate, calculated, focused attempt by the industry using the talents of advertising executives, focus group directors, people who understand psychology and the dynamics of youth addiction, to figure out how they could get the message right in the hands of a 16-year-old that smoking is good; not only good, it is socially desirable.

We shouldn't stand for that. We don't have to stand for it. We know that for years and years and years the tobacco industry has been misleading the American public. That is objectionable. But when we discover, as we do from all of these documents and all of this litigation, that their target has been young children as young as 12 and 13 years old, that becomes unconscionable. And the conscious of this country and the conscious of this Senate will be tested today. Will we take effective steps to preclude access to tobacco products of children?

This amendment is constitutionally sound. This amendment will, in fact, provide decisive and effective controls on tobacco access by young people in this country. We shouldn't shrink from this responsibility. We should pass this legislation to ensure that when we finish this great debate, and as we look ahead, we will be confident that we have taken effective, practical steps to prevent children from being addicted to nicotine and tobacco. If we don't do that, many, many young people—the estimate is 5 million young people under 18—will die prematurely. We can stop that if we vote today to support this amendment.

I retain the remainder of my time.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, how much time is in opposition to the amendment?

The PRESIDING OFFICER. The Senator from Oklahoma has 3 minutes remaining.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against this amendment.

First, let me say to the proponents that if they want to have an amendment to ban advertising, or deduction of advertising, for tobacco products, they can do so. But to turn it over to the FDA, I think, may be some of the worst tax policy we have seen. This bill already has some of the worst tax policy we have seen. The look-back penalties, as I have stated a couple of times, are clearly not working. But if I read this amendment right, advertising is deductible, unless it doesn't comply with FDA regulations.

What are the FDA regulations? You are in violation of FDA regulations if you have a ball cap that says "Marlboro" on it. If I have a staff member who went to a car race, or something, that has a ball cap that says "Marlboro," they would be in violation. I don't know if a ball cap under FDA regulations would be in violation of advertising restrictions. They would lose deductibility of their advertising expenses.

Again, if people want to be more direct, let's be more direct. Just say, I have an amendment to disallow all advertising expenses for tobacco products. I expect some may have that. They probably will have it on this bill. But to say you cannot have the deduction unless you comply with FDA regulations, and treating FDA regulations as sacrosanct, as if they make sense—some of them don't make sense. For example, there is an FDA regulation that says people selling tobacco must check IDs up to age 27. A lot of people aren't aware of it. But that is part of the same FDA regulation that we are talking about. I don't think that is workable. It is legal to buy cigarettes if you are over 18. But if you are 18, and they come up with a regulation that says we are going to mandate that you check identification of people up to age 27—they also have restrictions on advertising that says you can't have a T-shirt, a ball cap, or tobacco companies—you can't advertise during the races. This is auto racing time—Indianapolis 500. My friend from Indiana is here. My guess is there was a car running around the track that had "Marlboro" on it. Somebody probably said, "Wait a minute. That is directed at youth." I don't know if it is directed at youth or not.

If they did it, if they sponsored a sporting event, they would be in violation of this provision and they would lose deductibility of advertising.

I just do not think we should have FDA making tax policy. I do not think we should have FDA deciding what is compliance or whether a company is allowed to take the deduction. If Senators do not want to have tobacco advertising, they want to ban it, let them introduce that on a tax bill, but let's not turn that kind of authority over to FDA. I think this bill has already granted FDA too much authority, including the authority to totally ban nicotine without prior congressional approval, which I think is a mistake, and I think the ID check up to age 27 is a mistake. I think that is FDA overreaching. I think their ban on ball caps and T-shirts, again, is overreaching.

Now, I do not want them targeting teenagers either, but I think to turn over tax policy to FDA would be a serious mistake. So I urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, in whatever time I have remaining, I would like to respond.

First of all, I do not want to let stand the suggestion that this has anything to do with checking IDs at a retail store. That is not part of the FDA regulation.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. REED. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Reed amendment No. 2702. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Oklahoma (Mr. INHOFE) are absent on official business.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Illinois (Mr. DURBIN), the Senator from Nebraska (Mr. KERREY), and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

The result was announced—yeas 47, nays 47, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—47

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Campbell
Coats
Cochran
Craig
Domenici
Enzi
Faircloth
Feingold
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dorgan
Feinstein
Glenn
Graham
Harkin
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Snowe
Torricelli
Wellstone
Wyden

NOT VOTING—6

Burns
Durbin
Inhofe
Kerrey
Moseley-Braun
Specter

The motion to table the amendment (No. 2702) was rejected.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Rhode Island.

The amendment (No. 2702) was agreed to.

Mr. REED. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I enter the motion to reconsider the vote by which the Reed amendment was adopted.

The PRESIDING OFFICER. The motion to reconsider has been entered.

Mr. SARBANES. Mr. President, I rise to voice my hopes that the Senate will this week have the opportunity, after several weeks of debate, to vote on the pending tobacco bill.

The course that this bill has taken is in marked contrast to the course taken by many other important bills that we have considered in the 105th Congress. Whereas the Republican leadership has severely truncated debate on such important matters as campaign finance reform and education policy, we have been on the tobacco bill for several weeks, have engaged in hours of debate, and have considered a wide range of amendments. I have no doubt that when the Republican leadership has wanted quick resolution of an issue during the 105th Congress, it has understood how to accomplish that goal, and worked toward it. A similar commitment has not been apparent in the area of tobacco legislation.

Let me be clear, Mr. President. I support the idea of full and considered debate on an issue as important as this one. I also believe, however, that once an issue has been fully vetted, once Senators have had a chance to listen to the debate and vote on amendments, it becomes time for the Senate to step up to the plate and vote on the legislation before us. That is what we are paid to do, and it is what the American people expect us to do.

This is the fourth week of the tobacco debate. We have debated and voted on germane amendments and non-germane amendments; we have consumed dozens of hours of floor time and hundreds of pages in the CONGRESSIONAL RECORD. I worry, Mr. President, that the delays we are now facing on this bill are not designed to allow further thoughtful consideration of tobacco legislation, but rather to delay and obfuscate that legislation, to add to tobacco legislation layer upon layer of unrelated measures, to divide supporters of action in this area, and to run the clock in a legislative session that is evaporating before our eyes. The American people deserve better than that.

Now I do not support everything in this bill. I have voted for some of the amendments the Senate has considered and against others. I have found the wide-ranging discussion on the Senate floor to be valuable and enlightening in some instances and irrelevant and repetitive in others. I do believe, however, that by the end of this week, after the Senate has had the chance to consider the handful of remaining outstanding issues, we will be ready to take a stand on how to deal with the problems of smoking—especially the problem of teen smoking—in our nation.

Mr. McCAIN. Mr. President, it is my understanding the Senator from Texas is waiting to speak, and the Senator from Minnesota. I ask both of them if they would like to begin and would ask their indulgence of Senator GORTON, who is going to come over for a brief time to lay down an amendment—very briefly, if they would allow him to interrupt for a few minutes upon his arrival.

Several Senators addressed the Chair.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senator from Texas be allowed to go into morning business, followed by the Senator from Minnesota, and at some time the Senator from Washington be recognized to interrupt for morning business to lay down an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, before you finish, let me make sure that I will be able to ask for a resolution to be unanimously passed and if I can do that in morning business. I want to be sure that I can do that. It has been cleared.

The PRESIDING OFFICER. Repeat the request.

Mrs. HUTCHISON. I have a resolution that has been entered by both sides. I wanted to be able to bring it up, read the resolution, and speak for about 5 minutes, and ask unanimous consent that it be passed. So I didn't want to be prohibited from doing that in morning business.

The PRESIDING OFFICER. Will the Senator from Arizona make that part of his request?

Mr. McCAIN. I do.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Chair. I thank the Senator from Arizona.

CONDEMNATION THE BRUTAL KILLING OF JAMES BYRD, JR.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 248, which was submitted earlier today by myself and Senator GRAMM and Senator MOSELEY-BRAUN.

The PRESIDING OFFICER (Mr. FRIST). The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 248) condemning the brutal killing of Mr. James Byrd, Jr., and commend the community of Jasper, TX, for the manner in which it has come together in response.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. HUTCHISON. Mr. President, I want to read the resolution because I think the Senate is taking a step that is very important, and I want to speak for a few minutes on the great honor I had this weekend to attend the services for one of my constituents, Mr. James Byrd, Jr.

The resolution condemns the brutal killing of Mr. James Byrd, Jr., and it commends the community of Jasper, TX, and Jasper County, TX, for the manner in which it has come together in response to this brutal killing.

The findings are as follows:

Mr. James Byrd, Jr., of Jasper, TX, was brutally murdered on June 6, 1998.

Since this heinous tragedy, the citizens of Jasper, from all segments of the community, have come together to condemn the killing and honor the memory of Mr. Byrd.

The sheriff of Jasper County, Billy Rowles, spoke for the community when he appealed that the Nation not "label us because of this random, brutal act."

Mr. and Mrs. James Byrd, Sr., called for "justice and peace," asking that "we * * * get this over and put it behind us."

The community's response reflects the spirit that other communities across the Nation have shown in the face of recent incidents of random and senseless violence.

The Senate condemns the actions which occurred in Jasper, TX, as horrific and intolerable, to be rejected by all Americans.

The Senate expresses its deepest condolences to the Byrd family for their loss and the pain it caused.

The Senate notes the strong religious faith of the Byrd family, under the inspired leadership of James, Sr., and Stella Byrd, and the Reverend Kenneth Lyons, Pastor of the Greater New Bethel Baptist Church, that has helped the family through this most trying time.

The Senate sees in the Byrd family reaction to this tragedy the inspiration for hope, peace and justice in Jasper and throughout the United States.

The Senate commends the leadership shown by Jasper County sheriff, Billy Rowles, City of Jasper Mayor R.C. Horn, and other community leaders in responding to this tragedy.

The Senate urges that law enforcement officials at all appropriate levels continue with the full and fair investigation into all of the facts of this case.

The Senate urges prosecutors to proceed with a fair and speedy trial to bring the perpetrators of this outrageous crime to justice.

Mr. President, I had an experience that I will never forget this weekend when I attended the funeral service for Mr. Byrd. I saw a community coming together in confronting a tragedy that was unspeakable and yet they handled it in a way in which I think all of us could learn. They said unanimously in that little community, "There is no hate here; there is only love."

I want to say that the Byrd family reminds me of something that Senator GRAMM has said before, and that is the greatness of our country is that ordinary people do extraordinary things. I have seen the spirit of America in Mr. and Mrs. James Byrd, Sr., in James Byrd, Jr.'s sisters, and in his children. They endure the pain of knowing how their loved one died and yet can say to all the world, "There is no hate here, there is no hate in our home, there is no hate in our church; there is love."

I walked through that church and I saw a woman who goes to that church every Sunday. She had on four yellow ribbons. The yellow ribbons were displayed all over the community of Jasper, showing that the community was coming together in memory of James Byrd, Jr. This woman had on four ribbons, and she knew James Byrd, Jr. She said, "I have four ribbons. I have one ribbon for James Byrd, Jr., and I have three ribbons for the three who are accused of killing him." That said everything about the way this community is handling this terrible tragedy.

I think the leadership that is given to us by the Byrd family, by Mayor Horn, by Sheriff Rowles, and by Rev. Kenneth Lyons is something that all of us will be able to say has enriched us. I was enriched this weekend by seeing that community. I was enriched when Sheriff Rowles told me that he was trying to make sure that everyone stayed together, that everyone had their say, and he was even giving the same courtesy and respect even to the Black Panthers who came and did not talk about unity at all. Nevertheless, Sheriff Rowles recognized their freedom of speech. I saw a community that said we are proud that we have been able to grow up in loving homes with Christian backgrounds.

So I think that Abraham Lincoln's call to the "better angels of our nature" was personified by the Byrd family during this past week. All of us are better because we have seen the Byrd family endure a tragedy that we pray none of us will ever have to endure, and we saw them rise above it and counsel justice and prayer, not hate and despair.

It is their leadership that will make me a follower, and I hope all Americans will follow their message—that love is what is important for our country, not hate.

So I commend them, and that is why I introduced this resolution with Senator GRAMM tonight and why the Senate is, I hope, going to unanimously pass this resolution in just a few minutes, because I want to follow the Byrd family's example and talk about love, not hate; prayer, not despair. That is how we can come together as a country and learn from the worst of tragedies, and, by the very nature of its horror, resolve that we are going to fight harder for equality and justice in this country for our children and grandchildren.

That will be the memory of James Byrd, Jr., that we will all come out of this stronger because of the horror that he endured.

I also want to say that the Reverend Jesse Jackson was a healer this week, that Kweisi Mfume was a healer this week, that Rodney Slater, representing the President of the United States, was a healer this week, that Congresswoman MAXINE WATERS was a healer this week. All of them came together with the same message that the Byrd family gave to us. And I was touched by what I saw in Jasper, TX, this week. I think we will all be better because of the leadership of the Byrd family of Jasper, TX.

Mr. President, I ask unanimous consent that S. Res. 248 be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 248) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 248

Whereas, Mr. James Byrd, Jr., of Jasper, Texas, was brutally murdered on June 6, 1998;

Whereas, since this heinous tragedy, the citizens of Jasper, from all segments of the community, have come together to condemn the killing and honor the memory of Mr. Byrd.

Whereas, the Sheriff of Jasper County, Billy Rowles, spoke for the community when he appealed that the nation not "label us because of this random, brutal act."

Whereas, Mr. and Mrs. James Byrd, Sr., called for "justice and peace," asking that "we . . . get this over and put this behind us."; and

Whereas, the community's response reflects the spirit that other communities across the nation have shown in the face of recent incidents of random and senseless violence. Now, therefore, be it

Resolved, That The Senate—

(1) condemns the actions which occurred in Jasper, Texas as horrific and intolerable, to be rejected by all Americans;

(2) expresses its deepest condolences to the Byrd family for their loss and the pain it caused;

(3) notes the strong religious faith of the Byrd family, under the inspired leadership of James Sr., and Stella Byrd, and the Reverend Kenneth Lyons, Pastor of the Greater New Bethel Baptist Church, that has helped the family through this most trying time;

(4) sees in the Byrd family reaction to this tragedy the inspiration for hope, peace, and justice in Jasper and throughout the United States;

(5) commends the leadership shown by Jasper County Sheriff Billy Rowles, City of Jasper Mayor R.C. Horn, and other community leaders in responding to this tragedy;

(6) urges that law enforcement officials at all appropriate levels continue with the full and fair investigation into all of the facts of the case; and

(7) urges prosecutors to proceed with a fair and speedy trial to bring the perpetrators of this outrageous crime to justice.

Mrs. HUTCHISON. Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order of the Senate, we will now continue with the consideration of S. 1415.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, parliamentary inquiry: May I send an amendment to the desk without asking unanimous consent some pending amendment be set aside?

The PRESIDING OFFICER. The Senator may send up the amendment without consent.

AMENDMENT NO. 2705 TO AMENDMENT NO. 2437

(Purpose: To limit attorneys' fees)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2705 to amendment No. 2437.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

SEC. LIMIT ON ATTORNEYS' FEES.

(a) FEES COVERED BY THIS SECTION.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, attorneys' fees for—

(1) representation of a State, political subdivision of a state, or any other entity listed in subsection (a) of Section 1407 of this Act;

(2) representation of a plaintiff or plaintiff class in the Castano Civil Actions described in subsection (9) of Section 701 of this Act;

(3) representation of a plaintiff or plaintiff class in any "tobacco claim," as that term is defined in subsection (7) of Section 701 of this Act, that is settled or otherwise finally resolved after June 15, 1998;

(4) efforts expended that in whole or in part resulted in or created a model for programs in this Act,

shall be determined by this Section.

(b) ATTORNEYS' FEES.

(1) JURISDICTION.—Upon petition by the attorney whose fees are covered by subsection (a), the attorneys' fees shall be determined by the last court in which the action was pending.

(2) CRITERIA.—In determining an attorney fee awarded for fees subject to this section, the court shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment or substantial settlement;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous or reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(i) whether the claimant attorney was obligated to proceed with the presentation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation, including—

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for the proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or a substantial settlement based on the progression of relevant developments from the 1994 Williams document disclosures through the settlement negotiations and the eventual federal legislative process;

(J) Whether this Act or related changes in State laws increase the likelihood of the attorney's success;

(K) The fees paid to claimant attorneys that would be subject to this section but for the provisions of subsection (3);

(L) Such other factors as justice may require.

(3) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall not apply to attorneys' fees actually remitted and received by an attorney before June 15, 1998.

(4) LIMITATION.—Notwithstanding any other provision of law, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in such action, any attorneys' fees shall not exceed a per hour rate of—

(A) $4000 for actions filed before December 31, 1994;

(B) $2000 for actions filed on or after December 31, 1994, but before April 1, 1997, or for efforts expended as described in subsection (a)(4) of this section which efforts are not covered by any other category in subsection (a);

(C) $1000 for actions filed on or after April 1, 1997, but before June 15, 1998;

(D) $500 for actions filed after June 15, 1998.

(c) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. GORTON. Mr. President, there is at least an informal understanding that there will be a debate on this amendment tomorrow for approximately 1 hour. With the kind indulgence of my friend and colleague from Minnesota, I am going to simply give a brief explanation of this amendment now so Members who are watching, or staffs who are watching, will understand its general subject matter.

Twice during the course of this debate we have debated the subject of limitations on attorneys' fees. On both occasions I have voted to table those amendments, not because I felt that limitations on attorneys' fees in connection with tobacco litigation and legislation were not appropriate, but because I felt that the amendments themselves were unfair. This amendment is a third attempt to provide some limitations in a manner that I, at least, believe to be considerably more sensitive and more fair to the attorneys who have been involved in that litigation. I hope under those circumstances it will be given reasonably careful consideration by my colleagues.

We are dealing with litigation that is literally unprecedented, I think, in the history of the United States, with the potential of immense recoveries on the part of various States interfered with and amended by the legislation that we are considering here on the floor. Under those circumstances, the possibility that attorneys' fees would be awarded in the billions of dollars—perhaps even in the billions of dollars to some individual firms, but certainly in the order of nine digits to many individuals and individual firms—is a matter that I think greatly disturbs the majority of the American people and many, if not most, members of the bar. Those attorneys' fees have been subject to much criticism from the outside, and there should be a way to see to it that they are dealt with fairly.

The difficulty with the two earlier amendments, in my view at least, was that they treated all lawyers, all attorneys who were involved in tobacco litigation—past, present, and future—in exactly the same fashion. Yet it is obvious that, if we look at the history of this controversy, the initial litigation and the ideas for that initial litigation that were brought forth some time ago, in the early 1990s, were developed by a group of tremendously gifted and imaginative attorneys at a time at which the odds on their success, looking at it from the beginning, would have been judged to have been very small.

They have shown great skill, great persistence; they have spent, in many cases, a great deal of their own and their law firms' money; and I think the reward they have earned is considerably larger than awards that will be earned by those who got into this litigation very late in the game when it was obvious that the litigation was going to be settled for large amounts of money or litigated successfully; not to mention those who will bring tobacco-related litigation in the future when, under the terms of this bill, and many State legislative acts, it will be almost impossible for an attorney to lose a tobacco case.

As a consequence, the fundamental approach of this amendment is to say that for those who were in this litigation early—that is, before the end of the year 1994—attorneys' fees can be up to $4,000 an hour—a huge amount of money beyond any question, a mind-boggling amount of money, but nevertheless considerably less than many of these attorneys will get in the absence of such legislation, on the basis of percentage contingent fees.

Moreover, like other amendments in this connection, that is a ceiling, not a floor. The courts, in this case, will make a determination considering all of the same items that have been outlined in previous decisions of the U.S. Supreme Court and in previous amendments on this subject. So when a judge determines that amount is too much, the judge may reduce the amount below that hourly fee but under no circumstances may go above it.

The second category of attorneys will be those who were involved in this litigation after 1994 but before early last year. Their ceiling will be half the amount of the pioneers, or $2,000 an hour. And certain other attorneys who worked on developing the ideas that went into this case will fall into that category as well.

The next clear date is when the Liggett Tobacco Company agreed, in effect, to turn state's evidence to settle the matter and to admit its liabilities and admit, generally speaking, the liabilities of the other tobacco companies. Those who got into the litigation after that were almost certain winners—almost certain winners. They did not run the risks that earlier attorneys did, and their maximum fee under this amendment will be $1,000 an hour. That will, in fact, be somewhat less than the maximum recovery under the last Faircloth amendment, because while it stated the sum of $1,000 an hour, it allowed for recovery of costs over—considerably over and above the actual costs incurred in the litigation.

Finally, after the beginning of this debate here, assuming that this debate, of course, ends up in actual legislation, tobacco litigation will be almost like Workmen's Compensation litigation in all of our State courts, and the limit there is $500 an hour under this amendment, half that in the last Faircloth proposal. Again, these are limits, these are maximums, but they are maximums set in a different way than they were in the other two amendments, reflecting the actual risks, the actual imagination, the actual work that went into the litigation and, for that matter, into the legislation itself.

I am not certain this is a totally perfect proposal of this nature, but I think it is highly reasonable. I think it is highly generous. I think it meets the views of people in the United States as a whole who do not think the lawyers in this case should become billionaires out of it. And it will husband the actual recoveries, whatever those recoveries may be and however they are derived, far more for the purposes of the litigation and the legislation itself than relatively unlimited contingent fees would do.

That is a brief explanation and a justification of something that I hope meets with the support of those who have felt that there ought to be limits on those attorneys' fees, but that they should be somewhat lower and those on the other side, who, like I, have voted against these previous limitations on the grounds that they weren't sensitive enough and for at least some people were not high enough. I would like to bring people together on this so that at least this particular element of this debate can be brought to a successful conclusion.

TRIBUTE TO LIEUTENANT COMMANDER GARY MAYES

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding Naval Officer, Lieutenant Commander Gary Mayes, who has served with distinction for the past two years in the Navy's Senate Liaison Office. It is a privilege for me to recognize his many outstanding achievements and to commend him for the superb service he has provided this legislative body, the Navy and our great Nation.

Lieutenant Commander Mayes is a graduate of Purdue University and was commissioned an Ensign upon graduation from Aviation Officer Candidate School in Pensacola, Florida, in May 1988. He proceeded to flight training where he received his "Wings of Gold" and was designated a Naval Aviator in October 1989.

Lieutenant Commander Mayes' first assignment in the Navy was as a pilot flying the UH–1N and C–12B at Naval Air Station Guantanamo Bay, Cuba, from July 1990 to May 1991. Following training in the SH–60B Seahawk helicopter, he reported to Helicopter Anti-Submarine Squadron, Light Four Eight (HSL–48) as the Detachment Five Assistant Maintenance Officer. He qualified as an Aircraft Commander and deployed aboard USS Boone (FFG–28) to the Mediterranean. He was next assigned to Detachment One as the Maintenance Officer during Operation Support Democracy to Haiti while embarked on USS Spruance (DD–963). He also was deployed on USS Comte de Grasse in 1995, flying missions in support of exercise UNITAS around South America.

Lieutenant Commander Mayes joined the Navy's Senate Liaison team in January 1996. During his service as a Navy Liaison Officer, he provided members of the Senate Armed Services Committee, personal staffs, as well as Senators from both sides of the aisle, with timely support regarding Navy plans, programs and constituent casework. His valuable contributions have enabled Congress and the Department of the Navy to work close together to preserve the well-trained and well-equipped naval forces upon which our country has come to depend.

Mr. President, Gary Mayes, his wife Stephanie and their daughter Gabrielle have made many sacrifices during his 10-year Navy career. He has served proudly with a dedication and enthusiasm that only comes from our Nation's best and brightest. Lieutenant Commander Mayes is a great credit to both our Navy and our country. As he now departs to attend the Marine Corps Command and Staff War College, I call upon my colleagues from both sides of the aisle to wish him fair winds and following seas.

NATIONAL SMALL BUSINESS WEEK

Mr. DASCHLE. Mr. President, I would like to express my support and admiration of small business owners and entrepreneurs as we reflect on another successful National Small Business Week. It is appropriate that we recognize the contributions and achievements entrepreneurs have made to strengthen our communities and our national economy.

Small businesses account for 99.7% all the employers in the country and employ 53.7 percent of the private work force. Senate Democrats have demonstrated their support of small business by advocating increased funding for the reauthorization of the Small Business Administration, supporting targeted tax relief, ensuring responsible regulatory relief, and increasing procurement opportunities for small businesses.

Small businesses are changing the face of the economy by creating jobs and bringing prosperity to small towns and cities across the country. One such small business is the Roundup Building Center, owned by Doug and Julie Kapsch in Belle Fourche, South Dakota. As part of National Small Business week, Doug and Julie have been awarded special recognition from the

Small Business Administration as the South Dakota Small Business Owners of the Year.

Doug and Julie became business owners under a rather unique set of circumstances. In 1990, a fire destroyed much of the Belle Fourche Building Center, which Doug managed at the time. Faced with adversity, Doug and Julie saw an opportunity. After the fire, Doug contacted the former owner of the Belle Fourche Building Center, and the Kapschs began building their business. Today, Doug and Julie's business, the Roundup Building Center, serves the tri-state area of South Dakota, Wyoming and Montana by providing local contractors and do-it-yourself builders with a variety of building supplies. The business has grown by approximately 10 percent a year under Doug and Julie's management.

As successful small business owners, Doug and Julie have shown that hard work, initiative, and a bit of risk-taking can produce big dividends. I congratulate them on their success and wish them many more profitable years of business.

I would also like to commend another woman who has made significant contributions to South Dakota's small business community. Sandra Christenson, President of Heartland Paper Council, has been appointed by the Small Business Administrator to serve on the National Women's Business Council. The Council advises the President and the Administrator on small business issues especially important to women.

After serving as President of Triangle School Service in Sioux Falls, Sandra was named President of Heartland Paper Company in 1989. In this capacity, she oversees 170 employees and the company's seven thousand customers. Heartland Paper has been a vibrant member of the Sioux Falls business community under Sandra's leadership, and I am confident that with her leadership and experience, Sandra is uniquely qualified to represent the views of women business leaders and rural America before the Council.

Small businesses are vitally important to South Dakota's economy, and I truly appreciate the contributions that Sandra, Doug and Julie have made to our state's small business community. They join countless other small business owners across the country who have helped make America's vibrant economy the envy of the world.

RETIREMENT OF CARL STOKES

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who has rendered a great service to the State of South Carolina through his efforts as a professional law enforcement officer, Carl B. Stokes.

Just like his father, who was the Sheriff of Darlington County, Carl Stokes has literally dedicated his life to crime fighting. As a matter of fact, I am told that he is supposed to be the longest serving lawman in the Palmetto State, and his distinguished career began in the 1950's while he was still attending the University of South Carolina and joined the South Carolina State Law Enforcement Division (SLED). In just a few weeks, he will bring that career to a close when he retires from his position as System Vice President for Law Enforcement and Safety for the University of South Carolina.

For more than 25-years, Carl Stokes held a number of positions within SLED, including undercover operations, crowd control, investigations, and forensics. As a trusted, competent, and reliable member of SLED, Carl Stokes caught the attention of that agency's chief, J.P. Strom, who tapped Stokes to undertake an innovative and important project-creating a computer system for law enforcement in South Carolina. He is also credited with implementing the first incident-based Uniform Crime Reporting System, which is used by all law enforcement agencies in the Palmetto State.

In addition to his work at SLED, Stokes made a number of important contributions to professionalizing law enforcement in South Carolina. He was involved in many organizations, associations, and committees that worked to make law enforcement at all levels more professional and efficient. Through his involvement with these groups, he became very well known throughout the state and region, and his expertise was respected by many. This varied and progressive experience made him an ideal candidate to head up law enforcement and security operations at the University of South Carolina, and in 1981, Carl Stokes returned to college, this time not as a student, but as a cop.

Law enforcement on college campuses has changed tremendously in the past twenty years. Colleges and universities have diverse populations that are essentially the size of small cities, and it is critical that such institutions have professional police forces that are trained in everything from community relations to resolving a hostage crisis. Such a responsibility is a tremendous task, but Carl Stokes was able to carry out his duties with seeming ease. Over the past seventeen years, he has helped to make certain that students, faculty, and staff are safe and secure in housing, classrooms, and university property. He and his department have worked closely with the Federal Bureau of Investigation, the United States Secret Service, the Department of State, the United Nations, and a host of other national and international law enforcement agencies in order to provide security to visiting dignitaries as well as to provide police services on the nine USC campuses. Impressively, Carl Stokes also worked to ensure that the University of South Carolina Division of Law Enforcement and Safety gained national accreditation from the Commission on Accreditation for Law Enforcement Agencies. This is an especially noteworthy achievement as this is one of only fifteen college and university police departments in the United States to earn such a professional recognition.

I am certain that after such a long and distinguished career, it must be difficult for Carl Stokes to take off his badge and hang-up his gun, but he can do so knowing that in his more than four decades as a law enforcement official, he made countless contributions to the safety and security of society. I am pleased to note that all three of his children have followed in his footsteps in one way or another, his two sons are involved in law enforcement and his daughter works for the University of South Carolina. I wish Carl and his wife health and happiness in the years to come, I know that they will both enjoy being able to spend time with their children and grandchildren and reflecting on a full life.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 5TH

Mr. HELMS. Mr. President, the American Petroleum Institute reported for the week ending June 5 that the U.S. imported 9,532,000 barrels of oil each day, an increase of 1,103,000 barrels a day over the 8,429,000 imported during the same week a year ago.

Americans relied on foreign oil for 59.9 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians should give consideration to the economic calamity certain to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 9,532,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, June 12, 1998, the federal debt stood at $5,499,026,995,472.09 (Five trillion, four hundred ninety-nine billion, twenty-six million, nine hundred ninety-five thousand, four hundred seventy-two dollars and nine cents).

One year ago, June 12, 1997, the federal debt stood at $5,352,849,000,000 (Five trillion, three hundred fifty-two billion, eight hundred forty-nine million).

Twenty-five years ago, June 12, 1973, the federal debt stood at $454,612,000,000

(Four hundred fifty-four billion, six hundred twelve million) which reflects a debt increase of more than $5 trillion—$5,044,414,995,472.09 (Five trillion, forty-four billion, four hundred fourteen million, nine hundred ninety-five thousand, four hundred seventy-two dollars and nine cents) during the past 25 years.

LEADERSHIP TRAINING INSTITUTE

Mr. ASHCROFT. Mr. President, it is with great pleasure that I rise today to recognize the Leadership Training Institute (LTI), a summer camp being held in Bolivar, Missouri this week. LTI is challenging America's youth to reach for personal excellence and to lead their generation to an ever higher standard of morality and achievement than the generation before them. The United States has seen success because individuals have the opportunity to set standards that define their highest and best.

Leaders have the opportunity to be both "intensive" and "extensive." Intensive leadership is influencing towards excellence those that are closest to you—your family and friends. Extensive leadership is reaching beyond to your community, culture, and even the world. My hope for today's youth—and those participating in this week's leadership training—is that they will take the opportunity to be leaders close to home and beyond.

Programs that guide youth in setting the highest standards for their lives are essential to the continuity of morality in our culture and the setting of our sights on the noble. God has given principles which turn our eyes from the temporal, the physical, and the menial to the eternal, the spiritual, and the noble.

The Leadership Training Institute is headquartered in Arkansas and its staff and participants come from many communities across America, including from my home state of Missouri. LTI is committed to training youth in the virtues which leaders such as Thomas Jefferson considered to constitute the moral fabric of our society: "With a firm reliance on the protection of the Divine Providence; we mutually pledge to each other, our lives, our fortunes, and our sacred honor."

LTI educates youth in the lessons of our Nation's founders —their experiences, wisdom, and legacies. Youth learn that good leaders are people of faith as well as people of science. This training in American heritage and ingenuity prepares today's youth to set an excellent example in their homes, schools, communities, and government.

I am proud to see the staff and supporters of the Leadership Training Institute challenging America's youth to lead by personal standards of excellence. Hopefully, the participants of the program this week in Bolivar, Missouri, will set goals to become the leaders that remind us of all that is good in our country by advancing those values in their own lives.

CHILDREN'S SCHOLARSHIP FUND

Mr. ASHCROFT. Mr. President, on many occasions, I have come to the Senate floor to talk about the importance of parental control and involvement in a child's education. Study after study has confirmed that parental involvement is the single most important element in educational achievement.

One way to allow parents more control over and involvement in their children's education is to give them more choices of where to send their children to school. Choice empowers parents. It puts them in the driver's seat instead of the nickel seats. I believe we want parents in those front seats.

Education is an important tool that our children need in order to survive and be successful in our society. It is sad to realize that for too many children in too many families, a safe, structured and challenging education is out of reach. The public schools in many of our major cities simply cannot or do not provide adequate education, while a private or parochial education is too costly for most families of modest means.

On the other hand, it is encouraging when individuals in our society step forward to provide the means for better educational opportunities for our nation's underprivileged children. When those in the private sector, through their charitable giving, open the door for kids to receive a high quality education, those individuals are to be commended.

I am pleased to say that last week, two very generous and compassionate Americans gave new hope to thousands of families across the country who want the same thing all of us want—the best possible education for their children.

Ted Forstmann and John Walton are businessmen, entrepreneurs and philanthropists. On June 9, they launched the Children's Scholarship Fund, which will provide scholarships to bright and deserving children from low-income families across the nation to help their parents send them to any private or parochial school they're academically qualified to attend—from kindergarten right through high school. Thanks to these individuals, new educational opportunities will now be available to thousands of youngsters that were not available before.

These two civic-minded Americans have given the fund quite a start, with an initial contribution of $100 million dollars. Over the summer, they will select cities to become partners with the fund, lining up donors in each city to match their initial generosity. That will allow this new and exciting program to distribute more than $200 million in scholarships in more than a dozen cities, with each scholarship being an opportunity for a child to prepare for a better and brighter future.

This national program is modeled after—and really inspired by—an effort Mr. Forstmann and Mr. Walton launched here in the city of Washington, D.C. earlier this year. Together they donated $6 million to the Washington Scholarship Fund, which recently awarded scholarships to more than 1,000 students from the troubled District of Columbia public schools. Washington is one of about thirty privately-funded scholarship programs in the country. The fact that there are so many of these programs speaks volumes, I think, about the state of the public schools in many of our cities.

I mention the Washington program because I think it's a good example of what the national effort is all about. First, the Washington Scholarship Fund is locally-based and locally-run. Mr. Forstmann is right when he insists that each program must have strong involvement from local officials, community leaders, local businesses and anyone else who wants to help kids obtain the best education. I have always believed that local neighborhoods and communities are in the best position to create solutions to meet the specific needs of individuals in their communities.

The Children's Scholarship Fund is already in contact with more than 300 mayors from all around the country. This is the first step in selecting partners who know what's needed in their community and who will support this program financially and with their hard work.

But perhaps more important than the scholarships themselves is what they represent. it's important—and maybe even a bit sad—to note that more than seventy-five hundred families here in the Nation's Capitol applied for those 1,000 scholarships. It took a lottery to give them out. Mr. Forstmann has said he never dreamed the demand would be so overwhelming.

Who are these families? They're families whose children are trapped in public school systems that offer them no choices. If students only have one choice of where to attend school, they are locked into that school and don't have the capacity to say I am going to do better, I will go elsewhere.

On the other hand, when students have more choices of where to attend school, they will have the ability to receive a higher quality, more rigorous education. The Children's Scholarship Fund provides children and their families with more educational choice.

I believe that providing more educational choices for families can even help our nation's public schools, because they will understand they are no longer the exclusive provider of education in their community. They will have to start becoming the creative supplier of what it is that students need. When you have diversity and pluralism in a school system by providing more choices for students, this creates energy, creativity, and quality when institutions know that they have to do their best for to compete for students.

I commend Mr. Forstmann and Mr. Walton for providing the opportunity for our nation's children to have greater choices of where to receive their education, giving them the chance to learn as much as their minds and hard work will allow.

Education is an investment in future citizens, future leaders, the future work force of America. Ted Forstmann and John Walton have made a profound investment in the nation's future, one that is worthy of our admiration and gratitude.

CORRECTION OF THE RECORD—JEFFORDS AMENDMENT NO. 2704

The Jeffords amendment No. 2704 which appeared in the RECORD of Friday, June 12, 1998, was missing some text. The correct version appears as follows:

AMENDMENT NO. 2704

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Findings and purpose.
Sec. 3. Voluntary selection and participation.
Sec. 4. Construction.

TITLE I—VOCATIONAL EDUCATION

SUBTITLE A—FEDERAL PROVISIONS

Sec. 101. Reservations and State allotment.
Sec. 102. Performance measures and expected levels of performance.
Sec. 103. Assistance for the outlaying areas.
Sec. 104. Indian and Hawaiian Native programs.
Sec. 105. Tribally controlled postsecondary vocational institutions.
Sec. 106. Incentive grants.

SUBTITLE B—STATE PROVISIONS

Sec. 111. State administration.
Sec. 112. State use of funds.
Sec. 113. State leadership activities.
Sec. 114. State plan.

SUBTITLE C—LOCAL PROVISIONS

Sec. 121. Distribution for secondary school vocational education.
Sec. 122. Distribution for postsecondary vocational education.
Sec. 123. Local activities.
Sec. 124. Local application.
Sec. 125. Consortia.

TITLE II—TECH-PREP EDUCATION

Sec. 201. Short title.
Sec. 202. Purposes.
Sec. 203. Definitions.
Sec. 204. Program authorized.
Sec. 205. Tech-prep education programs.
Sec. 206. Applications.
Sec. 207. Authorization of appropriations.
Sec. 208. Demonstration program.

TITLE III—GENERAL PROVISIONS

Sec. 301. Administrative provisions.
Sec. 302. Evaluation, improvement, and accountability.
Sec. 303. National activities.
Sec. 304. National assessment of vocational education programs.
Sec. 305. National research center.
Sec. 306. Data systems.
Sec. 307. Promoting scholar-athlete competitions.
Sec. 308. Definition.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

TITLE V—REPEAL

Sec. 501. Repeal.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in order to be successful workers, citizens, and learners in the 21st century, individuals will need—

(A) a combination of strong basic and advanced academic skills;

(B) computer and other technical skills;

(C) theoretical knowledge;

(D) communications, problem-solving, teamwork, and employability skills; and

(E) the ability to acquire additional knowledge and skills throughout a lifetime;

(2) students participating in vocational education can achieve challenging academic and technical skills, and may learn better and retain more, when the students learn in context, learn by doing, and have an opportunity to learn and understand how academic, vocational, and technological skills are used outside the classroom;

(3)(A) many high school graduates in the United States do not complete a rigorous course of study that prepares the graduates for completing a 2-year or 4-year college degree or for entering highskill, high-wage careers;

(B) adult students are an increasingly diverse group and often enter postsecondary education unprepared for academic and technical work; and

(C) certain individuals often face great challenges in acquiring the knowledge and skills needed for successful employment;

(4) community colleges, technical colleges, and area vocational education schools are offering adults a gateway to higher education, and access to quality certificates and degrees that increase their skills and earnings, by—

(A) ensuring that the academic, vocational, and technological skills gained by students adequately prepare the students for the workforce; and

(B) enhancing connections with employers and 4-year institutions of higher education;

(5) local, State, and national programs supported under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) (as such Act was in effect on the day before the date of enactment of this Act) have assisted many students in obtaining technical, academic, and employability skills, and tech-prep education;

(6) the Federal Government can assist States and localities by carrying out nationally significant research, program development, demonstration, dissemination, evaluation, data collection, professional development, and technical assistance activities that support State and local efforts regarding vocational education; and

(7) through a performance partnership with States and localities based on clear programmatic goals, increased State and local flexibility, improved accountability, and performance measures, the Federal Government will provide to States and localities financial assistance for the improvement and expansion of vocational education for students participating in vocational education.

(b) PURPOSE.—The purpose of this Act is to make the United States more competitive in the world economy by developing more fully the academic, technological, vocational, and employability skills of secondary students and postsecondary students who elect to enroll in vocational education programs, by—

(1) building on the efforts of States and localities to develop challenging academic standards;

(2) promoting the development of services and activities that integrate academic, vocational, and technological instruction, and that link secondary and postsecondary education for participating vocational education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational education, including tech-prep education; and

(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational education programs, services, and activities.

SEC. 3. VOLUNTARY SELECTION AND PARTICIPATION.

No funds made available under this Act shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; and

(2) to mandate that any individual participate in a vocational education program, including a vocational education program that requires the attainment of a federally funded skill level or standard.

SEC. 4. CONSTRUCTION.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

TITLE I—VOCATIONAL EDUCATION

Subtitle A—Federal Provisions

SEC. 101. RESERVATIONS AND STATE ALLOTMENT.

(a) RESERVATIONS AND STATE ALLOTMENT.—

(1) RESERVATIONS.—From the sum appropriated under section 401 for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 103;

(B) 1.80 percent to carry out sections 104 and 105, of which—

(i) 1.25 percent of the sum shall be available to carry out section 104(b);

(ii) 0.25 percent of the sum shall be available to carry out section 104(c);

(iii) 0.30 percent of the sum shall be available to carry out section 105; and

(C) 1.3 percent to carry out sections 106, 303, 304, 305, and 306, of which not less than 0.65 percent of the sum shall be available to carry out section 106 for each of the fiscal years 2001 through 2005.

(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 401 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) Minimum allotment.—

(A) In general.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 401 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) Requirement.—Due to the application of subparagraph (A), for any fiscal year, no State shall receive more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(C) Special rule.—

(i) In General.—Subject to paragraph (4), no State, by reason of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act); and

(II) the amount calculated under clause (ii).

(ii) amount.—The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(4) Hold harmless.—

(A) In general.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of this Act) for fiscal year 1997.

(B) Ratable reduction.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) reallotment.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) Allotment Ratio.—

(1) In general.—The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) Promulgation.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) Definition of per capita income.—For the purpose of this section, the term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) Definition of State.—For the purpose of this section, the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, and the United States Virgin Islands.

SEC. 102. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) Publication of Performance Measures.—

(1) In general.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(A) Student attainment of academic skills.

(B) Student attainment of job readiness skills.

(C) Student attainment of vocational skill proficiencies for students in vocational education programs, that are necessary for the receipt of a secondary school diploma or its recognized equivalent, or a secondary school skill certificate.

(D) Receipt of a postsecondary degree or certificate.

(E) Retention in, and completion of, secondary school education (as determined under State law), placement in, retention in, and completion of postsecondary education, employment, or military service.

(F) Participation in and completion of vocational education programs that lead to nontraditional employment.

(2) Special rule.—The Secretary shall establish 1 set of performance measures for students served under this Act, including populations described in section 114(c)(16).

(b) Expected Levels of Performance.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 103. ASSISTANCE FOR THE OUTLYING AREAS.

(a) In General.—From the funds reserved under section 101(a)(1)(A), the Secretary—

(1) shall award a grant in the amount of $500,000 to Guam for vocational education and training for the purpose of providing direct educational services related to vocational education, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) improving vocational education programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education; and

(2) shall award a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands for vocational education for the purpose described in paragraph (1).

(b) Special Rule.—

(1) In general.—From funds reserved under section 101(a)(1)(A) and not awarded under subsection (a), the Secretary shall make available the amount awarded to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section was in effect on the day before the date of enactment of this Act) to award grants under the succeeding sentence. From the amount made available under the preceding sentence, the Secretary shall award grants, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau for the purpose described in subsection (a)(1).

(2) Award basis.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) Termination of eligibility.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this Act for any fiscal year that begins after September 30, 2004.

(4) Administrative costs.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of

the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

SEC. 104. INDIAN AND HAWAIIAN NATIVE PROGRAMS.

(a) Definitions; Authority of Secretary.—

(1) Definitions.—For the purpose of this section—

(A) the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(B) the term "Bureau funded school" has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026);

(C) the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii; and

(D) the terms "Indian" and "Indian tribe" have the meanings given the terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) Authority.—From the funds reserved pursuant to section 101(a)(1)(B), the Secretary shall award grants and enter into contracts for Indian and Hawaiian native programs in accordance with this section, except that such programs shall not include secondary school programs in Bureau funded schools.

(b) Indian Programs.—

(1) Authority.—

(A) In general.—Except as provided in subparagraph (B), from the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed—

(i) upon the request of any Indian tribe, or a tribal organization serving an Indian tribe, which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under the Act of April 16, 1934; or

(ii) upon an application received from a Bureau funded school offering post-secondary or adult education programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any Indian tribe or tribal organization, or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by, and consistent with the purpose of, this Act.

(B) Requirements.—The grants or contracts described in subparagraph (A), shall be subject to the following:

(i) Tribes and tribal organizations.—Such grants or contracts with any tribes or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

(ii) Bureau funded schools.—Such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Act of April 16, 1934.

(C) Regulations.—If the Secretary promulgates any regulations applicable to subparagraph (B), the Secretary shall—

(i) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(ii) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the "Negotiated Rulemaking Act of 1990".

(D) Application.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(E) Performance measures and evaluation.—Any Indian tribe, tribal organization, or Bureau funded school that receives assistance under this section shall—

(i) establish performance measures and expected levels of performance to be achieved by students served under this section; and

(ii) evaluate the quality and effectiveness of activities and services provided under this subsection.

(F) Minimum.—In the case of a Bureau funded school, the minimum amount of a grant awarded or contract entered into under this section shall be $35,000.

(G) Restrictions.—The Secretary may not place upon grants awarded or contracts entered into under this paragraph any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 101(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational education programs, and shall give special consideration to—

(i) grants or contracts with involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges that—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of vocational education programs.

(H) Stipends.—

(i) In General.—Funds received pursuant to grants or contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) Amount.—Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) Matching.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) Special rule.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

(c) Hawaiian Native Programs.—From the funds reserved pursuant to section 101(a)(1)(b)(ii), the Secretary shall award grants or enter into contracts, with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii, for the planning, conduct, or administration of programs, or portions thereof, that are described in this Act and consistent with the purpose of this Act, for the benefit of Hawaiian natives.

SEC. 105. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) In General.—It is the purpose of this section to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(b) Grants Authorized.—

(1) In general.—From the funds reserved pursuant to section 101(a)(1)(B)(iii), the Secretary shall make grants to tribally controlled postsecondary vocational institutions to provide basic support for the vocational education and training of Indian students.

(2) Amount of grants.—

(A) In general.—If the sum appropriated for any fiscal year for grants under this section is not sufficient to pay in full the total amount that approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant that received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(B) Per capita determination.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(c) Eligible Grant Recipients.—To be eligible for assistance under this section a tribally controlled postsecondary vocational institution shall—

(1) be governed by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy, or a plan of operation which

fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(d) GRANT REQUIREMENTS.—

(1) APPLICATIONS.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this section shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this section that will allow the Secretary to audit and monitor programs.

(2) NUMBER.—The Secretary shall award not less than 2 grants under this section for each fiscal year.

(3) CONSULTATION.—In awarding grants under this section, the Secretary shall, to the extent practicable, consult with the boards of trustees of, and the tribal governments chartering, the institutions desiring the grants.

(4) LIMITATION.—Amounts made available through grants under this section shall not be used in connection with religious worship or sectarian instruction.

(e) USES OF GRANTS.—

(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(2) ACCOUNTING.—Each institution receiving'a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) EFFECT ON OTHER PROGRAMS.—

(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other applicable program for the benefit of institutions of higher education or vocational education.

(2) PROHIBITION ON ALTERNATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the "Snyder Act") (42 Stat. 208, chapter 115; 25 U.S.C. 13).

(3) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under such Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) NEEDS ESTIMATE AND REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.—

(1) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the goals and requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(2) STUDY OF TRAINING AND HOUSING NEEDS.—

(A) IN GENERAL.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) REPORT.—The Secretary shall report to Congress not later than July 1, 1999, on the results of the study required by subparagraph (A).

(C) CONTENTS.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) PRIORITY.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) LONG-TERM STUDY OF FACILITIES.—

(A) IN GENERAL.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) CONTENTS.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(C) SUBMISSION.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

(h) DEFINITIONS.—For the purposes of this section:

(1) INDIAN; INDIAN TRIBE.—The terms "Indian" and "Indian tribe" have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term "tribally controlled postsecondary vocational institution" means an institution of higher education that—

(A) is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes; and

(B) offers technical degrees or certificate granting programs.

(3) INDIAN STUDENT COUNT.—The term "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational institution, determined as follows:

(A) REGISTRATIONS.—The registrations of Indian students as in effect on October 1 of each year.

(B) SUMMER TERM.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(C) ADMISSION CRITERIA.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school diploma or its recognized equivalent shall be counted toward the computation of the Indian student count.

(D) DETERMINATION OF HOURS.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational institution shall be included in determining the sum of all credit or clock hours.

(E) CONTINUING EDUCATION.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

SEC. 106. INCENTIVE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) USE OF FUNDS.—A State that receives a incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or work-force investment programs as determined by the State.

Subtitle B—State Provisions

SEC. 111. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State administration of activities under this title, including—

(1) the development, submission, and implementation of the State plan;

(2) the efficient and effective performance of the eligible agency's duties under this title; and

(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of activities assisted under this title, such as employers, parents, students, teachers, labor organizations, State and local elected officials, and local program administrators.

SEC. 112. STATE USE OF FUNDS.

(a) RESERVATIONS.—From funds allotted to each State under section 101(a) for each fiscal year, the eligible agency shall reserve—

(1) not more than 14 percent of the funds to carry out section 113;

(2) not more than 10 percent of the funds, or $300,000, whichever is greater, of which—

(A) $60,000 shall be available to provide technical assistance and advice to local educational agencies, postsecondary educational institutions, and other interested parties in the State for gender equity activities; and

(B) the remainder may be used to—

(i) develop the State plan;

(ii) review local applications;

(iii) monitor and evaluate program effectiveness;

(iv) provide technical assistance; and

(v) assure compliance with all applicable Federal laws, including required services and activities for individuals who are members of populations described in section 114(c)(16); and

(3) 1 percent of the funds, or the amount the State expanded under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) for vocational education programs for criminal offenders for the fiscal year 1997, whichever is greater, to carry out programs for criminal offenders.

(b) REMAINDER.—From funds allotted to each State under section 101(a) for each fiscal year and not reserved under subsection (a), the eligible agency shall determine the portion of the funds that will be available to carry out sections 121 and 122.

(c) MATCHING REQUIREMENT.—Each eligible agency receiving funds under this title shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(2).

SEC. 113. STATE LEADERSHIP ACTIVITIES.

(a) MANDATORY.—Each eligible agency shall use the funds reserved under section 112(a)(1) to conduct programs, services, and activities that further the development, implementation, and improvement of vocational education within the State and that are integrated, to the maximum extent possible, with challenging State academic standards, including—

(1) providing comprehensive professional development (including initial teacher preparation) for vocational, academic, guidance, and administrative personnel, that—

(A) will help the teachers and personnel to assist students in meeting the expected levels of performance established under section 102;

(B) reflects the eligible agency's assessment of the eligible agency's needs for professional development; and

(C) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.);

(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards, and vocational and technological skills;

(3) monitoring and evaluating the quality of, and improvement in, activities conducted with assistance under this title;

(4) providing gender equity programs in secondary and postsecondary vocational education;

(5) supporting tech-prep education activities;

(6) improving and expanding the use of technology in instruction;

(7) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technological skills; and

(8) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

(b) PERMISSIVE.—Each eligible agency may use the funds reserved under section 112(a)(1) for—

(1) improving guidance and counseling programs that assist students in making informed education and vocational decisions;

(2) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of populations described in section 114(c)(16);

(3) providing vocational education programs for adults and school dropouts to complete their secondary school education; and

(4) providing assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education.

SEC. 114. STATE PLAN.

(a) STATE PLAN.—

(1) IN GENERAL.—Each eligible entity desiring assistance under this title for any fiscal year shall prepare and submit to the Secretary a State plan for a 3-year period, together with such annual revisions as the eligible agency determines to be necessary.

(2) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included with the State plan.

(b) PLAN DEVELOPMENT.—The eligible agency shall develop the State plan with representatives of secondary and postsecondary vocational education, parents, representatives of populations described in section 114(c)(16), and businesses, in the State and shall also consult the Governor of the State.

(c) PLAN CONTENTS.—The State plan shall include information that—

(1) describes the vocational education activities to be assisted that are designed to meet and reach the State performance measures;

(2) describes the integration of academic and technological education with vocational education;

(3) describes how the eligible agency will disaggregate data relating to students participating in vocational education in order to adequately measure the progress of the students;

(4) describes how the eligible agency will adequately address the needs of students in alternative education programs;

(5) describes how the eligible agency will provide local educational agencies, area vocational education schools, and eligible institutions in the State with technical assistance;

(6) describes how the eligible agency will encourage the participation of the parents of secondary school students who are involved in vocational education activities;

(7) identifies how the eligible agency will obtain the active participation of business, labor organizations, and parents in the development and improvement of vocational education activities carried out by the eligible agency;

(8) describes how vocational education relates to State and regional employment opportunities;

(9) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

(10) describes how funds will be used to promote gender equity in secondary and postsecondary vocational education;

(11) describes how funds will be used to improve and expand the use of technology in instruction;

(12) describes how funds will be used to serve individuals in State correctional institutions;

(13) describes how funds will be used effectively to link secondary and postsecondary education;

(14) describes how funds will be allocated and used at the secondary and postsecondary level, any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia;

(15) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(16) describes the eligible agency's program strategies for populations that include, at a minimum—

(A) low-income individuals, including foster children;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with other barriers to educational achievement, including individuals with limited English proficiency;

(17) describes how individuals who are members of the special populations described in subsection (c)(16)—

(A) will be provided with equal access to activities assisted under this Act; and

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(d) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 102 are sufficiently rigorous to meet the purpose of this Act.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding approval of State plans.

(4) TIMEFRAME.—A State plan shall be deemed approved if the Secretary has not responded to the eligible agency regarding the plan within 90 days of the date the Secretary receives the plan.

(e) ASSURANCES.—A State plan shall contain assurances that the State will comply with the requirements of this Act and the provisions of the State plan, and provide for such fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this Act.

(f) ELIGIBLE AGENCY REPORT.—

(1) IN GENERAL.—The eligible agency shall annually report tot he Secretary regarding—

(A) the quality and effectiveness of the programs, services, and activities, assisted under this title, based on the performance measures and expected levels of performance described in section 102; and

(B) the progress each population of individuals described in section 114(c)(16) is making toward achieving the expected levels of performance.

(2) CONTENTS.—The eligible agency report also—

(A) shall include such information, in such form, as the Secretary may reasonably require, in order to ensure the collection of uniform data; and

(B) shall be made available to the public.

Subtitle C—Local Provisions

SEC. 121. DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) ALLOCATION.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available for secondary school vocational education activities under section 112(b) for any fiscal year to local educational agencies within the State as follows:

(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such year.

(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals With Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such year.

(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such year.

(b) MINIMUM ALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no local educational agency shall receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is not less than $25,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) WAIVER.—The eligible agency may waive the application of paragraph (1) for a local educational agency that is located in a rural, sparsely populated area.

(3) REALLOCATION.—Any amounts that are not allocated by reason of paragraph (1) or (2) shall be reallocated to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(c) LIMITED JURISDICTION AGENCIES.—

(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this title shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available for any fiscal year by such entity for secondary school vocational education activities under section 112(b) to the appropriate area vocational educations school or educational service agency in any case in which—

(A) the area vocational education school or educational service agency, and the local educational agency concerned—

(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or educational service agency serves an approximately equal or greater proportion of students who are individuals with disabilities or are low-income than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the educational service agency; or

(ii) the area vocational education school, educational service agency, or local educational agency demonstrates that the vocational education school or educational service agency is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area vocational education school or educational service agency.

(2) ALLOCATION BASIS.—If an area vocational education school or educational service agency meets the requirements of paragraph (1), then—

(A) the amount that will otherwise be distributed to the local educational agency under this section shall be allocated to the area vocational education school, the educational service agency, and the local educational agency, based on each school's or agency's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or educational service agency.

(3) STATE DETERMINATION.—

(A) IN GENERAL.—For the purposes of this subsection, the eligible agency may determine the number of students who are low-income on the basis of—

(i) eligibility for—

(I) free or reduced-price meals under the National School Lunch Act (7 U.S.C. 1751 et seq.);

(II) assistance under a State program funded under part A of title IV of the Social Security Act;

(III) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(IV) services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); or

(ii) another index of economic status, including an estimate of such index, if the eligible agency demonstrates to the satisfaction of the Secretary that such index is a more representative means of determining such number.

(B) DATA.—If an eligible agency elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the eligible agency shall ensure that the data used is not duplicative.

(4) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

(5) SPECIAL RULE.—Notwithstanding the provisions of paragraphs (1), (2), (3), and (4), any local educational agency receiving an allocation that is not sufficient to conduct a secondary school vocational education program of sufficient size, scope, and quality to be effective may—

(A) form a consortium or enter into a cooperative agreement with an area vocational education school or educational service agency offering secondary school vocational education programs of sufficient size, scope, and quality to be effective and that are accessible to students who are individuals with disabilities or are low-income, and are served by such local educational agency; and

(B) transfer such allocation to the area vocational education school or educational service agency.

(e) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

SEC. 122. DISTRIBUTION FOR POSTSECONDARY VOCATIONAL EDUCATION.

(a) DISTRIBUTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available for post-secondary vocational education under section 112(b) for any fiscal year to eligible institutions within the State in accordance with paragraph (2).

(2) ALLOCATION.—Each eligible institution in the State having an application approved

under section 124 for a fiscal year shall be allocated an amount that bears the same relationship to the amount of funds made available for postsecondary vocational education under section 112(b) for the fiscal year as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled for the preceding fiscal year by such eligible institution in vocational education programs that do not exceed 2 years in duration bears to the number of such recipients enrolled in such programs within the State for such fiscal year.

(3) Special rule for consortia.—In order for a consortium to receive assistance under this section, such consortium shall operate joint projects that—

(A) provide services to all postsecondary institutions in the consortium; and

(B) are of sufficient size, scope, and quality to be effective.

(4) Minimum allocation.—

(A) In general.—Except as provided in subparagraph (B), no eligible institution shall receive an allocation under paragraph (2) unless the amount allocated to the eligible institution under paragraph (2) is not less than $65,000.

(B) Waiver.—The eligible agency may waive the application of subparagraph (A) in any case in which the eligible institution is located in a rural, sparsely populated area.

(C) Reallocation.—Any amounts that are not allocated by reason of subparagraph (A) or (B) shall be reallocated to eligible institutions that meet the requirements of subparagraph (A) or (B) in accordance with the provisions of this section.

(5) Definition of pell grant recipient.—The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).

(b) Alternative Allocation.—An eligible agency may allocate funds made available for postsecondary education under section 112(b) for a fiscal year using an alternative formula if the eligible agency demonstrates to the Secretary's satisfaction that—

(1) the alternative formula better meets the purpose of this Act; and

(2)(A) the formula described in subsection (a) does not result in an allocation of funds to the eligible institutions that serve the highest numbers or percentages of low-income students; and

(B) the alternative formula will result in such a distribution.

SEC. 123. LOCAL ACTIVITIES.

(a) Mandatory.—Funds made available to a local educational agency or an eligible institution under this title shall be used—

(1) to initiate, improve, expand, and modernize quality vocational education programs;

(2) to improve or expand the use of technology in vocational instruction, including professional development in the use of technology, which instruction may include distance learning;

(3) to provide services an activities that are of sufficient size, scope, and quality to be effective;

(4) to integrate academic education with vocational education for students participating in vocational education;

(5) to link secondary education (as determined under State law) and postsecondary education, including implementing tech-prep programs;

(6) to provide professional development activities to teachers, counselors, and administrators, including—

(A) inservice and preservice training in state-of-the-art vocational education programs;

(B) internship programs that provide business experience to teachers; and

(C) programs designed to train teachers specifically in the use and application of technology;

(7) to develop and implement programs that provide access to, and the supportive services needed to participate in, quality vocational education programs for students, including students who are members of the populations described in section 114(c)(16);

(8) to develop and implement performance management systems and evaluations; and

(9) to promote gender equity in secondary and postsecondary vocational education.

(b) Permissive.—Funds made available to a local educational agency or an eligible institution under this title may be used)—

(1) to carry out student internships;

(2) to provide guidance and counseling for students participating in vocational education programs;

(3) to provide vocational education programs for adults and school dropouts to complete their secondary school education;

(4) to acquire and adapt equipment, including instructional aids;

(5) to support vocational student organizations;

(6) to provide assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education; and

(7) to support other vocational education activities that are consistent with the purpose of this Act.

SEC. 124. LOCAL APPLICATION.

(a) In General.—Each local educational agency or eligible institution desiring assistance under this title shall submit an application to the eligible agency at such time, in such manner, and accompanied by such information as the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) may require.

(b) Contents.—Each application shall, at a minimum—

(1) describe how the vocational education activities will be carried out pertaining to meeting the expected levels of performance;

(2) describe the process that will be used to independently evaluate and continuously improve the performance of the local educational agency or eligible institution, as appropriate;

(3) describe how the local educational agency or eligible institution, as appropriate, will plan and consult with students, parents, representatives of populations described in section 114(c)(16), businesses, labor organizations, and other interested individuals, in carrying out activities under this title;

(4) describe how the local educational agency or eligible institution, as appropriate, will review vocational education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to the programs, for populations described in section 114(c)(16); and

(5) describe how individuals who are members of the special populations described in section 114(c)(16) will not be discriminated against on the basis of their status as members of the special populations.

SEC. 125. CONSORTIA.

A local educational agency and an eligible institution may form a consortium to carry out the provisions of this subtitle if the sum of the amount the consortium receives for a fiscal year under sections 121 and 122 equals or exceeds $65,000.

TITLE II—TECH-PREP EDUCATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Tech-Prep Education Act".

SEC. 202. PURPOSES.

The purposes of this title are—

(1) to provide implementation grants to consortia of local educational agencies, postsecondary educational institutions, and employers or labor organizations, for the development and operation of programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate;

(2) to provide, in a systematic manner, strong, comprehensive links among secondary schools, post-secondary educational institutions, and local or regional employers, or labor organizations; and

(3) to support the use of contextual, authentic, and applied teaching and curriculum based on each State's academic, occupational, and employability standards.

SEC. 203. DEFINITIONS.

(a) In this title:

(1) Articulation agreement.—The term "articulation agreement" means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) Community college.—The term "community college"—

(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141) for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

(3) Tech-prep program.—The term "tech-prep program" means a program of study that—

(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

(B) integrates academic and vocational instruction, and utilizes work-based and worksite learning where appropriate and available;

(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

(E) leads to an associate or a baccalaureate degree or a certificate in a specific career field; and

(F) leads to placement in appropriate employment or further education.

SEC. 204. PROGRAM AUTHORIZED.

(a) Discretionary Amounts.—

(1) In general.—For any fiscal year for which the amount appropriated under section 207 to carry out this title is equal to or less than $50,000,000, the Secretary shall award grants for tech-prep education programs to consortia between or among—

(A) a local educational agency, an intermediate educational agency or area vocational education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that offers—

(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), including an institution receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational institution; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employer or labor organizations.

(b) STATE GRANTS.—

(1) IN GENERAL.—For any fiscal year for which the amount made available under section 207 to carry out this title exceeds $50,000,000, the Secretary shall allot such amount among the States in the same manner as funds are allotted to States under paragraphs (2), (3), and (4) of section 101(a).

(2) PAYMENTS TO ELIGIBLE AGENICES.—The Secretary shall make a payment in the amount of a State's allotment under this paragraph to the eligible agency that serves the State and has an application approved under paragraph (4).

(3) AWARD BASIS.—From amounts made available to each eligible agency under this subsection, the eligible agency shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs to consortia described in subsection (a).

(4) STATE APPLICATION.—Each eligible agency desiring assistance under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 205. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each consortium shall use amounts provided through the grant to develop and operate a tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a certificate in a specific career field;

(3) include the development of tech-prep education program curricula for both secondary and postsecondary levels that—

(A) meets academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields;

(C) uses, where appropriate and available, work-based or worksite learning in conjunction with business and industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs.

(4) include a professional development program for academic, vocational, and technical teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium;

(C) is designed to ensure that teachers stay current with the needs, expectations, and methods of business and industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) make tech-prep education opportunities known to students interested in such activities;

(B) ensure that such students successfully complete such programs;

(C) ensure that such students are placed in appropriate employment; and

(D) stay current with the needs, expectations, and methods of business and industry;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of populations described in section 114(c)(16), including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services that assist all participants in such programs.

(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such tech-prep program may—

(1) provide for the acquisition of tech-prep education program equipment;

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs;

(3) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(4) establish articulation agreements with institutions of higher education, labor organizations or businesses located outside of the State served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

SEC. 206. APPLICATIONS

(a) IN GENERAL.—Each consortium that desires to receive a grant under this title shall submit an application to the Secretary or the eligible agency, as appropriate, at such time and in such manager as the Secretary or the eligible agency, as appropriate, shall prescribe.

(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this title.

(c) APPROVAL.—The Secretary or the eligible agency, as appropriate, shall approve applications based on the potential of the activities described in the application to create an effective tech-prep education program described in section 205.

(d) SPECIAL CONSIDERATION.—The Secretary or the eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to 4-year institutions of higher education;

(2) are developed in consultation with 4-year institutions of higher education;

(3) address effectively the needs of populations described in section 114(c)(16);

(4) provide education and training in areas or skills where there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this title, the Secretary shall ensure an equitable distribution of assistance among States, and the Secretary or the eligible agency, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) NOTICE.—

(1) IN GENERAL.—In the case of grants to be awarded by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) NOTIFICATION.—The Secretary shall notify the State educational agency and the State agency for higher education of a State each time a consortium located in the State is selected to receive a grant under this title.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

SEC. 208. DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 204(a) to enable the consortia to carry out tech-prep education programs.

(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) APPLICABILITY.—The provisions of sections 204, 205, 206, and 207 shall not apply to this section, except that—

(1) the provisions of section 204(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 205(b), except that such paragraph (3)(B) shall be applied by striking ", and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields"; and

(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 206(d), except that such paragraph (1) shall be applied by striking "or the transfer of students to 4-year institutions of higher education".

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 5 succeeding fiscal years.

TITLE III—GENERAL PROVISIONS

SEC. 301. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this Act for vocational education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational education and tech-prep activities.

(b) MAINTENANCE OF EFFORT.—

(1) DETERMINATION.—No payments shall be made under this Act for any fiscal year to an eligible agency for vocational education or tech-prep activities unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of the State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(c) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 302. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) LOCAL EVALUATION.—Each eligible agency shall evaluate annually the vocational education and tech-prep activities of each local educational agency or eligible institution receiving assistance under this Act, using the performance measures established under section 102.

(b) IMPROVEMENT ACTIVITIES.—If, after reviewing the evaluation, an eligible agency determines that a local educational agency or eligible institution is not making substantial progress in achieving the purpose of this Act, the local educational agency or eligible institution, in consultation with teachers, parents, and other school staff, shall—

(1) conduct an assessment of the educational and other problems that the local educational agency or eligible institution shall address to overcome local performance problems;

(2) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

(3) conduct regular evaluations of the progress being made toward program improvement goals.

(c) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 114, or is not making substantial progress in meeting the purpose of this Act, based on the performance measures and expected levels of performance under section 102 included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(d) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than 1 year after implementing activities described in subsection (c), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant funds under this title. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services, and activities within the State to meet the purpose of this Act.

SEC. 303. NATIONAL ACTIVITIES.

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities that carry out the purpose of this Act.

SEC. 304. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

(b) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of labor organizations, business, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed and the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(c) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

(1) the effect of the vocational education programs assisted under this Act on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal, and local vocational education systems to address the purpose of this Act;

(2) expenditures at the Federal, State, tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State distribution formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the number of vocational education students and tech-prep students who meet State academic standards;

(B) the extent and success of integration of academic and vocational education for students participating in vocational education programs; and

(C) the degree to which vocational education is relevant to subsequent employment or participation in postsecondary education;

(6) employer involvement in, and satisfaction with, vocational education programs;

(7) the use and impact of educational technology and distance learning with respect to vocational education and tech-prep programs; and

(8) the effect of performance measures, and other measures of accountability, on the delivery of vocational education services.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate in the design and implementation of the assessment required under subsection (a).

(2) REPORTS.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary—

(A) an interim report regarding the assessment on or before July 1, 2001; and

(B) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(3) PROHIBITION.—Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under subsection (b) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

SEC. 305. NATIONAL RESEARCH CENTER.

(a) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary, through grants, contracts, or cooperative agreements, may establish 1 or more national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2) CONSULTATION.—The Secretary shall consult with the States prior to establishing 1 or more such centers.

(3) ELIGIBLE ENTITIES.—Entities eligible to receive funds under this section are institutions of higher education, other public or

private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

(b) Activities.—

(1) In general.—The national center or centers shall carry out such activities as the Secretary determines to be appropriate to assist State and local recipients of funds under this Act to achieve the purpose of this Act, which may include the research and evaluation activities in such areas as—

(A) the integration of vocational and academic instruction, secondary and postsecondary instruction;

(B) effective inservice and preservice teacher education that assists vocational education systems;

(C) education technology and distance learning approaches and strategies that are effective with respect to vocational education;

(D) performance measures and expected levels of performance that serve to improve vocational education programs and student achievement;

(E) effects of economic changes on the kinds of knowledge and skills required for employment or participation in postsecondary education;

(F) longitudinal studies of student achievement; and

(G) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include—

(i) serving as a repository for information on vocational and technological skills, State academic standards, and related materials; and

(ii) developing and maintaining national networks of educators who facilitate the development of vocational education systems.

(2) Report.—The center or centers conducting the activities described in paragraph (1) annually shall prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary shall submit that report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(c) Review.—The Secretary shall—

(1) consult at least annually with the national center or centers and with experts in education to ensure that the activities of the national center or center meet the needs of vocational education programs; and

(2) undertake an independent review of each award recipient under this section prior to extending an award to such recipient beyond a 5-year period.

SEC. 306. DATA SYSTEMS.

(a) In General.—The Secretary shall maintain a data system to collect information about, and report on, the condition of vocational education and on the effectiveness of State and local programs, services, and activities carried out under this Act in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational education. The Secretary annually shall report to Congress on the Secretary's analysis of performance data collected each year pursuant to this Act, including an analysis of performance data regarding the populations described in section 114(c)(16).

(b) Data System.—In maintaining the data system, the Secretary shall ensure that the data system is compatible with other Federal information systems.

(c) Assessments.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational education for a nationally representative sample of students. Such assessment may include international comparisons.

SEC. 307. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking “to be held in 1995”; and

(2) in subsection (b)—

(A) in paragraph (4), by striking “in the summer of 1995;” and inserting “; and”;

(B) in paragraph (5), by striking “in 1996 and thereafter, as well as replicate such program internationally; and” and inserting “and internationally.”; and

(C) by striking paragraph (6).

SEC. 308. DEFINITION.

In this Act, the term “gender equity”, used with respect to a program, service, or activity, means a program, service, or activity that is designed to ensure that men and women (including single parents and displaced homemakers) have access to opportunities to participate in vocational education that prepares the men and women to enter high-skill, high-wage careers.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out title I, and sections 303, 304, 305, and 306, such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

TITLE V—REPEAL

SEC. 501. REPEAL.

(a) Repeal.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is repealed.

(b) References to Carl D. Perkins Vocational and Applied Technology Education Act.—

(1) Immigration and nationality act.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking “Vocational Education Act of 1963” and inserting “Carl D. Perkins Vocational and Applied Technology Education Act of 1998”.

(2) National defense authorization act.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) Elementary and secondary education act of 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking “Carl D. Perkins Vocational and Applied Technology Education Act,” and inserting “Carl D. Perkins Vocational and Applied Technology Education Act of 1998”;

(B) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking “Carl D. Perkins Vocational and Applied Technology Education Act” and inserting “Carl D. Perkins Vocational and Applied Technology Education Act of 1998”;

(C) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(1) by striking and inserting subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(D) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking “Carl D. Perkins Vocational and Applied Technology Education Act” and inserting “Carl D. Perkins Vocational and Applied Technology Education Act of 1998”.

(4) Equity in educational land-grant status act of 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking “(20 U.S.C. 2397h(3)” and inserting “, as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998”.

(5) Improving america's schools act of 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking “the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)” and inserting “July 1, 1999”.

(6) Internal revenue code of 1986.—Section 135(c)(3)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 135(c)(3)(B)) is amended—

(A) by striking “subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act” and inserting “subparagraph (C) or (D) of section 2(3) of the Workforce Investment Partnership Act of 1998”; and

(B) by striking “any State (as defined in section 521(27) of such Act)” and inserting “any State or outlying area (as the terms ‘State’ and ‘outlying area’ are defined in section 2 of such Act)”.

(7) Appalachian regional development act of 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) (as amended by subsection (c)(5)) is further amended by striking “Carl D. Perkins Vocational Education Act” and inserting “Carl D. Perkins Vocational and Applied Technology Education Act of 1998”.

(8) Vocational education amendments of 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking “section 3 of the Carl D. Perkins Vocational Education Act” and inserting “the Carl D. Perkins Vocational and Applied Technology Education Act of 1998”.

(9) Older americans act of 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)N)(i)), by striking “or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)”; and

(B) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(i) by striking “employment and training programs” and inserting “workforce investment activities”; and

(ii) by striking “the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)” and inserting “the Carl D. Perkins Vocational and Applied Technology Education Act of 1998”.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United

States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING COST SHARING ARRANGEMENTS OF THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING, AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 140

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Attached is a report to the Congress on cost-sharing arrangements, as required by Condition (4)(A) of the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 15, 1998.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5473. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Aurora Municipal Airport Class E Airspace Area: NE" (Docket 98–ACE–13) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5474. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Le Mars Municipal Airport Class E Airspace Area: IA" (Docket 98–ACE–7) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5475. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Grand Isle, LA" (Docket 98–ASW–29) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5476. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Grand Chenier, LA" (Docket 98–ASW–26) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5477. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Venice, LA" (Docket 98–ASW–25) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5478. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Intracoastal City, LA" (Docket 98–ASW–24) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5479. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Sabine Pass, TX" (Docket 98–ASW–28) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5480. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Leeville, LA" (Docket 98–ASW–27) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5481. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding Olathe, New Century Aircenter airspace (Docket 98–ACE–5) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5482. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establish Class E Airspace; Atkinson, NE" (Docket 98–ACE–8) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5483. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of the Atlantic High Offshore Airspace Area; Correction" (Docket 97–ASO–16) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5484. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Industrie Aeronautiche e Meccaniche airplanes (Docket 97–CE–141–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5485. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Avions Mudry et Cie airplanes (Docket 97–CE–126–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5486. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Lucas Air Equipment Electric Hoists (Docket 98–SW–04–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5487. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Eurocopter France helicopters (Docket 98–SW–7–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5488. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace airplanes (Docket 97–NM–321–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5489. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace airplanes (Docket 97–NM–312–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5490. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace airplanes (Docket 98–NM–53–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5491. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Fokker airplanes (Docket 98–NM–45–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5492. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Airbus airplanes (Docket 98–NM–182–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5493. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain CASA airplanes (Docket 98–NM–97–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5494. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain AERMACCHI S.p.A airplanes (Docket 97–CE–146–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5495. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Bell Helicopter Textron Canada helicopters (Docket 98–SW–10–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5496. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Eurocopter France helicopters (Docket 98–SW–02–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5497. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Airbus airplanes (Docket 96–NM–184–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5498. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Eurocopter France helicopters (Docket 98–SW–07–AD) received on

June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5499. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Eurocopter France helicopters (Docket 98–SW–03–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5500. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Allison Engine Company engines (Docket 98–ANE–14–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5501. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain AlliedSignal Inc. engines (Docket 97–ANE–47–AD) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5502. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding a safety zone for the Peekskill Summerfest 98 Fireworks (Docket 01–98–050) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5503. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding fireworks displays within the First Coast Guard District (Docket 01–98–065) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5504. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding a fireworks display on the Patapsco River, Baltimore, MD (Docket 05–98–040) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5505. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the Newport-Bermuda Regatta, Newport, RI (Docket 01–98–045) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5506. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Anchorage Regulation; San Francisco Bay, CA" (Docket 11–97–002) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5507. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding a fireworks display at Annapolis, MD (Docket 05–98–039) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5508. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the Americas' Sail event, Savannah, GA (COTP Savannah 98–010) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5509. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "National Standards for Traffic Control Devices; Pedestrian, Bicycle, and School Warning Signs" (RIN2125–AD89) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5510. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Review of the Federal Motor Carrier Safety Regulations; Regulatory Removals and Substantive Amendments" (Docket 97–2328) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5511. A communication from the ADMPERM, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the use of the 220–222 MHz Band by the Private Land Mobile Radio Service received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5512. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revisions to Digital Flight Data Recorder Rules" (RIN2120–AF76) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5513. A communication from the Regulations Coordinator of the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Block Grant Programs: Implementation of OMB Circular A–133" (RIN0991–AA92) received on June 11, 1998; to the Committee on Labor and Human Resources.

EC–5514. A communication from the Regulations Coordinator of the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding protection and advocacy of individuals with mental illness (RIN0905–AD99) received on June 11, 1998; to the Committee on Labor and Human Resources.

EC–5515. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received on June 11, 1998; to the Committee on Labor and Human Resources.

EC–5516. A communication from the Regulations Coordinator of the Department of Health and Human Services, transmitting, pursuant to law, the report of three rules regarding Medicare collection of fees, long term care and provider agreements (RIN0938–AC88, RIN0938–AI35, RIN0938–AE61) received on June 11, 1998; to the Committee on Finance.

EC–5517. A communication from the Chair of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled "Context for a Changing Medicare Program"; to the Committee on Finance.

EC–5518. A communication from the Chief Financial Officer of the Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's annual report for fiscal year 1997; to the Committee on Governmental Affairs.

EC–5519. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5520. A communication from the CFO and Plan Administrator, Production Credit Association Retirement Committee, transmitting, the annual pension plan report for the calendar year 1997; to the Committee on Governmental Affairs.

EC–5521. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, additions and deletions to the procurement list; to the Committee on Governmental Affairs.

EC–5522. A communication from the Chief Operating Officer and President of the Resolution Funding Corporation, transmitting, pursuant to law, a report entitled "Financial Statements and Other Reports; December 31, 1997 and 1996"; to the Committee on Governmental Affairs.

EC–5523. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding the South Coast Air Quality Management District in California and Hazardous Waste Combustors (FRL6110–2, RIN2050–AE01) received on June 11, 1998; to the Committee on Environment and Public Works.

EC–5524. A communication from the General counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Community Development Work Study Program; Repayment Requirements" (RIN2528–AA08) received on June 11, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5525. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report on the cost and availability of retail banking services; to the Committee on Banking, Housing, and Urban Affairs.

EC–5526. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation entitled "The Thrift Litigation Funding Act"; to the Committee on Banking, Housing, and Urban Affairs.

EC–5527. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Medicaid and Children's Health Improvement Amendments"; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HUTCHISON (for herself, Mr. GRAMM, and Ms. MOSELEY-BRAUN):

S. Res. 248. A resolution condemning the brutal killing of Mr. James Byrd, Jr. and commending the community of Jasper, Texas, for the manner in which it has come together in response; considered and agreed to.

ADDITIONAL COSPONSORS

S. 263

At the request of Mr. McCONNELL, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 348

At the request of Mr. McCONNELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 852

At the request of Mr. LOTT, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 995

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 995, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1391

At the request of Mr. DODD, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1406

At the request of Mr. SMITH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Missouri (Mr. BOND), the Senator from Idaho (Mr. CRAIG), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1423

At the request of Mr. HAGEL, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1534

At the request of Mr. TORRICELLI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1534, a bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces.

S. 1792

At the request of Mr. MOYNIHAN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1792, a bill to reduce social security payroll taxes, and for other purposes.

S. 1885

At the request of Mr. D'AMATO, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1885, a bill to amend the Internal Revenue Code of 1986 to provide for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the names of the Senator from South Dakota (Mr. JOHNSON), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Florida (Mr. GRAHAM), and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Wisconsin (Mr. KOHL), and the Senator from Nevada (Mr. REID) were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance.

AMENDMENT NO. 2702

At the request of Mr. HARKIN his name was added as a cosponsor of amendment No. 2702 proposed to S. 1415, a bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

SENATE RESOLUTION 248—CONDEMNING THE KILLING OF MR. JAMES BYRD, JR., AND COMMENDING THE COMMUNITY OF JASPER, TX

(Mrs. HUTCHISON (for herself, Mr. GRAMM, and Ms. MOSELEY-BRAUN) submitted the following resolution; which was considered and agreed to:

S. RES. 248

SECTION 1. FINDINGS.

The Senate finds as follows:

(1) Mr. James Byrd, Jr., of Jasper, Texas, was brutally murdered on June 6, 1998.

(2) Since this heinous tragedy, the citizens of Jasper, from all segments of the community, have come together to condemn the killing and honor the memory of Mr. Byrd.

(3) The Sheriff of Jasper County, Billy Rowles, spoke for the community when he appealed that the nation not "label us because of this random, brutal act."

(4) Mr. and Mrs. James Byrd, Sr., called for "justice and peace," asking that "we . . . get this over and put this behind us."

(5) The community's response reflects the spirit that other communities across the nation have shown in the face of recent incidents of random and senseless violence.

SEC. 2. CONDEMNING THE KILLING OF JAMES BYRD, JR., AND COMMENDING THE COMMUNITY OF JASPER.

The Senate—

(1) condemns the actions which occurred in Jasper, Texas as horrific and intolerable, to be rejected by all Americans;

(2) expresses its deepest condolences to the Byrd family for their loss and the pain it caused;

(3) notes the strong religious faith of the Byrd family, under the inspired leadership of James Sr., and Stella Byrd, and the Reverend Kenneth Lyons, Pastor of the Greater New Bethel Baptist Church, that has helped the family through this most trying time;

(4) sees in the Byrd family reaction to this tragedy the inspiration for hope, peace, and justice in Jasper and throughout the United States;

(5) commends the leadership shown by Jasper County Sheriff Billy Rowles, City of Jasper Mayor R.C. Horn, and other community leaders in responding to this tragedy;

(6) urges that law enforcement officials at all appropriate levels continue with the full and fair investigation into all of the facts of the case;

(7) urges prosecutors to proceed with a fair and speedy trial to bring the perpetrators of this outrageous crime to justice.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

GORTON AMENDMENT NO. 2705

Mr. GORTON proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the end of the pending amendment, add the following:

SEC. . LIMIT ON ATTORNEYS' FEES.

(a) FEES COVERED BY THIS SECTION.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, attorneys' fees for—

(1) representation of a State, political subdivision of a state, or any other entity listed in subsection (a) of Section 1407 of this Act;

(2) representation of a plaintiff or plaintiff class in the Castano Civil Actions described in subsection (9) of Section 701 of this Act;

(3) representation of a plaintiff or plaintiff class in any "tobacco claim," as that term is defined in subsection (7) of Section 701 of this Act, that is settled or otherwise finally resolved after June 15, 1998;

(4) efforts expended that in whole or in part resulted in or created a model for programs in this Act,

shall be determined by this Section.

(b) ATTORNEYS' FEES.—

(1) JURISDICTION.—Upon petition by the attorney whose fees are covered by subsection (a), the attorneys' fees shall be determined by the last court in which the action was pending.

(2) CRITERIA.—In determining an attorney fee awarded for fees subject to this section, the court shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment or substantial settlement;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous or reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(i) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation, including—

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for the proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on the progression of relevant developments from the 1995 Williams document disclosures through the settlement negotiations and the eventual federal legislative process;

(J) Whether this Act or related changes in State laws increase the likelihood of the attorney's success;

(K) The fees paid to claimant attorneys that would be subject to this section for the provisions of subsection (3);

(L) Such other factors as justice may require.

(3) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall not apply to attorneys' fees actually remitted and received by an attorney before June 15, 1998.

(4) LIMITATION.—Notwithstanding any other provision of law, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in such action, any attorneys' fees shall not exceed a per hour rate of—

(A) $4000 for actions filed before December 31, 1994;

(B) $2000 for actions filed on or after December 31, 1994, but before April 1, 1997, or for efforts expended as described in subsection (a)(4) of this section which efforts are not covered by any other category in subsection (a);

(C) $1000 for actions filed on or after April 1, 1997, but before June 15, 1998;

(D) $500 for actions filed after June 15, 1998.

(c) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Monday, June 15, 1998, at 2 p.m. to hold a hearing in Room 226, Senate Dirksen Building, on: "S. 1166, the Federal Agency Compliance Act," and "A Review of the Judgeship Needs of the 10th Circuit."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. ERNEST TOMASI

• Mr. LEAHY. Mr. President, the real treasure of our state of Vermont is the people who make up our special state. One whom I have known all my life is Dr. Ernest Tomasi of Montpelier. It seems from the time I was a youngster, we knew the Tomasis, and partly because like Dr. Tomasi, my mother was an Italian American who knew almost every Italian American family in the area.

Dr. Tomasi was a true hero of WWII, but like so many, rarely ever spoke about what he did. In one rare instance, he was interviewed for The Times Argus, and I ask that the article be printed in the RECORD.

I also want to applaud his dedication to the people of Montpelier. Many, many of those from my hometown received medical help and, when many could not pay for it, they received it as a gift from Dr. Tomasi. He was a hero abroad, but he has also always been a hero at home.

The article follows:

[From the Times Argus, May 30, 1998]

MONTPELIER VET RECALLS HIS SERVICE

(By David W. Smith)

MONTPELIER.— Dr. Ernest Tomasi likes to tell the story of the bravest act he witnessed on the European fields of battle during World War II.

It was shortly after the invasion of the French coastline at Normandy by American troops in June of 1944, and Tomasi had been temporarily assigned to a medical unit with the 3rd Battalion, 116th Regiment of the 29th Infantry Division.

Hunkered down amongst inland hedgerows—enormous earthen barriers topped with brush and trees—Tomasi watched a young sergeant named Black gather together several soldiers who spoke German and French, and climb up on a hedgerow waving Red Cross flags.

The men were shouting in three languages that they were a medical team and were trying to bring aid to both American and German soldiers.

Apparently they were successful, and managed to bring wounded from both sides back for medical attention.

"Sgt. Black, after the war, married Shirley Temple," Tomasi laughed.

Tomasi has a lot of stories from the years he served as a surgeon with the 2nd Battalion of the 116th, his regular unit. From the time they sat foot on the deadly beaches of Normandy, all the way to Berlin, Tomasi traveled with the soldiers, offering what medical attention he could.

Tomasi recalled helping a cow give birth, and the time he delivered a human baby girl along the shores of the Elbe river while nearby the crippled city of Berlin finally caved in from the relentless attack of the Russian army.

Six years later, while working in his clinic on Barre Street in Montpelier, Tomasi received a letter from the German woman he helped, and a picture of that young girl.

"Our unit liberated the first town in Germany," Tomasi said with pride, although he couldn't recall the name of the town. "We were all sort of optimistic then."

Tomasi, who was born and raised in Montpelier, attended medical school at the University of Vermont, graduating in 1942.

After a year of internship in Waterbury, Conn., he flew through a quick four weeks of field officer's training, and was soon shipped off to England to prepare for the massive American D-Day invasion.

While in England, Lt. Tomasi trained for the assault along a beach called Slapton Sands, where many Americans got their first taste of war.

"They warned us that German torpedo boats . . . were there. We practiced there anyway," said Tomasi. "Two weeks later, the 4th Battalion practiced there and lost 200 men."

Not long afterward, Tomasi and his company crossed the English channel aboard the ocean liner Thomas Jefferson, and were soon deposited from a landing craft into the cold sea water to half-walk, half-swim into shore. The 29th was one of the first divisions of soldiers to attack the coast.

The captain of Tomasi's company was immediately wounded, and had to be sent back to the ship.

"I was the only officer there," Tomasi recalled. "We landed where we shouldn't have landed. There was a burning building so the Germans couldn't see us, so we all got in fine."

Only when he tried to describe what happened on the beach, did Tomasi run out of words, saying it was impossible to describe it to anyone who had not seen it for themselves.

"There were so many people there that were killed," he said, "It was terrible. We had to stay on the beach and take care of the people."

Tomasi remembers unique events from the war, preferring not to dwell on the horror: He slipped easily into a story of the time he was out at night riding in a jeep driven by a corporal, searching for a missing sergeant.

An American tank lurched up behind them, and a gruff voice boomed out.

"What the hell are you doing out here, don't you know this is no-man's land?"

It was the corporal who told Tomasi the man shouting was General George S. Patton, who told them to return to their unit and promised to find the sergeant himself.

Tomasi remained near Berlin until the end of the war, then returned home to Montpelier, where he set up a practice, raised a family and remained until the present. Tomasi's son, Tim, currently serves on the Montpelier City Council.

He will probably walk, Tomasi said, with members of the American Legion in the annual downtown Barre Memorial Day Parade at 11 a.m., although Memorial Day activities don't stir up any particular emotions for him.

"I just think that it's nice that people take a few minutes to remember," he said.●

SCHOOL SAFETY AND DELINQUENCY PREVENTION

● Mr. SMITH of Oregon. Mr. President, immediately following the tragedy that occurred at Thurston High School in Springfield, Oregon, Senator WYDEN and I went to the floor of the Senate to express our great sadness and outrage that a community in our state would be subject to such an act of violence. Perhaps what is equally disturbing, is the fact that Oregon is not alone. From Jonesboro to Springfield, the virus of school violence has been indiscriminate.

While we will never forget these tragic events, it is time for us to turn our grief and our anger into action. I believe it is our responsibility as legislators, governors, school officials, law enforcement, parents and students to work together to determine the sources and solutions to this complex problem.

To address this issue, Senator WYDEN and I have introduced legislation, S. 2169, to encourage states to require a holding period for any student who brings a gun to school. If states pass a law requiring the 72-hour detainment of a student who is in possession, or has been in possession, of a firearm at school, they will receive a 25 percent increase in funding for juvenile violence prevention and intervention programs.

As we have learned from recent events, students who bring guns to school are suspended temporarily because communities often lack the personnel and resources to detain them in juvenile justice settings. By providing states that pass laws requiring detainment an increase in funding for prevention programs, schools will have additional resources to address the growing severity of violence and juvenile delinquency. States may use such additional funds for prevention and intervention programs that include professional counseling and detention in local juvenile justice centers.

Mr. President, it has been said that "the foundation of every state is the education of its youth." If we do not fulfill our promise of providing a strong and safe foundation for our students, education will not be possible. I believe this legislation is an important step in building a strong foundation, and I encourage my colleagues to join Senator WYDEN and me in cosponsoring S. 2169.●

MEDICARE HOME HEALTH EQUITY ACT

● Mr. KOHL. Mr. President, I rise today to join 16 of my colleagues in cosponsoring S. 1993, the Medicare Home Health Equity Act. I want to commend my colleague from Maine, Senator COLLINS, for taking the lead on this extremely important issue. This legislation will go a long way toward ensuring that seniors in Wisconsin continue to have access to the quality home health services they need, and that home health providers in low-cost States like Wisconsin receive fair and equitable reimbursement for the valuable services they provide.

Mr. President, I have long supported efforts to expand access to home health care. This important long-term care option allows people to stay in their homes longer, where they are often most comfortable, while they receive the skilled medical care they need. Home care empowers people to continue to live independently among their families and friends. It is of added value that in many cases, home care is also more cost-effective than institutional-based care. For those seniors whose medical needs can be met with home-based care in a cost-effective way, we should do everything we can to make sure that they have the choice to continue to stay in their homes and received care through the Medicare home health benefit.

I realize that the Medicare changes Congress made last year in the Balanced Budget Act were necessary in order to help prevent Medicare from going bankrupt. Home health is the fastest growing component of Medicare and it was imperative that we bring costs under control. However, I am deeply concerned that the Interim Payment System created in the BBA will inadvertently penalize those States, like Wisconsin, that have historically done a good job in keeping costs low.

The IPS established in the BBA is based on a technical formula which pays home health agencies the lowest of three measures: (1) actual costs; (2) a per visit limit of 105% of the national median; or (3) a per beneficiary annual limit, derived from a blend of 75% of an agency's costs and 25% regional costs.

Without going into the details of this complicated formula, this in effect means that agencies that have done a good job keeping costs and utilization low will be penalized under the IPS. At the same time, those agencies that provided the most visits and spent the most per patient will be rewarded by continuing to receive higher reimbursement levels that the agencies that were more efficient. Although the IPS would reduce reimbursement for everyone, Wisconsin agencies have already been successful in keeping costs low, and there is no fat to trim from their reimbursement.

The proposed IPS would be devastating for home care in Wisconsin and would likely drive many good providers from the Medicare program. Already, I have heard from Wisconsin agencies who have had to let staff go, limit new patients, and who honestly don't know how they will be able to afford to operate under the IPS. This will severely hurt Wisconsin's seniors, many of whom will now have to enter nursing facilities because far fewer home health services will be available for them.

Mr. President, this was not my intention when I voted for the Balanced Budget Act last year, and I believe that we must now work to make the IPS more equitable for seniors and providers. The Medicare Home Health Equity Act will accomplish this by changing the formula on which IPS is based. The new formula would be based 75 percent on the national average cost per patient in calendar year 1994 ($3,987) and 25 percent on the regional average cost per patient in calendar year 1995. This change would bring more equity between States and would ensure that low cost States like Wisconsin are not penalized for being efficient. Most importantly, this change will ensure that seniors in Wisconsin continue to have access to the quality home health care services they need and deserve.

Mr. President, I understand that several more of my colleagues are also working on legislation that would bring greater equity to the Interim Payment System. I am cosponsoring this legislation not only because it is good for Wisconsin and other low cost States, but also because it is my hope that by bringing attention to this issue, we can all work together to find a fair solution for all States. I look forward to working with my colleagues on this important issue during the remaining months of the 105th Congress.•

RECOGNITION OF CHERYL POEPPING

• Mr. GRAMS. Mr. President, on behalf of all Minnesotans, I would like to congratulate Cheryl Poepping from Cold Spring, Minnesota. Cheryl was recently named the Minnesota state winner in the Citizens Flag Alliance Essay Contest. The topic of her award winning essay is "The American Flag Protection Amendment: A Right of the People . . . the Right Thing to Do."

I am submitting Cheryl's winning essay and ask that it be printed in the RECORD. I agree whole-heartedly with her endorsement of the flag protecting amendment and appreciate the words she chose to convey her message. Cheryl is an outstanding young American, and I am proud to count her among my constituents. Again, I offer my sincere congratulations.

The essay follows:

THE AMERICAN FLAG PROTECTION AMENDMENT: A RIGHT OF THE PEOPLE . . . THE RIGHT THING TO DO

(By Cheryl Poepping)

Maj. Gen. Patrick Brady was quoted as saying, "Neither the ACLU nor the media gave us free speech—our veterans did." For over 200 hundred years Americans had the right to protect the flag but in the cases of Texas v. Johnson in 1989 and U.S. v. Eichman in 1990 the court ended this power and stated that it was a "First Amendment right of citizens to burn flags in protest." (Goldstein 85). This allowance undermines the very thing that veterans strove for, freedom. Which is why H.J. Res. 54 was introduced by Gerald Solamon. This resolution is a constitutional amendment proposed to prohibit the desecration of the flag (Packard http.). To many the flag is not just a symbol but rather representation for all the men who died defending and supporting this country. By allowing this to continue we not only undermine 200 years of history but we also destroy patriotism and respect for the country and our veterans.

The flag is a symbol of patriotism. Sown not only for those living but those who have sacrificed to make this country what it is. The flag is "a beacon of democracy and hope in a world plagued by turmoil and depression (Packard http)." The flag allows people to believe in the country and promotes a level of respect for everything the country stands for. Without patriotism the values of the country will decline. Many feel the greatest tragedy in flag burning is the mutilation of the values it embodies and the disrespect to those who have sacrificed for those values (Brady http). This amendment understands that when someone desecrates the flag, such acts are perceived as attacks on patriotic self sacrifice (Presser http).

If you went to Arlington Cemetery how many men do you think died defending a cause as noble as democracy? The answer is obvious, all of them. They did not die to protect themselves or even the ones they loved, but to protect all future generations and to ensure what this country is based on freedom. These veterans deserve the honor that defending the flag has given them. To these veterans we will be saying with the passage of the flag protection amendment that we will honor them through not allowing the desecration of the symbol they united in defense to protect. Protection of the flag comes directly from the citizens where 80% support the amendment (Presser http) stating that we as citizens feel that "You—the United States—have done a whole lot for us, and therefore we are going to do this for you, we are going to protect you against public indignity. (National Review 75)." Maj. General Patrick Brady stated that, "I hope they (the voters) will have the compassion to defer to those great blood donors to our freedom, those men and women we honor on Veterans Day, many whose final earthy embrace was in the folds of Old Glory." This quote emphasizes the importance of this symbol to our veterans and our country, displaying the need for its protection.

Many oppose the constitutional amendment saying for the first time in history they are limiting the freedoms of Americans. This is not true. It is not a dagger struck out at the first amendment, but rather an indication that popular sovereignty is vital and active in this country. This question demonstrates the struggle over what kind of country we want to be (Presser http). The First Amendment has come to protect many ideals that when it was written it has no intention of protecting. The proposed amendment would merely clarify that the First Amendment never presupposed citizens the right to desecrate the flag (National Review 76). Flag burning is not speech. It is an act that has no association with the first amendment or what it preserves (Brady http). In fact in the 1880's the initial flag protection acts were institutionalized and later in 1984 extended laws were enacted to safeguard our flag from intentional public desecration (Packard http). Let it be understood that such champions of liberty such as Earl Warren and Hugo Black expressed their opinions that flag desecration was not protected under the First Amendment (Presser http).

Flag desecration is an act that does not represent anything wholesome or respectable about our country. We as citizens of this country now have the opportunity to amend this injustice done to us by the passage of The American Flag Protection Amendment. All responsible citizens should voice the opinion that flag desecration goes against the ideas the United States was conceived to uphold. The First Amendment was never designed to allow these grossly offensive acts to occur. This amendment would uphold the honor bestowed on those that fought for this country. It would allow the loved ones of those who died to know that this country is noble and worth sacrificing their life for. As Stephen B. Presser stated "Disrespect, division, an disunity are not characteristic of a lovable people." With the passage of this amendment we will prove not only to ourselves but also to the world that the United States does not exemplify any of these negative characteristics.

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IN RECOGNITION OF THE 40TH ANNIVERSARY OF THE CITY OF ROSEVILLE

• Mr. LEVIN. Mr. President, I rise today to recognize the City of Roseville, Michigan, which is celebrating its 40th birthday on June 20, 1998. Residents of Roseville are justifiably proud of their community's growth throughout the last 40 years.

People have lived in the area known today as Roseville since before Michigan became a state in 1837. In its early years, Roseville was an agricultural area and its people were predominately farmers. In 1836, William Rose was appointed postmaster in the area and he established a permanent office in 1840, which he named the Roseville Post Office in honor of his father, who was a hero of the War of 1812. Thus the area received its name, though Roseville was not officially incorporated as a village until 1926.

From its humble beginnings, Roseville has grown into an increasingly attractive place to live for people moving to the Detroit area. While it had previously been considered a small suburb of Detroit, in the 1950s Roseville's population increased dramatically. In 1950, the population of the village of Roseville was 15,816. By 1960, more than 50,000 people called Roseville home. In 1958, Roseville was incorporated as a city and Arthur Waterman was elected as its first mayor.

In conjunction with a fireworks display, entertainment, and other birthday festivities on June 20, Roseville officials will dedicate a new addition to the city's library, demonstrating that even as they commemorate the past, the people of the City of Roseville are committing themselves to the needs of the future.

Mr. President, I invite my colleagues to join me in offering congratulations and best wishes to the residents of Roseville, Michigan, on this important occasion.•

ST. GEORGE ANTIOCHIAN ORTHODOX CHURCH GRAND BANQUET

• Mr. ABRAHAM. Mr. President, I rise today to recognize an important event in the State of Michigan. St. George Antiochan Orthodox Church will be holding its Grand Banquet on Saturday, June 20, 1998, at the Troy Marriott Hotel.

This event promises to be the high point of the 1998 Midwest Regional Parish Life Conference, hosted by St. George Church, June 17–21. It will be presided over by Metropolitan Philip Saliba, the Hierarch of the Antiochian Orthodox Christian Archdiocese of North America. I want to extend my warmest wishes to everyone at St. George Antiochian Church. The banquet, as well as the 1998 Midwest Regional Parish Life Conference will undoubtedly be very successful.•

HARRISON LIM, EXECUTIVE DIRECTOR, CHARITY CULTURAL SERVICES CENTER

• Mrs. BOXER. Mr. President, today, I would like to call to the attention of the Senate and the Nation the exceptional work of Mr. Harrison Lim, founder and executive director of Charity Cultural Services Center in the San Francisco Bay Area.

Harrison Lim immigrated to the United States in 1970. He established the original Charity Cultural Services Center (CCSC) in San Francisco in 1983 and opened a second, San Jose based CCSC in 1991. Drawing from his own experiences and challenges as a newly arrived immigrant, Mr. Lim created CCSC to help speed and ease the transition of newcomers to life in America.

CCSC is the embodiment of Harrison Lim's belief in the importance of community and self-sufficiency. Among the many services CCSC provides are English language instruction, job skills training, counseling and placement, and juvenile outreach. These programs are working. The Center's Employment Training and Placement Program, which trains chefs, bartenders and waiters, boasts a placement rate of over 90 percent. The Center's Families in Transition Program is out in the community every day addressing the needs of at-risk young people through such things as academic tutoring, counseling, volunteer opportunities, self esteem and confidence building, recreational activities and parental involvement.

Mr. Lim's personal story is one of determination, dedication and triumph. He and his wife and three children left Hong Kong to care for Harrison's ailing mother and begin a new life in California. Although he was a respected teacher and journalist in his native land, he ran into many obstacles upon his arrival to America. He had difficulty with the language and was forced to accept jobs well below his skill and education levels. Tragically, he also encountered people and businesses unwilling to give him a chance to succeed simply because he was new to this country.

But Harrison Lim persevered and has not only succeeded, he has prospered. Appropriately, this prosperity cannot be measured in dollars and cents. To be truly understood, it must be seen in the light of the many thousands of lives he and his Charity Cultural Services Center have made richer over the years.

Twenty-eight years ago Harrison Lim travelled to a country renowned for freedom and opportunity. By pursuing a life and career true to his own values and those of his adopted country, Harrison Lim has made the American Dream a reality for his family and for countless others. He has my utmost respect and admiration.•

TRIBUTE TO MAJOR GENERAL (RETIRED) JAMES C. PENNINGTON

• Mr. CLELAND. Mr. President, I would like to acknowledge a great American, a wonderful patriot and fellow Georgian, Major General James C. Pennington, United States Army, Retired, and President of the National Association for Uniformed Services. General Pennington died June 5th at Barksdale Air Force Base, Louisiana, where he had a speaking engagement addressing the veterans and military health care systems.

General Pennington was born in Rocky Ford, Georgia, and spent most of his life soldiering—first in the military and then in a military association. Entering the armed forces during World War II, he worked his way up through the ranks from private to major general. During his distinguished 37-year military career, he always made taking care of the troops his top priority. He was very proud to defend this great Nation.

General Pennington's fight for soldiers did not cease with his retirement from the military. In fact, it just allowed him to expand the effort on behalf of the National Association for Uniformed Services. He passionately and tirelessly pursued benefits for veterans and the health care promises made to military retirees.

Shortly after I was elected to the United States Senate, General Pennington came to my office to enlist my support on this critical health care issue. This past year, I made military health care my number one legislative priority. In the National Defense Authorization Bill for Fiscal Year 1999, I cosponsored a military health care initiative which seeks to improve the quality and accessibility of health care for our veterans and military retirees. It is because of men like General Pennington that this issue has been brought to the forefront of our attention as legislators. All veterans owe a debt of gratitude to him.

General Pennington's life is testimony to the fact that we still have American heroes. Let us remember him and continue his crusade in fulfilling our commitment to our soldiers.•

HONORING THE OAK LAWN ELEMENTARY SCHOOL

• Mr. REED. Mr. President, I rise today to honor the extraordinary work of nine fifth graders and their teacher from the Oak Lawn Elementary School in Cranston, Rhode Island. On Friday, June 5, these students became the first civilians in the 223-year history of the U.S. Navy to name a naval ship.

In February, the Navy challenged America's school children to name its newest oceanographic survey vessel. Out of 1,600 submissions, the Navy ultimately chose the name proposed by these young Oak Lawn students: the USNS *Bruce C. Heezen*.

Bruce C. Heezen was a pioneer in oceanographic research. During his career, Heezen identified the rift at the center of the Mid-Atlantic Ridge, discovered ocean turbidity currents and formulated theories about ocean crust formation. He dedicated his life to exploring the world's oceans, providing future oceanographers with an invaluable knowledge base upon which to build. Heezen died in 1977 while aboard the Navy's nuclear research submersible enroute to further study the Mid-Atlantic Ridge.

These fifth graders dedicated tremendous time and energy to this project. Not only did they learn about oceanography, but they also shared their new knowledge with their fellow students at Oak Lawn Elementary. Now, with the naming of this new vessel, the USNS *Bruce C. Heezen*, the work of these outstanding young scholars will enlighten all those who look upon this great ship. I commend Amanda Baillargeon, James Coogan, Meagan Durigan, Stephen Fish, Patricia Gumbley, John Lucier, Sara Piccirilli, Dana Scott, Rebecca Webber. I also want to recognize their teacher, Ms. Marilyn Remick, who has been expanding the minds of students for 28 years.

The USNS *Bruce C. Heezen* is a fine and fitting name for the Navy's newest oceanographic survey vessel. Rhode Islanders and all Americans should be proud that students like those at Oak Lawn Elementary are keeping Heezen's memory alive to inspire future oceanographers. I hope the fifth graders of Oak Lawn Elementary will inspire others in search for knowledge.●

TRIBUTE TO GERALD H. LIPKIN

● Mr. LAUTENBERG. Mr. President, today I want to pay tribute to a good friend and exceptional leader in the business community, Gerald H. Lipkin, as he is honored with B'nai B'rith International's Corporate Achievement Award.

B'nai B'rith, one of the oldest Jewish organizations in our nation, has long recognized model citizens for their contributions in the areas of business, politics, philanthropy and the arts. By conferring this prestigious award for Corporate Achievement on Gerry Lipkin, B'nai B'rith is recognizing his contributions to his community, his business savvy and generosity.

Gerry, like me, came from humble beginnings, he from Passaic and I from Paterson. But we both made our way in the world of business. From a young age, Gerry knew what his passion was as he worked his way through school, earning an undergraduate degree in economics at Rutgers University as well as a master's in business administration at New York University.

His business acumen is exemplified by his success at Valley National Bank, a leading financial institution with 97 branches in Northern New Jersey. Gerry began his career there in 1975 as Senior Vice President, and steadily rose to hold the joint positions of Chairman, President and CEO. Valley National has been nominated by U.S. Banker's magazine as the second most efficient bank and eighth overall best performing banking company out of America's 100 largest.

Beyond his business accomplishments, Gerry's philanthropic contributions to New Jersey and to causes across the globe are widely acknowledged, as is his keen sense of humor!

Gerry has been a staunch supporter of an organization close to my heart. For 15 years he has been involved with the Lautenberg Center in Jerusalem, Israel, serving as a board member and supporting its work on cancer and immunology research. I founded the Lautenberg Center at Hebrew University-Hadassah Medical Center in 1968. And twenty years later, Gerry was honored with the "Torch of Learning Award" in 1988 for all that he has contributed.

Gerry's volunteerism does not end there. He is also a trustee of the Beth Israel Hospital in Passaic, where he has served for 21 years, and sits on the board of trustees of Daughters of Israel Geriatric Center. Gerry is on the nominating committee of the Federal Reserve Bank of New York and the Foundation Board of William Paterson College, which honored him with its Legacy Award in 1994.

Mr. President, Gerry and I also both share a love of trains. Gerry's are miniatures, while I have an affinity for larger ones. At this point, I think Gerry has more trains than Amtrak, so maybe I should take transportation pointers from him in the future.

I couldn't be happier to extend my congratulations to Gerry, and his wife Linda, for receiving this great honor. And I want to thank B'nai B'rith for recognizing Gerry's professional success and his exemplary service to New Jersey.●

THE CASE OF BONG KOO CHO

● Mr. SARBANES. Mr. President, I would like to bring to the attention of my colleagues the case of Mr. Bong Koo Cho, whose property was confiscated by the Government of Korea in 1984. His daughter, my constituent, Sally Cho, is a U.S. citizen and resident of Maryland who has been actively involved in the effort to recover property. Recently, the Los Angeles Times published an article about the case which details the plight of Mr. Cho and his family, and I would ask that the full text of the article be printed in the RECORD.

The article follows:

[From The Los Angeles Times, Sunday, Mar. 1, 1998]

FROM AFAR, A ONETIME MAGNATE SEEKS REDRESS

(By Henry Chu)

Lawsuit: In a case filed in L.A. County, a S. Korean industrialist claims the Seoul government and a rival firm conspired to take his business.

From the window of his small Westside apartment, Bong Koo Cho can gaze out at the ocean, but only in his mind's eye can he look across to the life and land he left more than a decade ago.

Then, Cho was one of South Korea's wealthiest businessmen, the owner of Samho, one of the nation's biggest conglomerates, and the head of a sprawling estate in the heart of Seoul. Chauffeurs drove him around. Maids waited on his wife.

But in 1984, his world was overturned. The government abruptly declared Samho insolvent and confiscated the entire construction empire, seized the family burial plot for good measure, and handed his business to a rival firm. Already in the U.S. for medical reasons, Cho had no choice but to stay, reduced in health and lifestyle.

Now, the former entrepreneur and his family have sued to recover their money and property, alleging that a conspiracy between the South Korean government and their rival company drove them out of business. In exchange for huge kickbacks, the Chos say, South Korea's leaders concocted the bankruptcy charge against Samho, then divided the spoils—nearly $2 billion worth in current value—among their friends.

The case is unusual in that the Chos are seeking redress in Los Angeles County Superior Court even though the actions in question took place 6,000 miles away.

But more than that, the lawsuit provides a unique rearview-mirror look at the kinds of economic practices that first turned South Korea into an economic power, and have now led to its humiliating downfall.

Cho's was one of the numerous companies confiscated during the South Korean government's "rationalization" of industry in the early 1980s. As told by the Cho family, the episode exemplified the history of collusion between South Korea's government and business leaders, whose cozy relationship means that political influence, nepotism and plain old graft enrich the well-connected at the expense of a totally free and open market. The International Monetary Fund, which is now bailing out the nation's economy, has demanded an end to such practices.

Critics call the system "crony capitalism." Cho calls it something else.

"This was highway robbery," said Cho, now 78. "And it was a very simple thing: The government just wanted a kickbacks"—which Cho said he refused to pay.

What will not be so simple, legal experts say, is proving his case, given that 14 years have elapsed since Samho was swallowed up by a company called Daelim Industrial. Added to that is the difficulty the Cho family may have in arguing that a California court, rather than a South Korean or even U.S. federal court, is the proper forum for them to air their grievances.

"It's certainly an odd and difficult case for a California state court to hear," says Greyson Bryan, an international business lawyer in Los Angeles. "It's a very sensitive matter for an American court to become involved in an area that's essentially diplomatic and political in nature."

But Phil Trimble, a UCLA professor of international law, said there is precedent for plaintiffs to seek justice in the U.S. for illegal actions taken in foreign countries, particularly if the actions violate international law. For example, South American nationals have successfully sued their government in U.S. courts for human rights abuses, such as torture.

But those lawsuits filed in federal court and directed against the foreign governments themselves rather than private parties, as is the case in the Chos' lawsuit, which names as defendants the two companies involved in Samho's transfer.

The Chos' attorney, John Taylor of Santa Monica, counters that the Chos are now U.S. citizens who are entitled to relief within the state judicial system. According to Taylor, the defendant companies used their ill-gotten gains to expand overseas, including in California, which gives the state a stake in ensuring that the companies doing business here were established legally and that residents like the Chos are compensated for any past wrongs.

"We feel jurisdictionally the money's here, [and] the Chos are in the United States," Taylor said. The lawsuit has yet to be assigned to a judge or served on defendants, pending its translation into Korean.

At the time of its 1984 takeover, Samho ranked No. 9 on the list of South Korea's biggest chaebols, or conglomerates. Specializing in construction and infrastructure, the company built thousands of housing units in Seoul; helped install the city's subway; owned golf courses and a resort hotel; and had major contracts in the Middle East.

Its success represented the rags-to-riches rise of its founder, Cho, the son of minor landlords who fell on hard times when he was a child. After running his first business at age 19, Cho scraped through World War II—he hid in a Buddist monastery to escape the Japanese imperial army draft—then expanded his textile business, set up South Korea's first sheet-glass factory and bet on a land boom by slowly acquiring more than 1,000 undeveloped acres in downtown Seoul by 1960.

"I could've bought more, but something like that would have raised eyebrows," he said. "I was raising eyebrows as it was. That's a pretty massive holding."

In 1970, Cho launched into construction on his many properties in South Korea, amassing a fortune in real estate. In 1975, he founded Samho, which concentrated on lucrative government-ordered housing projects in Kuwait and Saudi Arabia worth more than $1.5 billion.

But squabbles with the Kuwaiti and Saudi governments and the headaches of working in an alien environment turned the first two projects into losing ventures, said Yong See (Peter) Cho, who took over Samho in the early '80s while his father sought treatment abroad after a series of strokes. Debts mounted to about $350 million on the Middle Eastern contracts, although Samho was confident that its latest project in Saudi Arabia would soon be turning in a tidy profit.

That set the stage, however, for the South Korean government's bankruptcy charge against Samho.

On the morning of Aug. 24, 1984, according to the Chos' lawsuit, the South Korean finance minister summoned Peter Cho to his office. The minister, Kim Mahn Je, curtly informed Cho that Samho was on the list of insolvent companies being targeted for "rationalization" by the government, part of an effort to shed financially troubled concerns and shore up the economy. Samho was to be taken over by Daelim Industrial, a smaller conglomerate.

When Cho protested, Kim advised him to stay silent. An officer with Cho Hung Bank, which worked out the details of the takeover, also warned Cho not to contest the decision or his physical safety would be threatened, the lawsuit alleges.

By day's end, Peter Cho has signed over his family's controlling share of Samho.

"I'd been brought up in this country's system, so I knew not to argue," the younger Cho recalled in an interview, smiling bitterly at the memory. The next day, "the 15 executives of Daelim came into my headquarters office to take over, like little Napoleons, in their suits and black neckties."

Samho's assets included "country clubs, farms, orchards, driving ranges, shopping, centers, apartment [and] residences," valued by the bank at a total of $250 million but worth at least three times that, the lawsuit claims.

Even the family burial plot was seized, forcing them to exhume the body of a son who had died years earlier and bury him elsewhere. "We were left with just about nothing," said Kyung Ja Cho, 73, Bong Koo Cho's wife.

Her husband insists that his personal holdings could have more than paid off the debts from the Middle Eastern projects.

Instead, he said, the bankruptcy charge was merely a ploy to oust him for his refusal to make large donations to then-President Chum Do Hwan, and reward another company, Daelim, whose chairman had a brother high up in the South Korean government. The Chos' lawsuit alleges that Daelim agreed to pay bribes to Chun's government and his family in exchange for being given Samho.

A spokesman for Daelim in Seoul would not comment directly on the allegations.

"It was such a long time ago," the spokesman said. "Few people in the company know about the alleged takeover, and we do not have any official position on the issue."

Skeptics point out that Samho itself has flourished, in part through government contracts, at a time when the South Korean government regularly colluded the business to push the tiny nation to its remarkable economic recovery since World War II.

Ultimately, such government-business complicity and cavalier lending practices helped pitch South Korea into its current economic quagmire, requiring a bailout from the International Monetary Fund. As a condition of assistance, the IMF has demanded an end to crony capitalism and easy credit.

Cho bristles at suggestions that he ever participated in palm-greasing and cronyism.

"We never benefited from any relationship with the government. We've been completely victimized by it," he said, adding that other companies like Daelim have been the ones proven corrupt.

Indeed, Lee June Yong, who has been the head of Daelim throughout this period and whose brother was speaker of the South Korean parliament under President Chun, was found guilty in 1996 of paying a bribe to Chun's successor, Roh Tae Woo. Lee was sentenced to 2½ years in prison but received a pardon.

Daelim, meanwhile, has expanded significantly since swallowing up Samho in 1984. Once a minor player, it is now South Korea's 17th-largest chaebol, with a subsidiary in Houston that just closed its doors in January because of the escalating Asian financial crisis.

Also named as defendant in the Cho family's lawsuit is Cho Hung Bank, which facilitated the takeover of Samho. The bank has also gained a foothold in the U.S., setting up California Cho Hung Bank, based in Los Angeles and worth about $31 million, according to Dun & Bradstreet. The U.S. unit is also a defendant.

"It's groundless," California Cho Hung's attorney, Simon Hung, said of the lawsuit. "The allegations . . . seem to be based on events that occurred many years ago, long before California Cho Hung Bank was established here in the United States. I don't know why they're bringing a lawsuit at this time here in the United States."

In fact, South Korea's own judicial system has already heard a case similar to Samho's—and ruled in favor of the confiscated company. In 1993, the nation's Constitutional Court ruled that the Chun government had illegally dissolved the Kukje conglomerate on trumped-up charges of insolvency in 1985. Kukje's previous owners are now demanding compensation.

But the Cho family feels that the best chance for recovering what was once theirs now lies in the U.S. Bong Koo Cho and his wife have nursed such hope for years as they shuttled from home to home on the Westside, finally settling in their current Brentwood apartment after giving up a condominium in Santa Monica that they could no longer afford.

The Chos maintain their simply furnished one-bedroom apartment with some financial help from their six adult children, who all reside in the U.S. With their savings dwindling, they have applied for low-income assisted housing—a far cry from the days when the two presided over their 15,000-square-foot antique-filled home back in Seoul.

Most of the last two decades have been spent trying to restore Cho's health. His strokes left him partially paralyzed, forcing him to walk with a cane.

"I cannot describe the pain of watching the man who built Seoul's subway living out his last years in a small apartment in Los Angeles," Sally Cho Seabright wrote about her father in an essay to be published in a South Korean magazine. "When I think of what my poor parents, indeed my whole family, have suffered, it makes me cry."

For Peter Cho, 47, watching Daelim and Cho Hung Bank prosper in the U.S. has been especially galling. "They brought their money to this country and expanded their business here. Obviously they must have brought my money in here."

He now lives in Pacific Palisades and stays afloat by managing his father's sole source of income: a couple hundred acres of farmland in Kern County, purchased a few years before Samho's takeover in hopes that the area was ripe for development.

"That's the only business mistake my father's made," said Seabright, who lives in Maryland. Seabright has spearheaded the family's efforts to tell its story, enlisting the aid of a public relations firm in Washington and rounding supportive letters from politicians such as U.S. Sen. Dianne Feinstein (D-Calif.).

Her father, who hasn't returned to his homeland since Samho was seized, mostly reads and watches CNN, monitoring events in South Korea such as the inauguration Wednesday of the country's latest president, former opposition leader Kim Dae Jung. Jung has pledged to democratize the country further, an announcement Cho greets with caution.

"I don't believe it's entirely desirable for Korea to copy Western democracy and Western capitalism," Cho said. "We have different cultures. Democracy as it's practiced in Korea will be different."

But some form of democracy—including a free and open business culture—must come, Cho said, if only to prevent another situation similar to his.

"Something like this can never take place in a truly democratic country," Cho said.●

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

Mr. GORTON Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House to accompany H.R. 629.

The PRESIDING OFFICER (Mr. FRIST) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 629) entitled "An Act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ms. SNOWE. Mr. President, I rise today in strong support of H.R. 629, the Texas Compact Consent Act of 1997, as originally ratified by the three states of Maine, Vermont, and Texas to address the disposal of their low-level radioactive nuclear waste.

The States of Maine, Vermont and Texas are now approaching the end of a long journey that started in 1980, when Congress told the states to form compacts to solve their low-level waste disposal problems.

When this Compact is adopted as ratified by the three states, Mr. President, Texas, Maine and Vermont will become the forty-second, forty-third and forty-fourth states to be given Congressional approval for forming a compact and will meet their responsibilities for the disposal of their low-level waste from universities, from hospital and medical centers, and from power plants and shipyards.

It is very important for my colleagues to know that the language ratified by each state is exactly the same language, and if any amendments are included by the conferees, the Compact would have to be once again returned to each state for reratification.

For the nine compacts that have been consented to by the United States Congress, not one of them has been amended by Congress. Not one of them.

Let me be clear: the law never intended for Congress to determine who pays what, how the storage is allocated, and where the site is located. To the contrary: the intent of the law is for states to develop and approve these details, and for Congress to ratify the plan.

The Compact before us does not discuss any particular site for the disposal facility, but only says that Texas must develop a facility in a timely manner, consistent with all applicable state and federal environmental, health, and public safety laws. It is the decision of Texas as to where the facility will be sited and is not within the purview of the U.S. Senate to decide for them.

Further, absent the protection of the Compact, Texas must, I repeat must, open their borders to any other state for waste disposal or they will be in violation of the Interstate Commerce Clause of the U.S. Constitution. The Compact gives Texas the protection that oversight commissioners, mostly appointed by the elected Governor of Texas but also with a say from Maine and Vermont, will decide what is best for Texas.

As we send the Texas Compact to a Senate-House conference, I ask my colleagues to keep in mind that all that is required is the prompt approval of Congress for the Compact as originally ratified by Maine, Vermont, and Texas so that the Texas Compact members will be able to exercise appropriate control over their low level nuclear waste as Congress mandated.

I thank the Chair and look forward to my colleagues continued support of the Texas Compact as ratified by the States when it returns from conference.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate insist on its amendment and agree to the request of the House for a conference; that the Chair be authorized to appoint conferees on the part of the Senate; that upon appointment of the Senate conferees, a motion to instruct the conferees be agreed to which provides that the Senate conferees be instructed to include the Wellstone amendments in any conference agreement; and that once this consent is granted, together with other consent items I will go into later, Senator WELLSTONE be recognized to speak for up to 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. FRIST) appointed Mr. THURMOND, Mr. HATCH and Mr. LEAHY conferees on the part of the Senate.

EXPRESSING SENSE OF CONGRESS THAT STATES SHOULD WORK MORE AGGRESSIVELY ATTACKING THE PROBLEM OF VIOLENT CRIMES

Mr. GORTON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Concurrent Resolution 75 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 75) expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences.

The Senate proceeded to consider the concurrent resolution.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 75) was agreed to.

The preamble was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 502, 580 and 623. I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

UNITED STATES ENRICHMENT CORPORATION

Margaret Hornbeck Greene, of Kentucky, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2003.

DEPARTMENT OF JUSTICE

James K. Robinson, of Michigan, to be an Assistant Attorney General.

THE JUDICIARY

Robert D. Sack, of New York, to be United States Circuit Judge for the Second Circuit.

NOMINATION OF JAMES K. ROBINSON

Mr. HATCH. Mr. President, on August 31, 1995, some 1019 days ago, the head of the Department of Justice's Criminal Division, Assistant Attorney General Jo Ann Harris, resigned. Since that time, the Department of Justice has lacked a confirmed leader for this critical post. Indeed, the Acting Assistant Attorney General has had to recuse himself from one of the most important matters to come before the Department: the Clinton Administration's fund-raising abuses. The failure of the Clinton Administration to fill this crucial position has had, in my mind, a serious impact both on the performance of the Criminal Division and the credibility of its decisions. Over two and a half years later, I am glad to support the nomination of James K. Robinson to be Assistant Attorney General for the Criminal Division. This nomination was reported out of the Judiciary Committee in April by a unanimous vote, and I believe should receive the support of all Senators.

The Criminal Division represents the front line of the federal government's commitment to fight crime. We rely on the Criminal Division to enforce over 900 federal statutes and to develop enforcement policies to be implemented by the 94 U.S. Attorneys around the country. Within the division are sections that carry out national responsibilities crucial to protecting our citizens and property, including: Asset Forfeiture/Money Laundering, Child Exploitation and Obscenity, Fraud, Computer Crime and Intellectual Property, Narcotics and Dangerous Drugs, Organized Crime and Racketeering, Public Integrity, Terrorism and Violent Crime, and the Organized Crime Drug Enforcement Task Force. The importance of each of these sections cannot be overstated.

I believe that this nominee is up to this demanding task. James Robinson has compiled an impressive record of achievement. Following graduation from Wayne State University Law School, he clerked on the Michigan Supreme Court and then for Judge George Edwards of the United States Court of Appeals for the Sixth Circuit. He served with distinction as United States Attorney for the Eastern District of Michigan during the Carter Administration. Both before and after his service as U.S. Attorney, Mr. Robinson was a member of the Detroit law firm of Honigman Miller Schwartz & Cohn, first as an associate and then as a partner. Since 1993, he has been Dean and Professor of Law at his alma mater, Wayne State University Law School. Finally, Mr. Robinson has served on and often chaired numerous bar and civic associations, many of which related to his expertise in the law of evidence. He will need all of this experience and more to fulfill such a demanding position.

One of the most important duties assigned the head of the Criminal Division is to advise the Attorney General on the appointment of independent counsels. In my mind, Attorney General Reno was very poorly served by the Criminal Division over the past year while considering whether to appoint an independent counsel related to the fund raising efforts made by the President and Vice President in conjunction with the 1996 elections. While I was pleased to see the Department secure the indictments of Johnny Chung and Charlie Trie, I believe both the Division and the Attorney General misapplied the independent counsel statute by taking into consideration factors which the law does not allow. There are many both inside and outside Congress, including this Senator, who believe that the statute has many flaws, but so long as the law is on the books it must be applied fairly and consistently. This Department of Justice has not done so, and I place a large part of the blame on the Criminal Division.

Congress has responded to the unacceptable levels of crime by increasing the Department of Justice's budget: in fact, the Department's budget has skyrocketed since 1994, rising from under 11 billion dollars in FY 1994 to over 20 billion dollars in FY 1998. However, I am concerned about the decline in federal prosecutions in several critical areas despite this increased funding. First, at a time when the administration is calling for more gun control, I am concerned that the Department of Justice is not adequately enforcing current gun laws. The annual number of weapons and firearms prosecutions brought by this Administration has plummeted. For example, federal weapons and firearms prosecutions are down 18.7 % since 1992.

More importantly, I am concerned that the Department of Justice is not enforcing current laws meant to punish gun-toting criminals. Specifically, the number of prosecutions made under Project Triggerlock has collapsed. Initiated by the Bush Administration, Project Triggerlock targets federal prosecution and tough federal sentences on the worst violent offenders committing crimes with guns. In its first year, FY 1992, the program worked remarkably well: 4,353 federal cases were brought against 7,048 defendants for violations of federal law involving the use of a firearm. Yet, the number of these cases has fallen throughout the Clinton Administration, and in FY 1997 the Department of Justice reported only 2,844 cases under Project Triggerlock, a stunning 34.6% decrease since 1992. Through the effective use of federal powers and resources, U.S. Attorneys can greatly assist state and local law enforcement in keeping the most dangerous offenders off the streets. Unfortunately, this extremely effective program has lost priority in the Clinton Administration.

I have been concerned about the performance of the Criminal Division and the United States Attorneys in a number of additional areas over the past several years. Whether it has been the intentional failure of U.S. Attorneys in California to enforce Indian gaming laws, the unfortunate surrender of our borders to drug trafficking, the recent decision to distort the Controlled Substances Act to allow doctors to use drugs to assist suicides, or the repeal of a memorandum by Attorney General Richard Thornburgh which ensured federal prosecutors did not settle with charging defendants with lesser violations while more serious offenses were ignored, the administration's crime fighting decisions have, in some areas, not met the high standard the public deserves. These concerns, however, do not diminish my recognition of the work of the thousands of federal law enforcement officials who ably carry out the responsibility of enforcing our federal laws.

As I pointed out at his confirmation hearing, Mr. Robinson has been nominated to a position of great trust. If confirmed, he will play a key role in advising the nation's chief law enforcement officer on matters of serious national concern. Mr. Robinson assured the Judiciary Committee that although he naturally would feel loyalty to the administration which selected him, he would stand above politics and serve the public.

During his confirmation hearing, I raised many of these important issues with Mr. Robinson. Although he was not in a position to have formed concrete opinions on some issues which have been debated between the Congress and the administration, I was heartened by his promise to work with the Congress and to bring fresh approaches to tough issues. By moving this nomination without further delay, the Congress will ensure that the Criminal Division once again will have the leadership it sorely needs to play a leading and effective role at the vanguard of federal law enforcement.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TUESDAY, JUNE 16, 1998

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, June 16. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate then begin a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator MACK, 15 minutes; Senator ROBERTS, 15 minutes; Senator DORGAN, 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I further ask unanimous consent that following morning business, the Senate resume consideration of S. 1415, the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. tomorrow to allow the weekly party conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 9:30 a.m.

and begin a period for morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the tobacco bill with the Gorton amendment pending regarding attorneys' fees. It is expected that a time agreement will be reached with respect to the Gorton amendment with a vote occurring on, or in relation to, the amendment Tuesday afternoon. Following disposition of the Gorton amendment, it is hoped further amendments will be offered and debated throughout Tuesday's session. Therefore, rollcall votes are possible throughout tomorrow's session as the Senate continues to make progress on the tobacco bill.

As a final reminder to all Members, the official photo of the 105th Congress will be taken tomorrow at 2:15 p.m. in the Senate Chamber. All Senators are asked to be in the Chamber and seated at their desks following the party luncheons.

ORDER FOR ADJOURNMENT

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Minnesota, Mr. WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The PRESIDING OFFICER. The Chair announces that H. Con. Res. 284, the concurrent resolution on the budget, having been received from the House, the order of April 2, 1998, will be executed as follows: all after the resolving clause is stricken and the text of S. Con. Res. 86, as amended by the Senate, is inserted, and the resolution as thus amended is agreed to. It is further ordered that the Senate insist on its amendment, request a conference with the House, and the Chair appoints the following conferees on the part of the Senate.

The PRESIDING OFFICER appointed Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM of Texas, Mr. BOND, Mr. GORTON, Mr. GREGG, Ms. SNOWE, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH of Oregon, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. CONRAD, Mr. SARBANES, Mrs. BOXER, Mrs. MURRAY, Mr. WYDEN, Mr. FEINGOLD, Mr. JOHNSON, and Mr. DURBIN conferees on the part of the Senate.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

THE TEXAS-MAINE-VERMONT COMPACT

Mr. WELLSTONE. Mr. President, I would like to speak out this evening about an enormously important issue that has seldom, if ever, been addressed on the floor of the United States Senate. I understand my colleague needs to leave at 7, and I am going to try to figure out a way to accommodate him if at all possible. My understanding is, I will also have a chance to speak more about this in morning business.

This issue I want to address tonight has variously been called "environmental discrimination," "environmental equity," "environmental justice," or "environmental racism." These terms are used interchangeably to describe the well-documented tendency for pollution and waste dumps to be sited in poor and minority communities who lack the political power to keep them out.

Environmental justice has been at the center of the debate over H.R. 629, legislation granting congressional consent to the so-called Texas Compact. If passed unamended by this Congress, the Texas Compact would result in the dumping of low-level radioactive waste from nuclear reactors in Texas, Maine, and Vermont—and potentially from nuclear reactors all over the country—in the poor and majority-Latino town of Sierra Blanca in West Texas.

Environmental justice is an issue that demands the full attention of the Senate. If we pass this legislation unamended, we can no loner pretend to be innocent bystanders as one poor, minority community after another is victimized by political powerlessness—and, in some cases, by overt racism. We can no longer pretend that a remedy for this basic violation of civil rights is beyond our reach. That is the ultimate significance of this legislation—and of this debate.

The moral responsibility of the Senate is unavoidable and undeniable. If we approve H.R. 629 without conditions, the Compact dump will be built within a few miles of Sierra Blanca. There's really very little doubt about that. And if that happens, this poor Hispanic community could become the premier national repository for so-called "low-level" radioactive waste.

If we reject this Compact, on the other hand, the Sierra Blanca dump will not be built at all. The Texas Governor has said so publicly—more than once. It's as simple as that. The fate of Sierra Blanca rests in our hands.

Compact supporters would prefer that we consider the Compact without any reference to the actual location of the dump. But that simply cannot be done. It's true that H.R. 629 says nothing about Sierra Blanca. But we know very well where this waste will be dumped. In that respect, the Texas Compact is different from other compacts the Senate has considered.

The Texas legislature in 1991 already identified the area where the dump will be located. The Texas Waste Authority designated the site near Sierra Blanca in 1992. A draft license was issued in 1996. License proceedings are now in their final stages and should be completed by summer. Nobody doubts that the Texas authorities will soon issue that license.

There's only one reason why this dump might not get built—and that's if Congress rejects the Texas Compact. In an April 1998 interview, Texas Gov. George Bush said, "If that does not happen," meaning congressional passage of the Compact, "then all bets are off." In the El Paso Times of May 28, Gov. Bush said, "If there's not a Compact in place, we will not move forward."

For these reasons, we cannot fairly consider H.R. 629 without also considering the dump site that Texas has selected. Sierra Blanca is a small town in one of poorest parts of Texas, an area with one of the highest percentages of Latino residents. The average income of people who live there is less than $8,000. Thirty-nine percent live below the poverty line. Over 66 percent are Latino, and many of them speak only Spanish.

It is a town that has already been saddled with one of the largest sewage sludge projects in the world. Every week Sierra Blanca receives 250 tons of partially treated sewage sludge from across the country. Depending on what action Congress decides to take, this small town with minimal political clout may also become the national repository for low-level radioactive waste. And I understand plans for building even more dump sites are also in the works.

Supporters of the Compact would have us believe that the designation of Sierra Blanca had nothing to do with the income or ethnic characteristics of its residents. That it had nothing to do with the high percentage of Latinos in Sierra Blanca and the surrounding Hudspeth County—at least 2.6 times higher than the State average. That the percentage of people living in poverty—at least 2.1 times higher than the State average—was completely irrelevant.

They would have us believe that Sierra Blanca was simply the unfortunate finalist in a rigorous and deliberate screening process that fairly considered potential sites from all over the State. That the outcome was based on science and objective criteria. I don't believe any of this is true.

I am not saying science played no role whatsoever in the process. It did. Indeed, based on the initial criteria coupled with the scientific findings, Sierra Blanca was disqualified as a potential dump site. It wasn't until politics entered the picture that Sierra Blanca was even considered.

I think it is worth taking a moment to review how we got to where we are today. The selection criteria for the dump were established in 1981, and the Texas Waste Authority hired engineering consultants to screen the entire state for suitable sites.

In March 1985, consultants Dames & Moore delivered their report to the Authority. Using "exclusionary" criteria established by the Authority, Dames & Moore ruled out Sierra Blanca and the surrounding area, due primarily to its complex geology.

Let me quote from that report. Features "applied as exclusionary as related to the Authority's Siting Criteria" included "the clearly exclusionary features of: complex geology; tectonic fault zones," et cetera. "The application of exclusionary geological criteria has had a substantial impact" in screening potential sites, the report observed.

In its final composite, the report explained, "Complex geology and mountainous areas in West, West-Central, and the Panhandle of Texas were excluded," including the Sierra Blanca dump site.

The report also found, "Many tectonic faults occur in West Texas within massive blocks of mountain ranges. This area includes El Paso [and] Hudspeth" counties "and has undergone several phases or episodes of tectonic disturbance."

Finally, it went on to observe that, "Although not excluded, the remainder of Hudspeth County does not appear to offer good siting potential."

So much for the science. Repeatedly since the early 1980s, the Waste Authority has come back again and again to this politically powerless area. It has designated four potential sites in all, and—with one revealing exception—all of them were in Hudspeth County. There are only three communities in the entire County, all of them poor and heavily Latino, and all of them targeted by the Authority.

A 1984 public opinion survey commissioned by the Texas Waste Authority provides some useful context for the Authority's site selection process. The report, called "An Analysis of Public Opinion on Low-Level Radioactive Waste Disposal in Selected Areas," noted the benefits of keeping Latinos uninformed.

The report states, "One population that may benefit from [a public information] campaign is Hispanics, particularly those with little formal education and low incomes. The Authority should be aware, however, that increasing the level of knowledge of Hispanics may simply increase opposition to the [radioactive dump] site, inasmuch as we have discovered a strong relationship in the total sample between increased perceived knowledge and increased opposition."

The first site to be targeted was Dell City in Hudspeth County. The El Paso Herald-Post of March 6, 1984 recounts the controversy over that site selection. "The [Texas Waste] Authority has set up certain criteria as guidelines for choosing a disposal site. It appears to be ignoring its own rules." "The Authority, instead of abiding by its written criteria, has set up an unspoken, alternate rule for locating the site. That is, 'The site shall be located where there are the fewest possible number of registered voters to protest.'" A disproportionately high number of Latinos in Hudspeth County are not registered to vote.

The Herald-Post goes on to describe some of the political maneuvering behind the initial selection of Hudspeth County. "The plot thickens. The University of Texas system owns 500,000 acres of land around Dell City. Mrs. Dolph Briscoe, wife of the former governor, sits on the system's Board of Regents. Briscoe has extensive land holdings close to the other proposed site. So at a public meeting on October 25, 1983, in Dimmit County, Briscoe said he was encouraging the Authority to locate the site 'on state lands in Hudspeth County.'" The editorialists at the Herald-Post conclude, "We haven't exactly got any heavyweights defending our interests in this matter."

The one exception to the Authority's pattern of targeting the poor Latino communities in Hudspeth County was in 1985, after completion of the engineering consultants' report. Dames & Moore concluded that the "best" sites were in McMullen and Dimmit Counties, and the Waste Authority settled on a site in McMullen County. But this decision met with fierce opposition from politically powerful individuals. So the Authority decided once again to move the dump back to Hudspeth County.

At this point all pretense of objectivity was abandoned. The selection criteria were changed in 1985 so as to rule out the two "best" sites identified by Dames & Moore. The new criteria gave preference to sites located on state-owned land. This change had the effect of virtually guaranteeing selection of a site somewhere in Hudspeth County, large portions of which are owned by the state of Texas.

So the Waste Authority proceeded to designate, based on an informal and cursory process, five sites in Hudspeth County. Its clear choice, however, was Fort Hancock, one of the County's three poor Latino communities.

Unfortunately for the Authority, the more politically powerful city of El Paso next door decided to fight back. Together with Hudspeth County, El Paso filed suit against the site selection. They argued that the Hancock site was located in an area of complex geology—much like Sierra Blanca, incidentally—and lay on a 100-year flood plain. The amazing thing is that they won. In 1991 U.S. District Court Judge Moody ruled in their favor and ordered no dump could be built in Fort Hancock, Hudspeth County.

But the county's court victory was short-lived. The Waste Authority was clearly not about to give up. The Authority went back to the state legislature to get around Judge Moody's decision by once again changing the rules. A legislator from Houston, far to the East where the big utilities are based, proposed a bill that ignored all previous selection criteria and designated Fort Hancock once and for all. Interestingly enough, this maneuver aroused a great deal of public indignation, precisely because of the Authority's perceived discriminatory practice of dumping on Latino communities.

There was an impressive show of force against discrimination, but the outcome was not exactly what Hudspeth County had in mind. After Judge Moody's remarkable decision, lawyers for El Paso and the Waste Authority worked out a compromise. Fort Hancock would be saved, but a 400 square mile area further north in Hudspeth County would take its place. This oblong rectangle imposed on the map—an area that included Sierra Blanca—was subsequently dubbed "The Box." The Texas legislature passed the so-called "Box Law" by voice vote only days before the end of session in May 1991.

Once again, the previous site selection procedures were stripped away. The Box Law repealed the requirement that the dump had to be on public land, the very requirement that has pointed the Authority towards Hudspeth County in the first place. This was necessary because, at that time, the Sierra Blanca site was not public land at all.

Most importantly, to prevent another troublesome lawsuit like the Fort Hancock debacle, the Box Law essentially stripped local citizens of the right to sue. It denied them all judicial relief other than an injunction by the Texas Supreme Court itself, and for this unlikely prospect citizens would be required to drive 500 miles to Austin.

This story is depressingly familiar. A similar scenario unfolds over and over again in different parts of the country, with different names and faces in every situation. Sometimes there is no intention by anyone to discriminate. But pervasive inequalities of race, income, and access to the levers of political power exercise a controlling influence over the siting of undesirable waste dumps.

The people who make these decisions sometimes are only following the path of least resistance, but in far too many instances the result is a targeting of poor, politically marginalized minority communities who lack the political muscle to do anything about it.

The remarkable thing about this story is that some people in Hudspeth County did fight back. Dell City fought back and won in the early 1980s. Fort Hancock fought back and won their court case in 1991. And make no mistake, the people of Sierra Blanca are fighting back, too.

Many of them have been here on the Hill. Father Ralph Solis, the parish priest for Sierra Blanca and Hudspeth County, was here in February, and visited many Senate offices. These people know that the odds are stacked against them, but they are persevering just the same.

One of the amendments I included in this bill is intended to give them a fighting chance. It gives them their day in court—the right to challenge this site selection on grounds of environmental justice. It says that the Compact cannot be implemented in any way—and that would include the siting process, the licensing process, or the shipment of waste to that site—that discriminates against communities because of their race, national origin, or income level.

If local residents can prove discrimination in court, then they can stop the Compact Commission from operating the dump. They don't have to prove intent, by the way, although that certainly would be sufficient. All they have to show is disparate treatment or disparate impact.

I believe very strongly that the Compact raises important and troubling issues of "environmental justice." And a diverse array of civic organizations agree with me about this.

The Leadership Council on Civil Rights, the Texas NAACP, the Sierra Club, the League of United Latin American Citizens (or "LULAC"), Greenpeace, the Bishop and the Catholic Diocese of El Paso, the House Hispanic Caucus, the United Methodist Church General Board of Church and Society, Friends of the Earth, Physicians for Social Responsibility, the Southwest Network for Environmental and Economic Justice, and the National Audubon Society, to name just a few, agree with me. I ask unanimous consent that a letter signed by these and other organizations be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, I know some of my colleagues don't believe issues of environmental justice are implicated here. Or they may think this is not a question for the Senate to decide. I believe this amendment meets those concerns. All my amendment does is give local residents the right to make their case in court. There is no guarantee they will win. After all, it is extremely difficult to prove environmental discrimination. I don't see how anyone would want to deny these people a chance to make their case.

Short of defeating the bill outright, I believe passing this amendment is the only way for us to do right by the people of Sierra Blanca.

Yet, as amazing as it sounds, Compact proponents also claim to have the best interests of Sierra Blanca at heart. They claim the Compact will protect local residents because it keeps out waste from states other than Maine and Vermont. They have used this argument again and again, in Sierra Blanca, in the Texas legislature, in the House of Representatives, and they're using it again in the United States Senate.

Supporters of the Compact are trying to have it both ways. When challenged about the environmental justice of targeting Sierra Blanca, they respond that no site has been selected, and environmental justice can only be addressed if and when that ever happens.

Then in the same breath they insist that the dump in Sierra Blanca is definitely going forward and the Compact is therefore necessary to protect local residents from outside waste. So which is it? Either the Sierra Blanca dump is a done deal or it's not.

The truth is, the most likely scenario is that the dump will be built in Sierra Blanca if Congress approves this Compact, subject to any legal challenges, but the project will not go forward if Congress rejects the Compact.

The claim that the Compact will protect Sierra Blanca makes no sense on its face. The dump is unlikely to be built without congressional consent to this Compact; it does not need to be built; and the Compact would not protect Sierra Blanca in any event.

The simple fact of the matter is that the dump will most likely not be if the Compact fails. Governor Bush has made it very clear that the dump will not be built if Congress rejects the Compact. So the argument that Sierra Blanca needs the Compact for protection against outside waste is nonsensical. If Texas does not build a dump in Sierra Blanca, local citizens do not need to be protected from anything. Far from protecting Sierra Blanca, the Compact only ensures that a dump will be built in their community.

An article from the Texas Observer of last March explains why the Compact is necessary for the dump to go forward. "Texas generates nowhere near enough waste on its own to fill a three million cubic feet dump, and by its own projections [the Texas Waste Authority] could not survive without Maine and Vermont's waste."

Moreover, the Texas legislature has indicated it will not appropriate funding to build the dump if Congress rejects this Compact. Texas lawmakers refused the Waste Authority's request for $37 million for construction money in FY 1998 and FY 1999. In fact, the Texas House initially zeroed out all funding for the Authority, but funding for licensing was later restored in conference committee. My understanding is that construction funding was made contingent on passage of the Compact, whereupon Maine and Vermont will each be required to pay Texas over $25 million.

In fact, the Sierra Blanca dump does not really need to be built. You might have seen the headline in the New York Times on December 7 of last year: "Warning of Excess Capacity in Nation's Nuclear Dumps—New Technology and Recycling Sharply Reduce the Volume of Nuclear Waste."

The article discusses a study by Dr. Gregory Hayden, the Nebraska Commissioner for the Central Interstate Compact Commission. Dr. Hayden found that "there is currently an excess capacity for low-level radioactive waste disposal in the United States without any change to current law or practice."

He went on to explain, "These disposal sites have had low utilization due to falling volumes since 1980. Thus, a high capacity remains for the future, without any change to the current configuration of which states may ship to which disposal site." Let me repeat the essential point: there is no compelling need for any new low-level radioactive waste dumps in this country. And if no new dump is built, nobody can argue that the Compact is needed to protect Sierra Blanca.

The most popular argument for building another dump involves disposal of medical waste. I'm sure all of you have heard it. It's claimed that waste from medical facilities and research labs is getting backed up—that it has to go somewhere.

But let me emphasize one central and indisputable fact: over the last few years, over 99 percent of the waste from Maine and Vermont has come from nuclear reactors. Less than one percent has been from hospitals and universities. And from all three states, 94 percent of the low-level waste between 1991 and 1994 came from reactors. This dump is being built—first and foremost—to dispose of radioactive waste from nuclear reactors, not from hospitals.

So why are the nuclear utilities hiding behind hospitals and universities? It's not very hard to figure out. In 1984 the Texas Waste Authority hired a public relations firm to increase the popularity of nuclear waste. The PR firm recommended, "A more positive view of safe disposal technologies should be engendered by the use of medical doctors and university faculty scientists as public spokesmen for the [Texas Waste] Authority." "Whenever possible," the report said, "the Authority should speak through these parties."

Well, that advice has been followed to the letter. We all have sympathies for hospital work and university research. I know I do. But that's beside the point. This controversy is really about waste from nuclear reactors.

If a dump is built nevertheless, the Compact offers little protection for local residents. The Compact Commission would be able to accept low-level radioactive waste from any person, state, regional body, or group of states. All it would take is a majority vote of the Commissioners, who are appointed by the Compact state governors.

Why should the people of Sierra Blanca expect unelected commissioners to keep waste out of their community? Is there anything in their recent experience that would justify such faith?

The fact is, the state will have every economic incentive to bring in more waste. The November 1997 report by Dr. Hayden concluded that "the small volume of waste available for any new site would not allow the facility to take advantage of economies of scale. Thus, it would not even be able to operate at the low-cost portion of its own cost functions."

The new dump will need high volume to stay profitable. The Texas Observer reports, "A 1994 analysis by the Houston Business Journal suggests that the Authority would open the facility to other states to keep it viable."

We have here the potential for establishing a new national repository for low-level nuclear waste. Not only will Texas have an incentive to bring in as much waste as possible, but the same will be true of nuclear utilities. The more waste goes to Sierra Blanca, the less they will be charged for disposal.

Rick Jacobi, General Manager of the Texas Waste Authority, told the Houston Business Journal: "The site is designed for 100,000 cubic feet per year, which would be about $160 per cubic foot. But if only 60,000 cubic feet per year of waste arrives, the price would be $250 per cubic foot." That's a big difference.

As Molly Ivins says, "That sure would drive up costs for Houston Lighting and Power and Texas Utilities." And the going rate at one existing dump is a whopping $450 per cubic foot. In the end, it will be in the economic interest of everyone—from the nuclear utilities to the Waste Authority—to ship as much waste to Sierra Blanca as they can.

My second amendment addresses this problem. Throughout the process of approving the Compact, supporters claimed the waste would be limited to three states. I want to hold them to that promise. My amendment puts that promise in writing.

I doubt anyone would disagree that this understanding was shared by everyone who participated in the Compact debate. If Compact supporters truly plan to limit waste to three states, which has been everyone's understanding all along, they can have no objection to my amendment. It's nothing but a protection clause. A nearly identical amendment—called the Doggett Amendment—was attached to the bill passed by the House.

There are other issues I was not able to address with amendments. I think there is a fundamental concern about whether this kind of disposal is safe at all. The League of Conservation Voters (LCV) warns that, despite the hazards involved, waste will be buried in soil trenches destined to leak, as have nuclear dumps in Kentucky, Illinois; and Nevada. LCV did score the House vote on final passage, and has announced that it may score Senate votes as well. I ask unanimous consent to place the LCV letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> LEAGUE OF CONSERVATION VOTERS,
> *Washington, DC, March 12, 1998.*
>
> Re oppose the Texas Low-Level Radioactive Waste Disposal Compact Consent Act.
>
> *U.S. Senate,*
> *Washington, DC*
>
> DEAR SENATOR: The League of Conservation Voters is the bipartisan, political arm of the national environmental movement. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide and the press.
>
> Soon the Senate may be voting on S. 270, The Texas Low-Level Radioactive Waste Disposal Compact Consent Act. LCV urges you to vote against this bill, which is the key to opening a new nuclear dump near Sierra Blanca, Hudspeth County, Texas.
>
> More than 99% of the radioactive waste shipped from Maine and Vermont in recent years was generated by nuclear reactors. Despite the misleading classification of "low-level," many of these wastes are highly concentrated and some can give a lethal dose in about five minutes. Atomic power plant waste in this category includes long-lived elements like plutonium-239, which remains hazardous for 240,000 years, and cesium-135, which remains hazardous for 20 million years.
>
> Despite its hazards, the waste would be buried in Texas in unlined soil trenches destined to leak, as nuclear waste dumps in Kentucky, Illinois and Nevada have. A survey of 27 other nations with radioactive waste programs found that not one of these nations allows shallow land burial of such long-lasting nuclear materials.
>
> The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the U.S.) has caused local environmentalists to file a civil rights complaint against the Texas. Maine and Vermont radioactive waste agencies. Furthermore, dumping radioactive waste near Sierra Blanca, approximately 16 miles from the Rio Grande River, would violate the 1983 La Paz agreement between the U.S. and Mexico, which commits both countries to prevent, reduce and eliminate pollution affecting the border area.
>
> LCV's Political Advisory Committee will consider including votes on S. 270 in compiling LCV's 1998 Scorecard. Thank you for your consideration of this issue. If you need more information please call Betsy Loyless in my office at 202/785-8683.
>
> Sincerely,
> DEB CALLAHAN,
> *President.*

Mr. WELLSTONE. Mr. President, there is also an obvious concern about the unsuitability of Sierra Blanca's geology—the exclusionary criterion from the 1985 Dames & Moore report. Sierra Blanca is situated right in the middle of the state's only earthquake zone. Its 1993 license application stated that this is "the most tectonically active area within the state of Texas." In April 1995 there was a 5.6 earthquake 100 miles away, in Alpine, Texas. And there have been two tremors in the area in the last four years.

Radioactive Waste Management Associates (RWMA) of New York has conducted an independent investigation of the dump site and found its geology unsuitable for disposal of radioactive waste. RWMA notes that

> research by the Texas Low-Level Radioactive Waste Disposal Authority has found that [there is] a fault in the bedrock buried beneath the Sierra Blanca site. Groups of earth fissures up to seven feet deep occur nearby.

RWMA concludes that

> some important natural features of the site—its seismic hazard, its buried fault, and nearby earth fissures—are not suited to radioactive waste isolation. In our professional opinion, these are fatal flaws which mean that the proposed Sierra Blanca site cannot provide a high degree of assurance of waste containment.

I ask unanimous consent to enter the letter from RWMA into the RECORD.

The concern about the environmental impact of this dump extends well beyond the border. The Mexican equivalent of the EPA announced its opposition on March 5 on grounds that the Sierra Blanca dump poses an environmental risk to the border region. On February 11, the Mexican Congress, represented by its Permanent Commission, declared

> that the project in Sierra Blanca in Texas, and all such dumping projects along the border with Mexico, constitute an aggression against national dignity.

Moreover, the project apparently violates the 1983 La Paz Agreement between Mexico and the US, which commits both countries to prevent pollution affecting the border area. I ask unanimous consent to enter these statements by Mexican authorities into the RECORD.

The environmental justice amendments I proposed have been endorsed by several newspapers and civic organizations. The Fort Worth Star-Telegram of May 1, 1998 reads,

> The amendment to the Texas/Maine/Vermont Compact by Minnesotan Sen. Paul Wellstone is a good one. Too often in our country's industrialized history, poor, politically powerless minority communities have been targeted for unwanted hazardous waste dumps. . . . The Wellstone amendment needs to stay in the final version of the bill.

The Leadership Conference on Civil Rights wrote to likely conferees on May 14, 1998,

> The Senate-passed bill contains two amendments sponsored by Sen. Paul Wellstone that we urge the conferees to include in any final conference report.

The Leadership Conference states that

> a matter of increasing concern to the civil rights community [is] the disparate treatment of poor and minority communities regarding environmental siting issues, also known as environmental justice.
>
> In recent years, our nation has gained a better understanding of the national pattern of discrimination in the placement of waste and pollution sites in disproportionately poor and minority communities.

By the end of their letter, the Leadership Conference "strongly urge the inclusion of the Wellstone/Doggett amendments in any final bill approved by Congress."

The Methodist Church's General Board of Church and Society wrote on April 30, 1998, "We applaud and support these [Wellstone] amendments. They are a small victory for the victims of environmental racism."

The Sierra Club wrote on June 4, 1998, "Sen. Paul Wellstone has introduced two amendments that would improve the bill," though the Sierra Club believes the bill remains deeply flawed. I ask unanimous consent that all these statements be placed in the RECORD.

Not everyone has been so supportive, of course. I think it would be appropriate for me to respond to some of the arguments that have been raised against my amendments.

First, it's been suggested that passage of my amendments would require states to reratify the Compact. Second, a recurring theme echoed by Compact supporters is that Congress has never before attached these kinds of conditions to a state compact. Third, Senators from Compact states have suggested that no environmental discrimination could possibly have occurred in this case because residents of Sierra Blanca actually support the dump. Finally, it has also been claimed that the Compact is a state or local matter, in which people from other states have no business interfering.

As a preliminary matter, I question the relevance of these arguments—at least with respect to the Wellstone/Doggett amendment. This question has already been settled. Both the House and Senate have agreed to limit waste to the three Compact states. There really is very little for the conference committee to decide. I do not understand why we are even having this discussion at this stage in the process.

Nevertheless, I do want to respond to some of these arguments individually. First: the reratification argument. I believe there may be some confusion as to what my amendments actually do. As the House parliamentarian found with respect to the Doggett amendment, these amendments do not actually alter the Compact itself. Instead, they impose conditions on the consent of Congress.

The Compact, for constitutional reasons, cannot go into effect without that consent. And Congress has already conditioned its consent on certain other requirements. My two amendments simply add to that list of congressional conditions.

With regard to the Wellstone/Doggett limitation, there's no reason why this amendment should require reratification. When the Compact made its way through the legislative process the first time, everybody understood that waste would be limited to the three states. My amendment only reaffirms the common understanding of everyone involved. Why should states be required to reaffirm a principle to which they have already given their consent?

I'm not sure this conclusion is really so controversial—even within the Compact states themselves. I have in my hands an internal memorandum from Roger Mulder of the State Energy Conservation Office of the Texas General Services Commission. Mr. Mulder was an environmental aide to Gov. Richards and handled Compact issues in the Richards Administration. His memo is addressed to John Howard, an environmental adviser to Governor Bush. It is dated October 10, 1997, just days after passage of the Doggett amendment in the House.

The first line of the memo reads, "There appears to be a unanimous agreement that the Doggett amendment does not require the Texas Compact to be returned to the state legislatures." "Unanimous agreement." That's not just the view of Mr. Mulder. According to his memo, that view is universally held.

The Mulder memo goes on to note that "Maine appears to be leading the charge in the effort to drop the Doggett amendment." The reason? "There is speculation that Maine believes it can send its decommissioned waste to Barnwell, South Carolina," get credit for the waste it otherwise would have sent to Texas, and "then sell that credit at a substantial profit for Maine." That's what Mr. Mulder's memo says, at least.

Nevertheless, I have been willing—and remain willing—to allay any legitimate concerns Compact supporters may have about the need for reratification. I offered to instruct conferees to put Congress on record—in the statement of managers—that no reratification is required. My offer was rejected.

The second argument advanced by Compact supporters is that no previous Compact has received such shabby treatment at the hands of Congress. Even if Congress had never before attached these kinds of conditions, that would say nothing about how Congress should treat THIS Compact. Why should we be bound by what prior Congresses have done?

And besides, this Compact is different from previous ones. We know in advance where the Texas dump will be located. And this particular site selection raises important questions of environmental justice.

Third, Compact supporters go so far as to claim that local residents actually support the Compact, and therefore no discrimination could have been involved in the site selection. Even if it were true that the dump enjoyed local support, I don't see what this has to do with site selection.

But more importantly, my argument that local residents should have a chance to challenge the dump site does not depend—one way or the other—on whether the proposed Compact dump is popular in Hudspeth County. I am simply saying that there should be some forum to resolve the claims of environmental discrimination that have been raised. I cannot say for certain what the outcome of such a challenge would be. But local residents should at least have a chance to make their case.

In any event, the argument that local residents support the dump is simply not true. I am surprised to hear it being made. Local congressmen of both parties seem to agree on this point. The Republican congressman who represents Hudspeth County, HENRY BONILLA, wrote to the Senate on March 13, 1998: "My constituents adamantly oppose this legislation."

In a letter to senators dated February 2, Democratic Congressmen DOGGETT, REYES, and RODRIGUEZ wrote,

> The [House] bill passed despite overwhelming opposition by the residents in Hudspeth County, Presidio County, Jeff Davis County, Culberson County, Val Verde County, Reeves County, Webb County, Brewster County, the cities of Sierra Blanca, Del Rio, Brackettville, Marfa, Van Horn, and Alpine, and the governor of the neighboring state of Chihuahua.

In fact, 22 of the surrounding counties have passed resolutions opposing the dump, as have 11 nearby cities. No city or county, to my knowledge, has passed a resolution in favor.

Jeff Davis County did pass a resolution of support while under the impression that the Compact would keep waste out of Texas. When informed that the Compact would do no such thing, they reversed their vote almost immediately. Compact lobbyists nevertheless continue to cite the first resolution.

The only poll ever taken in Hudspeth County showed massive opposition to the dump. In 1992 the Texas Waste Authority commissioned K Associates of El Paso to conduct a telephone poll. That poll found 64 percent of Hudspeth and Culberson County residents opposed the dump.

Opposition was surely even stronger than that, since poor residents without telephones were greatly underrepresented in the survey. Only 33 percent of respondents to this poll were Hispanic, while Hispanics account for 66 percent of the local population. As a general proposition, I understand that the dump is much more unpopular with the Latino majority than with the white minority.

I don't know anyone who has ever attended a local meeting over the dump could have any doubts about how local residents feel. Over 700 county residents showed up at a public hearing on April 21, 1992. While 90 people spoke, only two supported the dump. At another public hearing in August 1996, over 80 percent of those attending spoke out against the dump.

Local opponents of the dump have collected an overwhelming number of signatures in opposition. Over 800 local residents, all of them adults, have signed petitions opposing the dump. These include two out of four commissioners on the County Commissioner's Court—Wayne West and Curtis Carr. (A third commissioner—Jim Kiehne—has publicly stated his opposition).

My understanding is that dump supporters have only managed to collect around 30 to 40 names. Many who signed the petitions in support of the dump later said they were confused; the petition claimed to be protecting Sierra Blanca from outside waste. Some of them have also signed petitions opposing the dump.

I think the most reliable testimony about local opposition to the dump comes from Father Ralph Solis, the Catholic parish priest for Sierra Blanca and Hudspeth County. He visited Washington in February to let Senators know how much his parishioners oppose their dump:

> Before leaving for Washington D.C., the people of the parish said to me, "Please, father, make them understand that we do not want radioactive nuclear waste." All of us in far west Texas implore the Senate to take a good look at us and realize that we are real people in danger and without any real voice. . . . We beg the Senate to stand with us as like our sisters and brothers from other faiths and Christian denominations from across the country. I am here with this group from West Texas, a few small voices trying to speak for so many. Please, we beg you, do not abandon us.

Citizens across the state seem to feel the same way. In a state wide poll conducted in October 1994, 82 percent of Texans opposed "the proposal to store out-of-state radioactive materials in Texas near Sierra Blanca." Only 13 percent favored the proposal.

Senators from Compact states have touted the views of two local figures as proof of Sierra Blanca's support for the dump. One of these individuals is a banker who heads the local economic development commission, which is funded by the Texas Waste Authority. My understanding is that he is a resident of Santa Teresita, not of Sierra Blanca. He developed a connection to Sierra Blanca in 1994 when he became president of the local bank.

The other local figure is Judge James Peace, the County Judge who presides over the County Commissioners' Court. Both Judge Peace and other Compact supporters have claimed his reelection in March of this year, with 54 percent of the vote, is proof that local voters support the Compact. But can anyone honestly claim that the dump was an issue in his reelection campaign, or that local residents were aware of his position on the dump?

An editorial in the Hudspeth County Herald of April 17, 1998, addresses Judge Peace's claims. It says that the March elections were not a referendum on the dump, and that many other issues were involved. "In no way, Judge Peace, was the dump implied in the last election." More importantly, it says, "Your letter states that you have always been a vocal supporter of the dump . . . which is not true. Do you remember your first campaign? You told the folks when you sat in their living rooms that you were opposed to the dump."

Judge Peace recently traveled to Washington and met with me in my office. He is a very nice man, and I very much enjoyed our meeting. Indeed, Judge Peace told me directly to my face that he supports the Wellstone/Doggett amendment. He later wrote me a letter reversing his position. I can see why local residents might be a little confused about where he stands.

Finally, it is argued that the Compact is a matter for the three states to decide, that selection of the dump site is Texas' business, and that outsiders should mind their own business. More specifically, I have been asked why, as a senator from Minnesota, I should have such a deep and abiding interest in this matter.

The simple answer is that, if this were only a matter for the three states to decide, H.R. 629 would not be before the Senate. The Compact cannot go into effect without the consent of Congress. And the dump will not go forward without the Compact.

The decision whether to build this dump depends on how we decide to proceed on this bill. That's what it boils down to. It is quite obvious to me that we cannot avoid responsibility for our votes and our actions in this matter.

My driving concern has always been very simple. I cannot stand by and watch while a poor, politically powerless, Latino community is targeted to become the premier repository of low-level nuclear waste for the entire country. Much less give it my blessing. Not when I have the power to do something about it.

As a very basic proposition, I think we can all agree that it's wrong for poor, politically powerless, minority communities to be singled out for the siting of unwanted hazardous waste dumps. It's wrong when that happens in Sierra Blanca, and it's wrong when it happens in hundreds of other poor minority communities all across this country.

I want to do whatever I can to stop it, and I don't see why every one of us should not want to do the same. I don't understand why it should be considered unusual for a senator to care about these things. On the contrary, I think it should be unusual for a senator not to care about these things.

The broader point is that environmental justice is not just a local issue, but a national one. There are some issues of fundamental justice that rise to a level of national importance, and this is surely one of them.

I think it's high time for the Senate to just say "no." Not just to the Sierra Blanca dump, but to a national pattern of discrimination in the location of waste and pollution. We have to face up to these urgent issues of environmental justice—sooner rather than later.

The primary reason I came to the floor today was to draw my colleagues' attention to the pressing issue of environmental justice. But I had another motive as well. I wanted to explain the history of the debate over this bill.

I wanted to make sure there is no confusion over what agreements have been made, how the Senate amendments would work, what the mandate of the conference committee is, and what we can expect if the conference violates that mandate.

Let us step back for a moment and review how we got to where we are today. Over the past year I expressed vehement opposition to any Compact legislation that did not address the issue of environmental justice. I offered my two amendments in an effort to do just that. The resulting standoff prevented this bill from coming to floor for almost a year.

Finally, about three months ago, senators from Compact states agreed to include my two amendments. On April 1 of this year, the Senate unanimously approved them both.

Unfortunately, however, after agreeing to my amendments, senators from Compact states suggested publicly that the amendments should be stripped in conference committee. So as a condition of going to conference, I insisted that conferees be instructed to keep the amendments in any bill reported back to the Senate.

Let me, since I will have time to talk more about this and I want to accommodate my colleague, talk about one other amendment that we have also attached to this piece of legislation.

This amendment, Mr. President, essentially says, if colleagues are going to say that there should only be radioactive waste from Maine and Vermont, if that is what the Texas legislature intended, then we should make it clear when we pass this compact that that will be the case. This was the Doggett amendment in the House of Representatives which passed the House, and this was also a part of an amendment that has passed the Senate as well.

Let me just kind of be clear about what this unanimous consent says. We are now instructing the conference committee that they are to support these two amendments, which the Senate has now gone on record supporting. All of my colleagues are on record, because the Senate has voted to support these two amendments, that the people at least should have a chance to go to court. And, if they can prove discrimination, they ought to be able to make their case.

They ought to at least be able to make that appeal. And secondly, if we are saying that this waste is only going to come from Maine and Vermont because the people in Sierra Blanca and people of Texas are worried this will become a national repository site for nuclear waste, then we make it clear in the amendments that, indeed, will be the case.

Now, Mr. President, in conclusion, although I will have more to say all week about this, Senators from the compact States were first reluctant to give those instructions. Their objections have delayed the conference for the last month. Then last week—and I am glad they did so—they withdrew their objections and agreed to insist on the Wellstone amendments. It was this agreement that will allow H.R. 629 to go to conference.

In other words, I will keep my word all the way through. I said I was just trying to get these amendments onto the bill because I think these amendments would lead to much more fairness and much more justice for the people in Sierra Blanca.

Well, now we are about to go to conference and I only want to emphasize one point. The Senate has now agreed unanimously, including Senators from the compact States, to instruct conferees on the Wellstone amendments. Conferees should not report back to the Senate any bill that has been stripped, where the amendments have been taken out. Without those environmental justice amendments, there should be no bill. If there is a compact which is approved without the people in Sierra Blanca having the right to challenge this in court, if they can show discrimination, and without the assurance that this waste will only come from Vermont and Maine, then this will be an injustice and the Senate should not let that happen. Any attempt to strip these amendments from the bill, which is what the nuclear utilities would like conferees to do, would make a mockery of the House and Senate votes to include the Wellstone and the Doggett language. It would make a mockery of Senate instructions and would make a mockery of our professed concern for environmental justice.

When the House and Senate have both decided to include these amendments, the conference committee really has no business trying to strip them out. I think that would be the kind of backroom deal that makes Americans disgusted with politics. That would be the legislative process at its worst—serving the interests of the nuclear utilities over interests of people who lack comparable access to the levers of political power.

If that happens, Mr. President, not only would Congress be denying a remedy for environmental discrimination, not only would Congress be giving a green light to the Sierra Blanca dump, not only would Congress be giving a seal of approval to the targeting of a poor majority-Latino community for disposal of radioactive waste, if the conference committee proceeded to drop these amendments, they would provide a striking example of unequal access to political power here in Washington that produces environmental discrimination in the first place.

The issue of environmental justice deserves better than that. The people of Sierra Blanca deserve better than that. And the American people have a right to expect a higher level of conduct from their elected representatives. I will take advantage of every procedural means at my disposal to make sure that does not happen.

Mr. President, to accommodate my colleague's schedule, the Presiding Officer, I conclude my remarks and yield the floor.

EXHIBIT NO. 1

SIERRA CLUB, LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC), PHYSICIANS FOR SOCIAL RESPONSIBILITY (PSR), NATIONAL AUDUBON SOCIETY, FRIENDS OF THE EARTH, U.S. PUBLIC INTEREST RESEARCH GROUP, PUBLIC CITIZEN, GREENPEACE, GREENPEACE MEXICO, CATHOLIC DIOCESE OF EL PASO, SAVE SIERRA BLANCA, AND 109 NATIONAL, INTERNATIONAL, REGIONAL, STATEWIDE AND LOCAL ORGANIZATIONS,

March 11, 1998.

Senator PAUL D. WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: We ask that you vote against S. 270, the "Texas Low-Level Radioactive Waste Disposal Compact Consent Act" because it:

Approves of what appears to be environmental racism that resulted in selecting a poor[1] Mexican American community[2] which does not want the dump[3] and is already the location of one of the largest sewage sludge projects in the country.[4] It is one of numerous proposed radioactive and hazardous facilities along the Mexican border.

Although the Compact does not expressly designate Hudspeth County, the Faskin Ranch near Sierra Blanca clearly has been chosen and a draft license approved. The decision Congress now faces on Compact approval cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. Congressional approval would make challenging the unjust procedures that have been carried out, in apparent contradiction of the 1994 Executive Order on environmental justice, more difficult because more out-of-state money, pressure and legal commitments will come to bear.

We caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of siting the most hazardous and undesirable facilities in poor communities with high percentages of people of color. Texas is second only to California, another proposed radioactive dump state, in the number of commercial hazardous waste facilities located in communities with above-national-average percent people of color.[5]

Deals with intensely radioactive materials which, despite their classification as "low-level," are not low risk and include all the same elements as high-level waste from nuclear power and weapons. Nationally, nuclear power waste comprises the vast majority and medical waste consistently comprises less than one tenth of a percent of the radioactivity in so-called "low-level" waste.[6] For Main and Vermont, 99.5% to 100% is from nuclear reactors[7] and lasts for centuries. In contrast, medical treatment and diagnosis wastes characteristically have tiny amounts of relatively low-concentrations of radioactivity with very short hazardous lives.[8] Options other than burial with reactor waste are technically viable and need exploration.

Potentially threatens the Rio Grande by permitting burial of long-lasting (hundreds to millions of years hazardous[9]), highly concentrated wastes (some can give a lethal dose in about 5 minutes[10]) in soil trenches destined to leak[11] and requiring only 100 years of institutional control.[12]

According to the 1993 license application for the Sierra Blanca site, it is part of "the most tectonically active area within the State of Texas." The atomic waste is proposed to be buried directly above a fault. This presents an unacceptable risk from earthquakes.

Violates the 1983 La Paz Agreement with Mexico in which both countries agreed to cooperate to ". . . prevent, reduce and eliminate sources of pollution . . . which affect the border area . . ." The site, approximately 16 miles from the Rio Grande, is well within the "border area" (63 miles on each side of the border).

Opens the door to waste from all over the country, despite claims to the contrary. The Compact has numerous provisions[13] for importing radioactive waste from more generators than those in Maine, Vermont and Texas. The Compact Commission (governors' appointees from Texas, Maine, Vermont and any future party states) will have the power, without legislative or local approval, to enter into agreements to take waste from out of compact.[14] With a majority vote of the Compact Commission and the Texas legislature, other states may become party states. So, to claim that the Compact protects from other states dumping is misleading and false.

Has numerous loopholes in the provisions that are touted to limit out-of-compact waste volume to 20% of the amount Texas dumps. This is misleading because it is the amount of radioactivity that is of concern. There is no limit on the amount of radioactivity that can be imported into the proposed Texas dump. Wastes imported from non-party states via agreements are not subject to the 20% limit. The limit is only an estimate based on a 50-year projection and it can be changed.[15] It does not apply to wastes brought in for "processing." A major radioactive waste processor has entered into an option agreement[16] to lease property neighboring the proposed dump, thus indicating

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Footnotes at end of letter.

another avenue for unlimited volumes of radioactive waste going to Hudspeth County.

Appears to violate Title VI of the 1964 Civil Rights Act passed by Congress to prevent discriminatory activities and prohibiting use of federal money for programs that discriminate.[17]

Will result in thousands of miles of unnecessary transportation of dangerous radioactive materials including plutonium, cesium, and strontium from atomic power plants. Wastes will be trucked from Maine, Vermont, east Texas and, very likely, other locations, to the border area.

For these reasons, we urge that you give S. 270 close scrutiny and a "No" vote.

For further information (including contact information on the following signers) please contact Diane D'Arrigo at Nuclear Information and Resource Service (202) 328–0002 (ext 2).

Thank you,

Signers Opposing S. 270, The Texas Compact and Sierra Blanca Nuclear Waste Dump:

ACES/Hudspeth Directive for Conservation, Alliance for Survival, Americans for a Safe Future (CA), Arizona Safe Energy Coalition, Asociacion Mexicana de Estudios para la Defensa del Consumidor, Asociation Ecologica Santo Tomas, Audubon Council of TX, AWARE, Andrews, TX, Blue Ridge Environmental Defense League, Border Coalition Against Radiation Dumping, Border Environmental Network, California Communities Against Toxics, Catholic Diocese of El Paso, Center for Environmental Health, Citizen Alert (NV), Citizen Action Coalition of Indiana, Citizens Awareness Network (New England), Citizens Protecting Ohio, Citizens at Risk: Cape Cod (MA), Citizens Energy Coalition (NJ), Coalition for Nuclear Power Postponement (DE), Comite de Derechos Humanos de Tabasco, Committee for a Safe Energy Future (ME), Communities Helping Oppose Radioactive Dumping (NJ), Connecticut Opposed to Waste, Consejo Ecologico de Mazatlan, Conservation Council of North Carolina, Crescere, Desert Citizens Against Pollution, and Donald Judd Foundation (TX).

Earth Day Coalition (OH), Earth Island Institute, Earthjustice Legal Defense Fund, EarthWINS (WI), Environmental Coalition on Nuclear Power (PA), Fort Davis TX Chamber of Commerce, Friends of the Earth, GE Stockholders Alliance, Global Resource Action, Grandmothers for Peace Internat'l., Greenpeace, Greenpeace Mexico, Grupo De Los Cien, Grupos de Estudios Ambientales, Hightower Radio, Hoosier Env'tal Council (IN), HOPE (NE), Houston Audubon Society, Indigenous Environmental Network (AK), Indigenous Environmental Network, Internatl'l Env'tal Alliance of the Bravo, League of United Latin American Citizens (LULAC), Madres de East Los Angeles, Marfa TX Chamber of Commerce, Mennonite Central Committee, Wash. Office, Missouri Coalition for the Environment, and Movimiento Alterno para la Recuperacion de los Ecosistmas.

Nat'l Env'tal Coalition of Native Americans, National Audubon Society, NC WARN, NC Ground Zero, New England Coalition on Nuclear Pollution, Nuclear Guardianship Project, Nuclear Waste Citizens Coalition, Nuclear Information & Resource Service, Oilwatch Mexico, Oyster Creek (NJ) Nuclear Watch, Peace Farm, Amarillo, People Organized to Stop Toxics, Dallas, People for Community Recovery (IL), Physicians for Life, Physicians for Social Responsibility, Plutonium Free Future, Prairie Island Coalition (MN), Prairie Alliance (IL), Presbyterian Church USA, Wash. Office, Presidio County TX Attorney, Public Citizen, and Public Citizen Texas.

Radioactive Waste Management Associates, Rio Grande Restoration (NM), Safe Energy Communication Council, Save Sierra Blanca, Save Ward Valley, Shundahai Network, Sierra Club, Sierra Blanca Legal Defense Fund, SMART (Mothers Against Radioactive Transport), South West Organizing Project, Southern Organizing Committee for Economic and Social Justice, Southwest Network for Environmental and Economic Justice, Southwest Public Workers Union, Serious Texans Against Nuclear Dumping (STAND), Students for Earth Awareness, Texans United, The Greens/Green Party USA, and Three Mile Island Alert.

U.S. Public Interest Research Group, Union of American Hebrew Congregations, Union de Grupos Ambientalistas de Mexico, United Methodist General Board of Church & Society, Vermont Public Interest Research Group, Yggdrasil Institute (US/France), ZHABA, Water Information Network, West Texas Catholic Ministries, Westchester Peoples Action Coalition, and Women's International League for Peace & Freedom.

FOOTNOTES

[1] 1990 Census of Population and Housing, Hudspeth County, Texas, pg. 1. Per capita income $7.994.

[2] Neighbor, Howard D. "Low-Level Radioactive Dumpsiting in West Texas: Another Example of Texas Racism?" University of Texas at El Paso, delivery at WSSA/ABS, January 22, 1994, p.6: "65% of Hudspeth County population is Mexican American."

[3] Telephone survey prepared for Texas Low Level Radioactive Waste Disposal Authority by K Associates, El Paso, TX, January 1992.

[4] Salopek, Paul and David Sheppard, El Paso Texas, "Desert-bound Waste: Poison or Promise?" June 14, 1992, "It will be the nation's largest effort to artificially fertilize desert rangeland with human waste." MERCO Joint Venture, an Oklahoma based waste handler is land spreading NY City sewage sludge in the same area as the proposed atomic waste site.

[5] Goldman, Benjamin A. and Laura Fitton, "Toxic Wastes and Race Revisited," Center for Policy Alternatives, NAACP and United Church of Christ Commission for Racial Justice, 1994, p.11.

[6] DOE annual State-by-State Assessments of LLRW Shipped to and Received at Commercial Disposal Sites 1985–1995.

[7] State-by-State Assessment of Low-Level Radioactive Wastes Received at Commercial Disposal Sites, DOE/LLW–181 (1993), DOE/LLW–152 (1992) DOE/LLW–132 (1991), DOE/LLW–224 (1994), DOE/LLW–237 (1995).

[8] Hamilton, Minard, "Radioactive Waste: The Medical Factor," Nuclear Information and Resource Service, January 1993.

[9] The hazardous life of a radioactive material is generally 10 to 20 half-lives, the time it takes to decay to a thousandth to a millionth of the original amount. The radioactive waste from atomic power plants that would go to Sierra Blanca includes plutonium-239 hazardous for 240,000 to 480,000 years, iodine-129 hazardous for 170 to 340 million years, cesium-135 hazardous for 20 to 40 million years, cesium-137 hazardous for 300 to 600 years, nickel 59 hazardous for 800,000 to 1.6 million years.

[10] Cesium-137 can be present in "low-level" radioactive waste up to 4600 curies per cubic meter (NRC 10 CFR 61.55 "Waste Classification."), and that amount can deliver a lethal dose in approximately 5 minutes.

[11] Nuclear Regulatory Commission (NRC) regulations 10 CFR 61.41 "Protection of the General Public from releases of radioactivity" allows "[c]oncentrations of radioactive material [to be] . . . released to the general environment in ground water, surface water, air, soil, plants or animals" that results in doses up to 25 millirems/year to whole body and any organ but the thyroid which can receive 75 millirems/year. "Millirems are an expression of biological damage to tissue from ionizing radiation and not directly measurable. Such a standard is unenforceable, relying upon unverified computer modeling to predict, no guarantee, compliance.

[12] NRC regulations 10 CFR 61.59(b) NRC "Institutional control. . . . institutional controls may not be relied upon for more than 100 years . . ."

[13] HR 629/S.270: Section 2.01(13) Texas, Maine and Vermont are only the "initial" party states; Section 3.05(6) Authority to "[e]nter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal . . .;" Section 7.01 "Any other state may be made eligible for party status . . ."

[14] HR 629/S.270: Section 3.05(6).

[15] HR 629/S.270: Section 7.09. The compact expressly provides for contracting and compacting with more states.

[16] "Option Agreement," The Scientific Ecology Group, Inc. and Cynthia Hoover, March 7, 1994.

[17] Carman, Neil J., Lone Star Chapter Sierra Club, "Civil Rights and Environmental Justice Executive Order applicability to proposed Low-Level Radioactive Waste Dump near Sierra Blanca, Texas" letter, June 24, 1994.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Tuesday, June 16.

Thereupon, the Senate, at 7:03 p.m., adjourned until Tuesday, June 16, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1998:

DEPARTMENT OF STATE

JAMES HOWARD HOLMES, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LATVIA.

STEVEN ROBERT MANN, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKMENISTAN.

KENNETH SPENCER YALOWITZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GEORGIA.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DALE R. BARBER, 8409.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ROBERT T. DAIL, 5056.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 12203:

To be brigadier general

COL. ROBERT A. COCROFT, 7353.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C, SECTION 601:

To be vice admiral

REAR ADM. JAMES F. AMERAULT, 0491.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be major

ANGELA D. MEGGS, 7662.

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE TEMPORARY GRADE INDICATED

IN THE UNITED STATES MARINE CORPS UNDER TITLE 10. U.S.C., SECTION 6222:

To be captain

MICHAEL J. COLBURN, 2511.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be commander

JOHN S. ANDREWS, 8996.
WILLIAM G. DAVIS, 9223.

To be lieutenant commander

GREGORY S. LEPKOWSKI, 8862.
WILLIAM M. STEELE, 9383.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 15, 1998:

UNITED STATES ENRICHMENT CORPORATION

MARGARET HORNBECK GREENE, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2003.

DEPARTMENT OF JUSTICE

JAMES K. ROBINSON, OF MICHIGAN, TO BE AN ASSISTANT ATTORNEY GENERAL.

THE JUDICIARY

ROBERT D. SACK, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

EXTENSIONS OF REMARKS

CONGRESSIONAL TRIBUTE FOR THE ARMY'S BIRTHDAY 1998

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1998

Mr. EDWARDS. Mr. Speaker, before there was a United States of America, there was an American Army, born on June 14, 1775. On the town square of Cambridge, Massachusetts, a small group of American colonists came to form an army, under the authority of the Continental Congress. Today, we look back over those 223 years and see clearly that the forming of the colonial Army was the prelude to the birth of our nation.

The Army's Birthday marks over two centuries of selfless service to the United States of America by more than 42 million Americans, who have raised their right hands to take an oath, both in times of crisis and in peace. Since that distant day, the nation, like our Army, has evolved, but the liberty it stands for remains constant, as does the Army's constant vigil to protect that liberty.

We look back to those early days, during the genesis of the ideas that would give birth to the United States of America. A nation—this nation—was preparing for its violent birth—a ripping apart of the bonds between the colony on the American continent and the mother country across the ocean. It all started with words. Patriots spoke publicly with bold rhetoric and other pamphleteers made the case for independence with the printed word, beckoning fellow citizens to resist oppression and insist on their inalienable rights. But in the end, independence was won on the field of battle, largely through the heroic deeds, sacrifices, and sustained determination of its newly created army.

From that victory on the battlefield, a nation emerged offering the boldest experiment of government in the history of mankind. Freedom sprung from its roots. As it was during its birth, America today is a haven for freedom-seeking people everywhere. Other nations perceive our country as a place where freedom flourishes within its own borders and where the citizens care about the freedom of other peoples. For over two centuries, our nation has stood up against despots, totalitarians, and tyrants wherever they erupted. We are people who have taken seriously our mandate to be a shining beacon of freedom and a torchbearer for democracy for the entire world. Every step of the way, America's Army has been there to help those in need and carry the mantle of freedom's call.

We have witnessed the end of the Cold War and the collapse of the Warsaw Pact. These developments offer unparalleled opportunities for democracy to spread and flourish, but freedom is still endangered or absent in many parts of the world. To help satisfy that quest for freedom and stability, our Army is there.

The traditional purpose of our Army has always been to fight and win our nation's wars—to gain decisive victory on the battlefield and to prevail anywhere in the world, whenever or wherever the country needed us to fight. Today, however, our Army is called upon to perform in more demanding roles in more complicated scenarios involving America's interests. Victory in today's complex world means more than destroying an opponent's army. In the ever-changing world we live in, victory means helping keep the peace in Bosnia and in Macedonia. It means working with close allies on the Korean Peninsula to deter a heavily armed state to the north. Victory means restoring democracy in Haiti and saving lives by producing and delivering clean water to refugees in Africa. Victory means protecting our borders from drugs. The men and women of the United States Army have demonstrated time and again that they are trained and ready to respond anywhere in the world when called upon. Today's Army is a full-spectrum force. The people of the United States can be confident that our Army today can project power internationally, to deter potential adversaries and protect vital interests. On the home front, our Army stands ready to support civilian authorities in domestic emergencies. Whatever the need, our Army is there.

The nation should be proud of the achievements of our soldiers, men and women, who play a critical role in our nation's efforts to help shape the international security environment. This past year, for the first time, the Army had soldiers deployed in 100 countries. On any given day during the year, 30,000 soldiers are deployed to more than 70 countries on joint and combined operations and exercises.

Proud of the past role played throughout the history of our nation, America's Army remains vigilant to the dangers of today while simultaneously preparing for future challenges. The Army is harnessing the tremendous potential of technology to achieve information dominance. This dominance will allow the Army to do things never before possible on the battlefield and in other military operations around the globe. America's Army is actively leading the way into the 21st Century. That position of leadership will ensure that the United States maintains the world's best Army, today and into the future.

In the midst of these missions and prospects, the Army rightfully maintains a focus on our nation's most valuable resource—our people. In America's Army, we see clear examples of American ideals. We see drug free Americans living in law-abiding communities. We see men and women of different ethnic groups and religions working together in pursuit of common goals. We see the Total Army Team—active, National Guard and Reserve soldiers, Department of the Army civilians, and families—working together for the benefit of the nation. On this, the Army's 223rd birthday, we honor their dedication and selfless service to the Army and the nation.

Soldiers willingly pay a heavy price. To be a soldier is to bear seemingly insufferable burdens—the physical burdens of hard and demanding work, the emotional burdens of separation from family and friends, and the lonely burdens of leadership. Indeed, to be a soldier, is to be changed in ways that can never be undone. To be a soldier is to believe in something other than what one can achieve as an individual. On this day—the Army's Birthday—we pause to remember what it means to believe in something greater than ourselves. To be a soldier means to believe that what we do for our country and for people we may never know truly matters.

America's Army, stands ready today as it has for the past 223 years. Whenever the call comes, wherever the danger, and whatever the mission, the Army will be ready.

COMMEMORATING THE LANDING OF THE PALATINE IMMIGRANTS

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1998

Mr. HINCHEY. Mr. Speaker, I rise today to join my friends and colleagues in Saugerties, New York, in commemorating the landing of the Palatine immigrants in Ulster County in October 1710. The Saugerties Historical Society will be dedicating a monument marking this event on Saturday, June 13th to celebrate the immigrant roots of our great nation and to admire the hard work and perseverance of these hard-working people who struggled to get to America.

The Palatine settlers in the Hudson Valley created some of the very first settlements of European peoples in America and their first winter was characterized by harsh weather—but they persevered, building a church and a schoolhouse, and settling into the Hudson Valley which reminded them so much of the Rhine river valley.

The monument which will be dedicated on Saturday will be placed on the grounds of Saint Paul's Lutheran Church, where the remains of the Reverend Joshua Kocherthal are interred. Reverend Kocherthal was the leader of the Palatines and the person who was to lead them to their promised land in America. It is not surprising that the ideals that they brought to America would later that century be embodied in our own Constitution—that people of different nationalities and creeds and beliefs could come together to make this country the great nation that it is. Mr. Speaker, and my fellow members, please join me in celebrating this great immigration to America and the dedication ceremony which will be held this Saturday.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN HONOR OF MS. ROBINSON, MS. KORALJA, MS. GARDENER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Gloria Robinson, Gloria R. Koralja and Audrey Taylor Gardener, three individuals who are retiring from the Jersey City Head Start Program after years of outstanding service. Head Start programs across the country provide educational opportunities for kids from lower income families. These teachers, administrators, and social workers working with the Head Start Programs are heroes for bringing America closer to its ideal of equal opportunity for all.

Gloria Robinson has invested her time and energy over the years into helping others. In 1996 she initiated her career in social service by working as a Program Aide in A. Harry Moore Gardens Head Center and went on to serve as SHARE coordinator at the Center. Ms. Robinson gained more experience as she became certified as a group leader for Looking At Life Parent Education and as she completed Literacy Volunteers of America tutor training. Ms. Robinson went on to initiate AHM pocket park in Lincoln Park. In addition, she fought for the elimination of PJP landfill and for necessary pulmonary testing for children in AHM housing development. Ms. Robinson has been involved with Head Start since her training for Head Start at New York University in 1996.

Gloria R. Koralja, also a woman of great service, began her work with Jersey City Child Development Centers in 1985. She served as a classroom teacher and head teacher for preschool Head Start children. Ms. Koralja knows the value of a good education. She received a science degree from Philippines Normal College in 1963 and continued her learning as she received a degree in Child Counseling from Jersey State College in 1973. Besides her work with children and with Head Start as an organization, Ms. Koralja also spends her time as a member of St. Nicholas Roman Catholic Church in Jersey City. For 12 years, she has invested her time and caring into the Jersey City Head Start Program.

Audrey Taylor Gardener has worked with Jersey City Child Development Centers since 1966. Her work at the Centers included organizing parent committees, assisting families with social problems and taking care of many of the needs of her students inside and outside of the classroom. Ms. Gardener received her degree in Urban Studies at St. Peter's College in 1981. She is presently involved in many other activities including serving as President of Trinity American Lutheran Church Women and being a member of Chapel Avenue Block Association.

I thank these women for their effort, hard work and caring. They have provided tremendous support for their students, the Jersey City Head Start Program and the families they have touched over the years. Thank you for your outstanding services to Jersey City.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 16, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 17

9:15 a.m.

Judiciary

Constitution, Federalism, and Property Rights Subcommittee

To hold a business meeting, to consider pending calendar business.

SD–226

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on H.R. 10, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers.

SD–538

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings to examine proposals to deter the problem of junk e-mail.

SR–253

10:00 a.m.

Finance

To hold hearings on S. 1432, to authorize a new trade and investment policy for sub-Saharan Africa.

SD–215

Governmental Affairs

Business meeting, to mark up the proposed Federal Vacancies Reform Act, and S. 712, to provide for a system to classify information in the interests of national security and a system to declassify such information, to consider the nominations of G. Edward DeSeve, of Pennsylvania, to be Deputy Director for Management, Office of Management and Budget, and Deidre A. Lee, of Oklahoma, to be Administrator for Federal Procurement Policy, and to consider other pending calendar business.

SD–342

Judiciary

To hold hearings to examine the extent of drug abuse among children.

SD–226

10:30 a.m.

Foreign Relations

To resume hearings on S. 1868, to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; and to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council, focusing on views from the religious community.

SD–419

2:00 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings on the implementation of United States policy on Caspian Sea oil exports.

SD–419

2:30 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

JUNE 18

9:30 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on H.R. 10, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers.

SD–538

Labor and Human Resources

To hold joint hearings with the House Commerce Committee's Subcommittee on Health and Environment to examine organ donation allocation.

2123 Rayburn Building

10:00 a.m.

Finance

To hold hearings to examine new directions in retirement income policy, focusing on social security, pensions, and personal savings.

SD–215

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine congressional views of the U.S.-China relationship.

SD–419

Judiciary

Business meeting, to consider pending calendar business.

SD–226

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 469, to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System, S. 1016, to authorize appropriations for the Coastal Heritage Trail

Route in New Jersey, S. 1665, to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, S. 2039, to designate El Camino Real de Tierra Adentro as a National Historic Trail, and H.R. 2186, to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

SD–366

Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the adequacy of the Department of Commerce's satellite export controls.

SD–342

Judiciary

To hold hearings on pending nominations.

SD–226

United States Senate Caucus on International Narcotics Control

To hold hearings to examine United States efforts to combat drugs, focusing on international demand reduction programs.

SD–628

JUNE 22

2:00 p.m.
Governmental Affairs

To hold hearings on the nomination of Jacob Joseph Lew, of New York, to be Director of the Office of Management and Budget.

SD–342

JUNE 23

9:30 a.m.
Energy and Natural Resources

To resume oversight hearings to examine certain implications of independence for Puerto Rico.

SH–216

JUNE 24

9:30 a.m.
Energy and Natural Resources

Business meeting, to to consider pending calendar business.

SD–366

10:00 a.m.
Governmental Affairs

To resume hearings to examine the state of computer security within Federal, State and local agencies.

SD–342

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee

To hold joint hearings with the Committee on Indian Affairs on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, entitled "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".

SR–485

Indian Affairs

To hold joint hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, entitled "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".

SR–485

JUNE 25

9:30 a.m.
Labor and Human Resources

To hold hearings to examine health insurance coverage for older workers.

SD–430

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee

To hold hearings on S. 2146, to provide for the exchange of certain lands within the State of Utah.

SD–366

JULY 8

9:30 a.m.
Indian Affairs

To hold hearings on S. 1905, to provide for equitable compensation for the Cheyenne River Sioux Tribe, H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, S. 391, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and S. 1419, to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park.

SR–485

JULY 9

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations

To resume hearings to examine the adequacy of procedures and systems used by the Department of Agriculture Food Safety and Inspection Service and the Department of Health and Human Services Food and Drug Administration to oversee the safety of food imported into the United States, focusing on the outbreak of Cyclospora associated with fresh raspberries imported into the U.S. from Central America.

SD–342

JULY 14

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee

To hold hearings on S. 1515, to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, and S. 2117, to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.

SD–366

JULY 15

9:30 a.m.
Indian Affairs

To hold hearings on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.

SR–485

JULY 21

10:00 a.m.
Judiciary

To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.

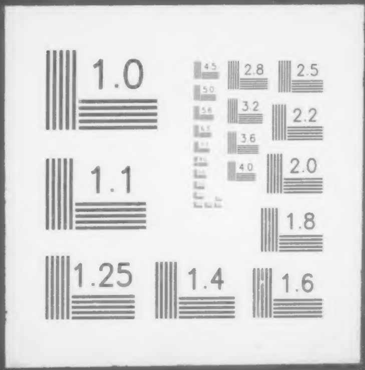
SD–226

OCTOBER 6

9:30 a.m.
Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.

345 Cannon Building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